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Examining the Family in the Light of Marriage Annulment as a New Research Perspective¹

1. Preliminary Remarks

The institution of marriage is one of the fundamental pillars of organisation of any society (Borutka, 2017). While it may take different forms in different social systems and may be subject to dynamic changes (Beck & Beck-Gernsheim, 2002; Castells, 1997; Fukujama, 2000; Giddens, 1990), it always produces a specific human bond which is essential for the functioning of each social system and constitutes the foundation of social order (Malinowski, 2002).

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This means that it cannot be replaced by any other social institution, which makes it a universal institution. At the same time, the fact that it is of key importance to the system of organisation of society as a whole means that it can be treated as a kind of an acid test, providing insight into the condition of a given society (Daszkiewicz, 2010). Taking all this into account, the institution of marriage deserves much more of scholars' attention than it currently enjoys. Interdisciplinary research, which makes it possible to grasp various legal, social and religious contexts simultaneously, should play a special role in this research. Their aim should be to diagnose the condition of marriages and families, and thus to formulate a broader diagnosis of the condition of society. The image obtained in that manner may, in turn, translate into actions aimed at strengthening marriages and families by, for example, improving their functioning in the sphere of relations between members of these basic units of society. This, on the other hand, may result in an improvement in the condition of modern societies.

The aim of this article is to outline a new research perspective, allowing for an in-depth reflection on the condition of contemporary marriages and families. Of course, the problem itself is not new, but in order to analyse it, we propose to adopt a perspective which has not been present in the literature so far and which will consist in analysing the condition of the institution of marriage in the light of the process of declaring a marriage void, i.e. the canonical procedure in force in the Catholic Church.

It should be stressed, however, that our deliberations and analyses will take place in the space of Polish society, as it is necessary to anchor them in the specific conditions of the functioning of a particular society and in clearly observable social processes. Nonetheless, we have no doubt that the diagnosed phenomena and trends can also be seen to an equal extent in many other contemporary societies functioning in the sphere of the Christian tradition, and not only in Europe. In this sense, the observations we have made and the conclusions we have formulated are definitely more universal than could be derived from analyses of one particular society. Therefore, the research activities we are proposing can be applied to various social systems, and their implementation in various places could contribute to the collection of interesting comparative material.

2. The Importance of Ecclesiastical Marriage in Social and Religious Terms

Marriage, which according to the teachings of the Catholic Church is a sacrament in certain legal and factual conditions,² is undoubtedly one of the most important religious events in the life of a catholic. Marriage not only has significant religious and canonical consequences but, at the same time, generates fundamental legal and social consequences, mainly for the people who enter into it but also for their close and distant relatives and even friends. By entering into marriage, a basic social structure is brought to life – the family, which plays a key role in all processes affecting the social life of present and future generations.

The importance of the aforementioned issues makes scientific reflection on the process initiated institutionally by marriage, and thus the sacrament of marriage, one of the most important areas of investigation related to reflection on the family and the condition of modern societies. Also, one ought to be aware that it is impossible to explain or understand most of today's social crises without reference to the problems of marriage and family (Giddens, 1991; Giddens, 2009; Sennett, 1994; Thorton & Fricke, 1987).

It should be made clear that the scope for reflection on marriage and family should not be limited and concentrated on just one aspect of the formation or existence of a family, nor should it be focused on a single research perspective. On the contrary, the reflection should be formed taking into account various interdisciplinary contexts (e.g. theological, legal, sociological and statistical) of the whole process of establishing and the existence of the new social structure: the family. The process of entering into and continuing a marriage should also be analysed in the context of a wide range of activities and events both prior to entering into the act of marriage and in the context of all subsequent stages of such a relationship and its termination. Moreover, the focus of researchers should not only lie on the act of marriage in a religious form, i.e., for Catholics in the presence of God and the Church. It ought to encompass a wider context, including the role of the newlyweds and other

² It should be noted that not every marriage in the Catholic Church, that is to say, according to canonical law (referred to as: ecclesiastical or canonical marriage) is a sacrament. According to can. 1055 § 2 only “there can be no valid marriage contract between the baptized that would not be a sacrament.” A canonical marriage between an unbaptized and a Catholic, although valid under canonical law, is not sacramental. Due to the small scale of this phenomenon in Poland, such cases are omitted from the considerations presented in this article.

participants in this sublime event. After all, the act of sacramental marriage itself is the solemn culmination of the intentions and activities of not only the future spouses, but also of many other participants of the social space, with particular emphasis on family members and other relatives whose role in the whole process of marriage and family formation is sometimes very active and too rarely appreciated (Komorowska-Pudło, 2019).

At the same time, it is also important to be aware that the sustainability and quality of marriage depends not only on how the relationship between the spouses develops after getting married. It is clear that the sustainability of marriage also depends, to a great extent, on whether the process of preparing for the marriage was carried out correctly and, above all, whether there was excessive interference from third parties in the process of making the decision to get married. It is also significant whether or not social pressure was exerted on the newlyweds, which could in fact limit their ability to make independent decisions (Forward, 2002).

An in-depth analysis of the broadly understood context of the marriage process and of the duration of marriage seems justified, especially now that we have the opportunity to observe global trends in marriages. For example, changes in the family model and the spread of alternative forms of marital life are becoming apparent (Slany, 2008). The changes taking place in the global and supra-local space seem to be of tremendous importance for the conditions under which the institutions of marriage and family function in the present and future. What is more, their very presence begs the question about the condition of the family in the theological and social dimension, and sometimes even to leads to formulating a thesis that there is a crisis in the modern institution of marriage (Cillo Pagotto, Vasa & Schneider, 2015; Kucharčík, 2016).

3. The Institution of Marriage in the Face of Demographic Processes

The focus on the conditions under which a modern family functions is also all the more justified because over the last two decades we have seen an increase in the dynamics of several important processes. Although their analysis carried out for the purposes of these considerations will concern Polish society, it is worth stressing that the phenomena and trends observed have a far broader scope and allow us to grasp the directions of changes on a supra-local and perhaps even global scale. In this sense, the specific observations we have made and the conclusions we formulate may become much more universal.

First, it is worth noting a decreasing trend in the number of marriages, both sacramental and civil, and by place of residence (Table 1). This process is illustrated by the data presented below, which indicate that during the period under study the number of both civil and religious marriages was increasing until 2008, after which it started to decrease, exhibiting a much greater drop in the number of marriages. In the case of civil marriages, the decrease in the number of marriages is small; in 2019, compared to the previous year, there was even a slight increase of about 1% in the number of such marriages, while the number of religious marriages decreased by more than 8%.

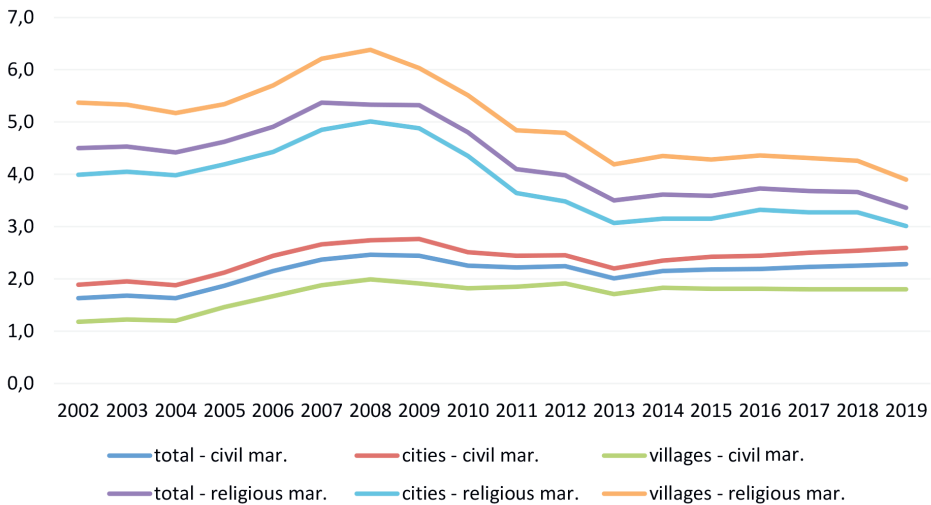
Table 1. Number of civil, religious and total marriages between 2002–2019 in Poland

Year	Civil marriages			Religious marriages			Marriages total		
	total	cities	villages	total	cities	villages	total	cities	villages
2002	51003	37263	13740	140912	78533	62379	191915	115796	76119
2003	52871	38577	14294	142575	80132	62443	195446	118709	76737
2004	51634	37410	14224	140190	78997	61193	191824	116407	75417
2005	59649	42202	17447	147267	83428	63839	206916	125630	81286
2006	68950	48734	20216	157231	88429	68802	226181	137163	89018
2007	76061	53198	22863	172641	96968	75673	248702	150166	98536
2008	79290	54825	24465	178454	100111	78343	257744	154936	102808
2009	78760	55210	23550	172034	97441	74593	250794	152651	98143
2010	72828	50239	22589	155509	86979	68530	228337	137218	91119
2011	72418	49267	23151	134053	73470	60583	206471	122737	83734
2012	73453	49340	24113	130397	70061	60336	203850	119401	84449
2013	65804	44207	21597	114592	61527	53065	180396	105734	74662
2014	70263	47064	23199	118225	62966	55259	188488	110030	78458
2015	71373	48334	23039	117459	62912	54547	188832	111246	77586
2016	71571	48484	23087	121884	66128	55756	193455	114612	78843
2017	72604	49540	23064	119972	64798	55174	192576	114338	78238
2018	73387	50297	23090	119074	64562	54512	192461	114859	77602
2019	74158	51085	23073	109213	59214	49999	183371	110299	73072

Source: The authors' elaboration based on data from database Demography, GUS (Central Statistical Office).

However, when analysing changes in the number of marriages, it is worth remembering that they depend on the changes in the birth rate in the past. The high number of marriages at the end of the first decade of the 21st century was linked to the baby boom in the first half of the 1980s. The high birth rate of this period naturally translated into a higher number of marriages around 25 years later. The fall in this number after 2009 is therefore not necessarily linked solely to a fall in motivation to enter into formal relationships, but depends to a large extent on the demographic situation in the past. Under these circumstances, in order to better interpret the processes taking place, it may be helpful to use the marriage rate, the value of which is calculated as the ratio between the number of marriages in a given year and the population aged 15 and over. The values of this indicator for years 2002–2019 are shown in Figure 1.

Figure 1. The ratio of civil and religious marriages by type of place of residence



Source: The authors' elaboration based on data from database Demography, GUS (Central Statistical Office).

The data presented in Figure 1 also indicate an initial increase in the number of marriages per 1 000 people in total, followed by a systematic decline in religious marriages and a slow increase in the number of civil marriages,

which was particularly evident in 2019. This is confirmed by the data in Table 1 – in 2002 the ratio of religious and civil marriages was 2.76, while in 2019 it was only 1.47.

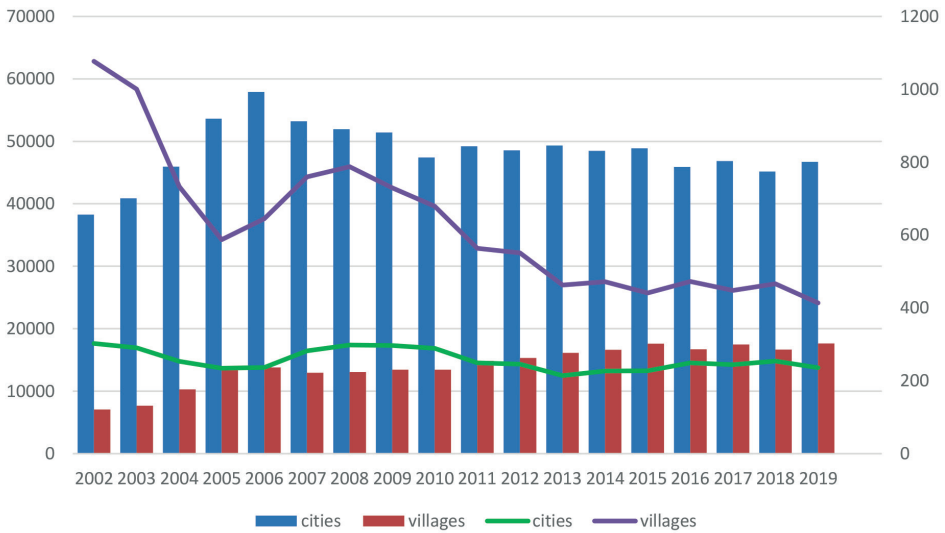
Secondly, an increase in the number of civil partnerships is becoming apparent; they are becoming the most common alternative form to marriage. Based on the data of Narodowy Spis Powszechny (the National Census of Population and Housing) of 2002, there were 197.4 thousand civil partnerships in Poland, whereas in 2011, there were 316.5 thousand of these unions (GUS, 2014) i.e. about 60% more. It is assumed that the data from the Narodowy Spis Powszechny 2021 (the National Census of Population and Housing 2021) will indicate an even greater number of civil partnerships in Poland, especially since, as shown by Centrum Badania Opinii Społecznej (Public Opinion Research Center) surveys, tolerance of this type of union is growing in Poland (CBOS, 2017), although their number compared to the total number of existing marriages should still be considered insignificant.³

Thirdly, the dynamic increase in the number of civil divorces which was observed at the beginning of the 21st century and the subsequent persistence of this number at a high level (Figure 2 and 3⁴) is worrying. It is worth highlighting a systematic increase in the number of divorces of people living in rural areas, which is also reflected in a clear fall in the ratio of marriages to the number of divorces declared in rural areas. This is an extremely important symptom of profound cultural changes. Until now the rural environment has been regarded as the backbone of traditional values and it still continues to be regarded as such. This situation undoubtedly highlights the importance of signals pointing to social threats to the sustainability of modern marriages and undoubtedly threatens the traditional stability of the family as a basic social institution (Szydło-Kalinka, 2016; Dzierwa-Pabian, 2012).

³ The number of marriages existing as of 31 December 2019 in Poland amounted to 8856.1 thousand. The data was taken from *Rocznik demograficzny*, Table 1(25), GUS (2020).

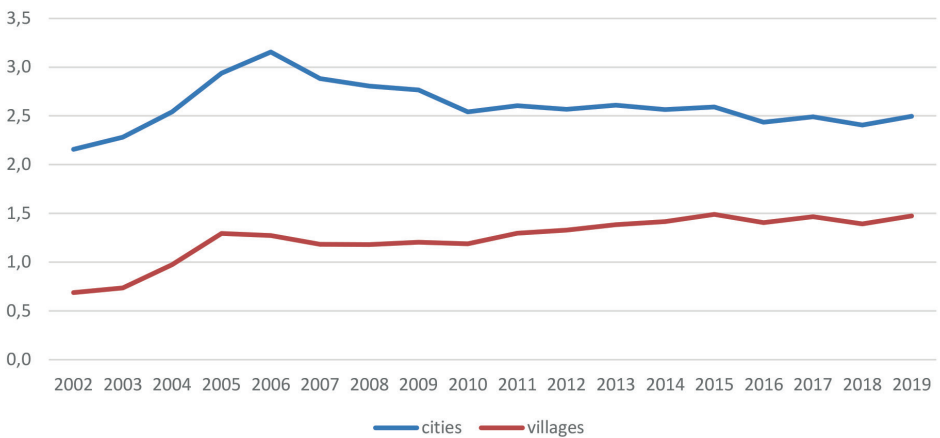
⁴ The divorce rate presented in Figure 3 is the ratio of the number of divorces from a given year to the number of people aged 20 and over per 1000.

Figure 2. Number of divorces (left axis) and number of marriages per 100 divorces (right axis) per type of place of residence



Source: The authors' elaboration based on data from database Demography, GUS (Central Statistical Office).

Figure 3. Divorce rate by type of place of residence



Source: The author's elaboration based on data from database Demography, GUS (Central Statistical Office).

Fourthly, there is a growing interest in proceedings to declare a marriage null and void. In 2017, the number of cases of invalidity of marriage in first instance ecclesiastical tribunals brought before the court was 4274, of which 3875 cases were settled (Table 2), while in 1989, the number of cases brought and settled was more than 3 times lower. Thus, starting from 1989, the number of nullity cases increased steadily over the period in question.

Of the 3875 cases referred to above, 2755 were declared invalid in 2017; in 907 cases, a judgment against annulment was delivered; 119 cases were discontinued and 94 cases were dropped. Here, a systematic increase can be observed particularly in declaring the invalidity of marriage as a reason for closing the case (Table 3).

Table 2. Cases for declaration of invalidity of marriage in ecclesiastical tribunals of first instance (ordinary trial) in the years 1989–2017

Year	Not settled at the beginning of the year	Brought to the attention of the Court	Settled	Not settled before the end of the year
1989	3111	1279	1250	3140
2001	4111	2244	2158	4197
2006	5673	3366	2481	6558
2010	8073	3241	3446	7868
2017	7966	4274	3875	8322

Source: GUS, & ISKK (2014, 175), *Annuario Statisticum Ecclesiae in Polonia AD 2019* (2019, 25).

Table 3. Cases of invalidity of marriage in the ecclesiastical tribunals of first instance (ordinary trial) – reason for closure – cases settled between 1989 and 2017 [?]

Year	Total	Declared invalid	Judgment against annulment	Trial discontinuance	Waiver of trial
1989	1250	807	302	84	57
2001	2158	1490	469	104	95
2006	2481	1843	472	115	51
2010	3446	2235	934	139	138
2017	3875	2755	907	119	94

Source: GUS, & ISKK (2014, 177), *Annuario Statisticum Ecclesiae in Polonia AD 2019* (2019, 26).

The statistics presented above clearly show an increase in the scale of the problem of the breakdown of marital bonds, both sacramental and civil, which certainly contributes to the social significance of this phenomenon. What is more, it is worth stressing that the break-up of a marriage is a visible failure of the marital life project, which is, after all, intended to last for the rest of the lives of people who undertake it. This is particularly true of sacramental relationships since civil unions are more often perceived as less durable. Of course, the consequences of this failure are not limited to the divorcing people but affect both their close and slightly broader environment. Postponing the decision to get married would only be an apparent solution to the problem of divorce because this type of behaviour would translate into an increase in the number of informal unions which can already be observed in many countries. It is undoubtedly easier to break up an informal relationship but this should be regarded as a failure just as well. This failure is particularly painful when children appear in a relationship. The negative consequences, both theological and social, of the break-up of marriages, in view of the growing scale of these phenomena prove above all that this problem should be subject to a thorough and in-depth diagnosis of the causes of the break-up of marriages. The presented statistical data is a valuable signal of the problems that are emerging; however, it does not suffice to provide a full answer to the key questions concerning the root causes of the trends observed.

It is also worth stressing that, paradoxically, the growing number of cases for declaring the sacrament of marriage null and void clearly shows how important a social (and not just religious) role this sacrament still plays. This is because those seeking such a ruling by an ecclesiastical tribunal are probably most often guided by a desire to put their family life in order in the religious sphere, which proves, above all, how important this area of the functioning of a human being is in his or her mundane existence. This also undoubtedly translates into the social dimension of the functioning of marriage and the family. Despite the changes that have been observed, sacramental marriage is still seen as a form that guarantees the permanence of social order more strongly than civil marriage or informal unions, and the increase in the signaled need to put in order the marital relationship before God proves not only the nature of the contemporary challenges to family life, but also the continuing fundamental role of the sacrament of marriage in building the social order. The aforementioned desire to put one's family situation in order, combined with the significant number of people undertaking this type of action, confirms therefore that there is a need to conduct an in-depth reflection

on the reasons for initiating proceedings for the annulment of marriage, and, as a result, to identify the causes of the crisis in this special relationship between a woman and a man (i.e. marriage) in both social and religious terms.

The trends outlined above clearly indicate the need to carry out analyses and then, based on the outcomes, to formulate a diagnosis of the condition of the modern institution of marriage. It seems, however, that it would be more appropriate to focus not so much on the process of getting married, but on the analyses of the broadly understood context of the breakdown of marriages, and above all of the sacramental ones. It is worth stressing that an analysis of both the process of civil divorce and an analysis of the process of recognising a marriage as null and void based on canonical proceedings are best able to show the key threats to the modern institution of marriage. At the same time, one should bear in mind that the findings resulting from the analysis of each of these processes will definitely be of a specific nature, albeit complementary to each other. This is mainly due to the specific nature of these processes and the fundamentally different premises underlying them. To ensure that this issue does not arouse any doubts, it is worth taking a closer look at the rules which characterise both these processes.

4. Canonical and Legal Grounds for Termination of Marriage

Terminating a marriage under Polish law,⁵ called secular marriage, and terminating a canonical marriage (religious marriage) are conventional activities very similar to each other in terms of the importance of their legal (establishment of a marriage) and social effects (creation of a new formalised social unit).⁶ Some similarities can also be observed between divorce in the case of a secular marriage, and the declaration of invalidity in the case of religious marriages. The aim of both of these conventional actions is to terminate the marriage. The processes of divorce and annulment are also similar. They are carried

⁵ In the Polish legal system, there is a possibility of a so-called concordat marriage, that is, in short, a church marriage (performed in the Church), and then, after fulfilling several conditions under the law recognized by national law as valid also in the Polish legal see: see Article 10 of the Konkordat między Stolicą Apostolską i Rzeczpospolitą Polską, Dz.U. [Journal of Laws] 1998 Nr 51 poz. 318 (28 July 1993).

⁶ For a comparison of secular and church marriage in terms of legal regulations, see Kroczek (2010), J. Krukowski, M. Sitarz & J. Grzęzlikowski (2017), Maraszek (2010).

out by a common court or an ecclesiastical tribunal using their own, endogenous national or canonical law, respectively. However, the legal and canonical (i.e. stemming from canonical law) premises for a divorce and annulment are significantly different. This difference is worth presenting in more detail in order to grasp the gravity and significance of research required in this area.

As far as divorce is concerned, the (positive) grounds are listed in Article 56 (1) of *Kodeks rodzinny i opiekuńczy* (Family and Guardianship Code). These are (a) a complete and (b) permanent breakdown of marital life. For the first premise to exist, the bonds between the spouses (as is evident from life experience), i.e. the spiritual, physical and economic bond, must cease to exist. In accordance with the Resolution of the full Civil Chamber of the Supreme Court of 28 May 1955 I CO 5/55 – “In principle, the cessation of any of the elements of this bond should be deemed as a sign of breakdown of marital life [...] However, the cessation of a physical or economic bond may in a specific case not be a sign of a breakdown [...]. The absence of spiritual communion [...] will always be a symptom of a breakdown.”

For the premise of a permanent breakdown to occur, it must be proved that (based primarily on life experience) it is impossible for the spouses to return to life together, although it is not necessary to determine that the return of the spouses to marital life is absolutely excluded (Haak & Haak-Trzuskawska, 2020). For the annulment of marriage in turn, paradoxically, *de jure* it does not matter whether the marital life of the spouses has broken down. This is because this ruling consists in determining that the *de jure* marriage never existed, and not, as it is in the case of divorce, that it ceased to exist. If the ecclesiastical tribunal concludes that the marriage did not exist, it means that the spouses were never married, even if they might have lived together like a married couple. However, judicial experience shows that there are no situations in which an action for annulment of a marriage is brought before an ecclesiastical tribunal in circumstances other than those which are at the same time premises for divorce, i.e. a complete and permanent breakdown of marital life.⁷

⁷ A different possibility should be noted, however, if only in a footnote, in order to capture the difference between a divorce ruling by a common court and a judgment of an ecclesiastical tribunal on the invalidity of a marriage. This could be the case if a promoter (spokesperson) of justice (who corresponds to the function of a public prosecutor under Polish law) were to submit a complaint to an ecclesiastical tribunal for a declaration of invalidity. According to can. 1674, he also has the competence to appeal against the marriage if “the invalidity of the marriage has already been declared, if the marriage cannot be deemed valid or it is not in the public interest to do so.”

The grounds for the annulment decision come from three sources. 1) diriment impediments, 2) defective forms of performing a marriage, 3) defects in the conjugal consensus.⁸ As far as the diriment impediments are concerned, these are factual and legal circumstances listed by the legislator in the Code of Canon Law of 1983 (can. 1083–1094) as those which make “a person incapable of validly entering into a marriage” (can. 1073).⁹ The impediments to marriage, because of the fact that there is an obligatory preparation for marriage in the Catholic Church, which aims to make sure that nothing stands in the way of its valid and lawful celebration (can. 1066), which consists in writing down the so-called Pre-Marriage Protocol, are not reasons that often appear in the practice of ecclesiastical tribunals.

On the other hand, as far as the second source is concerned, i.e., a defect in the canonical form of entering into a marriage, it should be pointed out that the source of this premise is a failure to fulfil the obligation imposed by the canonical law for marriages to be celebrated under normal circumstances in the presence of a qualified witness, i.e., a local ordinary assistant or a parish priest, or in the presence of a priest or deacon delegated by one of them (an official witness), as well as in the presence of two witnesses (ordinary witnesses) (can. 1108 § 1).

The third source of invalidity is the defect of the conjugal consensus, an act of will by which a man and a woman in an irrevocable covenant give and accept

⁸ On the practical application of the grounds from these sources see: Kroczek (2012).

⁹ The catalogue of impediments includes: 1) age impediment, a man under 16 years of age and a woman under 14 years of age cannot get married; 2) impotence impediment, which consists in the pre-existing, permanent, absolute or relative inability to have intercourse; 3) impediment of a prior bond, i.e. remaining in a valid marriage; 4) impediment of the disparity of cult, which occurs between a Catholic and an unbaptized person; 5) impediment of sacred orders means that those who have been ordained deaconate and higher enter into invalid marriage; 6) impediment to the vow of chastity means that the perpetual vow of chastity, made in public in a religious institute, is a source of a diriment impediment; 7) impediment of abduction, which occurs when a man abducts or detains a woman in order to get married to her; 8) impediment of a crime, i.e. a spouse's murder, which occurs when one of the parties, due to a desire to marry a certain person, murders the other party's spouse or their own spouse; 9) an impediment of kinship which makes it impossible to marry a relative in a straight line and in a lateral line to the fourth degree; 10) impediment of affinity which occurs between the husband and the relatives of the wife and between the wife and the relatives of the husband in a direct line and makes the marriage null and void in all degrees; 11) impediment of public propriety which arises from an invalid marriage after the commencement of cohabitation or notorious concubinage. It causes a marriage in the first degree of a direct line between the man and the woman's relatives and vice versa; 12) an impediment of a legal relationship arising from adoption, in a direct line or in the second degree of a lateral line.

each other for the purpose of creating a marriage (can. 1057 § 1), which is expressed by the principle of *consensus facit matrimonium*. The consent of the parties to a marriage is a profoundly human, fully personal act, and not just a mere formality (*Gaudium et spes*, 48). Therefore, in order for this consent to have legal force (causal to the marriage), it must be free from defects.¹⁰ The aforementioned source of invalidity is the most common circumstance of invalidity. This is because, although the listing of defects is taxative, it is rather a listing of categories of circumstances. This can be seen, in particular, from the example of can. 1095 No. 3, which states that: “Unable to marry are those who, for psychological reasons, are not able to take on important marital duties.” Ecclesiastical judicial decisions indicate the various factual states that fulfil this category. The cause of incapacity of a mental nature is therefore understood broadly. It includes causes such as alcoholism, drug addiction, borderline syndrome, homosexuality, nymphomania, transsexualism, anxiety neurosis, obsessive neurosis, obsessive phobia, intellectual disability, paranoia, sociopathic personality, emotional shock, manic-depressive psychosis, schizophrenia (Karsten, 2017).

¹⁰ For a wide range of information see: Góralski (2006).

These impediments include:

- 1) lack of sufficient use of reason, caused e.g., by a habitual mental illness, mental underdevelopment,
- 2) a serious lack of evaluation expertise as to the essential rights and obligations of the marriage that are mutually transmitted and accepted, i.e., the inability to realise what a marriage essentially consists in, for example, a mental illness,
- 3) various psychological reasons that make people unable to take on important marital duties (can. 1095 No. 1–3),
- 4) error: a) as to the person (can. 1097 § 1), b) its quality when that quality was directly and essentially intended, c) as to the unity or inseparability or sacramental dignity of the marriage that determines the will (can. 1099),
- 5) a deception, made in order to obtain it, concerning some attribute of the other party which, by its very nature, may seriously disturb the community of conjugal life (can. 1098),
- 6) simulation, i.e., an apparent consent, which may be: a) total, when a party excludes the marriage entirely, or b) partial, consisting in the exclusion of some attribute or purpose of the marriage (can. 1101 § 2),
- 7) compulsion and fear, from which, in order to free oneself, one is forced to choose marriage (can. 1103),
- 8) a condition relating to the future, with the reservation that the marriage may be entered into on a condition relating to the past or present. In that case, it is valid or not, depending on the existence or non-existence of the object of the condition (can. 1102 § 1 and § 2).

5. Marriage breakdown: Complementarity of the Secular and the Ecclesiastical Perspective

The characteristics of the legal conditions presented above, as well as the procedures for action, clearly indicate the existence of fundamental differences in ecclesiastical and secular proceedings aimed at resolving or declaring the non-existence of marital ties. However, it is even more important that both these procedures are also based on different motivations of the parties involved in these processes. Nonetheless, regardless of the differences indicated, it can be said that both the dissolution and the recognition of marriage as non-existent are actions that are clearly capable of illustrating the most significant threats to the modern institution of marriage. It should also be clearly stressed that while an analysis of the process of obtaining a civil divorce allows for the identification of problems related primarily to the cohabitation of spouses, an analysis of the process of declaring a marriage as non-existent perfectly identifies not so much the tensions arising in the course of marital life, but any irregularities related to the broadly understood process of preparing and celebrating the marriage. The process of recognising a marriage as non-existent indicates, therefore, sacramental, social or formal-institutional reasons for an improper commencement of marriage, and not problems in marital life. Although problems in the life of the spouses are, of course, very important, the focus on them should only appear at the next stage of the investigation, after the mechanisms which make the marriage a *de facto* mistake have been recognised.

This means that the area of concern, depending on whether the focus lies on declaring a marriage non-existent or on a civil divorce, is fully separable, and depending on which class of phenomena we put at the centre of our analysis, we will arrive at a fully separate area of insight. At the same time, we should be aware that both perspectives indicated here are very significant for identifying threats to the institution of marriage and are not mutually exclusive. On the contrary, the insight obtained using both perspectives will allow for a better and deeper understanding of the situation of the marriage crisis and will allow for a more complete identification of the most significant threats to modern marital life.

The complementarity of both perspectives may be confirmed by the results of a comparative analysis of the motives which encourage spouses to take action to invalidate both sacramental and civil unions. In the case of sacramental marriages, the dominant motive is definitely the arguments which undermine the proper granting of marriage consent (Table 4). This most often means that the newlyweds have not been able to properly understand the situation in which they have found themselves and the decisions upon which they entered into their marriage.

Table 4. Reason for annulment of a sacramental marriage

Year	Total	Can. 1095–1107	Can. 1084	Can. 1083, 1085– 1091 –	Defects in matrimonial form
1989	931	864 (93%)	64(7%)	1	2
2001	1661	1619 (97%)	26(2%)	14(1%)	2
2006	1958	1942 (99%)	12 (1%)	0	4
2010	2359	2339 (99%)	17 (1%)	1	2

Source: GUS, & ISKK (2014, 177).

In the case of motives for taking steps to obtain a civil marriage divorce, the most common motive was incompatibility of characters followed by a failure to keep marital fidelity, and alcohol abuse (Table 5). In the period under study, the first of the above mentioned reasons for the breakdown of marital life was in a clear upward trend, which in 2019 resulted in as much as 45% of divorces. The other two reasons from those mentioned above were in a decreasing trend.

Table 5. Reasons for the breakdown of marital life: solely, and in conjunction with other reasons in selected years (%)

Causes for breakdown martial life	2002	2010	2015	2019
Adultery	25,74	25,36	21,19	20,61
Alcohol abuse	22,55	19,82	17,05	14,79
Reprehensible attitude towards family members	8,39	5,22	5,16	5,12
Housing difficulties	1,44	1,32	1,44	1,52
Financial disagreements	7,79	7,27	7,48	7,92
incompatibility of temperament	31,77	34,79	41,59	44,67
Sexual incompatibility	0,65	0,41	0,41	0,31
Longer absence	0,42 ^a	3,00	2,55	1,94
Differences in worldviews	0,02 ^a	0,57	0,76	0,64
Other	1,23 ^a	2,24 ^a	2,38 ^a	2,49 ^a

^a the reasons for the divorce were given as exclusive; in other cases, the reason may be exclusive or in combination with other reasons, but the case is counted as one main reason, hence the sum of the shares is 100%

Source: Authors' elaboration based on data from BDL (Local Data Bank), GUS (Central Statistical Office).

The data presented undoubtedly only signal a problem, which should be closely examined. However, one must be aware that the declared dominant motives for behaviour allow only for a classification of phenomena in general terms and do not provide in-depth knowledge of individual events and situations. Therefore, it is worth looking more closely at individual events and analysing their wider context. This will make it possible to better describe and explain the mechanisms that pose a threat to the proper construction of marriages.

We believe that the best starting point for an in-depth analysis of the process of getting married and the duration of the marriage is to focus primarily on the issue of identifying the causes that lead the spouses to take steps to declare their marriage as non-existent. There are several reasons supporting our position. Firstly, it should be stressed that in Polish society, which is largely linked to the Catholic religion (nearly 92% of Poles declare that they belong to the Catholic Church (GUS, 2020, 106), the problem of declaring a marriage null and void is significant not only from the point of view of religious life, but is also important for understanding the processes that shape family life in Poland. Secondly, taking into account the requirements of canonical law regarding the marriage process and life experience, it should be assumed that the decision to make an effort to obtain a declaration of nullity of marriage undoubtedly shows that there has been a complete and irreversible breakdown of the bonds between the spouses. It is precisely the fact that these ties have broken down that perfectly shows how serious the threats that a modern family in Poland has to cope with are. This means that the very moment of initiating the process of declaring a marriage null and void can be treated as a ‘testing situation.’¹¹ At the same time, this situation makes it possible to formulate a broader religious and social diagnosis concerning the condition of the modern institution of marriage and the family. It can therefore be assumed that on the basis of an in-depth analysis of situations leading to the break-up of marital ties it is also possible to formulate a broader diagnosis, which will be an important contribution to the picture of the condition of the contemporary Polish family. Thirdly, the process of declaring a marriage null and void, despite the reform of its procedure carried out by Pope Francis,¹² is still a highly formalised process before a highly formalised court, which,

¹¹ A testing situation is a situation in which an individual is forced to choose between remaining with fundamental values and the immediate benefit of giving up those values. The concept of “testing situation” is discussed in more detail by J. Goćkowski (1984).

¹² Apostolic letter *motu proprio Mitis Iudex Dominus Iesus* (2015).

in practice, in the conditions of Polish dioceses usually takes between one and three years. It is therefore mentally burdensome for the parties, and also entails financial costs. It is for these reasons that some people make a decision that, although they meet the canonical requirements for seeking a declaration of invalidity of marriage, they do not take appropriate steps to initiate the canonical process, even though a preliminary analysis of their case proves that their claim is not baseless (Miernik, 2012). Such situations therefore clearly indicate that proceedings to obtain a declaration of nullity of marriage are initiated or participated in only by those persons for whom a decision of the ecclesiastical tribunal really plays a very important role. It can therefore be assumed that the decision to initiate a marriage annulment process is taken only by those people who are deeply attached to the Catholic Church and, at the same time, are very attached to religious values. This makes it possible to analyse the circumstances of initiating these processes and to provide particularly reliable information on the reasons for the break-up of the marriage bond.

In view of the above, we also recognise that spouses seeking a declaration of invalidity of a marriage may be viewed in a special way. Their action is not hasty and is deeply axiomatic and at the same time devoid of an instrumental dimension. Obtaining a judgment does not bring any pragmatic benefits, apart from regulating one's own canonical situation in the marital context. In turn, in the case of civil divorce proceedings, such benefits may arise (e.g., privileges in certain situations of single parenthood). As the Miernik (2012) research shows, it is of great importance that the proceedings before the ecclesiastical tribunal are strongly connected with objective truth, and the judgment is issued "In the Name of the Holy Trinity." The attitude of the interested parties to the trial constructed in this way makes the proceedings for declaring a marriage null and void a source of knowledge about the condition of the modern institution of marriage, which is deeper and less susceptible to manipulation than court records from family courts.

However, the invalidity of marriage, confirmed by a court judgment, may not only result from certain individual characteristics and objective states of affairs, but may also have its origin in social mechanisms which, in these situations, have proved not to be efficient enough to allow a lasting relationship to be built between the spouses. This means, therefore, that the testimonies of those who decide to start the process of declaring a marriage null and void, admitting helplessness and failure in this area of personal life, make it possible to identify the fundamental dangers and challenges facing modern marriages, whether

they are civil or religious. Looking at this problem from an even broader perspective, we can state that by analysing the broad context of the situation of initiating the process of declaring a marriage null and void, we obtain the ability to diagnose threats to the modern family.

It should be kept in mind that the issue of the condition of marriage these days has been raised on many occasions and the scientific discussion on this subject has been accompanied by quite a considerable amount of theological, legal, sociological or demographic research (Dakowicz, 2014; Gębuś, 2017; Kawula, 2006; Marczak, 2015; Tułowicki, 2004; Zakrzewski, 2014). The idea of analysing the condition of the institution of marriage through the prism of the causes of the break-up of marriage is not very unique either. The research available in this area, however, has focused primarily on civil divorce and on analysing the reasons for the spouses to take steps in this regard. This was probably due, above all, to the fact that civil divorces are much more frequently observed. However, we believe that a diagnosis of the condition of the family based on an analysis of divorce processes is not able to provide a full picture, because civil divorces, as we have already pointed out, can be very strongly entangled in various additional contexts and are often strictly pragmatic and instrumental in nature. This means that a diagnosis based on these events is not a pure diagnosis of the institution of marriage, but becomes more of a diagnosis of the general mechanisms characterising modern societies.

The problem of the diagnosis of the institution of marriage is completely different when proceedings to declare a marriage as never having existed are analysed. In this case, the participants are not usually motivated by the possibility of obtaining additional economic or social benefits. And, what is more, the decisions to initiate proceedings result primarily from the need to regulate one's marital status in the face of God. Because of that, the proceedings before the ecclesiastical tribunal reveal in a "pure" form, first of all, all the reasons for the inefficiency or defectiveness of the process of creating a new marriage. It is thanks to this that we are able to formulate a reliable diagnosis of the modern institution of marriage.

6. The Methodological Foundation

Building the above mentioned diagnosis requires, of course, an appropriate data resource, the collection of which becomes possible only on the basis of a research concept appropriate to the outlined cognitive needs. This research must be focused primarily on the need for an in-depth analysis of the

situation of people who have decided to open the procedure for declaring their marriage non-existent. Such analyses have not been conducted so far and information necessary for this analysis has not been collected for the purpose of scientific reflection. Of course, it should also be noted here that the indicated scope of the required data is partly consistent with the scope of data collected during the canonical process. However, it is clear that, for ethical and methodological reasons and for reasons of the specificity of the rules of the canonical process, it is not legitimate to use them in any way. It is therefore necessary to organise an autonomous research process for research purposes, and it is therefore necessary to outline the methodological basis for achieving the proposed research goal.

Such a project should be based on the conviction that only an in-depth understanding of the process of preparing and celebrating a marriage and of the reasons for initiating a canonical process aimed at declaring a marriage non-existent will make it possible to identify the real causes of an ineffective marriage. Moreover, such an identification requires that a broad theological, social and demographic context be taken into account at each stage of the study. Hence, bearing in mind the objectives of the formulated research intention, it seems necessary to include in the research process both the perspective of a qualitative analysis and that of a quantitative study of the phenomenon under consideration. The research procedures associated with these perspectives will be carried out separately and autonomously, while maintaining their specificity in terms of the conduct of the researcher and the selection of the research sample, and the process of integrating the insight obtained will be carried out at the level of interpretation of empirical data.

The qualitative analysis will allow, above all, for an in-depth consideration of the way in which the situation under examination is viewed from the perspective of those initiating canonical proceedings for declaring a marriage null and void. This will allow us to focus on the individual perception of the process of preparing and celebrating a marriage and then initiating the canonical process, and thus identify the key risks that accompanied this process. The qualitative research carried out should make it possible not only to obtain an individualised description of the entire process, but above all to reconstruct the way in which the key categories through which this description will be expressed, which is in line with the basic principles of the well-established theory (Glaser & Strauss, 1999; Charmaz, 2006). The aim of the qualitative analysis should also be to construct a typology of participants initiating the canonical process, as we will probably be able to observe a considerable variety

of attitudes and behaviours as well as a variety of complex configurations of relations between spouses and their close relatives.

In order to obtain a more complete picture of the examined phenomenon, it seems necessary to enrich the qualitative perspective with elements of a quantitative perspective, which will allow for the placement of the examined phenomenon in a broader social and demographic context. As a result of the quantitative analysis, it will be possible, above all, to link the studied phenomenon with variables that can be identified as causes, effects or correlates of *de jure* null and void marriages. This will make it possible to establish statistical relationships between variables that describe the situation of initiating the process of declaring a marriage non-existent with contextual variables. The combination of qualitative and quantitative analysis will therefore favour a better description of the phenomenon under investigation and will allow the problem to be explained more accurately.

7. Conclusions

The aim of this article is to propose a new research perspective that will allow for an in-depth characterisation of the risks faced by married couples. According to the authors, the proposed perspective will make it possible to build a more complete diagnosis of the condition of contemporary marriages and families. Of course, the problem is not new and research on marriage and family has been and is being carried out. This fact, however, does not mean that there is no need to look for different ways of researching the issue at hand. We therefore consider it worthwhile to work on a perspective that has not yet been present in the literature on the subject, but which will consist in constructing a diagnosis of the contemporary institution of marriage on the basis of an analysis of the causes of and the situation of initiating canonical proceedings for recognition of marriage as non-existent.

The proposed research perspective should be based on an interdisciplinary approach, taking into account the broad context in which, in our opinion, the functioning of the contemporary institution of marriage should be examined. In this approach, we try to integrate sociological and demographic premises and inspirations with legal and theological-canonical premises, which is a significant novelty. An integration of these approaches will make it possible to consider the issue raised in a different way than it has been done to date. This is because the purpose is to arrive at a comprehensive recognition of the situation of marriages in times of crisis and to capture those aspects of spiritual

life which have not yet been taken into account in the research, but which are becoming particularly important in the situation of initiating proceedings for declaring a marriage null and void.

The insight gained in this way brings various cognitive benefits with it. Above all, it will make it possible to diagnose the most important challenges threatening the institution of marriage in the modern world. A diagnosis formulated in this way may subsequently be useful as a premise for modifying actions both within the Catholic Church and for the needs of modernising the rules which determine how public policies are implemented. Ensuring the stability and security for the institution of marriage (both ecclesiastical and civil) is a universal objective. However, in order for it to be achieved, it is necessary to have an in-depth knowledge of the dangers faced by the spouses.

ABSTRACT

Examining the Family in the Light of Marriage Annulment as a New Research Perspective

The aim of this article is to outline a new research perspective, allowing for an in-depth reflection on the condition of contemporary marriages and families. Of course, the problem itself is not new, but in order to analyse it, we propose to adopt a perspective which has not been present in the literature so far and which will consist in analysing the condition of the institution of marriage through the prism of the process of declaring a marriage null and void, i.e., the canonical procedure in force in the Catholic Church.

The proposed research perspective is based on an interdisciplinary approach, taking into account the broad context in which, in our opinion, the functioning of the contemporary institution of marriage should be considered. In this approach we try to integrate sociological and demographic premises and inspirations with legal, theological and canonical premises, which is a significant novelty. The integration of these approaches will make it possible to consider the problem of the break-up of the marital bond in a different way than has been presented so far. Thanks to this, it is possible to make a comprehensive diagnosis of the situation of marriages in moments of crisis and to capture those aspects of spiritual and social life which have not yet been taken into account in the research, and which play a particularly important role in initiating proceedings to declare a marriage null and void.

KEYWORDS

annulment of marriage, marriage, family crisis, codification of the modern family

ABSTRAKT

Badanie rodziny w świetle stwierdzenia nieważności małżeństwa jako nowa perspektywa badawcza

Celem artykułu jest zarysowanie nowej perspektywy badawczej, pozwalającej na pogłębioną refleksję nad kondycją współczesnych małżeństw i rodzin. Oczywiście sam problem nie jest nowy, ale autorzy proponują przyjęcie perspektywy, która nie była dotychczas obecna w literaturze przedmiotu, a która będzie polegała na analizie kondycji instytucji małżeństwa przez pryzmat procesu stwierdzenia nieważności małżeństwa, czyli procedury kanonicznej obowiązującej w Kościele katolickim.

Proponowana perspektywa badawcza opiera się na podejściu interdyscyplinarnym, uwzględniającym szeroki kontekst, w którym, zdaniem autorów, należy rozpatrywać funkcjonowanie współczesnej instytucji małżeństwa. W podejściu tym starają się zintegrować przesłanki i inspiracje socjologiczne i demograficzne z przesłankami prawnymi i teologiczno-kanonicznymi, co stanowi istotne *novum*. Integracja tych podejść pozwoli na inne niż dotychczas ujęcie problemu rozpadu więzi małżeńskiej. Dzięki temu możliwe jest dokonanie całościowej diagnozy sytuacji małżeństw w momentach kryzysowych oraz uchwycenie tych aspektów życia duchowego i społecznego, które nie były dotąd uwzględniane w badaniach, a które odgrywają szczególnie ważną rolę w inicjowaniu postępowania o stwierdzenie nieważności małżeństwa.

SŁOWA KLUCZOWE

orzeczenie nieważności małżeństwa, małżeństwo, kryzys rodziny, kondycja współczesnej rodziny

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