

SISTER SONIA'S STAND ON DIVORCE

QUESTION: My query has reference to "Sister Sonia's Stand" on divorce as published by *The Manila Times* on March 23, 1972 in its "We, the People" section. I am writing on my own, and also in the name of a group of university professors, all alumnae of prestigious colleges run by Sisters. We were shocked and scandalized, to say the least, by Sister Sonia's stand. Also, we are confronted with the dissent of our students in "Socio 9" whose description is "Marriage and the Family". On the question of divorce some students even brand us as antiquated when we uphold the Church's position and they buttress their stand on the Reverend Sister's authority, who, they argue, must know better than us, lay-faculty.

What is your stand, Father? Is Sister Sonia's stand tenable? Do kindly support your stand with arguments.

A Lay Professor

ANSWER: This question, by the very wording of its proponent touches on different, though co-related, problems, such as the matter of scandal and that of competence of teachers. We may easily infer that such statement by a Catholic nun is apt to cause scandal. That seems to be beyond dispute. If every Catholic member of the Constitutional Convention in matters so serious as the writing of our fundamental law is expected to form his individual conscience in line with the teaching of the Catholic Church in his discharge of the task committed to him, greater expectations are awaited of Sisters or priests who profess the religious life. Whence the enormity of the scandal to other members of the people of God when some of these more conspicuous members dare oppose, or even deviate, from the Church's stand in matters like matrimony. For on the institution of marriage, by divine ordinance and by Christ's command, stand or fail both society and the Church as planned by God. The scandal of the good professors is therefore understandable.

The matter of competence, on the other hand, cannot be adduced owing to the fact that the Reverend Sister is a religious. People, of course, especially the young students, are prone to give credit to priests and nuns in matters of religion. We might say that in the past such expectations

were well justified. At present, however, such fact cannot be universally presumed, and the persons of priests and Sisters should be individually weighed against their actual knowledge and their fidelity to the teaching authority of the Church.

Important, though these points may be, they pale into insignificance in the face of the contents of the declaration of the Reverend Sister. Thus, we will dispense with the other considerations in order to see whether her declaration may be tenable at all in the light of the Catholic faith.

1. "SISTER SONIA'S STAND"

We have to note in advance that the point under discussion here is not, of course, that of *separation of the spouses*, which theologians call *separatio corporum*, which may be granted under certain conditions. Our discussion hinges on direct and outright *divorce*, as proposed by its advocates among the members of the Constitutional Convention, namely, a divorce that may *dissolve the bond of unity* present in every valid marriage with the consequence of granting to the spouses the possibility of proceeding to another marriage. To this boils down the enormously complicated question. And that divorce could be granted by a *civil* authority, since the delegates have no other capacity than the one delegated to them by their electors.

Now, since the illicitness of divorce is a doctrine solemnly defined by the Church and for twenty centuries of constant, uniform practice without a single exception, it is important to reproduce verbatim the letter of the Reverend Sister. We quote from the above-mentioned page in *The Manila Times*, though the same "Clarification" appeared too in other prominent dailies.

Writes Sister Sonia:

Dear Editor:

I write this clarification on my stand on divorce.

In the first place, it has always been my belief that divorce should be a subject for legislative enactment. The Constitution, the fundamental law of the land, should concern itself with the fundamental rights. Divorce is not a fundamental right but a remedial one.

However, should the Convention decide to take it up, I am in favor of divorce provided that the rules and regulations of various religious denominations be respected; that is, no divorce for Catholics. As far as non-Catholics are concerned, I, as a Catholic, have no right to impose my disciplinary rules on them.

Among the situations which I hope can be remedied by this measures are:

a) A marries B in the Catholic Church. This marriage is duly registered in the civil registry. Two years later, the Church annuls the marriage because of vitiated consent on the part of A. This cause for annulment recognized by the Church is not recognized by the Civil Code and since there is no divorce in our country now, no civic remedy can be had. A got married to C, while in Japan and came back to the Philippines. Under Philippine Law, this marriage to C, is bigamous while under the Church Law, it is valid.

b) A and B secured legal separation after 2 years of marriage. Son A began living with C and B began living with D. All the parties concerned were born to these illegal unions and are therefore illegitimate. Under present law no remedy.

In most discussions on divorce, liberal causes are envisioned. Allow me to quote the final draft of the Committee concerned so that we deal with realities and not imagined possibilities:

(We omit this draft, since our study refers only to the Reverend Sister's position.)

Amendments may yet be made during plenary session discussions. — SONIA S. ALDEGUER, Delegate, 3rd District of Iloilo.

2. SOME PERTINENT OBSERVATIONS

At this juncture some points of rudimentary catechisms are in order. They are the bases of every Biblical and ecclesiastical pronouncements on the matter.

a. *Matrimony is a unique contract* belonging to a category all its own. In no way may it be compared to any other contract of human invention which may be based on purely human agreement or law.

b. *In itself, the right to marriage is inherent* to all human persons, who have obtained an adequate knowledge of what marriage is and of the purpose of its institution, as long as the natural ability to contract it is not impeded in either of the partners.

c. *Marriage, though a right* as in b., impose no obligation to marry on any person. However, with the presence of ability, marriage essentially requires the free act of the will in each one of the parties. If the free consent of their will is substantially vitiated by fear or force, the mutual act of self-giving by the parties cannot produce a true and valid marriage. In case like this the spectators may be deceived, but the contracting parties know that they are not freely consenting. And, of course, God knows it even better. Now, besides the free consent other requirements may be postulated by the Church for Christians and by the civil legislator for unbaptized persons.

d. The all-essential point here is that the very nature of the marital contract does not in any way depend on any human opinion, law, custom, instituted by God in the beginning. It was He Who fixed forever and for all its nature and its properties. Essentially, by God's institution, marriage is *monogamous* and *indissoluble*. Only death may *dissolve its bond* and set the survivor free. Then, owing to the death of the other party, the survivor may proceed to a new marriage for as many times as death may visit his or her succeeding spouses. Impertinent though these notions may appear, they are most relevant to the matter, since they forever exclude the qualification in the Reverend Sister's statement on men on account of their diversity in religion. The variation in men's opinions, laws or institutions shall never make any impact on God's immutability. For this reason the Reverend Sister's expression, "I am in favor of divorce provided that the rules and regulations of various religious denominations be respected" cannot be subscribed to by any Catholic or by any man accepting His revelation. Indeed, who is to stand against God and His institution?

e. Besides the unique character of marriage for all men, after centuries of human variations, the Lord Jesus, in order to counteract such deviations and abuses of all mankind, came to repudiate with His divine authority all erroneous deviations — again for all and forever — in this matter. And so firm was our Redeemer about this institution for the children of men on earth, that for His followers, namely, for those who would accept His Gospel "and be baptized" (*Matt. 28:1920*), the Lord did elevate the marriage contract into a *sacrament* of love. Thus, by representing His own unending love for redeemed humanity, this sacrament would be an efficient means towards the sanctification of conjugal love. Through Jesus' grace and addition of a supernatural ability, this sacrament will help frail human hearts to successfully meet the unforeseen eventualities, -- for better and for worse, for richer and for poorer till the happy moment of their entering into the eternal union of heavenly love.

On this score we are met with these words of the Reverend Sister: "as far as non-Catholics are concerned I, as a Catholic, have no right to impose my disciplinary rules on them". Innocent and true as these words may sound, this statement is rather misleading and in its context, entirely wrong. In fact, absolutely no legislator and no man, the good Sister included, has a right to legislate on a matter that God did reserve to Himself alone. Or on a right that the Lord Jesus did not grant even to His Church. But the essentially vitiated condition of such pronouncement stands on the fact that the whole matter is one of introducing a fundamental law *not in Antarctica* but here *in the Philippines*. It is a well known fact that except for a very small minority — Moslems, ethnic groups and not too many unbaptized others — the rest of the nation is

composed of Catholics and other Christians whose baptisms we cannot, without injury, presume to be invalid. Consequently, the distinction between Catholics and non-Catholics in the Philippines amounts to nil. Truly, in Catholic doctrine the valid marriages of Catholics and non-Catholics *are equally sacraments of the only Church of Christ*, and so, they are subject to the Church's laws alone, not to any civil authority. The sacramental dignity of Christian marriage is based solely in the Lord Jesus' institution and divine power. For this reason, just as the erroneous opinions, laws or institutions of men cannot invalidate God's original institution for all men, in like manner, no amount of dissent by any Christian can ever nullify the sacramental dignity which the Lord Jesus deigned to attach to all valid marriages of His faithful.

All know, of course, that Martin Luther, and many after him, have decided otherwise. Again, who among Catholics, whether in a private capacity or acting on delegation of men, dare establish a law in any Constitution or Code that may acknowledge a right in outright opposition to God's right for all men and diametrically opposed to the Lord Jesus's decree on the sacramental quality of every Christian marriage?

3. COMMENDATION OF THE PRESENT LAW IN THE CIVIL CODE OF THE PHILIPPINES

In a pluralistic society as the Philippines', with the official distinction of juridical power in religious freedom of all Filipinos, the fundamental statement of the present law is to be highly commended. It could not, of course, be expressed in terms that may satisfy all, but, most praiseworthy, our legislators have acknowledged the peculiar character of marriage as an "inviolable institution". Reads Art. 52 of the Civil Code:

Marriage is not a mere contract but an inviolable institution. Its nature, consequences and incidents are governed by law and not subject to stipulation, except that the marriage settlements may to a certain extent fix the property relations during marriage.

Thus, our legislators have limited themselves to their proper field, which, in the Church's language is called "the merely civil effects of marriage" (*Paul VI, Motu Proprio, March 28, 1971. cfr. The Pope Speaks Magazine, 1971, pag. 234*)

In our opinion Art. 52 of our Civil Code can be honorably enshrined in the new Constitution, thus definitely safeguarding among us the mono-

gamous and indissoluble character of marriage as the basic law of our family and society.

4. EQUIVOCATION IN TERM 'ANNULMENT'

There is a serious error in the statement of the Reverend Sister with regard to what she calls *annulment*. "A marries B in the Catholic Church. . . . Two years later, the Church *annuls* the marriage because . . . This cause for *annulment* recognized by the Church. . . .", etc. The error comes from the terms *annuls* and *annulment*. An *annulment* properly so called presupposes something that is valid in itself, and through *annulment*, is deprived of its validity. In this sense *the Church has never annulled* a valid marriage which is *ratified and consummated*, to use the Church's terminology. Not even to save for the Church a whole region as in the case of Henry VIII. The Church would rather suffer the loss of an England than to betray one of the sacraments entrusted to her by the Lord Jesus. Much less will the Church *annul* the marriages of unbaptized persons since they do not even belong to her jurisdiction. And "the favor of the faith" that the Church holds on to is given by St. Paul under very definite conditions (*cf.* 1 Cor., 7:21-16).

To what amounts then, what the Reverend Sister calls *annulment*? To a simple declaration of nullity of a case where a given marriage which seemed to be valid at the time of its celebration, after an exhaustive investigation by the Church's officials, is found to have been null and void from the beginning on account of what is called a *diriment impediment* or of a vitiated consent or of some other reasons very well defined in the Church's law. Thus, evidently the difference between an *annulment* and the Church's *declaration of nullity* are heaven and earth apart.

5. SISTER SONIA'S STAND IS INDEFENSIBLE

With the foregoing in mind it will not be difficult to see how untenable Sister's stand on divorce is. Her statement is clear from the start: "In the first place, it has always been my belief that divorce *should be a subject* for legislative enactment. . . . However, should the Convention decide to take it up, *I am in favor of divorce provided. . . .*" (underscoring ours). Our argument is more than apodictic, it is part and parcel of the Catholic faith.

This position is in open opposition to the frank teaching of S. Scripture, of the Ecumenical Councils and of the solemn teaching of the Roman Pontiffs. So, it is utterly indefensible by Catholics

a. *Opposition to the S. Scriptures.*

This stand on divorce contradicts the words of Christ in St. Matthew and St. Mark.

1. *Writes St. Matthew:*

Some Pharisees approached him, and to test Him they said, 'is it against the Law for a man to divorce his wife on any pretext whatever?' He answered, 'have you not read that the Creator from the beginning made them male and female and that He said: *This is why a man must leave father and mother, and cling to his wife, and the two become one body?* They are no longer two, therefore, but one body. So then, what God has united, man must not divide'.

They said Him, 'Then why did Moses command that a writ of dismissal should be given in cases of divorce?' 'It was because you were so unteachable' He said 'that Moses allowed you to divorce your wives, but it was not like this from the beginning. Now I say to you: the man who divorces his wife — I am not speaking of fornication — and marries another, is guilty of adultery'. *Matth. 19:3-9.*

2. *Writes St. Mark:*

Some Pharisees approached Him and asked, 'Is it against the law for a man to divorce his wife?' They were testing Him, He answered them, 'What did Moses command you?' 'Moses allowed us' they said 'to draw a writ of dismissal and so to divorce'. Then Jesus said to them, 'It was because you were divorce'. Then Jesus said to them, "It was because you were so unteachable that he wrote this commandment for you. But from the beginning of creation *God made them male and female. This is why a man leaves father and mother and the two become one body.* They are no longer two, therefore, but one body. "So then, what God has united, man must not divide Back in the house the disciples questioned Him again about this, and He said to them "The man who divorces his wife and marries another is guilty of adultery against her. And if a woman divorces her husband and marries another she is guilty of adultery too." *Mark 10:2-12.*

That much we have for the eternal exclusion of divorce from any valid marriage of any man created by God. Note the laconic commentary to Jesus' words by the scholarly authors of the Jerusalem Bible: "*Uncompromising assertion of the indissolubility of marriage*". (Footnote a.)

3. *The Lord, exclusively on the bodily separation of the spouses.*

But what to do in case of adultery, the most pertinent of the various reasons that may allow what is called 'legal separation'? Can divorce, as stated by the Reverend Sister, be a 'remedial' right? To this question which Jesus did not

touch in Matthew, 19:9, — *I am not speaking of fornication* the Lord Jesus answered through St. Paul, *1 Cor., 7:10-11*: "For the married I have something to say, and this is not from me but from the Lord: a wife must not leave her husband — or if she leave him, she must either remain unmarried or else make it up with her husband — nor must a husband send his wife away."

Thus, the remedial right proposed by the Lord is diametrically opposed to the one proposed by this 'stand'. It amounts to reconciliation or to a non-marital life. In the Lord's words:

a. "either remain unmarried", or

b. "or else make up with her husband". And, of course the same remedy is open to the man.

c. *The statement is opposed to St. Paul's doctrine on the marriage of Christians which is a sacrament.*

What does S. Scripture teach about the kind of marriage of Catholics and all baptized Christians? Here the reader is invited to read in full St. Paul's beautiful passage on this sacrament of love which marriage is, in his letter to the Ephesians, Chap. 5:21 to Chap. 6:1-9. There the Christian spouses are called to emulate the ideal love of Christ for His Church, i.e. Christ's love for the spouses themselves and for redeemed humanity, which is symbolized by their own conjugal union: "*This mystery has many implications; but I am saying it applies to Christ and to the Church*" (v. 32).

b. *The Ecumenical Councils*

Here the entire teaching Church, i.e. the College of Bishops with the Pope speak to every Christian. From a litany that might become fastidiously long, we choose only two Councils, Trent and Vatican II.

1. *The Fathers of Trent* have authentically declared this dogma of faith from the above transcribed words of S. Scripture, in the following words:

The first parent of the human race expressed the perpetual and indissoluble bond of matrimony under the influence of the divine Spirit, when he said: "This now is bone of my bone, and flesh of my flesh. Wherefore a man shall leave father and mother and shall cleave to his wife, and they shall be two in one flesh" (Gen. 2:23 f.; cf. Eph. 5:31).

But that by this bond two only are united and joined together, Christ the Lord taught more openly, when referring to those last words, as having been uttered by God, He said:

"Therefore now they are not two, but one flesh" (Matt. 19:6), and immediately ratified the strength of this same bond, pronounced by Adam so long ago in these words: "What therefore God has joined together, let no man put asunder" (Matt. 19:6; Mark 10:9).

But the grace which was to perfect that natural love, and confirm the indissoluble union, and sanctify those united in marriage, Christ Himself, institutor and perfecter of the venerable sacraments, merited for us by His passion. The Apostle Paul intimates this, when he says: "Men, love your wives as Christ loved the Church, and delivered himself up for it" (Eph. 5:25), directly adding: "This is a great Sacrament; but I speak in Christ and in the Church" (Eph. 5:32) (*Cfr. Denz. 969*).

2. *The Fathers of the Second Vatican Council* have accepted, of course, the definition of Trent, but true to their *pastoral* purpose, instead of a mere repetition of the old definitions, inserted a beautiful instruction in their *Pastoral Constitution on the Church in the Modern World*, (nn. 47 to 52), of which the most relevant points of the faith on marriage and family are presented in easily readable language. For the sake of brevity we cite the most pertinent texts.

a. *On all marriages:*

The intimate community character of married life and love, established by the Creator and deriving its structure from His laws, is based on the conjugal pact, an irrevocable personal consent. From this human act, by which the parties give and receive each other, there arises an institution which by divine ordinance is stable, even in the eyes of society. This bond, which is sacred for the good of the married parties, the children, and society itself, does not depend on men's choice. God, who made marriage, endowed it with its various values and purposes . . . n. 48.

b. *On Christian marriage:*

. . . For just as God once encountered His people in a covenant of love and trust, so now as the Saviour of the world and the Spouse of the Church he encounters faithful spouses in the Sacrament of Christian marriage.

. . . So do married partners, by mutual surrender, love each other with a lasting fidelity (*In the original text: perpetua fidelitate diligant* n. 48).

. . . Such love, ratified by mutual fidelity and above all sanctioned by Christ's sacrament, is unshakeably faithful in body and mind, through good times and bad, and so remains a stranger to adultery and divorce. n. 49.

3. The Roman Pontiffs

The vigilant guardians of faith and sacrament, the Popes, could not fail to defend this dogma. To reproduce at length their pronouncements would be nigh impossible. We will, nevertheless, offer to our reader two choice documents on the matter, one from Leo XIII in his Encyclical *Arcanum divinae sapientiae*, February 10, 1880 and the other from Pius XI in the marvelous Encyclical *Casti Connubii*, Dec. 31, 1930.

6. IS THIS DOCTRINE DEFINED BY THE CHURCH AS DOGMA OF FAITH?

The answer is *yes*. Indeed, the Fathers of Trent, after their definition, did brand as heretics those who would dare to contradict their definition. Their formal words:

Can. 5. If anyone says that the bond of matrimony can be dissolved because of heresy, or grievous cohabitation, or voluntary absence from the spouses: let him be anathema.

Can. 7. If anyone says that the Church errs, in as much as she has taught and still teaches that in accordance with evangelical and apostolic doctrine (Matt. 10; 1 Cor. 7) the bond of matrimony cannot be dissolved because of adultery of one of the married persons, and that both, or even the innocent one, who has given no occasion for adultery, cannot during the lifetime of the other contract another marriage, and that he, who after the dismissal of the adulteress shall marry another, is guilty of adultery, and that she also, who after the dismissal of the adulterer shall marry another: let him be anathema. (*cf.* *Denz.* 975, 977).

7. THE FINAL ANSWER

From the foregoing it is clear that Sister's stand on divorce is untenable. No Catholic may defend it without real, objective heresy.

● Quintin Ma. Garcia, O.P.