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Theological Considerations in Defining Marriage to Include Infertile Older Couples but not Same-Sex Couples

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THEOLOGICAL CONSIDERATIONS IN DEFINING MARRIAGE TO INCLUDE INFERTILE OLDER COUPLES BUT NOT SAME-SEX COUPLES

By

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Thesis

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Introduction

Typically, marriage is described as a procreative institution,¹ hence the necessity of sexual difference. The drive to redefine marriage in the law and in religious practice rejects sexual difference as an essential element of the institution and, using sexual difference as a proxy for procreative potential, this campaign asserts that procreation is instead an accidental property of marriage. Those favoring a design change from the "one man, one woman" model to "two persons" point to the tradition that extends marriage eligibility to a man and woman who together seek to enter the marital status at a stage beyond their childbearing years. If due to their age-related condition of infertility this subset of marriage applicants need not demonstrate the capacity to conceive and bear children, then how can sexual difference itself be considered an essential element of marriage?

Proponents of redefining marriage (so as to no longer reference sexual difference) argue that the inclusion of post-menopausal couples consisting of both sexes while same-sex couples are considered ineligible is primary evidence of what they take to be the irrationality of the traditional understanding of marriage.² A thorough-going appraisal of how the post-menopausal union qualifies as marriage is critical to the defense of recognizing sexual difference as integral to marriage. Understanding what it is about the older couple that renders them eligible for marriage despite their obvious age-related condition of infertility and at the same time what


² “[For defenders of tradition,] their real position is that the possibility of procreation defines marriage when homosexuals are involved, but not when heterosexuals are involved. To put the point more starkly, sterility disqualifies all homosexuals from marriage, but it disqualifies no heterosexuals. So the distinction is not pro-procreation (much less pro-children) at all. It is merely antihomosexual.” Jonathan Rauch, Gay Marriage: Why It Is Good for Gays, Good for Straights, and Good for America (New York: Henry Holt and Company, LLC, 2004), 126.
differentiates this couple from a same-sex couple should illuminate why the definitional line is drawn the way it is. The case of allowing for the octogenarian newlyweds may be the most difficult one to defend given the apparent similarities, with respect to the procreative end of marriage, between the older man and woman clearly no longer able to beget a child together because of infertility, and a same-sex couple.³

In the Roman Catholic liturgy celebrating the sacrament of marriage, the priest asks the bride and groom a series of questions so that each may declare his or her intentions "in the presence of the Church" before exchanging vows.⁴ One of the declarations, concerning children, need not be expressed by all couples. The official rubrics specify that the priest does not have to inquire of, "for example," those couples "advanced in years" whether they are open to accepting children "from God." The relevant rubrics in their entirety read:

> And so, in the presence of the Church, I ask you to state your intentions.

> The priest then questions them about their freedom of choice, faithfulness to each other, and the acceptance and upbringing of children.

> (Name) and (Name), have you come here freely and without reservation to give yourselves to each other in marriage?

> Will you love and honor each other as man and wife for the rest of your lives?

³ I had once a conversation with Charles Cooper, the lead attorney defending against legal challenge California’s Proposition 8, a referendum measure defining marriage as the union of one man and one woman. He said then, during the course of the litigation, that the infertile couple scenario was the hardest question he had to face. The instances wherein the infertility scenario is presented as exhibit A of the supposed irrationality and injustice of defining marriage as the union of the sexes are too numerous to recount.

The following question may be omitted if, for example, the couple is advanced in years.

Will you accept children lovingly from God and bring them up according to the law of Christ and his Church?

Each answers the questions separately.

In short, not every couple considered eligible by the Church to enter the sacrament of marriage needs to demonstrate the capacity to naturally conceive children and thus be called to declare an intent to be open to children. Particularly exempt are any couples advanced in age, physically beyond the time, and obviously so, where reasonably it could be expected of God to fructify their union. No medical examination would be necessary to determine their infertile condition.

The civil law has followed the same approach. A majority of justices on the United States Supreme Court, when voting in 2015 to require the states to extend civil marriage status to same-sex couples, observed in their ruling that:

An ability, desire, or promise to procreate is not and has not been a prerequisite for a valid marriage in any State. In light of precedent protecting the right of a married couple not to procreate, it cannot be said the Court or the States have conditioned the right to marry on the capacity or commitment to procreate. The constitutional marriage right has many aspects, of which childbearing is only one.5

Does this feature of sacramental and secular marriage traditionally defined, a feature apparently creating a definitional exception that allows for the inclusion of some but not all non-reproductive couples in a manner that appears to gut the rule—the rule being that marriage is a procreative reality—render the traditional understanding incoherent and unjust? Not only civil entities such as legislatures and courts but also religious institutions are grappling with the claim

of unfair treatment. This challenge has prompted moves in both sectors to allow same-sex couples to apply for civil marriage licenses and to participate in religious wedding ceremonies. The practice of allowing infertile older couples to marry has played a critical role in these campaigns for redefining marriage by being offered as Exhibit A in support of the charge of unjust discrimination.\(^{6}\)

This Thesis addresses the accusations of incoherence and injustice from a theological perspective, focusing on Roman Catholic teaching. After all, it is part of Catholic doctrine that the author of marriage is God.\(^{7}\) What could possibly be the divine purpose for establishing an institution ostensibly directed to procreation that nonetheless anticipates the eligibility of some, but not all couples incapable of generation? Is the line drawing as attributed to God’s will unjust? Is it instead our understanding of God’s will that is deficient? Neither is the case.

**This Thesis argues in Part I** that personal conjugality is what provides the defining structure of marriage. This argument will be based on the personalist conception of marriage, presupposing a unity of mind and body, as proposed by the Council Fathers in Vatican II, as applied by Pope Paul VI in his teaching on the unitive and procreative meanings of the conjugal act, and as expanded upon by Pope John Paul II in his catechesis on the theology of the body. From the theological perspective of these three magisterial sources, the conjugality of marriage consists in the total self-giving and mutual enrichment that only a man and a woman, through

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\(^{6}\) Particularly apt examples include, in the legal arena, the court ruling written by Judge Richard Posner in Baskin v. Bogan, 766 F.3d 648, 661-62 (7th Cir. 2014) (faulting the states of Indiana and Wisconsin for permitting obviously infertile older couples but not same-sex couples to obtain marriage licenses) and, in the religious arena, the statement in The Episcopal Church, Office of Communication, *To Set Our Hope on Christ: A Response to the Invitation of Windsor Report* ¶ 135, paras. 2.26 and 2.27, pages 26-27 (citing the marriages of infertile couples as the basis for separating marriage’s unitive and procreative ends in order to allow for the approval of liturgical celebrations for those in same-sex sexual relationships), available online at [http://archive.episcopalchurch.org/documents/ToSetOurHope_eng.pdf](http://archive.episcopalchurch.org/documents/ToSetOurHope_eng.pdf), visited February 15, 2016.

\(^{7}\) *Catechism of the Catholic Church*, no. 1603.
their sexual difference and related capacity to enter into the conjugal act, can promise to each other. This exchange of “self”-giving and “other”-receiving enriches each of the sexes through and because of sexual difference, and enables a mind-body communion of persons consummated by but not limited to the conjugal act. Through its attribute of conjugality, i.e., enabling the integral joining of man and woman through the conjugal act, marriage retains its procreative orientation even when, due to infertility, reproduction does not appear possible.

The argument conducted herein differs from secular treatments that examine the philosophical and natural law aspects at stake.\(^8\) In their embodied sexual complementarity, revealed in the personal integration of each one’s mind and body, man and woman together image the interpersonal exchange within the Trinitarian God through their one-flesh union. In addition, each person, precisely as male or female, is equipped thereby in the afterlife, through the resurrection of the body in its sexually differentiated identity, to enter into a communion of persons with the Trinity and the saints.

**The Thesis further examines in Part II** the theological role of sexual difference in connecting marriage between baptized persons to the union of Christ with the Church. This union manifests in a concrete and overarching way the intimate one-flesh joining of God with God’s creation. Without reference to the conjugal act which requires different means of personal participation in the act’s completion, where one initiates and the other receives, and which effectuates an integration of two different persons that knows no equal in nature, the Incarnation of the Son of God could not be truly understood for what it really is—the closing off of any distance between the divine and the human without negating the latter. Even an infertile couple

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consisting of a man and a woman can image this intimacy through the conjugal act, while those incapable of uniting conjugally lack the natural means by which the one-flesh joining of Christ and the Church is revealed and made present sacramentally.

**The Thesis argues in Part III** that the redefinition of marriage, eliminating sexual difference as a defining characteristic, thereby creates a countersign that disputes what Divine Revelation, as interpreted in Catholic teaching, otherwise has made evident. Theologically, the body in its sexually differentiated forms carries a distinct and fundamental meaning, as it really and uniquely communicates something true about more mysterious realities. How this is so will be demonstrated by discussing the revisionary theology behind the new “genderless” marriage doctrine of The Episcopal Church and its implications for how one understands God, the human person, and the relationship between both.⁹

**Part I: The Theological Import of the Conjugal Self-Giving That Is Possible Only Between a Man and a Woman from the Personalist Teaching of Vatican II, Paul VI and John Paul II.**

How is it that a man and a woman past their child-bearing years, unquestionably infertile, are still considered to be eligible to marry each other, and yet a same-sex couple is not considered eligible? This Part focuses on the theological teaching of Vatican II, Pope Paul VI and John Paul II to provide a response. In the Second Vatican Council, the Council Fathers laid the groundwork for what has been called a “personalist” understanding of marriage that did not abandon earlier doctrine about marriage being a procreative institution, but placed the human person, man and woman, at the center of attention, and highlighted the importance of each being an enriching gift to the other. The Council Fathers also emphasized the fundamental relevance of

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⁹ The Thesis does not attempt to incorporate the teaching found in the apostolic exhortation of Pope Francis on marriage and the family, *Amoris laetitia*, as this document was issued after the drafting of the Thesis was substantially completed.
the body as part of one’s personal being. Pope Paul VI affirmed the inseparable connection between the procreative and unitive meanings of the conjugal act in marriage. Both of these developments provided Pope John Paul II with the opportunity to develop his theology of the body with respect to the mutual enrichment that only a man and a woman are capable of promising to each other, an enrichment that uniquely signifies and makes present certain spiritual realities. Each source of magisterial teaching will be taken in turn, showing how each applies to the topic of this Thesis.

I (A). Vatican II’s *Gaudium et spes*. Among other subjects, the Council Fathers addressed marriage and the family in the Pastoral Constitution *Gaudium et spes*. The conciliar teaching identified several foundational principles relevant to the question being addressed by this Thesis: how can an older infertile couple qualify for marital status given the procreative nature of marriage, and yet a same-sex couple cannot?

First, the Council Fathers noted in the first part of *Gaudium et spes*, in a section on the “Dignity of the Human Person,” that the human body must be recognized as an essential element of the human person:

> Though made of body and soul, man is one. Through his bodily composition he gathers to himself the elements of the material world; thus they reach their crown through him, and through him raise their voice in free praise of the Creator. For this reason man is not allowed to despise his bodily life, rather he is obliged to regard his body as good and honorable since God has created it and will raise it up on the last day. Nevertheless, wounded by sin, man experiences rebellious stirrings in his body. But the very dignity of man postulates that man glorify God in his body and forbid it to serve the evil inclinations of his heart.

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11 Ibid., no. 14.
Given the body’s personal significance, the salvation story must take into account the whole person, mind and body: “God has called man and still calls him so that with his entire being he might be joined to Him in an endless sharing of a divine life beyond all corruption.”

Thus if, as taught by the Council Fathers, “[t]he root reason for human dignity lies in man’s call to communion with God,” then this dignity extends to one’s body, and the promised communion in salvation will involve both mind and body.

Second, besides underscoring the body’s importance in one’s personal life and dignity, the Council Fathers described what is to be considered the principle law of social life. This law is found written in the heart—the divine law of love that calls for personal communion to be accomplished through the free and mutual gift of self, a giving of mind and body that finds its source and model in God’s Trinitarian life:

[T]he Lord Jesus, when He prayed to the Father, "that all may be one. . . as we are one" (John 17:21-22) opened up vistas closed to human reason, for He implied a certain likeness between the union of the divine Persons, and the unity of God’s sons in truth and charity. This likeness reveals that man, who is the only creature on earth which God willed for itself, cannot fully find himself except through a sincere gift of himself.

These conciliar reflections concerning human dignity are relevant to the focus of this Thesis for three reasons. First, in attempting to answer the question of what qualifies anyone for marriage as authored by God, the body must be considered along with the mind and will, because the body is part of what constitutes the human dignity of the whole person. Second, as what the Council Fathers described to be “a primary form of interpersonal communion,” marriage must

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12 Ibid., no. 18 (emphasis added).
13 Ibid., no. 19.
14 Ibid., no. 24. At the end of this section, a footnote referred to Luke 17:33: “Whoever seeks to gain his life will lose it, but whoever loses his life will preserve it.” Ibid., no. 24, note 2.
15 Ibid., no. 12.
be marked by self-gift. The call to a sincere gift of self will become a central basis of Pope John Paul II’s theology of the body. Third, the communion found in marriage must reflect God’s inner life in some fundamental way, which Pope John Paul II will further explore.

The Council Fathers then took up the topics of marriage and family in the second part of *Gaudium et spes*. Three teachings found here are particularly relevant.

First, for Christians, the conjugal love expressed by the marriage covenant wells up “from the fountain of divine love.” Such love has a “structure” that is modeled on Christ’s union with the Church and prefigured by God’s coming to be present and forming a “covenant of love and fidelity” with the people of Israel. Christ abides with the couple, and calls them to “perpetual fidelity through mutual self-bestowal” in the same manner as how “He loved the Church and handed Himself over on her behalf.” For a relationship to be considered marital, it must be capable of a total self-giving, a mutual self-bestowal, as originally advanced through these two divinely-initiated covenants, God-Israel, Christ-Church. There is evident here a pattern of bestowal and acceptance.

Second, a couple’s marital love “involves the good of the whole person, and therefore can enrich the expressions of body and mind with a unique dignity, ennobling these expressions as special ingredients and signs of the friendship distinctive of marriage.” Accordingly, in referring to the conjugal act as “the appropriate enterprise of matrimony,” the Council Fathers held that in marriage:

16 Ibid., nos. 47-52. These numbers constitute the first chapter in part 2, entitled “Fostering the Nobility of Marriage and the Family.”

17 Ibid., no. 48.

18 Ibid., no. 49.
This love is uniquely expressed and perfected through the appropriate enterprise of matrimony. The actions within marriage by which the couple are united intimately and chastely are noble and worthy ones. Expressed in a manner which is truly human, these actions promote that mutual self-giving by which spouses enrich each other with a joyful and a ready will.\footnote{Ibid.}

The capacity to unite through the conjugal act is what makes marital love unique. The conjugal act enables the couple to engage in a “mutual self-giving by which spouses enrich each other.” This reference to conjugal enrichment will take on greater importance in John Paul II’s reflections on the theology of the body and will be especially relevant to evaluating the difference between the older infertile couple and a same-sex couple.

Third, the Council Fathers taught that while the entry into marriage is to be freely chosen, and manifests the subjective, self-giving love of the couple for each other, the “sacred bond” that is formed is endowed with various objective features of which God, not the married couple, is the “author.” Thus the marriage “no longer depends on human decisions alone.” The Council Fathers refer here to the link between marital love and the begetting of children and their education. This connection is supplied by God and does not originate with the couple: “By their very nature, the institution of matrimony itself and conjugal love are ordained for the procreation and education of children, and find in them their ultimate crown.”\footnote{Ibid., no. 48.} In their explaining of what this procreative ordering consists of, the Council Fathers provided yet another insight pertinent to the question being addressed by this Thesis concerning infertile couples vis-à-vis same-sex couples.

The English translation of \textit{Gaudium et spes} speaks of a married couple being subject to a “duty to procreate” and also being responsible for carrying out the “proper mission” of
“transmitting human life.” The duty and mission are rooted in the call of God in Genesis 1:28 for the man and woman in marriage to “increase and multiply.” Yet, according to the Council Fathers,

Marriage to be sure is not instituted solely for procreation; rather, its very nature as an unbreakable compact between persons, and the welfare of the children, both demand that the mutual love of the spouses be embodied in a rightly ordered manner, that it grow and ripen. Therefore, marriage persists as a whole manner and communion of life, and maintains its value and indissolubility, even when despite the often intense desire of the couple, offspring are lacking. \(^{21}\)

While procreation is to be regarded as an objectively indicated end of marriage, the marriage itself comes into existence and “persists” even when children are not generated in the marriage. The ends of marriage should not be confused with its essence.\(^ {22}\) The end of achieving procreation does not come into existence, that is, a child is not conceived, when marriage comes to be. Rather, the end is distinct from what constitutes marriage itself.

Yet, according to the Council Fathers, an *ordination* to the end of procreation arises from the creation itself of a marriage. This *relation* to children, and not the child *per se*, is associated with the institution of marriage and conjugal love “by their very nature.”\(^ {23}\) Thus while not every marriage achieves this naturally ordered end of begetting children, every marriage should be ordered to this end. What does it mean for marriage to be *ordered* to procreation?

The Council Fathers recognized that this order has both a physical and a spiritual component, i.e., it is manifested through the body as well as through the mind or will. The physical ordering is found in the “sexual characteristics of man [humanity] and the human

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\(^{21}\) Ibid., no 50.


\(^{23}\) *Gaudium et spes*, no. 48.
faculty of reproduction,” and also in the “acts themselves which are proper to conjugal love,” i.e., sexual intercourse. The spiritual ordering is found in the biblical call to procreate.

The Council Fathers described this call and corresponding “duty” not in terms of a couple getting married only to have children or in terms of always resigning themselves to try to have children. Rather, in accord with this duty, “the acts themselves which are proper to conjugal love and which are exercised in accord with genuine human dignity must be honored with great reverence.” This requires on the part of the couple an acceptance of, a reverent regard for, the capacity of the sexually differentiated body and the conjugal act to generate new human life. The duty thus prohibits the couple from resorting to means of birth control that interfere with the natural procreative capacity of the conjugal act or that destroy a child’s life. This duty does not obligate the couple to focus every effort on conceiving a child. Rather, while always respecting the procreative nature of the conjugal act, the couple may take into account the impact on themselves, their family and others from having more children. They may choose not to have a child as long as the decision is not made arbitrarily or utilizes immoral means.

“Hence,” the Council Fathers advised,

while not making the other purposes of matrimony of less account, the true practice of conjugal love, and the whole meaning of the family life which results from it, have this aim: that the couple be ready with stout hearts to cooperate with the love of the Creator and the Savior, Who through them will enlarge and enrich His own family day by day.

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24 Ibid., no. 51.
25 Ibid.
26 Ibid.
27 Ibid., no. 50.
28 Ibid.
This teaching highlights the integration between mind, will and body that is necessary for carrying out God’s will in marriage. An objective link to procreation is found in the physically embodied characteristics of the conjugal act, which point to human reproduction, and one must exercise the will in a way that accepts the procreative structure of the human body and the conjugal act.

In sum, a root distinction between an infertile older couple consisting of both sexes, deemed eligible to marry, and a same-sex couple, deemed ineligible, is not procreation per se. Taking into account the teaching in Gaudium et spes, the distinguishing factor instead is the capacity to unite in the conjugal act. This act provides for the possibility of a mutual enrichment between a man and a woman, and procreation is linked to the conjugal act through the act’s naturally procreative design. Rather than being capable of reproduction, strictly speaking, the older couple must be capable of entering a relationship that is ordered to procreation. Thus they must be capable of uniting conjugally and must accept that their conjugal joining is procreatively ordered. The same-sex couple cannot do so.

Why is such a distinction relevant? In comparing the infertile older couple and a same-sex couple, certain criteria that the Council Fathers highlighted as discussed above—the centrality of the body to personhood, the importance of self-gift, and a certain correspondence to the divine act of self-giving—must be taken into account. At this stage of the analysis, it suffices to note that the body possesses a male and female form, that according to Genesis the man and the woman together in their interpersonal communion image God, and that each must give of one’s self in a different and complementary way in order to consummate a marriage. The theological significance of these points will be addressed as the analysis moves forward to reflect on Pope Paul VI’s and Pope John Paul II’s contributions.
I (B). Papal Teaching. It is beyond the scope of this Thesis to review the magisterial teaching on marriage before Vatican II, which in so many areas—including marriage—succeeded in renewing tradition and introducing authentic developments in doctrine. One observation concerning the past in relation to the present should be noted, however. Prior to Vatican II, the magisterium treated procreation as the “primary end” of the institution of marriage and mutual support as its “secondary end,”\(^{29}\) while after the Council, “the language of a hierarchy of distinct ends remains conspicuously absent in virtually all subsequent magisterial documents.”\(^{30}\) In *Humanae vitae*, the 1968 encyclical of Pope Paul VI, the magisterium began to speak of an “inseparable connection between the unitive significance and the procreative significance which are both inherent to the marital act”\(^{31}\) without ranking either or referring to them as institutional ends. Both are equally significant, they are always intertwined, and they are to be apprehended in personalist, and not strictly institutionalized terms alone. This doctrinal development shaped the papal teaching of Popes Paul VI and John Paul II in particular.

I (B) (1). Pope Paul VI. Pope Paul VI had directed the Council Fathers to reserve to him for final determination the question of the licitness of medical means of altering the woman’s ovulatory cycle to avoid conception.\(^{32}\) He announced his finding in *Humanae vitae* regarding the

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use of anovulants, artificially produced hormonal mixtures that alter the woman’s ovulatory cycle by rendering her sterile, and are collectively and popularly referred to as “the pill.” He concluded that resort to their use to intentionally “prevent procreation—whether as an end or as a means,” was morally impermissible.\textsuperscript{33} In reaching this conclusion, the encyclical added to what was found in \textit{Gaudium et spes} with respect to the nature and essential meaning of marriage.

Pope Paul VI observed that “each and every marital act [of genital sexual intercourse] must of necessity retain its intrinsic relationship to the procreation of human life” even though it is obvious, given the infertile stages of the woman’s ovulatory cycle and other natural limits to fertility, that “new life is not the result of each and every act of sexual intercourse.”\textsuperscript{34} The necessary connection with procreation is evident in the “fundamental nature” of the conjugal act which, “while uniting husband and wife in the closest intimacy, also renders them capable of generating new life—and this as a result of laws written into the actual nature of man and of woman.”\textsuperscript{35}

While cited by Paul VI for other propositions and not for this exact point, an address by Pope Pius XII in 1951 to an association of Catholic obstetricians and midwives offered a helpful analogy that gets to what \textit{Humanae vitae} was trying to say. Pius XII used the analogy of an eye with a physical defect to show how even a marriage that was childless did not cease to be ordered to its procreative end. Rather, because it is between a man and a woman, and arises “as an institution of nature, in virtue of the Creator’s will,” every marriage is ordered to procreation,

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\begin{itemize}
\item \textsuperscript{33} Pope Paul VI, \textit{Humanae vitae}, no. 14.
\item \textsuperscript{34} Ibid., no. 11.
\item \textsuperscript{35} Ibid., no. 12.
\end{itemize}
even if no offspring results, just as of every eye it can be said that it is destined and formed to see, even if, in abnormal cases arising from special internal or external conditions, it will never be possible to achieve visual perception.”

Just as the eye is designed by God to see, as evidenced by its physical constitution, the conjugal act is designed with procreation in mind, in the mind, that is, of God, the one who drew up the plans for and then formed the male and female human body. Seeing is the essence of what an eye does, as determined by a common-sense assessment of the eye’s design. The eye’s failure to see in any particular case despite its being designed to see is an accidental result that does not vitiate the eye’s ordination towards sight. In the same manner, when a husband and wife join conjugally, their bodies, designed as they are to facilitate the creation of a new human life, bring into the relationship the “significance” of both unity and procreation. The procreative significance is made present by virtue of the natural complementary design of the sexually differentiated bodies of the man and the woman. From this perspective, the natural failure of the conjugal act to beget a child in any particular case, despite its being designed by God to procreate, is thus also perceived by the magisterium to be an accidental result that likewise does not vitiate the act’s ordination towards procreation.

These references to “nature,” “ordination,” sightless eyes, and biological rhythms of infertility may prompt the question of “so what?” At this stage of the inquiry, looking into what is the something that is the defining essence of marriage, it is pertinent how Pope Paul VI conceptualized procreativity, or more specifically, the procreative significance and ordination of the conjugal act, in the way he did. He did not subscribe to the view that marriage and marital

36 Pope Pius XII’s address is available only in Italian and Spanish on the Vatican’s website: https://w2.vatican.va/content/pius-xii/it/speeches/1951/documents/hf_p-xii_spe_19511029_ostetriche.html. The quote here is taken from an English translation by Ronald L. Conte, Jr., online editor of CatholicPlanet.com. Pope Pius XII, Address to Midwives/Address to the Conference of the Italian Catholic Union of Obstetricians in Collaboration with the National Federation of Colleges of Catholic Midwives, October 29, 1951, no. 51, http://www.catholicplanet.com/TSM/Address-To-Midwives-Pius-XII.htm, visited March 8, 2016.
sex are, as is sometimes heard in the marriage definition debate, “all about the children,” and yet he also did not endorse the opposing view that marriage and sex are solely about the love between adults with only an incidental connection to children.\textsuperscript{37}

At the direction of Vatican II, Pope Paul VI began to chart instead a middle course between these two polar ways of envisioning marriage, bringing into greater clarity the personal nature both of the human body and of embodied love. \textit{Humanae vitae} thus continued along the path first marked out by the Council Fathers in approaching marriage and sexuality as deeply personal and fully embodied human realities created by God, rather than just as abstract institutions of nature, as important as this dimension may be. This change in paradigm provided the doctrinal basis for a new form of theological anthropology, involving the study of a personally embodied humanity, contemplated precisely as a work of the ineffably personal Divine.\textsuperscript{38}

Specifically, Pope Paul VI affirmed Vatican II’s personalist approach by treating the human body as a personal good and integral creation of God and, taking into account the body’s complementary structure, as a sign and conduit of God’s loving providence. Neither is sexual difference strictly material and thus entirely separable from, and completely and arbitrarily subject to, the will and the intellect,\textsuperscript{39} nor is the fact of sexual difference to be submitted to as if

\textsuperscript{37} See Pope Paul VI, \textit{Humanae vitae}, no. 12 (teaching that “if each of these essential qualities, the unitive and the procreative, is preserved, the use of marriage fully retains its sense of true mutual love and its ordination to the supreme responsibility of parenthood to which man is called”).

\textsuperscript{38} “If I had to state in a single phrase the perspective from which the following pages proceed, it is this: a \textit{theological anthropology} on the model broadly outlined by John Paul II, which is to say, a view of man and the world as only fully explicable by the data of revelation, but one that also affirms the modern emphasis on human freedom, the rights of conscience, and the value of reason.” Robert Royal, \textit{A Deeper Vision: The Catholic Intellectual Tradition in the Twentieth Century} (San Francisco: Ignatius Press, 2015), 20.

\textsuperscript{39} Ibid., no. 17 (recognizing that there are limits to the person’s power over one’s body and its natural functions).
it were the controlling source of passion, exacting an irresistible force that irremediably enslaves the will and intellect.\textsuperscript{40} Instead the body is a created means by which God’s communication of love is incarnated and the human being’s salvation fulfilled.\textsuperscript{41}

Moreover, the spiritual element of the human person, one’s intellect and will, because it is also created by God, is capable of discovering and resonating with God’s will as revealed in the sexual design of the body. This design, even when its evident purpose does not and cannot come to fruition in the generation of a new child due to external circumstances, still orders the husband and wife towards the embodied procreative purpose. Pope Paul VI explained that one must develop an attitude of openness to God’s will with respect to the transmission of life, as evidenced in the naturally procreative orientation of the conjugal act,\textsuperscript{42} and not undertake any measure for the purpose of thwarting the conjugal act’s biological capacity to result in the conception of a child.\textsuperscript{43} The 1968 encyclical affirmed that the mind and body are both integral elements of the human person and that they both always contribute to the significance of the conjugal joining of the husband and the wife.

What then of the obvious fact that while every marriage is formed by acts of the intellect and will, expressing love and commitment, not every marriage bodily results in children. Does this mean that marital love and children are only incidentally connected to each other, and even opposed? For the Catholic Church there is instead a substantial unity that integrates these ends,

\textsuperscript{40} Ibid., no. 21 (speaking of the possibility and value of self-discipline).

\textsuperscript{41} “For man cannot attain that true happiness for which he yearns with all the strength of his spirit, unless he keeps the laws which the Most High God has engraved in his very nature.” Ibid., no. 31.

\textsuperscript{42} “[T]o experience the gift of married love while respecting the laws of conception is to acknowledge that one is not the master of the sources of life but rather the minister of the design established by the Creator.” Ibid., no. 13.

\textsuperscript{43} Ibid., no. 14 (teaching that “excluded (as immoral) is any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation—whether as an end or as a means”).
involving two different but intrinsically related expressions of one focal reality, the human person. Any determination of what constitutes the essential properties of marriage must take into account the unity of mind and body in each person, a unity that incorporates both love and procreative potential.

Thus any definitional calculus that uses the fact that though all marriages presume love but not all marriages result in children to argue that sexual difference is an accidental property of marriage overlooks another possibility of what marriage is all about—the human person created by God as male and female. The personalist approach taken by Vatican II and *Humanae vitae* requires one to contemplate marriage not just in terms of either its procreative end or its unitive end, considered separately from each other, but in terms of the integration of both love and procreation in the very being of the human person who is both mind and body and thus, as a sexually embodied person, either male or female.

One final observation is in order before moving on to Pope John Paul II. The question being considered by this Thesis, concerning how to explain the marital eligibility of an older man and woman who are past child-bearing age as compared to the ineligibility of two persons of the same sex, will turn partly on how each couple relates to the occurrence of procreation. With procreation in exclusive focus, however, there can be a tendency to think of the older man and woman as entering a relationship that is viewed as somehow less than the marriage of a younger couple also consisting of both sexes, because the former can no longer hope realistically for begetting children while the latter still can. Maybe to some observers the older couple presents only a symbolic representation, strictly through their sexual difference, of the procreative significance of marriage, and in their presumed generative inability stand as “free riders” of an
institution aimed at regularizing procreation.⁴⁴ Such downgrading of the category of older couples as compared to younger couples might come about because there is an unduly narrow emphasis on procreation as an institutional and separate end rather as also an anthropological ordination intrinsically joined to the unitive significance of a conjugal relationship.

Advocates for redefining marriage try to explain away the infertility of the older union of man and woman by pointing to love and friendship as the common denominators to all marriages and thus of defining concern, so one might argue, for all individuals seeking to marry. But the personalist approach that the Vatican II Fathers embarked upon, and Pope Paul VI confirmed, suggests yet another way to visit this whole matter.

If the something that makes marriage marriage is the total self-giving of each person, such that there is a comprehensive gift of mind and body on the part of both, then all conjugal-capable couples regardless of age or expectation of fertility stand in the same place while at the same time all such couples are differentiated from couples unable to unite conjugally. Within the category of conjugal-capable couples, the older couple’s relationship is not a symbolic “look-alike” which is to be regarded as being a lesser state of “marriage-lite” when compared to the younger couple’s marriage. Rather, because of their ability to communicate their love and friendship through their vows and the conjugal act, basing their sharing of the whole of life on the totality of their joining in both mind and body, and thus possessing through that joining both the unitive and procreative significance of conjugality, the older couple expresses all that the younger couple expresses when they marry. The Church indeed considers children to be the crown of married life, a desired and fundamental end, but the “royal” state, so to speak, does not

⁴⁴ See Judge Posner’s argument to this effect in Baskin v. Bogan, 766 F. 3d at 661 (“The state treats married homosexuals as would-be ‘free riders’ on heterosexual marriage, unreasonably reaping benefits intended by the state for fertile couples. But infertile couples are free riders too. Why are they allowed to reap the benefits accorded marriages of fertile couples, and homosexuals are not?”).
first reside in the crown. Rather, such crown, if and when bestowed by God through the procreation of a child, presupposes a pre-existing royalty, which already resides in every married couple regardless of fertile capacity. The crown, the child, reveals in his or her fusion of genetic contributions from both parents an already existing conjugal bond, a royal union, between those parents.45

In sum, the Catholic Church recognizes that the total gift of self between a husband and wife, fully personal because this giving, as a totality, involves both mind and body, is the something that makes marriage marriage. This something is rooted in but not exhausted by the capacity to bodily join in the conjugal act, which capacity in and of itself possesses both a procreative and unitive meaning. Thus while not every marriage is fertile, every marriage is conjugal, and thus every marriage is ordered both to personal communion and to procreation. Why does embodied conjugality matter? The teaching of Pope John Paul II on the theology of the body provides deeper insight.

I (B) (2). Pope John Paul II. When Pope John Paul II delivered a series of catechetical addresses at the beginning of his papacy on what he called the “theology of the body,” a major

45 The crown of marriage, i.e., a child, nonetheless possesses his or her own independent dignity, which comes from God and does not derive from his or her parents being married to each other. The child’s dignity and corresponding human rights accrue at conception even when the parents are unmarried or the sexual act is non-consensual. Yet the institution of marriage is designed to uphold and serve the child’s dignity by uniting the parents to each other and to their children. See Paul VI, *Humanae vitae*, no. 21 (observing that because marriage requires both spouses to practice respectful and chaste relations together, various benefits are realized, including allowing the spouses to have a “deeper and more effective influence in the education of their children” such that the children can “develop a right sense of values and achieve a serene and harmonious use of their mental and physical powers”).

concern of his was to defend the teaching on marriage of Vatican II and *Humanae vitae*, as applied to artificial contraception, against charges that this teaching overly privileged the human body as a source of moral norms. It is in how Pope John Paul II responded to these charges that one can discern the theological basis in Catholic teaching for defining marriage as the union of one man and one woman, so as to include even older couples past child-bearing age but not couples of the same sex.

The Thesis will discuss the contributions of Pope John Paul II in two stages. First, his theology of the body developed the personalistic understanding of marriage in a way that helps further to dispel whatever appearance of disparity one might see when considering how infertile older couples but not same-sex couples can qualify for marriage. When a man and a woman give and accept each other through the total gift of self, they are capable of enriching each other at the deepest level of human knowledge—offering what the other lacks and thus what the other will be enriched by—because they are sharing from their radically different experiences of being a man and being a woman. This remains true whether or not the conjugal-capable marital relationship is fertile.

Second, Pope John Paul II’s theology of the body relied on Christian revelation to connect the human body and sexual difference to certain fundamental divine truths that will be obscured if marriage is redefined by eliminating sexual difference as an essential property. The body in its male and female forms not only serves as nature’s means for procreation but also conveys theological meaning with respect to, for example, the conjugal nature of God’s inner Trinitarian life of love and the resurrection of the body.

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I (B) (2) (i). Marriage as Enrichment Through Sexual Difference. John Paul II opened his series of Wednesday talks on the body and sexual difference by referring to the words of Jesus in Matthew 19, where Jesus hearkened back to “the beginning,” the story of humanity’s creation as told in the Book of Genesis, chapters 1 and 2, to respond to a question about marriage and divorce.48 Here is taken up the pope’s reflections on the second chapter in Genesis which, according to John Paul II, “constitutes in some way the oldest description and record of man’s self-understanding.” While the first chapter (speaking of man and woman being created in the image of God) may present “the objective reality of man,” the second “presents the creation of man especially in the aspect of his subjectivity.”49

Here in this part of Genesis God is depicted as creating man and woman in two separate acts, initially forming the man from the ground and then, to address the man’s loneliness and need for a helper, forming the first woman from the sleeping man’s side. Upon his awakening and when he meets her, the man is said to have exclaimed that in the woman at last is bone of his bones and flesh of his flesh. Then afterwards, as it was put biblically, the two shall cleave together as husband and wife and become one flesh. Gen. 2:7, 18, 21-24. For Pope John Paul II this biblical story provided a glimpse into an “original” state of human “consciousness” in which, before the occurrence of original sin, the first human beings came to experience the truth of their own selves, each other, their surroundings, and their relation to God through the mediation of their bodies.50

48 John Paul II, General Audience of September 5, 1979, Talk no. 1, paras. 2-5, in Man and Woman He Created Them, 132-33.


50 John Paul II addressed this second creation account in his talks numbered 5 to 23 in Man and Woman He Created Them, 146-223, where he discussed his concepts of original solitude, original unity and original innocence as derived from his reading of the Genesis text.
What is it that the human body contributed, precisely through its sexual differentiation, to this primordial state of human consciousness? It was the awareness, mediated through that embodied difference, of the possibility of one individual offering, in a way involving the whole person, a gift and source of enrichment to the other individual. According to John Paul II:

Genesis 2:23-25 allows us to deduce that, due to original innocence, the woman, who in the mystery of creation “is given” by the Creator to the man, is “welcomed” or accepted by him as a gift. The biblical text is completely clear and transparent at this point. At the same time, the acceptance of the woman by the man and the very way of accepting her become, as it were, a first gift in such a way that the woman, in giving herself (from the very first moment, in which, in the mystery of creation, she has been “given” by the Creator to the man), at the same time “discovers herself,” thanks to the fact that she has been accepted and welcomed and thanks to the way in which she has been received by the man. She therefore finds herself in her own gift of self (“through a sincere gift of self,” Gaudium et Spes, 24:3) when she has been accepted in the way in which the Creator willed her, namely, “for her own sake,” through her humanity and femininity; she comes to the innermost depth of her own person and to the full possession of herself.\(^{51}\)

This process of deeply personal self-giving presumes that the man’s masculinity is such that something fundamental in the woman’s femininity, something not found in the man, can thus fundamentally enrich the man, i.e., provide to him what he does not otherwise possess, and vice versa:

The man is enriched not only through her, who gives her own person and femininity to him, but also by his gift of self. The man’s act of self-donation, in answer to that of the woman, is for him himself an enrichment; in fact it is here that the specific essence, as it were, of his masculinity is manifested, which, through the reality of the body and of its sex, reaches the innermost depth of “self-possession,” thanks to which he is able both to give himself and to receive the gift of the other. The man, therefore, not only accepts the gift, but at the same time is welcomed as a gift by the woman in the self-revelation of the inner spiritual essence of his masculinity together with the whole truth of his body and his sex.\(^{52}\)


\(^{52}\) Ibid., General Audience of February 6, in Man and Woman He Created Them, 197.
There arises from this reciprocal sharing a personal communion that is built on the complementarity of sexual difference. The man and woman come to know each other (and their own selves) in an original way through their vowing to become and their becoming one flesh, through the conjugal act, and through a sharing of the whole of their lives together, as indicated in Genesis 2:23. Thus, according to John Paul II,

In the light of this text we understand that the knowledge of man passes through masculinity and femininity, which are, as it were, two “incarnations” of the same metaphysical solitude before God and the world—*two reciprocally completing ways of “being a body” and at the same time of being human*—as two complementary dimensions of self-knowledge and self-determination and, at the same time, *two complementary ways of being conscious of the meaning of the body*.\(^{53}\)

If one’s embodied sexual identity is, in the words of John Paul II, “constitutive for the person” and not only “an attribute of the person,” then the exchange of self-giving between a man and a woman, exemplified but not exhausted by the conjugal act, is of a different order and magnitude than would be possible objectively or subjectively between persons of the same sex. The distinction between the two relational categories thus is more than, but it of course includes, the fact that only a man and a woman can physically unite in a manner by which procreation is biologically possible even if not always probable.

This focus on the total self-giving of the husband and wife helps explain why Pope John Paul II was careful to describe the procreative meaning of the conjugal act in personalist terms. Due to its generative significance, he wrote in *Familiaris consortio*, “conjugal love, while leading the spouses to the reciprocal ‘knowledge’ which makes them ‘one flesh,’ does not end with the couple, because it makes them capable of the greatest possible gift, the gift by which

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\(^{53}\) John Paul II, General Audience of November 21, 1979, Talk no. 10, para. 1, *in Man and Woman He Created Them*, 166.
they become cooperators with God for giving life to a new human person.” Yet because there is no separation between the procreative and unitive meanings of that physical joining, “the reality of children,” if and when realized, conveys “a living reflection of [the couple’s conjugal] love, a permanent sign of conjugal unity and a living and inseparable synthesis of their being a father and a mother.”

Thus all conjugal-capable couples stand on the same plane because even those who are infertile can enter into the only form of personal communion, involving both mind and body, that is ever capable of being reflected in and signified by a child’s personal existence. This relation back from the child to the conjugal communion and its exchange of self-giving is what gives the conjugal communion its procreative ordination and does so without requiring every conjugal-capable couple to be fertile.

According then to the personalist reading of Genesis by Pope John Paul II, a woman is unable to be enriched by another woman and a man is unable to be enriched by another man in the same personal way or to the same personal degree as a man and a woman can enrich each other through the reciprocal gift of their total selves. The corollary to this would indicate that each member of each sex already has whatever is the something that is unique to that sex and that every other member of that sex possesses. Thus no one could give one’s self in an exchange that seeks to enrich someone of the same sex in the exact same way and to the same degree that an enrichment in each direction can occur in a conjugal relationship between the sexes. To be enriched is to be provided with what one does not have or with more than what is already possessed. If one already has what another is offering, in this case whatever constitutes the personal totality of being a human male or being a human female, then what is offered by the other as a giving of one’s whole self cannot constitute the type of enrichment that occurs.

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between the sexes. The Pope is staking his personalist claim here on the assumption that sexual identity is indeed a *something* and dually and complementarily so.

Taking Genesis 4:1-2 as his guide (speaking of Adam knowing Eve through the conjugal act), Pope John Paul II identifies the enrichment at stake in marriage in terms of “knowledge:”

In conjugal “knowledge,” the woman “is given” to the man and he to her, because the body and [its] sex enter directly into the very structure and content of this “knowledge.” Thus, the reality of conjugal union in which man and woman become “one flesh” contains in itself a new and in some way definitive discovery of the meaning of the human body in its masculinity and femininity. Yet, in view of this discovery, is it right to speak only of “sexual life together?” One must keep in mind that each of them, the man and the woman, is not only a passive object, defined by his own body and his own sex, and in this way determined “by nature.” On the contrary, precisely through being man and woman, each of them is “given” to the other as a unique and unrepeatable subject, as “I,” as person. [His] sex is not only decisive for man’s somatic individuality, but at the same time it defines his personal identity and concreteness. . . . Such concreteness means both the uniqueness and unrepeatability of the person.55

Thus when the teaching of the Catholic Church, as proposed by Vatican II and refined by Pope Paul VI and Pope John Paul II, considers marriage to be the personal communion of one man and one woman, it in effect sees the essence of the relationship as consisting of the capacity for an original and particularly encompassing form of mutual enrichment involving both mind and body. This enrichment is afforded by a reciprocal giving and receiving of self and results in a corresponding increase in personal knowledge drawn from the horizon that marks the limit between what is man’s experience as man and woman’s experience as woman. This sharing in knowledge is possible only because there is an experientially significant difference between being a man and being a woman, and it is a difference that goes to the roots of human personality.

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When a man and a woman vow to live for and with each other in a faithful and life-long union effectuated in both mind and body, they enter a covenant through which this self-giving and other-receiving exchange of enriching knowledge can begin, though it can never be entirely exhausted. From the perspective of personalism, then, marriage is to be seen more fundamentally as an institution of conjugal enrichment. The enrichment consists in more than just a sharing of love, attention, support and intimacy, as important as these may be in any mutual commitment. It is the total giving of self, consummated by the conjugal act, that integrates and opens knowledge into the two most basic ways of being human. This integral enrichment can occur even when the conjugal-capable husband and wife are infertile.

I (B) (2) (ii). Marriage as Image of Divine Realities Through Sexual Difference. The sexually differentiated body reveals certain theological truths, prompting Pope John Paul II to engage in his “theology of the body” which “is not merely a theory, but rather a specific evangelical, Christian pedagogy of the body,” by which is revealed “what man’s true good is.”56 This theological link bestows upon the body in its male and female forms a fundamental significance that the institution of marriage upholds when defined by reference to sexual difference. In short, the body as a constituent of being a person—being man or woman—matters in every era and at every stage of human existence. The connection between the body, conjugality, and divine realities guides the Church in its understanding of marriage as the conjugal enrichment between the husband and the wife, since it is this feature of the institution that brings into view what otherwise would be hidden completely in mystery.

56 John Paul II, General Audience of August 8, 1984, Talk no. 122, para. 5, in Man and Woman He Created Them, 630.
Given the present-day milieu where there is so much pressure to dismiss the significance of sexual difference when considering what is marriage, it is important to be reminded in how many ways the body remains theologically relevant. According to Pope John Paul II, due to revelation, it can be determined that the human body through its conjugality, i.e., in its male and female forms, a) signifies the self-giving inner life of the Trinity, b) points back to an original state of harmony and holiness, c) evidences the fallen nature of sinfulness, d) has been redeemed by Christ’s incarnation, death and resurrection, and e) points forward to each person’s destiny of being raised bodily as male or female. Each instance will be taken in turn with the goal of providing further insight into why it is appropriate to distinguish between the older and obviously infertile couple and the same-sex couple for purposes of determining marital eligibility.

I (B) (2) (ii) (a). Body as Sign of Trinitarian Self-Gift and Call to Communion.

Biblical revelation provides a glimpse into the Trinitarian exchange of divine self-giving that flows as superabundant grace into the world. Pope John Paul described this inner divine life as a total “exchange of mutual love between the divine Persons” that “exists in the mode of gift.” This divine pattern of self-gift is the source and model for the embodied conjugal enrichment of persons made possible between the sexes. When Genesis 1:26 referred to God’s words of creation—“let us” create humanity “in our image”—it indicated that “the Creator withdraws as it

57 Pope John Paul II was careful to note that the human understanding of divine realities, and one’s grasp of the connection between God and any earthly reflections of God’s essence are of course limited. “[W]hile man’s ‘likeness’ to God is true, the ‘non-likeness’ which separates the whole of creation from the Creator is still more essentially true. Although man is created in God’s likeness, God does not cease to be for him the one ‘who dwells in unapproachable light’ (1 Tim 6:16): he is the ‘Different One,’ by essence the ‘totally Other.’” John Paul II, Mulieris dignitatem, no. 8.

were into himself, in order to seek the pattern and inspiration in the mystery of his Being, which is already here disclosed as the divine ‘We.’ From this mystery the human being comes forth by an act of creation.”

Man and woman together are “in fact, ‘from the very beginning’ not only an image in which the solitude of one Person, who rules the world, mirrors itself, but also and essentially the image of an inscrutable divine communion of persons.” The human exchange of self-giving between the sexes relates back to, and finds its “prototype” in, the giving and receiving, the mutual and total enrichment, found within the very life of the Trinity. This likeness to God, revealed in the body’s male and female forms, makes the body an always relevant part of the human person, because the body always signifies this reference back to God’s own life of self-giving.

Thus, “man and woman, created as a ‘unity of the two’ in their common humanity, are called to live in a communion of love, and in this way to mirror in the world the communion of love that is in God, through which the Three Persons love each other in the intimate mystery of the one divine life.” This call, evidenced in the body’s complementary design, becomes then the foundation for “the whole human ‘ethos.’” Marriage between a man and a woman “is the first and, in a sense, the fundamental dimension of this call.” Yet this call reaches beyond the marital relationship to “[t]he whole of human history,” and to the entirety of “humanity itself.”

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59 John Paul II, Letter to Families, no. 6.

60 John Paul II, General Audience of November 14, 1979, Talk no. 9, para. 3, in Man and Woman He Created Them, 163.

61 John Paul II, Mulieris dignitatem, no. 7.

62 Ibid.
Two points can thus be made here. First, Pope John Paul II equated personal communion as modeled on the Trinity to a love that expresses the total person. As one created in God’s image, the human person is called to love in his or her “unified totality,” for “[l]ove includes the human body, and the body is made a sharer in spiritual love.” Thus there is a necessary connection between “total physical self-giving” and “total personal self-giving;” the former would “be a lie if it were not a sign and fruit” of the latter. Engaging in conjugal sexual relations without promising life-long exclusivity and fidelity would prevent the activity from being an expression of love. This link between the physical and personal dimensions of self, based on the totality of self-giving found in the Trinity, also affects a relationship that works in the opposite direction. A commitment to a “total personal self-giving” whereby one promises to be exclusive and faithful could not involve “a unified totality” if the participants are incapable of consummating their promises through a “total physical self-giving.” Measured against the Trinitarian model of unified and total self-giving, the conjugality of sexual difference thus marks a relevant distinction. Even the older, infertile couple, if conjugal-capable, can enter into this total self-giving, while those not similarly capable could not.

Second, this distinction, based on the body’s dual and complementary forms, will always remain relevant as a source of a “human ethos” throughout “the whole of human history” and for all “humanity itself.” What did Pope Paul II mean by referring to these broader categories? As the rest of this section will indicate, he was pointing to the complete script of the salvation drama, which culminates in one’s union with God and with the saints. The body in its sexual dimensions anticipates and is made to participate in this all-encompassing personal communion.

63 John Paul II, *Familiaris consortio*, no. 11.
I (B) (2) (ii) (b). Body as Sign of Humanity’s Original Harmony and Goodness. For John Paul II, the words of Jesus in the Gospel responding to a question about divorce,\textsuperscript{64} words referring as a corrective back to “the beginning,” meaning the accounts in Genesis of the one flesh union of the first man and first woman before the fall into original sin, are just as decisive for understanding what marriage requires as what the Bible revealed about the Trinity.\textsuperscript{65} The human body, in its male and female forms and its resulting conjugal capacity, possesses an enduring theological and ethical content that reaches back to this ancient original state of personal harmony.

As written by Pope John Paul II, “Since they are formed in the image of God also inasmuch as they form an authentic communion of persons, the first man and the first woman must constitute the beginning and model of that communion for all men and women who in any period unite with each other so intimately that they are ‘one flesh.’” Thus it remains relevant today that their bodies back then helped the original couple “to find themselves in a communion of persons” and so the body became “in a particular way the constitutive element of their union when they became husband and wife.”\textsuperscript{66} Their union “presupposes a mature consciousness of the body,” and “carries within itself a particular awareness of that body in the reciprocal self-gift of the persons.” The Genesis account of the one-flesh union of the first man and woman therefore is, Pope John Paul II concluded, “a future-oriented text:”

\begin{quote}
It shows, in fact, that in every conjugal union of man and woman, there is a new discovery of the same original consciousness of the unitive meaning of the body in its masculinity and femininity; the biblical text thereby indicates at the same
\end{quote}

\textsuperscript{64} Mt 19:3-8.

\textsuperscript{65} John Paul II, General Audience of September 5, 1979, Talk no. 1, \textit{in Man and Woman He Created Them}, 131-33.

\textsuperscript{66} John Paul II, General Audience of November 21, 1979, Talk no. 19, para. 3, \textit{in Man and Woman He Created Them}, 168.
time that each union of this kind renews in some way the mystery of creation in all its original depth and vital power.\textsuperscript{67}

Genesis revealed that the first man and woman were “naked” and did not feel shame in the presence of each other’s nakedness before the Fall. Pope John Paul II interpreted this to mean that the man and the woman were fully capable of discerning the divinely bestowed value of their conjugally embodied selves as “spousal” in nature. By this he meant that both the man and the woman could read “the whole truth of their bodies and their sexes,” and thereby accept and affirm the other as good because God Who is Love created and gave each to the other:

The body, which expresses femininity “for” masculinity and, vice versa, masculinity “for” femininity, manifests the reciprocity and the communion of persons. It expresses it through gift as the fundamental characteristic of personal existence. This is the body: a witness to creation as a fundamental gift, and therefore a witness to Love as the source from which this same giving springs.\textsuperscript{68}

This original harmony, and the consciousness through the body of the other’s goodness, though attested to by Revelation, lies on the other side of a boundary separating this older state of natural happiness from the present state of sinfulness occasioned by the Fall. “Yet, Christ’s words, which appeal to the ‘beginning,’ allow us to find an essential continuity in man and a link between these two different states or dimensions of the human being.”\textsuperscript{69} Jesus did not consider this prelapsarian condition to be “a lost horizon of human existence in history,” but rather identified it as the reference point for understanding the redemption of the body.\textsuperscript{70}

\textsuperscript{67} Ibid., para. 4, \textit{in Man and Woman He Created Them}, 169.


\textsuperscript{69} John Paul II, General Audience of September 26, 1979, Talk no. 4, para. 1, \textit{in Man and Woman He Created Them}, 142.

\textsuperscript{70} Ibid., para. 3, \textit{in Man and Woman He Created Them}, 143, 144.
I (B) (2) (ii) (c). The Body as Sign of the Effects of Sin. Before Pope John Paul II discussed the redemptive healing of Christ’s incarnation, he analyzed the fall into original sin that placed humanity in need of redemption. The immediate consequence for the first man and woman was the experience of a fear of God and then a sense of shame regarding the human body in its male and female forms.\(^{71}\) This first sin precipitated a series of aftershocks directly affecting not only humanity’s union with God but also one’s own relationship to and understanding of the human body, disturbing among other associations the bond between men and women.

Thus the effects of the fall included, according to Pope John Paul II, the creation of doubt in the human heart “on the deepest meaning of the [divine] gift, that is, on love as the specific motive of creation and the original covenant.”\(^{72}\) As part of creation, the body became an object of suspicion, no longer to be viewed as a gift deemed integral to God’s salvific plan of love. There arose in the first man and woman the fear of being seen naked by God, prompting them to hide when God passed by. This fear attested to the reality that “*Man in some way loses the original certainty of the ‘image of God’ expressed in his body.*”\(^{73}\) In turn there developed the sense of “reciprocal shame” that caused man and woman “to hide [from each other] their own bodies, to withdraw from man’s sight what constitutes the visible sign of femininity, and from woman’s sight what constitutes the visible sign of masculinity.” This mutual shame gave rise to “*a specific difficulty in sensing the human essentiality of one’s own body,*” resulting in “a certain constitutive fracture in the human person’s interior, *a breakup, as it were, of man’s original...*”

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\(^{73}\) John Paul II, General Audience of May 14, 1980, Talk no. 27, para. 2, *in Man and Woman He Created Them*, 239.
spiritual and somatic unity.”74 This brought on “an almost constitutive difficulty in identifying oneself with one’s own body, not only in the sphere of one’s own subjectivity, but even more so in regard to the subjectivity of the other human being, of woman for man and man for woman.”75 Finally, the fall caused a divide between the two sexes, who became “set against each other because of their masculinity and femininity,”76 such that “femininity and masculinity in their mutual relations seem to be no longer the expression of the spirit that tends toward personal communion and left only as an object of attraction.”77

These manifestation of original sin as identified by Pope John Paul II raise the question of whether moves such as those initiated by the different religious entities to redefine their theological understanding of marriage, by erasing any reference to sexual difference, are the products of this loss of innocence and its resulting diminution of any confidence in the transcendent meaning of the body, revealed in man and woman together, as gift. Rather than presenting a new and divinely inspired revelation supposedly of God’s changed or more clearly understood will, is it instead the case that this redefinition, which hides and dismisses embodied sexual difference as no longer consequential and in effect divides mind from body and glories in the complete exaltation of the mind over the body, is simply the newest worldly fruit of the fall? The Thesis will say more about this in its discussion of The Episcopal Church’s decision to redefine marriage within their liturgy.

74 John Paul II, General Audience of May 28, 1980, Talk no. 28, paras. 1, 2, in Man and Woman He Created Them, 243, 244.
75 John Paul II, General Audience of June 4, 1980, Talk no. 29, para. 4, in Man and Woman He Created Them, 249.
I (B) (2) (ii) (d). The Body as Sign of Christ’s Redemption. Pope John Paul II argued that concupiscence has not completely eliminated the “spousal meaning” of the body, evidencing in the body’s male and female forms the mutually enriching giftedness of man and woman for each other, a giftedness rooted in their being through their sexual difference the image of God. Christ’s incarnation, whereby He took on human bodily existence, His teaching, particularly in the Sermon on the Mount and its command against lust “in the heart” (Mt 5:28), and His calling on the Holy Spirit to be a source of purity, introduced a new hope for what St. Paul identified as the “redemption of the body.” Rom 8:23. In all this, Christ’s coming did not obviate the need for, but instead affirmed the importance and renewed the possibility of achieving, a correct relationship between mind and body, soul and flesh, in which the body in its male and female forms continues to matter.

According to Pope John Paul II:

The adequate interpretation of Christ’s words (Mt 5:27-28), as well as the “praxis” in which the authentic ethos of the Sermon on the Mount is realized step by step, must be absolutely free from Manichaean elements in thought and attitude. A Manichaean attitude would have led to the “annihilation” of the body—if not real, then at least intentional; to a negation of the value of human sex, that is, of the masculinity and femininity of the human person; or at least to their mere “toleration” within the limits of the “need” marked off by procreation. By contrast, on the basis of Christ’s words in the Sermon on the Mount, the Christian ethos is characterized by a transformation of the human person’s consciousness and attitudes, both the man’s the woman’s, such as to express and realize the value of the body and of sex according to the Creator’s original plan, placed as they are at the service of the “communion of persons,” which is the deepest substratum of human ethics and culture.79

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78 Ibid., para. 3, in *Man and Woman He Created Them*, 258 (holding that “the dimension of gift— that is, the power to express the love by which man, through his femininity or masculinity becomes a gift for another— has in some measure continued to permeate and shape the love born in the human heart” and thus “it has not been totally suffocated in it [the heart] by concupiscence, but only habitually threatened”).

Contrary to Manichaean suppositions, Christ’s incarnation, death and resurrection gave the human body “a new dignity, because he himself has taken up the human body together with the soul into union with the person of the Son-Word.”

Christ established a “new ethos” that does not require humanity to return to the prelapsarian state but instead looks forward to salvation, based on Christ’s redemptive work. “In this way a connection is formed, even a continuity, between the ‘beginning’ and the perspective of redemption.”

The body thus continues to play an essential role in the salvation story.

I (B) (2) (ii) (e). The Body as Sign of the Human Potential for Divinization. Pope John Paul II finished his assessment of the body’s continuing capacity to image divine realities by looking to the eschatological destination of the human person. The body’s signifying value extends from the present not only back to humanity’s original state but also forward to life promised beyond the world’s final consummation, “precisely toward the ‘redemption of the body,’ presented as the end, as the eschatological and mature fruit of the mystery of the redemption of man and the world achieved by Christ.”

The body is destined in God’s plan of salvation to being raised without erasing sexual difference. Pope John Paul II reflected on the words of Jesus in Mark 12:25 about marriage and the afterlife, “When they rise from the dead, they take neither wife nor husband.” He noted that “[a]s is clear from these words, marriage . . . belongs exclusively ‘to this world.’”

Yet at the

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81 John Paul II, General Audience of December 3, 1980, Talk no. 49, para. 4, in Man and Woman He Created Them, 323.

82 Ibid., para. 2, in Man and Woman He Created Them, 322.

83 John Paul II, General Audience of December 2, 1981, Talk no. 66, para. 2, in Man and Woman He Created Them, 387. “Marriage and procreation do not constitute man’s eschatological future” since the “other world” is the “world of God, who, as we know from 1 Corinthians, will completely fill it, becoming ‘all in all.’” (1 Cor 15:28).” Ibid., 387-88.
same time “human bodies, which are recovered and also renewed in the resurrection, will preserve their specific masculine or feminine character” and “the meaning of being male or female in the body will be constituted and understood differently in the ‘other world’ than it had been ‘from the beginning’ and then in its whole earthly dimension.”

The Holy Father added that “[t]he context [of this Scripture verse] indicates clearly that we are not dealing here with a transformation of man’s nature into an angelic, that is, purely spiritual nature. The context indicates clearly that in the ‘other world’ man will keep his own psychosomatic nature. If it were otherwise, it would be meaningless to speak of the resurrection. Resurrection means restoration to the true life of human bodiliness.”

Taking as proof the reference in Luke 20:27-40 to those who rise glorified from the dead to become “sons of God,” Pope John Paul II described what the resurrection would entail: both a spiritualization and a divinization with each change including and working through the body.

By the former, spiritualization, the Holy Father meant the removal of opposition between spirit and flesh—“In the resurrection, the body will return to perfect unity and harmony with the spirit: man will no longer experience the opposition between what is spiritual and what is bodily in him.” Yet, he continued:

This state, which—as is evident—is essentially (and not only in degree) different from what we experience in earthly life, does not signify any “disincarnation” of the body nor, consequently, man’s “dehumanization.” On the contrary, it signifies his perfect “realization.” In fact, in the composite, psychosomatic being that is man, perfection cannot consist in a reciprocal opposition of the spirit and the body, but in a deep harmony between them, in safeguarding the primacy of the

84 Ibid., para. 4, in Man and Woman He Created Them, 388.
85 Ibid., para. 5, in Man and Woman He Created Them, 389.
86 Ibid.
spirit. In the “other world,” this primacy will be realized, and it will be manifested in a perfect spontaneity without any opposition on the part of the body. Nevertheless, this should not be understood as a definitive “victory” of the spirit over the body. The resurrection will consist in the perfect participation of all that is bodily in man in all that is spiritual in him. At the same time, it will consist in the perfect realization of what is personal in man.  

By the latter, divinization, Pope John Paul II referred to a process in which participation in the divine nature, participation in the inner life of God himself, penetration and permeation of what is essentially human by what is essentially divine, will then reach its peak, so that the life of the human spirit will reach a fullness that was absolutely inaccessible to it before.” Accordingly,

This “eschatological experience” of the Living God will not only concentrate in itself all of man’s spiritual energies, but at the same time reveal to him in a living and experiential way the “self-communication” of God to everything created and, in particular, to man, [a self-communication] that is God’s most personal “self-giving:” in his very divinity to man, to that being who has from the beginning borne his image and likeness within himself. 

This divinizing encounter will be an “eschatological communion” of persons that enables the human being to participate in “the most perfect communion” of the Trinity, through “the beatifying experience of God’s gift of self, an experience absolutely superior to every experience proper to earthly life.” In turn, “[t]he reciprocal gift of oneself to God—a gift in which man will concentrate and express all the energies of his own personal and at the same time psychosomatic subjectivity—will be the response to God’s gift of himself to man.”

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89 Ibid., para. 3, in *Man and Woman He Created Them*, 392.

90 Ibid., para. 5, in *Man and Woman He Created Them*, 393.


92 Ibid., para. 2.

93 Ibid., para. 3, in *Man and Woman He Created Them*, 395.
The personal communion made possible by the conjugal union between the sexes anticipates this heavenly communion. Marriage (that is, the exclusive bond between a man and a woman) and procreation will no longer apply in the world to come, but embodied sexual difference, as that which enables the particular form of total self-giving and mutual enrichment to take place in marriage on the human level, will continue so as to enable the human person to enter into a divinizing communion of persons both with God and with all the saints in the world to come. The manner and scope of its exercise will differ from the worldly institution of marriage but the same spousal pattern of personal interaction, mind and body, will be present in the afterlife for those called to see God face to face.94

As indicated by Pope John Paul II,

[t]he “spousal” meaning of the body in the resurrection to the future life will perfectly correspond both to the fact that man as male-female is a person, created in the “image and likeness of God,” and to the fact that this image is realized in the communion of persons. That “spousal” meaning of being a body will, therefore, be realized as a meaning that is perfectly personal and communitarian at the same time.

When we speak about the body glorified through the resurrection to new life, what we have in mind is man, male and female, in all the truth of humanity, who together with the eschatological experience of the living God (with the vision “face to face”) will experience precisely this [the spousal] meaning of his body. This will be a completely new experience, and yet, at the same time, it will not be alienated in any way from the experience man shared “from the beginning” nor from that which, in the historical dimension of his existence, constituted in him the source of the tension between the spirit and the body, mainly and precisely with reference to the procreative meaning of the body and of [its] sex. The man of the “future world” will find in this new experience of his own body the fulfillment of what he carried in himself perennially and historically, in some sense, as an inheritance and even more so as a task and objective, as the content of ethos.95


95 Ibid., paras. 5-6.
In sum, the body continues to carry profound theological import as a sign of God’s desire to enter into a final beatifying communion of persons with each man and woman. The body matters because through sexual difference, every individual bears that which prepares him or her for approaching and participating in this face-to-face personal encounter with the Triune God. The embodied personal complementarity of every man being a male in relation to every woman being a female situates the human body as an integral medium for divinization. The whole person, mind and body, will be oriented through sexual difference to an opening towards God’s uncreated difference and otherness. Due to the resurrected body, male or female in form, this personal encounter can be anticipated and will be experienced as totally enriching love. Thus will culminate the salvation story that began with creation and involves the human body in every one of its chapters.

The Thesis now considers in Part II the sacramental dimension of marriage. To be discussed first is how the human body’s conjugal capacity, enabled by sexual difference, plays an essential role in sacramentally manifesting the one-flesh personal communion between Christ and His Church. To be discussed second is how even the infertile older couple consisting of a conjugal-capable man and woman can image this bond.

**Part II: The Theological Role of Sexual Difference in Associating Marriage Between Baptized Persons to the Union of Christ with the Church.**

**II (A). The One Flesh Communion That Joins Christ To His Church.** Revelation assigns to the union of husband and wife in marriage the sacramental task of revealing the mystery of Christ’s bond with the Church. According to the Catechism, being baptized into the Church creates an “intimate communion” with Jesus.\(^96\) Indeed “[t]he Church’s first purpose is to

\(^96\) Catechism of the Catholic Church, no. 787.
be the sacrament of the *inner union of men with God,*”97 This baptismal initiation unites every Christian to Jesus so closely as to form one body.98 Yet there remains “the distinction of the two within a personal relationship,” such that in the New Testament “[t]his aspect is often expressed by the image of bridegroom and bride.”99 Quoting St. Augustine, the Catechism explains that Christ and the Church "are, in fact, two different persons, yet they are one in the conjugal union.”100

The Bridegroom/Bride paradigm, or what Pope John Paul II referred to as the “spousal analogy,” thus reveals important although not exhaustive theological data on the mystery of God’s love for humanity. The Holy Father observed that while the analogy to marriage “cannot offer an adequate and complete understanding of that absolutely transcendent Reality, the divine mystery [of God’s love], both as hidden from ages in God and in its ‘historical’ realization in time when ‘Christ loved the Church and gave himself for her,’” nonetheless “this analogy offers the possibility of a certain cognitive ‘penetration’ into the very essence of the mystery.”101 Describing the relationship between Christ and His Church as a marriage “contains a characteristic of the mystery that is not directly emphasized by the analogy of merciful love, nor by the analogy of fatherly love (nor by any other analogy used in the Bible to which we could have appealed).”102 The human body in its male and female personal forms, supplying the

97 Ibid., no. 775.

98 Ibid., no. 790.

99 Ibid., no. 796:

100 Ibid., quoting Augustine, Sermo 267, 4 PL 38, 1231D.


capacity for the conjugal act and permitting the husband and wife to become one flesh, is thus to be regarded as an unparalleled witness.

According to Monica Migliorino Miller, the Vatican II Fathers employed in the Dogmatic Constitution on the Church, *Lumen gentium*, “many images for the Church” but they “spoke of Christ’s love for the Church only in terms of the Bridegroom/Bride relation” because, “while the other symbols have descriptive value, marriage goes to the heart of the nature of the Covenant.”¹⁰³

What then is the particular “characteristic of mystery” that marriage reveals, such that the Bridegroom/Bride metaphor points to “the very essence of the mystery,” and reaches to “the heart of the nature of the Covenant?” It is that God has married humanity through Christ’s one-flesh joining with His Church. The divine vow of fidelity is sealed through Christ’s incarnation, death and resurrection in the flesh. God wants to become one with His creation, not in a way that eliminates or overwhelms humanity, but that affirms every person as good and seeks all to be transformed through divinization. If this divine-human bond can be analogized as if it were equal to a marriage between a man and a woman, then there must be involved a conjugal exchange of two different but complementary selves. The bond needs to be capable of being consummated through a mutually enriching integration of persons in mind and body. This reciprocation should be marked by an initiation and an acceptance. If this heaven and earth joining is somehow like a marriage, conjugally understood, then the profound distance between divinity and humanity must be bridged through God’s condescension and mankind’s welcome, and there must be an accounting for an amazing one-flesh intimacy that personally integrates God and God’s people.

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¹⁰³ Monica Migliorino Miller, *Sexuality and Authority in the Catholic Church* (Scranton: University of Scranton Press, 2006), xv.
In his encyclical *Deus caritas*, Pope Benedict described the love of Jesus in terms that help explain just what this spousal analogy entails:

[Jesus’s] death on the Cross . . . is love in its most radical form. . . . Jesus gave this act of oblation an enduring presence through his institution of the Eucharist at the Last Supper. He anticipated his death and resurrection by giving his disciples, in the bread and wine, his very self, his body and blood as the new manna (cf. Jn 6:31-33). The ancient world had dimly perceived that man's real food—what truly nourishes him as man—is ultimately the Logos, eternal wisdom: this same Logos now truly becomes food for us—as love. The Eucharist draws us into Jesus' act of self-oblation. More than just statically receiving the incarnate Logos, we enter into the very dynamic of his self-giving. The imagery of marriage between God and Israel is now realized in a way previously inconceivable: it had meant standing in God's presence, but now it becomes union with God through sharing in Jesus' self-gift, sharing in his body and blood. The sacramental “mysticism”, grounded in God's condescension towards us, operates at a radically different level and lifts us to far greater heights than anything that any human mystical elevation could ever accomplish.\(^\text{104}\)

None of this love story of profound communion makes sense in the way revealed in Scripture if the terms “love” and “communion,” and thus marriage, are shorn of their conjugal one-flesh character. Without an appreciation of difference and otherness, the humbling sacrifice of Jesus in leaving His exalted divine state to become human and to die on the cross loses its astounding demonstration of initiative and generosity. Without any reference to the comprehensive joining that is involved in the conjugal act of husband and wife, one is left, in the attempt to understand more cosmic realities, with at most a distancing expectation only of “standing in God’s presence,”\(^\text{105}\) separate and remote, rather than anticipating a “union with God through sharing in Jesus’ self-gift, sharing in his body and blood.”\(^\text{106}\)

If marriage is defined instead as a human relationship that does not require the capacity to

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\(^{105}\) Pope Benedict XVI, *Deus caritas*, no. 13

\(^{106}\) Ibid.
unite conjugally, then the institution no longer can witness to God’s one-flesh intimacy with His creation. The salvation message will be altered. All would have to be taught going forward to believe that God and humanity are capable of only a virtual, disembodied, perhaps temporary, and thus incomplete integration, and that a one-flesh bodily communion is of no relevant account. There perhaps may be expected as much as a meeting of minds between God and humanity under this theologically truncated scenario, but one’s religious outlook could no longer anticipate the promise of comprehensive communion, involving one’s entire personal being—mind, body, soul—that the conjugal participation in God’s Trinitarian life should be.

**II (B). The Conjugal Capacity Distinction.** What then of the older, infertile couple? For those who are baptized, if they are capable of joining together in the conjugal act, then they too can enter into a relationship that signifies the mystery of Christ’s espousal of the Church. It is the couple’s conjugal capacity, all other aspects being equal (maturity, sufficient understanding, etc.), that qualifies them to celebrate the sacrament.

Two points are worth noting. First the requirement that a couple be capable of engaging in the conjugal act applies to all prospective couples. Second the conjugal act is the only form of sexual conduct upon which the spousal analogy of Christ’s bond with the Church can be based.

**II (B) (1). The Requirement of Potency Treats Everyone Alike.** It is here that sexual difference plays a necessary but not always sufficient role. The male and female features provide the physical basis for conjugal capacity. But not every man or woman is always capable of joining with the other sex in the conjugal act. The disabling condition of impotency, which prevents a man and a woman from completing this act, is held by the Church to be an impediment to marriage.107 “Since the impediment of impotence is intimately connected to the

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107 Code of Canon Law, Canon 1084, § 1: “Antecedent and perpetual impotence to have intercourse, whether on the part of the man or the woman, whether absolute or relative, nullifies marriage by its very nature.”
essential purposes of marriage, it is generally considered to derive from divine natural law. It is
not, therefore, subject to dispensation.”

This point is vital to make because it shows that potency, the capacity to join conjugally,
is a requirement that applies without regard to whether a couple seeking to celebrate a marriage
in the Church is in the category of those couples consisting of both sexes or in the category of
those consisting of the same sex. A man and a woman seeking to marry each other are just as
much subject to this law, and those in this category who are deemed to be physically impotent
are put in the same situation of ineligibility as any same-sex couple. The only distinction is that
the members of the former category are presumed to be conjugal-capable because of their sexual
difference. The ineligible status of all those in either category who cannot unite conjugally is
based on the role, as divinely revealed, that the conjugal act plays in allowing human marriage to
 correspond analogically to Christ’s one-flesh conjugal bond with His Church. The different
treatment in canon law as between those who are conjugal capable and those who are not is
based therefore on the conviction that this correspondence between human and divine realities is
true.

II (B) (2). The Conjugal Act Differs From All Other Sexual Acts. The use of one’s
sexual organs to participate in the conjugal act, even when the act is knowingly infertile, is
always distinguishable from other uses of the sexual organs. This is due to the capacity of the
couple, uniting conjugally, that is, becoming one flesh, to image thereby a key aspect of the one
flesh joining of Christ with His Church. This observation is important because some contend that

108 New Commentary on the Code of Canon Law, eds. John P. Beal, James A. Coriden and Thomas J. Green

109 The bond is conjugal in both cases, but only sexual in the human case since the divine bond is not
designed to create physical births, only spiritual rebirths.
uses of the sexual organs within the conjugal act and outside the conjugal act are fundamentally the same when reproduction is not foreseeable in either case.\textsuperscript{110} If it is appropriate for an infertile couple to use their sexual faculties through the conjugal act, as futile as that may be with respect to procreation, then others should be free to use their sexual faculties outside the conjugal act to the same end, to express their love in a marriage.

Such a contention overlooks the different personal and physiological circumstances attending to the employment of the sexual organs conjugally and non-conjugally. Every conjugal act bodily involves a “reciprocal containment” whereby the man enters inside the woman while at the same time the woman moves to be inside the man’s embrace.\textsuperscript{111} This mutual, face-to-face surrounding \textit{strives} to accomplish as closely as physically possible, and effectively does so, what should be the desire of each person in engaging in sexual intercourse, to unite bodily with the other.\textsuperscript{112}

By the same operation, the man’s body seeks to deposit sperm, and the woman’s body is prepared to receive the sperm in the only naturally embodied place where the sperm and an ovum could meet and unite. This organic process, one that bodily accompanies and thus is a part of the mutual embracing of the couple in the conjugal act, is something that will never happen in any other use of the sexual organs, such as in making contact with the alimentary tract.\textsuperscript{113}


\textsuperscript{112} Ibid. The desire or striving for union is a fundamental element of love. See an excellent treatment of this proposition in Alexander Pruss, \textit{One Body: An Essay in Christian Ethics} (Notre Dame, IN: University of Notre Dame Press, 2013).

\textsuperscript{113} In these other uses, “no one gets inside of another” since, for example, even the alimentary tract “runs through the body” and thus in this instance “intercourse remains on the surface of the body.” Harvey, \textit{The Truth About Homosexuality}, 134 (quoting Pakaluk).
Though futile with respect to achieving procreation, the conjugal act of an infertile couple is not futile in its jointly striving, and successfully striving at the physical level since impotence is not at issue, for what the reproductive organs are designed to strive for.\footnote{Pruss, \textit{One Body}, 136-37.} It is the two bodies’ mutual striving for reproduction that is involved in the conjugal union. Reproductive striving at the organic level of every conjugal act will occur even in cases of infertility,\footnote{Ibid., 147-49.} and “[w]hat our bodies do, this we do, though our activity may well go beyond that of the body.”\footnote{Ibid., 137.} There is an integrating connection between the man and the woman then through their wills and through their bodies, including their reproductive organs—providing the occasion for making their joining a fully unitive instance of sexual intercourse that has also a procreative dimension.

Even in the face of physical infertility, that procreative dimension is expressed in three ways. First there is the physical structure of the act which seeks by its design to procreate. Second, there is present in the minds of the man and the woman an openness to and acceptance of that procreative structure as a work of God, with all of its natural potential and natural limits.

Third, the very uniting of a man and a woman in the conjugal act is what every child reflects and thus that uniting is procreative precisely because it is reflected in every child, should a child come into being. The act is procreative regardless of whether there is any expectation that a child will come into being. This is because the one flesh joining of husband and wife, situated within their mutual vows of fidelity, comprises the very reality that any actual procreation of a child physically and spiritually crowns. The child is the crown of a personal unity that pre-existed and precipitated the child’s coming to be, since in every child is the one flesh joining of

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\footnote{Pruss, \textit{One Body}, 136-37.}
\footnote{Ibid., 147-49.}
\footnote{Ibid., 137.}
the paternal and maternal genetic contributions of the child’s parents. This relation between the one flesh joining of husband and wife and its ordering towards the completion of that joining of parental contributions in a child is what makes the conjugal act procreative even in cases of infertility.

The conjugal joining of even an infertile couple thus involves an act so completely unitive and procreative in its ordering that one might adequately describe its natural character only by coining two new words to capture the totality of the integration of ends involved. This act could be said to be either “procre-unitive” or “uni-procreative.” In reflecting a total self-giving that is so infused with a striving for and openness to interpersonal unity and to new life, the conjugal act of husband and wife thereby provides the only natural and most apt basis for even beginning to comprehend the simultaneously uniting and life-giving bond between Christ and His Church. In both cases an unparalleled striving for unity and an ordering to life are intertwined.

In the use of sexual organs outside the conjugal act there can be a unity of wills to the extent that both participants desire to engage in the conduct as an expression of their love, but there is not a corresponding unity exhibited through their bodies precisely because of the lack of simultaneous containment and reproductive integration. Whether such use involves a man and a woman or two members of the same sex, the disunified bodily image that this lack will present does not match the unified intent. The disjunction introduces doubt. Is there really unity between these persons?

The sexual organs of both participants who are engaged in non-conjugal sexual activity will fail to work together in the same coordinated, mutually asymmetrical action, and in the case of same-sex relations, one complementary set of sexual organs is lacking altogether. Whatever
bodily penetration that is involved between two men or two women will not integrate the two physically. If there is any deposit of semen between two men, it cannot be accepted for any purpose related to reproduction and thus whatever physical contact occurs will not achieve any reciprocal or integrative coordination. Nor is any reproductive exchange between two women possible.

All these instances lack the one-flesh character of the conjugal act, not because the use of the sexual organs outside the conjugal act is infertile but because, in this redirection of the body against itself, such use is anti-fertile. Unlike in the case involving the older couple who is capable of joining conjugal, where the age-related infertility is due to the natural limits of the God-given physiology of their bodies, these other uses direct the sexual organs away from what they are designed to strive for and in fact what they may be capable of achieving if used according to that design. This anti-fertile character of such uses, imposed on the body in a manner contrary to its design, necessarily undermines what is expressed through the will, concerning the intent and reasoning that lies behind the decision to employ the sexual organs in non-reproductive ways. That is, any expressed desire to become one with one’s beloved cannot be implemented through uses of the sexual organs that, in their disunity, draw both persons away from embodying that desire.

The non-conjugal uses of one’s sexual organs, in directing these organs away from their designed purpose, necessarily diminishes the body as a participatory element of the person, disconnecting the flesh from the spirit. It also reduces the body as a relevant contribution to what signifies divine realities, and thus also eclipses the significance of being one in the flesh, in preference to the human will as if it were the ultimate arbiter of what is good for persons.
All this acts as a theological countersign to what is revealed biblically about Christ and His relationship to the Church. Analogizing marriage to this union, when marriage is redefined to be non-conjugal, prompts the question of whether Christ really and fully took on flesh. Did he really restore that flesh through a bond that integrates flesh and spirit? Or rather did He set the two at odds? According to Alexander Pruss:

Full Docetism was the heresy which denied that God really became a human being. Influenced by a Gnostic or Neoplatonic disdain for the body, the Docetics thought God only seemed to have taken on flesh. A more moderate Docetism would be an attitude rather than a heresy, an attitude in which the physical Incarnation is largely discounted in favor of a focus on the divinity of Christ. . . . A Christological Docetist holds that the illusory earthly life of Christ reveals to us something about God’s love for us. However, the deeper meaning of an illusory earthly life of love for us would likely be that God’s love for us is a deceptive illusion. Similarly, if the fleshly union in sexuality does not, itself, matter, even though it feels deeply significant, then the fleshly union becomes a symbol of a deceptive union that is less than it seems.117

This Thesis completes its analysis of the procreation/infertility issue by examining the 2015 decision by The Episcopal Church to amend its marriage liturgy due partly to the conviction that since not all marriages result in pregnancies, then the conjugality of sexual difference and its procreative dimension were not essential properties of marriage. The denomination voted to approve wedding celebrations for same-sex couples. The theological reasoning adopted by the Episcopalian leadership substantiates the concerns expressed herein about distorting the image of divine realities as presented by marriage by undercutting the body’s signifying value and separating the flesh from the spirit.

**Part III. Redefining Marriage by Eliminating Its Reference to Sexual Difference: Looking to The Episcopal Church’s Efforts as a Case Study in a Theological Countersign**

III (A). The Episcopal Church’s Theological Rationale for Redefining Marriage. At their triennial General Convention held in July of 2015, the Houses of Bishops and Delegates of The Episcopal Church, based in the United States and part of the worldwide Anglican Communion, approved a resolution that, among other alterations of the American denomination’s marriage canon, eliminated language therein referring to marriage as "the physical and spiritual union of a man and a woman."\(^{118}\) Another enacted resolution endorsed two new marriage liturgies that could be celebrated by same-sex couples.\(^{119}\) While these moves prompted a rebuke and sanctions from the senior bishops or primates of the Anglican Communion in January, 2016, Episcopalian leaders vowed to maintain their new policies.\(^{120}\)

The Episcopal leaders relied on a theological study commissioned in advance to support the change.\(^{121}\) The Report of the Task Force on the Study of Marriage argued at length for the idea that personal union and human reproduction should not be considered to be conceptually tied to each other for purposes of defining marriage.

According to the Task Force, there is a tension between the “transformative” process of entering into marriage, mainly through the vows expressing mutual love, and the “distinctly

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earthly” process of reproducing and bearing children.\textsuperscript{122} To associate the two processes such that procreation must be considered an end in every marriage would create the risk, the Task Force asserted, that the married couple would treat each other as means to the end of having children, rather than as ends in themselves.\textsuperscript{123} While desiring children may be an outgrowth of the couple’s mutual love, the Task Force observed, not every marriage will produce children. It is for this reason, the Task Force maintained, that “although sometimes held as a principle end, it [procreation] has never been held to be an essential one.”\textsuperscript{124}

The Task Force read the Adam-Eve creation accounts in Genesis 1 and Genesis 2 as creating a fundamental juxtaposition between procreation and sexual companionship and between procreation and marriage.\textsuperscript{125} The purpose of sexual intercourse between “male and female,” whether for humans or for the lower animals, is to “fill the earth,” the Task Force posited as the lesson of Genesis 1, and “[t]hus the emphasis in Genesis 1 is on sex as necessary for procreation, not marriage.”\textsuperscript{126} The Task Force argued that “The emphasis in Genesis 2, however, is companionship—that the human one should not be alone—rather than on filling the earth and subduing it.”\textsuperscript{127} Here the Task Force sought to extract from Scripture textual support


\textsuperscript{123} Ibid., 505.

\textsuperscript{124} Ibid. The Task Force pointed as evidence for this claim to the Anglican marriage rite which as early as the 1500s provided “that the prayer for the couple’s fruitfulness in procreation is to be ‘omitted where the Woman is past childbirth.’” Ibid., 506.

\textsuperscript{125} Ibid.

\textsuperscript{126} Ibid. It appears, but it is not entirely clear, that the Task Force’s use of the term “sex” referred to sexual difference, male and female, rather than to sexual intercourse.

\textsuperscript{127} Ibid.
for the idea that sexual difference (and the conjugal act) is necessary only for procreation, and
not for marital companionship.

But what to make of the combined references of Jesus in the Gospels to both the “male
and female” and the “one flesh joining” language in Genesis 1 and 2 in his teaching on
marriage? Is not this evidence that God intends that marriage be both unitive and procreative?
Here, the Task Force reasoned, Jesus intended only to focus on marriage’s indissolubility and
“not [on] sex as such or sexuality,” and on monogamy and “not on the productive value of
procreation.” 128 In other words, Jesus did not intend to define marriage as the sexual and thus
potentially reproductive union of male and female but only sought to insist that neither divorce
nor polygamy be allowed.

The Task Force next described changes made over time in the Anglican marriage rites.
Early versions emphasized procreation in their liturgical prologues preceding the vows, where
each party to the marriage had to declare his or her belief about what God intends for marriage,
but the vows themselves failed to refer to this purpose. To the Task Force this historically-rooted
two-level treatment—talking in the declaration about children, while referring only to mutual
happiness in the vows—reflected the same tension supposedly existing between the Genesis 1
focus on procreation and the Genesis 2 focus on companionship.129

The Task Force observed that over time, in redrafting and updating the prologue and
declaration parts of the marriage liturgy, church officials had elevated the companionate aspects
of marriage above the procreative aspects. The conclusion taken from this was that procreation

128 Ibid., 505-06.
129 Ibid., 505.
“is provisional rather than essential, intrinsic, or inherent in marriage as marriage” since “even the earliest Anglican rite of 1549 recognized that the productive value, while important, could not be understood as necessary, since not all marriages lead to procreation.”130 In short, this is perhaps a tacit admission that, as Kant would put it, the principal end of marriage must be found in the couple themselves, and in their life together, as well as in a pragmatic recognition that marriages are not always procreative even when that is the couple’s intent—and a couple incapable of procreation cannot reasonably intend it—but they are always meant to be loving and faithful.131

The Task Force then proposed several reasons why what it termed the “conjugal” or couple-oriented model of marriage must displace the “dynastic” or reproduction-oriented model.132 Conjugal here never refers to the conjugal act. The vows are not and cannot be conditioned on successful reproduction. Infertility thus is not and cannot be an impediment to vowing one’s exclusive and permanent commitment. The ends of marriage must reside in the couple itself, not in another good the elevation of which reduces the couple to the status of being an instrument. Other goods can be realized even when a couple is infertile.133

The Task Force cited Karl Barth to the effect that marriage “subsists even without founding a family, even as the life-partnership of a possibly childless marriage.”134 Marriage thus should be seen as emerging from the volition of those making the vow to marry and not as if in any way rooted in biological processes.135

130 Ibid., 506.

131 Ibid.

132 Ibid.

133 Ibid., 507-08. According to the Task Force, “Love is generative even when it is not procreative.” Ibid., 508.

134 Ibid., 508.

135 Ibid., 509. The Task Force analogizes its “conjugal” description of marriage to the state of being a parent, which is a volitional state that “involves much more than the biological.” Ibid.
The Task Force then emphasized that procreation would no longer be necessary in the world to come but nowhere was anything mentioned about the individual resurrection of the body. The final Parousia will call the elect “to express the love with which Christ loved his body and the Church,” and thus the marriage vows “to have and to hold, to love and to cherish, and to forsake all others to remain faithful until the end” are what anticipate the eschaton. These promises impart in this world a “moral value to be found in all marriages including same-sex marriages,” since any loving relationship regardless of sexual difference can “fulfill all of these moral duties.”

Thus, the Task Force reasoned:

It is not the respective maleness and femaleness of a couple that make them “suitable helpers” to each other, but rather the extent to which the couple can in fact serve each other as a “help and comfort in prosperity and adversity” and in “mutual joy.” As with Adam’s initial choice, and God’s tolerant waiting on Adam’s decision, it is up to each human being to recognize the helper suitable to each.

The Task Force argued that the complementarity that exists only in a relationship between the two sexes is not a prerequisite of marriage understood spiritually, that is, as a foretaste of heaven. The Task Force contended that marriage instead should be connected to baptism as an eschatological matter in such a way that for marriage, as with baptism, there exists “in some sense ‘no longer’” such human or social characteristics as “the Genesis-specified binary of ‘male and female,’ as well as that of Jew and Greek, slave and free.” By “putting on Christ,” baptism creates, and thus marriage by extension “images forth or typifies,” a “new

136 Ibid.
137 Ibid.
139 Ibid., 520-21.
humanity, [and constitutes] a union [between Christ and the human person] that simultaneously upholds and uplifts differences that extend beyond the sexual binary.”

Thus, according to the Task Force, including same-sex attraction as part of the mystery of marriage would enhance the capacity of marriage to reflect such a multitudinous reality, thereby “dispelling any notion that one spouse could ever represent Christ, or the Church, more than the other.” Instead, “Marriage’s unambiguous and unambivalent embrace of the full spectrum of human differences including that of sexual orientation, can enable it to image forth the rich variety of creation more fully than it has been able to in centuries past.”

Therefore, the Task Force continued, “the interplay of difference and unity in Christian marriage need not be limited to male and female, but it can be activated by all manner of human difference.”

In a reflection on the moral significance of marriage, the Task Force wrote:

In some discussions of morality, the locus of concern can lie in the acts more than the actors. In marriage these two aspects of morality — acts and actors — merge in the spouses themselves, who become spouses through the marriage. The reality of being a spouse is not ontological, but performative and relational. So the efficacy of the sign will depend on the degree to which the spouses express and live out the values intended in the vows, which constitute the substance of the marital commitment.

Here the Task Force can be understood as saying that whatever moral significance is attributed to sexual conduct is entirely derived from the vows of commitment. The actors’ expressed intent, and not anything having to do with the physical nature of the conduct, wholly determines the sexual act’s moral content. There is thus a narrowing of moral focus such that the

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140 Ibid., 520.
141 Ibid., 521.
142 Ibid.
biological dimensions of sexual conduct, whether or not conjugal, are deemed to be outside the frame of moral relevance, and only the will is subject to moral evaluation. The scope is narrowed further by the Task Force’s insistence that the morally significant aspects of espousal are limited to the performance of the vows and to the nature of the relationship through which the vows are lived out. Excluded is any moral consideration of the ontological make-up of or impact upon those exchanging the vows. That is, their being male or female, or husband and wife, could not be morally regarded in any way to be the source of marriage’s capacity to be a sign of deeper eschatological mysteries.

Given the narrow confines of what is to be considered morally significant as circumscribed by the Task Force, sexual difference and sexual conduct, particularly the conjugal act, must be treated as carrying no intrinsic moral significance and thus should be disregarded as non-essential in any determination of what marriage is. Instead it is “the moral values of commitment, fidelity, mutuality, and exclusivity” that matter, and thus it is “not the sexual acts themselves, or the relative genders of the couple who engage in them, that are morally good or bad, but the context and relationship of the actors that make them so.”

III (B). A Critique. The underlying theology supporting The Episcopal Church’s decision to redefine marriage holds that marriage is a spiritual reality that is determined solely by reference to the will of those who enter it without regard to sexual difference or the capacity for the kind of sexual conduct that only sexual difference makes possible. The primary evidence of this disconnect, according to the Task Force, is the fact that not all marriages will result in children, while all marriages involve the making of vows. When considering marriage as eschatologically transformative, it is to be theologically conceptualized within the same

144 Ibid., 511.
framework as baptism to the extent that no greater qualifications should be imposed on those who seek to enter the former as are imposed on those who enter the latter. Understood this way, the eschatological significance of marriage resides only in reciprocal expressions of the will and is not to be associated in any way with one’s physical identity of being a male or a female or in the conjugal act that physically joins man and woman in a manner apt for reproduction. Thus marriage is to be regarded as exemplary solely on the level of the will with no ontological connection to sub-volitional physical forms or biological processes. This conceptual turn divides the unitive and procreative meanings such as to create two divergent “models” of human commitment. The “dynastic” or procreative model is then deemed in these times to be outmoded and of no account eschatologically.

The Task Force’s theological exposition confuses the theological significance of baptism and marriage. Baptism is open to everyone since it is the redemptive gateway to salvation. Yet not all are called to marry nor is marriage a prerequisite to salvation. Because both men and women, married or unmarried, can be saved, eligibility for baptism should not depend on whether one is a man as opposed to being a woman or vice versa. However, as demonstrated by Pope John Paul II, it does matter that one is called to salvation through one’s created existence as a man or as a woman. That is, it matters that one’s personal embodiment is sexual since it is through the limiting experience of sexual difference that one is rendered open to union with God and capacitated for being divinized. The body in its conjugal character of being male or female prepares for and allows the human person, man or woman, to experience salvation. In order to image this conjugal participation in the inner life of the Trinity, the institution of marriage must then include only those couples consisting of both sexes due to the conjugal complementarity of sexual difference.
The Task Force betrayed a decided suspicion about the physical dimension of sexual difference and its biological orientation towards reproduction. The lengthy report mentioned only a few times and almost in passing the distinctive act of sexual intercourse, usually designated as becoming “one flesh,” that makes reproduction possible. The Task Force’s use of the term “conjugal” to distinguish vowed relationships from “dynastic” or procreation-focused relationships proposed a novel meaning that does not include the conjugal act itself, normally understood as coitus. That which is “conjugal,” according to the new meaning of that term as adopted by the Task Force, is only that which involves the exercise of the will in vowing mutual commitment and fidelity.

This theological approach contrasts sharply with the teaching of the Catholic Church as discussed throughout this Thesis. While The Episcopal Church seeks to put the human person front and center, it does so only by regarding the man and woman primarily as disembodied spirits. The body is deemed to be suspect as a source of moral norms because its sexual design and physically evident conjugal orientation conflicts with the desires and attractions of those who are unable to countenance a comprehensive union with a person of the other sex. This then constitutes relevant and overriding “experience” that mandates, for The Episcopal Church, a rereading of Scripture, tradition and liturgical sources governing marriage.145

Missing from the account then of the theological reasons for why The Episcopal Church decided to redefine its canonical and liturgical definition of marriage was any focus on the body in its male and female forms as significant anthropologically, morally or salvifically. The Task

Force’s analysis failed to appreciate the distinction between marriage’s institutional ends and its essence so as to conclude that procreation has nothing essential to do with marriage because not all marriages achieve this end. This argument overlooked the possibility that the ordering towards procreation is included as an essential to marriage because the human person consists, unitedly so, as both mind and body, and thus as male or female which, in the conjugality of sexual difference, integrates in sexual intercourse both unitive and procreative meanings. The Task Force’s theological study also failed to reflect on the body’s leading role in every scene of the divine-human drama of salvation, from creation, to before and after original sin, to redemption and then beyond time to heaven.

Finally, the Task Force’s rationale for redefining marriage missed entirely the relevance of the body to a full understanding of Christ’s spousal bond with His Church. Without an accounting for the conjugality of sexual difference, there cannot be a sufficient appreciation of the comprehensive joining that exists between Christ and His Church. In sum, the actions of The Episcopal Church and their theological framework followed exactly the pattern identified by Pope John Paul II as being a direct consequence of the Fall, whereby the body is eclipsed, the flesh is separated from the spirit, and the incarnational and divinizing intimacy of the bond between God and humanity is denied.

**Conclusion**

The distinction for purposes of determining marital eligibility that the Catholic Church makes between conjugal-capable couples consisting of both sexes, including those experiencing infertility, and non-conjugal-capable couples, including those consisting of either but not both sexes, is coherent and just. Its coherence lies in the analogical correspondence between the one flesh union of husband and wife and the one flesh union of Christ and His Church. Its justice
rests on the theological importance of the body to the salvation of all persons, pointing as the body does to God’s transcendent love, which expresses itself in conjugal form, that is as total self-gift in a mutually asymmetrical communion of reciprocal enrichment. The saving communion between God and humanity is likewise conjugal in character because it is offered on God’s initiative and it invites—through the Church’s one-flesh joining to Christ—a welcoming openness on the part of every human being to the promise of ultimately participating in God’s divine life. This theological correspondence in conjugality between the sexual joining of a man and a woman and the divine realities of God’s inner life, the bond of Christ with His Church, and the personal dynamics of salvation, is what makes embodied sexual difference an essential element, and not an accidental property, of marriage.