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The Research Activity of Rev. Prof. Remigiusz Sobański in the Field of Substantive Canon Law

Abstract: Remigiusz Sobański (1930–2010), a long-time professor at the Faculty of Canon Law of the Academy of Catholic Theology in Warsaw, and then at Cardinal Stefan Wyszyński University in Warsaw. Although his research focused mainly on the theory of canon law, he also published several dozen works in the field of canonical matrimonial law. These works cover four main research areas: marriage law (general rules), marriage consent, form of marriage, mixed marriages. Moreover, as a judicial vicar, he prepared and published several dozen sentences in the cases of *nullitatis matrimonii*.

Keywords: Remigiusz Sobański, marriage, matrimonial law, article, sentence

Rev. Remigiusz Sobański (1930–2010), a long-time professor at the Faculty of Canon Law at the Academy of Catholic Theology in Warsaw, and then at Cardinal Stefan Wyszyński University in Warsaw, was one of the most prominent canonists of the last decades. Even though the main area of his research interests was theory of the canon law, laying the foundations, after all, for the establishment of this discipline on the grounds of the science of canon law, together with other authors, he was also familiar with the dogmatics of the canon law, including the field of substantive matrimonial law. In his bibliography of almost 600 works, it is possible to trace in this area twenty dissertations and articles, as well as sixty-two court sentences delivered in cases of marriage nullity, in which he was a ponens.[1]

[1] Wojciech Góralski, "Remigiusz Sobański (1930–2010)," *Państwo i Prawo*, vol. 66, no. 3 (2011): 103–107; Wojciech Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki

Dissertations and Articles

The subject matter of Rev. Sobanski's dissertations and articles generally boils down to four thematic threads: matrimonial law *in genere*, marital consent, the form of entering into matrimony, and mixed marriages.

Within the general issues, the original study "Wyznaczniki kanonicznego prawa małżeńskiego" [Determinants of Matrimonial Canon Law] should be given special importance.[2] Bearing in mind the historical reasons concerning the institution of matrimony in Christian Europe, governed by *ius utrumqe*, when matrimony was governed exclusively by the canon law, and the subsequent rupture of this unity in the age of the Reformation, perpetuated by the entry into force of the great nineteenth-century codifications, the Author points out the peculiarities of the matrimonial canonical system. He considers the unity, indissolubility, and sacramentality of matrimony as its basic determinants, with special emphasis on the latter one. He states that the sacramentality of matrimony means that "a canonical marriage is concluded not by a declaration of will to enter into matrimony, but by an internal act of will expressed externally (in accordance with the law)."[3] He underlines that while in Polish law defects in the said declaration do not constitute grounds for marriage annulment (the article was written before the July 24, 1998, amendment to the Family and Guardianship Code),[4] under canon law many of them result in the invalidity of the marriage, which is primarily due to the indissolubility of the matrimonial bond. It is because the fact that marriage is created by the consent of the parties (as an internal act of will) and that it is indissoluble made the Church legislature "fortify" this act with a series of dispositions defining its shortcomings. "Without having the possibility of divorce," notes the canonist,

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prawa kanonicznego (szkic do badań szczegółowych)," in *Wkład Księdza Profesora Remigiusza Sobańskiego w rozwój kanonistyki. W dowód wdzięcznej pamięci o zasługach dla rozwoju kanonistyki. Materiały z konferencji naukowej zorganizowanej na Wydziale Prawa Kanonicznego UKSW w dniu 11 grudnia 2013 roku*, ed. Tomasz Gałkowski (Warszawa–Kraków: Scriptum, 2014), 87–88; Zbigniew Janczewski, "Sylwetka Księdza Profesora doktora habilitowanego Remigiusza Sobańskiego," in *Ksiądz Rektor Remigiusz Sobański – uczony, nauczyciel, sędzia*, ed. Wojciech Góralski (Warszawa: Wydawnictwo Uniwersytetu Kardynała Stefana Wyszyńskiego, 2005), 29–32.

[2] Remigiusz Sobański, "Wyznaczniki kanonicznego prawa małżeńskiego," in *Małżeństwo w prawie świeckim i w prawie kanonicznym*, ed. Bronisław Czech (Katowice: Instytut Wymiary Sprawiedliwości. Ośrodek Terenowy przy Sądzie Wojewódzkim w Katowicach, 1996), 183–193.

[3] Sobański, "Wyznaczniki kanonicznego prawa małżeńskiego," 185.

[4] See *Ustawa z dnia 24 lipca 1998 r. o zmianie ustaw – Kodeks rodzinny i opiekuńczy, Kodeks postępowania cywilnego, Prawo o aktach stanu cywilnego, Ustawy o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej oraz niektórych innych ustaw* (Dz. U. 1998 Nr 117, poz. 757).

> canon law must focus on the moment of entering into matrimony and tie the legal effects to perversions of the will and to what is destructive to the marriage in its very essence. It would be at odds with Christian anthropology and would be downright inhumane for a law to condemn people to remain in a forced or extortionate marriage or with a person unfit for married life.[5]

According to Sobański, in the field of canon law, it is necessary to harmonize legal provisions regarding two principles derived from natural law: consensus as the causal reason of marriage and *ius connubii*, that is, the right of every person to marry. The norms set by the Church legislator constitute the product of these two principles and draw the line between a sufficient and insufficient will for marriage, a task that is by no means easy. To help in its execution come centuries of experience and the achievements of anthropology, psychology, and psychiatry.[6]

Somewhat related topic was taken up by Rev. Sobański in an article entitled. "Od nierozerwalności do nieważności. 'Rozwód' i 'orzeczenie nieważności małżeństwa'" [From Indissolubility to Nullity. 'Divorce' and 'Declaration of Nullity of Marriage'].[7] In the article, he explains what *indissolubilitas matrimonii* is; he focuses his attention on the declaratory (rather than constitutive) nature of the Church court judgment declaring the marriage nullity.[8]

In the work entitled "Adnotationes de competentia Ecclesiae in matrimonium,"[9] Sobański briefly discusses the Church's authority over marriage, noting, among other things, the role of the Church legislator in establishing legal norms with regard to such a significant institution for the Church. On the other hand, the application of canon law in missionary activity is the subject of yet another work entitled. "Canon Law of Marriage Applied in Missionary Activities."[10]

The subject of attention of the eminent canonist in the area of matrimonial law were not only the fundamental issues, but also the completely secondary ones. However, his innate insight and investigative inquisitiveness urged him

[5] Sobański, "Wyznaczniki kanonicznego prawa małżeńskiego," 186.

[6] Sobański, "Wyznaczniki kanonicznego prawa małżeńskiego," 187; See Zbigniew Janczewski, "Kanoniczne prawo małżeńskie w publikacjach ks. prof. Remigiusza Sobańskiego," in *Ksiądz Rektor Remigiusz Sobański – uczony, nauczyciel, sędzia*, ed. Wojciech Góralski (Warszawa: Wydawnictwo Uniwersytetu Kardynał Stefana Wyszyńskiego, 2005), 88–89.

[7] Remigiusz Sobański, "Od nierozerwalności do nieważności. 'Rozwód' i 'orzeczenie nieważności małżeństwa,'" *Przegląd Powszechny*, no. 3 (2008): 11–18.

[8] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 89.

[9] Remigiusz Sobański, "Adnotationes de competentia Ecclesiae in matrimonium," *Monitor Ecclesiasticus*, vol. 105 (1980): 301–305.

[10] Remigiusz Sobański, "Kanoniczne prawo małżeńskie stosowane w działalności misyjnej," *Nurt SVD*, vol. 31, no. 3 (1997): 44–67; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 90.

to quickly clarify anything that might be questionable. In the statement entitled "Zaświadczenie o spowiedzi przedślubnej?" [A Certificate of Pre-Marriage Confession?],[11] Sobański critically elucidates—from the point of view of Polish local law, universal law, and the assumptions of the internal sacramental forum—the practice of handing the nupturients slips of paper by the priest for confession (twice), which then, after being signed by the confessor, they should return to the parish office before the marriage (such an obligation was imposed by diocesan synods of the interwar period and contemporary ones). As a result of the detailed argument, Sobański assumes that the facts made on the internal forum are not recorded, and, what is more, the nupturients' give their data on a piece of paper to the confessor involuntarily, which stands "in contradiction with the manner of action in the internal sacramental field."[12]

When it comes to matrimonial consent, the former rector of the Academy of Catholic Theology has devoted several significant studies to it. An interesting study titled "Wartości wyznaczające normy kan. 1095–1103 KPK" [Values Determining the Norms of Can. 1095–1103 CIC] can be considered as leading here.[13] Asking about the *ratio legis* of canonical norms regarding consensual incapacity and defects in matrimonial consent, he points out, as above, two fundamental principles regarding matrimonial consent and the indissolubility of marriage. He draws attention to the proper orientation of the will of the nupturients toward the formation of a lifelong community of life and love: one and indissoluble, oriented toward their good and offspring. "It is this community," the author stresses, "that is the value that determines the norms of can. 1095–1103,"[14] and it is a value of an institutional nature, thus having an objective and permanent shape, prior to the persons forming it *in concreto*. The marriage entered into by the nupturients is therefore precisely institutional in nature, determined by the Church's teachings and its laws. Defined in this way, marriage delineates an indispensable space of freedom, but at the same time secures it. It would be a misunderstanding to contrapose the social good and legal order to the individual good. After all, the marital bond is an experience of "going beyond oneself." The good that determines the norms of can. 1095–1103 is marriage seen not in opposition to the human person and his or her rights and freedoms, but as a form of existence, related to the complementarity of man

[11] Remigiusz Sobański, "Zaświadczenie o spowiedzi przedślubnej?," *Prawo Kanoniczne*, vol. 37, no. 3–4 (1994): 259–266.

[12] Sobański, "Zaświadczenie o spowiedzi przedślubnej?," 266; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 90.

[13] Remigiusz Sobański, "Wartości wyznaczające normy kan. 1095–1103 KPK," in *Podmiotowość osoby ludzkiej i konsens małżeński*, ed. Jan Krajczyński (Płock: Płocki Instytut Wydawniczy, 2005), 19–35.

[14] Sobański, "Wartości wyznaczające normy kan. 1095–1103 KPK," 33.

and woman, that occurs as a result of mutual devotion and acceptance of the counterparts.[15]

Another article, entitled "Dylematy przy stosowaniu kanonu 1095" [Dilemmas in the Application of Canon 1095][16] is a thoroughly original reflection on the tension between the priestly and judicial functions of a Church judge in deciding cases of marriage nullity under the titles contained in the said canon. This tension is noted between the two goals of Church law: on the one hand, "to protect the identity of the community, the integrity of the faith, and the authenticity of the word and sacrament; on the other hand, to support the believer in the realization of his Christian vocation and to assist him in solving his life situations in a manner as close as possible to the ideals of the faith."[17] Very often the faithful misunderstand the principle of the indissolubility of marriage, meanwhile, Rev. Sobański states: "The Church would put its credibility at stake if it abandoned the principle of matrimonial indissolubility out of pity for the lot of mankind."[18]

Can. 1095, no. 3 CIC has also become the subject of Sobański's work entitled "Transseksualizm a zdolność do zawarcia małżeństwa. *Quaestio disputanda*" [Transsexualism and the Capacity to Marry. *Quaestio disputanda*].[19] Recognizing this problem (the so-called change of sex) as a new one of great practical importance, the author notes that in assessing the transgender people's (as well as intersex people's) capacity to marry, the issue of impotence plays a key role (when it is certain, they cannot be allowed to marry). The impediment of impotence lies in the physical sphere, while the mental capacity of the affected person remains intact. In assessing transsexualism, Rev. Sobański recommends caution, as it is a phenomenon that has not yet been sufficiently studied (diagnoses are not always certain). In relation to people claiming to have "changed their sex" and providing documentation as a proof, it is not always clear that transsexualism is indeed involved (it is not certain that the psychological satisfaction achieved after "changing sex" is permanent).[20]

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[15] Sobański, "Wartości wyznaczające normy kan. 1095–1103 KPK," 34–35; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 91.

[16] Remigiusz Sobański, "Dylematy przy stosowaniu kanonu 1095," *Prawo Kanoniczne*, vol. 48, no. 1–2 (2005): 49–55. See Wojciech Góralski, "Problematyka małżeństwa i rodziny w kwartalniku *Prawo Kanoniczne*," *Prawo Kanoniczne*, vol. 51, no. 1–2 (2008): 46.

[17] Sobański, "Dylematy przy stosowaniu kanonu 1095," 55.

[18] Sobański, "Dylematy przy stosowaniu kanonu 1095," 54–55; Góralski, "Problematyka małżeństwa i rodziny," 46–47.

[19] Remigiusz Sobański, "Transseksualizm a zdolność do zawarcia małżeństwa. *Quaestio disputanda*," in *Plenitudo legis – dilectio. Księga pamiątkowa dedykowana prof. dr. hab. Bronisławowi W. Zubertowi z okazji 65. rocznicy urodzin*, ed. Antoni Dębiński and Elżbieta Szczot (Lublin: Redakcja Wydawnictw KUL, 2000), 653–664.

[20] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 92.

Two works were dedicated by Professor Sobański to the simulation of matrimonial consent. In the first one, "Symulacja częściowa w ujęciu kan. 1086 § 2 a nauka o małżeństwie konstytucji *Gaudium et spes*" [Partial Simulation as Defined by Canon 1086 § 2 and the Doctrine of Marriage of the *Gaudium et spes* Constitution][21] asks what conclusions from the Council's doctrine on marriage come to the Church jurisprudence in relation to the mentioned title of nullity of marriage. In this study, the reader witnesses an attempt of "translating" the content of nn. 48–49 of the aforementioned Council's document into the applicable, code (CIC of 1917) norm on simulation in the exclusion of *omne ius ad coniugalem actum, vel essentialem aliquam matrimonii proprietatem*. He formulates especially interesting comments regarding this first form of exclusion. He recognizes that the constitution *Gaudium et spes* tells us to view marriage in a social and ecclesiological context, which was impossible to notice in can. 1081 § 2 of the 1917 CIC, in which the social dimension was limited only to the tasks of bearing and raising offspring.[22]

On the other hand, in a text entitled "Wpływ mentalności wolnych związków na ważność zgody małżeńskiej" [The Influence of the Mentality of Free Relationships on the Validity of Matrimonial Consent][23] Rev. Sobański identifies the need for a thorough evaluation of cases brought to the judicial forum and concerning the exclusion of *bonum sacramenti.* This is because the growing pro-divorce mentality and the practice of the so-called free relationships can affect the formulation of a counterparty's intentions regarding the indissolubility of marriage. However, it is necessary to distinguish between a nupturient's views and the actual direction of his or her will.[24]

As many as six articles penned by Sobański raise the question of the form of marriage. The study entitled "*Velut Ecclesia domestica* a cywilna forma zawarcia małżeństwa" [*Velut Ecclesia domestica* and the Civil Form of Entering into Marriage],[25] in which the author addresses the issue of jurisdiction over the marriage of Church and state and the role of the family as a "domestic church" in the life of the universal Church, should be considered particularly original. He recalls that mandatory civil marriages, introduced in France in 1792, in

[21] Remigiusz Sobański, "Symulacja częściowa w ujęciu k. 1086 § 2 a nauka o małżeństwie konstytucji *Gaudium et spes*," *Śląskie Studia Historyczno-Teologiczne*, vol. 2 (1969): 31–49.

[22] See Janczewski, "Kanoniczne prawo małżeńskie," 36–37; Honorata Typańska, "Pola aktywności księdza oficjała Remigiusza Sobańskiego," In *Sędzia i Pasterz. Księga pamiątkowa w 50-lecie pracy ks. Remigiusza Sobańskiego w Sądzie Metropolitalnym w Katowicach (1957–2007)*, ed. Honorata Typańska (Katowice: Księgarnia Św. Jacka, 2007), 11–12.

[23] Remigiusz Sobański, "Wpływ mentalności wolnych związków na ważność zgody małżeńskiej," *Annales Canonici*, vol. 4 (2008): 5–20.

[24] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 93.

[25] Remigiusz Sobański, "*Velut Ecclesia domestica* a cywilna forma zawarcia małżeństwa," *Roczniki Teologiczno-Kanoniczne*, vol. 30, no. 5 (1983): 27–40.

some German states in the mid-19th century, in Italy in 1865 (until 1929), in Switzerland in 1874, in reunited Germany in 1875, and in the Polish People's Republic in 1945, were perceived by the Church as a serious threat to the sanctity of marriage and a violation of its own and inalienable rights with regard to this institution. Although initially strongly in opposition to the idea of civil marriage, over time the Church had to adapt her laws to the new situation and recognize the civil form of marriage of her believers (this was done by Benedict XIV in 1746). Sobański explains that the state cannot be required to give up its own matrimonial law, nor can it be denied competence in this area, after all, marriage is one of the so-called mixed issues. Characterizing the two legal orders in the sphere of marriage, he analyzes the institution of civil marriage of Catholics. He goes on to state that "marriage, being the sacramental sign of Christ's love for people, the image of the union of Christ and the Church, is the historical place of the Church's fulfillment,"[26] and that is why "it is called the home Church,"[27] through which the Church's presence in the world is realized. He adds that an obligation arises for Christians to take care "that their marriage is noticed and recognized as such in the secular community."[28] The civil form of marriage opposes neither faith nor Christian morality.[29]

In a statement entitled "Opinia o asystowaniu przy małżeństwach emigrantów" [Opinion on Assisting with Emigrant Marriages],[30] the reader is introduced to a problem that arose in Silesia in the 1980s: mass migration to Germany triggered a number of questions about emigrants marrying in their former dioceses in the country. Rev. Sobański argues that—in the light of CIC norms—such persons have lost residence in their parishes and dioceses, and thus their former parish priest no longer has the right to assist in their marriages (as emigrants). In addition, he puts forward solutions to yet other issues related to emigrants' marriages concluded in Poland.[31]

The establishment of the Military Ordinariate in Poland has led to disagreements here and there about the authority of military chaplains to assist at marriages. They gave Professor Sobański an inducement to speak twice on the subject. In an article entitled "Czy proboszcz parafii wojskowej może delegować upoważnienie do asystowania przy zawieraniu małżeństwa?" [Can the Military

[26] Sobański, "*Velut Ecclesia domestica*," 35.

[27] Sobański, "*Velut Ecclesia domestica*," 35.

[28] Sobański, "*Velut Ecclesia domestica*," 37.

[29] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 94.

[30] Remigiusz Sobański, "Opinia o asystowaniu przy małżeństwach emigrantów," *Wiadomości Diecezjalne*, vol. 58, no. 8 (1990): 481–482.

[31] See Janczewski, "Kanoniczne prawo małżeńskie," 38–39; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 96.

Parish Priest Delegate the Authority to Assist at Marriages?],[32] he took the position that since the military parish priest is by virtue of his office authorized to assist at the marriage of nupturients, at least one of whom belongs to the territory he represents (within the boundaries of his district), he is not competent to assist at the marriage of persons who do not belong to such a territory. The military parish priest, like any personal parish priest, requires in such a situation an authorization delegated to him by the Ordinary of the place or the parish priest where the marriage is being contracted (even when it takes place in a garrison church). Another important statement in the publication reads:

> A personal parish priest, including a military parish priest, cannot validly delegate the authority to assist. If he himself is prevented from assisting in his own church to those under his jurisdiction, another priest (or deacon) needs a delegation from the local ordinariate or parish priest, in accordance with can. 1111 (unless a territorial parish priest would assist in accordance with can. 1109).[33]

Sobański returned to the issue of a military parish priest's delegation of authority to assist at marriages of persons under his jurisdiction two years later in an article titled "Ponownie o proboszczach wojskowych i delegacji upoważnienia do asystencji małżeńskiej" [Once Again on Military Pastors and the Delegation of Authority to Assist at Marriages].[34] The author firmly maintains that assisting at marriages is not an act of executive power, which means that can. 137 (on delegation and subdelegation of executive power) does not apply here. Consequently, he accepts that—taking into consideration can. 1111 § 1 of the CIC (special act), in which there is no norm that would authorize an ordinariate and a personal pastor to delegate the authority in question)—an ordinariate and a military parish priest cannot validly delegate the authority to assist at marriages.[35]

Two studies by the long-time judicial vicar of the Katowice archdiocese on the form of marriage relate to the so-called concordat marriage, as defined in Article 10 of the Polish Concordat of July 28, 1993.[36]

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[32] Remigiusz Sobański, "Czy proboszcz parafii wojskowej może delegować upoważnienie do asystowania przy zawieraniu małżeństwa?," *Prawo Kanoniczne*, vol. 44, no. 1–2 (2001): 13–20.

[33] Sobański, "Czy proboszcz parafii wojskowej może delegować upoważnienie do asystowania przy zawieraniu małżeństwa?," 20; see Janczewski, "Kanoniczne prawo małżeńskie," 39–40; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 97.

[34] Remigiusz Sobański, "Ponownie o proboszczach wojskowych i delegacji upoważnienia do asystencji małżeńskiej," *Prawo Kanoniczne*, vol. 46, no. 1–2 (2003): 31–37.

[35] See Janczewski, "Kanoniczne prawo małżeńskie," 40–41; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 99.

[36] *Konkordat między Stolicą Apostolską i Rzecząpospolitą Polską z 28 lipca 1993 r.* (1998, Dz. U. nr 51, poz. 318).

"Uwagi o zmianach w polskim prawie postulowanych w art. 10 Konkordatu z 28 lipca 1993 roku" [Remarks on Changes in Polish Law Postulated in Article 10 of the Concordat of July 28, 1993][37] is a study that addresses the problem of the relationship of the form of canonical marriage to the form of civil marriage. The author stresses that it is something important for Catholics "to be able to marry in a form that suits their beliefs, and that their marriage enjoys recognition in the state forum."[38] If the civil form of marriage is obligatory for everyone, the views of Catholics, who are thus treated as if getting married is not a religious act for them (they feel discriminated against compared to non-believers), will not be respected. Moreover, the compulsory secular form of marriage leads to the sanctioning of an important inequality. Hence, the form of concordat marriage, that is, canonical marriage, which—after certain conditions are met—acquires effects in the state forum, is fully appropriate.[39]

The second text (statement) entitled "Zaświadczenie urzędu stanu cywilnego a przesłanki małżeństwa 'konkordatowego'" [Certificate of the Registry Office and the Premises of a "Concordat" Marriage][40] touches upon the topic of the conditions for recognizing a canonical marriage as validly concluded also in the light of the Polish law (as defined in normative acts of the Republic of Poland),[41] and in particular the certificate issued by the head of the Registry Office stating the absence of circumstances excluding the possibility to contract marriage.[42]

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[37] Remigiusz Sobański, "Uwagi o zmianach w polskim prawie postulowanych w art. 10 Konkordatu z 28 lipca 1993 roku," in *Czy potrzebna jest w Polsce zmiana prawa rodzinnego i opiekuńczego? Materiały z Ogólnopolskiej Konferencji Naukowej zorganizowanej w dniach 21 i 22 września 1995 roku w Katowicach*, ed. Bronisław Czech (Katowice: Instytut Wymiaru Sprawiedliwości. Ośrodek Terenowy przy Sądzie Wojewódzkim w Katowicach, 1997), 281–290.

[38] Sobański, "Uwagi o zmianach w polskim prawie postulowanych w art. 10 Konkordatu z 28 lipca 1993 roku," 283.

[39] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 100.

[40] Remigiusz Sobański, "Zaświadczenie urzędu stanu cywilnego a przesłanki małżeństwa 'konkordatowego,'" *Państwo i Prawo*, vol. 58, no. 5 (2003): 30–33.

[41] See *Ustawa z dnia 24 lipca 1998 r. o zmianie ustaw – Kodeks rodzinny i opiekuńczy, Kodeks postępowania cywilnego, Prawo o aktach stanu cywilnego, Ustawy o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej oraz niektórych innych ustaw* (Dz. U. 1998 Nr 117, poz. 757); *Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 26 października 1998 r. w sprawie szczegółowych zasad sporządzania aktów stanu cywilnego, sposobu prowadzenia ksiąg stanu cywilnego, ich kontroli, przechowywania i zabezpieczenia oraz wzorów aktów stanu cywilnego, ich odpisów, zaświadczeń i protokołów* (Dz. U. 1998, Nr 136, poz. 884); *Obwieszczenie Ministra Spraw Wewnętrznych i Administracji z dnia 4 listopada 1998 r. w sprawie ogłoszenia wykazu stanowisk, których zajmowanie upoważnienia do sporządzenia zaświadczenia stanowiącego podstawę sporządzenia aktu małżeństwa zawartego w sposób określony w art. 1 § 2 i 3 Kodeksu rodzinnego i opiekuńczego* (M.P. 1998, Nr 40, poz. 554).

[42] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 101–102.

When it comes to the topic of mixed marriages, Rev. Sobański's oeuvre includes two works—both date back to the early years of his scholarly activity.

In a statement entitled "Instrukcja o małżeństwach mieszanych" [Guidance on Mixed Marriages],[43] the reader is introduced to a commentary on the Instruction *Matrimonii sacramentum* issued on March 18, 1966, by the Congregation for the Doctrine of the Faith.[44] Presenting and commenting on the various provisions of this ecumenical document, Sobański explains their origin and emphasizes that the Church, with a concern for preserving the revealed doctrine on marriage, revised the previous regulations on mixed marriages in the spirit of Vatican II's decree *Unitatis redintegratio*.[45] On the other hand, in an article titled "Nowe przepisy o małżeństwach mieszanych" [New Regulations on Mixed Marriages],[46] he discusses the dispositions of Paul VI's motu proprio *Matrimonia mixta* of March 31, 1970,[47] a document that significantly changed the discipline of mixed marriages. In his commentary, Sobański emphasizes the norm defining the conditions for obtaining a dispensation from the obstacle of *disparitas cultus*, also notes that the far-reaching changes introduced motu proprio from the field of mixed marriages testify that the legislator perceives it in the perspective of Christian unity and raising the dignity of Christian marriage.[48]

Published Sentences *coram* Sobański

As a long-time official of the Metropolitan Court in Katowice, Rev. Sobański served as a ponens in terms of adjudicating cases of marriage invalidity and thus prepared numerous sentences—as a rule, in the first and second instances, and exceptionally also in the third (under the authority of the Supreme Tribunal of the Apostolic Signatura). Of several hundred sentences, 60 have been published (mostly in the yearbook *Ius Matrimoniale*). The in-depth theoretical knowledge

[43] Remigiusz Sobański, "Instrukcja o małżeństwach mieszanych," *Wiadomości Diecezjalne*, vol. 34 (1966): 99–102.

[44] Congregatio pro Doctrina Fidei, "Instructio Matrimonii sacramentum" (18.03.1966), *Acta Apostolicae Sedis*, vol. 58 (1966): 235–239.

[45] See Janczewski, "Kanoniczne prawo małżeńskie," 33–34.

[46] Remigiusz Sobański, "Nowe przepisy o małżeństwach mieszanych," *Ateneum Kapłańskie*, vol. 75 (1970): 449–459.

[47] Paulus VI, "Motu proprio *Matrimonia mixta*" (31.03.1970), *Acta Apostolicae Sedis*, vol. 62 (1970): 257–263.

[48] See Janczewski, "Kanoniczne prawo małżeńskie," 35; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 102.

in the field of canon matrimonial law allowed the experienced Church judge to apply it in the sphere of judicial practice. In the sentences he prepared, their *in iure* (legal recitals) sections are particularly noteworthy. In general, it can be said that they are often true scientific deductions of the relevant titles of marriage invalidity. Their author generally refers to the jurisprudence of the Tribunal of the Roman Rota, but also reveals his own inventiveness. The vast majority of the *coram* Sobański sentences relate to cases of *nullitatis matrimonii* recognized from titles of nullity within the matrimonial consent.

When it comes to the titles of nullity pertaining to the marriage consensus, the following should be mentioned: incapacity to undertake the essential duties of marriage (can. 1095, no. 3 CIC)—34 sentences[49]; error due to malice (can. 1098 CIC—six sentences[50]; error as to the quality of the person (can. 1097 § 2 CIC)—four sentences[51]; simulation of full matrimonial consent (can. 1101 § 2 CIC)—two sentences[52]; exclusion of offspring (can. 1101 § 2 CIC)—two sentences[53]; grave fear (can. 1103 CIC)—two sentences[54]; exclusion of indissolubility of marriage (can. 1101 § 2 CIC)—two sentences[55]; grave defect of discretion of judgement (can. 1095, no. 2 CIC)—two sentences[56]; coercion and fear (can. 1103 CIC)—one sentence[57]; exclusion of matrimonial life

[49] See *Wiadomości Diecezjalne*, vol. 59 (1991): 93–95; *Wiadomości Diecezjalne*, vol. 61 (1993): 300–302; *Wiadomości Diecezjalne*, vol. 62 (1994): 211–215; *Ius Matrimoniale*, vol. 5 (1994): 103–109; *Ius Matrimoniale*, vol. 1/6–7 (1996): 221–242; *Ius Matrimoniale*, vol. 2/8 (1997): 233–241; *Ius Matrimoniale*, vol. 3/9 (1998): 207–216, 217–227; *Ius Matrimoniale*, vol. 4/10 (1999): 273–283, 257–264, 265–271; *Ius Matrimoniale*, vol. 8/14 (2003): 221–230; *Ius Matrimoniale*, vol. 9/15 (2004): 211–221, 223–240; *Ius Matrimoniale*, vol. 10/16 (2005): 221–226; 227–230, 231–234, in *Podmiotowość osoby ludzkiej i konsens małżeński*, ed. Jan Krajczyński (Płock: Płocki Instytut Wydawniczy, 2005), 103–105, 107–112; *Ius Matrimoniale*, vol. 11/17 (2006): 163–169, 171–177, 179–184, 12/18 (2007): 161–166; *Ius Matrimoniale*, vol. 13/19 (2008): 193–199,201–208, 209–218, 215–219, 221–225; *Ius Matrimoniale*, vol. 14/20 (2009): 223–227, 217–221, 211–215, 205–210; *Ius Matrimoniale*, vol. 15/21 (2010): 199–211, 213–216.

[50] See *Wiadomości Diecezjalne*, vol. 59 (1991): 232–236; *Entscheidungen kirchlicher Gerichte. Leitsätze* (Bonn 1991), 8; *Entscheidungen kirchlicher Gerichte. Leitsätze* (Bonn 1992), 29; *Ius Matrimoniale*, vol. 5/11 (2000): 241–250; *Ius Matrimoniale*, vol. 7/13 (2002): 213–225, 233–237.

[51] See *Ius Matrimoniale*, vol. 4 (1993): 92–97; *Ius Matrimoniale*, vol. 7/13 (2002): 213–225, 227–231; *Ius Matrimoniale*, vol. 11/17 (2006): 185–190.

[52] See *Ius Matrimoniale*, vol. 7/13 (2002): 207–212; cf. in *Podmiotowość osoby ludzkiej*, 113–117;

[53] See *Ius Matrimoniale*, vol. 4 (1993): 98–106; *Ius Matrimoniale*, vol. 4/10 (1999): 285–289.

[54] See *Ius Matrimoniale*, vol. 10/16 (2005): 235–238; *Ius Matrimoniale*, vol. 13/19 (2008): 221–225.

[55] See *Ius Matrimoniale*, vol. 4/10 (1999): 291–297; *Ius Matrimoniale*, vol. 9/15 (2004): 231–240.

[56] See *Ius Matrimoniale*, vol. 3/9 (1998): 207–216; *Ius Matrimoniale*, vol. 4/10 (1999): 257–264.

[57] See *Ius Matrimoniale*, vol. 9/15 (2004): 231–240;

(can. 1101 § 2 CIC)—one sentence[58]; mental illness (can. 1095, no. 1 CIC)—one sentence.[59]

In addition, one sentence for lack of canonical form (can 1108 CIC)[60] and one for new filing (can. 1644 CIC).[61] One decree of nullity of sentence has also been published (can. 1629 CIC).[62]

Limiting ourselves only to the sentences *coram* Sobański delivered due to incapacity to undertake the essential duties of marriage for mental reasons (can. 1095, no. 3 CIC), it is fair to say that the Ponens draws attention to the proper understanding of matrimonial consent (can. 1057 § 2 CIC) as an internal act of will (and not just a mere declaration). It is significant to frequently invoke—in the context of the disposition of the law with regard to the shortcomings of this act—the two principles already mentioned: the formation of marriage by an act of will and the human right to marry, which are closely linked.[63]

Inherent in Rev. Sobański's argument is an analysis of the aforementioned can. 1095, no. 3 of the CIC. He explains that this disposition of the Church legislature is based on the elementary assumption (derived from natural law) that no one can legally commit him/herself to what he or she cannot perform. He sees the essential duties of marriage in the light of can. 1055 § 1 of the CIC: the creation of matrimonial life, which presupposes the ability to give and receive each other's counterparties, requires full love, that is, "that special form of friendship through which spouses generously share everything between them, without unjust exceptions or selfish calculations" (Paul VI, Encyclical *Humanae vitae*). Such love requires the fulfillment of certain duties related to the welfare of the spouses, the bearing and raising of offspring, and the unity (fidelity) and indissolubility of the marriage. He points out that the inability to undertake (and fulfill) these duties must come from mental causes, which, however, should not be equated with mental illness, although it too may fall among them.

The Ponens very often states that true matrimonial love, which requires the fulfillment of essential matrimonial duties, is 'at odds' with egoism, self-seeking, tendencies to rule and govern, selfishness or intolerance. Meanwhile, marriage requires the ability to give oneself to another person, both physically and spiritually, while maintaining the autonomy and dignity of the persons. In addition, it requires overcoming one's own selfishness and recognizing one's own shortcomings, the ability to accept another person and understand his or her characteristics and one's own preferences, the ability to respect a separate

[58] See *Ius Matrimoniale*, vol. 4 (1993): 98–106.

[59] See *Ius Matrimoniale*, vol. 4/10 (1999): 249–255.

[60] See *Ius Matrimoniale*, vol. 6/12 (2001): 203–205.

[61] See *Ius Matrimoniale*, vol. 9/15 (2004): 241–244.

[62] See *Ius Matrimoniale*, vol. 15 (2010): 217–220.

[63] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 103–104.

opinion and to make concessions in conflict situations, and therefore the ability to go beyond one's own world. Analyzing individual cases, the Ponens repeatedly points out that the resolution of a particular case is not about the will to transfer the rights constituting the matrimonial community, but about the ability to do such an act. When such capacity is lacking, the marriage commitment—even with the best will—cannot be fulfilled and remains 'empty.'

The *coram* Sobański sentences are characterized by a strong distinction between an unsuccessful marriage and an invalid marriage. In his January 17, 1994, sentence Sobański states: "Thus, if the marriage turned out to be 'unsuccessful' (such is challenged in the Church court), the court must obtain an answer to the question of whether the 'lack of success' was due to insurmountable matrimonial difficulties, a lack of will to overcome them, or whether it occurred because the marriage with the partner in question exceeded the mental capacity of the person entering into it."[64] At the same time, he adds: "It is not a question of the ability to meet exorbitant, idealized requirements, but such as, according to Christian doctrine and practice, belong integrally to marriage, the lack of which makes it impossible to lead a married life."[65] At the same time, he points out that although this kind of impossibility in practice reveals itself after entering into marriage, the reasons causing it should already exist at the time of the marriage, as it is the actual state of affairs at that very moment that decides. The Judge-Professor emphatically repeats in his judgments after Pope John Paul II[66] that the mere assertion that a marriage has broken down in no way proves the inability of the counterparty to undertake the essential duties of marriage.[67]

Rev. Sobański points out the proper role of the expert in the cases in question. He recognizes that the court would be exceeding its competence if it were to assess the validity of the analyses conducted by the expert as to the personality of the contracting party in question. Instead, it is up to the court to assess the logical consistency of the deductions and verify the premises from which the expert drew his conclusions. He believes that the judge should ask himself: "Do the case files clearly show and are acceptable to the Court the grounds on which the experts based their opinions?"[68] The expert's task, he points out, is to identify the causes of, for example, the immature or disturbed personality of the person under examination, and whether it existed at the time of the marriage.

[64] "Wyrok c. Sobański of 17.01.1994 r.," *Ius Matrimoniale*, vol. 1/6–7 (1996): 225.

[65] "Wyrok c. Sobański of 17.01.1994 r.," *Ius Matrimoniale*, vol. 1/6–7 (1996): 225.

[66] John Paul II, "Address to the Roman Rota" (25.02.1987), *L'Osservatore Romano (Polish edition)*, 1987, no. 2, 32.

[67] See i.a. "Wyrok c. Sobański of 12.12.2006 r.," *Ius Matrimoniale*, vol. 13/19 (2008): 202; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 107.

[68] "Wyrok c. Sobański of 12.1996 r.," *Ius Matrimoniale*, vol. 2/8 (1997): 226.

The Ponens's critical approach to expert opinions is noteworthy. Thus, for example, in one of the sentences, he does not accept as convincing the opinion of an expert who merely admits that the mental illness revealed at a later stage [after the marriage—W. G.], through its various symptoms, may have prevented the respondent from functioning properly and thus may have had a negative impact on his acceptance of matrimonial obligations. This kind of a statement the Ponens considers hypothetical ("the respondent, as the expert formulates it, in a significant degree of probability may not have been able to […]").[69] More than once, the Author of the sentence even expresses amazement at the professional opinions of the experts.[70] Interesting are the assessments of expert opinions made in the *coram* Sobański sentences, especially in the sentences delivered by the Katowice Court in its third instance.[71]

Since the *ob incapacitatem assumendi* cases often involve personality pathology, among other things, immature personality, reflections on this very topic can be found in the sentence under discussion. Thus, asking about the mature personality, the Ponens defines it through such characteristics as: "the ability to subordinate drives and impulses to reason and direct one's own will, to accept various difficulties in life with the hope of dealing with them, to critically evaluate situations and life events, to establish interpersonal relationships and function in social groups, especially those to which one belongs as a result of one's free choice."[72] In turn, when it comes to the criteria of immature personality, he points out: "the inability to make decisions about daily life without seeking excessive advice and hedging, ceding most major decisions to others, reluctance to take initiative, agreeing with others also being convinced that they are wrong, a tendency to do things that are unpleasant or humiliating to oneself in order to be welcomed, feeling painfully hurt by criticism and disapproval, feeling vulnerable when alone."[73]

The Official of the Metropolitan Court of Katowice takes the correct position on the issue of the permanence of *incapacitas*, holding that such a requirement is unnecessary. He expresses the belief that the improvement (*nunc*) of the mental state of a given contracting party for the better after the reason causing incapacity at the time of marriage ceases to exist (*tunc*) may have diagnostic significance and needs to be taken into account in assessing the condition oc-

[69] "Wyrok c. Sobański of 14.12.2006 r.," *Ius Matrimoniale*, vol. 13/19 (2008): 195. See also "Wyrok c. Sobański z 21.12.2007 r.," *Ius Matrimoniale*, vol. 13/19 (2008): 212; "Wyrok c. Sobański z 21.12.2007 r.," *Ius Matrimoniale*, vol. 13/19 (2008): 217–218.

[70] See i.a. "Wyrok c. Sobański of 30.09.2008 r.," *Ius Matrimoniale*, vol. 14/20 (2009): 214.

[71] See i.a. "Wyrok c. Sobański of 30.09.2008 r.," *Ius Matrimoniale*, vol. 14/20 (2009): 218–219; "Wyrok c. Sobański z 06.07.2009 r.," *Ius Matrimoniale*, vol. 15/21 (2010): 215–216.

[72] "Wyrok c. Sobański z 12.12.2006 r.," *Ius Matrimoniale*, vol. 13/19 (2008): 203.

[73] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 108.

curring at the time of marriage, but of itself, does not make it attentive. "This means," he adds, "that a sentence declaring a marriage invalid for incapacity to undertake the essential duties of marriage does not preclude the possibility of possible future capacity"; this may be the case, in particular, with immature personalities.[74]

It is noteworthy that the Ponens repeatedly poses the question of the relation of the title of invalidity covered by can. 1095 no. 3 to the title specified in no. 2 of the same canon. In his opinion, a serious lack of evaluative discernment can go hand in hand with an inability to undertake the essential duties of marriage, although the border between these two legal figures is not always clear (in a particular case). The following statement by Rev. Sobański, which is important for judicial practice, seems apt: "Both the incapacity to marry specified in can. 1095, no. 2 and that referred to in can. 1095 no. 3 are due to mental causes. Since in determining the subject matter of the dispute, it is not always clear which incapacity is justified by the indicated mental reasons, it is expedient to adopt both norms as the legal basis for procedural inquiry. This practice is also often followed by the Tribunal of the Roman Rota (e.g., sent. c. Colagiovanni 31.5.1995—MonEccl 122 /1997/ 378–390, and many others). Since a person constitutes a certain mental unity and wholeness, not only are the boundaries between the causes entering into the optics of the two norms not always drawn quite clearly, but there may be causes that deprive both sufficient discernment and the ability to undertake the essential duties of marriage."[75]

Sobański explicitly advocates that the inability to undertake the essential duties of marriage cannot be relative. In one of his sentences, Sobański poses the question: "Whether—especially in light of the opinion of the expert of the first instance— the state of said exhaustion [of the claimant—W. G.] resulted from a clash of personalities or was independent of the characteristics of the other party. To put it another way, whether the claimant's incapacity was 'absolute' or merely 'relative.'" "The question," he adds, "must be asked, especially since the claimant," he admits, "is functioning well in the new relationship. A literal interpretation of can. 1095 no. 3 leads to the conclusion that relative incapacity does not fall within the hypothesis of this standard. It is about the inability to undertake and fulfill the obligations arising from the nature of marriage, not a 'character mismatch.' This is the prevailing position in the Church jurisprudence and among interpreters of can. 1095 no. 3. A different view would bring the declaration of nullity closer to the dissolution of a failed marriage."[76] On the basis of this statement, it is worth quoting another one: "When considering the issue in relation to the parties' marriage, one must first recall that living with

[74] "Wyrok c. Sobański of 12.12.1996 r.," *Ius Matrimoniale*, vol. 2/8 (1997): 231; Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 108–109.

[75] "Wyrok c. Sobański of 05.12.1998 r.," *Ius Matrimoniale* 4/10 (1999): 259.

[76] "Wyrok c. Sobański of 29.12.2005 r.," *Ius Matrimoniale* 11/17 (2006): 183.

another person always presents a certain degree of difficulty. This includes the spouses as well."[77]

In his sentences, Rev. Sobański refers to the papal magisterium (especially John Paul II's addresses to the Roman Rota), rotal jurisprudence, canonist literature (both foreign and Polish), and writings on psychology and psychiatry.[78]

Closing Remarks

The writing output of Rev. Prof. Remigiusz Sobański in the field of substantive matrimonial law, presented most concisely, indicates that his contribution to the development of the mentioned branch of canon law is remarkably significant. In this assessment, it should be taken into account that substantive matrimonial canon law was not the leading stream of research interests of the longtime professor at the Academy of Catholic Theology and then at the Cardinal Stefan Wyszyński University in Warsaw. Although he was not a matrimonialist, the area of matrimonial law was close to his heart, which was undoubtedly related to his work in the Bishop's Court and then the Metropolitan Court in Katowice, which he began as early as 1957 (he served there as a judicial vicar since 1989).

In his scholarly achievements concerning matrimony, Rev. Sobański dedicated most attention to matrimonial consent, as this was the area of matrimonial law he encountered most often in his judicial work. This very broad, complex, and particularly difficult to apply during a marriage annulment trial issue, hiding numerous complexities, intrigued the Judge-Professor the most. Most valuable here are the publications in which he sought answers to questions leading to a proper understanding (and application in the process of *nullitatis matrimonii*) of can. 1095, no. 1–3 (consensual incapacity to marry), which was introduced into the CIC of 1983. In his inquiries in this regard, he raised a number of "sensitive" threads. Particularly significant here is the aforementioned paper from 2005: "Dilemmas in the Application of Canon 1095."

The sentences prepared by Rev. Sobański (in marriage invalidity cases), published between 1991 and 2010, should be highly appreciated. Here the numerous sentences delivered for inability to undertake the essential duties of marriage for mental reasons deserve special attention. They are characterized by a high degree of the Ponens' insight, legal erudition, and a sense of justice. Repeating

[77] "Wyrok c. Sobański of 29.12.2005 r.," *Ius Matrimoniale* 11/17 (2006): 183.

[78] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 109.

frequently that the marriage annulment process 'revolves' around the search for the truth about a particular relationship, the Katowice Official made this clear in every case he handled.

When a question was asked during an interview conducted by Rev. Adam Pawlaszczyk with Rev. Sobański, on the occasion of his golden jubilee of judicial service: "What truth did Reverend Sobański seek over the past 50 years" [in carrying out this service—W. G.], the latter said, among other things: "The sentence [in a marriage invalidity case—W. G.] concerns the marriage (the claimant's thesis that the marriage is invalid is the subject matter of the case), but it is based on the recognized truth about the man, and that in his matrimonial relationship […] This truth bears the hallmarks of objective truth, because it is impossible to adjudicate the truth other than by means of the verb 'is' […]. The trial is conducted (only) when there is a clash between two truths: the one about the marriage recorded in the metric books and the truth of the party (or parties) about the invalidity of the union […]. These mutually exclusive truths are already formulated, the judge does not have to identify them, he only has to (!) inquire which of them is true."[79]

Analyzing both Rev. Professor Remigiusz Sobański's scholarly works on marriage and his sentences in matrimonial cases, it can be said that in both spheres of his ministry—scholarly and judicial—he assiduously served the truth about both the institution of matrimony itself and its certain 'incarnations.'[80]

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[79] Adam Pawlaszczyk, "Mam do czynienia z człowiekiem [rozmowa z ks. R. Sobańskim]," in *Sędzia i Pasterz. Księga pamiątkowa w 50-lecie pracy ks. Remigiusza Sobańskiego w Sądzie Metropolitalnym w Katowicach (1957–2007)*, ed. Honorata Typańska (Katowice: Księgarnia Św. Jacka, 2007), 27–28.

[80] Góralski, "Wkład prof. Remigiusza Sobańskiego w rozwój nauki prawa kanonicznego," 110.

w dniu 11 grudnia 2013 roku, edited by Tomasz Gałkowski, 87–110. Warszawa–Kraków: Scriptum, 2014.

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Obwieszczenie Ministra Spraw Wewnętrznych i Administracji z dnia 4 listopada 1998 r. w sprawie ogłoszenia wykazu stanowisk, których zajmowanie upoważnienia do sporządzenia zaświadczenia stanowiącego podstawę sporządzenia aktu małżeństwa zawartego w sposób określony w art. 1 § 2 i 3 Kodeksu rodzinnego i opiekuńczego. M.P. 1998, Nr 40, poz. 554.

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Wojciech Góralski

Activité scientifique du Révérend Professeur Remigiusz Sobański dans le domaine du droit canonique du mariage

Résumé

Remigiusz Sobański (1930–2010), longtemps professeur à la faculté de droit canonique de l'Académie de Théologie Catholique de Varsovie, puis à l'université Cardinal Stefan Wyszyński de Varsovie ; bien que ses recherches aient porté principalement sur la théorie du droit canonique, il a également publié plusieurs dizaines d'ouvrages sur le droit canonique du mariage. Ces travaux couvrent quatre domaines de recherche principaux : le droit du mariage – principes généraux,

le consentement au mariage, la forme du mariage, les mariages mixtes. En outre, en tant que vicaire judiciaire, il a publié des dizaines de jugements dans des affaires de *nullitatis matrimonii*, qu'il avait rédigés.

Mots-clés: Remigiusz Sobański, mariage, droit matrimonial, article, jugement

Wojciech Góralski

L'attività di ricerca del sacerdote professor Remigiusz Sobański nel campo del diritto matrimoniale canonico

Sommario

Remigiusz Sobański (1930–2010), il professore di lunga data presso la Facoltà di diritto canonico dell'Accademia di Teologia Cattolica di Varsavia, e poi presso l'Università di Cardinal Stefan Wyszyński di Varsavia. Sebbene la sua ricerca si sia concentrata principalmente sulla teoria del diritto canonico, ha anche pubblicato diverse decine di opere nel campo del diritto matrimoniale canonico. Questi lavori coprono quattro aree di ricerca principali: diritto matrimoniale (norme generali), consenso matrimoniale, forma del matrimonio, matrimoni misti. Inoltre, come vicario giudiziale, ha pubblicato diverse decine di sentenze nei casi di *nullitatis matrimonii* che ha redatto.

Parole chiave: Remigiusz Sobański, matrimonio, diritto matrimoniale, articolo, sentenza