

PRESBYTERAL MATURITY AND MATRIMONIAL MATURITY

Introduction

Canon 1031 §1 and its reference to what I term «presbyteral maturity» has received analysis in the first of these *two companion articles*, the prior having been published in this same journal just recently. In the first article, I examined in some depth the historical and canonical development of the notion of «sufficient maturity» required of those to be ordained priests. In this article, I will examine some ways in which presbyteral maturity and matrimonial maturity can be compared and contrasted. We begin here with the most basic of investigations concerning the explicit treatment of «maturity», as such, in current canon law.

In the 1983 Code of Canon Law, the word «*maturitas*», or a declined form of it, appears six times in five canons: c. 217; c. 244; c. 642; c. 721 §3; and c. 1031 §1¹. The first canon concerns the life to

¹ X. OCHOA, *Index Verborum ac Locutionem Codicis Iuris Canonici*, Vatican City 1984², 273. Also, the listing under «*maturitas humana*» in the *Index analytico-alphabeticus* of the official Vatican redaction of the 1983 code cites precisely these same six instances within the same five canons. (PONTIFICIA COMMISSIO CODICI IURIS CANONICI AUTHENTICE INTERPRETANDO, *Codex*

which all the «*christifideles*» aspire; the second and fifth canons speak to those who either prepare for sacred orders (c. 244) or approach ordination (c. 1031 §1); the third and fourth canons regard consecrated life, specifically pertaining to persons entering religious or secular institutes (cc. 642 and 721 §3, respectively). Canon 1031 §1 legislates that presbyteral ordination may not be conferred unless the candidates enjoy sufficient maturity. None of these references concerns marriage. Where does this leave us?

1. A problem of ambiguity

His Holiness John Paul II has brought into sharp relief the matter of the maturity required for marriage, i.e., maturity as a requisite of persons who, when approaching the sacrament of marriage, validly exchange consent and consciously present themselves as capable of fulfilling the essential obligations of matrimony. In accenting maturity in his 5 February 1987 allocution to the Roman Rota², the

Iuris Canonici. Fontium Annotatione et Indice Analytico-Alphabetico Actus, Vatican City 1989, 601.) Likewise, H. Zapp lists the same six appearances. *CIC: Lemmata Stichwortverzeichnis*, Rombach 1986, 386. It is interesting what different editors have chosen to do with the word «*maturitas*» in their listings. For instance, the Vatican index simply lists «*maturitas humana*» for all five canons, while Zapp places four canons under the heading of «*maturitas*» and one under the heading «*maturitas humana*». On another note, specific canons hereon, whether referred to or cited, are from *CIC* 1983, unless otherwise expressly indicated.

² JOHN PAUL II, *Ad Romanae Rotae*, allocutio, 5 February 1987, *AAS* 79 (1987) 1453-1459; English trans. «The Judge Must Not Be Influenced», *OR(E)*, 23 February 1987, 6-7.

Holy Father irradiated a legal *lacuna*, since the current code of canon law does not treat directly the foundation of canonical maturity regarding marriage. Specifically, canonical maturity (in just those words) is not treated in any canon related in any way to marriage.

Speaking generally of both presbyteral ordination and marriage, one could phrase the «*maturitas*» dilemma thus: what constitutes sufficient, minimal maturity for one to be ordained a priest, or, analogously, for one to be a worthy spouse capable of giving effective consent, able to undertake the obligations of marriage? How can maturity be demarcated such that a person can be said to be no longer prohibitively deficient or incapable? Further, how can the sacraments' integrity be protected from necessarily time-and-place-specific cultural norms which influence notions of maturity?

Whether discussing presbyteral maturity or matrimonial maturity³, we confront our cardinal problem of ambiguity. Any concept which cannot be defined invites equivocal usage. When does immaturity (or lack of maturity) render a presbyteral candidate unready? Or when does immaturity incapacitate a per-

³ While admittedly awkward constructions, I employ the phrases *presbyteral maturity* and *matrimonial maturity* to distinguish the maturity which the Church requires of those admitted to the order of presbyters from the maturity which the Church requires of those entering a valid marriage. Further, unless I explicitly state otherwise, in referring to matrimonial maturity I generally do not distinguish between «*matrimonium in fieri*» (the marriage as juridically established by the exchange of consent) and «*matrimonium in facto esse*» (the marital state, and all that it entails, effected in the valid marriage).

son in the giving of matrimonial consent (or in the fulfilling of attendant obligations)? Stated positively, our question pertains not to what maturity is, but rather to its effects: maturity cannot be known in the abstract, but it can be recognized in its manifest effects, e.g., by how it occasions or prevents a particular activity shortly.

2. Age and development

Now we turn toward marriage to examine briefly: (1) the relation of puberty and adolescence to maturity, and (2) the relation of age-contingent maturity to readiness for Christian marriage.

We begin by recalling that the Church requires of those spouses who are youthful at least the following: the capacity to perform sexual acts whose end is procreation; an unhindered openness to committed parenthood; an assent to marital unity and indissolubility; due discretion; internal freedom; and the capacity to fulfill the essential obligations of marriage. Discussion of these last three features can be so onerous as to imply that marriage is easier done than said. Can young people meet such requirements? By setting the age requirements as it does, the Church answers in the affirmative.

The Church holds that young people are likely to be in possession of the intellectual faculties which permit them the possibility of gathering and processing the basic data pertinent to the marriage contract. This intellectual development is not the result of the physical development known as puberty, but merely parallels puberty (or should so). Indeed, development of the intellect might lag behind development

of the body, the pace being unique to the individual involved.

Arguments against current ecclesiastical age minimums often suggest that they are low, and that spouses so young are too immature to know what they are doing. Hence, we pause to recall what the Church considers the minimally mature, post-pubescent personal intellect and the minimally mature, post-pubescent personal will to be capable of doing.

The intellect supplies reasoning and motivation to the will, and permits the will its needed insight into the object to be willed. Hence, this knowledge is what the will acts upon; in this way, the activity of the intellect is a necessary prerequisite to the act of the will. In the context of a proposed marriage, the intellect informs the will of what is essential to the marriage contract. The will depends on this because it cannot act on what it does not know, and it cannot act properly on what it does not know properly. A marriage is entered validly when, given all else that the intellect knows and the will desires, the will consents to the marriage contract as that contract is properly understood. A young woman is thought to be capable of this upon completion of her fourteenth year, and a young man upon his sixteenth (c. 1083 §1). Physical potency (i.e., the power to perform sexual acts whose end is procreation) and the development of the intellective faculty contribute to this designation of «capable». However, fulfillment of the age requirements in itself does not guarantee that one possesses these marital prerequisites. For instance, a male may have passed puberty, but might be impotent, or might be incapable of due discretion or of the assumption of essential marital obligations. Presumption of his fitness will fall to contrary fact.

In another example, c. 1096 §1 indicates only what the Church does *not* presume the young people are *ignorant of* (c.1096 §2). The Church makes no positive legal presumption about what the young people have, or what capacities they enjoy. Non-ignorance and intellectual maturity are not the same: knowledge does not equal discretion. One can be duly informed but incapable of dealing properly with the data. Again, favorable presumption falls to evidence establishing contrary fact.

Hence, there is no precise, guaranteed relation between puberty and due discretion⁴, though an inference can be drawn about what the young person is capable of *potentially* doing, e.g., placing valid marital consent, or performing acts whose end is procreation. Some young men who have completed their sixteenth year are not ready for the marital commitment, and may in fact still be incapable of it. Conversely, even if maturity of judgment were possible in one who has not yet attained the canonical-legal age permitting marriage, the attempted marriage would still be invalid due to lack of canonical age.

⁴ Two of the better critiques of the puberty–due discretion relation are not recent, though the issues they highlight remain current. See V. SMITH, *Ignorance Affecting Matrimonial Consent*, Washington (D.C.) 1950, 6-10; 70-76. Also, see J. KEATING, *The Bearing of Mental Impairment on the Validity of Marriage. An Analysis of Rotal Jurisprudence*, excerpt of doctoral dissertation, Pontifical Gregorian University, Rome 1963, 144-154; the section immediately preceding the «puberty norm» critique, on the obsolete and abandoned but historically interesting «mortal sin norm», also is relevant (136-143). The two authors mentioned here are not in complete agreement.

We return, then, to the specific problem of puberty, maturity, and the canonical age for marriage. The Church establishes the age as low as it does to protect the natural right to marry. Some argue that such age designations are at best arbitrary and at worst so generously low as to be in error. The minimal is too minimal, they would argue.

In any case, the weave of age, knowledge/learning, stability, and awareness just described reminds us what the heritage of c. 1031 §1's «*sufficienti gaudeant maturitate*» reveals. «*Maturitas*», when placed in this weave, can be seen as a central element of the commitment itself: a person must have attained a specific level of personal maturity in order to make the commitment to marriage, or to priesthood. Practically, for both sacraments, canon law requires that the «*maturitas*» of the person must predate the liturgical event which ratifies the commitment⁵. For the

⁵ This is intended as a simple statement of fact, though it cannot be objectively known what constitutes this maturity. The discovery of a notional «*maturitas*» proper to our age should be expected to be less than tidy. As one author puts it: «Matrimonial law does not primarily exist in the form of an abstract model which it is then enough to apply in pure and simple form. The historical and actual character of jurisprudence is not "given" in advance. It is up to the official bodies to "receive" it, to shape it, and to give it an appropriate embodiment in each age so that it can fulfill its mission, in obedience to the Spirit of Christ». J. BERNHARD, «The New Matrimonial Law», in *Canon Law – Church Reality*, ed. J. Provost – K. Walf, Edinburgh 1986, 51. One also recalls Ladislav Ůrsý's debatable remarks on achieving balance and insight: «The clue to the sound development of the law is precisely in the good knowledge of the system of values behind it which can tell us what rules should be kept, what norms should be dropped, how some of the structures and procedures could be improved upon. [...] Part

presbyteral order, this is stated explicitly and clearly in *CIC 1983* c. 1031 §1. For matrimony, this is implicit in *CIC 1983* and expressed amply in Rotal jurisprudence, especially in this last decade⁶.

Ironically (given the boom of psychological inquiry in recent decades), *CIC 1983* c. 1031 §1 emerged

of the ministry of the interpreter is to provide the legislator with a critically correct and balanced report on the relationship of the abstract legal norms to the concrete world of values.» L. ÖRSY, *Marriage in Canon Law. Texts and Comments, Reflections and Questions*, Wilmington 1988, 43. Balanced reports on abstract legal norms lived in a concrete world are rarely produced univocally.

⁶ For a detailed analysis of one slice (the years 1989-1990) of rich Rotal jurisprudence regarding «maturitas», see especially pages 137-193 of my *On the Requirement of Sufficient Maturity for Candidates to the Presbyterate (c. 1031 §1), with a Consideration of Canonical Maturity and Matrimonial Jurisprudence (1989-1990)*, Tesi Gregoriana, Serie di Diritto Canonico 30, Rome 1999. (This current article, like its prior companion article, condenses some major themes found in that work.) As an example of the activity to which I refer, I note the following. Slightly over 260 sentences considering matrimonial validity were issued by the Roman Rota in the years 1989 and 1990. Sixty sentences considered «maturitas», about twenty-three percent of the total. In all, the explicit «maturitas»-related references number over two hundred. These might be divided messily into the following categories: (1) maturity of personality and human maturity, approximately one-tenth of all the references; (2) affective, psychic, psychological, or psycho-affective maturity, about one-fourth of the total; (3) maturity of judgment, about another quarter of the total; and (4) matrimonial maturity, minimal maturity, and age-related maturity, approximately one-fifth. Another five percent of the references are not easily placed into any of the above four categories. Twelve percent are repetitions or quotations of other sentences (i.e., references to a «maturitas» consideration of another judge or author, usually not from within the 1989-1990 frame).

in a simple form, a modern product of the longest possible Christian tradition, embodying maturity with all its ancient connotations, yet newly placed in an age-minimum canon whose 1917 predecessor had made no mention of «*maturitas*»⁷. The Legislator, in *CIC 1983* c. 1031 §1, is quite reticent about this presbyteral maturity⁸.

Set within the tradition earlier outlined, presbyteral maturity apparently required of the candidate, in sum: (1) that he be old enough; (2) that he manifest potential for a virtuous life; and (3) that he be capable of learning, deciding, and committing. If for conversational purpose we remove the second of the three (on virtue), the remaining requirements are age («maturity of age») and discretion («maturity of judgment»). Curiously, this age-and-capacity-minimum, so familiar in the presbyteral maturity para-

⁷ Hence, Luc DeMaere is only partially correct in saying: «Il y a une grande différence entre le texte du Code antérieur et les premières propositions d'une part et le texte approuvé d'autre part en ce sens que ce dernier indique très clairement que l'âge en soi ne suffit pas pour déterminer si quelqu'un est prêt ou pas pour être ordonné. On y souligne notamment l'influence décisive de la maturité». L. DEMAERE, *La maturité psychique des candidats au sacerdoce selon le Code de droit canonique de 1983*, Rome 1990, 282. As DeMaere says, *CIC 1983* c. 1031 §1 indicates more clearly than its predecessors that maturity, in addition to age, is important. However, this falls short of making for a «great difference». *CIC 1917* did not indicate that age in itself was sufficient to determine whether or not a man was sufficiently mature to be ordained. As I noted in the earlier of these two articles, *CIC 1983* c. 1031 §1 codifies an ancient criterion; it affirms the past far more than it breaks from it.

⁸ On the matter of matrimonial maturity, however, the Legislator is yet more restrained. In the marriage canons of *CIC 1983*, as we know so well, there is no mention of «*maturitas*».

digm (as seen in c. 1031 §1), is precisely what the Church is stressing today for spouses-to-be. The 1987 and 1988 Rotal allocutions implicitly and explicitly reiterate that minimal matrimonial maturity rests on the spouses being (1) canonically of age, and (2) capable of making a free decision and commitment. Today the teaching Church seeks to recoup the notion of a minimal matrimonial maturity (against contemporary secular trends) at the same time it appears to be intensifying a maximal presbyteral maturity (likewise against contemporary secular trends).

Does this represent a shift in «*maturitas*» requirements? Not really. Rather, perhaps the shift is in how the Church perceives maturity, in light of the psychological sciences. The shift is in perception, not requirements. But quite a shift it is. And one of several.

3. Changing perceptions

A shift in the perception and characterization of «*maturitas*» has moved the focus from external manifestations to internal movements, from that which can be observed to that which cannot.

The post-conciliar shift here raised – from (1) emphasizing external, objective manifestations of mature behavior to (2) seeking psychic assessment of one's interior, subjective development – is important in our understanding of presbyteral maturity, and of matrimonial maturity as well.

One aspect of the shift, here perhaps better called a tension, points to the convergence of Thomistic categories with the modern psychological sciences. As we

know, biological, physical maturity has never been in itself sufficient to establish fitness for either marriage or orders⁹. The Church has never taught that maturity is merely measured in years, nor has it ever taught that attaining a certain age guaranteed maturity (not for orders, not for marriage). However, maturity in the physical, age-related sense – in recent decades – has come to mean less than it once did¹⁰. The interior, emotional, and relational capacities of the person have come to

⁹ In marriage, biological maturity has been necessary but not in itself sufficient. The 16 May 1977 «*adunatio*» of the *Coetus studiorum de iure matrimoniali* summed this up well. The right to marry becomes a natural right for those prospective spouses who have achieved biological and psychological maturity. The age-minimum canon respects biological maturity, while the consent canons address psychological maturity: «Consultores tamen notant fere omnibus organis consultationis placuisse limitem aetatis in canone statutum; ceterum cum matrimonium sit ius naturae, non videtur quomodo iure canonico hoc ius limitari possit, ratione aetatis, quando iam partes ad maturitatem sive biologicam sive psychologicam pervenerint. Iamvero hic canon respicit maturitatem biologicam; de maturitate autem psychologica exstant peculiare canones in capite de consensu». *Communicationes* 9 (1977) 360.

¹⁰ This does not mean at all that psychology has assumed a sole, dominant position. E. Gilbert stresses the newness and psychological import of «*maturitas*» in c. 1031 §1: «The candidate must also possess sufficient maturity. This simply intensifies the importance that the revised Code gives to psychological maturity already mentioned in canon 1029». E. GILBERT, «Title VI, Orders», in *The Code of Canon Law. A Text and Commentary*, ed. J. Coriden – T. Green – D. Heintschel, New York 1985, 726. However, both c. 1029 and c. 1031 bring together traditional as well as modern themes. It is worth recalling, for instance, that the «*maturitas*» of 1031 §1 has no OT foundation; in fact, its roots are more evident in the fourth century than the twentieth.

mean more, and this is reflected in magisterial teaching (e.g., *PDV*), if not *CIC 1983*. Yet, even this newer tenor of maturity is not so new. Thomistic thought and scholastic method certainly were not devoid of psychological insight (he said understatedly).

The former sense of maturity (i.e., that which is required to perform a task) is *more likely to be verifiable in an apparently objective manner*. The latter (i.e., emotional maturity) is *less likely to be verifiable in an apparently objective manner*. Marriage and orders *require both*: (1) the ability to do a task, and (2) the ability to enter and sustain an interpersonal relationship. As the texts cited earlier in this article suggest, the former («to do», in the task-oriented sense) may have been accented *prior to 1950* (to select an arbitrary, proximately pre-conciliar date), while the latter («to be», in the personal sense) has moved to the forefront of canonical interest *since 1950*. This latter understanding of maturity is less neat, less precise. This would be similarly true in both orders and marriage.

We can say with some certainty that the earlier «*maturitas*» neatness gave way to the contemporary imprecision, though we cannot say why. (Explanations which seem too pat are probably just that, e.g., «the positive and negative influences of the psychological sciences», or «an encroaching, pervasive secularism».) We do know that part of the canonical problem exceeds the noun «*maturitas*», and can be traced to various efforts to modify it.

4. The adjective «sufficient»

There is no canonical history for the placement of the adjective «sufficient» with the noun «matur-

ity». In general, «*sufficiens*» and relatives (e.g., «*sufficere*», «*sufficienter*») appear over twice as often in *CIC 1983* than they do in *CIC 1917*. This is interesting, especially when one recalls that *CIC 1983* is shorter than *CIC 1917* by 662 canons, and therefore has less text. Though not one example of the 1917 usage («*sufficiens*», «*sufficere*», «*sufficienter*») pertains to «*maturitas*», perhaps one example of an almost-codal, pre-1983 «*maturitas sufficiens*» bears a comment. Curiously, this reference has nothing to do with what in time became the presbyteral candidate's «*maturitas sufficiens*» of c. 1031 §1; rather, the reference concerns matrimonial maturity.

Not long before the promulgation of *CIC 1983*, «*unus pater*» requested that the minimal age for valid marriage be reconsidered and raised (18 for the male, 16 for the female). He noted the common legal ages in civil law, the need for psychic maturity on the part of the contractants, and the uniformity of Latin norms with those of the Oriental churches which such a move would afford¹¹. The response came back that there were already other canons (apart from the age minimum canon assuring biological maturity) which adequately protected marriage from being contracted by spouses lacking sufficient

¹¹ «Stante evolutione in legislationibus civilibus necnon atenta necessitate maturitatis psychicae sponsorum proponitur ut aetas matrimonialis uniformetur Codici Orientali (18 a. pro viro et 16 a. pro muliere) (Unus Pater).» *Communicationes* 15 (1983) 228. Eventually, the Oriental norm matched the Latin validity norm (16 years completed for the male, 14 for the female), as set forth in *CCEO* c. 800 §1.

maturity¹². These canons, taken together, were believed enough to ensure sufficiency; among these canons are, for instance, today's c. 1072; c. 1071 §1, 6°; and c. 1083 §2. The point of the response was this: the marriage canons touching issues regarding age, parental attitudes, knowledge, freedom, etc., when taken as an amalgam, serve to protect potential spouses lest they marry without sufficient maturity. In the codification of the norm regarding presbyteral maturity, in contrast, the requirement was issued explicitly.

5. Evaluation and judgment

Still, in a manner consonant with earliest Christian canonical traditions, assessment guidelines concerning sufficiency and maturity are not codified. On the one hand, making a canonical judgment is by nature often a challenge: to attain moral certainty about what we can know, recognizing that the knowledge we have is human and therefore always imperfect. On the other hand, at some point a concrete judg-

¹² «Agitur de aetate *minima* requisita, qua adepta, supponitur haberi maturitas saltem biologica necessaria et ius naturale ad matrimonium non potest, sub hoc respectu, plus aequo coarctari. Non expedit ut Codex aetatem *superiorem* statuatur, praesertim attentis diversis culturis et adiunctis in orbis regionibus. Adsunt alii canones quibus providetur ne matrimonium sine sufficienti maturitate contrahatur (*cf. cann. 1025; 1024, §1, n. 6; 1036, §2; 1048, n. 2; 1050, etc.*)». *Communicationes* 15 (1983) 228. Further, one notes the clear distinction of biological maturity from sufficient maturity.

ment (e.g., regarding presbyteral «*idoneitas*», or readiness for matrimony) must be made. Such an evaluation does not depend solely on one or several persons who – after the fact – may consider a case of dispensation from the obligations derived from ordination, or a case regarding alleged matrimonial invalidity. The judgment also rests in the hands – prior to the fact – of the presbyteral candidate and his ordinary, or, with marriage, in the hands of the spouses, those who have assisted them in their preparation, and the officiant. What, then, of the «maturity of judgment», or the «sufficient maturity» needed to assist these primary parties in making this prior judgment?

In matrimony, this maturity of judgment must belong to the spouses, exclusively¹³. In orders, this maturity of judgment is part of a multifaceted yet unified understanding of maturity. The ordinary, «*omnibus mature perpensis*», has the moral obligation to judge the candidate's fitness. The presbyteral candidate, who presents himself for ordination, is to bring to his ordination a maturity of judgment regarding his own desire and worthiness for orders; this is not distinguished from other elements which his «sufficient maturity» comprises.

Maturity of judgment, as such, is hardly a controversial issue in sacred orders; it is very much a contested issue in matrimonial jurisprudence. «Maturity

¹³ The officiating minister must make a judgment that the prospective spouses are not impeded or incapable, or that they are otherwise properly disposed to marriage; this, however, is quite different from «maturity of judgment» or due discretion, which pertains exclusively to the spouses.

of judgment» and due discretion are receiving focused Rotal attention in a way that they were not, for instance, a mere twenty or thirty years ago (e.g., at least a quarter of the Rotal sentences of 1989-1990 which dealt with «*maturitas*» directly address maturity of judgment, explicitly so called)¹⁴.

Other dilemmas persist, related – for instance – to intention, and to the associated possibility of exclusion¹⁵. Also inviting deliberation would be: (1) what exactly the Church does and does not presuppose regarding presbyteral candidates and prospective spouses who approach their respective sacraments, and (2) how to gauge the «proportion» in

¹⁴ See nt. 6.

¹⁵ Serrano has addressed the paradox of greater maturity being necessary for exclusion. He writes in the introduction to Peter Kitchen's 1992 doctoral dissertation: «There is a generally held opinion of our Rotal jurisprudence that in cases of exclusion a positive act of the will implies deliberate attention to the "excluded element" thus implying that a greater "maturity" would be needed for excluding than for marrying rightly.» J. SERRANO, «Introduction», in P. KITCHEN, *The Presence and Absence of the Essential Elements of the «Mens Matrimonialis»*, Rome 1989, xvi. On another note, Serrano has helpfully and provocatively examined parallels between arguments for dispensations from obligations related to the presbyteral-clerical state, and those arguments concerning causes of matrimonial nullity due to psychic incapacity. See his insightful article: J. SERRANO, «Algunas observaciones sobre los casos de dispensa de las obligaciones derivadas de la S. Ordenación desde la analogía con las causas de nulidad de matrimonio por incapacidad psíquica», in *Sacramenti, Liturgia, Cause dei Santi*, Fs. G. Casoria, Naples 1992, 89-123. For a detailed treatment of Serrano's presentation as it touches upon our intersacramental «*maturitas*» discourse, see R. GEISINGER, *On the Requirement of Sufficient Maturity* (cf. nt. 6), 199-214.

assessing requisite maturity proportionate to the gravity of the obligations to be assumed, whether in orders or in matrimony¹⁶, if (that is) such a discussion could be taken up credibly at all. The higher the standard, the easier it is not to meet it.

6. Moral impossibility or moral failure?

One cannot ignore the ever-sensitive question, generally raised after the fact, of distinguishing moral impossibility (in the canonical sense) from moral failure (in the broader human-nature sense), whether in marriage or orders. More painfully, there remains

¹⁶ Regarding due discretion proportionate to presbyteral celibacy and marriage, in analyzing Vatican II preparatory work Magee has written: «Those who suffer from a “gravis defectus discretionis iudicii” (can. 1095 2°) regarding the essential rights and obligations of matrimony are considered as “incapaces matrimonii contrahendi”. Is there a difference between “proportionata mentis discretionis destituebatur” and “laborant gravi defectu discretionis iudicii”? The former were considered as “impar” in bearing the burdens of priestly life, the latter are “incapaces” of contracting matrimony. (2) Not all psychic illnesses render the subject incapable of assuming celibacy (or matrimony) or “impar” or “incapax” in living celibacy (or matrimony). They may make it difficult, but difficulty is neither metaphysical nor moral impossibility». P. MAGEE, *Dispensation from the Obligations of Priestly Celibacy. An Interpretation of the Cases of Those Who Should Not Have Received Priestly Ordination According to «Per Litteras §5a»*, Rome 1988, 11, his nt. 18. The question I am raising here exceeds due discretion and proportion, and it certainly exceeds celibacy; rather, I am implying a broader proportionate «idoneitas» proper to the two sacraments, of the tenor established by Serrano.

the problem of what to do with cases that appear to be *neither* moral impossibility nor moral failure.

On the topic of priests leaving the active sacerdotal ministry, Magee has analyzed the formulation of *OT* and noted:

There was no Father who attributed [presbyteral] defection primarily or totally to moral decadence or to severe psychic handicaps. Generally, they blamed a «defective human maturity», which influenced the real freedom and the capacity for persevering in the irrevocable decision made. This entailed a mixture of «sin», existential ignorance and weakness. Deficient formation meant that such anomalies remained latent, only to manifest themselves in the face of inevitable ministerial difficulties. The explanation of the failure to persevere was of greater concern than the nullity of the obligations once assumed¹⁷.

Magee's well-researched summation of this feature of the *OT* preparatory discussions shows that the Council fathers viewed (1) deficient preparation, (2) defective human maturity, and (3) sin as three factors diminishing perseverance to the priestly commitment. However, failure to live as a chaste celibate (for instance) does not necessarily «nullify» the assumption – perhaps even largely «successful» in other ways – of presbyteral obligations undertaken¹⁸. In these *OT* preparatory discussions, the prob-

¹⁷ P. MAGEE, *Dispensation from Obligations* (cf. nt. 16), 80.

¹⁸ «As with matrimony, the intrinsic criterion examining *peritiae* in cases of dispensation should not be evaluated with reference to the ideal of full maturity. A certain difficulty in observing perfect continence is clearly no grounds either for declaring its assumption null or for motivating a dispensation. Given, however, an appropriately investigated and proven *sufficient and insuperable degree* of difficulty in observing it, a priest enters the category of “*imparitas*” and thus the category of dispensation. It is possible that the priest finds himself in

lem primarily concerned formation. The Council fathers accented adequate preparation for the presbyteral order and sought ways (in *OT*) to make it better, so as to stem the «defections». A parallel with pre-matrimonial formation can be drawn.

One might consider the matter of preparation for marriage, and the avoidance of an analogous «defective human maturity»¹⁹. Following a marriage's apparent failure, for all the reasons noted earlier *passim*, one must be very slow to accept immaturity (psychic or otherwise) as an antecedent, incapacitating factor. «Immaturity» cannot serve as a ready, catch-all claim when another cannot be found, i.e., simply because the failure («defection») cannot be traced directly to a more certain cause. One always can claim, usually correctly, to have been more immature at a previous stage in life; this does not absolve one of current responsibilities.

Nearly a quarter century ago Pericles Felici observed that the ease with which psychic immaturity was claimed in requests for dispensation from sacerdotal obligations might grow in an analogous

this category due to moral failure, subconscious blocks or light forms of pathology. Whatever the cause, the task will be to establish to what degree he is de facto incapable of recovery in his human response to the obligation. The simple fact of failure here is, as in marriage, no proof of such incapacity.» P. MAGEE, *Dispensation from Obligations* (cf. nt. 16), 293.

¹⁹ The phrase, of course, is that cited by Magee just above. For a survey of pre-matrimonial preparation issues related to maturity, see J. MCAREAVEY, *Emotional Immaturity and Marriage. A Canonical Analysis of Diocesan Pre-Marriage Policies and Ecclesiastical Jurisprudence*, Rome 1978.

way in cases considering matrimonial validity²⁰. Immaturity is a generous, apparently safe claim: who can argue with it? After all, it is a given that maturity is simply not objectively, universally assessable. Returning specifically to c. 1031 §1, how does the ordinary exercise his judgment in such a slippery matter as an unquantifiable liceity requirement? Arguably the most logical way to assess such an «interior» requirement's fulfillment is by monitoring its external manifestations. But what should those manifestations be? Who decides? What if once enumerated, pertinent manifestations do not seem trustworthy, in the intuitions of the ordinary or his delegate? What is to ensure consistency of criteria from one ordinary to the next, or is consistency even desirable?

Further, the danger of prevarication emerges: any candidate for the presbyteral order can adopt a certain posture, comportment, and vocabulary not natural to him, perhaps quite convincingly and for a long period of time. Such a candidate need only discern what is requested (either in the text or the subtext of what is being asked of him locally) and offer the appropriate «manifestation» upon demand.

²⁰. «Oggi va di moda l'argomento della immaturità psichica. Questo richiederebbe una trattazione più ampia. Mi sia, tuttavia, lecito dire che spesso tale immaturità è il motivo specioso per risolvere in favore della nullità di matrimonio tante cause matrimoniali, come lo è stato per chiedere la dispensa dagli oneri sacerdotali. Non parlo naturalmente della immaturità derivante da turbe psichiche, per le quali esiste una larga letteratura in dottrina e in giurisprudenza.» *Communicationes* 8 (1976) 213.

7. Positive proofs of «negatives», and the contrary

For his part, the ordinary must rely on lack of proof of a negative characteristic (i.e., in this case, that the candidate's «immaturity» has not been established), since the positive proof as requested in c. 1052 §1 at best is based on external manifestations (in which category one might even place data issuing from psychological testing and evaluation). These manifestations may not be trustworthy, or may be so subjectively interpreted as to be meaningless.

It is a small step, then, from the lack of positive proof of grave immaturity to the presumption of maturity. This presumption is not stated in law; an unfortunate variation on the theme is, however, adopted in practice every time legitimate authority advances to sacred orders one who is deemed a «worthwhile risk», in possession of only some of what the Church would require for his licit ordination. The propriety, or not, of such an advancement in a given case depends on how the Church's norms are understood and applied, and on how a particular ordinary achieves moral certitude. (Doubtful cases, however, must be held to the light of careful scrutiny, with legitimate authority aware always that nobody has a right to ordination.) Should that same candidate one day leave the active ministry and request a dispensation from the obligations of the clerical state, including the obligation of celibacy, this same data about the «riskiness» might be read differently, in light of this risk that failed.

Further, I would argue, we see this analogously in marriage. Of course, positive proof of overall fitness is required of candidates for the priesthood in

a way that it is not required of «candidates» for marriage. As we have noted, the Church does not presuppose an advanced level of maturity (however understood) in prospective spouses simply because they are old enough to marry. It merely presupposes that the spouses are not ignorant of what is essential to marriage. However, lacking positive evidence to the contrary, in practice the unstated presumption should prevail: the spouses are mature enough, and should enjoy the presumption of maturity even in doubtful cases. How that same premarital data gets understood and applied in light of that same marriage's failure (should a formal-process attack on the bond eventuate) is quite another matter. Whether considered judicial abuse or protocol, the earlier data supporting probable invalidity deemed too weak to prevent the wedding may become the very fodder whereby a later (formal process) declaration of nullity is justified.

Conclusion

Does such a thing as «canonical maturity» exist as a single, unified concept? Or should we speak of various maturities, each of which has canonical implications, e.g., presbyteral maturity, matrimonial maturity, psychic maturity, human maturity, Christian maturity, affective maturity? Response: Negative to the first, affirmative to the second.

Regardless of whatever «*debita maturitas*» or «*maturitas humana*» might be, and in spite of all that has been written on psychic and affective maturity, the concise, contemporary «*maturitas sufficiens*» of CIC 1983 c. 1031 §1 has a connotative tradition to support

and protect it as a requirement for licit sacerdotal ordination. The declaration of presbyteral maturity in just this way may reflect the Legislator's simple desire not to say too much; or it may in fact be a carefully proposed liceity requirement. Regardless, it is as it is.

Ultimately, in practice, it is one man's (i.e., legitimate authority's) judgment about another man's (i.e., the candidate's) «maturity», with «maturity» being one central component of the latter's fitness for sacred orders. «*Sufficienti gaudeant maturitate*». Do these words create an ambiguity, reinforce a presumption, or protect a liberty? Indeed, rather than a problem of ambiguity, perhaps what we find in c. 1031 §1 is an understatement which protects freedom rather than fosters subjectivity.

In ecclesiastical law, a clear pronouncement does not admit of interpretation or conjecture; general words are understood generally; where the law makes no distinctions, neither should we²¹. In the «*maturitas*» of c. 1031 §1, there is a certain undetailed clarity, and there is a generality which seems to have been appreciated through the ages. In any

²¹ «*Verba secundum propriam significationem sive ex usu communi iuris receptam una cum contextu primo loco consideranda sunt. Quae si sensum clarum et perfectum habent, illis standum est; eo enim in casu verba voluntatem legislatoris manifestant, ideoque scopus interpretationis legis est obtentus. Hinc orta sunt illa axiomata: "Verba clara non admittunt interpretationem nec voluntatis coniecturam; verba generalia generaliter sunt intelligenda; ubi lex non distinguit, neque nos debemus distinguere; indefinita locutio aequipollet universali."*» F. WERNZ, *Ius Decretalium*. I. *Introductio in Ius Decretalium*, Prato 1913³, 152.

case, the modern mind does not advance the notion in its well-intentioned elaboration.

In a modern way, in modern language, the law of our central canon upholds a very ancient tradition. This law of *CIC 1983* c. 1031 §1 is not closed into itself: this lean but sufficient ancient notion can speak to the ambiguity regarding modern explications of presbyteral maturity and, by analogy, matrimonial maturity.

Whether we speak of spouses contracting a commitment for life, or a bishop ordaining a man to the permanent ministerial priesthood, it is in this judgment and assessment of human readiness that we find a mutuality of responsibility at the service of the Church. In both sacraments, a minimal readiness is in fact not very little but very much, for it must feed a lifetime's contribution. Spouses make mistakes, and marriages fail. And, as regards admission to the order of presbyters, the weak links in the judgment process will always be weak: as noted in the first of these two companion articles, this was a concern of Paul, of Zosimus, of Gratian, of Gasparri.

Perhaps the tradition teaches us that less is best when it calls forth more, insisting without detailed script on mature responses from mature persons, young or old. There can be no universally applicable definition of «*maturitas*»²². There can be no «matur-

²² I have read and heard many attempts to accommodate a universal definition of maturity. The best of the few sensible ones I have encountered is one which rose during a conversation in a university corridor, from a young religious priest who told me how the founder of his congregation defined the process of maturity: maturity is removing the gap between who you say you are, and who in fact you are.

ity guarantees», desirable as they might be in today's world of some «problem clergy» (though few, still too many) and numerous «broken marriages», both of which so often negatively affect the innocent.

Before the fact, there can be no perfectly reliable indicators; after the fact, there should be no facile renditions of «*immaturitas*» to explain away the unexplainable, the regrettable, the painful. Immaturity is not a malleable legal concept with which to fill in blanks when other canonical arguments fail. A careful, deliberate consideration of maturity, which the law in its wisdom abhors to define, must precede entry to the married state or the presbyteral order.

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