

Law on Marriage of Catholics and non-Catholics in Vietnam

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Abstract

The Vietnamese State has recognized a lot of organizations of many different religions such as Buddhism, Catholicism, Protestantism, Cao Dai, Hoa Hao Buddhism, Islam..., of which Buddhism accounts for the largest number, next is Catholicism. The conceptions of marriage between the various religions are different. Unlike Buddhism, where the monks worship the celibacy, the love between husband and wife in Catholicism has profound meaning because it originates from the love of God and follows the model of love between Christ and Jesus. Within the scope of this article, the author will clarify the differences and the similarities between the marriages of Catholics and non-Catholics in Vietnam and then analyze the current Vietnamese legal regulations about the marriages between Catholics and non-Catholics. Thus, it can be seen that Vietnamese law does not distinguish between marriages of Catholics and non-Catholics.

Keywords: Catholics, Law, Marriage, Non-Catholics, Vietnam.

INTRODUCTION

Vietnam currently has over 26.5 million religious followers, accounting for 27% of the country's population. Buddhism accounts for the largest number of both followers and places of worship. Next is Catholicism (Duy Linh, 2023). Vietnamese Catholicism is a part of the Catholic Church, under the spiritual leadership of the bishops in Vietnam, in communion with the pope. With a rate of 7.21% and a number of parishioners of over 7.2 million people (Văn phòng thư ký HĐGMVN, 2022). Vietnam is a country with the fifth highest proportion of Catholics in the total population in Asia, after East Timor, the Philippines, Lebanon and South Korea. In terms of the number of Catholics, Vietnam also ranks fifth in Asia, after the Philippines, India, China and Indonesia. Vietnamese Catholics were once known as the “Eldest Daughters of the Church in Asia” (daidong.net, 2021). Unlike Buddhism, where the monks worship the celibacy (Đức Đạt Lai Lạt Ma 14th & Ni Sư Thubten Chodron, Thích Đạo Tĩnh & Ni Sư Thích Nữ Giới Hương (Translator), 2024), the love between husband and wife in Catholicism has profound meaning because it originates from the love of God and follows the model of love between Christ and Jesus. The article clarifies the differences and the similarities between the marriages of Catholics and non-Catholics in Vietnam and then analyze the current Vietnamese legal regulations about the marriages between Catholics and non-Catholics.

METHODOLOGY

The method adopted in the article is based on the analysis of relative provisions under domestic laws in Vietnam to find out the current Vietnamese legal regulations on the marriages of Catholics and non-Catholics. The comparative method is also used throughout the article to compare the marriages of Catholics and non-Catholics in Vietnam in order to point out the differences and the similarities between them.

RESULTS AND DISCUSSION

Differences between Marriages of Catholics and non-Catholics in Vietnam

Marriage is a normal historical phenomenon in each person, depending on regional concepts and customs, on each stage of social development, and on people's beliefs and religions. Each religion has its own characteristics that distinguish it from other religions. Talking about religion is talking about two basic issues, religious faith and religious rituals. This is the most basic point to distinguish between Catholic and non-Catholic marriages.

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For traditional Vietnamese people, marriage is conducted with elaborate and complicated ceremonies that are time-consuming and costly. Today, with the civilization of society, many bad customs are gradually being eliminated. However, basically, after getting to know each other, in order to become husband and wife, the couple needs to follow legal procedures and traditional rituals.

Regarding legal procedures, after getting to know each other and receiving the consent of both families, in Vietnam, according to the Clause 1 of the Article 17 of the 2014 Law on Civil Status, the couple goes to the commune-level People's Committee of the place of residence of one of them to make marriage registration. Based on the Article 18 of the 2014 Law on Civil Status, the male and female partners shall submit the marriage registration declaration, made according to a set form to the civil status registration agency and must be both present at the time of marriage registration. Immediately after receiving complete papers specified in Clause 1 of the Article 18 of the 2014 Law on Civil Status, if seeing that the marriage conditions are fully met in accordance with the Law on Marriage and Family, the justice and civil status officer shall record the marriage in the civil status book and together with the male and female partners sign in the civil status book. The male and female partners shall both sign the marriage certificate; the justice and civil status officer shall report to the chairperson of the commune-level People's Committee to organize the handover of the marriage certificate to the couple.

In addition to following legal procedures, the organization of marriage must also follow traditional ethnic rituals. The rituals related to traditional marriage include Receiving Thai, Asking Names, Receiving Sand, Receiving Money, Occasional Ceremony, Relatives Ceremony. In Vietnamese, they are called “*Nạp thái*”, “*Vấn danh*”, “*Nạp cát*”, “*Nạp tộ*”, “*Thỉnh kỳ, Thân nghinh*” (Đào Duy Anh, 2023). Nowadays, the above ceremonies have been simplified and reduced to Entrance Ceremony (“*Lễ dạm*” or “*Lễ Chạm ngõ*” in Vietnamese), Engagement Ceremony (“*Lễ đính hôn*”, “*Lễ hỏi*” or “*Đám hỏi*” in Vietnamese) and Wedding Ceremony. In Vietnam, for boys, Wedding Ceremony is called “*Lễ thành hôn*”, for girls, it's called “*Lễ vu quy*”.

For Catholics, as mentioned, marriage is an important matter and has been elevated to the level of a sacrament. Therefore, for the Sacrament of Marriage (“*Bí tích Hôn phối*” in Vietnamese), The Catholic Church also has regulations on procedures and rituals to describe the nature of the marriage covenant, and at the same time help the newlyweds receive the grace brought by the Sacrament of Marriage.

Catholic weddings in Vietnam, in general, in addition to the traditional procedures and rituals, in the life part as above, also have separate rituals in the religious part. After completing the marriage registration procedures at the local People's Committee, the couple must complete some of the following Catholic procedures and rituals:

According to the Articles 1063 and 1067 of the 1983 Code of Canon Law, when intending to get married, the female party or both male and female parties go to see a priest. The priest will discuss and help the two people make a marriage declaration in order to know if they are truly Catholics, understand the meaning of Catholic marriage, and then clearly know the duties of Catholic spouses and parents. The priest will help the couple learn or review the doctrine of marriage as well as how to live the faith in Catholic marriage and family life. This preparation is very important so that the commitment of the couple becomes a free and responsible act, as well as their marriage contract is solid and lasting (Hội đồng Giám mục Việt Nam, Ủy ban Giáo lý Đức tin, 2010).

According to the Article 1066 of the 1983 Code of Canon Law, in order to help the couple get married validly and legally, the priest needs to make sure there are no obstacles between the two people. If any, the priest will help them resolve it. In addition, the couple is also guided to understand the meaning of the rituals when celebrating the Sacrament of Marriage.

If the man or woman belongs to another parish, a Certificate of Baptism and Confirmation, “*Giấy chứng nhận Rửa tội và Thêm sức*” in Vietnamese, must be presented. Baptism is necessary to receive the Sacrament of Marriage. For the Sacrament of Confirmation, based on the Article 1065 of the 1983 Code of Canon Law, “*Catholics who have not yet been confirmed must receive this sacrament before getting married*”. The Sacrament of Confirmation helps strengthen and grow faith in future married life and children.

In accordance with the Articles 1063 to 1070 of the 1983 Code of Canon Law, after studying the doctrine of marriage, if both parties decide to get married, they must inform the priest of the woman's side. The priest will announce the marriage and announce it for three Sundays (i.e. three weeks) in each party's parish. Announcing the marriage lets everyone in the community know, add prayers and see if there are any obstacles to resolve in advance or report to the priest, and at the same time to fix the Wedding Ceremony.

Finally, based on the Articles 1115 to 1118 of the 1983 Code of Canon Law, there is the celebration of the Sacrament of Marriage. The place to perform this Sacrament is the parish church of the female or male partner. If celebrated at another church or chapel, permission from the priest is required. During the celebration of the Sacrament of Marriage, there must be two witnesses and a marriage witness (Article 1108 of the 1983 Code of Canon Law). After celebrating the Sacrament of Marriage, the newlyweds, the marriage witness and two witnesses sign the Marriage Book, and then record the marriage in the Baptismal Book of the newlyweds (Articles 1121 and 1122 of the 1983 Code of Canon Law).

Thus, the first difference, also the most basic difference, between Catholic and non-Catholic marriages in Vietnam is the ritual aspect. If non-Catholic marriages value traditional rituals, including the bride and groom's indispensable ancestral ceremony, Catholic marriage focuses on performing Catholic rituals. For Catholics, marriage is a Holy Covenant, a Blessed Sacrament that is sacred but worldly. Therefore, the religious ceremony is very important and has decisive meaning in Catholic marriage.

The second difference between Catholic and non-Catholic marriages in Vietnam is the conception of commitment in family life. Catholics believe that once a couple has signed the legal procedures and performed religious rituals, the couple cannot divorce. This viewpoint of the Catholic Church has differences with the legal regulations of many countries, including Vietnam. This can contribute to creating stability in family life. But in reality, from a moral perspective, not getting divorced is not the best solution. Here, we need to take into account the specifics of each marriage. There are marriages that go smoothly at first. But later, due to the influence of many factors, that relationship became worse. If the couple no longer has love, no responsibility and the relationship cannot be saved anymore, divorce is necessary.

Unlike Catholic marriage, Vietnamese law has specific provisions to resolve marriages that can no longer be maintained, including provisions on divorce from the Article 51 to the Article 62 of the 2014 Law on Marriage and Family. According to the Article 51 of the 2014 Law on Marriage and Family, husband or wife or both has or have the right to request a court to settle their divorce. A parent or another next of kin of a spouse has the right to request a court to settle a divorce when the spouse is unable to perceive and control his/her acts due to a mental disease or another disease and is concurrently a victim of domestic violence caused by his/her spouse which seriously harms his/her life, health or spirit. Divorce by mutual consent and divorce at the request of one spouse are respectively stipulated in the Articles 55 and 56 of the 2014 Law on Marriage and Family. Accordingly, when both spouses request a divorce, a court shall recognize the divorce by mutual consent if seeing that the two are really willing to divorce and have agreed upon the property division, looking after, raising, care for and education of their children on the basis of ensuring the legitimate interests of the wife and children. If the spouses fail to reach agreement or have reached an agreement which fails to ensure the legitimate interests of the wife and children, the court shall settle the divorce. When a spouse requests a divorce and the conciliation at a court fails, the court shall permit the divorce if it has grounds to believe that a spouse commits domestic violence or seriously infringes upon the rights and obligations of the husband or wife, which seriously deteriorates the marriage and makes their common life no longer impossible and the marriage purposes unachievable. When the spouse of a person who is declared missing by a court requests a divorce, the court shall permit the divorce. For request for a divorce under the Clause 2 of the Article 51 of the 2014 Law on Marriage and Family, a court shall permit the divorce if it has grounds to believe that the domestic violence committed by one spouse seriously harms the life, health or spirit of the other.

Above are some differences between Catholic and non-Catholic marriages in Vietnam. On the one hand, this creates diversity in social consciousness, culture and lifestyle, but on the other hand, it also creates differences in moral standards in Vietnamese society.

Similarities Between Marriages of Catholics and Non-Catholics in Vietnam

Although there are certain differences, especially in the field of marriage, between Catholics and non-Catholics, there are still similarities between them in marriage, expressed specifically through the below points.

First of all, both Catholics and non-Catholics in Vietnam have the same conception of the purpose of marriage. According to Vietnamese people, the purpose of marriage is for husband and wife to love each other forever, reproduce, raise and educate their children into adulthood, building a prosperous and happy family. This is the natural desire of people when entering married life, whether they are Catholics (called “bên giáo” in Vietnamese) or non-Catholics (called “bên lương” in Vietnamese).

Vietnamese people believe that marriage is an important matter. When conducting a wedding, both men and women must go through a period of research and think carefully about their decision. The importance and sacred meaning of marriage makes everything related to husband and wife affairs must be very careful. In folklore, there is a saying that “Choose a wife by your ear rather than your eyes”. In Vietnamese, it means “Lấy vợ xem tông, lấy chồng xem giống”. This saying emphasizes the need to carefully consider all aspects before deciding to get married. According to Catholic doctrine, marriage is an important sacrament. Therefore, after getting to know each other, if the couple agrees, they must go to the priest and present the application three weeks in advance so that everyone can know them and their parents. After three weeks, if there are no obstacles, they will be allowed to get married. Identifying the important role of marriage will help the couple see its sacred value and meaning to preserve and cherish. Reality shows that the couples who prepare carefully for marriage can almost avoid risks and uncertainties in life and vice versa.

In the family, if the father is considered the pillar and solid fulcrum for his wife and children, the mother holds a particularly important position. In Vietnam, both Catholics and non-Catholics often emphasize the role of women in the family as the wives and the mothers. They are the ones who breathe the warmth of marital happiness. That role is first expressed in the reproduction and education of children. In folklore, there is a saying that “The father's contribution, the mother's benevolence”. It means “Cha sinh, mẹ dưỡng” in Vietnamese. In particular, educating children is a woman's responsibility, making an important contribution to determining the formation of the child's personality. Therefore, the role of the mother in family education cannot be denied. That's the reason why Vietnamese people have some sayings such as “virtues are from moms” (“Phúc đức tại mẫu” in Vietnamese), “A child's mistake is carried by mom” (“Con dại cái mang” in Vietnamese) or “A spoiled kid is because of mom and grandma” (“Con hư tại mẹ, cháu hư tại bà” in Vietnamese), etc.

Along with the role of giving birth and raising children, women in the family also have an important role as a wife. Vietnamese people believe that the relationship between husband and wife is a relationship of “the morality of husband and wife”. It's called “đạo vợ nghĩa chồng” in Vietnamese. Being a wife means a woman always determines her role to maintain the family home and take care of her husband and children. When it comes to the morality of husband and wife, we mainly talk about the emotional and spiritual aspects of married life. Those are the values of gratitude, a solid fulcrum to create happiness for couples. In folklore, there is a saying that “Men make houses, women make homes”. It means “Đàn ông xây nhà, đàn bà xây tổ ấm” in Vietnamese. Of course, in addition to the role of giving birth and raising children, cultivating family happiness, today, along with the husband, women also play an important role when participating in social work and family economic development.

Marriage between Catholics and Catholics in Vietnam today is similar in the unity of marriage, that is, only monogamous marriage is accepted. In this regard, the Catholic conception of marriage is consistent with the current guidelines and policies of the Vietnamese State. The 2014 Law on Marriage and Family clearly stipulates voluntary, progressive and monogamous marriage in which husband and wife are equal (Clause 1 of the Article 2 of the 2014 Law on Marriage and Family). For protection of the marriage and family regime, the 2014 Law on Marriage and Family in Vietnam prohibit a married person getting married to or cohabitating as husband and wife with another person, or an unmarried person getting married to or cohabitating as husband and wife with a married person (point c of the Clause 1 of the Article 5 of the 2014 Law on Marriage and Family).

In addition, currently, when getting married, whether they are Catholic or non-Catholic, they must register the marriage and organize the marriage. This is an indispensable procedure for Vietnamese people when entering married life. Marriage registration proves the adulthood and the maturity of two people when deciding to stick together for life, living responsibly with themselves, their spouse, their children and the society. Marriage registration is done at the local authority in Vietnam. This is a mandatory procedure for all Vietnamese citizens when entering married life. Marriage organization means the organization of a wedding for a man and a woman in order to become husband and wife.

Besides the points mentioned above, between the marriage of Catholics and non-Catholics, there are a number of other similarities, such as equality and democracy between husband and wife, family happiness requiring fidelity, etc.

In short, between Catholic culture in specific and national culture in general and the marriages between Catholics and non-Catholics in Vietnam in particular, there are a lot of similarities. These similarities has become the source, the driving force to nurture and promote the existence of Catholic culture in the process of integrating with Vietnamese national culture.

Legal Regulations on Marriages of Catholics and Non-Catholics in Vietnam

In Vietnam, according to the Clauses 1 and 5 of the Article 2 of the 2016 Law on Belief and Religion, belief means human belief manifested through rites closely associated with traditional customs and practices to bring about spiritual peace for individuals and the community. Religion means human belief existing with a system of concepts and activities including objects of worship, tenets, canon laws, rites and organizations.

According to Clauses 1 and 5 of the Article 3 of the 2014 Law on Marriage and Family, marriage means the relation between husband and wife after they get married. Getting married means a man and a woman's establishment of the husband and wife relation according to the provisions of this Law on marriage conditions and registration. A man and a woman wishing to marry each other must satisfy the conditions in the Clause 1 of the Article 8 of the 2014 Law on Marriage and Family. Firstly, the man is full 20 years or older, the woman is full 18 years or older. Secondly, the marriage is voluntarily decided by the man and woman. Thirdly, the man and woman do not lose the civil act capacity. Finally, the marriage does not fall into one of the cases prescribed at the Points a, b, c and d of the Clause 2 of the Article 5 of the 2014 Law on Marriage and Family. Consequently, the following acts are prohibited:

Sham marriage or sham divorce;

Underage marriage, forcing a person into marriage, deceiving a person into marriage, obstructing marriage;

A married person getting married to or cohabitating as husband and wife with another person, or an unmarried person getting married to or cohabitating as husband and wife with a married person;

Getting married or cohabitating as husband and wife between people of the same direct blood line; relatives within three generations; adoptive parent and adopted child; or former adoptive parent and adopted child, father-in-law and daughter-in-law, mother-in-law and son-in-law, or stepparent and stepchild.

From the above regulations, it can be seen that the Vietnamese Law on Marriage and Family does not set specific conditions for marriages between Catholics and non-Catholics. The 2013 Constitution in Vietnam stipulates that everyone has the right to freedom of belief and religion, and has the right to follow any religion or to follow no religion (Clause 1 of the Article 24 of the 2013 Constitution). This is also confirmed in the Clause 1 of the Article 6 of the 2016 Law on Belief and Religion. In addition, the 2013 Constitution also affirms that all religions are equal before the law (Clause 1 of the Article 24 of the 2013 Constitution). The Vietnamese State shall respect and protect the freedom of belief and religion (Clause 2 of the Article 24 of the 2013 Constitution). Specifying the 2013 Constitution, the 2016 Law on Belief and Religion allows everyone having the right to manifest his/her belief or religion; to practice belief or religious rites; to participate in festivals; to study and practice religious tenets and canon laws (Clause 2 of the Article 6 of the 2016 Law on Belief and Religion). In accordance with the provisions of the 2013 Constitution and the 2016 Law on Belief and Religion,

the Article 2 of the 2014 Law on Marriage and Family affirms that marriage between Vietnamese citizens of different nationalities or religions, between religious and non-religious people, between people with beliefs and people without beliefs, and between Vietnamese citizens and foreigners shall be respected and protected by law (Clause 2 of the Article 2 of the 2014 Law on Marriage and Family). In addition, Article 22 of the 2014 Law on Marriage and Family also stipulates that husband and wife have the obligation to respect each other's right to freedom of belief and religion. Infringing on the freedom and religious beliefs of the others, including spouses, can also be considered a crime according to the provisions of the Article 164 of the 2015 Criminal Code, amended and supplemented in 2017. Accordingly, any person who uses violence, threat to use violence, or other tricks to obstruct a person from exercising his/her freedom of religion or force another person to follow or not to follow a specific religion despite the fact that he/she was disciplined or incurred a civil penalty for the same offence shall face a penalty of up to 01 year's community sentence or 03 - 12 months' imprisonment. This offence committed in any of the following cases shall carry a penalty of 01 - 03 years' imprisonment:

The offence is committed by an organized group;

The offence involves abuse of the offender's her position or power;

The offence has been committed more than once;

The offence results in a demonstration;

The offence has a negative impact on social safety, order, and security.

From the above analysis, it can be seen that, before and after marriage, husband and wife have the right to follow or not follow any religion, including Catholicism. A Catholic spouse cannot force the other to become Catholic. Becoming or not practicing Catholicism does not affect marriage registration according to the provisions of the 2014 Law on Marriage and Family in Vietnam.

CONCLUSION

In conclusion, despite the differences in marriages between Catholics and non-Catholics, marriage between them also has certain similarities. In particular, Vietnamese law does not distinguish between the marriages of Catholics and non-Catholics. On the one hand, the differences in marriage between Catholics and non-Catholics has created diversity in social consciousness, culture and lifestyle. On the other hand, it has also created differences in moral standards in society. However, this does not mean that there are no similarities between Catholic culture and national culture. In contrast, there are the harmony and complementarity between them. The lyrics that "Before I was a Catholic, I was Vietnamese" (or "Trước khi là người Công giáo, tôi đã là người Việt Nam" in Vietnamese) resounding throughout the parishes is a testament to the blend of Catholic culture with national culture.

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