



Andrzej Pastwa, *Il bene dei coniugi.
L'identificazione dell'elemento ad validitatem
nella giurisprudenza della Rota Romana,*
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Bonum coniugum, the joint and mutual good of spouses, is one of the two principal ends of marriage, according to the valid Code of Canon Law of 1983. Even within the text of code canon 1055 § 1, there is a mention of the traditional end of marriage, that is, the conception and raising of children. The good of the spouses, on the other hand, is a concept newly formed. Nevertheless, involving a remarkable amount of potential, which may be utilized in the theoretical evaluation of the institution of marriage itself, as well as in judicial practice seen within ecclesiastical tribunals. Andrzej Pastwa, professor at the Department of Canon Law and Ecumenism at the Theological Faculty of the University of Silesia in Katowice, Poland, took it upon himself to fully explore the rich potential of this perception. From the speeches of Pope John Paul II and Benedict XVI, the author of the book derives basic view that adequate hermeneutics of *bonum coniugum* represents one of the key tasks of the interpretation of marital law by ecclesiastical judges.

The book, which has natural framework including an introduction and conclusion, is divided into two extensive chapters, the first of which discusses the evaluation criteria of the formula of *bonum coniugum*, and the second with its formal classification and legal significance. The chapters are, however, internally divided, the latter even falls into five separate subchapters.

In the first chapter, the author primarily reflects the philosophical-legal doctrine of such canonical authorities as Ombretta Fumagalli Carulli, Jose Maria Serrano Ruiz, and Carlos Jose Errazuriz Mackenna as well as many others. The list of applied literature includes 424 works, which speaks for itself. According to the author, the contribution of canonist Fumagalli Carulli lies in defining three complementary aspects that are principal for the *bonum coniugum*: human dignity, the value of communion and mutual personal communication, and finally the ethical imperative of requiring good for the other person. Alternatively, Serrano Ruiz emphasizes values as characteristics, such as truthfulness, responsibility and oblativity, the ability of self-surrender and sacrifice. From the author's presentation of the scholarly concepts of individual representatives of canonical jurisprudence, it is evident that a pure ecclesiastical legal doctrine of marriage requires, above all, proper anthropology, which must be based on a deeply Christian and personalistic view of the human person.

The second chapter examines the internal logic of the judgments of the Roman Rota in cases where the issue of the good of the spouses appears in a form that allows it to be examined in a more thorough manner. The author's interest concerns a total of 191 judgments and five decrees. Through their careful selection, the author points to the organic continuity of ecclesiastical judicial practices. The oldest cited judgement comes from 1933, the latest are already reaching the verge of Pope Francis's current pontificate. Amongst the papal allocutions and official documents, the oldest are from the pontificate of Pius X. The Church's doctrine is also significantly aided in a more detailed qualification of *bonum coniugum* by the classical scheme of Saint Augustine of the three good ends of marriage—*proles, fides, sacramentum*. Considering that the papal speeches concern the legal aspects of marriage, they may surprise with their way of thought that is not close to the present-day conception of marriage. The author points out that, for example, John Paul II speaks of the legal value of marital love (*amor coniugalis*). Clearly, former concepts of mutual sustenance of spouses (*mutuum adiutorium*) was legally more comprehensible, but the doctrine of John Paul II with his holistic view of the human person overcomes this concept, which today seems too reductive. A great deal of doctrinal weight must be attached to every papal speech before the Roman Rota judges, in correlation with this, the author points out that this is a document containing the doctrine of faith and can be classified as *actus sollemnis sensu latiore*.

The author's approach is characterized by emphasizing the close connection and cooperation between doctrine and legal practice. It was precisely this process of mutual interaction that led to the personalistic ideas, contained within the Council documents and further deepened by the doctrine of the popes, to be applied in legal practice in the spirit of the harmonization of the old and the new—the *vetera et nova*. The optimal umbrella for this process is the papal speeches to the Roman Rota as an expression of the extraordinary nature of the

papal magisterial office. These provide an optimal methodological assistance in the formation of the judiciary concept of *essentialia in matrimonio*. In terms of ideas, they express a movement along the axis: anthropological realis—legal realism.

The book contains a very rich footnote apparatus, revealing meticulous work, which shows not only the author's knowledge of literature but, above all, his ability to grasp the issue analytically and mutually logically and thematically to sort judicial interpretations and papal doctrine. The book assumes the reader is an expert, as it also contains longer quotations from the judgments of the Roman Rota judges in their original Latin form.

The book was originally written in Polish and contains a summary in Italian, German, and English. (*Dobro małżonków. Identyfikacja elementu ad validitatem w orzecznictwie Roty Rzymskiej*, Wydawnictwo Uniwersytetu Śląskiego, Katowice 2016). Although Polish canonical legal science is world renowned and could develop relatively freely (for example, unlike in the former socialist Czechoslovakia) during the reign of the totalitarian communist regime, a language barrier could not allow the wider world canonical scientific community to read Professor Pastwa's book and to appreciate its contribution. It is, therefore, a good thing that it was completely translated into Italian and published by the Siena publishing house Cantagalli.

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