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A brief historical survey of the social and theological developments in Western culture that have led to the widespread incomprehension of marriage as a divinely ordered, indissoluble union and foundational element of human society, even among Catholics.

The Vanishing Patrimony of Matrimony in Catholic America

## Introduction

In June of 2016, Pope Francis answered a question concerning the “crisis of marriage” by lamenting what he called a “culture of the provisional”, where: “the great majority of our sacramental marriages are null”. He went on to contrast the situation in areas of Argentina where traditional attitudes foster a prevalence of common law unions, albeit ones with “the grace of a real marriage because of their fidelity”.[[1]](#footnote-1) This astonishing assertion animated the Catholic commentariat,[[2]](#footnote-2) and the official transcript released the next day by the Vatican had attenuated the statement’s scope to the rather anodyne “a portion of our sacramental marriages are null”.[[3]](#footnote-3) The criticisms from the commentariat tended to focus on the Holy Father’s lack of presumption for sacramental validity, as if Francis were subjectivizing or otherwise questioning the workings of grace, in contradiction of the *ex opere operato* character of the sacrament.

### Popes and annulments

Both Pope John Paul II[[4]](#footnote-4) and Pope Benedict XVI,[[5]](#footnote-5) in addresses to the Roman Rota, had each similarly criticized a perceived laxity by diocesan marriage tribunals in granting annulments, annual numbers which, in the United States, [[6]](#footnote-6) had skyrocketed from 338 in 1968 to 28,918 almost overnight (by 1974), and then to a high of 63,933 within a generation (1991).[[7]](#footnote-7) In 2007, about one in five annulments in America were granted via a simple administrative process, usually for defects of form, while four in five were granted via the ordinary trial process. 5% of cases proceeding to trial eventually were found to concern valid unions, while 83% of annulments sought under the ordinary process were granted, 99.6% of which were granted for reasons of defect of consent. [[8]](#footnote-8) But is this widespread attestation of nullity a function of laxity within the tribunals, or is it in reality a confirmation of Pope Francis’ intuition? A review of recent sociological work on the meaning of marriage in Catholic America is eye-opening.

### US Catholic marriage views

In 2011, 7.7% of all marriages celebrated in the U.S. were celebrated in Catholic churches, despite Catholics making up nearly a quarter of the population,[[9]](#footnote-9) suggesting that two out of three Catholics are marrying invalidly, simply due to defects of form. Less than a third of American Catholics say that their views are “very consistent” with the statements that marriage is either a calling from God (30%), or a vocation (27%).[[10]](#footnote-10) Only 66% said that the idea of marriage as a lifelong commitment was “very consistent” with their views,[[11]](#footnote-11) and that number craters when the question is posed directly as concerning the acceptability of divorce: 93% of American Catholics believe divorce is acceptable in at least some cases.[[12]](#footnote-12) Explicitly questioned about the acceptability of divorce in the case of physical abuse, that number rises to 96% acceptance.[[13]](#footnote-13) “Falling out of love” is given as an acceptable reason to divorce by 60% of American Catholics, including 39% of weekly Mass-goers.[[14]](#footnote-14) Regarding marriage as the locus of unity in sexual union, a 2008 study reports a mere 14% of Catholics found premarital sex “always wrong”.[[15]](#footnote-15) Regarding the “matter” of marriage: A 2015 PRRI survey found American Catholics favoring the legal establishment of same-sex marriage by almost 2-1 (60%-33%), including a plurality of those attending Mass at least weekly (48%-44%).[[16]](#footnote-16) A Pew survey from 2014 showing similar results, but broken down by age group, indicates even more radical rejection of the fundamental meaning of marriage by those most likely to marry: 18-29 year-olds favored same-sex marriage by a 4-1 ratio (75%-19%), and those 30-49 years old supported it by more than 2-1 (63%-28%). Only among those over 65 was there a plurality opposed.[[17]](#footnote-17) All of this data was collected before the June, 2015 U.S. Supreme Court *Obergefell* decision.

### What happened?

If we take it as axiomatic that, in order for a sacrament to be valid, the minister(s) of the sacrament must will to do what the Church does when She celebrates the sacrament,[[18]](#footnote-18) then there seems to be ample room to question whether significant numbers of modernized Catholics might not in fact have something in mind other than that which the Church does when they profess what are often called wedding vows. In order to truly consent to marry, one must grasp the truth concerning marriage, and it would seem that many moderns are confused and in error as to the very meaning of marriage – and this would seem to place the issue of rampant nullity as a failure at the level of nature, not the level of grace.

Tertullian, in a passage linking heresy to idolatry, spoke of Satan’s mocking of the sacraments as part of “his profane and rival creed”,[[19]](#footnote-19) and it is not difficult to see the newly-mandated functional definition of marriage as such a mockery. In this light, can we not ask then, with Schumacher, if the reality of marriage has been obscured by a “fictitious reality”, a deceptive but convincing “pseudoreality” presented by advocates of a very different order, “created by design through the abuse of language”?[[20]](#footnote-20) Satan’s goal here should be understood as seeking, through the desecration and destruction of human covenantal love in marriage, to obscure the covenantal truth about God as loving father,[[21]](#footnote-21) a tactic underscored by St. John Paul II, for whom “the key to interpreting reality” is found in understanding that original sin fundamentally attempts “*to abolish fatherhood*, destroying its rays which permeate the created world, placing in doubt the truth about God who is Love and leaving man only with a sense of the master-slave relationship.”[[22]](#footnote-22) To try to understand how Satan could have been so successful, we will review the doctrine of marriage, and how it has been received in the Western world, from antiquity to contemporary America – to see if the criticisms of Francis’ remarks appear valid.

## The Catholic/Yahwistic view

### “Primordial sacrament”

Simply put, God is the author of marriage,[[23]](#footnote-23) from the beginning,[[24]](#footnote-24) which is an interpersonal sexual/generative partnership and social institution of sexual governance, ordained as a kind of natural sacrament: “Although the other sacraments began after sin and on account of sin, it is read that the sacrament of marriage rather was instituted by the Lord, even before sin, not as a remedy but as an office…”[[25]](#footnote-25) This unique office, undertaken by the fittingly united, consists in the dignity of participating with God in the generation of beings who partake of the image of God, Who Himself must intervene in every fruitful act of conjugal union to immediately create the soul of the new being,[[26]](#footnote-26) and Who, as the final end of each created person, also becomes the ultimate end of the marriage, which has for its own end the generation of such souls. Thus even the natural end of matrimony possesses a sacred character, so that the united couple not only take on obligations toward each other and their offspring, but toward God as well, as intimate agents in His purpose of extending His Kingdom, even apart from sanctifying grace, in those who bear the image of their Divine Father. Thus every marital union is a truly sacred bond, binding the couple to God, and is as such intrinsically beyond the competence of any created authority to define, establish, or dissolve (Mt 19:6).

Since only through this intimate Divine partnership can the couple achieve the natural end of their union, God wills that the union itself be entered into not simply as a human contract, but in His name (i.e. in sworn covenant), so that it is God Himself Who joins the couple together in union, by means of the agency of their free consent (Mt 19:6), the conditions for such a union being positively decreed by God “from the beginning” as unity and indissolubility (Gen 2:26). [[27]](#footnote-27) Thus the natural marital union itself, by its very nature, participates in the fruitful, life-giving unity of the Trinity, with the fruit of the couple’s mutual gifts of self both signifying and realizing Divine unity and generation in mutual love and in the offspring of the union, in sacrament of the natural order (the order of creation). In this sense, marriage has been referred to as the *primordial sacrament*, instituted in the state of original justice as “model and figure of the sacrament of the Church,” in which “all the sacraments of the New Covenant find their prototype in some way”.[[28]](#footnote-28)

### Marriage under the Old Covenant

The Scriptural history of God’s people testifies to the character and importance of marriage in ways both practical and symbolic. The faithful marital unity ordained by God was perverted by polygamy, divorce, and adultery. Polygamy, though practiced even by “heroes”, is seen in the history as introducing evils; perhaps best exemplified by the first polygamist, Lamech, who after taking two wives introduces violent conflict escalation into society (Gen 4:17-24). Divorce was permitted in the Deuteronomic law (Dt 24:1-4), but as Christ reveals in the Gospels, this was a concession to hard-heartedness (Mt 19:8), for “I hate divorce, says the Lord”, associating it with “covering one’s garment with violence” (Mal 2:16). Adultery is harshly condemned by law (e.g. Lev 20:10), but more significantly, it often signifies covenant breaking *per se*, referring to Israel/Judah’s covenant unfaithfulness to God. The prophets often depicted the Mosaic covenant as a marital covenant between God and Israel, and the unfaithful people of God as an adulterous nation. [[29]](#footnote-29) They anticipated restoration of true worship as a kind of marital restoration in faithfulness, prefiguring a more perfect, eschatological union yet to come: the coming of which is prophesized in the Song of Songs, and the completion of which would be seen in the Apocalypse.[[30]](#footnote-30) Simply put, human marriage is the icon of the divine/human covenant.[[31]](#footnote-31) Indeed, “fruitful [marital] love becomes a symbol of God’s inner life”.[[32]](#footnote-32)

### Marriage in the New Covenant

In the New Testament, Jesus declares the indissolubility of marital union, revealing God as the principle cause of the union (Mt 19:6), while revealing the adulterous character of divorce and remarriage (Mt 19:9). He also extends an adulterous character to acts of lust (Mt 5:28), demonstrating that the terms of the renewal which He came to effect were grounded in holiness rather than upon an external behavioral compliance. These teachings were difficult for even His disciples to accept (Mt 19:10), but they are reflective of the nature of human marriage as sacrament, now being elevated to the order of redemption in Christ, in Whom the marriage of the Divine and human is made manifest in His Incarnation, in which Christ contracts “an indissoluble alliance with human nature” (cf. Jn 3:29).[[33]](#footnote-33) Thus, for those joined to Christ in baptism, their marriage is no longer merely consecrated by God’s will, but even the human bond is a bond between persons possessing a nature joined to the Divine nature, and being transformed and empowered in righteousness by the indwelling of the sanctifying Spirit. Thus marriage truly becomes a vehicle of redemptive grace, which heals, perfects, and elevates the willing united couple, so as to ever more fully be signs of God’s love for humanity. For it is the fruitful communion of the sacraments, including sacramental marriage, that is the channel where “the perpetual marriage of Christ and the Church is carried out”,[[34]](#footnote-34) a union the New Testament depicts being fulfilled in the Wedding Feast of the Lamb. In sacramental marriage, the bride and bridegroom being united in covenant are, at once and inseparably, both the particular man and woman, and Christ and the Church (cf. Eph 5:31f), and the covenant “is the Holy Spirit himself. He is the source and unity of this undivided [and indivisible] love”.[[35]](#footnote-35)

## The gradual emergence of marital nihilism from Christendom

### Marriage in human society

Anthropologists have found a wide diversity of forms that marriage has taken in human societies, but there are certain constants that emerge. The most significant is the simple existence of marriage as a social institution, universally. This simple reality effectively renders absurd the idea that marriage is a product of human society *per se*, despite the prevalence such explanations, grounded in evolutionary worldviews, within the social sciences.[[36]](#footnote-36) Other constants include marriage’s function in establishing families, with their attendant social statuses: creating husband-wife relationships which involve a kind of mutual belonging-to and which governs sexual congress, and creating father-child relationships as another kind of permanent belonging-to.

Theories abound identifying the social purpose of marriage in some combination of economic, security, and political alliance-making, but while these functions may make good use of a marriage institution, they are hardly dependent upon it, and seem derivative of the fundamental characteristics of marriage: the ordering of intersexual communion in socially instituted affective bonds, and the continued existence of the race, thus implied. The Latin etymology of the English term “matrimony” (*mater+monium*;[[37]](#footnote-37) loosely translated: mother-making) seems to capture the essence of the thing itself. This expression highlights the social reality of marriage as the most proper of what we can generalize as four social forms that sexual congress takes in human society: marriage, concubinage, prostitution, and fornication.

Marriage, sociologically speaking, establishes the social order that transforms sexual congress and its fruit (progeny) into family. Marriage both creates families, and exists within a particular framework of “family” as a social institution. Zimmerman has identified three family types describing stages of development/dissolution of these institutions, measuring the degree of relative power possessed by the family as a social unit, and its centrality in the life of society’s members. In other words, these types describe the general social conditions impinging upon individuals in their relationships to the family on the one hand, and the state on the other, defined largely by the locus of power in family matters, and by the focus of piety, or the recognition of that which is considered sacred.

The Trustee family type refers to the most family-intensive societies, where “family” is understood multi-generationally (even quasi-transcendently) , referring to clans and even tribes. In such a context, the state exerts relatively little power over the family, which exists as a kind of society within society, and is invested with sacrality. This type most clearly models the divine order,[[38]](#footnote-38) but in its human expression is also prone to familial authoritarianism and the suppression of individual freedom, as well as promoting vigilantism and other ills of tribalism. The common Domestic family type describes the family relieved of the more overbearing powers of the trustee type, where both individuals and the state exercise more control, and the notion of family is more fixed on the living, making room for things like the sale of property. The Atomistic family type is found in highly individualistic societies, where family relations are viewed like contracts, society is largely understood as a collection of individuals under the authority of the state, and sacrality is invested in the individual. [[39]](#footnote-39)

### The classical world & Christianity

The Roman world into which Christianity appeared reflected a contractual, atomized type of family, in which children were few, divorce was frequent, and marriage itself could be contracted in both a *dignitas* type, in which children of the bond inherited from the father, and a looser type called *concubinatus*, in which any children remained with the mother’s family.[[40]](#footnote-40) In this largely decadent world: “a marriage, at least among commoners, came into existence when a man established a household with a woman”.[[41]](#footnote-41) Christianity rejected the *concubinatus* arrangement, and demanded the Roman *dignitas* union be purified of divorce, leading toward a stronger familism. St. Augustine defined the goods of marriage as *proles, fides, et sacramentum*, and this would underpin the West’s understanding of marital union for over a thousand years.[[42]](#footnote-42)

Shortly after the ascendency of Christian influence in marriage mores, the Western Empire was broken up under succeeding waves of invasion from Germanic tribes, which were organized around a primitive trustee model of familism. The Church’s struggle during the ensuing centuries to defend a Christian model of marriage would be not only against the atomizing decadence of late Romanism, but also against the trusteeism of barbarian origin, in which the interests of the families could run roughshod over the freedom of the individuals, whose freedom formed the very core of the sacramental union. This is evidenced in the ecclesial adoption of “incest” restrictions within seven degrees of consanguinity and affinity– a move clearly intended to mitigate and blur the defining contours of the trustee families, for the sake of broader societal integration.[[43]](#footnote-43)

Also clashing with trustee-family notions of marriage norms, the Church recognized the validity of any licit marriage in which the couple had exchanged marriage vows with each other and consummated the union, including unions entered into clandestinely. Barbarian Europe’s trusteeism had understood marriage as a bond which extended to unite families, whereas the Church’s understanding of the Divine Revelation concerning marriage was less clannish and more individualistic: “*Therefore a man leaves his father and his mother and cleaves to his wife*” (RSVCE), characterizing the *Domestic* model of family in Zimmerman’s typology.[[44]](#footnote-44) This basic understanding of marriage as a sacramental covenant in permanent union of a conjugal nature formed by licit mutual consent prevailed in Western Christianity until the late middle ages, by which time the trusteeism of the European family had been significantly ameliorated and moderated.

### Europe through the Reformation

The Church enacted several disciplinary reforms surrounding marriage in 1215 at the Fourth Lateran Council. Canon 50 reduced the impermissible degrees of consanguinity from seven to four, in response to the changed circumstances of Europe’s social life. Canon 51, aiming to secure the stability of contracted marriages by improving the recognition of impediments prior to contraction, prohibited clandestine marriages; and required banns of marriage to be publicly announced in churches prior to the celebration of the sacrament – although the Church did continue to recognize the validity of clandestine marriages.[[45]](#footnote-45) Up until that time, though the Church had established the cultural norms around marriage, marriages themselves had largely been the purview of families and individuals.[[46]](#footnote-46) Although undoubtedly effective in limiting the number of putatively valid marriages being invalidated by the “discovery” of previous clandestine unions, this reform represents the beginnings of an institutionalizing or even a bureaucratizing of marital norms within Christianity. This trend was furthered in 1563, at the 24th session of the Council of Trent, which, while confirming the validity of previously contracted clandestine marriages, stipulated the presence of clergy and at least two witnesses as being requisite for validity of all marriages in the future. [[47]](#footnote-47) During the intervening years, secularizing efforts at controlling marriage had emerged outside the Church.

By the time of Erasmus (1467-1536), European intellectuals were both advocating secular control of marriage and family norms, and denying (even ridiculing) the sacramental character of marriage.[[48]](#footnote-48) The Protestant reformers and their secular enablers advanced both of those ideas across Europe, also introducing absolute divorce (and thus remarriage) as a possibility for a relationship now understood to be of purely natural character. They also modified consent requirements in civil law to include third parties[[49]](#footnote-49)– often the families, thus employing the state to secure a familial control over individuals that the trustee familism of earlier ages would have inherently provided.[[50]](#footnote-50)

The Lutherans established marriage as one of three foundational “estates” of society, along with the clergy and magistracy, firmly placing it under secular jurisdiction, as belonging to the “earthly kingdom”.[[51]](#footnote-51) Calvin, in constructing a covenantal view of marriage, recognized God as a remote participant in its formation, indirectly, via the agency of four parties whose involvement was thus considered essential in the legitimacy of the marriage: the couple’s parents (as God’s “lieutenants”); two witnesses (as “God’s priests to their peers”); the minister (to bless and teach); and the magistrate (to register and legally define the union).[[52]](#footnote-52) This covenantalism would go on to play an important part in Western family law, as well as in the broader notion of community within Calvinist communities. Indeed, it would seem to have had a devastating, if inadvertent, effect on the very nature of community itself, as something that grows organically out of family, sharing in the generational dynamic of “handing down”, or tradition.

Herve Varenne has linked the highly atomized and contractarian views of modern American familism with the founding covenantal communitarianism of the first puritan (Calvinist) pilgrim settlers, who negotiated their common existence together, including adaptations and dissolutions.[[53]](#footnote-53) The genius of these communities was that they did not possess any “givenness” – any tradition – but were purely the construction of the wills of those who formed them. However, they often would not survive a generational turnover, since the children had never been parties to the negotiated terms of community, and thus could hardly belong in the community according to the very terms of community covenantalism.[[54]](#footnote-54) The model itself mitigated against not only intergenerational communitarianism, but also against familism itself, becoming, as it were, a traditionless tradition, spawning the American ethos of rootlessness and rugged individualism. The intergenerational rifts created by anti-traditional covenantalism would ultimately produce the deeply alienated familism of modern American society, where the ideal of childhood is a progressive independence from (i.e. alienation from) parents, as not only symbolic of the past, but as virtually the only known elements of the past. The movement away from parents is precisely what is identified as freedom for the child.[[55]](#footnote-55) So we see that with Calvin’s rejecting the covenantalism of marriage as ordained by God, and replacing it with an artificial covenantalism overseen by the state, the very basis of the given belongingness of human society was radically undercut.

Anglican family law vacillated between various influences, but was characterized from the mid-16th century on by Francis Bacon’s re-casting of the ends for which God ordained marriage: love, procreation, and deterrence from sin.[[56]](#footnote-56) This prioritization of “love” as the chief end of marriage would be carried forward a century later by John Milton, in arguing for the remedy of divorce in situations of domestic dissolution: by identifying tri-fold *religious*, *civil*, and *corporal* aspects of the marital society, of which the religious aspect, as expressing love in reflection of the love between Christ and His Church, was to be considered the most excellent aspect, and thus all the more fitting to be subject to the remedy of divorce when its purpose (love, but clearly understood as mutual satisfaction or happiness: domestic bliss) was frustrated by circumstance, a remedy already available for the more trivial failures of the corporal aspects of the union.[[57]](#footnote-57) Half a century later, John Locke would propose an understanding of marriage as the original society of humankind, entered into as a voluntary contract by parties so inclined, and not dependent upon either Deity, Church, or state.[[58]](#footnote-58) Both these foci – marital contractualism and love-centrism – would be key elements of a radicalized view of marriage emerging from the Enlightenment and its aftermath.

### Enlightenment Individualism & Romanticism

Enlightenment rationalism rejected both Catholic (sacramental) marriage, and the more socially-oriented Protestant views of marriage, and instead declared free and rational contractarianism as the essence of marriage, “the voluntary bargain struck between the two parties”.[[59]](#footnote-59) This model would provide the philosophical/ideological basis for a radical atomizing of the family over the ensuing centuries, but its ascendency, in both the political and religious corners of Western Christianity, would depend upon changing social conditions, and especially upon the emergence of a mollifying romanticism.

By the 18th century, the growth of personally liberating but socially destabilizing wage labor, combined with recent political and philosophical movements rejecting both political absolutism and familial patriarchalism, produced a widespread championing of individual rights that was translated in the sphere of marriage into claims for the organization of marriage on the basis of “reason and justice rather than force”, meaning that “the pursuit of happiness” in marriage demanded the satisfaction of “love”. [[60]](#footnote-60) A vision of marriage emerged proposing that love should be the most fundamental reason for marriage, and that young people should be free to choose their marriage partners on the basis of love.[[61]](#footnote-61) By the end of the century, Western culture was awash in the concept of romantic love. Though rooted i*n eros*, this notion is distinct from the universally know*n amour passion.* It entails that desire, yet draws upon Christian ideals fixing it onto a permanent object, linked to the knowledge of God as a kind of supreme satisfaction.[[62]](#footnote-62) It advertises a promise of true love that will never fade, and presents itself as a quest “in which self-identity awaits its validation from the discovery of the other.”[[63]](#footnote-63)

During the following century, this new marriage model based on sentiment and reason began to shift away from reason, giving rise to the popular idea of “falling in love”, as being something one “cannot help”.[[64]](#footnote-64) Thus, marriage had come to be seen as a vehicle for the fulfillment of one’s deepest felt needs, understood, ultimately, as irrational desire. By the end of the 18th century, people were finding ‘’in falling in love the kind of self-fulfillment that the previous generation had sought in religious revivals.”[[65]](#footnote-65) But if the emotional exhilaration of “falling in love” was the proper grounds for marriage, and domestic bliss its expected fruit, what would uphold marriage when emotions turned dark, and bliss lost its glow?

“The intrinsically subversive character of the romantic love complex was for a long while held in check by association of love with marriage and motherhood, and by the idea that true love, once found, is forever.”[[66]](#footnote-66) But this idea was never true, because what was called romantic love was always at least at risk of being nothing more than mutual egoism. Hence, by the 19th century, “causeless divorce” had been widely adopted in law to satisfy the demands of the disappointed,[[67]](#footnote-67) and by the end of the 20th century, more marriages in the US would be ended by divorce than by death.[[68]](#footnote-68) A 19th century cultural plunge into a deepening sentimentalizing of love featured a contrived moralism we know as Victorian “prudishness”, with an attendant, novel, idealizing of wifehood and motherhood as being icons of morality and of the domestic affection that was widely held to lead to happiness.[[69]](#footnote-69) In 1840, Queen Victoria created an “overnight tradition” by walking down the aisle in a wedding gown of pure white to musical accompaniment, inspiring middle-class women to turn their weddings into “the most glamorous event of their lives, an elaborate celebration of their entry into respectable domesticity.”[[70]](#footnote-70) That so many modern weddings look like the acting out of princess fantasies could hardly be unrelated.

In the public sphere, the philosophical movements of individualism, statism, and evolutionary progressivism were pushing for a radical atomizing of familism, a vision of society consisting of “free” individuals at the service of the state, for whom life’s goal would be “happiness” as defined by individual satisfaction.[[71]](#footnote-71)

In and of itself, love is hardly out of place in the Christian conception of marriage, nor is individual freedom. Properly understood, these are critical elements in the mutual gift of self in marriage. But Wojtyla was able to speak of a “sinful love”, referring to a notion of love rooted in sensuality and affectivity that, even though, as such, these elements do provide the “material for love”, they remain rooted in an egoism that fails to “integrate” the impulses at the interpersonal level, an act which requires the “reciprocal affirmation of the value of the [other]”, not simply as an object capable of satisfying one’s own desires (sensual, emotional, or otherwise), but as a person to be loved for his or her own sake.[[72]](#footnote-72) Any “love” that finally values the other on the basis of one’s own personal satisfaction, however measured, reduces the other to a mere object of pleasure, and fails to rise to the true nature of love, thus compromising the ethical commandment to love,[[73]](#footnote-73) which is not arbitrary but is itself rooted in the ontological truth concerning the person: that *love alone corresponds to what the person* *is*.[[74]](#footnote-74) The affections thus must be placed at the service of love understood as “sincere gift of self”, which alone satisfies one’s *own* genuine self-realization, as a person created in the image and likeness of God, in responding to the call “to exist ‘for’ others, to become a gift”.[[75]](#footnote-75)

Likewise, love is not some good that exists for the sake of freedom, as the individualists would have it, but “freedom is for love, for through love man most fully participates in the good”, and freedom is the means by which man personally commits himself to love. Love, in fact consists of a commitment of freedom, and to give oneself fully to another – to marry – is precisely to limit one’s freedom on behalf of the other.[[76]](#footnote-76)

### Late Modernity: the sexual revolution

The 20th century saw the rise of popular culture and a turn away from the quickly discarded “Victorianism”, and suddenly “sex” or “sexiness” was everywhere: in advertisements, popular literature, the new silent movies, new, sexualized popular dance forms, and especially on college campuses, which were the epicenter of a social phenomenon called “youth” culture. American youth culture developed from a confluence of cultural novelties that dovetailed into the existing American anti-traditionism ethos: (1) the social practice of youth being increasingly segregated by age while being decreasingly segregated by gender (engendering a peer culture abnormally alienated from the adult world); (2) the emergence of mass communications and a national media (an effective propaganda system promoting widespread conformance to an agenda promoted by powerful commercial and ideological interests); and (3) the emergence of a new group identity largely formed around the notion of sexuality, informed by trendy intellectual ideas such as the Freudian conception of sexuality as a necessary “healthy expression” alienated from “repressive” morality – ideas that would continue to be propagated within the social sciences throughout the 20th century and beyond, in order to socially normalize non-marital sexual adventurism.[[77]](#footnote-77)

Choosing one’s own mate apart from traditional family governance naturally required new social conventions for courtship. The late-19th century convention of men receiving offers to “call” upon available young women at their family residence gave way in the early 20th century to a more transactional form we recognize as “dating” or “going out”, and which tended to take place in public spaces such as theaters and dance halls.[[78]](#footnote-78) This model, culturally dominant in the U.S. until World War II, served more as a popularity competition than a facilitator of marriage, but the convention expected the young participants to incorporate the loosening sexual morals and behavior being advanced by the intellectual elite of the day, beginning with sensual hand-holding, and advancing to behaviors known as necking, and then petting.[[79]](#footnote-79)

At least some of these intimate behaviors look comparatively tame to us today, but they reflect a ground-shifting change of perspective on marital morality: it’s reasonable to assume that none of these men or women would accept such behavior with third parties on the part of their spouses, so they clearly knew it violated marital claims, yet marriage was obviously no longer being viewed as the morally proper sphere for sensual intimacy, but as a kind of extrinsic impediment upon sexual freedom which one imposes upon oneself for the duration of the pact. This represents, in my view, the beginning of the sexual revolution, and appears to require a nominalist view of marriage, in which marriage itself is no given reality to be reckoned with, but is only this or that specific arrangement. This convention was widely promulgated within the national youth culture that had emerged as a major influence by the 1920s.

By World War II, as early marriage began to make a cultural return, the terms of “dating” engaged in by “youth” changed dramatically, and we see the emergence of what appears to be the historically unique notion of “going steady” between persons with no intent to marry, yet who would act as if they were married: “Going steady had become a sort of play-marriage, a mimicry of the actual marriage of their slightly older peers.”[[80]](#footnote-80) Yet it mostly mimics those aspects of marriage that are least marital in their character: they are entered into purely for self-satisfaction in one form or another, are disposed of at will without qualm – often after “cheating”, and are assumed to be temporary and serial in nature. These relationships, a personal subjugation to utterly irrational and childish convention, are little more than schools of inauthenticity, infidelity, mistrust, and, mostly, a training paradigm for choosing between divorce or less messy *de facto* unions.

The one manner in which the “steady” partnerships of youth do mimic genuine conjugality is in their implication of greater sexual intimacy. Although sexual intercourse between unwed youth continued to bubble beneath the expectations of convention during the heyday of “going steady”, the lid would blow off that constraint with the emergence of readily available contraception, and the other upheavals of the 1960s. “Going steady”, from that point forward, would compete with ideas of “free love” to be the moral standard of youth – and subsequently of adult society.

Whether promiscuous or “committed”, pre-marital sex is taken in modern culture to be a rather light matter. The Apostle Paul would appear to differ. Writing to the Corinthians concerning fornication (1Cor 6:12-20), Paul insists that fornicators become “members of a prostitute”: that “whoever is united to a prostitute becomes one body [σώμα] with her”, for “’the two shall become one flesh [σάρκα]’”. The use of σῶμά here suggests not simply corporality but an incorporation, meant to parallel the union of believers in the Body of Christ, and thus implies idolatry, not simply moral shortcoming: “*For the idea of making idols was the beginning of fornication*” (Wis 14:12a). The association with harlotry, in other words, should not be read apart from harlotry’s symbolic value in Scripture.[[81]](#footnote-81)

The literary parallelism of σώμα with σάρκα (from Gen 2:24) reveals an ontological character to the sexual union itself, independent of any moral union in marriage. Within marriage, the bodily act consummates the gifts-of-self (spirits and bodies) willed in the mutual consent to conjugal union, and as such it alone absolutely determines the historical indissolubility of the willed bond. Outside of marriage, there is no willed sharing of selves to consummate, yet the act has no less permanent a significance on the soul. Thus, St. Thomas confirms that fornication establishes affinity.[[82]](#footnote-82) Whether the act culminates in a conceptus or not, it is never purely physical or biological, but entails the whole person, and imprints the soul with a false unity that can no more be undone than can history be reverted.

Moderns often claim that pre-marital sex is an acceptable and even beneficial preparation for marriage, but St. Basil the Great taught that it is injurious to marriage: “Fornication is neither marriage, nor the beginning of marriage. If it may be, it is better that they who have committed fornication together be parted”.[[83]](#footnote-83) It could hardly be otherwise, for pre-marital sex is by definition a repudiation of marriage, since marriage is itself the ordained context for human sexuality, and thus intrinsically prior in moral ordering. The utter seriousness with which the human good, in the moral order, is predicated upon the governing of human sexuality by the intellect and will in the sacred institution of marriage is reflected in a passage from the Angelic Doctor treating a question concerning fornication, when he concludes that: “after the sin of murder … this kind of sin … holds, seemingly, the second place.”[[84]](#footnote-84) We note here that Thomas is speaking not only of fornication *per se*, but of any sexually potent act which is intentionally frustrated from achieving its end in both the procreation and education of offspring (the natural ends of marriage as instituted by God). It would be hard to overstate how incongruous modern views are with this witness.

### Post-Modern society

At the turn of the 20th century, Anglo-American marriage law reflected “traditional” post-Reformation forms. But by the end of the century, family law was dominated by a thoroughly contractual view of marriage, rooted in Enlightenment ideals of individualism, freedom, equality, and privacy, that conceptualized marriage as “a ‘terminal sexual contract’ designed for the gratification of the individual parties”,[[85]](#footnote-85) a union with terms effectively set bilaterally, except for the role of the state in solemnizing the union (where solemnity is now equated with legal recognition).[[86]](#footnote-86) By the 21st century, states had begun enshrining into law a concept of marriage so far removed from the sexual covenant established by God that two men would be entitled to the legal fiction of being joined in marriage. Conventional thinking on the nature of marriage has been reduced to dreary triteness: “Marriage confers status: to be married, in the eyes of society, is to be grown up. Marriage creates stakes: someone depends on you. Marriage creates a safe harbor for sex. Marriage puts two heads together, pooling experience and braking impulsiveness.”[[87]](#footnote-87) The “essential” purposes of marriage in this vision consists of: “settling the young, especially young men; and providing reliable caretakers.”[[88]](#footnote-88) And what has the “love” revolution in marriage ascertained as its final meaning?: “If marriage has any meaning at all, it is that when you collapse from a stroke, there will be another person whose ‘job’ is to drop everything and come to your aid.”[[89]](#footnote-89)

This notion of marriage as caring duple seems oblivious to the problem of the eventual demise of the second partner, and, more importantly, also oblivious to the problem that its own internal logic recommends that when the going gets tough, the inconvenienced partner is perfectly free to get going. Like many moderns, Rauch is willing to make a pretense that the “essential core” of new marriage entails “lifelong commitment”,[[90]](#footnote-90) but he also explicitly rules it out as a requirement.[[91]](#footnote-91) Varenne seems to capture more accurately the *zeitgeist* of contemporary American society concerning family, in which we see the covenantal concept completely upended: “Love does not abolish freedom. In marriage one does not really ‘give’ oneself to the other… In marriage one ‘shares’ a self that remains one’s own. Love, being about freedom, is also about separation. Marriage is about divorce.”[[92]](#footnote-92)

How many modern couples, including Catholics, profess vows pledging themselves to each other “until death do us part”, without any intention of being bound by those vows? Ninety-Six percent of Catholics told CARA they find divorce acceptable in at least some cases, despite the well-known, explicit terms of the vows of marital consent. [[93]](#footnote-93) What can such vows signify, never mind confect? Given all this, it is difficult to see how Pope Francis, or the diocesan marriage tribunals in countries like America, could be in the wrong in their vexing assessments.

1. Catholic News Agency, “Updated: Most marriages today are invalid, Pope Francis suggests,” June 16, 2016, <http://www.catholicnewsagency.com/news/most-marriages-today-are-invalid-pope-francis-suggests-51752/>. [↑](#footnote-ref-1)
2. e.g. see the following blogs: Catholic Answers (<http://www.catholic.com/blog/pia-de-solenni/answering-pope-francis-on-invalid-marriages>); Rorate-Caeli (<http://rorate-caeli.blogspot.com/2016/06/pope-francis-catastrophic-speech-of.html>); First Things (<https://www.firstthings.com/blogs/firstthoughts/2016/06/can-only-theologians-get-married>). [↑](#footnote-ref-2)
3. Catholic News Agency, *ibid.* Granted, it is not actually possible to discern exactly what the Holy Father intended to say, since, by definition, it is strictly not possible for any "sacramental marriage” to be “null”, but he pretty clearly had in mind the controversial matter of alleged “defects of consent” which constitute the evidence of nullity of putatively valid unions in the overwhelming majority of modern annulment cases. [↑](#footnote-ref-3)
4. Cf. John Paul II, “Address of John Paul II to the Tribunal of the Roman Rota - February 1987,” 5 February 1987, <http://fjp2.com/us/john-paul-ii/online-library/speeches/6489-address-of-john-paul-ii-to-the-tribunal-of-the-roman-rota-february-1987->. [↑](#footnote-ref-4)
5. Cf. Benedict XVI, “Address Of His Holiness Pope Benedict XVI To The Tribunal Of The Roman Rota For The Inauguration Of The Judicial Year,” 29 January 2009, <https://w2.vatican.va/content/benedict-xvi/en/speeches/2009/january/documents/hf_ben-xvi_spe_20090129_rota-romana.html>. [↑](#footnote-ref-5)
6. The scope of this paper is limited to the examination of Catholic marriage in the United States only, although inclusive of its historical basis in Western European Christianity. [↑](#footnote-ref-6)
7. J. J. Zeigler, “Annulment Nation,” Catholic World Report, April 28, 2011, <http://www.catholicworldreport.com/Item/470/annulment_nation.aspx>. [↑](#footnote-ref-7)
8. Zeigler, *ibid*. The remaining 12% of ordinary process cases were dropped without a finding. [↑](#footnote-ref-8)
9. Mark M. Gray, “Replicate Before You Speculate Too Much. . .” Nineteen Sixty-four blog for CARA at Georgetown University, March 10, 2010. <http://nineteensixty-four.blogspot.com/2010/03/replicate-before-you-speculate-too-much.html>. [↑](#footnote-ref-9)
10. CARA [Center for Applied Research in the Apostolate], *Marriage in the Catholic Church: A Survey of U.S. Catholics* (Washington DC: Georgetown University, 2007), 47. Little more than half (54%) consider either of those statements even “somewhat consistent” with their views on marriage. [↑](#footnote-ref-10)
11. CARA, 47 [↑](#footnote-ref-11)
12. CARA, 55. 17% accepting divorce in “all cases” [↑](#footnote-ref-12)
13. CARA, 57 [↑](#footnote-ref-13)
14. CARA, 57f. 76% of Catholics who rarely attend Mass found “falling out of love” an acceptable reason for divorce. [↑](#footnote-ref-14)
15. General Social Survey (GSS) data analyzed @ Nineteen Sixty-four blog, March 10, 2010, <http://nineteensixty-four.blogspot.com/2010/03/replicate-before-you-speculate-too-much.html> [↑](#footnote-ref-15)
16. Daniel Cox and Joanna Piacenza, “American Catholics on the Issues by Religious Attendance,” PRRI, September 1, 2015, <http://www.prri.org/spotlight/american-catholics-on-the-issues-by-religious-attendance/>. [↑](#footnote-ref-16)
17. Michael Lipka, “Young U.S. Catholics overwhelmingly accepting of homosexuality,” Pew Research Center, October 16, 2014, <http://www.pewresearch.org/fact-tank/2014/10/16/young-u-s-catholics-overwhelmingly-accepting-of-homosexuality/>. [↑](#footnote-ref-17)
18. Cf. CCC 1256: “The intention required is to will to do what the Church does when she baptizes.” [↑](#footnote-ref-18)
19. Tertullian, “The Prescription against Heretics,” in *Latin Christianity: Its Founder, Tertullian*, ed. Alexander Roberts, James Donaldson, and A. Cleveland Coxe, trans. Peter Holmes, The Ante-Nicene Fathers, vol. 3 (Buffalo, NY: Christian Literature Company, 1885), 263. [↑](#footnote-ref-19)
20. Joseph Pieper, *Abuse of Language – Abuse of Power* (San Francisco: Ignatius, 1992), 34f. Quoted by Michelle M Schumacher, “A Plea for the traditional family: Situating marriage within John Paul II's realist, or personalist, perspective of human freedom.” *The Linacre Quarterly*, 81:4: 314. DOI: 10.1179/2050854914Y.0000000033 (accessed 10/9/2016). [↑](#footnote-ref-20)
21. See the treatment of this by Christopher West, in *Theology of the Body Explained*, Revised Edition (Boston: Pauline Books & Media, 2007) 36-38. [↑](#footnote-ref-21)
22. John Paul II, *Crossing the Threshold of Hope,* Ed. Vittorio Messori, Trans. Jenny McPhee and Martha McPhee (New York: Alfred A. Knopf, 1994) 228. [↑](#footnote-ref-22)
23. CCC 1603. [↑](#footnote-ref-23)
24. Mt 19:8. [↑](#footnote-ref-24)
25. Peter Lombard, Book of Sentences, Book Four, Distinction 26, 1.1. Quoted in Don S. Browning, M. Christian Green, and John Witte, eds. *Sex, Marriage, and Family in World Religions* (New York: Columbia University Press, 2006), 110. [↑](#footnote-ref-25)
26. Humani Generis, 36. [↑](#footnote-ref-26)
27. Matthias Joseph Scheeben, *The Mysteries of Christianity* (St. Louis: Herder Book Co., 1946), 593-598 [↑](#footnote-ref-27)
28. John Paul II, *Man and Woman He Created Them: A Theology of the Body, t*rans. Michael Waldstein (Boston, MA: Pauline Books & Media, 2006), 510-511 (TOB 98:1,2). [↑](#footnote-ref-28)
29. See, for significant examples of this, the relationship between the prophet Hosea and Gomer his wife, or the judgment against Judah in chapter 16 of Ezekiel. [↑](#footnote-ref-29)
30. Jean Danielou, *The Bible and the Liturgy* (Notre Dame: University of Notre Dame Press, 1956), 191. [↑](#footnote-ref-30)
31. *Deus Caritas Est* 11; cf. *Amoris Laetitia* 121 : “Marriage is the icon of God’s love for us.” [↑](#footnote-ref-31)
32. *Amoris Laetitia* 11. [↑](#footnote-ref-32)
33. Danielou, 191. [↑](#footnote-ref-33)
34. *ibid*., 205f [↑](#footnote-ref-34)
35. Jean Corbon, *The Wellspring of Worship,* trans. Matthew J. O’Connell, 2nd ed. (San Francisco: Ignatius, 2005), 173. [↑](#footnote-ref-35)
36. See Carle C. Zimmerman, *Family and Civilization,* ed. James Kurth, 2nd ed. (Wilmington, DE: ISI Books, 2007), 8f [↑](#footnote-ref-36)
37. Online Etymology Dictionary, http://www.etymonline.com/ [↑](#footnote-ref-37)
38. C.f. Hahn, THE 610 DL Lecture 16, et al. [↑](#footnote-ref-38)
39. Zimmerman, see esp. Chpt 2 : “Family Types and Civilization” [↑](#footnote-ref-39)
40. *ibid*, 2f. [↑](#footnote-ref-40)
41. Stephanie Coontz, *Marriage, a History: From Obedience to Intimacy or How Love Conquered Marriage* (New York: Viking, 2005), 66. This excluded slaves, who generally were permitted neither to set up households nor marry (67). [↑](#footnote-ref-41)
42. Augustine, De bono conjugali. 24.32. [↑](#footnote-ref-42)
43. Zimmerman, 60ff. [↑](#footnote-ref-43)
44. *ibid*. 63f. [↑](#footnote-ref-44)
45. H. J. Schroeder, Disciplinary Decrees of the General Councils: Text, Translation, and Commentary (St. Louis, MO; London: B. Herder Book Co., 1937), 279–281. [↑](#footnote-ref-45)
46. Chelsea Skalak. "Clandestine Marriage and the Church: King Horn After the Fourth Lateran Council." *Comitatus: A Journal Of Medieval & Renaissance Studies* 47, (January 2016): 135-161. *Humanities International Complete*, EBSCO*host* (accessed November 6, 2016). (140) [↑](#footnote-ref-46)
47. Theodore Alois Buckley, *The Canons and Decrees of the Council of Trent* (London: George Routledge and Co.), 1851. 186-189. [↑](#footnote-ref-47)
48. Zimmerman, 78-81. [↑](#footnote-ref-48)
49. John Witte, *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville, Ky: Westminster/John Knox Press, 1997), 42-44. [↑](#footnote-ref-49)
50. Zimmerman, 81-84 [↑](#footnote-ref-50)
51. See Witte, chpt 2: “Marriage as Social Estate in the Lutheran Reformation”. [↑](#footnote-ref-51)
52. See Witte, chpt. 3: “Marriage as Covenant in the Calvinist Tradition”. [↑](#footnote-ref-52)
53. Herve Varenne, “Love and Liberty: the Contemporary American Family,” in Andre Burguière, Christiane Klapisch-Zuber, Martine Segallen & Francoise Zonabend, eds., *A History of the Family,* Vol. 1 (Cambridge, MA: Belknap Press of Harvard University Press, 1996), 419 [↑](#footnote-ref-53)
54. Varenne, 424 [↑](#footnote-ref-54)
55. Varenne, 420-423 [↑](#footnote-ref-55)
56. Witte, 144 [↑](#footnote-ref-56)
57. Witte, 179-186 [↑](#footnote-ref-57)
58. Witte, 186-193 [↑](#footnote-ref-58)
59. Witte, 196f [↑](#footnote-ref-59)
60. Coontz, 146-149 [↑](#footnote-ref-60)
61. Coontz, 5 [↑](#footnote-ref-61)
62. Anthony Giddens, *The Transformation of Intimacy: Sexuality, Love, and Eroticism in Modern Societies* (Stanford: Stanford University Press, 1992), 38f. [↑](#footnote-ref-62)
63. Giddens, 45 [↑](#footnote-ref-63)
64. Coontz, 178 [↑](#footnote-ref-64)
65. Coontz, 179. [↑](#footnote-ref-65)
66. Giddens, 46 [↑](#footnote-ref-66)
67. Zimmerman, 152f. [↑](#footnote-ref-67)
68. Coontz, 181 [↑](#footnote-ref-68)
69. Coontz, 159f [↑](#footnote-ref-69)
70. Coontz, 167 [↑](#footnote-ref-70)
71. Zimmerman, 140. [↑](#footnote-ref-71)
72. Karol Wojtyła, *Love and Responsibility,* 2nd ed., trans. Grzegorz Ignatik (Boston, MA: Pauline Books & Media, 2013), 140-142 [↑](#footnote-ref-72)
73. Cf. Mt 22:36-40 [↑](#footnote-ref-73)
74. *Mulieris dignitatem*, 29. Emphasis mine. [↑](#footnote-ref-74)
75. *Mulieris dignitatem, 7.* [↑](#footnote-ref-75)
76. Wojtyła, 117. [↑](#footnote-ref-76)
77. Beth L. Bailey, *From Front Porch to Back Seat: Courtship in Twentieth-Century America* (Baltimore: Johns Hopkins University Press, 1988), 78. [↑](#footnote-ref-77)
78. See Bailey, chpt 2: “The Economy of Dating”. [↑](#footnote-ref-78)
79. Bailey, 79-82. [↑](#footnote-ref-79)
80. Bailey, 49. [↑](#footnote-ref-80)
81. Cf. Prov 29:3; Isa 1:21; Jer 3:2; Ezek 16:25; Nah 3:1ff; Rev 17ff; etc. [↑](#footnote-ref-81)
82. Summa Theologica, Supplementum ad tertiam partem q.55 a.3 s.c. [↑](#footnote-ref-82)
83. Basil of Caesarea, Canon XXVI of “The Second Canonical Epistle of the Same,” in *The Seven Ecumenical Councils*, ed. Philip Schaff and Henry Wace, trans. Henry R. Percival, A Select Library of the Nicene and Post-Nicene Fathers of the Christian Church, Second Series, vol. 14 (New York: Charles Scribner’s Sons, 1900), 606. [↑](#footnote-ref-83)
84. Aquinas, Summa Contra Gentiles, 3.122 [↑](#footnote-ref-84)
85. Witte, 209 [↑](#footnote-ref-85)
86. See Witte, chpt 5: “Marriage as Contract in the Enlightenment Tradition” [↑](#footnote-ref-86)
87. Jonathan Rauch, *Gay Marriage : Why it is Good for Gays, Good for Straights, and Good for America* (New York : Henry Holt and Co., 2005), 20. [↑](#footnote-ref-87)
88. Rauch, 18. [↑](#footnote-ref-88)
89. Rauch, 22. [↑](#footnote-ref-89)
90. Rauch, 24. [↑](#footnote-ref-90)
91. Rauch, 36: “Divorce is not forbidden and never should be; but is it *sad*.” (emphasis in original). [↑](#footnote-ref-91)
92. Varenne, 420 [↑](#footnote-ref-92)
93. CARA, 57. [↑](#footnote-ref-93)