

Gaudium et Spes and the Indissolubility of the Sacrament of Matrimony: The Contribution of Charles Cardinal Journet

ROGER W. NUTT
Ave Maria University
Ave Maria, FL

Introduction

IT IS NOT uncommon for interpretations of the documents of the Second Vatican Council to be couched in the language of political factionalism. One factor contributing to this tendency was the widespread presence of the media at the Council. As Matthew Lamb and Matthew Levering explain, “Never before was an ecumenical council of the Roman Catholic Church so extensively covered and reported by the modern news media as Vatican II (1962–1965).”¹ “The impact of this coverage,” Lamb and Levering continue, “was pervasive and profound in its portrayal of the council in the ideological categories of ‘liberal versus conservative.’” As a consequence of this portrayal of the Council in political terms, the content was “reported as liberal or progressive accommodation to modernity that aimed to overcome Catholicism’s traditional, conservative resistance to modernity.”²

Further exacerbating this problem, as Lamb and Levering observe, “few [of the journalists at the Council] had any expertise in Catholic theology and so [the journalists] were dependent upon the popularized accounts of the council’s deliberations and debates offered by *periti* and theologians with journalistic skills.”³ Thus, after Vatican II “not a few commentators and Catholic theological experts at the council picked up this ideological

¹ Matthew Lamb and Matthew Levering, eds., *Vatican II: Renewal within Tradition* (Oxford: Oxford University Press, 2008), from the “Introduction,” 3.

² Ibid.

³ Ibid.

framework.” This mentality led to an approach to the documents “as products of power struggles between liberals and conservatives, with one side winning this passage and the other side winning that.”⁴

The treatment of the teaching of the *Pastoral Constitution on the Church in the Modern World, Gaudium et Spes*, is a concrete example of this unfortunate, and one must say superficial, approach to the teaching of Vatican II.

This essay focuses, in particular, on the Council’s clarification of the indissoluble nature of the Sacrament of Matrimony in sections 47–52 of *Gaudium et Spes*. The common interpretation of this section of the document is that the teaching on indissolubility was the result of a “damage control operation” that “was going on in the corridors of the Council.”⁵

This essay argues the contrary point: namely, that the “damage control” thesis on the question of indissolubility lacks any substantial foundation. In short: the teaching of *Gaudium et Spes* on matrimonial indissolubility, as presented by Cardinal Charles Journet in his September 30th, 1965 speech from the floor of the Council, represents, simply, the widespread sentiments of the Council Fathers, as well as the common faith of the Catholic Church. Any appearance of “damage control” on this issue is the result, rather, of the presentation of the media of an alleged fissure among the Fathers, an account perpetrated, originally at least, by a single bishop and a few *periti* at the Council. The continuity between the draft schema, Journet’s speech, and the final text promulgated by the Council clearly indicate the falsity of the “damage control” thesis.

Cardinal Journet and the Final Session of Vatican II

On February 15th of 1965, during the period between the third and fourth sessions of the Second Vatican Council, Pope Paul VI appointed noted Swiss theologian Charles Journet to the rank of archbishop. On the 22nd of the same month Paul VI elevated then Archbishop Journet to the College of Cardinals. Journet’s episcopal consecration and elevation to the College of Cardinals enabled him, per Pope Paul VI’s design, to take an active role in the final session of the Council later that year. Cardinal Journet did just that, often working in close collaboration with the Pope himself.⁶ The fourth and final session of Vatican Council II took place in the autumn of

⁴ Ibid., 7.

⁵ Gilles Routhier, “Finishing the Work Begun: The Trying Experience of the Fourth Period,” in *History of Vatican II*, ed. G. Alberigo and J. A. Komonchak, vol. V, trans. Matthew J. O’Connell (Maryknoll, NY: Orbis, 2006), 159.

⁶ For a helpful description, perhaps the only one of its kind, of Journet’s presence and influence at Vatican II, see Jean-Pierre Torrell, O.P., “Présence de Journet à Vatican II,” in *Charles Journet (1891–1975): Un Théologien en son siècle*, ed. Philippe Chenaux (Fribourg: Editions Universitaires, 1994, 2d edition): 41–68. Torrell

1965 from September 14th to December 8th. At the outset of this final session approximately half, or eleven, of the Council documents, known then as schemata, were in need of completion and ratification.

The largest of these was Schema Thirteen, which became *The Pastoral Constitution on the Church in the Modern World: Gaudium et Spes*. The second part of the constitution addresses what the Council Fathers recognized as “urgent problems.” The first chapter of this sequence is devoted to the dignity of matrimony and the corresponding challenges to the matrimonial state of life.

Schema XIII and the Drama of September 29th to 30th, 1965

The draft of Schema XIII that was circulated to the Fathers by Cardinal Felice on September 21st, 1965 includes four uses of the term “indissoluble” in relation to the nature of marriage. Though the overall wording of the schema changed slightly as the document was discussed, these four uses of “indissoluble” were retained throughout the process and included in the promulgated version:⁷

Such intimacy, as a mutual giving of two persons, as well as the good of their children require complete faithfulness between the partners, and call for their union being indissoluble (*indissolubilem*). (48:1)

This love sincerely confirmed by mutual fidelity, and made especially sacrosanct by the sacrament of Christ, is indissolubly (*indissolubiliter*)

documents (a) the influence that Journet had prior to the commencement of the Council (Pope John XXIII named him to the Theological Commission charged with preparing draft documents for the Council; for various reasons, though, Journet participated in only the first meeting of the commission); (b) the presence of Journet’s writings insofar as they were cited and referred to during the evolution of the various documents; (c) the written contributions and public addresses that Cardinal Journet made during the final session. During the final session Journet made contributions to the drafts on religious liberty, priestly formation, schema XIII (*Gaudium et Spes*), missionary activity, and other theological issues such as indulgences and the relationship between human and Christian culture. For a discussion of Journet’s contribution to the Council’s teaching on the nature of Holy Orders, see Roger W. Nutt, “Sacerdotal Character and the *Munera Christi*: Reflections on the Theology of Charles Journet in Relation to the Second Vatican Council,” *Gregorianum* 90 (2009): 237–53.

⁷ The September 21, 1965 draft of Schema XIII can be located in the *Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II*, vol. 4, part 1 (Vatican City: Typis polyglottis Vaticanis, 1966), 477–82.

The quotes from the promulgated document are taken from the translation of the Vatican II documents provided in *Decrees of the Ecumenical Councils*, vol. II, ed. Norman Tanner (Washington, DC: Georgetown University Press, 1990), 1100–1103.

faithful physically and mentally in prosperity and adversity, and is therefore far removed from all adultery and divorce. (49:2)

Marriage, however, was not instituted just for procreation; the very nature of an unbreakable (*indissolubilis*) covenant between persons and the good of the offspring also demand that the mutual love of the partners should be rightly expressed and develop and mature. And therefore even if children, often longed for, are not forthcoming, marriage remains as a sharing and communion for the whole of life and retains its goodness and indissolubility (*indissolubilitatem*). (50:3)

The Zoghby Speech, September 29th

On September 29th an eastern bishop of the Melkite Rite of the Catholic Church, Archbishop Zoghby, gave an address from the floor of the Council in which he took a critical stance towards the Church's position on matrimonial indissolubility and asked the Fathers to consider modifying this position.⁸ In the popular *History of Vatican II* volumes edited by Giuseppe Alberigo and Joseph Komonchak, Zoghby's intervention is presented as pastoral in nature, but, in point of fact, his comments, while motivated by a pastoral *concern* for the innocent spouse of an unfaithful partner, are deeply theological in nature with substantial doctrinal and ecumenical implications.⁹

Zoghby argued that the problem of the innocent spouse in cases of infidelity is "more crucial even than the question of birth control (*nativitatum limitatio*)" because the innocent spouse, according to Roman Catholic doctrine, may not legally enter into a new union. The priest or bishop can only say to the innocent spouse, Zoghby declared, "*Nihil pro te facere possum*," and thus leaves the victim to "accept his or her fate" and embrace a life of total continence.

This "solution presupposes heroic virtue," Zoghby explained. Since those in the state of marriage are not called to a life of "perpetual continence . . . in many cases, those found in such circumstances contract illegitimate unions outside the Church, lest their carnal inclinations are put to the test. Submitting to a tormented conscience either they lead a heroic life, which they think impossible, or perish."

⁸ The full Latin text of Zoghby's speech can be found in the *Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II*, vol. 4, part 3, 45–47.

⁹ Routhier, "Finishing the Work Begun." Zoghby is presented as prefacing his comments as pertaining to the "pastoral care of the family" (158). Yet, Zoghby simply begins his speech with the phrase "Regarding questions about the family" (*In quaestione de familia*), and uses the word "pastoral" only much later and with reference to the interests of canonists on the question of remarriage.

In developing his argument, Zoghby questions his fellow bishops about the power that the Church received from Christ: did the Church receive from Christ the power of guiding all men to salvation with the help of divine grace? The Archbishop then invoked the so-called "exception clauses" in Matthew 5:32 and 19:6 in which Jesus says "except on the grounds of unchastity." "The Church is to judge the sense of the passage," Zoghby admitted, "about which modern exegetes are not agreed. And, although the Church of the city of Rome has always interpreted the text in a restrictive sense, in the Eastern Church such was never the case and it judged otherwise, presuming in the favor of the innocent spouse."

Zoghby argued, too, that the teaching of Trent on the indissolubility of marriage further provoked the problems between the Eastern and Western practices. Thus he ended his address by noting that if the Fathers adopted the Eastern practice in the cases of the innocent spouse, the result would not only be the removal of anxiety on the part of these victims, but also the furtherance of ecumenical relations with the Oriental Churches.

After the plenary session in which Zoghby had given his speech concluded for the day he held a press conference to further elaborate his position. The press, not surprisingly, "was seizing on Zoghby's statement and even attributing to him the word 'divorce,' which he had carefully avoided."¹⁰ The impression was thus given by the media that the Council was formally considering permitting divorce, and so, as one commentator notes: "Zoghby's intervention continued to make waves."¹¹ Zoghby himself contributed to the intrigue by addressing the media again on September 30 and October 4.¹²

The Speech of Cardinal Journet on September 30th

Cardinal Journet was not present in the hall during Zoghby's speech. After Zoghby's press conference following his speech and the growing media intrigue, later that same evening, Msgr. Macchi, Pope Paul VI's

¹⁰ Ibid., 159. It is true that Zoghby did not wish to deny indissolubility, nor did he advocate for the tolerance of divorce. His position was that the Church had the power in cases of the infidelity of one of the spouses to grant a merciful dispensation to the innocent spouse.

¹¹ Ibid., 160.

¹² Ibid. Even after the conclusion of the final session of the Council, the media, following certain *periti*, continued to celebrate Zoghby's intervention. In the Friday, March 18, 1966 edition of *Time* magazine, for example, the following observation is made: "Switzerland's Charles Cardinal Journet, presumably on Pope Paul's orders, *hastened to spike further debate by reasserting the church's traditional teaching*. But Zoghby's jarring plea, says Dominican Theologian Eduard Schillebeeckx, 'placed the problem on the table, and that in itself is most important' " (italics added).

personal secretary, contacted Journet to request, on behalf of the Pope, that Journet prepare a speech for the next day.¹³ Below is a translation of the text of Cardinal Journet's speech, given in Latin on the morning of September 30, 1965.¹⁴

30 September 1965

Venerable Fathers,

The teaching of the Catholic Church on the indissolubility of sacramental marriage is the very same teaching revealed to us by the Lord Jesus; this doctrine has always been preserved and proclaimed by the same Church.

As a matter of fact, according to Mark 10:2, we read that when the Pharisees asked Jesus, "Is it lawful for a man to divorce his wife?" he responded to them, "What therefore God has joined together let no man put asunder." To which he added: "Whoever divorces his wife and marries another, commits adultery against her; and if she divorces her husband and marries another she commits adultery" (Mark 10:11–12).

The Apostle Paul himself teaches the same thing with explicit words; indeed not in his own name but in the very name of the Lord (1 Corinthians 7:10–11): "To the married I give charge, not I but the Lord, that the wife should not separate from her husband (but if she does, let her remain single or else be reconciled to her husband)—and that the husband should not divorce his wife."

From this clear testimony, it is evident that the teaching of Matthew in chapters 5 and 19 is not different [than the above] when the clause is read, "whoever divorces his wife, except for unchastity (*fornicationem*), and marries another, commits adultery. . . ." This clause can indeed be employed in affirming that separation, as Paul says, is made licit in the case of adultery, but not, however, for concluding that new licit marriages may take place.

Even so, some of the Eastern Churches allow divorce in the case of adultery and permit the innocent spouse to contract a new marriage. This [permission] came about given the flourishing relationship between

¹³ These events are narrated first hand by Antoine Wenger, who was close to Journet and Paul VI. Wenger also notes the presence of Fr. Cottier (who later became John Paul II's personal theologian and subsequently a cardinal) during the evening in question, who has confirmed this narration. The connection between Pope Paul VI and Journet's response to Zoghby is also corroborated by the fact that Journet's name was added to the list of speakers for the 30th after the original docket for the day had been established. Journet's address was placed first on the docket. See Antoine Wenger, *Le Trois Rome: l'Église des années soixante* (Paris: Desclée De Brouwer: 1991).

¹⁴ The full Latin text of Journet's speech can be found in the *Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II*, vol. 4, part 3, 58–60.

Church and State at that time, under the influence of civil law which decides the legality of divorce and new marriage in this case [of adultery]. The “*novella Iustiniani*” on the diverse causes of divorce, in fact, was introduced into the *Codices Ecclesiae Orientalis* as the so-called “*Nomocanon*.”¹⁵

To justify this practice, those Eastern Churches brought forward the clause of Matthew about divorce in the case of adultery.

Because, however, those Churches allow other cases of divorce besides the one brought up above [adultery], it is evident that they followed, on this matter, a way of acting that is more human than evangelical.

Whatever may be the custom of these Eastern Churches, the authentic teaching of the Gospel itself on the indissolubility of sacramental marriage has always thrived in the Catholic Church. It does not belong to this Church to change those [teachings] that are of the divine law.

Nevertheless, the Church, which cannot not obey Christ’s command [*cuius non est praecepto Christi non oboedire*], looks respectfully, with the measureless mercy of God, on those unfortunate situations which summon towards the heroic life and which, from that circumstance, to human eyes alone—not however before God—remain without a solution. I have spoken.

Gaudium et Spes was promulgated by Pope Paul VI on the penultimate day of the Council after it was passed with a vote of 2307 to 75. Despite Zoghby’s speech, all four references to indissolubility in the September 21 draft were retained in the final text. Eastern Patriarch Maximos indicated to the press that Archbishop Zoghby’s speech “represented only Zoghby’s own views.”¹⁶

Conclusion

The presence and contribution of Charles Cardinal Journet at the final session of the Second Vatican Council is a manifestly understudied aspect of Vatican II scholarship. Contrary to the “damage control” thesis forwarded by Gilles Routhier in the Alberigo-Komonchak *History of Vatican II* volumes, there is no internal evidence to suggest that the Zoghby speech represented the sentiments of a sizable group (or political faction)

¹⁵ The name “*nomocanon*” invoked here by Journet is a technical term used for compilations of civil and ecclesiastical laws that were promulgated together, especially in the East under Christian rulers. In the case of remarriage, the eastern Christian tolerance, at least in the case of adultery, seems to have arisen by way of a concession to a practice of the civil law. The “*Novella Iustiniani*” is one such example of an ancient hybrid of civil and Church law, which was absorbed into the Eastern Code of Canon Law. Zoghby, for his part, believed the Eastern practice to be the result of the theological authority of certain Eastern Church Fathers, and thus not a capitulation to political authority.

¹⁶ *History of Vatican II*, vol. V, 160.

among the Fathers whatsoever. It seems indeed true that Cardinal Journet spoke at the request of Paul VI. The insinuation, however, that the request was motivated by the Pope's political temerity over a growing, progressive, Zoghby-led rebellion on the question of remarriage is suspect, at best.

It is, of course, impossible to quantify the influence that Journet's speech had on individual bishops at the Council; however, what is easily demonstrable is the full continuity on the question of indissolubility between the draft of September 21, Journet's speech, and the content of the final document. Such continuity is indicative, not of the triumph of one political faction over the other, but rather of the stable and calm teaching of the bishops of the Church on the doctrine of indissolubility as an article of Catholic faith and an integral part of the message of the gospel. **N V**