

## FIXED ELEMENTS IN THE PROMOTION OF SACRAMENTAL MARRIAGE AND CATHOLIC FAMILY. ANALYSIS IN THE LIGHT OF THE 1983 CODE OF CANON LAW

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**Abstract.** The analysis covers the main determinants of the legal doctrine of the Roman Catholic Church that pertain to the dignity and greatness of matrimonial vocation and the Catholic family. They are: a) establishment of a deep communion of the married couple and family life on the sacrament (i.e. covenant); b) the generous procreation and upbringing of children in the Roman Catholic faith. They are based on the incorporation of this family into the same Church, as well as on respecting her laws, which integrates the community of faith on the way to salvation. Hence, the 1983 Code of Canon Law contains a system of requirements (i.e. the so-called obstacles, as well as powers or indications) to protect marriage and exclude situations in which the interest of the Catholic faith or of prospective spouses would be threatened.

**Keywords:** Church; crisis; doctrine; family; promotion

### INTRODUCTION

“The institution of Catholic family is under the protection of the Church and its law” [Ziółkowska 2018, 20].<sup>1</sup> This is the *status quo* for the analysis undertaken here. The point is that it might seem “at least in the normative field that defining such a common term «family» should not pose any difficulties. The legal reality is, after all, different. Indeed, there are considerable discrepancies in the way this concept is understood and defined. Depending on the adopted criteria and axiological premises, it is described in multiple ways” [Zubert 2011, 404]. Thus, it is not surprising that among many questions (which the Catholic Church, as a community of faith, asks itself today) there appears to be also the one concerning the presence in its normative doctrine of those elements that translate into pastoral ministry when

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<sup>1</sup> “Pastors have the duty to ensure that their own ecclesial community provides assistance to the faithful, by means of which the married state preserves the Christian spirit and made it improve”, *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, p. 1-317 [hereinafter: CIC/83], can. 1063.

it comes to the promotion of sacramental marriage and the Catholic family in the form of: “reception, discernment, accompaniment, support, integration,” etc. That is to say, following the model, as Pope Francis puts it in his exhortation *Amoris laetitia*, which came about as the fruit of two synods of bishops on marriage and family held in Rome in 2014 and 2015.<sup>2</sup>

The Catholic Church, in order to protect the Catholic family and, before that, Catholic marriage, and “to exclude situations in which the welfare of the public or the contractors themselves would be endangered” [Maj 2017, 36], among numerous norms and arrangements, has also identified numerous canonical obstacles. These are gathered (primarily) in the Code of Canon Law, as well as have a rich (scientific, systematized) literature. The aim of this analysis is to find their deeper – moral and theological sense, which is not a restriction (i.e., some kind of hindrance), but the promotion and protection of marriage, as well as the Catholic family, as a still valid value with a supernatural dimension of life and happiness.

The following four determinants will be the focus of this analysis. They are related to the thesis that if the Catholic family is called to a profound community of life, i.e., to be supportive and loving, fertile, etc., it is because: a) it is built on the sacramental relationship of marriage (sanctifying and empowering); b) the essence of such a relationship is to be open to procreation; c) the mission of this relationship is to raise offspring in the Catholic faith; d) its validity is based on the Catholic faith, and on the (resulting from this faith) intention of the nupturient.

## 1. NO DEFINITION OF FAMILY OR SEPARATE FAMILY LAW IN THE 1983 CODE OF CANON LAW

Although in the CIC/83 is possible to notice the lack of a definition or determination of the family and a separate family law, and “the Church legislator uses the term «family» extremely sparingly” [Sokołowski 2013, 294], nevertheless, the various elements of legal and theological doctrine present in the Church’s Magisterium allow to constate what the Catholic family is, what it is built on, and what its vocation consists of. It is possible to establish the so-called certainties, i.e. fixed elements that constitute its internal structure, as well as those that affect the way it is protected and promoted. Some authors distribute the emphasis here as follows: a) dispersion of family law norms in canon law; b) canon norms that protect marriage and the family directly; b) canon norms that grant rights directly to spouses

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<sup>2</sup> Franciscus PP., Adhortatio post-synodalis de amore in familia *Amoris laetitia* (19.03.2016), AAS 108 (2016), p. 311-446, no. 226ff.

and parents, but indirectly to the family; c) the problem of the family's legal subjectivity [Szytmiller 2017, 152].

The Church in its teaching (as a rule) under the term Catholic family refers to “the entire community of life, based on the sacramental marriage of a man and a woman, arising from the birth or adoption of a child.”<sup>3</sup> It is about an institution based on God's vocation, where the good of man and the Church is bound in such a way that it is already realized through Holy Baptism, (and other sacraments), but also through the entire material, moral, cultic, spiritual, social, etc. reality. A “profound community of life” is formed here – Catechism of the Catholic Church (no. 1603);<sup>4</sup> “established and endowed with rights by the Creator,” “by virtue of the marriage covenant, i.e. irrevocable personal consent” – Apostolic Constitution *Gaudium et spes* (no. 48);<sup>5</sup> “a community of love and solidarity,” “a place where different generations meet” – Charter on the Family Rights<sup>6</sup> (B, E–F); “domestic church,” etc.

Hence, in the normative teaching of the Church, there is a closely related terminology to which it is possible (in the present issue) to refer. Such as: “marriage covenant,” “sacramental marriage”; “fertile conjugal love”; “the family arises from marriage” (GS 48) [Ziółkowska 2018, 17]. And for example: “breaking obstacles,” “marital consent,” “form of marriage,” “mixed marriage,” “secret marriage,” “separation of spouses,” “separation and nullity of marriage” (can. 1083-1165 CIC/83). But there are also such concepts and analyses that indicate the need for further deepening of the subject matter covered here. E.g.: “towards the family definition” [Pryba 2014, 38-39], “definitions of the family” [Szymczak 2002, 151-65], “about changes in defining the family” [Biernat 2009, 36], “modern family models,” etc.

It is also worth adding that it is (above all) the Catholic family that promotes its dignity and greatness when it bears witness to a successful and happy Christian life. I.e., when: “its first task is to live faithfully the reality of communion in constant action, for the development of a true community of persons”<sup>7</sup>, and when: “this love and communion takes on a variety

<sup>3</sup> John Paul II, *The family as a community of life and love*. Homily during Mass in front of the Sanctuary of St. Joseph – 1997, [https://opoka.org.pl/biblioteka/W/WP/jan\\_pawelii/homilie/kalisz04061997.html](https://opoka.org.pl/biblioteka/W/WP/jan_pawelii/homilie/kalisz04061997.html) [accessed: 07.03.2022].

<sup>4</sup> *Catechismus Catholicae Ecclesiae*, Libreria Editrice Vaticana, Città del Vaticano 1997 [hereinafter: CCC].

<sup>5</sup> Sacrosanctum Concilium Oecumenicum Vaticanum II, Constitutio pastoralis de Ecclesia in mundo huius temporis *Gaudium et spes* (07.12.1965), AAS 58 (1966), p. 1025-116 [hereinafter: GS].

<sup>6</sup> *Carta dei Diritti della Famiglia presentata dalla Sante Sede a tutte le persone, istituzioni ed autorità interessate alla missione della famiglia nel mondo di oggi* (22.10.1983), “Communicationes” 15 (1983), no. 2, p. 140-52.

<sup>7</sup> Ioannes Paulus PP. II, Adhortatio apostolica de Familiae christianae muneribus in mundo huius temporis *Familiaris consortio* (22.11.1981), AAS 74 (1982), p. 81-191 [hereinafter: FC], no. 18.

of forms due to the reciprocal relationships between members not found in other communities: between spouses, between parents and children, between siblings, between grandparents and grandchildren, and between close members of a given family and distant relatives” [Wagner 2002].

Hereby, if the stage that underpins the establishment of a Catholic family is a validly concluded sacramental marriage relationship, it does not (i.e., at least automatically) provide a guarantee of success in the fulfillment of such assumptions, which still depend on many other conditions of individual and community life. Therefore, in the doctrine of the Church, in addition to the canonically described obstacles to marriage, there are also norms that determine the correctness or not of other stages, events and phenomena, such as preparation for marriage (closer and further). It is also about the crisis, the breakdown of marriage, fertility, infertility, widowhood, entering into a new marriage, “free” or “partnership” (single-sex) relationships, which are part of the secular gender culture. These phenomena are very dynamic, i.e., constantly evolving, thus even if they broaden the perspective of the Catholic Church’s canonical concern, e.g., with difficult (crisis) situations with regard to sacramental marriage and the Catholic family, they also unfortunately cause (it should be emphasized) understandable difficulties in defining them.

However, if this may seem to be one of the more important reasons justifying the lack of a precise definition of the Catholic family in CIC/83, already in the 2019 *Lexicon of Canon Law* (“Leksykon Prawa Kanonicznego” edited by Mirosław Sitarz) it is possible to find the claim that: “not every relationship between a man and a woman forming a community can be called a family; a relationship the cause of which is not marriage, but cohabitation, or a relationship contracted only in civil form [...] constitutes according to Church law a form of life similar to a family” [Szczot 2019, 2535]. Moreover: “A family-like community can become a family in the canonical sense only after the parents have entered into a marriage that will allow their children to be legitimized (can. 1139). The community formed between an unmarried mother and her child cannot be defined as a family as long as the abnormal relationship between the parents continues” (ibid.).

## 2. THE CATHOLIC FAMILY AS A PROFOUND COMMUNITY OF LIFE BASED ON THE SANCTIFYING AND EMPOWERING SACRAMENT OF MARRIAGE

The classic wording of coincidence occurring between the concept of the Catholic family and marriage can be found in can. 1055 § 1 CIC/83. It states that “the matrimonial covenant by which a man and a woman form with each other a community of the whole of life, directed by its nature to the welfare of spouses and the begetting and upbringing offspring, has

been raised between the baptized to the dignity of a sacrament by Christ the Lord.” Marriage, and the family that arises from it (as a further consequence), are thus “a gift and work of God himself.”<sup>8</sup> Man and woman are called to accept this gift, which is God’s task for them, but also a gifting and sanctification (sacrament). It was “by the Creator’s design that a relationship – a sacramental covenant – was created so that (two subjects, a man and a woman with a wealth of diversity and otherness) could strive together for mutual growth and development, both mentally, spiritually and physically” [Kasprzak 2017, 165].

Therefore, it should also be added that according to the *Instruction of the Polish Episcopate on Preparation for Marriage in the Catholic Church* (13.12.1989) – “For a baptized person, every validly contracted marriage is at the same time a sacramental marriage, and no baptized person can enter into a valid marriage that is not at the same time a sacrament. Sacramental marriage and family are the smallest salvific community in the Church.”<sup>9</sup> However, now according to can. 1055 § 2 CIC/83, which emphasizes (the meaning of the contract entered into – “between” the baptized, and not – “for” the baptized), it is possible to speak of a valid non-sacramental marriage, for example, in a situation of relationship between a Catholic and a Muslim (with adequate provisions for dispensation from differences of faith [Janczewski 2007, 35-49].

Marriage, as a response to God’s call, thus means that by cooperating “with God’s grace and the Church, the spouses and later the parents should strive to achieve, to the best of their ability, the fullest realization of God’s intention” (IEP/1989, no. 3). As the canonical entitlement that if “all may marry,” only those “who are not forbidden by the law to do so” belong to this set (can. 1058 CIC/83). In addition to freedom from various canonical impediments, the “lawfully expressed” consent of the parties is therefore required for a valid marriage (can. 1057 § 1 CIC/83); i.e., an act of will “in which a man and a woman, in irrevocable covenant, mutually give and receive each other for the purpose of forming a marriage” (can. 1057 § 2 CIC/83). It is necessary here to respect the qualities of the unity and indissolubility of marriage (can. 1056 § 2 CIC/83), and its purposes. The very misconception of the *bonum continuum*: i.e., unity, fidelity, doctrine, sacramentality,

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<sup>8</sup> Francis, *Pope: sacramental marriage is a gift and work of God*. Speech at an apostolic meeting with the Apostolic Tribunal of the Roman Rota (21.01.2023), <https://kosciol.wiara.pl/doc/8063607.Papiez-malzenstwo-sakramentalne-jest-darem-i-dzielem-Boga> [accessed: 28.01.2023]; “The spouses enter into union through voluntary consent, but it is only the Holy Spirit who has the power to make the man and woman one”, *ibid*.

<sup>9</sup> Polish Bishops’ Conference, *Instruction of the Polish Bishops on Preparation for Marriage in the Catholic Church* (13.12.1989) [hereinafter: IEP/1989], <https://opoka.org.pl/biblioteka/W/WE/kep/kkbids/malzenstwo113121989.html> [accessed: 13.03.2023], no. 2.

mutual support, etc., determining the will of the parties, becomes a condition for its validity (can. 1099 § 2 CIC/83) [Szttychmiller 2016, 85-105; Góralski 2020]. This good is explained as “mutually giving and receiving” (can. 1057 § 2 CIC/83), and “perfect and sanctify each other” – by the grace of sacrament.

In order to enter into such a relationship, it is necessary that at least one party be one who has been baptized in the Catholic Church or has been received into it by a formal act. It is also important how the nupturients understand the rights and obligations arising from the good that constitutes the marriage being contracted, i.e. *bonum coniugum, fidei, sacramenti, prolis*. Their scope is understood differently by canonists. Thus, not only their rejection by a positive act of will, but also physical as well as mental incapacity to undertake the essential duties of marriage, is a title for declaring a marriage invalid (can. 1095; 1101 § 2 CIC/83). What is at stake is the possession of good personal predispositions, i.e., providing a guarantee to build a profound community of the whole life (GS 48) [Kasprzak 2017, 164]. Indeed, no one “can legally commit to what he or she cannot do or cannot perform,” but also on the fact that marriage means “giving oneself completely and sacrificially working together for the mutual good” [Stawniak 2005, 45].

In addition, “although consensus is the causal cause of marriage, it must, according to the will of the church legislature, be expressed in accordance with the law” [Majer 2015, 136]. This means that “only those marriages are valid which are concluded in front of the assisting local ordinary or pastor, [...] and also in front of two witnesses, according to the rules expressed in the canons and taking into account the exceptions” (can. 1108 § 1 CIC/83). That is, (in exceptional situations, such as when it concerns mixed marriages – cf. can. 1127 § 2 CIC/83) for the sake of spiritual, moral, etc. of the assumed relationship, the Catholic party may get a dispensation from observing the canonical form of marriage. Here what is meant is that “if the fiancées (baptized) choose the civil form of marriage, and the Ordinary grants a dispensation, the marriage thus contracted becomes valid in the face of the Church, and therefore sacramental and indissoluble, regardless of whether or not the parties later wish to complete the religious ceremony” (IEP/1989, no. 93).

Moreover, if even the subject literature provides a thesis regarding the so-called inconsistency of Catholic doctrine on the sacramentality of marriage [Strzelczyk 2016, 106-19], there is no doubt that the Church in its doctrine places the dignity of marriage sacrament, as well as the welfare of the Catholic family, in an extremely important place, in the order of care and attention it directs to all communities that exist. This can be seen in the content of can. 1055 § 2 CIC/83, which applies the validity of marriage covenant (i.e., its sacramentality) also to other faiths, such as Protestants as baptized

people. And even if its content arouses surprise among some canonists that it does not respect the freedom of conscience of separated brethren [Zubert 2011, 399-408], the Church is consistent in its teaching here. Indeed, the encyclical – Pope John Paul II's *Veritatis splendor*<sup>10</sup> – speaks of the sin of those who, as so-called non-believers, in defiance of the freedom of their conscience implicit in synderesis, commit grave transgressions such as abortion or euthanasia. The same freedom of conscience can (or even should) be sought with regard to the sacramentality of marriage among Protestants.

Thus, if in the canonical doctrine of the Catholic Church there is a specific system of obstacles, as well as dispensations, it was created to protect the dignity of marriage sacrament, as well as the Catholic family built on it. It is also clear that their use is understood in a pastoral way, i.e. as a desire to have a positive (enriching) effect on the state of consciousness and faith of the nupturients, but also of the entire community of God's people.

### 3. THE CATHOLIC FAMILY AS A PROFOUND COMMUNITY OF LIFE BASED ON A RELATIONSHIP OPEN TO PROCREATION

Within the definition of the Catholic family is a responsibility for conveying life that flows from a holistic conception of human life. This is expressed especially in the Catholic attitude of faith, hope and love, which are not only ideals for building a deep community of marriage and family life, but also virtues that grow out of the daily practice of Christian life. The matter of fertility should (hereby) be considered in a spirit of responsibility and generosity for God's call to holiness [Adamczyk 2022, 87]. Therefore, the conclusion of a sacramental marriage, which by its nature is aimed at having offspring, would be invalid when it contains, (undertaken by at least one of the parties<sup>11</sup>) a positive act of will to exclude such a goal (can. 1101 § 2 CIC/83) [Ryguła 2018, 124-48]. For fertility is the gift and goal of marriage (CCC 2366).

Such invalidity of the marital relationship is based on the title of (partial) marital consent simulation [Wąsik 2013, 215-53]. It can consist of such elements as: exclusion from conjugal life of fertile acts, i.e. offspring understood as the fruit and purpose of the relationship [Bałdyga 2018, 183], but also *exclusio bonum prolis*. This “means that the contracting party reserves exclusively to himself the right to decide if and when offspring will be born from

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<sup>10</sup> Ioannes Paulus PP II, Litterae encyclicae cunctis catholicae Ecclesiae episcopis de quibusdam questionibus fundamentalibus doctrinae moralis Ecclesiae *Veritatis splendor* (06.08.1993), AAS 85 (1993), p. 1133-228.

<sup>11</sup> The law includes in its provisions situations related to the age of nupturient and their fertility.

the marriage relationship. Thus, the unconditional right granted by the parties to each other during the sacrament of marriage to conjugal acts directed by their nature to the begetting of offspring thereby is subject to limitation, as the nupturient places himself in the role of arbiter of the exclusive source of conjugal rights and obligations” [Chanowska-Dymlang 2022].

It should be added here that a valid marriage between the baptized is only concluded if it has not been completed. It is, on the other hand, concluded and completed if the spouses have undertaken a conjugal act by themselves capable of giving birth to offspring (can. 1061 § 1 CIC/83). The nupturient, free from coercion by an act of will, have an influence on the formation of marriage, but on its nature and purpose no longer. Thus, impotence or infertility are also impediments referred to in the context of marriage’s goal of having offspring by the Church’s legal order (can. 1084 § 1 CIC/83). Firstly, it is a matter of (prior or permanent) inability to perform the marital relation; secondly, concealment from one of the parties of this essential fact.

And what if the nupturient present gender identification disorders [Sowiński 2019, 149-84]. These include such phenomena as homosexuality (by which is meant here, in general, a constant sex drive directed toward persons of the same sex) or transsexualism (understood as an irresistible desire to change sex regardless of any associated consequences) [Stawniak 2019, 85-115]. Accordingly, the main titles (exclusion of homosexuals from the right to sacramental marriage relationship) include lack of discernment (or rather, recognition) of the essential rights and duties of marriage and mental incapacity to undertake the essential duties of marriage (can. 1095 CIC/83) [Góralski 2020]. There is also an obstacle of incapacity to perform sexual intercourse (can. 1084 § 1 CIC/1983). The impediment of ignorance that “marriage is a permanent community between a man and a woman, directed to the begetting of offspring by some sexual intercourse” (can. 1096 § 1 CIC/83) comes into play. Finally, there is the impediment of marital consent simulation, as well as (according to some canonists) the unrealized “right to marital acts that are aimed at begetting offspring” [Wąsik 2013, 215-53].

The Church also denies a transsexual or transgendered person, i.e., a person who believes he or she has changed his or her gender through a surgical procedure, the opportunity to marry as one who could not have changed his or her genetic (chromosomal) structure. Surgical “correction” of gender does not change the nature of a person. Such a person is not capable of fulfilling the sexual act specified – according to can. 1061 § 1 CIC/83 [Stawniak 2019, 85-113]. It is a matter of performing the conjugal act in such a way that it is capable of giving birth to offspring. In addition, for the validity of marriage relationship, a gender difference between the nupturient is necessary. Only a man and a woman can form a community of whole life, which is directed



to the good of spouses and to the begetting and upbringing offspring (can. 1055 § 1 CIC/83). And only an act of will of a man and a woman (having in its content the qualities and goals of Catholic marriage) can constitute a marriage consensus (can. 1057 § 2 CIC/83). These truths are supplemented (can. 1094 § 1 and indirectly can. 1084 § 1 and 1089 CIC/83) [Podgórski 2009]. Thus, is it valid to marry in a configuration where both nupturi-ents are transgender. It would seem that the requirement of the presence of a man and a woman for the validity of a relationship is fulfilled here, however (as an obstacle) remains the possible impotence of one of the parties [ibid.; Stawniak 2019, 85-113].

This exclusionary canonical position of the Catholic Church has its justification in the anthropological premises present in its doctrine of human sexuality. According to these premises, human sexuality is a gift from God. It encompasses the personality of the whole human being and penetrates both his physical, mental and spiritual spheres. This is stated, for example, by the Congregation for the Doctrine of the Faith in its declaration of December 29, 1975, *Persona humana*<sup>12</sup>: The human person, “is so profoundly permeated by sexuality that it must be considered one of the main formative factors of human life.” Similar is the Apostolic Exhortation of John Paul II: “sexuality, through which a man and a woman give themselves to each other in proper and exclusive conjugal acts, is by no means a purely biological phenomenon, but concerns the very inner essence of the human person as such” (FC 11; cf. CCC 2361) [Podgórski 2009].

#### 4. THE CATHOLIC FAMILY AS A PROFOUND COMMUNITY OF LIFE BASED ON A RELATIONSHIP AIMED AT THE CATHOLIC UPBRINGING OF THEIR CHILDREN

The concept of the Catholic family means a profound community of the whole of life, “in which it is possible not only to give birth to a human being, but above all to continuously improve” [Stępień 2021, 205]. Being a special relationship of persons, i.e. based on an indissoluble (grace-enabling) sacrament, but also on an act of good and free will: “are you willing to receive and catholicly raise the offspring with which God will bestow upon you?” (GS 48), is called to realize such goals as love, fidelity, unity, faith, sanctification, having offspring, building up the People of God (can. 1135; 1055; 1056 CIC/83). Hence the thesis that “fertility of conjugal love also includes the fruits of moral, spiritual and supernatural life” (CCC 1553)

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<sup>12</sup> Sacred Congregation for the Doctrine of the Faith, *Declaration on Certain Questions of Sexual Ethics* (29.12.1975), [https://www.vatican.va/romancuria/congregations/cfaith/documents/rccon\\_cfaithdoc19751229\\_persona-humana\\_en.html](https://www.vatican.va/romancuria/congregations/cfaith/documents/rccon_cfaithdoc19751229_persona-humana_en.html) [accessed: 13.03.2023], no. 1.

[Pietrycha 2016, 26-40]. This again obliges to be open about the number of children one has in a generous manner. Their number is a free decision of the loving spouses, but already the gift of a child should be accepted freely.

Marriage and the family “are intrinsically directed toward realization in Christ and need his grace for healing from the wounds of sin and for reference to the «beginning», i.e., to full knowledge and complete fulfillment of God’s design” (FC 3). The Catholic family is thus called to be the “domestic Church,”<sup>13</sup> where man receives all that is necessary for integral development. Thus, it is the first and best environment in which the child receives integral (moral and religious) education (can. 226 § 2 CIC/83) [Biały 2020, 21-32]. Here it is a micro-world that allows all its members to develop “within the «sense of the Church»” (CCC 1666) [Fiałkowski 2013, 703-17].

All the faithful have the right to receive an integral upbringing, as “called to lead a life in accordance with the doctrine of the Gospel” (can. 217 CIC/83). However, it is the duty of spouses-parents to raise their children that is placed here as an objective inscribed in the essence of marriage (can. 1136 CIC/83) [Wąsik 2012, 222]. At the same time, “what is at stake here is not only the harmonious, consensual cooperation of the parents in the fulfillment of educational task, but also the equality of father and mother as educators” [ibid., 230]. The legislator in can. 1135 CIC/83 states that: “each spouse is entitled to equal duties and rights in what concerns the community of married life.” Even separation does not abolish such an obligation (can. 1154 CIC/83).

Hereby, the upbringing of offspring (social, cultural, moral, religious – i.e., integral), is the heaviest duty and the first right of parents (can. 226 CIC/83), which is part of the essential duties of marriage, to such an extent that those who wish to enter into it should know it, accept it and have the capacity to perform it [Krajczyński 2005, 177]. It follows that – being the title for declaring a marriage relationship invalid – “incapacity to undertake the essential duties of marriage for reasons of a psychological nature” (can. 1095 CIC/83), here means such traits as permanence and antecedent, as well as narcissistic, antisocial, dependent personality, etc., which ultimately cause the child (subjected to care by such a person) to be neglected in adequate, integral, religious and moral upbringing.

All this also makes the Catholic Church a bit cautious or even reluctant to bless mixed marriages. The rationale for this position is as follows: “Marriage should be a perfect unity of two people. Meanwhile, in a mixed marriage, the fiancées differ in the most essential things, which will cause

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<sup>13</sup> Sacrosanctum Concilium Oecumenicum Vaticanum II, *Constitutio dogmatica de Ecclesia Lumen gentium* (21.11.1964), AAS 57 (1965), p. 5-75.

conflicts for them” (IEP/1989, no. 73). It is not surprising that the Church in such cases applies – the guarantees of faith, and motivates it thus: “However, for a better and deeper understanding and awareness of the obligations arising from the faith, the Church orders the Catholic party to make guarantees, i.e. binding statements. Analogous guarantees and declarations are required to be made by the other party if, being baptized, he has abandoned the faith or is a non-practitioner” (IEP/1989, no. 74).

##### 5. THE CATHOLIC FAMILY BASED ON A VALIDLY ACCEPTED SACRAMENT OF MARRIAGE, I.E. MOTIVATED BY THE CURRENT CATHOLIC FAITH

Ultimately, the question can be addressed as to whether a valid sacramental marriage (which is a condition for establishing a Catholic family) requires a valid faith? The doctrine of the Catholic Church answers here in the affirmative. Faith is important in this regard insofar as without it is difficult to imagine the arousal of intention by the nupturients, i.e. the will to receive the sacrament.<sup>14</sup> The point is that the difficulty of such recognition may arise in a situation where a marriage is entered into by someone who, as the Polish Bishops’ Conference puts it in its decree on conducting canonical and pastoral interviews with fiancées before entering into a canonical marriage of 2019, no. 71,<sup>15</sup> for example, “declares himself a non-believer or by formal act has left the Church.” However, the matter of having faith (or not) can be explained as follows: “A baptized person’s abandonment of acts of faith, or even personal awareness of being a non-believer – although for the gift of faith lodged in him by baptism this is a highly undesirable situation – does not remove this gift. This is evidenced by quite infrequent cases of what is colloquially considered a recovery of faith, which is actually rather its revival after a shorter or longer period of its hibernation or even death” [Salij 2016, 114].

It is not surprising that the canonical description of the conditions for validity of marriage bond omits the issue of faith, and that it is not mentioned in the chapter: Pastoral Care and Premarital Actions (can. 1063ff. CIC/83) [Strzelczyk 2016, 109]. As well as the fact that “joining

<sup>14</sup> It seems an irrefutable thesis that every sacrament demands from the recipient, who is capable of “using reason,” also a present faith, i.e., transforming into the intention to receive it.

<sup>15</sup> *General Decree of the Polish Bishops’ Conference on Conducting Canonical and Pastoral Conversations with Fiancées Before Conducting a Canonical Marriage* (26.11.2019), <https://episkopat.pl/nowe-przepisy-o-kanoniczne-preparowanie-do-malzenstwa/> [accessed: 15.03.2023]: “This decree, issued on the basis of and in conformity with the provisions of the Code of Canon Law and after having received *recognitio* (verification) by the Vatican Congregation for Bishops’ Affairs, contains the revised provisions of the Church’s marriage law.”

the Sacrament of Penance and the Holy Eucharist before marriage, nor even receiving the Sacrament of Confirmation – although strongly recommended by the Church – is definitely not required for the validity of an ecclesiastical wedding” [ibid.]. This basis can be found in Pope John Paul II’s exhortation FC. There it is recalled that: “the desire to establish definitive criteria for admittance to marriage in the Church, which would take into account the degree of faith of the newlyweds, contains, no matter what, great dangers. Above all, the risk of unfounded and discriminatory judgments; then the risk of creating doubts about the validity of marriages already contracted” (FC 68).

## CONCLUSIONS

CIC/83, the promotion of the Catholic family (i.e., built on sacramental marriage), can be seen relatively easily, but it is an extensive, complex issue, as well as difficult to describe. Therefore, it is (in a sense) undefined. Having in mind the crisis that the family is experiencing today, it is even possible to see the ambiguity of the concept. However, the doctrinal certainties present in the teachings of the Catholic Church, allow to analyze its structure and the essence of God’s vocation, which refers to it, but also vice versa. The distinctive element here is that the subject of marriage relationship (by God’s will) can only be a man and a woman. This relationship, having a sacramental character, and therefore uniting, exclusive and sanctifying, secures by God’s grace – the good and dignity (*bonum et dignitas*) of these spouses, and their offspring (i.e., the family created here), as well as the sacrament itself.

The concept of marriage, as well as the Catholic family, as it is intrinsically related to man’s supernatural vocation, contains a moral obligation to protect them. The Catholic Church understands this and does so with pastoral as well as canonical (normative) care, striving for a normative that is as clear as possible so as not to offend anyone in their personal dignity. Hence, the Church’s doctrine, both in its restrictive (exclusionary) and blessing versions, is an expression of the fulfillment of mission that Christ, the Head of the Church, commissioned to him when he departed for heaven. It is about the mandate spoken in the words: “Go and teach all nations, baptizing them [...] making them my disciples.”

CIC/83, providing a set of norms relating to marriage and the family, regulates (as well as promotes) the vocation of every (baptized) person to Christian life. These requirements find their source primarily in the charisma of baptism, however, “the incorporation of the faithful into the Church through baptism is accomplished fully together with the other sacraments

of Christian initiation.<sup>16</sup> In this way, the human person is incorporated ever more deeply into the community of faith, and finds the opportunity to realize the vocation to eternal salvation, but always in obedience to that faith. Hence, if there is any canonical and moral exclusion of the nupturients from the full rights of the community, it is an act that has its origin in the defense of the sacredness and dignity of the sacrament (i.e., defense of the faith, etc.), while on the other hand it is found in the attitude of moral subject concerned (i.e., that very nupturient). This never happens because of the (insensitive, captured in code norms) – interpretation of the Magisterium of the Catholic Church.

As for the timeliness of an issue being addressed, it should be noted that the unchanging (i.e., constant in its elements) supernatural dimension of man's vocation (so made present in the sacramental relationship of marriage, as well as the Catholic family) recurs in: Final Report to the Holy Father Francis after the 14th Ordinary Assembly of the Synod of Bishops on "The Mission and Vocation of the Family in the Church and in the Modern World." But also in the exhortation *Amoris Laetitia* or the General Decree of the Polish Bishops' Conference on Conducting Canonical and Pastoral Conversations with Fiancées Before Conducting a Canonical Marriage (November 26, 2019). However, it is most about the fact that the Church, speaking about the vocation of family marriage in the modern world, does so by explicitly referring to the teaching of John Paul II's exhortation FC, as well as the normative CIC/83.

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<sup>16</sup> *Final Report to the Holy Father Francis after the 14th Ordinary Assembly of the Synod of Bishops on "The Mission and Vocation of the Family in the Church and in the Modern World"* (24.10.2015), <https://papiez.wiara.pl/doc/2879891.Misja-i-powolanie-rodziny-w-Kosciele-i-w-swiecie-wspolczesnym/9> [accessed: 14.03.2023], no. 37.

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