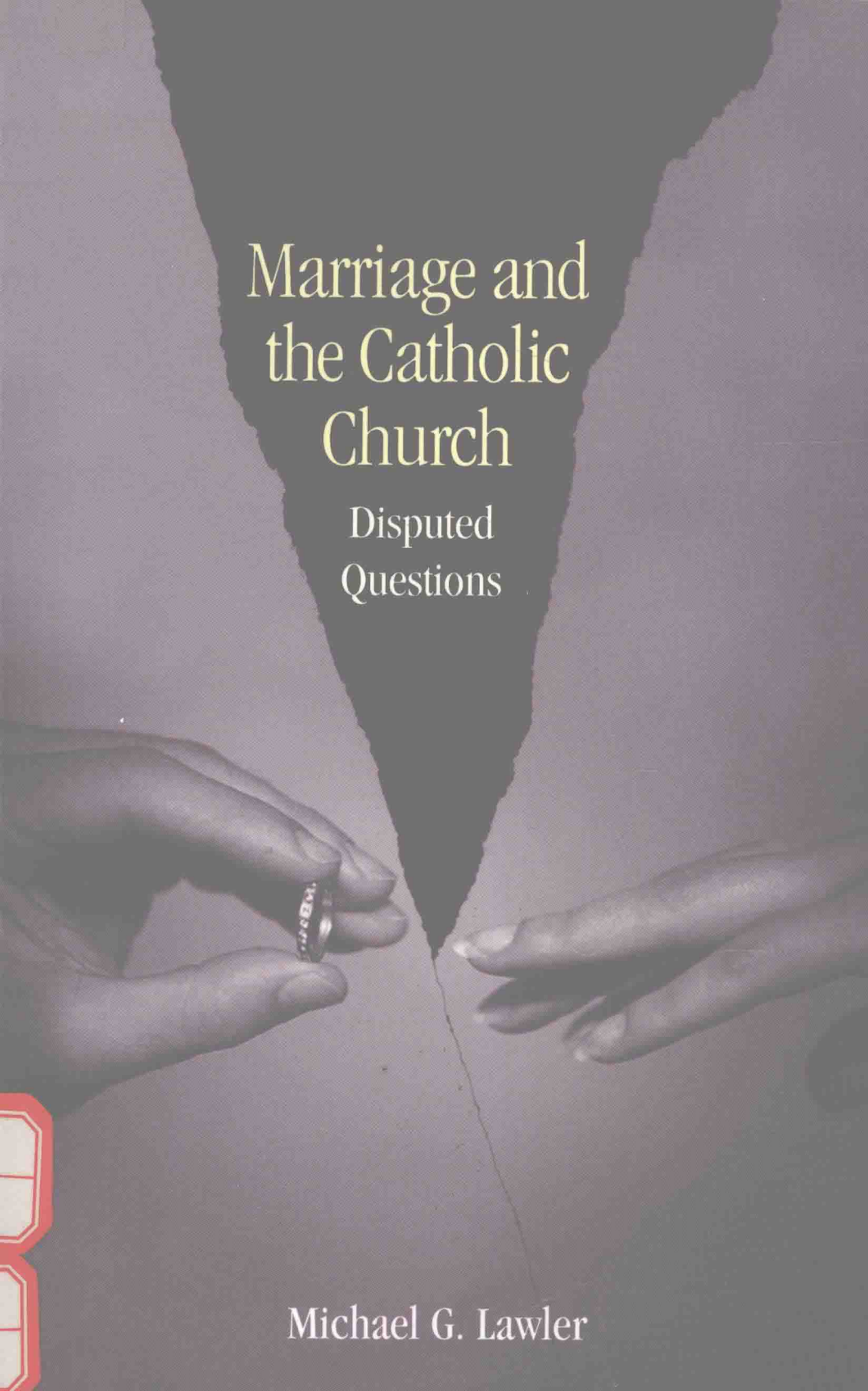
Marriage and the Catholic Church

Disputed Questions



Michael G. Lawler

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A Michael Glazier Book

THE LITURGICAL PRESS
Collegeville, Minnesota

www.litpress.org

Cover design by Greg Becker. Photo: Getty Images.

All translations from languages other than English are the author's.

All documents of the Second Vatican Council are taken from Walter M. Abbott, *The Documents of Vatican II* (New York: America Press, 1966).

1 2 3 4 5 6 7

Library of Congress Cataloging-in-Publication Data

Lawler, Michael G.
Marriage and the Catholic Church : disputed questions / Michael G. Lawler.
p. cm.
Includes bibliographical references and index.
ISBN 0-8146-5116-X (alk. paper)
1. Marriage—Religious aspects—Catholic Church. 2. Catholic Church—Doctrines. I. Title.

BX2250.L3695 2002
234'.165—dc21 2002069548

For Sean and Kate,
who have abundantly demonstrated
that remarriage can be a sacrament

Abbreviations

AA	*Apostolicam Actuositatem* (Decree on the Apostolate of the Laity)
AAS	*Acta Apostolicae Sedis* (Rome: Typis Polyglottis Vaticanis)
CL	*Christifideles Laici* (On the Lay Faithful)
DH	*Dignitatis Humanae* (Declaration on Religious Freedom)
DS	*Enchiridion Symbolorum Definitionum et Declarationum de Rebus Fidei et Morum,* ed. H. Denzinger and A. Schoenmetzer (Fribourg: Herder, 1965).
DV	*Dei Verbum* (Dogmatic Constitution on Divine Revelation)
FC	*Familiaris Consortio* (On the Family)
GE	*Gravissimum Educationis* (Declaration on Christian Education)
GS	*Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World)
LG	*Lumen Gentium* (Dogmatic Constitution on the Church)
PG	*Patrologiae Cursus Completus: Series Graeca,* ed. J. P. Migne
PL	*Patrologiae Cursus Completus: Series Latina,* ed. J. P. Migne
SC	*Sacrosanctum Concilium* (Constitution on the Sacred Liturgy)
ST	*Summa Theologiae Sancti Thomae de Aquino*
TS	*Theological Studies* (Georgetown University)
UR	*Unitatis Redintegratio*

Prologue

In the Western world, marriage is in crisis. There are those who bemoan the passing of what is called, incorrectly, traditional marriage and family, with its clearly demarcated structures of authority and role assignments.[1] There are those who denigrate the marital structures of permanence and exclusivity which continue to exist, to be valued,[2] and to be achieved by some 60 percent of the married population. Both sides claim, for different reasons, that marriage is in crisis, and a mounting body of social-scientific evidence supports their claim.

The profile of the crisis shows that, compared to 1970, marriage rate and marital fertility are down, and age at first marriage, the divorce rate, non-marital childbearing, and non-marital cohabitation are all up. The profile also shows the increasingly common social phenomena of single motherhood and father absence, and the resultant feminization and childrenization of poverty. It shows that approximately half of all children under the age of eighteen will spend at least part of their childhood in a single-parent family, some 90 percent of those families headed by single mothers.[3] The profile further documents the consequences for children being raised by only one parent and suggests that the erosion of the cultural norm that mothers and fathers live with, support, and nurture their children into adulthood has serious negative implications for the whole of society.[4] Later marriage has not translated into stronger and happier marriages. The percentage in intact and happy first marriages "has declined substantially in recent years, the proportion now being about one-third," but the proportion of children living with unhappily married parents has not declined,[5] despite the high rate of divorce.

Marriage and family scholars in the United States continue to be concerned about the long-term negative impact of expressive individualism on marriages, families, churches, and the nation. Their analysis of the situation leads to a call for the restoration of a marriage culture in which the roles of husband and wife are mutual and complementary,[6] and the parenting of children a cooperative partnership.[7] They argue for strategies, marital, familial, educational, economic, political, and religious, that highlight the value of and, therefore, reinvigorate the institution of marriage. They assert that committed, competent, and generative motherhood and fatherhood, which produce a functioning adult, not merely biological maternity and paternity, which produce a child, are critical needs that humans continue to ignore at their peril.

An ancient definition of marriage, found in the *Instituta* of the Emperor Justinian (1.9.1), has exercised tight control over discussions of the nature of marriage in the Western world. "Marriage is a union of a man and a woman embracing an undivided communion of life." That definition recurs in the definition of marriage offered by the Second Vatican Council, "an intimate partnership of marital life and love,"[8] and it was reaffirmed also by the Congress of the United States in the Defense of Marriage Act in 1996. Definitions, however, no matter how clear they appear to be, are always in need of interpretations, and this one is no different. In the classical days of Western and Catholic marriage theory, when Western and Catholic were not entirely separable, the marital communion of life was interpreted as an unequal partnership, the husband being the senior and authoritative partner, and the wife a minor, frequently merely biological, partner. It is in this interpretive process, and specifically in its outcomes, that there has been a change in current marriage theory in both the Western and the Catholic worlds, and this change has contributed to the crisis marriage faces.

Up to the 1930s, the Catholic Church looked upon marriage as a *procreative institution,* in which the ends were firmly established. The *primary* end was procreation, which included not only biological generation but also nurture; the mutual help the spouses provided to one another was very much a *secondary* end. It could not be otherwise in a procreative institution. In the 1930s, fueled by Pius XI's *Casti Connubii,*[9] there was an important development from marriage as a procreative institution to marriage as a *procreative union.* Procreation continued to be the primary end of marriage but, under the influence of the personalist philosophy that flourished in Europe after the devastations of World War I, the union of the spouses and its importance in both marriage and family

moved more into focus. That development, which acknowledged the union of the spouses as an important element of marriage, reached its high-point in the Second Vatican Council, which defined marriage as an *interpersonal union,* an "intimate partnership of married life and love . . . rooted in the conjugal covenant of irrevocable personal consent." From that personal consent, "whereby spouses mutually bestow and accept each other, a relationship arises."[10] The emphasis is no longer exclusively on procreation but squarely on the marital union of the spouses.[11] Though marriage and conjugal love "are by their very nature ordained to the generation and education of children," that "does not make the other ends of marriage of less account." Marriage "is not instituted solely for procreation."[12] That this significant change was not the result of some oversight was confirmed when this theological approach was enshrined in the revised Code of Canon Law (Can 1055.1) in 1983.

This change of perspective on marriage is not without consequences. The consequences of the analogue model, procreative institution, which are mainly biological and act-focused, are different from the consequences of the analogue model, interpersonal union, which are mainly interpersonal and union-focused. So far, though there have been contemporary adjustments in the Catholic theology and law of marriage, there has been little official systematic reflection on those different consequences. This has caused some serious pastoral problems for the Catholic Church. Catholics divorce at about the same rate as other Americans, and many of those divorced Catholics remarry while their first spouse is alive and without seeking an annulment of their first marriage. This leads their Church, because of their "objective situation,"[13] to declare their situation irregular and to exclude them from sharing eucharistic communion.

Three recent studies demonstrate what Catholics think about this situation. A large majority of American Catholics (68 percent) believe they can be good Catholics without having their marriage approved by the Church, and an equally large majority (65 percent) believe they can be good Catholics without obeying the Church's teaching on divorce and remarriage. When asked who has the final moral authority about the right and wrong of divorced Catholics remarrying without annulment, 45 percent respond the individuals concerned and only 20 percent respond Church leaders.[14] These results are part of a trend toward seeing the individual as having the final say on moral issues and toward indifference to Church leadership. Following a five-year study of divorced and remarried Catholics in England, Buckley reports that the consensus of bishops, priests, and people is that "something is seriously

wrong with the present teaching and that more than that is a scandal."[15] These findings must be of some pastoral concern to the whole Church, and it is to that pastoral concern that this book seeks to respond.

In the introduction to a recent collection of articles about divorced and remarried Catholics, Cardinal Ratzinger writes that "only what is true can be pastoral."[16] No Catholic theologian could withhold applause from that principle. Neither could he, however, refrain from the addition of an ancient caveat: What is truth? Specifically, what is the current Catholic truth about marriage, sacrament, divorce, remarriage, and family? The goal of this book is to clarify, highlight, and make that truth accessible to all, hierarchy and laity alike.

I inquire, therefore, what it means to say that marriage is a sacrament (Chapter 1), and what models of marriage function in the contemporary Catholic Church (Chapter 2). I ask what it takes, beyond mechanical physical baptism, to transform the social reality of marriage into the Catholic sacrament, and I answer that it takes personal faith (Chapter 3). I look into the bonds or relationships in marriage, specifically into the root bond, the bond of love between the spouses that makes every other legal and religious bond possible (Chapter 4). I offer an extended consideration of divorce and remarriage in the Catholic Church, seeking to highlight theological truth to provide a foundation for truthful and healing pastoral practice (Chapter 5). Since at least one-third of all Catholics who marry now marry a Christian from a Protestant Christian denomination, I offer theological and pastoral reflections on such interchurch marriage (Chapter 6). In response to the new personalist context of marriage, I analyze the Christian reality and value of friendship and reflect on its contribution to the stability of marriage (Chapter 7). Acknowledging the social-scientific fact that more than half of all those who marry today, including more than half of all Catholics, cohabit with their spouse prior to marriage, I inquire whether cohabitation could, again as in the past, be counted as a step in the process of becoming married in the Catholic tradition (Chapter 8). Finally, I seek to construct a theology of Christian family and reflect on what that theology, and the families rooted in it, can contribute to American families in their present crisis (Chapter 9).

Because marriage is not only an ecclesial but also a societal reality, all of this reflection takes place, as it must, within what Adrian Thatcher calls "two dialogues." There is an internal dialogue in the Catholic, and more extended Christian, Church about what the Bible and the two-thousand-year theological tradition say about marriage and divorce, and how that is to be interpreted and appropriated. There is also an ex-

ternal dialogue between Christians and their neighbors in the world, many of whom are as deeply troubled as Christians about the crisis of marriage but think that Christians have little of importance to say to them about marriage and family.[17] My conviction is that both sides of this dialogue are essential and that both sides have something important to say to overcome the crises that confront them both. Both, therefore, are represented in what follows.

Two facts should be noted about the dialogue. First, the theological or Catholic part of the dialogue is situated in the category of the *quaestio disputata,* the disputed question, beloved of the Scholastics. The Scholastic Master had three tasks: *lectio,* or commentary on the Bible; *disputatio,* or teaching by objection and response to a theme; *praedicatio,* or theology and pastoral application.[18] Peter Cantor speaks for all the Scholastics when he argues that "it is after the *lectio* of scripture and after the examination of the doubtful points thanks to the *disputatio, and not before,* that we must preach."[19] It is important to be aware that this book is a series of *disputationes* to uncover the Catholic truth that precedes any theology or pastoral *praedicatio.* Second, since all the disputations are connected directly to the same theme, marriage and Christian marriage or sacrament, all are indirectly connected to one another. There is, therefore, a certain amount of unavoidable repetition from one disputation to another. This repetition has been kept to a minimum. Facets of the question are analyzed at length only in one place and are, then, summarized in other places where they are part of the argument.

I confess again what I have confessed several times before. No author writes a book in isolation; he is subject to many influences. I am no exception to that rule, and I freely express my gratitude to all those teachers, colleagues, students, and friends with whom I have disputed over the years and from whom I have learned what marriage truly means in the Catholic tradition. Since I cannot name all of them, it always seems to me churlish to name any of them. In this case, however, it would be more than churlish not to name specifically all those married, divorced, and sometimes remarried Catholic friends who have instructed me over the years about the honest social and theological truth embedded in their canonically "regular" and "irregular" situations. The dedication of this book to Kate and Sean is a grateful dedication to all of them.

Michael G. Lawler
Creighton University
Feast of the Epiphany, 2001

Notes

[1] See Stephanie Coontz, *The Way We Never Were: American Families and the Nostalgia Trap* (New York: Basic Books, 1992).

[2] Theodora Ooms, *Toward More Perfect Unions: Putting Marriage on the Public Agenda* (Washington, D.C.: Family Impact Seminar, 1998); National Marriage Project, *The State of Our Unions: 1999* (New Brunswick, N.J.: Rutgers University, 1999) 6.

[3] Dennis A. Ahlburg and Carol J. DeVita, "New Realities of the American Family," *Population Bulletin* 47 (1992) 2–38; Larry L. Bumpass, "What's Happening to the Family? Interactions between Demographic and Institutional Change," *Demography* 27 (1990) 483–95; David Eggebeen and Peter Uhlenberg, "Changes in the Organization of Men's Lives: 1960–1980," *Family Relations* 34 (1985) 251–7.

[4] Sara McLanahan and Gary Sandefur, *Growing Up with a Single Parent: What Hurts, What Helps* (Cambridge, Mass.: Harvard University Press, 1994); David Popenoe, *Life Without Father* (New York: Free Press, 1996).

[5] Norval Glenn, "Values, Attitudes, and the State of American Marriage," *Promises to Keep: Decline and Renewal of Marriage in America,* ed. David Popenoe, Jean Bethke Elshtain, and David Blankenhorn (Lanham, Md.: Rowman and Littlefield, 1996) 15–33.

[6] David Blankenhorn, *Fatherlessness in America: Confronting Our Most Urgent Social Problem* (New York: Basic Books, 1995); Maggie Gallagher, *The Abolition of Marriage: How We Destroy Lasting Love* (Washington, D.C.: Regnery, 1996); Barbara Dafoe Whitehead, "Dan Quayle Was Right," *Atlantic Monthly* 271 (1993) 47–84.

[7] Henry Biller, *Fathers and Families: Paternal Factors in Child Development* (Westport, Conn.: Auburn House, 1993); McLanahan and Sandefur, *Growing Up with a Single Parent;* Don Browning and Ian Evison, "The Family Debate: A Middle Way," *Christian Century* 110 (1993) 712–6.

[8] GS 48.

[9] See Michael G. Lawler, *Marriage and Sacrament: A Theology of Christian Marriage* (Collegeville: The Liturgical Press, 1993) 67–71.

[10] GS 48.

[11] An extended explanation of this short summary is presented in Chapter 2.

[12] GS 50.

[13] Joseph Cardinal Ratzinger, "A propos de la pastorale des divorcés remariés," *La Documentation Catholique* (April 4, 1999) 319–20.

[14] William V. D'Antonio, "The American Catholic Laity in 1999," *National Catholic Reporter* (October 29, 1999) 12.

[15] Timothy J. Buckley, *What Binds Marriage? Roman Catholic Theology in Practice* (London: Chapman, 1997) 178.

[16] Ratzinger, "A propos de la pastorale des divorcés remariés," 325.

[17] Adrian Thatcher, *Marriage after Modernity: Christian Marriage in Postmodern Times* (Sheffield: Sheffield Academic Press, 1999) 31.

[18] See Jean-Pierre Torrell, *Saint Thomas Aquinas,* vol. 1, trans. Robert Royal (Washington, D.C.: Catholic University of America Press, 1996) 54–74.

[19] Peter Cantor, *Verbum Abbreviatum* 1, PL 205.25, my emphasis.

Contents

1

Marriage and the Sacrament of Marriage

Every Catholic approaching marriage knows that the Catholic Church teaches that marriage is a sacrament. They do not, however, always understand what this means. This opening chapter, therefore, considers the two realities involved in marriage as sacrament, namely, marriage and the sacrament of marriage. To fully understand these two realities, however, we must consider also another common human reality closely related to them: love. This chapter, therefore, considers three things: the sacrament of marriage, marriage, and marital love. Each is dealt with in turn.

The Sacrament of Marriage

Marriage has not always been listed among the sacraments of the Catholic Church. The early Scholastics defined sacrament as both a sign and a cause of grace and, since they looked upon marriage as a sign but not a cause of grace, they did not list it among the sacraments. Marriage could not be a cause of grace, ran their argument, because it involved sexual intercourse which Augustine had taught was always sinful, even between a husband and a wife, except in the case when it was for the procreation of a child. "Conjugal intercourse for the sake of offspring," he taught, "is not sinful. But sexual intercourse, even with one's spouse, to satisfy concupiscence is a venial sin."[1] It should be, and is not always, noted that, for Augustine, it is not sexual intercourse itself that is sinful

but concupiscence, the sexual appetite out of control. No matter, his opinion was sufficient to present sexual intercourse as negative and to prevent marriage from being listed among the sacraments of the Church throughout the first millennium of its existence. In the twelfth century, Peter Lombard, for instance, defined sacrament in the categories of both sign and cause. "A sacrament, properly speaking, is a sign of the grace of God and the form of invisible grace in such a way that it is its image and its cause." He then goes on to distinguish marriage, which is a sign of grace, from the sacraments of the new law, which are both signs and causes of grace.[2]

It was the thirteenth-century Dominicans, Albert the Great and his most famous pupil, Thomas Aquinas, who securely established marriage among the sacraments of the Church. In his obligatory commentary on Lombard's *Sententiae,* Albert lists the various opinions about the sacramentality of marriage and judges "very probable" the opinion that holds that "it confers grace for doing good, not just any good but that specific good that a married person should do."[3] In his Commentary on the *Sententiae,* Aquinas goes further, judging "most probable" the opinion that "marriage, in so far as it is contracted in faith in Christ, confers grace to do those things which are required in marriage."[4] In his *Contra Gentiles* he is even more positive, stating bluntly that "it is to be believed that through this sacrament [marriage] grace is given to the married."[5] By the time he wrote his mature theology in the *Summa Theologiae,* he lists marriage as one of seven sacraments with no demur whatever. Aquinas' theological authority, albeit late in Catholic history, thus ensured for marriage a place among the sacraments of the Church.

The first Church document to list marriage as a sacrament was aimed against the Cathari by the Council of Verona (1184). The Cathari preached that sexuality and marriage were sinful and the council countered them by listing marriage as a sacrament in the company of baptism, Eucharist, and confession.[6] The Council of Lyons (1274), to which Aquinas was traveling when he died, first listed marriage among seven sacraments as part of the formula for healing the great schism between East and West,[7] a listing repeated by the Council of Florence (1439) with the notation that these seven sacraments "both contain grace and confer it on those who receive them worthily."[8]

The concluding section of the Florentine decree deals explicitly with marriage and is an excellent summary of everything taught about it up to that point.

> The seventh sacrament is marriage, which is a sign of the union between Christ and his church. . . . A triple good is designated for marriage. The first is offspring accepted and raised to worship God; the second is fidelity, in which each spouse ought to serve the other; the third is the indivisibility of marriage because it signifies the indivisible union of Christ and the church. And, although separation is permissible in the case of fornication, remarriage is not, for the bond of legitimately contracted marriage is perpetual.[9]

That marriage is a sacrament, that it contains and confers grace, that it is indissoluble, all these are now established doctrines of the Catholic Church. When the Church asserts them against the Reformers at the Council of Trent in the sixteenth century, it is merely reasserting the doctrine and the faith of the Church. There remains to ask only what does it mean that marriage is a sacrament.

Hebrew prophets were fond of symbolic actions which came to be called prophetic symbols. Jeremiah, for instance, buys a potter's flask, dashes it to the ground before a startled crowd, and proclaims the meaning of his action. "Thus says the LORD of hosts: so will I break this people and this city, as one breaks a potter's vessel" (Jer 19:11). Ezekiel takes a brick, draws a city on it, builds siegeworks around the city, and lays siege to it. This city, he explains, is "even Jerusalem" (Ezek 4:1) and his action "a sign for the house of Israel" (4:3). He takes a sword, shaves his hair with it, and divides the hair into three bundles. One bundle he burns, another he scatters to the wind, a third he carries in procession around Jerusalem, explaining his action in the proclamation: "This is Jerusalem" (5:5). The prophet Agabus binds his hands and feet with Paul's belt and proclaims the meaning of his action: "This is the way the Jews in Jerusalem will bind the man who owns this belt and will hand him over to the Gentiles" (Acts 21:11).

The prophetic explanations clarify for us the meaning of a prophetic symbol. It is a human action which reveals and celebrates in representation the action of God. Jeremiah's shattering of the pot is, in symbol, God's shattering of Jerusalem. Ezekiel's action is not the besieging of a brick but, again in symbol, God's overthrowing of Jerusalem. The prophetic symbol is a representative action, an action which reveals and proclaims in representation another more crucial action. It is a representative symbol.

Prophetic, symbolic action is not limited to prophets. Israel, a prophetic people, performed prophetic, symbolic actions. In the solemn seder meal, for instance, established as the memorial of the Exodus (Exod 12:14), the head of the gathered family took, and takes, unleavened

bread and proclaims "This is the bread of affliction our fathers ate in Egypt." It was at such a meal, Mark, Matthew, and Luke report, that Jesus took bread and, when he had prayed in thanksgiving, broke it and proclaimed "This is my body, which is given for you. Do this in remembrance of me" (Luke 22:19). It is difficult not to notice the semantic correspondence between "this is Jerusalem," "this is the bread of affliction," and "this is my body." It is difficult to avoid the conclusion that each action is equally a prophetic, symbolic action.

Self-understanding in Israel was rooted in the covenant between the God YHWH and the people Israel. It is easy to predict that Israelites, prone to prophetic action, would search for such an action to symbolize their covenant relationship with YHWH. It is just as easy, perhaps, to predict that the symbol they would choose is the covenant of marriage between a man and a woman. The prophet Hosea was the first to speak of marriage as prophetic symbol of the covenant. On one level, the marriage of Hosea and his wife, Gomer, is like any other marriage. But on another level, Hosea interpreted it as a prophetic symbol, revealing and celebrating in representation the covenant communion between YHWH and Israel. As Gomer left Hosea for other lovers, so Israel left YHWH for other gods. As Hosea waited in faithfulness for Gomer's return, as he received her back without recrimination, so too does YHWH wait for and take back Israel. Hosea's human action and reaction is prophetic symbol of YHWH's divine action and reaction. In both covenants, the human and the divine, the covenant relationship has been violated, and Hosea's actions reflect YHWH's. In symbolic representation, they reveal and proclaim not only Hosea's faithfulness to Gomer but also YHWH's faithfulness to Israel.

Contemporary feminist theologians rightly object to the allegorization of the story of the marriage of Hosea and Gomer which establishes Hosea, and all husbands, in the place of the faithful God and Gomer, and all wives, in the place of faithless Israel. The story is not an allegory, but a rich parable whose meanings remain to be discovered anew in each changing circumstance. One constant meaning is clear, if mysterious, not so much about Gomer and Hosea as about their marriage. Not only is marriage a universal human institution; it is also a religious, prophetic symbol, revealing and proclaiming in the human world the union between God and God's people. Not only is it law, it is also grace and redemption. Lived into in this context of grace, lived into in faith in Christ, as Aquinas says, marriage appears as a two-storied reality. In and on one story, the human, it bespeaks the mutually covenanted love of this man and this woman, of every Hosea and Gomer; in and on an-