

The Changing Nature of the Marriage Contract

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Two factors directly concerned with women are of particular significance for the future of patriarchy in the Catholic Church. First, the changing nature of the marriage contract; Second, women's control of reproduction.

In Western liberal democracies changes in the nature of the marriage contract are emerging. With the increasing demand for a partnership of equals with shared responsibilities, the traditional marriage contract is being replaced by a more democratic marriage contract. The marriage contract is changing from one of unequal power relations in which men hold power over women, to one of equal power relations with an equal distribution of power. The changing nature of interpersonal relations is resulting in a significant shift of power in marriage and in the family.

These changes involve a shift of power which is not without repercussions. Giddens (1990)^[1] suggests that it is women who have initiated this change. As women and sex became freed from the needs of reproduction, the relations around the sexual act assumed a greater importance. In the private sphere women are looking for quality relationships, a transformation of intimacy, manifest by the transactional negotiation of personal ties and joint responsibilities by equals. These demands by women for equality in the private sphere are fully compatible with their experiences of democracy in the public sphere. Giddens suggests that this transformation of intimacy, this shift to democracy in the private sphere, might be a subversive influence on modern institutions. One such institution is the Catholic Church.

Changes in the nature of the marriage contract changes the nature of the family. The patriarchal family is the basic building block of a patriarchal Church, a microcosm of the Church's patriarchal theology, structures and institutions. A contract of equal partnership between couples changes the nature of this basic building block of Church. For a partnership between equals, ultimately requires a new theology and sexual morality in which women are equal partners with men. Many Catholic women are demanding relationships with men and with the Church, which are based not on power relations but on a partnership of equals; a relationship of care and concern; a democracy not just the right to free and equal self-development but also an equal distribution of power. Such demands

require wholesale revision of existing ideologies and theologies in which women are subordinate to men.

The changing nature of the marriage contract profoundly affects patriarchal power. Marriage and the patriarchal family have been vehicles for the control of women and their sexuality. In the Church this control has been supported by an ideology of patriarchy, justified by a patriarchal theology. There is however a dilemma. Marriage is the only sacrament where the Church has no part to play in the sacramental contract. No priest need be present. The sacrament is validly conferred by the spouses upon each other. Church control of marriage and the family has necessarily been from outside the contract.

If couples choose to change their contract with each other there is little the Church can do about it. How therefore can a patriarchal Church retain control of marriage, the family and women?

Historically the Church has attempted to control the nature of the contract externally by; defining the terms and conditions for married people; the introduction of 'forbidden times' for marriage; the exclusion of certain groups and the control of sexual activity within marriage. As these external controls break down and couples decide for themselves the nature of their contract, clerical control of marriage is lost.

In order to retain control of marriage and the family thereby diffusing the threat to patriarchal power women must be controlled. Women must remain subordinate to men in the family and in the Church. Women must continue to be defined by men in light of their sexual relations with men, as wives, mothers or virgins. In patriarchal ideology and theology the justification for such control has been the assumption of male superiority.

On closer inspection, one of the biological arguments supporting this theory, the fantasy surrounding semen^[2], has played a key role in the Church's theology. Semen was believed to be the most important factor in conception. The male 'seed' contained the whole foetus in embryo^[3]. A woman's function was simply to act as an incubator for the man's child. Semen not only explained the ability to initiate new life but the biological superiority of the male. Semen 'made men men' strong in thought and deed. The lack of 'vital spirit' (semen) in women made them 'more soft, more liquid.... altogether more formless than men'^[4]. The possession of semen gave men all the biological, social, political and cultural advantages from which women were 'naturally' excluded. Men were of more value than women, were more intelligent, more active. It was natural therefore that men should control women.

In the Middle Ages these notions from the Ancient World were absorbed by Church Fathers as Aristotelean philosophy and incorporated into Christian theology. Thomas Aquinas, (whose doctrine of the 'natural law' is adhered to by the present pope), when talking of semen, starts with the principle that every active element creates something like itself. 'The energy in semen aims of itself to produce something equally as perfect, namely another man'^[5]. In unfavourable circumstances a woman, that is a 'misbegotten man', is born. Woman is a mistake, 'a defect that does not correspond to nature's first intention'^[6] 'originating in some defect'^[7]. Thus Aquinas confirmed that women were of less value than men.

The need to control women and reproduction is enshrined in patriarchal theology. The emergence of a marriage contract between equals, together with the consequent demise of

the patriarchal family, threatens the very basis of patriarchal beliefs and arrangements in the Catholic Church.

2. The Control of Reproduction.

The second significant factor concerning patriarchy in the church is who controls reproduction? Who is to control women and their bodies? With the introduction of the contraceptive pill, women no longer at the mercy of unreliable methods of contraception, had the means to control their own fertility. The power to decide on reproduction had shifted to women themselves.

The 'rhythm method' or what the Church calls 'natural family planning' had been permissible since the 1930's. At first glance the difference between the (later) ban on the contraceptive pill and the admissibility of the rhythm method lay in the hair splitting division between means and end. But there is a significant difference between the two. With the rhythm method, power over reproduction still lays largely with the man. If the man chooses not to cooperate he could if so inclined, insist on his conjugal rights even use force in the process. With the rhythm method, condoms or coitus interruptus, the ultimate power to use contraception and the choice of method is with the man. With the contraceptive pill regardless of the type of marriage contract, the power over reproduction is with the woman.

In *Humanae Vitae*, Paul VI banned artificial contraception. In his attempt to protect papal authority the pope seriously undermined the Church's control of women's sexuality and Church authority in the lives of married people. *Humanae Vitae* forced Catholics to make distinctions between 'infallible' and 'non-infallible' pronouncements by the church^[8]. Catholic women and men were driven to ask themselves crucial questions about their allegiance to the church and the authority of the pope in such matters^[9]. The days of a largely unreflective acceptance of papal infallibility, together with 'blind obedience' to Rome were at an end.

The attempt to retain control of women's sexuality failed, as many Catholic women rejected the ban. For many Catholic women the decision to use artificial birth control in good conscience, transformed them into moral agents which led to the maturing of many individual consciences^[10]. The ban also forced women to examine their religious traditions in light of their own experience and many found them wanting^[11]. Women also resisted the continuing tendency of many churchmen to define women only by their reproductive role as mothers^[12]. In consequence, Church authority and control over marriage and women was seriously undermined, as was Confession, as a method of control over both priests and laity. Many Catholics did not 'confess' to using artificial methods of birth-control or declined to participate in confession at all, using 'supremacy of conscience' as their ultimate guide^[13]. In matters of sexual morality the Catholic laity began to temper the sexual theology of the Church with the reality of their own lived experience.

3. The Significance of the Discovery of the Ovum.

The contraceptive pill focussed attention on the respective roles of ovum and sperm in reproduction. In so doing, it highlighted an important area of the Church's sexual

theology.... the status of semen. Von Baer's discovery of the ovum in 1827 should have led to a radical re-think about the Church's sexual theology, with its biological roots in the fantasy surrounding semen. No longer the only factor in reproduction, semen lost status overnight, going from what Aquinas called 'that divine liquid' which contained the whole foetus in embryo, to that of fertilizer.

Post-von Baer women could no longer be denied their equal part in reproduction, no longer be considered a mere vessel for men's seed. Men and women were naturally called to equal partnership in reproduction. This significant change of emphasis from a male dominated role in reproduction to one of equal partnership, more clearly revealed the control of women and their bodies in a patriarchal Church. This natural partnership threatened a patriarchal theology rooted in biological determinism and an appeal to the 'natural law'. The Church's hierarchy continues to ignore the consequences of von Baer's discovery^[14].

The changing nature of the marriage contract, women's control of their own reproduction, partnership in reproduction, call for changes in the patriarchal theology, structures and institutions of the Catholic Church. Despite the promise of Vatican II such fundamental changes have been resisted.

4. The Subversion of Collegiality and Co-responsibility.

The Second Vatican Council was a serious attempt to make the Church more relevant in the world. Women were encouraged by documents such as *Lumen Gentium*^[15] with its concept of communal equality; *Gaudium et Spes*^[16] with the Church a dynamic pilgrim people; *Apostolicam Actuositatem*^[17] where women were called to participate more widely in the Church's apostolate. However all that changed in the years following the council was the level of participation of women, not their status.

Any change in the status of women is linked to changes in the status of the laity as a whole, for women are the majority in the laity. The clergy/ laity divide ensured the exclusion of the laity from decision-making^[18]. The Vatican documents went some way to removing the barriers between clergy and laity, but if there was to be a change in the status of lay participation some power would have to be devolved from Rome to the local bishops. The Vatican II doctrine of collegiality provided the theory for this to happen. The monarchical concept of Church emphasised in Vatican I was removed^[19]. However as with many organizations, theory is one thing implementation another. Following the Council this shift of power to the college of bishops was resisted^[20], serious reform was undermined by a conservative rearguard^[21].

5. Patriarchy in the Church of John Paul II.

A key player in this rear guard action has been John Paul II. For, with the pontificate of John Paul II, overt absolutism returned to the Church^[22]. By the Synod of 1980, co-responsibility had become a sham^[23]. The Extraordinary Synod of 1985 resulted in a revised and domesticated version of collegiality, episcopal conferences reduced to 'purely practical arrangements' of no collegial or theological significance^[24]. Collegiality had become just another word for submission^[25]. By 1993 in *Veritatis Splendor*^[26], (a letter to the bishops who perhaps thought themselves part of the episcopate), the pope demands obedience, total assent and submission to all papal utterances^[27].

John Paul II's answer to the loss of authority and control is to return to a monarchical concept of Church; re-affirm women's subordinate position and to regain control of women and reproduction. In short to confirm patriarchy in the church. Women's subordinate position to men, is clear to see in his encyclical *Veritatis Splendor*. The pope reaffirms traditional depictions of women's 'natural' or 'divinely mandated' roles of mother, virgin and martyr. However, definitions of human sexual nature and gender roles based on the natural law are distorted, subject as they are to specific historical and cultural perspectives. They do not correspond to the reality and value of women's own lives. An appeal to the natural law reveals a desire to maintain existing arrangements in the Church which favour men and from which women are 'naturally' excluded. The emphasis on the natural law of Aquinas together with a condemnation of contraception exposes a patriarchal mind set 'trapped in a Post-renaissance morality'^[28].

6. Control of reproduction.

The concentration on contraception has been one of the most notable features of this administration. The pope has spoken on contraception at every opportunity in every place. The whole world knows the pope's views. Contraception is, says the pope, an 'intrinsic evil' without exception^[29]. Harder to hear is the condemnation of the continued oppression of women in many parts of the world; the dire plight of so many children worldwide; the abandonment of millions of babies especially girls in certain countries where girls are valued less than boys^[30]. These issues concerning living children are not so much 'crowded out' by religious conservatism^[31] more 'drowned out' all together.

Despite the increasing volume concerning contraception, many women continue to decide about contraception for themselves. In face of a losing battle against the contraceptive pill, the pope has turned his attention to the rhythm method. This method of contraception was abhorred by Augustine one of the greatest Fathers of the Church. He was convinced that it turned men into 'pimps', 'whoremongers' and 'adulterers'^[32]. John Paul II on the other hand tries to persuade women that it is a recipe for marital harmony.

In *Familiaris Consortio* he asserts that salvation and marital happiness is essentially based on practising the right method of contraception. Peace and harmony will be maintained in the family if family size is controlled by the rhythm method rather than any other^[33].

The Church's main concern is not for marital harmony but male power. Its sexual theology has been a theology of semen which has concerned itself with the possession of semen (linked to the assumption of male superiority); a concern for the protection of semen (a

factor in the ban on masturbation, coitus interruptus and other forms of contraception); the control of all sexual activity involving semen to ensure its delivery to the right vessel (woman), in the proper manner, and for the right reasons. This theology of semen is rooted in the Ancient fantasies surrounding semen. In light of current knowledge about the respective roles of ovum and sperm this theology is seriously undermined. To continue with this discredited theology is to sacrifice 'truth' to the ideology of patriarchy.

If patriarchy is to be retained in the Church women must continue to accept the control of men in reproduction, in marriage, in the Church. Male power over women and their reproduction which was lost with *humanae Vitae* must be regained. The rhythm method, so hated by Augustine is the only route left to maintaining some male control over female sexuality. The pope has asked theologians to 'elaborate and probe more deeply into the difference at once anthropological and moral between contraception and recourse to the rhythm method'^[34]. The difference is not theological but political. With the pill, power shifts to women themselves. With the rhythm method power remains with men.

7. Control of the discourse on women.

In *Veritatis Splendor* the pope reaffirmed women's subordinate position to men and in the Catholic Church. On the eve of the Fourth International Conference on Women in Beijing the pope attempts to control not only the discourse in the Church but also the international secular discourse on women through imposing a grid of definition^[35] on what it is to be woman.

Mrs Gertrude Mongella, the general secretary of the conference was given a written message 'which stated some of the basic points of the Church's teaching with regard to women's issues'^[36]. Themes from the document provided the basis for the pope's "Letter to Women"(1995). In the letter it is clear that women are an anomaly, a "mystery", different from the norm that is man. The limited repertoire of responses (indifference, opportunism, exclusion and accommodation) to anomaly^[37] can be successfully applied to this letter.

That this letter is written at all is a sign that the centuries-long indifference to women can no longer be maintained. Persistent pressure from the women's movement in general and the Catholic Women's Movement within the Church has forced women's contribution to society and the Church to be acknowledged. Women are knocking loud on the doors of the Vatican demanding to be heard. The dilemma facing the pope is how to accommodate women and at the same time exclude them.

As the Church cannot be seen to be opportunistic theological legitimation must support the selective inclusion of women. With references to Gen. 1:27-2:18, the pope reminds women of their position as 'helper' to man^[38]. Woman's special 'genius' is service to others. "Service" is 'in no way prejudicial to women'^[39] assures the pope. 'A certain diversity of roles....is an expression of what is specific to being male and female'^[40]. Women are reminded that 'Mary is the highest expression of the "feminine genius"...she called herself the "handmaid of the Lord" (Lk. 1:38)...'For her, "to reign" is "to serve"! Her service is "to reign"^[41].

In the wake of Vatican II women are included in the 'royal priesthood of believers' but remain excluded from priestly ministry. Exclusion from priesthood 'in no way detracts

from the role of women^[42] assures the pope. These role distinctions in the Church 'should not be viewed in accordance with the functionality typical in human societies'^[43] Christ, 'by his free and sovereign choice...entrusted only to men the task of being the "icon" of his countenance'.

Thus the rhetoric of women's accommodation is that of 'service'. A patriarchal theology provides the theological legitimation for exclusion. Women's participation is to be encouraged but their status is to remain the same.

The theological legitimation of exclusion is supported by the reductionist theory of 'complementarity'. Woman is 'complementary' to man. She is everything man is not. 'Womanhood and manhood are complementary not only from the physical and psychological points of view but also from the ontological'^[44]. However, biological, psychological and ontological explanations for differences between the sexes are rooted in biological determinism. Biological differences between the sexes are obvious but that they determine different ways of being and behaving is not proven. Social differences based on biological differences are in effect inequalities justified by a belief in the superiority of the male of the species.

The pope's attempt to reconcile the rhetoric of exclusion to social processes of accommodation reveals yet again a patriarchal mind set which presumes to explain and define women through their relations with men. It is another brick in the wall of the Vatican fortifications designed to repel women and protect the status quo. If women are to be controlled the pope must control the discourse. The traditional patriarchal view of women must be accepted as 'truth' as 'knowledge' not only in the Church but worldwide.

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