

MINIMUM AGE AT MARRIAGE

Should the Church Raise the Age Requirement for Marriage in the Philippines?

By

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A determined effort to raise the minimum age at marriage would seem to offer great hope in the Philippines where an alarming population growth and an increasing rate of marital breakdowns are becoming serious problems which must be dealt with urgently.¹

Though the median age at first marriage in the country has for years remained steady at a satisfactory level — 21 years for females and 23 for males —, nevertheless thousands of marriages take place every year among girls and boys still in their early or late teens.²

The latest available official statistics by detailed age of groom and bride for 1974 show that 2,050 marriages took place that year with the girls below 15, and 107,993 with the brides below 20. Of those brides who married in 1974, four out of ten — 38% — were teenagers. Officially, none of the grooms who married during that year was below 18. However, 37,713 got brides when they were still under 20. In 1974, over 13% of the Filipino grooms were teenagers.³

THE INCIDENCE OF MARITAL BREAKDOWNS

Statistical data and analysis, however reliable and meaningful, will never reveal the motives behind those early marriages among Filipino boys and girls, nor will they aid to forecast their outcome and the impact on the birth rate. However, surveys and studies conducted worldwide reveal a marked correlation between youthful

¹ CBCP, *On The Population Problem and Family Life*, Boletín Eclesiástico, 1974, pp. 11-16; *Joint Pastoral Letter on Christian Marriage*, Boletín Eclesiástico, 1976, pp. 774-784.

² *Demographic Yearbook—1976*, United Nations, N.Y., 1977, pp. 504, 505

³ *Demographic Yearbook—1976*, United Nations, N.Y., 1977, p. 526.

marriages and broken homes. The incidence of breakdown of early nuptials is more frequent than among those contracted at later ages. No one can deny that, as a general rule, young people are less equipped to face the complex reality of married life than elder couples who can be assumed to be better prepared to discharge the duties towards themselves, their children and families.

According to the USA National Center of Health Statistics, 56% of all divorces occur before the parties have reached the age of 24. And 33% of all divorced couples are teenagers. The religion pattern does not seem to change this general pattern. The National Life Bureau of the Bishops' Conference reported that seven out of ten marriages involving teenagers ended in separation or divorce. In teenage marriages where pregnancies was a decisive factor, 90% of the couples broke up.⁴ In England and Ireland, too, the phenomenon of divorce is more critical the younger the age of the contracting parties.⁵

The incidence of marital breakdown in the Philippines is not known since it is practically impossible to obtain reliable statistical information on this score. It is an undeniable fact, however, that the number of broken homes and unhappy marriages is increasing in an alarming proportion.⁶ The lingering and recurring cry for divorce is a concrete proof that the marriage situation in the country is not as healthy as hitherto presumed.

Data and information available from church marriage tribunals can perhaps shed some light on the rate of early marriage failures. The Manila Tribunal reported in 1975 that "most of those applying for a declaration of nullity are those who get married in their teens and those who contracted marriage late, that is, thirty years and above".⁷ Recently, the Cebu Tribunal has submitted the following data to the CBCP: "25 out of 43 marriage cases admitted by the ecclesiastical court in 1977 were entered on the ground of lack of due discretion on account of young age of either the husband or the wife". According to the same report, "in 32 out of the 43 couples, either the man or the woman got married at an early age".⁸

Putting those data in perspective, we should note that church tribunals cater only to catholic couples; that the cases brought to, and accepted by such courts are but a few of the many broken

⁴ Canon Law Digest, VIII, p. 649.

⁵ THE CANON LAW SOCIETY OF BRITAIN AND IRELAND, *Preparing for Marriage, Doctrine and Life*, 1976, pp. 909-916.

⁶ CBCP., *On Christian Marriage*, Boletín Eclesiástico, 1976, pp. 774-775.

⁷ Unpublished thesis at the Faculty of Canon Law, UST, 1975.

⁸ Private Report from the Cebu Tribunal to the CBCE., 1978.

catholic marriages; and finally, that still fewer cases are declared null and void. All this not withstanding, it appears quite clear that marital breakdowns are more frequent among teenage partners than among couples marrying at a later age. Hence the urgent appeal of the Episcopal Commission on Canon Law to raise the minimum age requirement for marriage to 21 for either sex.

POPULATION PROBLEMS

Upgrading the age for marriage, too, would have a significant impact on the population growth in the country. "The age and rate of marriages, warns Dr. V. Rosales, are of singular importance. For a people to marry at the age of twenty years or thereabouts, as we do in this country, is to give the opportunity of the fullest exercise of biological fertility which is reached about that age and declines gradually over the next ten or fifteen years. A delay in the average marriage age of the Filipino, even if affecting only the male, would result in significant changes in the birth rates of this country".⁹

It has been observed, too, that women who marry late stop begetting children sooner than others. In other words, the fertility span is reduced at both ends and not only at the beginning. The English scientist Galton calculated that the woman who marries at 18 is likely to have twice as many children as and her who weds at 28.¹⁰ It is a fact, likewise, that either as a result of being more mature, or because of greater opportunities of education and gainful employment, or a combination of these, girls marrying at a later age favor or adopt family planning methods more readily.¹¹

Of course, it would be naive to think that raising the age for marriage will offer an over-all solution to population and family problems in the nation, but it will surely be a positive step in the direction of responsible marriage and responsible parenthood.

THE BEST AGE FOR MARRIAGE

Marriage entails a wide gamut of serious emotional, intellectual, moral, social and financial responsibilities, and persons about to marry should be required to possess a minimum of maturity to discharge them. What then should be considered as the optimum age for marriage? None in particular.

⁹ ROSALES, V. M.D., *The Control of Population Growth in the Philippines*. Unitas, 1966, p. 464.

¹⁰ LANDIS, P. H., *Population Problems*, N.Y., 1943, pp. 64-65.

¹¹ *Indian Population Problems*. The Month, 1974, p. 454.

Hart and Shields found that the ideal age at marriage was 29 for the groom and 25 for the bride, but that variations of four years on either side for the groom or two years on either side of the bride, made no appreciable difference in happiness. If the bride was under 21 and the groom under 24, however, an increase in domestic problems and difficulties was noted; the increase was greater the lower the age at marriage.¹²

Lately, Paul Glick, a noted sociologist, has shown that, in terms of stability, the optimum age for marriage is 22 for women and 24 for men; and that marriages in which the partners were younger than these ages were more vulnerable to instability.¹³

Early in 1976, the Catholic Bishops' Conference of the Philippine singled out the age factor as one of the greatest sources of marital instability in the country and endorsed to President Marcos a proposal to raise the minimum age for marriage to 20 for the male and 18 for the female.¹⁴ Strangely enough the Conference apparently failed to act on a new proposal submitted to it in 1973 by the Episcopal Commission on Canon Law to the effect that "the minimum age requirement for marriage before the church in the Philippines, under pain of nullity, be 21 years old for both parties".

Lately, the Manila Synod delegates expressing the prevalent view at the "grass-root" level of their communities, have again proposed that the marriage age be raised to at least 21 for both men and women. Younger couples should be asked to wait till they are 21 even if they are living together"¹⁵

How have the faithful, their pastors and church jurists arrived at age 21 as the most appropriate one for a happy, lasting marriage? Well, that is also the age when one attains the age of maturity and becomes civilly qualified for acts of civil life.¹⁶ And there are many other cogent reasons why marriage should not be taken lightly, as something less relevant to the church and the community than an ordinary contract which, after all, can be rescinded by the parties at will. Moreover, the practice in most countries or areas in the world is that persons between the legal age and a more advance age—usually 21—may marry only with the consent of parents or guardians.¹⁷

¹² MIHANOVICH, SCHNEPP, THOMAS., *Marriage and the Family*, Milwaukee, 1955, p. 29.

¹³ BERNARD, Jessie., *The Future of Marriage*, N.Y., 1973, p. 185.

¹⁴ *Boletín Eclesiástico*, 1976., pp. 9, 779.

¹⁵ *Cor Manila*, Nov. 15, 1979, p. 6.

¹⁶ *Civil Code of the Philippines*, art. 402.

¹⁷ *Demographic Yearbook—1976*, United Nations, N.Y., 1977, p. 37.

From the psychological aspect, age 21 or thereabouts marks the period when young boys and young girls become young men and young women and are more or less ready to assume the responsibilities of marriage and parenthood. Generally, this age-group has already overcome the identity complex and is less worried with grandiose ideas than those under 21, and so it tends to be more concerned with concrete and immediate problems pertaining to a job, the home, the family and the like.¹⁸

From the pastoral-religious view point, the dignity and sanctity of christian marriage as well as the solidarity of the family should be safeguarded at all costs by admitting to the sacrament of matrimony only adults adequately prepared to assume and discharge the responsibilities of married life.¹⁹ Thus, facts and experience show that the local church counts with serious pastoral reasons to forbid or at least to defer the marriage of adolescents not yet matured for married life.

THE RIGHT TO MARRY

The right to marry is a natural one of top priority. But is it an unrestricted absolute, unconditional right? Or, is man absolutely free to exercise such a right as to wed any person, any time, any way for little or no concern whatsoever for the rule of law, social and moral commitments?

Matrimony, which is envisioned as a community of life and love, was established primarily for the good of the human race and secondarily for that of the individual person. Thus while it is a valid fact that a person may choose not to marry and instead remain in the state of "single-blessedness" or celibacy, it is equally true that nature itself has bequeathed on the human race the instinct and duty to procreate and multiply.

Along this line of thought, marriage has been regarded both as a pact or agreement binding the partners to a life together, and as a social religious institution governed and controlled by civil as well as moral norms and regulations. Thus it follows as a corollary, that nature constrains as well as statutory, moral norms enacted by human authorities may curtail the right of the individual to take a partner in marriage, or even to limit the exercise of the right in other sundry ways. This is not an imaginary supposition, but rather a fact and historical reality amply acknowledged in the tradi-

¹⁸ BERNARD, J., *Ibid.*, p. 184.

¹⁹ MARQUIS, J. C., *Teen-age Marriage is Unreal, Homiletic and Pastoral Review*, 3/1977, pp. 61-68.

tions and customs of the various peoples and nations. Restrictions on the freedom of the individuals to marry have been traditionally instituted by civil and religious groups since time immemorial, and are enshrined even in the most rudimentary legal systems of the world.

The church sums up the minimum essential requirement for marriage thus: "all persons who are not prohibited by law, can contract marriage", (CIC, c. 1035). And then the laws goes on to fix the minimum age for a valid marriage at 14 for the female and 16 for the male, (CIC, c. 1067).

But is this age-limit a guarantee of the mental, emotional, spiritual maturity necessary for married life and the rearing of children? Facts, knowledge and experience show that such is not the case.²⁰ Moreover, the church law in setting the age ruling of 14 and 16 has obviously adopted a biological criterion which is based on the physiological puberty or physical capacity of the couple to bear children. It is common knowledge, however, that a boy and a girl to be ready to wed need something else than just to be able to be a father or a mother. Boys and girls are physically able to become fathers or mothers years before they are ready to assume and discharge adequately the responsibilities of parenthood.

The church is well aware of this fact, and thus, while upholding the validity of a marriage between a 14 years old girl and a 16 years old boy, it nevertheless provides that: "pastors of souls should try to deter young people from marrying before the age at which, according to the customs of the country, marriage is usually contracted," (CIC, c.10 67, 2).

This precautionary measure notwithstanding, the fact is that many a pastor feels helpless in cases where the couple meet the minimum legal and spiritual requirements, but their youth leads the priest to believe that their marriage has little hope for success. Even if the priest may work to dissuade the youngsters, he feels that their natural right to carry and the established canonical age make it impossible for him to refuse or even to defer their marriage. Such should not be the case, however, for c. 1039, 1 of the CIC provides the legal basis for the selective postponement of a sacramental marriage when it prescribes that: "Ordinaries of places can forbid marriages in a particular case, but only temporarily, for a just cause and for as long as the just cause continues".

This power granted to Ordinaries of places attempts to guarantee not only the right of the parties to marry, but it likewise offers the

²⁰ CARTER, M., *Teen-age Marriages: Diocesan Policies*. The Jurist., 1975, p. 276.

couple the opportunity to adequately prepare themselves for married life by differing the sacramental marriage till a time when the partners should have reached that reasonable level of maturity that is needed for a happy, lasting union. However, once the person concerned gives positive signs of that minimum of maturity and mental discretion, he or she should not be excluded from marriage on account of young age, but should be rather encouraged. On the contrary, those who are obviously immature to venture into the complex married life are forbidden by natural law from doing so, whatever their age. The right to enter into a pact or agreement can only be exercised by one who is capable of discharging the obligations pertaining thereto.²¹

"SACRAMENTA PROPETER HOMINIES"

The doctrinal tenet "sacramenta propeter hominies" — the sacraments have been instituted for the benefit of men — and not the other way around, should in no way constitute a serious obstacle to the enactment of badly needed legislation raising the age requirement for marriage. After all, the unworthy, perhaps even invalid reception of the sacrament of matrimony by persons presumably unprepared can hardly be of benefit to either parents or children, the church or the state. The increasing incidence of marital breakdown on account of early nuptials and the scores of cases which are being brought to the church tribunals for a declaration of nullity on the ground of lack of due discretion or maturity of judgment offer, in our opinion, sufficient juridical grounds to delay or even to forbid early teenage marriages.

On the pastoral level it should be clear by now that not even a sturdy catholic faith will adequately withstand the pressure put on youngsters while trying to fulfill the responsibilities of adults in the sacrament of matrimony. Marriage is not a solution to the problems of the youth. All too often it adds greater problems.

The threat to marry outside the church is not a cogent reason why marriage should not be forbidden at an early age or differ for some time. Indeed, it is the duty of the church to forestall "unholy unions". But the church is no less committed to prevent risky marriages with less than reasonable chances of success. This means that sooner or later the local church will have to face reality and perhaps accept the least of two evils, as it has done more than once

²¹ TESTERA F., *Lack of Due Discretion for Marriage*. Boletin Ecclesiastico, 1976, pp. 504-511.

in the past. The alternative could be formulated thus: should the church tolerate for some time an unholy and illegitimate relationship or even a civil marriage while the couple is waiting in accordance to the mind of the church? Or rather should the church take the risk and sanction the celebration of dubious youthful nuptials which offer slim chances of success?

Priests, counselors, tribunal staffs... aware of the high rate of marital failure among young catholics, are quietly advising immature couples, still unprepared for the sacrament of matrimony and yet unwilling to wait, to wed civilly first and postpone the celebration of the sacrament till they are good and ready for a worthy reception.²² Should they succeed in a civil union, the marriage can always be validated through the licit and valid reception of the sacrament. If, on the contrary, the civil experiment should fail, the partners are free from the trap of an intolerable marriage and all its tragic consequences from which there is but a little chance of escaping.

Obviously this is the same thrust of the proposal by the Manila Synod delegates, viz.; "younger couples should be asked to wait till they reach 21, even if they are living together". Waiting for the right age to marry may turn out after all, the best plan to avert divorce in the country and thus to prevent a further erosion of the people's esteem of, and faith in the sacrament of matrimony.

THE CHURCH AND THE STATE

Will this proposal be favorably viewed by the civil authorities? No one can tell. However, even if the state should not adopt it, the church can consider a second option more in conformity with civil legislation. The canonical age for a valid marriage would thus be raised to 18 and 20 for girls and boys respectively, at which ages boys and girls can validly wed in the country without parental consent. (Civil Code of the Philippines, a. 61). Still, should parents or guardians bend to the wishes of youngsters below such ages, this is before 18 or 20, then diocesan bishops could request the Holy See for special faculties to dispense from the non-age impediment and so meet this type of exceptional cases. At present all diocesan bishops — resident bishops and those who are equivalent to them in

²² HERTEL, J., *When Marriage Fails*, N.Y., 1969, p. 19; Catholic Bishops' Conference of France, January 11, 1977, *Canon Law Digest*, VIII, pp. 635-639

law — can, for a serious and reasonable cause, dispense from the non-age impediment by as much as one year.²³ The probability of obtaining wider faculties in this field should not be regarded as farfetched considering the readiness Rome has shown lately to come to grips with the problems of youthful nuptials. In fact a proposal already incorporated into the new canon law, still under revision, would even grant the Bishops' Conferences power to set even a higher age-level within the nation, one which would be over and above the minimum required for validity by the existing law.²⁴

At any rate, legislation alone will not suffice to check or even discourage teenage marriages. The success of whatever legal measures may be adopted depends to a great extent on social education and public opinion. There is no gainsaying the fact that a plan of such nature will be unpopular and encounter initial opposition from the youth, some parents and even priests and ministers of the gospel. In order to counter such adverse reaction, civil, social, political, religious leaders must join hands in stimulating public opinion by stressing the lasting benefits the individual, the family, society and religious sects will derive from raising the minimum age at marriage.

²³ *Motu Proprio*, *The Episcoporum Muneribus*, IX, 11; AAS., 1966, pp. 467-472.

²⁴ *Schema Documenti Pontificii quo Disciplina Canonica de Sacramentis Recognoscitur*, Vatican City, 1975, c. 282.2.