

On the Nature of the Marriage Bond (Vinculum Conjugale)

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The purpose of this essay is to consider the idea of a vinculum (or ligamen) conjugale, an idea that has an important influence on the understanding of marriage in traditional moral theology and canon law. This vinculum is usually described as metaphysical in character, and is held to be indissoluble.

St. Thomas Aquinas writes: "Nothing supervenient to marriage can dissolve it; wherefore adultery does not make a marriage cease to be valid."¹ He then backs up his statement by quoting these words of St. Augustine: "As long as they live, they are bound by the marriage tie, which neither divorce nor union with another can destroy."²

The vinculum has been differently understood at different times, and there is a long complicated history of the concept. Since my own concern is to inquire into the validity of the concept and to try to restate whatever may be valid about it in more up-to-date and personalistic terms than were traditionally employed,

I shall not say much about the history. In any case, the material is readily available elsewhere.³ Yet there are a few points in the history of the concept that call for notice, because they will affect our subsequent discussion.

First, we may notice that the vinculum has sometimes been considered primarily as a moral bond (the expression vinculum obligatorium is quite common in Roman Catholic writers), but sometimes primarily as a metaphysical bond. According to E. Schillebeeckx, marriage was seen in the patristic age as "a life commitment" which ought not to be dissolved; whereas in medieval times it was seen as an ontological union which could not be dissolved.⁴ But he immediately goes on to say: "These two visions--the patristic view of marriage as a moral obligation and the scholastic view of marriage as an ontological bond--are not mutually exclusive, but rather mutually implicit. Both the patristic and the scholastic doctrines are firmly based on scripture."⁵ I completely agree with Schillebeeckx that the moral and ontological aspects of the marriage bond mutually imply each other. Any moral obligation, considered in depth, reveals itse^{lf}

as having ontological foundations. Certainly, the solemn obligations undertaken in marriage cannot fail to affect the partners in the very depth of their being, that is to say, ontologically or metaphysically. Further, we shall see that the marriage bond includes other deep-lying connections, besides moral obligation.

Second, there were arguments over the question of when the marriage bond comes into being, or what makes the marriage.⁶ Is the bond formed by the solemn consent of the parties, or by the consummation of their union in the sexual act? Again, this is a question which seems to call for an inclusive rather than an exclusive answer. The vows already form a bond, but that bond becomes fully a marriage bond and indeed has a new dimension added to it when the parties come together in the intimacy of sexual union. But as consummation came to be stressed, this led to stressing the ontological nature of the bond. The bond was seen in metaphysical, even mystical, terms, for the union of husband and wife, according to scripture itself, is a figure of the union of Christ and his Church.⁷

Third, we come to the sacramental understanding of marriage. Clearly, marriage is a natural institution,

and Christian marriage has much in common with non-Christian marriage. But the question has sometimes been raised whether the indissoluble bond belongs only to Christian marriage, and the so-called "Pauline privilege"⁸ has been cited as evidence that non-Christian marriages are not indissoluble. The somewhat ambiguous Roman Catholic view is summed up in the sentence:

"Marriages contracted by pagans are indeed true marriages but are not considered so firm that they may not be dissolved in case of necessity."⁹

After these preliminary remarks, I shall now develop my own view of the matter. I shall argue that there is indeed a bond or vinculum which may properly be called ontological; it includes the strand of obligation, but there are other strands besides, among them an important one deriving from the nature of human sexuality. Moreover, I think this vinculum belongs to all marriage, including non-Christian marriages. The sacramental dimension of Christian marriage, as we shall see, adds something of the highest value and importance to natural marriage, but the vinculum is already there in natural marriage. The ontological vinculum conjugale is permanent, and so we shall have to ask finally about the practical consequences.

What then are the reasons for holding the view that has just been sketched out?

We begin with scripture. Marriage--and this applies to all marriage--is said to establish a relationship between the partners so close that it takes priority over blood relationships: "They shall be one flesh."¹⁰ The word "flesh" means here, as it often does in the Old Testament, the entire being of the human person.¹¹ To become "one flesh" with the marriage partner is to become one in being with that partner and so to undergo a profound ontological transformation. In the New Testament, the point is made even more forcibly. Jesus quotes the words about being "one flesh" and adds: "What therefore God has joined together, let not man put asunder."¹² The marriage bond is here seen as a work of God, and this is surely to ascribe to it a status that may fairly be called "metaphysical" and that puts the bond beyond the range of what man can dispose or alter. But Jesus is not teaching anything new. He is simply reasserting the permanent ontological character of the marriage bond, as understood in the institution narrative. What is new, however, is that

he immediately goes on to dissociate his own teaching from the Old Testament laws permitting divorce. Jesus forbids divorce and remarriage to his followers on the ground that it issues in adultery. This seems a very hard saying, and it is.

Presumably the word "adultery" (moicheia), like the word "fornication" (porneia), is not to be understood in some narrowly legal or physical sense. Elsewhere indeed Jesus condemns the undisciplined sexual desire as itself adultery.¹³ The words moicheia and porneia point to a misuse of sexuality as a consequence of which its effects are reversed. Instead of integrating persons both in themselves and in the richer unity of "one flesh", it becomes a disintegrating and destructive force.

Consideration of this scriptural evidence makes it very hard, if not impossible, to disagree with the judgement of Schillebeeckx: "One conclusion and only one can be drawn: the bond of marriage cannot be dissolved by divorce."¹⁴

I turn next to that strand in the marriage bond which arises from the pledging of themselves to each

other by the partners in their solemn vows. What does it mean to take a lifelong vow?

The idea of a permanent commitment is something that contemporary society finds foreign. In his fascinating if also frightening book, Future Shock, Alvin Toffler describes contemporary America as the "throw-away society." Increasingly rapid change and mobility has brought increasing transience. Whereas people once held on to their possessions as long as possible and got as much out of them as possible, now rapidly changing^g_^ fashions and the abundance of goods means that things like clothes, gadgets, automobiles have a built-in obsolescence, for it is understood that they will be kept only a short time, then thrown away and replaced. But in a highly mobile society, this attitude is extended to personal relationships. "We have created the disposable person, the modular man."¹⁵ Applying this notion to marriage, Toffler suggests (whether seriously or tongue^u_^ in cheek, it is hard to tell) that in the future a person will normally have a series of marriage partners, each one suited to a different stage of life. (Whether there could be

any equity as between men and women in such an arrangement is not discussed).

We seem to be in a different world when we turn to Søren Kierkegaard's famous discussion of lifelong commitments in the areas of friendship, vocation and marriage.¹⁶ Are we to dismiss his views as perhaps a possible position in the nineteenth century but impossible in the twentieth? Yet even in the nineteenth century (or in any century) the notion of lifelong commitment was not easy to accept. In marriage, for instance, two people commit themselves permanently to each other "for better or for worse." This is a relationship that utterly transcends the moment in which the vows are made. In that moment, there can only be the faith that the relationship can be realized. Is it not madness to risk such a decision? Would it not be more sensible, even more humane, to make a provisional commitment: if things work out, we carry on; if not, we try again with new partners?

To answer this question, we have to consider what it means to be a person--or to become a person. One of the most obvious characteristics of a person, distinguishing him from an animal, is that he looks beyond the moment

and pledges himself beyond the moment. All of us are continually, in small matters and in great, making promises, committing ourselves, taking on obligations. A human community depends for its existence on the fidelity of its members to the commitments they have freely taken on themselves. A person, in turn, is shaped by his decisions and by the way he stands by them. They enter into his being and make him the person he is. In a person of any depth and integrity, we find that there is a core of abiding commitments that give to his whole life its set and character, making him a unified person rather than a bundle of loosely connected instincts, opinions, likes and dislikes, etc. The Christian faith is a good illustration of the kind of basic commitment I have in mind, but so is the marriage vow. Both of these may have times of stress, both call for constant renewal and deepening, both demand learning, growth and perseverance. Yet both are precious enhancements of the person who has entered into them, so that in course of time he or she would be destroyed by their loss. Such commitments may properly be called "ontological"

and I think that some such commitments (not necessarily the two I have mentioned) are essential to the attainment of a full personhood. Incidentally, I question whether the "throw away society" of modular friends and disposable wives will produce many persons of any depth.

My argument can be further strengthened by a brief consideration of human sexuality. This differs from sexuality in animals because it has become a personal relationship; or, to speak more accurately, it is in transition from a physiological to a personal relation. At its best, the sexual act is the most intimate and complete reciprocal self-giving of which two persons are capable, making them "one flesh" in a new and liberating whole; and this is no égoisme à deux, for the marriage union is also the foundation of the family. Sexual union in consummated marriage (of course, I am not talking of only one act or even of the whole series of sexual acts in isolation from its context in daily companionship and sharing) profoundly and permanently affects the parties in the very core of their being, just as much as do the solemn vows. Through the psychophysical sexual relation, involving the whole person, another strand is added to the ontological

vinculum. A mutual belonging is established.

Of course, human sexuality is never fully perfected. It is in constant danger of becoming a sinful depersonalized exploitation of the other for the sake of a physical gratification, and this can happen in marriage as well as outside of it. Yet because of the way the human being is constituted as a person (or as one having the potentiality for personhood), even promiscuous sexual acts casually undertaken for the pleasure of the moment seem to affect those who engage in them at a deeper level than they may recognize. The personal dimension of human sexuality can be very much reduced, but it cannot be altogether extirpated. With extraordinary insight, St. Paul claims that even an act of intercourse with a prostitute forms a personal bond and makes "one body."¹⁷ Needless to say, this is not the marriage bond, for we have already seen that the vinculum conjugale has more strands to it than the sexual link in isolation. Nevertheless, even in a casual act, the intimate union of the parties makes a permanent mark on each and forges a link between them. Such acts do not build up the person but rather scatter personal being. Many

such acts make it impossible for the one who has engaged in them to know the meaning of sexuality in its fully personal psychophysical character in monogamous marriage, for he has already "scattered" his person in a qualitative sense among so many others that he is no longer able to make that total act of self-giving which characterizes the sexual relation at its best.

A closely related point may be introduced here, one to which John R. Lucas has drawn especial attention in his discussion of the marriage bond.¹⁸ It is the unalterability of the past. We may repent of what we have done, but we can never undo it. Even God "cannot make what is past not to have been."¹⁹

The bearing of this on what I have just been saying about the permanent effects of sexual union is obvious. The identity of each one of us is constituted by a history, including a sexual history. That history I must acknowledge as my own and, willy-nilly, it determines to a large extent what possibilities are open to me today. I never begin de novo but as one formed by a history. If that history already contains one or more sexual unions, and especially if it contains a union that has been solemnized

in a previous marriage, then it profoundly affects and limits what I would be able to bring to a marriage today. It is no longer possible for me to give my whole self, for I am already tangled in bonds I cannot break. Even if in practice a second marriage turns out to be more fulfilling than a first one that has gone wrong, it can never have the potentiality of a first marriage--the potentiality for total personal lifelong union. Thus, even if one were to countenance the remarriage of divorced persons, a different kind of service would need to be used, for the simple ^{truth} ~~fact~~ that what is done cannot be undone means that any subsequent marriage must be different from a first marriage.

The remarks I have made so far apply to the natural marriage bond. It remains to say something about the specific character of Christian marriage. We call such marriage "sacramental", and in it still another strand is woven into the bond. This is the strand of divine grace. It has become clear to us that marriage is no easy matter, to be undertaken lightly or unadvisedly. Is it not presumptuous for fallible human beings to take on themselves lifelong vows? Is it not idealistic to talk

of sexuality in the somewhat exalted terms I have been using, when it is in fact such an unruly instinct? The Christian can only reply that he ventures to do and say these things because he believes that God himself ratifies the marriage bond and strengthens those who have entered into the union. In becoming one flesh, the partners now constitute a Christian community, a tiny church, as it were, which, like the whole Church, is the bride of Christ and the object of his faithful love.

This extra sacramental strand in the marriage bond may be compared to the permanent "character", as theologians have called it, conferred in the acts of baptism, confirmation and ordination. The marriage vinculum is in several respects different from such "character" and the comparison must not be pushed too far. But the essential point in both cases is that our frail human vows are seen in the context of the faithfulness of God.

Our first conclusion must be that whatever we may think of the antiquated terminology or the traditional arguments, an overwhelming case can be made out to show

that the idea of a metaphysical vinculum does point to a reality--to a bond with several powerful strands, irreversibly affecting the parties in the depths of their being and therefore to be reckoned ontological. No action taken by the parties or anyone else could finally annihilate this bond, though it may be weakened.

A second conclusion follows, namely, that the Church must set its face against the remarriage of divorced persons. It would be sad indeed if the pressures of the "throw away society" induced the Church to depart from the norm of lifelong monogamous marriage. I draw this second conclusion with some personal sorrow, knowing that to many people it may seem harsh. Yet, even so, it is surely important, especially in this permissive time, to uphold the norm. There are better ways of dealing with hard cases than changing the norm.

So I pass to a third conclusion which, I hope, will mitigate the rigour of the second. Marriages do in fact break down. Where a breakdown is irretrievable, what can be done? It might be worthwhile to look at the Roman Catholic practice which,

though it has never countenanced^w divorce, has recognized various grounds for annulling marriages, implying some defect in the marriage. I believe that contemporary Roman moral theologians are exploring the reform and liberalizing of this concept so as to make the Roman marriage discipline pastorally more effective and more compassionate. One does not break a marriage; but in some cases one may recognize that in fact a marriage has not taken place. Some strand in the bond has been missing, some hidden impediment has been present, consummation (understood not merely in a physical way) has failed to come about. Many difficult moral and legal problems would arise in considering these matters. But there is the possibility of establishing a procedure which would allow for flexibility and compassion toward those whose marriages have gone wrong and yet would not depart from the moral standards and the theological realities of Christian marriage.

Notes:

1. Summe Th., III (Supp.), 62, 5.
2. De Nup. et Concup., i, 10.

3. See G. H. Joyce, S.J., Christian Marriage: An Historical and Doctrinal Study (Sheed & Ward, 1948).
4. Marriage: Secular Reality and Saving Mystery (Sheed & Ward, 1965), vol. I, p. 203.
5. Ibid, p. 204.
6. See Terence B. Cunningham, "The Bond of Marriage", in The Meaning of Christian Marriage, ed. E. McDonagh (Gill, 1963), p. 94.
7. Eph. 5, 25.
8. I Cor. 7, 12-16.
9. Loc. cit., p. 96.
10. Gen. 2, 24.
11. Kenneth Grayston, "Flesh", in A Theological Word Book of the Bible, ed. Alan Richardson (S.C.M., 1950), p. 83.
12. Mk. 10, 9.
13. Mt. 5, 28.
14. Op. cit., vol. I, p. 207.
15. Future Shock (Bantam Books, 1970), p. 97.
16. In Either/Or.
17. I Cor. 6, 7.
18. In an unpublished paper, "Notes on the Doctrine of a Metaphysical Vinculum."
19. St. Thomas, quoted by Lucas.