

Summary

The scientific problem of this work lies in the analysis of that, when the childlessness, of a married couple, which is caused by the one of many fertility problems, might be the cause of marriage nullity according to the canon law. To this goal, the work offers a comprehensive view on the marital fertility as an essential object of matrimonium from the point of view of canon law, as well as on individual problems that are associated with the realization of marital fertility, but especially the possible impact of these individual problems on the validity of the marriage taking into account the practice of the one particular court, which is the Metropolitan Tribunal in Bratislava.

The first chapter of the work uses the synthetic method. In the first part of this chapter, we have the opportunity to get to know the biblical concept of marriage, that God gradually reveals to us in human history. These are the stories contained in the book of Genesis, which is full of stories of the couples, whom God blessed with blessings in the form of offspring, but also the couples who waited until their old age to conceive a child in the belief that their inability to conceive a child is a punishment for their sin. The whole Holy Scripture gradually explains and complements the meaning and purpose of the marital fertility and the associated blessing of God. In the second part of this chapter, we can see how the biblical view has become the base point for understanding the institute of marital fertility and in the teaching of the classical church fathers and reflections of medieval and modern christian philosophers. All these views on marital fertility are formally explained and confirmed by the official doctrine of the Magisterium of the Catholic Church, i.e., in the teaching of popes and councils. In this context, pope st. John Paul II holds a special place, paying particular attention to this subject in his writings.

The third part of this chapter shows that the fundamental point of view of the whole issue is legal, so the main focus is on the view of marital fertility from the point of view of law. Already the ancient world viewed fertility as the main goal and the base meaning of marriage. This has already been shown in the reflections of ancient philosophy, but above all it has appeared in two systems of law, which are the main sources of canon law. Jewish law contained in the Tora as well as classical Roman law prove that the reproduction in matrimonial ties was a matter not only for a particular family but also for the society as a whole. Given the historical position of a man in these cultures as the head of the house or the father of the family, we can

conclude that from the beginning of our civilization to the present day, the child was perceived as fulfilling male reproductive rights. To this end, the ancient world already knew adoption as one of the possibilities of realization of the reproductive rights of a man as a father.

In the fourth part of this chapter, we can see that canon law, both eastern and western systems, gives us an almost identical definition of a marriage contract, which has its clearly defined characteristics and objectives in canon law, among which there is also the good of offspring, which has always been perceived as one of the objectives of marriage, even though it no longer has the status of a primary objective, as it was before. Its exclusion by a positive act of will causes the marriage consent to be null, whereas in the event of inability to fulfill it, this is subject to deeper consideration and depends on the specific circumstances. This part provides an overview of those canons that indicate the possible invalidity of a marriage with regard to the direct or indirect exclusion of marital fertility or the ability to carry it out for various reasons. Legal questions related to the validity of marriage are answered not only in the scientific literature, but also in the judgments of the Roman Rota, whose jurisdiction forms an important part of the administrative decision-making of individual local ecclesiastical tribunals.

The second chapter of this work, the method of which is analytical, deals with the individual situations in which married couples find themselves in terms of their inability or unwillingness to have a child, thus bringing the individual fertility problems of these couples closer. Today, we are increasingly seeing couples who, for various reasons, postpone the conception of a child to a later date. Postponing a child to a later date by mutual consent does not necessarily mean that the marriage is invalid because of the exclusion of the good of the offspring. However, the permanent exclusion of having a child at the time of the marriage from one or both parties is already invalid for the marriage consent. Not to mention that today in our civilization it is literally a fashion trend to enjoy a life together without a child, which represents an unnecessary burden not only for the spouses themselves, but most recently also for the planet. The various causes of the suspension or permanent exclusion of offspring are the content of the first part of this chapter.

The second part of this chapter tells us that, to a large extent, fertility problems are also related to the human psychological aspects, which is devoted to the next part. There are situations where one of the spouses suffers from a personality disorder that causes the inability to expect a child, or an inability to decide to expect a child. Or the mentally healthy side consciously decides not to have a child with a husband who suffers from such a disorder, because he cannot imagine bringing a child into an environment that would be unhealthy for his upbringing.

In recent years, however, we have increasingly encountered the fact that couples are unable to expect a child. The last two parts of the second chapter therefore approximate the individual causes of both primary and secondary infertility, i.e., the inability to conceive a child by both men and women, or, in particular, the inability to deliver a conceived child on the part of a woman, these are highly technical topics in the field of medicine and biology. Genetics, injuries, diseases, consequences of diseases, civilizational progress, environmental pollution are all possible causes of the increasing incidence of infertility in both men and women.

The third chapter of this work, the method of which is critical, is devoted to a critical analysis of selected judgments of the Metropolitan Tribunal in Bratislava concerning childless marriages. In the practice of church tribunals, such cases of childless marriages are common. As the research showed for the needs of this work, they formed a significant majority at the Metropolitan Tribunal in Bratislava. After going through the entire archive of this tribunal, childless marriage cases were about eighty percent. About a third of this number was investigated with a view to excluding offspring from one or both sides, and the other two thirds were cases of different disabilities to have offspring. That is why fertility problems are the topic of this work, since the research thus defined takes into account all cases of childlessness in marriage, which were examined at the Metropolitan Tribunal in Bratislava during the first ten years of its existence.

As a result of this work, it is finding that marital fertility is one of the foundations of the functioning of human society throughout history and in all cultures. From the point of view of faith, it is the absolute basis of God's plan for man, who continues in God's work of creation. From the point of view of philosophy, it is the subject of reflection on the functioning of the company and its ability to survive. From the point of view of law, it is seen as an institute for the preservation of the common good and is protected and supported by legislation. This work has managed to identify a common element of these views on marital fertility: it is a tool for reproduction of man and society as a whole. Marital fertility is commanded and blessed by God, philosophically highlighted and explained and protected and supported by law.

It is not easy for church judges or canon law experts to be an expert in specialized fertility issues. Although they can obtain basic information during theological studies, it is

appropriate to expand their knowledge of the field. Therefore, for the fair assessment of ecclesiastical courts, the help of experts in specific disciplines is essential.

The advantage of this work is that it can help church judges to better understand the broad topic of fertility. Church court staff may find it helpful to review specific fertility issues or at least basic information on related specialized issues. Thanks to the used professional literature, which is usually not found in the canonical library, it is possible to better understand the most common reasons for excluding the good of offspring in men and women and the reasons that prevent conception.

The work also points out that today's modern man often sees marital fertility as a problem for various reasons. Either wants to avoid it, because for some reason decides not to have children, or desires them, but can't have a children. In one case or another, such fertility problems from the point of view of canon law may invalidate the marriage consent, which is the subject of an investigation by the church courts.

The general benefit of this work is that it can help church judges to better navigate the broad topic of fertility problems. For church court staff, an overview of the individual fertility problems and at least basic information on professional issues related to the topic can be useful. Thanks to the professional literatures, which is not normally found in the canonist library, it is possible to get to know better the most common causes of the exclusion of offspring by both men and women, as well as acting aimed at preventing the conception of a child.

The specific contribution of this work is the fact that individual problems with fertility and their impact on the validity of marriage are illustrated on the practice of a particular church court – the Metropolitan Tribunal in Bratislava.