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THE CANONICAL, LEGAL AND LITURGICAL  
CONSEQUENCES OF THE REDEFINITION  
OF THE SACRAMENT OF MARRIAGE  
IN THE OLD CATHOLIC CHURCHES

**Summary:** Both the Roman Catholic Church and the canonical Orthodox Churches, or Churches associated with the Union of Utrecht, include marriage in the seven sacraments. Nevertheless, there is no agreement between them regarding the minister of the sacrament, the possibility of a second marriage after divorce or clergy marriage. In recent years, tensions in individual ecclesial communities have also been exacerbated by canonical legalization of same-sex relationships. This issue concerns, in particular, the Churches whose bishops are part of the International Conference of Old Catholic Bishops. In the West European Old Catholic Churches of the Union of Utrecht there is full agreement that homosexual orientation is one of the variants of human nature. Old Catholics Theologians believe that the condemnation of homosexuality which we find in Scripture resulted from the state of knowledge at the time and related cultural connotations. They point out that modern science shows this phenomenon in a completely different perspective, based on the results of scientific research unknown to either the Biblical tradition or the Tradition of the early Church. The consequence of this was the opening of the debate on their nature and on the possibility of blessing same-sex relationships.

**Keywords:** Old Catholic Church, Sacramentology, Marriage, Same-sex marriage, homosexuality.

Jacques-Noël Pérès notes that the institution of marriage in recent times, both in society and among Churches, has produced so many reflections and positions amidst the controversy. The debate in society and in Churches revolves around the issue of contemporary forms of cohabitation (e.g. marriage, civil partnership, free union, same-sex marriage). These questions were and are being asked to Christians and by them to their own Churches. (Pérès, 2019, p. 24) These questions became the topic of theological debates in the Churches whose

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bishops are members of the International Bishops' Conference (IBC), founded in 1889 and referred to as the Union of Utrecht (UU). Old Catholicism emerged out of Roman Catholicism on the wave of opposition to the dogma of papal infallibility and universal jurisdiction<sup>1</sup>. Jansenist thought, Gallicanism, Febronianism, Wassenbergianism and Josephineism found numerous supporters in the Netherlands, Prussia, Austria-Hungary and the Swiss Confederation. (Küry, 1996, p. 25–135; Urbisch, 2006; Przedpelski, 2013) The mother church of the new denomination was the Dutch Roman Catholic Church of the Old Episcopal Clergy, which became independent of Rome in the 17th century. (Dupac de Bellegarde, 1852) It was thanks to it that the right conditions were created for the emergence of independent Old Catholic Churches and it was the source of apostolic succession for all bishops of the UU. At present, the UU brings together bishops of the Old Catholic Church in the Netherlands, the Catholic Bishopric of German Old Catholics, the Old Catholic Church in Austria, the Christian Catholic Church in Switzerland, the Polish Catholic Church in Poland (Domagała, 1996; Wysoczański, 2009) and the Old Catholic Church in the Czech Republic, and has missions in France, Scandinavia and Croatia. Old Catholic bishops have been in complete unity with the Anglican Church since 1931 (Methuen, 2007, p. 1–22) and with the Church of Sweden since 2016. ([b.a.], 2016)

### **Continuity and change**

The distinguishing characteristic of Old Catholic churches associated in the UU is undoubtedly their national character, their synodality (expressed by the influence of the laity on the life of the Church, including the choice of the bishop), transparency of the activities of the clergy and the faithful responsible for particular pastoral areas, which results in openness for debate in the church. Based on the principle expressed by Vincent of Lérins, “we hold that which has been believed everywhere, always, and by all; that is truly and properly catholic,” (*The Declaration*, 2001, p. 40) the doctrinal foundation is contained in the rulings of the first seven universal councils of undivided Christianity. Because the interpretation of the Bible and Tradition is not static, Old Catholics are open to the work of the Holy Spirit, who, by leading the Church, bestows on it the grace of understanding the human being (the subject of evangelization), which allows the preaching of the Gospel to be updated and acculturated. (Küry, 1996, pp. 149–150) Of course, as Mattijs Ploeger notes, the question arises whether

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<sup>1</sup> See on pseudo-Old Catholic communities. (Vignot, 2010)

the Church should, in any way, also fulfill a culturally critical function, for example by including this issue in the synodal process itself. It should be noted that the fundamental conviction of Old Catholic predecessors that Old Catholics should not base their faith and lead their lives exclusively in accordance with the guidance of church leaders, ignoring their own understanding and responsibility, contributed to the open attitude of the Old Catholic Church today. (Ploeger, 2015, p. 22)

The openness in question concerns both the issue of intra-church pluralism, readiness to engage in debate, as well as goes beyond the internal perspective, allowing for an ecumenical dialogue with Christian communities quite doctrinally distant from Old Catholicism. In this perspective, it is impossible to avoid reflection on philosophical, doctrinal and moral issues (including critical philosophy and feminism). (Berlis, 2015, pp. 72–85; Michalski, 2008, pp. 59–60; Küry, 1996, p. 85) Ploeger notes that “the most frequently mentioned examples of this openness are probably the abolition of compulsory celibacy, the ordination of women to the priesthood, and the integration of homosexuals as members of the Church and the clergy.”<sup>2</sup> For him, “Old Catholic theology has always striven to justify and reflect / work on such apparent innovations in a theological way.”<sup>3</sup> (Ploeger, 2015, p. 22)

Therefore, Günter Eßer rightly pointed out the tension between continuity and change. The problems that arise concern both the possibility of the spirit of the times affecting the Church and the question, “how vital are you, Church?” This question must raise “theological anxiety,” which makes Eßer reflect, “of course, with all openness to reforms that are part of the nature of Old Catholicism, the question remains of how far reforms can go. When do they influence the foundation of faith so strongly that their implementation questions the Catholicity of the Church and undermines the Apostolic Tradition? As might be expected, reformers and their opponents answer this question in different ways. Ultimately, the development of the Church will decide who was and is right. But such a process of accepting or rejecting reforms is usually lengthy and rarely as unambiguous as many would like. In any case, the tension between the obligation to preserve the apostolic heritage and keeping the Gospel message alive and current will remain as long as the Church exists.”<sup>4</sup> (Eßer,

<sup>2</sup> „Die am häufigsten genannten Beispiele dieser Offenheit sind wohl die Aufhebung des Pflichtzölibats, die Zulassung von Frauen zum ordinierten Amt und die Integration von Homosexuellen als Kirchenmitglieder und Geistliche.“

<sup>3</sup> „Die alt-katholische Theologie hat sich immer darum bemüht, solche scheinbaren Neuerungen in theologischer Weise zu begründen und zu verarbeiten.“

<sup>4</sup> „Natürlich bleibt bei aller Offenheit für Reformen, die zum Wesen des Alt-Katholizismus gehört, immer die Frage, wie weit Reformen gehen können. Wann tangieren sie so stark das Glaubensfundament, dass ihre Umsetzung die Katholizität der Kirche in Frage stellt und die apostolische Überlieferung

2016, p. 70) It is clear that, according to the theologian, it is necessary to take up the challenges posed by the modern world, as well as to acculturate and update the Gospel message.

### Marriage as a sacrament

The Old Catholic sacramentological reflection contributes to the thinking outlined above. For Old Catholics, “the sacrament, as the sensually discernible action of the Church, is above all an external symbol [...]. However, it is the external symbolic actions in the sacraments that are the signs that remind us of the salvific action of Christ, that is, his death and resurrection. The fruit of this action is the grace given by the sacrament.”<sup>5</sup> (Bałakier, 1990, pp. 23–24) In this way they recognize that the sacrament means grace – it symbolizes it and at the same time effectively gives it. (Bałakier, 1990, p. 24) The establishment or authorization by Christ (in the case of baptism, Eucharist and penance) or the apostles (e.g. marriage) testify to the sacramental character of particular activities. (Bałakier, 1990, pp. 28–29) The depositary of the sacraments is the Church that defines (or recognizes) them and administers them. Hence, for a sacrament to be valid, it is necessary for the minister to act in accordance with the intention of the Church, for their faith to be genuine, for them to be in the state of grace, and for them to be appointed by the Church. (Bałakier, 1990, pp. 40–44)

Marriage for Old Catholics “is a legal relationship of a man and a woman, concluded on the basis of a voluntary agreement, for the purpose of living a life of love together and the birth and raising of children. This union, blessed by the priest, becomes a sacramental union.”<sup>6</sup> (Bałakier, 1990, p. 231) Its main goal is love, and it itself is the secret of love. (Bałakier, 1990, p. 234) It was established by God, and in the days of the New Covenant it was raised to the dignity of a sacrament. The words of St. Paul, *The wife is bound by the law as long as her*

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aushöhlt? Wie nicht anders zu erwarten, wird eine solche Frage von Reformbefürwortern und Gegnern unterschiedlich beantwortet. Letztlich wird die Entwicklung der Kirche entscheiden, wer im Recht war und ist. Aber ein solcher Prozess der Annahme oder Ablehnung von Reformen ist meist langwierig und selten so eindeutig, wie sich das viele wünschen. Die Spannung zwischen der Pflicht, das apostolische Erbe zu bewahren, gleichzeitig aber die Botschaft des Evangeliums aktuell und lebendig zu halten, wird jedenfalls bleiben, solange es Kirche gibt.”

<sup>5</sup> „Sakrament, jako zmysłowo dostrzegalne działanie Kościoła, jest przede wszystkim symbolem zewnętrznym [...]. Jednakże te zewnętrzne działania symboliczne w sakramentach są znakami, które przywodzą nam na pamięć zbawcze dzieło Chrystusa, to jest śmierć i zmartwychwstanie. Owocami tego dzieła jest łaska udzielana przez sakrament.”

<sup>6</sup> „Jest to prawny związek mężczyzny i kobiety, zawarty na podstawie dobrowolnej umowy, celem wspólnoty życia w miłości oraz rodzenia i wychowania dzieci. Związek ten pobłogosławiony przez kapłana staje się związkiem sakramentalnym.”

*husband liveth; but if her husband be dead, she is at liberty to be married to whom she will; only in the Lord* (1 Cor 7:39),<sup>7</sup> The phrase *only in the Lord* means that marriage should not and cannot remain a secular thing. (Bałakier, 1990, p. 253) It becomes a sacrament not due to the contract concluded, but due to the blessing received. The blessing is therefore its form, and its matter is the word *yes* uttered during a civil ceremony or repeated during the liturgy celebrated by the priest. It is therefore an agreement endowed with a sacramental blessing. (Bałakier, 1990, p. 255) That is why “the sacramentality of marriage is in *benedictio* and it is the form of marriage. However, the blessing can only be given on the basis of the word *yes* which the newlyweds spoke to the civil authorities and which they repeat before the altar.”<sup>8</sup> (Küry, 2019, p. 229) This serves to emphasize that the foundation of marriage is emotional in nature, not contractual.

Contemporary ICB theology says that the sacraments are signs of God’s presence or closeness. In this perspective, the primary sacrament is Jesus Christ himself, who was present on earth teaching, taking up his Passion, and, as a result, rising from the dead: in a sense, this presence is tangible. (Eßer, 2016, p. 71) For Old Catholics, “the Church’s mission is therefore to live the Gospel as a joyful and liberating message. Individual sacraments develop this mission in people’s lives, serve people’s lives, show God’s saving concern for us, and his love for us is visible and tangible in this sign”<sup>9</sup> of the sacraments. (Eßer, 2016, p. 72) So there are various forms of sacramental life centered around the Original Sacrament, Christ. Sacramental life, therefore, is about “sacramental existence”, and the number of sacraments or their nature is of secondary importance in this perspective. (Eßer, 2016, pp. 73–74)

ICB theologians emphasize that the relationship between a woman and a man is in a sense an icon of God’s love. An icon is an image which can be presented in different ways, not in a single way. For this reason, G. Eßer believes that “in this whole discussion about marriage and partnership, the real question we must ask ourselves as a church is ‘how we can help people, their love, which is always a gift of a God who loves us, a gift that they want to testify to through partnership to realize in their lives? How can we help them make this love a sacrament, a true sign of the closeness of God, a sign that radiates? What can

<sup>7</sup> Transl.: *The Holy Bible*, 1891.

<sup>8</sup> „Sakramentalność małżeństwa tkwi w *benedictio* i stanowi ono formę sakramentu. Błogosławieństwa można jednak udzielić tylko na podstawie słowa «tak», które nowożeńcy wypowiedzieli wobec władz cywilnych i które powtarzają przed ołtarzem.”

<sup>9</sup> „Die Sendung der Kirche besteht also darin, das Evangelium als eine froh- und die Menschen freimachende Botschaft zu leben und durch ihr Leben zu verkünden. Die einzelnen Sakramente entfalten diese Sendung in das Leben der Menschen hinein, sie dienen dem Leben der Menschen, sie machen Gottes Heilssorge um uns und seine Liebe für uns im Zeichen sichtbar und erfahrbar.”

we do as church so that people in their partnership may be sacrament-bearers for each other – and others too?”<sup>10</sup> (Eßer, 2016, p. 76)

### Why bless same-sex relationships

The debate about the Church’s relationship to homosexuality, which took place in Western European Old Catholic Churches, became the basis for further theological reflection on blessing same-sex relationships. It is worth recalling four basic reasons why it was decided to focus on this issue. The first was the depenalization of homosexual acts by civil law, the next the introduction of partnerships or same-sex marriages in some European Union countries, and the third the recognition by Old Catholics that homosexual orientation is an element of human nature, and that human sexuality is a gift from God, not a stigma, and forth – the ubiquity among the faithful of informal or formalized same-sex relationships.

To better illustrate the problem, it is worth looking at the synod declarations of the Christian Catholic Church in Switzerland which briefly explain the Old Catholic position on homosexuality. In 2006 a committee appointed to examine these issues presented a report to the Synod. We find in it a clear emphasis that in the light of the six biblical pericopes (Gen. 19:5-8; Leviticus 18:22; 20:13; Rome 1:26-27; 1 Cor. 6:9; 1 Tim 1:10) homosexual relations between men deserve condemnation. The authors of the report note that the Bible does not mention homosexual women. (Helminiak, 2002, pp. 150–151) According to theologians, condemnation of homosexuality should be interpreted in the context of marriage privileges, as the only framework for sexual activity, as well as its primary purpose, i.e. procreation. The committee, having studied documents of Old Catholic churches, as well as other theological and scientific opinions, came to the conclusion that there is a discrepancy between biblical and ecclesial tradition on the one hand, with its arguments for banning homosexual practices, and contemporary scientific knowledge on the other. This tension is also a consequence of current knowledge about human sexual identification in its biological and social aspects. Biblical authors and witnesses of tradition did not have this knowledge. (Rein, 2006, pp. 2–3) Old Catholics

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<sup>10</sup> „Ich glaube, in dieser ganzen Diskussion um Ehe und Partnerschaft ist doch die eigentliche Frage, der wir uns als Kirche stellen müssen, die: Wie können wir Menschen helfen, ihre Liebe, die immer ein Geschenk des uns Menschen liebenden Gottes ist, ein Geschenk, das sie durch ihre Partnerschaft bezeugen wollen, in ihrem Leben zu verwirklichen? Wie können wir ihnen helfen, dass diese Liebe zu einem Sakrament wird, zu einem wirklichen Zeichen der Nähe Gottes, das ausstrahlt? Was können wir als Kirche tun, damit Menschen in ihrer Partnerschaft Sakrament füreinander sein können – und darüber hinaus für andere?“

emphasize that, in the Christian concept of the human being, sexuality is a gift of God, which entails that it is an element of the integral responsibility of personal life. Therefore, also partnership between two grown-ups, based on conscience and mutual respect, must cover all aspects of life. (Rein, 2006, p. 3)

Referring to the biblical pericopes put forward by opponents of ecclesial emancipation of homosexuals, Andreas Krebs believes that opponents rely on theological prejudices. He points out that the very understanding of marriage has changed throughout history. In the Old Testament we find polygamy, and at the same time no precise inter-testamentary circumstances of establishing monogamy as the only marriage-family form. (Krebs, 2019, p. 6) It is also noted that in the past marriage was not about feelings but economic considerations, and recently there has been a reorientation from an economic to a relational perspective. Therefore, there is no reason to exclude partnerships from the category of marriage. Considering Tradition, its dynamic character should be noted. As an example of moral issues or human rights in general, Krebs names there being no ban on slavery in the Bible. It was not condemned for a very long time by the Western Church and it wasn't until the 19th century that its condemnation became a consensus. The same was true of other human rights. This is just an example of how big a problem churches have had to accept what seems obvious today. Krebs concludes "that the rejection of homosexuality in this case is just as outdated, it seems obvious to me. However, if one recognizes same-sex love and blesses the relationship even during a church celebration, then it is no longer possible to understand why their love cannot be a sacrament – an effective sign of God's gift – just like the love of a heterosexual couple is."<sup>11</sup> (Krebs, 2019, p. 7)

The above thesis is part of the path of Old Catholic theologians to fully recognize same-sex relationships. (Ring, 2016, p. 52) For example, Swiss Old Catholics directly point out that homosexuals have the same spiritual and bodily needs as those who marry. However, since marriage has something special in it that is part of the relationship with the Work of Creation, they believe that this form should receive special recognition, not excluding partnerships. The sacramental nature of marriage is reserved for two people. They believe that the blessing of people living in relationships other than marriage should be clearly distinguished. (Rein, 2006, p. 3) In addition, the opinion was expressed that sexual preferences are not in themselves a criterion determining the ordination

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<sup>11</sup> „Dass die Ablehnung von Homosexualität in der Sache ebenso obsolet ist, scheint mir auf der Hand zu liegen. Wenn man aber die Liebe zweier Menschen gleichen Geschlechtes anerkennt und ihre Verbindung sogar in einer kirchlichen Feier segnet, ist nicht mehr einzusehen, weshalb ihre Liebe dann nicht ebenso ein Sakrament sein kann – ein wirksames Zeichen der Zuwendung Gottes – wie die Liebe eines verschiedengeschlechtlichen Paares.“



of homosexuals, although a certain pastoral sense must be demonstrated in the pastoral involvement of a member of the clergy living with a homosexual partner. (Savoy, 2006, p. 5)

### **The essence of blessing same-sex relationships**

In the context of the blessing of same-sex couples, we should reflect on three basic perspectives. They are outlined by the following questions: is the blessing of same-sex relationships and marriage identical or equivalent?; does a same-sex relationship acquire a sacramental character through blessing, like marriage?; should we make a conceptual distinction between same-sex blessing and marriage, or should we allow all people, regardless of gender, to marry? (Krebs, 2019, p. 4) Regarding the debate around the sacramentality of marriage, one can of course speak of a kind of sacramental, not a sacrament (which we see in Swiss discussions), i.e. a certain act performed on behalf of the Church which is not a “full” sacrament. According to A. Krebs, this path is not possible because it comes down to the devaluation of same-sex partnerships, (Krebs, 2019, p. 4) which would contradict the thesis that same-sex relationships are just as valuable as marital ones. Regarding the third question, there is no consensus among church leaders. For example, Bishop Harald Rein believes there should be a liturgical distinction between the blessing of same-sex couples and the marriage ceremony. On the other hand, Dutch bishops want to keep the distinction between these unions, while at the same time they would like to see real marriages in same-sex unions. (Krebs, 2019, p. 4)

In this discussion, G. Eßer made a bold proposition, saying that marriage and partnership are two equal forms of the “Sacrament of Blessed Love”. (Krebs, 2019, p. 5) Based on his thoughts, A. Krebs proposes a redefinition. For him, the phrase “Sacrament of Life” would be a more general term, describing both marriage and same-sex relationships. This approach makes it possible to distinguish between homosexual and heterosexual love, which is not discriminatory in itself. “Being in love, longing for symbiosis and insisting on autonomy, the tension between reliability and freshly experiencing the relationship every day... – all this characterizes same-sex partnerships as well as inter-sex relationships.”<sup>12</sup> (Krebs, 2019, pp. 6) Because there are legal differences in different countries between same-sex and heterosexual relationships, this dichotomy also persists in the Church. Hence, he suggests

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<sup>12</sup> „Verliebtsein und Liebe, die Sehnsucht nach Symbiose und das Beharren auf Autonomie, die Spannung zwischen Verlässlichkeit und Sich-jeden-Tagneu-Wiederfinden... – all das prägt gleichgeschlechtliche Partnerschaften ebenso wie verschiedengeschlechtliche.”



that “the most decisive solution would be to have a conjugal liturgy that no longer distinguishes any fundamental differences in the sex of the persons involved.”<sup>13</sup> (Krebs, 2019, p. 6)

It is impossible to avoid the question of whether this approach threatens marriage. G. Eßer notes that ‘in the traditional sacrament of marriage of a woman and a man who are bound in love and loyalty, they are promised God’s loving companionship on their path. By what right can you deny this to loving same-sex couples? Recognizing a blessing as a sacramental act is not about the theological devaluation of marriage or family, but about whether others can participate in God’s love that applies to all people and in his blessing – i.e. his closeness and companionship that is expressed in the sacramental Action of the Church.’ (Eßer, 2016, p. 75) For G. Eßer, therefore, the church blessing of same-sex relationships is not in contradiction to marriage as a relationship of a woman and a man, it does not devalue it, but is a different relationship based on the same foundation – God and his love for creation. Therefore, since we are dealing with God’s presence in the lives of two people, it is also a sacramental relationship.

### **Lex orandi, lex credendi**

The work of the Liturgical Commission preparing the German *Ritual for the Celebration of the Blessing of the Partnership* can serve to present how doctrine is explained in worship. It was recognized that since the blessing of partnerships is of a public nature, it must have a clearly defined minister (i.e. a clergyman), and thus also a place of worship (a parish church). (Ring et al., 2016, pp. 50–51) The questions asked in the liturgy, the selection of liturgical texts, and the interpretation of rites were also considered. The Hymn on Love appeared most often as a suggestion for lessons (1 Cor 13,) but other passages were put forward too. Therefore, only those that related solely to heterosexual relationships were excluded. The text about the friendship of Jonathan and David was rejected (1 Sam 18:1b-4; 19:1-7; 20:35-42,) although this biblical passage was proposed by the working group as suitable for a blessing. (1 Sam 18:1b-4) The promise of mutual loyalty has been added optionally, because many couples have long been living together, sharing table and home (Ring et al., 2016, pp. 52–53.) In addition, it was noted that “a profession of loyalty is sometimes felt as something intimate that is considered inappropriate in a public

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<sup>13</sup> „Die schlüssigste Lösung wäre vielmehr, eine Eheliturgie zu haben, die am Geschlecht der beteiligten Personen eben keine prinzipiellen Unterschiede mehr festmacht.“

service.”<sup>14</sup> (Ring et al., 2016, p. 53) Liturgists also faced the question of the symbol of partnership. Although tying of the hands by a stole was not proposed, (Ring et al., 2016, p. 55) considered possibilities included, for example, drinking from one cup or exchanging rings, the latter being ultimately deemed the most adequate symbol (not excluding other symbols). (Ring et al., 2016, p. 54) Because the resulting rite is treated as an enrichment of liturgical practice, some priests consider eulogic prayer of blessing as another alternative to blessing prayers at a wedding, e.g. with regard to prayer for non-biological fertility, also appropriate for some heterosexual couples. (Ring et al., 2016, p. 57) The declaration of will and epiclesis were omitted, from the Catholic and partly also from the Old Catholic point of view elements constitutive for the sacrament of marriage. Thus, it was emphasized that the celebration of the blessing of the partnership should not be seen as sacrament of marriage. For German Old Catholics, these matters are still disputable in the whole UU, and therefore may be omitted. (Haag, 2016, p. 61) Of course, for example the blessing ritual of the Old Catholic Church in the Netherlands also doesn't contain an expression of will. The reason is different, however, because this part of the rite was left to the state by the church. (Haag, 2016, pp. 62–63)

### Consequences and problems

Because there is full communion between UU Old Catholic Churches, it would seem that the faithful may receive sacraments in sister Churches essentially without hindrance and that the clergy may celebrate together. Of course, each of the Churches has its own canon law. Nevertheless, the redefinition of the sacrament of marriage and the introduction of women's priesthood provoke questions about the consequences of this state of affairs in terms of relationships within the UU as well as interdenominational relations.

Old Catholics agree that the minister of marriage is the priest. However, the Polish Catholic Church does not recognize the ordination of women, and Polish Catholic clergy cannot concelebrate with female priests. (*Komunikat*, 2007, p. 10; cf. Haag, 1996, pp. 47–67; Tomaszewska, 2001, pp. 202–211; Frieling, 2000, pp. 157–168; Arx, 2002, pp. 491–500; Arx, 2013, pp. 24–25) Consequently, it does not recognize marriages and partnerships blessed by them. This position can cause serious ecclesiological consequences. Currently, the Polish Catholic Church has one bishop. If an elect is chosen by the synod,

<sup>14</sup> „Das Bekenntnis der Treue wird zudem teilweise als etwas Intimes empfunden, das in einen öffentlichen Gottesdienst als unangemessen betrachtet wird.”

consent to the consecration must be expressed by other bishops of the ICB, while the consecrator of the future superior cannot be the outgoing bishop. According to Old Catholic theology, apostolic succession consists in remaining in the teaching and morality of Christ and the apostles. Formally, “this includes pre-eminently the passing on of the ordained ministry by prayer and the laying-on of hands.” (*Statute*, 2001, p. 30) Succession is manifested in communion between local Churches, expressed by the participation of local bishops in the consecration of the bishop elect. This means communion with Catholic Churches which have a synodal system, headed by bishops and clergy. (Przedpełski, 2008, p. 8) The depositary of apostolic succession is, therefore, the Church, not the bishop, the consecrator, who is a kind of tool of the Church in conveying apostolic succession. (Majewski, 1993, pp. 79–80) It follows that the future superior, wanting to be included in the ICB, through his consecration will affirm the teaching of his consecrators.<sup>15</sup> Consequently, he will recognize the priesthood of women and the blessing of same-sex couples.<sup>16</sup>

Western European Old Catholics disagree as to whether partnership is fully sacramental. They seem to agree, in principle, that entering into a partnership excludes the simultaneous possibility of getting married. The exception is the Polish Catholic Church, which does not recognize this blessing, and defines homosexual relations as sinful, (*Komunikat*, 2007, p. 11) rejecting modern-day biblical hermeneutics and the resulting interpretation of biblical passages condemning homosexuality.<sup>17</sup>

Old Catholics are not entirely in agreement as to whether the form of partnership blessing is a sacrament or a sacramental. Certainly entering into a partnership precludes marriage. In relation to the sacrament of penance and its quasi-matter, it is clear that in some churches active homosexuality is not inherently evil, but for the Polish Catholic Church – it is sinful.

In the perspective of full communion with the Anglican Churches or the Church of Sweden, the introduction of partnership blessing by the UU has been part of the trend of liberal theology, which has long been present in Anglican or Lutheran reflection. A problem similar to that which exists inside the union with the Polish Catholic Church arises in relation to the Churches with which the Union has intercommunion. An interesting example is the Old Catholic

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<sup>15</sup> The exception was the consecration of Polish Catholic bishops by the Mariavites in 1952. (Cf. Przedpełski, 2018, pp. 109–120)

<sup>16</sup> Because of the ordination of women, the Polish National Catholic Church in the USA and Canada left the UU and established the Union of Scranton. (Cf. Berlis, pp. 101–111; Hartmann, Seidler, 2012, pp. 64–66; Arx, 2008, pp. 10–11)

<sup>17</sup> A similar inconsistency occurred in the 20th century regarding the re-administering of the sacrament of marriage to divorced persons between the Dutch and other Churches. (Küry, 1996, p. 230)

Mariavite Church, which takes the stance that the theology of the sacrament of marriage must remain unchanged, excluding the possibility of church blessing of same-sex couples,<sup>18</sup> even though it does not deny the validity of the ordination of women. On the other hand, Mariavites recognize nupturients as ministers of the sacrament of marriage.

There was a rather paradoxical situation regarding the talks between the UU and the Old Catholic Mariavite Church in the Republic of Poland regarding the latter's re-admittance as a member. Since the Mariavites did not express any doubts regarding the blessing of same-sex unions,<sup>19</sup> the position of the ICB had to be convincing enough for them that no debate took place.<sup>20</sup>

The problem of the reinterpretation of the sacrament of marriage touches not only on the canonical relations within the ICB. In a short time, it will either force the Polish Catholic Church to revise its current doctrine or to leave the UU. For the Old Catholic Mariavite Church it became a non-issue as talks with Old Catholics were suspended in 2014. One should agree with A. Krebs that the sacramentality of same-sex relationships is also an ecumenical problem. It increases the distance to the Roman Catholic Church or the Eastern Churches. Nevertheless, ecumenism entails respect for otherness if its purpose is unity in diversity, not unification. (Krebs, 2019, p. 7) It is worth adding, however, that this is a vision of a difficult diversity, one that demands a lot from all involved.

The redefinition of the sacrament of marriage, together with the introduction of the priesthood of women, brings up the question of consequences within the four-field relations within the Union of Utrecht as well as interfaith relations:

**ecclesiological issues:** Old Catholics agree that the minister of marriage is a clergyman. Nevertheless, the Polish Catholic Church does not recognize priestly ordinations given to women, and consequently should not recognize marriages and partnerships blessed by a woman as a minister of the sacraments;

**canonical and legal issues:** Old Catholics are not in agreement as to whether same-sex relationships are fully sacramental. It seems that they agree, in principle, that the conclusion of a partnership excludes the possibility of a marriage. Nevertheless, the Polish-Catholic Church considers the blessing of same-sex relationships invalid; in the canon law of the Polish-Catholic Church,

<sup>18</sup> The Old Catholic Mariavite Church belonged to the UU from 1909 to 1924, since 1935 efforts were made to re-enter it. (Cf. Mames, 2009; Rybak, 2011; Le Bec, 2018)

<sup>19</sup> Expectations were presented only by the UU representatives. (*Rozmowy*, 2013, p. 26; *List pasterski*, 2014, p. 5)

<sup>20</sup> On the one hand, the head of the Mariavite Church in 2005 signed to the joint appeal of the Polish Ecumenical Council and the Roman Catholic Church in Poland opposing the proposals to regulate the legal situation of persons in same-sex unions, while on the other it did not object to the practices in the UU. (*Komunikat*, 2015, p. 8; *Stanowisko*, 2005)

those who have entered into a partnership blessed by another Old Catholic Church are seen as unmarried;

**liturgical issues:** the sacramental character of the rite for the blessing of a same-sex relationship should result from three elements: the declaration of the will (“I do”), epiclesis, and the blessing by the clergy. Because to this day, the Old Catholic Churches are not fully in agreement whether the rite of blessing is a sacramental or a sacrament, Churches of the Union of Utrecht are drifting apart in the areas of liturgy and teaching, even though particular Old Catholic Churches are striving to reflect their teachings in their liturgy (*lex orandi, lex credendi*).

**ecumenical issues:** the introduction of civil union blessings is not problematic for full-communication relations with Anglican Churches or the Church of Sweden, because it follows the liberal direction Anglican and Lutheran theology has been following for many years. Similar to the situation within the Union with regard to the Polish-Catholic Church, the problems appears in relation to Churches with which Old Catholics have intercommunion. An interesting example is the Old Catholic Mariavite Church, which insists on the inviolability of the sacramental theology of marriage, excluding the possibility of church blessings for same-sex couples. Mariavite theology does not question the ordination of women to priesthood, but at the same time it is the candidates for marriage that are considered to be ministers of their own sacrament of marriage.

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## Kanoniczne, prawne i liturgiczne konsekwencje redefinicji sakramentu małżeństwa w Kościołach starokatolickich

**Streszczenie:** Zarówno Kościół rzymskokatolicki, kanoniczne Kościoły prawosławne, jak i Kościoły zrzeszone w Unii Utrechckiej, zaliczają małżeństwo do siedmiu sakramentów. Nie ma jednak między nimi jednomyślności odnośnie do szafarza związku sakramentalnego, możliwości zawarcia ponownego małżeństwa po rozwodzie lub małżeństwa osób duchownych. W ostatnich latach powodem napięć w poszczególnych wspólnotach kościelnych były także decyzje dotyczące kanonicznego zalegalizowania związków osób tej samej płci. Kwestia ta dotyczy w szczególności Kościołów, których biskupi wchodzi w skład Międzynarodowej Konferencji Biskupów Starokatolickich. W zachodnioeuropejskich Kościołach starokatolickich Unii Utrechckiej istnieje pełna zgoda co do



tego, że orientacja homoseksualna jest jedną z odsłon natury ludzkiej. Starokatolicy są zdania, że seksualność jest darem od Boga i jako taka nie jest przez Stwórcę potępiana. Teolodzy starokatolicy uważają, że potępienie homoseksualizmu, jakie znajdujemy na kartach Pisma Świętego, wynikało z ówczesnej wiedzy na jego temat i związanych z nią konotacji kulturowych. Zwracają także uwagę na to, iż współczesna nauka ukazuje zjawisko to w zupełnie innej perspektywie, opierając się na wynikach badań naukowych nieznanymi ani tradycji Biblijnej ani Tradycji wczesnego Kościoła. Konsekwencją tej tezy było otwarcie debaty wokół natury związków jednopłciowych oraz możliwości ich błogosławienia.

**Słowa kluczowe:** Kościół Starokatolicki, sakramentologia, małżeństwo, małżeństwo jednopłciowe, homoseksualizm.