

Volume LXXXVI No. 4 April 14, 1967 30 cents

COMMONWEAL

THE CHURCH AND SECOND MARRIAGE

John T. Catoir

DIVORCE: NO LONGER UNTHINKABLE

Rosemary Ruether

RATIONAL ETHICS SAYS 'NO'

Germain G. Grisez

MARKED
COPY

RATIONAL ETHICS SAYS 'NO'

GERMAIN G. GRISEZ

Divorce can be considered from many points of view. What leads to it, and what are its consequences? What laws govern it? What has theology to say about its ultimate meaning? I shall not tackle all of these questions. Instead, I wish to consider only this one: Is divorce morally wrong?

In considering this question, I do not wish to pass judgment on divorced persons. Subjective factors qualify the objective morality of acts. The question is whether the act of divorce is wrong objectively, not whether the di-

vorced person is vicious. My remarks will only indicate in a very sketchy way the ethical consideration I think this question requires. I have never tried to think the matter through, and so what I will say about it is quite tentative. Having no competence in theology, scriptural exegesis, or church history, I shall confine myself almost entirely to arguments based on a merely rational ethics.

There are several levels on which an ethical consideration of divorce can proceed. The lowest is that of simple utilitarianism. At this level, I think it is pretty generally agreed that divorce is a human ill, that it is a problem, a symptom of something wrong, an unfortunate (if sometimes necessary) way out of problems that arise in mar-

GERMAIN G. GRISEZ teaches in the Department of Philosophy at Georgetown University.

*Commonweal: 122-125
VOL LXXXVI, No 4
April 14, 1967*

riage. Divorce is viewed pretty much as war is viewed: neither is good in itself, either may become necessary as a last resort.

Why does a utilitarian ethic take so dim a view of a practice as widespread as divorce? Even without considering the consequences of divorce, a utilitarian can observe that for most men stable marriage is an ideal, and the commonness of this judgment can be taken as a distillation of experience. But the utilitarian can also call upon experienced consequences. Divorce is a major upheaval in anyone's life. It often causes psychological damage to all concerned, especially to the children. It does not always solve personal problems, and sometimes even increases them. A dancer who stumbles from ineptitude does not become any more skillful by changing partners.

A utilitarian also may point out that the very possibility of divorce weakens every marital bond. In the past, a common utilitarian argument was that divorce weakened the foundations of society. This argument has force, however, only to the extent that society is built on stable families—something less true today than it was in former ages.

Beyond Utilitarianism

Still, the utilitarian judgment on divorce would be at least generally negative. But not universally so, I think. To advance beyond utilitarianism, we must take a personalistic view of human relationships. This is the view of some non-believers, and of a great many Christians and Jews. On this view, divorce is not merely a human ill, but it is a moral evil. However, it may at times be allowable because of the demands of other *moral* obligations.

From this personalistic point of view, marriage cannot be considered a mere contract. It is a pledge of love, and a bond arising from this pledge and certifying it. Such love seeks development, but development is a steady and continuous unfolding, not a flux detached from every stable principle. Consequently, love itself requires permanence. Only envy of love sets up change as an idol.

Marriage is not a proper field for experimentation. One can experiment with *things*, for one thing can replace another. But one must not experiment with *persons*, for each person is irreplaceable. Human life is not subject to use and disposability; it is not what we *have*, but what we *are*. No two segments of our life can ever have comparable meaning and value. Therefore, it is impossible to abandon an effort that involves our very life, and to start again fresh. There are no such fresh starts for us, only for the things that do not matter.

One cannot limit in advance one's commitment in a human relationship without killing the possibility of genuine communication. Any marriage is entered into by

persons who are young and immature, however old and mature they may be. Everyone who has ever married has discovered subsequently that he is engaged in something more than he bargained for. And marriage is always a disillusioning experience. In fact, marriage is one long series of disillusionments—or else it is a complete disaster—for one only grows out of illusions and into reality by a long and painful process.

Since marriage is not an objective fact, but a personal interrelationship, there is no way to determine whether a marriage has "broken down." "Break-down" is an observable fact where machines are concerned; it even makes sense where the health of the organism is in question. But in human relationships, "break-down" is merely a label for despair. If a couple are *willing* to try again, their relationship has not broken down. If they are not willing, this is not merely another fact, alongside the malfunction of their automatic washing machine.

From a personalistic point of view, a human life is not merely a sequence of events, a kind of "true story." It is not really observable from without at all, not even by the person whose life it is. Instead, life is a fundamental commitment, and a nesting of other commitments and acts within the fundamental one. The ultimate value of life is determined by the quality of the fundamental commitment.

A good life is not a commitment to what is generally called "happiness," nor to any other definite, particular good. A good life is a commitment to a quest, a search for one's true self, a search for pure love and perfect truth.

In the context of this concept of life as a commitment to a quest, marriage appears in a light altogether higher than that in which the utilitarian sees it. For marriage is a genuine community of life. It is the mutual inclusion of man and woman within the interiority of the self whose true reality is sought through the quest which is the common life of both. To attempt a divorce is not simply to break a bond, it is to try to cut off part of oneself. It is to commit existential suicide, to kill the one person in whom the two are joined.

As life progresses, as illusions are overcome, husband and wife must constantly alter the expectations with which they entered their married life. They cannot quit simply because their expectations are not fulfilled. Rather, they must sacrifice their expectations, for growth demands adjustment. A person who is unhappy with his mate will, of course, require a different mate, unless he becomes a different person.

To this personalistic point of view, it may be argued that the same things hold for other friendships as for marriage. After all, marriage is not the only genuine friendship. Yet we do not object to allowing other friendships to lapse, nor even to breaking them off when mutuality ceases. Why should marriage be so exceptional?

At the level of the personalistic argument, it can be

pointed out that marriage is peculiarly intimate and total. Other friendships do not form such complete, natural complements of the whole person; other friendships are not so central to the commitment which constitutes the life of a person. The very fact that permanent unity in married love is seen as an ideal, even by many who look at the relationship from a purely utilitarian viewpoint, seems to indicate that this sort of relationship constitutes a full community of life as no other friendship does. Thus, while the termination of other friendships may somewhat disrupt life, divorce seems to tear life apart much more profoundly.

A Moral Demand

I think that personalistic considerations along these lines have some validity, but I do not see that they provide a cogent argument that divorce is wrong in every instance. The real problem concerning the morality of divorce does not arise simply from the fact that someone might arbitrarily consider initiating it. Rather, the problem becomes most difficult only when there seems to be a *moral demand* that a marriage be broken, or a *moral demand* that an injured partner carry on as well as possible in a new relationship. What is one to say about cases in which attempts to continue a marriage seem to harm everyone concerned, including especially the children? What is one to say about cases in which a person cut out for marriage is abandoned, perhaps with children who need two parents, not one part-time parent?

When we ask whether it is not eventually justified to break up a marriage for which there is no hope, we must first determine how the calculation is made that there is *no hope*. Where there's life, there's hope—and even this maxim is a counsel of despair. For hope goes beyond life. A human life that is ruled by mere facts, such as past experience and the expectation of death, is hardly worth living, for it is hardly human.

Of course, it is quite another question whether a couple ought not sometimes continue their marriage in separation from each other. A woman whose husband is a philanderer need not let herself be used as home base between adventures; fidelity to the marriage itself demands that she resist being abused in this way. A man whose wife beats the children half to death may be obliged to break up the home to save his own commitment, as well as to save the children's hides.

When we ask about injured, innocent parties, we must ask who is innocent. Ethically, one cannot deny that there may be cases in which one partner is totally innocent, and the other really at fault. If such cases are examined very carefully, however, there may be some doubt as to whether the party who is at fault ever intended to commit himself in marriage in the first place. Perhaps the real intent was only to carry on a temporary, advantageous relationship. Such a thing might be im-

possible to prove, but if marriage is a mutual commitment, it cannot exist if the commitment is not real and really mutual.

But to see why divorce is wrong in every instance, I think, we must go beyond these considerations. To see why a person who has been abandoned, whose marriage by all human standards holds out no hope for revitalization, whose partner already has remarried—to see why such a person must remain faithful to a marriage that seems utterly destroyed, we must see that divorce is not only morally evil but even metaphysically impossible. One who attempts to remarry after divorce will surely be doing what is wrong in every instance only if divorce is not actually possible in any instance.



Yet if marriage is a mutual commitment of the couple themselves, how can this commitment be absolutely indestructible? Cannot they, who have the power to bind themselves, loose themselves as well?

To answer this question, it seems to me, one must view marriage not merely as a mutual commitment of the couple to each other, for their own good, but rather as their common dedication to a good beyond themselves. They are not united except through communion in something that is, in a way, greater than both of them.

This good beyond the couple themselves must not be an abstraction; it must be a reality. Not a reality *possessed* in common, but a reality uniting the devotion of both. Not face to face, but side by side, the two of them become "we two." And out of "we two" comes the true *I and thou*.

The unity of marriage has its foundation in such a reality beyond the couple themselves. In the child, the two really become one flesh, and that is true only in the child, who is truly one, and truly the flesh of both. Not as an accomplished fact, indeed, but at least as a beloved hope, the child is necessary if communion in marital love is to be possible at all. (And *hope* does not know about mere facts such as sterility and old age.)

At the same time, the permanence of marriage is necessary for the child. To give life is not simply to copulate. It is to give all the beginnings, all that a human being can receive from others, or, at least, the beginning of all the beginnings. Thus the gift of life takes time, and parents must cooperate together for many years.

But what if there are no children? What if a new marriage seems better for the children? These would be telling objections if marriage were a mere contract to produce something, if marriage were like a business partnership. But one cannot contract to *make* a child. The coming to be of a human person is not the result of production; there is no art or technique proportionate to this process.

The child is not a limited, predefined, particular objective to be attained by limited, predefined, particular means. He is not the result of a nine-month plan nor even of a twenty-one-year plan. He is not the result of a plan at all. He goes beyond all planning. For planning always knows in advance the meaning of what is to be accomplished. But the child means more than his parents could ever know. His meaning, like all of human life, is determined by the absolutely transcendent.

That is why a man and a woman who would be parents really must unite their lives together. The cooperation that is required of them is the union of their lives into one life, for the child is the continuation of that life. The necessity for this union, due to the fact that the child is immeasurable in meaning and value, is the basis for the peculiar fidelity of marriage. In marrying, a man and a woman commit themselves to more than they can know. That is why they cannot withdraw their commitment: they can never know that which transcends them, which has bound them together. Their violation of the love that should bind them together is real, but it does not dissolve the unity in which they are joined.

Of course, those who accept contraception will not assent to an argument formulated along these lines. For the admission of contraception denies the moral link between sexual intercourse and the beginning of life. Marriage can then be redefined in such a way that it will not receive from the child a reality that transcends calculable goods and the wills of the partners themselves. Of course, marriage may still have something to do with children. But children will be objects of the benevolence of the married couple, not fruit of their one life. And contraceptive marriage *need not* have anything to do with children at all. It can as well be a partnership in view of any other good, so long as an intimate relationship between a man and a woman can be conducive to the attainment of that good.

But let us set aside the position implied by the concept of marriage that underlies the approval of contraception. And let us accept, for the moment, the argument that marriage, defined by reference to the person of the child, is sealed by something transcendent that gives the life of the child its full personal meaning and value. On this ground, can there be any room whatsoever for the dissolution of marriage? I think there are even still certain possibilities that *some* marriages could be dissolved.

In the first place, there is the matter of consummation.

Have a couple fully committed themselves to marriage when they pronounce their marriage vows? Or is the commitment really only completely definite when they have begun to fulfill the distinctive life of marriage? This problem is a complex one, and its clarification depends on an understanding of the notions of *consent* and *promise*. I think that marriage must be consummated, but I also think that *any* mutual act that is *peculiar* to conjugal life is sufficient to consummate marriage.

In the second place, there is the imperfect but real marriage. Can a couple who do not intend to form an indissoluble union actually bind themselves absolutely? I do not think so. But must a couple understand why marriage is indissoluble in order to bind themselves absolutely? Again, I think not. It seems to me that the essential factor in *limiting* the commitment is the couple's intent. Yet I think that marriage with a limited commitment, entered into by sincere and upright persons who do not appreciate fully what marriage ought to be, nevertheless is a true, though imperfect, union.

In the third place, there is the question whether some more fundamental commitment may not take precedence over even a perfect and consummated marriage. The absoluteness of the marriage bond arises from the fact that this unity, defined by reference to the child, is sealed by the absolutely transcendent which gives the child his immeasurable meaning and value as a person. If this transcendent directly requires the most fundamental commitment of human life, if it determines the whole meaning of one's entire life, may it not supersede even the marriage bond itself? It seems that the sacred itself could dissolve even the most sacrosanct of human bonds. But this, of course, assumes that what is absolute and transcendent can make personal demands upon us—something philosophically doubtful, that can be held as true only by faith.

These reflections, as I said at the outset, are tentative. As a Catholic, I believe what the Catholic Church teaches concerning marriage and divorce. As a philosopher, I can speculate about divorce, but I do not believe such speculation can exhaust what faith teaches about the mystery of sacramental marriage.

To be frank, I must also say that I do not believe the Catholic Church's teaching concerning the indissolubility of sacramental, consummated marriage is subject to change. For many couples, the necessary is possible. I wish that these couples were not going to be scandalized by attempts to "develop" the Catholic teaching on divorce, but I suppose that such scandal must be given.

Christ restored marriage to what it had been in the beginning. What sort of progress would it be now to restore it to the condition in which Christ found it among the Pharisees who read the Law of Moses? God in Christ has indissolubly bound Himself to man. By the Law of Christ marriage signifies this communion, and encloses within it the compact of conjugal love.