

Cardinal Kasper's Proposal and the Meaning of Marriage

MATS WAHLBERG

Umeå University

Umeå, Sweden

WHAT DOES IT MEAN to contract a sacramental marriage in the Catholic Church? According to current Catholic doctrine, to marry someone means—at a very minimum—to make the following commitment:

(M): I bind myself to my spouse in such a way that from now on, and as long as the marriage bond exists, I cannot voluntarily (while being in full possession of my mental faculties) have sexual relations with anybody else, without thereby committing a grave sin.

Marriage is an exclusive bond between two people, and to consciously and willingly violate it is to incur grave guilt.

This is received Catholic teaching. Now, suppose that we would insert an exception clause into the formula above, so that it expresses a more qualified commitment. Marriage, according to this modified understanding, means that:

(MM): I bind myself to my spouse in such a way that from now on, and as long as the marriage bond exists, I cannot, *except under certain circumstances*, voluntarily have sexual relations with anybody else, without thereby committing a grave sin.

Would this insertion change the Catholic doctrine of marriage? It is hard to deny that it would. Marriage according to MM—unlike marriage

according to M—is morally compatible with extra-marital sexual relations, under certain circumstances. This is clearly an innovation.

Cardinal Walter Kasper has presented a famous proposal for allowing some divorced and civilly remarried Catholics to receive Holy Communion. He claims that his proposal is purely pastoral, and that it has no implications for the Catholic doctrine of marriage. I will now demonstrate that this claim is false. Kasper's proposal entails that marriage must be understood in accordance with MM instead of M, which means that the proposal changes the meaning of the marriage commitment.

The Cardinal's proposal has two parts. The first part concerns cases in which the original marriage may possibly be invalid. This part of the proposal will not concern me here, but only the second, more controversial part, which deals with cases where the validity of the first marriage is not in question. Kasper suggests that divorced and remarried persons whose first marriage is valid should be allowed to receive the Sacraments of Penance and Communion after a process of discernment, provided that they satisfy certain conditions:

If a divorced and remarried person is truly sorry that he or she has failed in the first marriage, if the commitments from the first marriage are clarified and a return is definitively out of the question, if he or she cannot undo the commitments that were assumed in the second civil marriage without new guilt, if he or she strives to the best of his or her abilities to live out the second civil marriage on the basis of faith and to raise their children in the faith . . . do we then have to refuse or can we refuse him or her the sacrament of penance and communion, after a period of reorientation?¹

Kasper is very careful to declare his adherence to the doctrine of the indissolubility of marriage, so his idea is not that the first marriage should be regarded as dissolved. Neither is his idea that people who persist in grave sin (adultery) should receive Communion—this would be a very obvious break with Catholic doctrine. What he seems to suggest, instead, is that people who satisfy the conditions listed above should not be *counted* as unrepentant sinners. After all, they seem to be caught in a situation from which there is no escape, except by taking measures that might incur new moral guilt (such as breaking up the family of the second, civil marriage).

¹ Walter Kasper, *The Gospel of the Family*, 32 (New Jersey: Paulist Press, 2014).

That this is how Kasper sees things becomes clear when he discusses Pope Benedict XVI's suggestion that divorced and remarried persons may receive spiritual Communion even though they cannot receive Communion sacramentally. Kasper says that this suggestion raises questions: "For the one who receives spiritual communion [in this case the remarried divorcee] is one with Jesus Christ. How can he or she then be in contradiction to Christ's commandment?"² This is a rhetorical question, and Kasper's answer is that he or she cannot. Divorced and remarried persons who are caught in a moral dilemma and try to make the best of their present situation are not in contradiction to Christ's commandment against adultery. Supposedly, they must have contradicted this commandment earlier when they contracted the second marriage, but Kasper seems to hold that at least when children have entered the picture, the moral situation has changed so that a divorced and remarried Catholic can have sexual relations with his or her second spouse without thereby sinning gravely. And if the divorced and remarried person has confessed and received absolution for his or her past adulterous behavior, he or she can now receive Holy Communion.

It is unclear whether Kasper means that the act of having intercourse with a second spouse is objectively wrong even though subjective culpability (and hence sinfulness) may be lacking, or that the act itself is not objectively wrong because the circumstances surrounding it have changed the moral species of the act. For my part, it is very hard to understand how subjective culpability could be lacking if the sexual act itself is objectively wrong. What we are talking about here, after all, are persons who voluntarily and willingly engage in sexual activity while being in full possession of their mental faculties. So it is more probable that Kasper views the act itself—seen in its proper context—as morally unproblematic, due to the special circumstances that surround it. This interpretive issue need not detain us here, however, because it is clear in any case that Kasper believes that a married Catholic can, under certain circumstances, voluntarily, willingly, and with full knowledge of what he or she is doing, have sex with somebody who is not his or her legitimate spouse, without thereby incurring subjective guilt—that is, without thereby sinning gravely. This means that Kasper rejects the understanding of Catholic marriage represented by proposition M above, in favor of MM.

It could be argued that this change in the Catholic doctrine of marriage is of little significance, because it consists merely in the addi-

² Ibid., 30.

tion of an exception clause (“except under certain circumstances”) to a general principle that still holds good. But an exception clause can undermine a general principle if the circumstances that allow the exceptions are common enough. For example, if we were to say that stealing is generally forbidden except for people who have below average income, then we would clearly have introduced an exception clause that largely undermines the principle.

The question, then, is how common the circumstances are that—according to Kasper’s proposal—can allow for exceptions from the principle that breaches of marital fidelity are gravely sinful. Those circumstances seem to be rather common. The very reason why Kasper drafted his proposal is that many people in our society have divorced, remarried, and started a new family. We can also imagine that the frequency of Catholic divorces will increase in the future, and that remarriage after a divorce will become more popular. We could, for example, imagine a situation in which a great majority of Catholic marriages end in divorce, and in which a great majority of those who have divorced also civilly remarry. In such a situation, the exception clause might have direct relevance for most Catholics.

It is important, in this context, not to be misled by Kasper’s insistence that his proposal “is not a broad path for the great masses, but a narrow path for the indeed smaller segment of divorced and remarried individuals who are honestly interested in the sacraments”.³ It is true that in order for an individual to be allowed to receive Communion, the individual must (according to Kasper’s proposal) have genuine faith and be prepared to go down a penitential path. But this is not of relevance here, for the morality of acts of extra-marital sex cannot depend on whether the persons who perform them have faith and are interested in receiving the sacraments or not. An immoral act does not become less immoral because the person who performs it is a serious believer. So even if it is true that only a small minority of people might be sufficiently devoted to be eligible to receive Communion, there are many other divorced and remarried Catholics who in moral respects are in the same situation as the devoted few. If the ones who want Communion can sleep with their second spouse without sinning, then so can many of those who are not interested in Communion.

Moreover, even though only a minority of married Catholics will actually “take advantage” of the exception clause, Kasper’s proposal

³ Ibid., 32–33.

entails that the clause is an integral part of all Catholic marriages. The possibility to have sinless sex outside of one's marriage (under certain circumstances) will exist for everyone who gets married in the Catholic Church.

This means that the Cardinal's proposal deprives people of a certain power that the Church has hitherto ascribed to them—namely, the power to commit themselves in a morally binding way to a lifelong and exclusive relationship. People can certainly get married, and they can promise to be faithful, but they cannot—if Kasper is right—totally renounce the possibility of having morally guiltless sex with somebody besides their legitimate spouse. This possibility will always be left open, even for those who (presently) do not want it to be left open. These consequences follow with logical inevitability if we accept that the moral dilemmas that confront some divorced and remarried Catholics can take away the moral guilt of having extra-marital sex. To accept that it can is to add an exception clause to the doctrine that voluntary extra-marital sex is always sinful.

What if a married couple would attempt to get rid of this exception clause by promising never to be sexually unfaithful to each other under any circumstances? Well, is not this what the Church has always taken the marriage vows to mean? If Kasper is right that married people can nevertheless have sinless sex with a second partner after a divorce, why would it make a difference if a couple were to spell out the meaning of the wedding vows more clearly? The duty to preserve one's second family after a remarriage can apparently override any promises that one has made to one's first spouse.

When a person breaks an irreversible, morally binding commitment of the kind that Catholic marriage has so far been thought to represent and maneuvers herself into a situation where she has important responsibilities toward a second spouse and children, what we have is a tragic situation. Such situations call for heroic responses. They do not have solutions that make everybody happy. The Church's traditional recommendation is that the civilly married couple practice sexual continence. This is clearly a very imperfect solution. It is difficult to realize in practice, and there is no guarantee that it will succeed in preserving the children of the second marriage from harm.

However, to acknowledge that two people are capable of giving themselves to one another in an irreversible and morally binding way is to accept the possibility of tragedy. You cannot believe in the possibility of this kind of commitment without acknowledging the possibility of

tragedy. This is simply because a morally binding, lifelong commitment that excludes sexual relations except with one particular person excludes this regardless of what happens in the future. Regardless of what other relationships and responsibilities one may enter into or shoulder later on in life. Either we must say that commitments of this very consequential and demanding kind are impossible for humans to make, or we must accept that people who make them may possibly end up in tragic circumstances. Kasper's proposal commits us to the first alternative: commitments of this kind are impossible to make. Any commitment that a person makes can always be defeated by things that happen down the road. This is why the Cardinal's proposal is far from doctrinally innocent. If it carries the day within the Catholic Church, future Catholic couples will contract marriages that (they believe) are compatible with having morally innocent sex with a third party, under certain circumstances. Circumstances, moreover, that can be consciously brought about by anyone who really wants to start all over again with a new life partner. This would be truly tragic. N&V