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Theology of Marriage from its Medieval Origins to the Council of Trent

Philip L. Reynolds

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## HOW MARRIAGE BECAME ONE OF THE SACRAMENTS

Among the contributions of the medieval church to western culture was the idea that marriage was one of the seven sacraments, which defined the role of married folk in the church. Although the idea had ancient roots, this new way of regarding marriage raised many problems, to which scholastic theologians applied all their ingenuity. By the late Middle Ages, the doctrine was fully established in Christian thought and practice but not yet as dogma. In the sixteenth century, with the entire Catholic teaching on marriage and celibacy and its associated law and jurisdiction under attack by the Protestant reformers, the Council of Trent defined the doctrine as a dogma of faith for the first time but made major changes to it. Rather than focusing on a particular aspect of these intellectual and institutional developments, this book examines them in depth and in detail from their ancient precedents to the Council of Trent.

PHILIP L. REYNOLDS has taught at Emory University, Atlanta since 1992, where he is Aquinas Professor of Historical Theology. He is also a senior fellow of Emory's Center for the Study of Law and Religion, and he directed CSLR's five-year project on The Pursuit of Happiness (2006–2011).

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THE SACRAMENTAL THEOLOGY OF MARRIAGE FROM  
ITS MEDIEVAL ORIGINS TO THE COUNCIL OF TRENT

PHILIP L. REYNOLDS



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## Abbreviations

abbr.	abbreviation, or abbreviated as
arg. 1c [etc.]	The first of the contrary arguments in a scholastic article. (Contrary arguments are those which appear in the second place, after the arguments for the initial thesis, regardless of which set represents the position that the author defends in his response.)
ASD	<i>Opera Omnia Desiderii Erasmi</i> . Amsterdam edition. Leiden, 1969–.
ADHLMMA	<i>Archives d'histoire doctrinale et littéraire du moyen âge</i>
BA	Bibliothèque Augustinienne, Oeuvres de Saint Augustin. Paris, 1949–
BMCL	<i>Bulletin of Medieval Canon Law</i>
BGPh(Th)MA	<i>Beiträge zur Geschichte der Philosophie (und Theologie) des Mittelalters</i>
Brev.	<i>Breviarium Alaricanum</i> , = <i>Lex Romana Visigothorum</i> , ed. Hänel (1848)
CCL	<i>Corpus Christianorum. Series latina</i>
CCM	<i>Corpus Christianorum. Continuatio medievalis</i>
CIC	<i>Corpus Iuris Canonici</i> , ed. E. Friedberg, 2 vols (Leipzig, 1881)
CJ	<i>Codex Iustinianus</i> [2nd ed. 534]
1 Comp. (etc.)	<i>Compilatio prima</i> (etc.), in <i>Quinque compilationes antiquae</i> , ed. E. Friedberg.
CSEL	<i>Corpus Scriptorum Ecclesiasticorum Latinorum</i>
CT	<i>Concilium Tridentinum: Diariorum, actorum, epistularum, tractatum nova collectio</i> , edidit Societas Goerresiana Promovendis inter Germanos Catholicos Litterarum Studiis (Friburgi Brisgoviae 1901–2001)
CTh	<i>Codex Theodosianus</i>
DDC	<i>Dictionnaire de droit canonique</i>

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Dig.	<i>Digesta Iustiniani</i>
DS	Denzinger-Schönmetzer, <i>Enchiridion Symbolurum, Definitionum et Declarationum</i>
ed.	“edited by,” “edition,” or “editor,” as appropriate in context.
Esmein-	A. Esmein, <i>Le mariage en droit canonique</i> , 2nd edition, ed.
Genestal	R. Génestal and J. Dauvillier, 2 vols (Paris, 1929, 1935)
Gaius, <i>Instit.</i>	<i>Gai Institutiones iuris civilis comentarii quatuor Iustiniani Institutiones</i>
IPH 1 [etc.]	Patristic sentences of the <i>In primis hominibus</i> , as enumerated by Matecki
JL	Refers to the numeration of decretals in Jaffé-Loewenfeld, <i>Regesta pontificum romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII</i> .
LB	<i>Desiderii Erasmi Roterodami Opera omnia</i> , ed. J. Leclerc (Leyden, 1703–1706)
Le Bras, “Mariage”	G. Le Bras, “Mariage. La doctrine du mariage chez les théologiens et les canonistes depuis l’an mille,” DDC 9.2, 2123–2317.
Lottin, PsM V LP 1 [etc.]	O. Lottin, <i>Psychologie et morale aux XII<sup>e</sup> et XIII<sup>e</sup> siècles</i> , vol. 5 <i>Sententiae</i> of the <i>Liber Pancrisis</i> enumerated according to MS British Library, Harley 3098. See Giraud, <i>Per verba magistri</i> , 503–51.
MGH	<i>Monumenta Germaniae Historica</i>
MWCh	Philip L. Reynolds, <i>Marriage in the Western Church</i> (Leiden, 1994)
Nov.	<i>Novellae Iustiniani</i>
Mansi	J.-D. Mansi (ed.), <i>Sacrorum Conciliorum Nova et Amplissima Collectio</i>
NE	<i>Nicomachean Ethics</i> (Aristotle)
NF 1 [etc.]	The enumeration of <i>sententiae</i> in Lottin, “Nouveaux fragments théologiques,” RThAM 11–14 (1939–1947)
Paulus, <i>Sent.</i>	<i>Sententiae Pauli</i>
PG	<i>Patrologia Graeca</i> , ed. J.-P. Migne
PL	<i>Patrologia Latina</i> , ed. J.-P. Migne
PM 1 [etc.]	The enumeration of <i>sententiae</i> in Lottin, PsM V
RDC	<i>Revue de droit canonique</i>
repr.	Reprinted, or reproduced
RThAM	<i>Recherches de théologie ancienne et médiévale</i>
RThPhM	<i>Recherches de théologie et philosophie médiévales</i>
s.c.	<i>sed contra</i>
SC	Sources Chrétiennes. Les Éditions du Cerf, Paris

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SMA 1 [etc.]	<i>Sententiae Magistri A.: De matrimonio</i> , as enumerated in Reinhardt's edition
Tanner-Alberigo	<i>Decrees of the Ecumenical Councils</i> (London, 1990)
THTH	Philip L. Reynolds and John Witte, Jr. (eds), <i>To Have and to Hold</i> (Cambridge University Press, 2007)
un.	<i>unicus</i> (as in <i>articulus unicus, quaestio unica</i> , etc.)
WA	<i>D. Martin Luthers Werke: kritische Gesamtausgabe</i> [Weimarer Ausgabe], <i>Schriften</i> . Weimar, 1883–1948.
WH	Refers to the numeration of decretals in the <i>Walther-Holtzmann-Kartei</i> index.
X	<i>Liber extra</i> , = <i>Decretales Gregorii IX</i> . In Friedberg, <i>Corpus Iuris Canonici</i> , vol. 2
Citations	3:3/3 = vol. 3, p. 3 (or col. 3), line 3. Lines are enumerated from the top of the text on each page unless the edition provides its own enumeration.

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## Preface and acknowledgments

This book is my contribution to a project on Sex, Marriage, and Family and the Religions of the Book, organized by the Center for the Study of Law and Religion (CSLR) at Emory University in Atlanta. The project ran from 2001 through 2007, with regular meetings among the senior fellows through 2003. I am very grateful to the late Don S. Browning and to John Witte, Jr., who co-directed the project, as well as to The Pew Charitable Trusts, which funded it.

I have endeavored to explain herein how marriage came to be regarded as one of the seven sacraments. It is well known that this doctrine, like the universities and much of due process in our courts of law, was one of the medieval church's contributions to western culture. It is equally well known that the doctrine was first defined as a dogma of faith at the Council of Trent in 1563, which defended it against the Protestant reformers. Its origins were in the early twelfth century, and the core of the doctrine was complete by the middle of the thirteenth. This history is well documented, although until now a minimal reading list covering it adequately would have to include literature of varying quality in several languages, most of it now showing its age. But this literature would tell us only who said what and when, what were the arguments and counterarguments, the rival theories, and so forth.

I realized even before I started writing the book in 2003 that it would have to be very long. I would have to revisit all the ground that had already been covered in the extensive secondary literature on the topic, amplifying, updating, and adding to it. But I wanted to do more than that: to take a broader, more distanced, and more searching view. I try to explain what was new when the doctrine emerged, and to distinguish that from what was received and traditional. I try to show *why* theologians, canonists, and other clerics argued as they did, for they often used forms of argument that would convince few if any today. What were their presuppositions? What difference did the doctrine make? Why did it matter? What was at stake?

Moreover, the doctrine was largely the work of scholastic theologians, no two of whom agreed about this or any other subject at every point. Their arguments and

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counterarguments about marriage as a sacrament were extremely intricate. Only a small part of any theologian's treatment of marriage in a commentary on Peter Lombard's *Sentences* or in a *summa* of theology was devoted to the sacramentality of marriage, but the topic elicited enormous invention and ingenuity, partly because marriage did not fit the sacramental paradigm easily. In several salient respects, marriage did not *look* like a sacrament. Furthermore, scholastic theologians were intellectuals who thoroughly enjoyed their work and relished problems in need of solution. That a certain master had said one thing was often sufficient reason for another to say something different, especially when no established dogma was at stake and there was no risk of heresy. For example, the schoolmen assumed that each sacrament had an essence composed of form and matter. In the case of baptism, the form was the formula of blessing spoken by the minister, whereas the matter was the ritual ablution with water. But what were the matter and the form of marriage? The question was not dangerous. Any professional theologian could come up with plausible candidates and defend them adequately. There was no need to fear that marriage would be shown not to be a sacrament because it did not have an essence composed of form and matter. But extending the hylomorphic analysis from paradigmatic sacraments such as baptism and eucharist to marriage was a stretch. Theologians delighted in coming up with their own personal solutions to such problems.

The dimensions of the project expanded as I worked on it, largely because the chronological scope of project extended both backwards and forwards. I had originally planned to begin in the early twelfth century, when the doctrine originated, and to finish with Thomas Aquinas, in whose work it arguably reached its full development. But the origination of the doctrine involved a new reception of Augustine. Theologians during the early twelfth century gathered hitherto little used material from Augustine on marriage from florilegia, sometimes assembling it in ways that he could not have anticipated. I had intended to refer readers in this book to what I had written on marriage in Augustine in an earlier book,<sup>1</sup> but I found that I was not entirely satisfied with the earlier treatment, and I decided to make a fresh start. This book includes, therefore, three preliminary chapters on Augustine (Chapters 2–4), in which I try to establish what Augustine himself meant by what he said about marriage, as distinct from what twelfth-century theologians creatively made out of his statements and opinions on the topic. Again, the origins of the sacramental doctrine presupposed conceptions of marrying that differed from those prevailing in the early Middle Ages, and one needs to construe that emergence as part of an effort on the part of bishops and clerics to take control over how people married; to enforce the rules and regulations. Both of these considerations require attention to traditional structures and presuppositions: the nuptial process, marital consent, and consummation. Here, too, I had planned to refer to my earlier book but decided on reflection to make a fresh start, recounting the historical background of marital

<sup>1</sup> *Marriage in the Western Church* (Leiden, 1994).

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consent and consummation, the ambiguities that these traditions presented to churchmen, and the competing solutions to such ambiguities that evolved during the late eleventh and the twelfth centuries (Chapters 5–7).

The study also extended forward to the sixteenth century. I could not find a natural boundary during the central Middle Ages. The theology of marriage continued to evolve through the fourteenth century. It is true that some famous theologians of that era, working in the ingenious but crabbed spirit of late-medieval scholasticism, were so preoccupied with narrowly philosophical and epistemological problems that they chose to ignore marriage and the other sacraments. At the same time, many fourteenth-century theologians ceased to cover the canonical rules and regulations of marriage, partly because there was little there that was problematic or controversial, and partly because the disciplines of theology and canon law had grown apart. Nevertheless, a few major theologians continued to provide new solutions to old problems in the sacramental theology of marriage. In particular, the objections of Durandus of Pourçain (d. 1334) to the sacramentality of marriage elicited new solutions and counterarguments (Section 14.8). Each new contribution sheds fresh light today on the preceding treatments. Although not much happened in the theology of marriage during the fifteenth century, I could not find any medieval end point that would have seemed more than arbitrary. Eventually, I realized that the first natural boundary was the Council of Trent. That, too, sheds new light on marriage in medieval scholastic theology and canon law during the previous centuries. To treat Trent adequately, however, I had to examine Protestant critique, the Catholic response to that critique during the first half of the sixteenth century, and the proceedings on marriage not only at Trent in 1563 but also at Bologna in 1547, where the council's deliberations on marriage began. The last four chapters of the book (Chapters 17–20) are devoted to these sixteenth-century developments.

There was another reason for the project's growth. Thoroughness breeds thoroughness. Subjects that I might have mentioned only *en passant* in a succinct study called for a full discussion in a study on this scale. For example, Vacarius's theory of marrying as a form of *traditio* (Section 7.5), while interesting from the perspective of legal theory, contributed little to the story of how marriage became a sacrament. In a brief study of that topic, therefore, I might have mentioned Vacarius's theory only in passing, as a historical curiosity. But that omission would have been inappropriate and even unforgivable when I cover much else extensively.

Realizing that I could not expect many interested readers to read a book composed on this scale sequentially from cover to cover, I endeavored to make it as accessible and as useful as possible by dividing and subdividing each chapter into numbered sections, which are identified in the table of contents. I include cross-references to these sections parenthetically in the main text.

Because the table of contents reveals the scope and organization of the book fully and clearly, an introductory chapter-by-chapter synopsis would have been redundant. Instead, the first chapter is an essay that provides the reader with an overview of

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the entire study. I do not claim to have said everything worth saying on my subject – far from it – but I believe that I have provided a treatment that will serve as a point of reference for other related or more detailed studies, whether they are historical or theological.

A note on my policies of translation: English translations of patristic and medieval Latin texts are my own unless otherwise stated. I provide the Latin original for a passage that I have translated only if its wording is remarkable, problematic, or discussed in the main text, or if the source is not readily available in a printed edition. Many early printed editions of scholastic works that were virtually inaccessible twenty years ago are now readily available through online services such as Google Books and Hathi Trust Digital Library.

I have based English quotations of the Bible sometimes on the Douai-Rheims version but more often on the King James Bible. The former was a faithful, rather literal translation of the Vulgate. Although the translators and editors of the King James Bible consulted the Hebrew and Greek sources available to them, this was in effect a revised version of the Douai-Rheims, incorporating many of its idiomatic solutions (a debt that is rarely acknowledged). As a result, the King James Version remains remarkably close to the Vulgate. Moreover, like the works of William Shakespeare, it still has the advantage of cultural familiarity among English-speaking readers, for the influence of its phrases and idioms on our usage is pervasive. When quoting from the Douai-Rheims or King James version, however, I have sometimes modernized obsolete idioms that would have been pointlessly obscure or distracting to the modern reader. Moreover, I have modified these sources without notice to convey as closely as possible the sense of the Vulgate *as it was understood and interpreted by the authors whom I am discussing*. Quotations of the same verses of the Bible in English, therefore, are not always consistent throughout the book.

The section on Pedro Guerrero's treatise on clandestine marriage in Chapter 20 has been published (with minor variations) in Troy L. Harris, *Studies in Canon Law and Common Law in Honor of R. H. Helmholz*, copyright 2015 by the Regents of the University of California, The Robbins Religious and Civil Law Collection, School of Law, University of California at Berkeley.

I am deeply grateful to Dr Line Cecilie Engh, who convened a workshop on medieval marriage symbolism at the Norwegian Institute in Rome in June, 2014, and summoned me to it. The meeting caused me to rethink and revise my treatment of marriage as sacred signifier in the first chapter. After working in the field for some thirty years, I still find the logic, argument, and semiotics of signs in the medieval theology of marriage both baffling and fascinating. The work of the Rome project that Line inaugurated is still unfolding.

I have received practical help and advice from many established scholars, graduate students, librarians, and archivists in the course of writing this book. They are too numerous to name, and a short list might offend those whom I failed to mention. I shall limit myself, therefore, to a few words of special thanks to three colleagues

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who were personally involved in the project. I am very grateful to Severin Kitanov, who is now a professor of philosophy at Salem State University, and to Sarah Bogue. Severin, whom I first met while teaching in Helsinki, helped me with bibliographical research at an early stage of the project, when he was a visiting doctoral student at Emory University. Sarah, who is currently writing her dissertation on Hrosvit of Gandersheim at Emory, read all of the chapters in draft, alerting me to corrigenda and pointing out places where the sense was unclear. Finally, I must acknowledge a huge debt to my colleague John Witte, Jr., director of Emory's Center for the Study of Law and Religion, of which I am privileged to be a senior fellow. John not only encouraged me to write the book but also discouraged me from abandoning the project at moments when I was becoming daunted by its emerging scope. I am grateful to John, too, for his work as an intellectual leader at Emory University, where the CSLR under his direction fosters free and diverse but disciplined and informed inquiry into law and religion.