5. ST. THOMAS AQUINAS (c. 1225-1274)

There were two works of Thomas where the meaning of the term *consortium* could be drawn: *Summa Theologia* and *Summa contra Gentiles*.

5.1 *Summa Theologiae: Supplementum*

5.1.1 "Communicatio operum"

Basing himself on his own commentary of Peter Lombard’s *IV Sententiae*, Thomas confronted the question whether Peter’s enumeration of the three goods of marriage based on Augustine was enough. And as Thomas was explaining the first among the several opinions why this enumeration did not seem sufficient, he indicated that the term *consortium* referred to that aspect of marriage whereby the partners rendered to one another a form of reciprocal support in their shared life.

It seems that the *bona* of marriage — namely, faith, procreation and sacrament — enumerated by the Teacher of *Sententiae*, are not sufficient. This is because marriage does not only occur in human

*See the first part of this article in Landas 10 (1996) 207-24.
72. Peter Lombard compiled between 1155 and 1158 his four *Libri Sententiarum* which were statements, opinions, and positions of notable teachers in the history of the Church from the time of the apostles. They served as handy sources for anybody doing theological investigations.
73. Thomas Aquinas, *Supplementum*, q. 49, a. 2.
beings for the sake of procreating and raising up children, but also for a consortium of shared life, on account of a mutual sharing of responsibilities, as it is noted in VIII Ethics. Therefore, as generation is considered a good of marriage, so also must be considered the mutual sharing of responsibilities.74

Thomas’ idea regarding the matter, however, was that since this form of consortium — that is, the mutual sharing of responsibilities — was totally directed not only for the procreation of children but also for their upbringing, then it was already in reality a part of bonum prolis. Hence, there was no need for it to be indicated as a separate bonum of marriage.

5.1.2 “Mutuum obsequium”

In an earlier part of the same book, still influenced by the ideas of Aristotle, Thomas used the expression mutuum obsequium which he seemed to have employed to refer to the same purpose as communicatio operum. Nevertheless, although both expressions would point to that principal end of the marital consortium which was the procreation and rearing of children, the latter seemed to point as well to the natural need which the opposite sexes have for each other. And Thomas confirmed that it was for such that there was an associatio viri ad mulierem which could be the same marital consortium referred to above.

In the second place, with regard to the secondary end of marriage which is the mutual submission given by the spouses to one another in domestic affairs. For just as natural reason dictates that men should live together since one man by himself is not sufficient for everything that belongs to life, and for this reason man is said to be naturally political, so also among those things which are required for human life, some works are suitable for males, some for women. Thus nature advises that there be a certain association of a man with a woman,

74. Ibid.: “Videtur quod insufficienter bona matrimonii assignentur a Magistro Sententiarum: scilicet fides, proles et sacramentum. Quia matrimonium non solum fit in hominis ad prolem procreandam et nutriendam, sed ad consortium communis vitae, propter operum communicationem, ut dicitur in VIII Ethic. Ergo, sicut ponitur proles bonum matrimonii, ita debet poni communicatio operum.”
and this is matrimony. 75

5.2 Summa contra Gentiles

The second work where Thomas significantly used the term *consortium* was *Summa contra Gentiles* where he seemed to be exalting the merits of conjugal love. He made this observation based on the fact that marriage contains a relationship characterized by *a maxima amicitia* between the married partners. He further distinguished this *maxima amicitia* as unique in a human companionship, in comparison with *copula carnalis* which was found as well in beasts. It was in this context that he used the term *consortium*, seemingly implying that the same *maxima amicitia* was an important content of marital *consortium* for the partners aside from *copula carnalis*.

Moreover, between man and wife, there seems to be the greatest friendship; for they are not only united in the act of carnal intercourse which even effects some delightful partnership among beasts, but also in a *consortium* of all domestic companionship. 76

6. COUNCIL OF TRENT (1545-1563)

After Thomas Aquinas, the next significant occurrence with regard to the understanding of the term *consortium* is the Council of Trent. In fact, the first important document on marriage issued by an ecumenical council was that of the Council of Trent. 77 Although it responded to the errors of that time, like the denial of the sacramentality of marriage, it substantially upheld the doc-

75. Ibid. q. 41, a. 1: "Secundo, quantum ad secundarium finem matrimonii, qui est mutuum obsequium sibi a coniugibus in rebus domesticis impensum. Sicut enim naturalis ratio dictat ut homines simul cohabitent, quia unus non sufficit sibi in omnibus quae ad vitam pertinent, ratione cuius dicitur homo naturaliter politicus; ita etiam eorum quibus indiget ad humanam vitam, quaedam opera sunt competentia viris, quaedam mulieribus. Unde natura monet ut sit quaedam associatio viri ad mulierem, in qua est matrimonium."

76. St. Thomas Aquinas, *Summa contra Gentiles*, III, 123: "Inter virum autem et uxorem maxima amicitia esse videtur: adunantur enim non solum in actu carnalis copulae, quae etiam inter bestias quandam suavem societatem facit, sed etiam ad totius domesticae conversationis consortium."

77. Denzinger and Schönmetzer, nos. 1797-1816.
trines observed by theologians and canonists in the past. 78

The following observations show how the original Roman idea of marital consortium would have been touched by the Council: The document began by confirming immediately that the two partners became indeed one flesh in marriage. 79 Then it affirmed not only that such union was constituted by a natural love and an unbreakable unity, but also that it could be a source of sanctification for the partners.

Christ Himself, the instituter and perfecter of the most holy sacraments, merited for us by his passion the grace that would perfect natural love, strengthen the unbreakable unity and sanctify the spouses. 80

Now, the grace of sanctification could be acquired in marriage where the spouses could experience the same self-giving love which Christ lavished on His Church. 81 Moreover, as mentioned above, the very source of the grace of marriage, by which Christ could sanctify married partners, was His own Passion. Consequently, marriage merited to be counted among the sacraments of the New Covenant.

Therefore, if one purpose of the Council was indeed to limit itself to defining the truth in its essentials, the basic elements of the Roman idea of consortium were not ignored from that intention with regard to the truth of marriage.

78. Martin Luther (1483-1546) and John Calvin (1509-1564) represented basically the objections of Reformers regarding marriage. Among others, they taught that the sacredness of marriage existed only in the order of creation but not in the order of grace. Hence, strictly speaking, it should not be considered among the sacraments. Such doctrine led to damaging consequences, including the justification of divorce. Cf. The Christian Faith in the Doctrinal Documents of the Catholic Church, ed. J. Neuner, S.J. and J. Dupuis, S.J. (rev. ed.; Glasgow: Collins, 1983) no. 527; Elliott, 101-5.


80. Denzinger and Schönmetzer, no. 1799: “Gratiam vero, quae naturalem illum amorem perficeret, et indissolubilem unitatem confirmaret, coniugesque sanctificaret, ipse Christus, venerabilium sacramentorum institutor atque perfector, sua nobis passione promeruit.” (English version: Tanner, 754) By affirming the possibility of sanctification in the self-giving love of the married couple, the Council freed marriage from the Augustinian pessimism which still affected the Reformers. Cf. Neuner and Dupuis, no. 527.

7. THOMAS SANCHEZ (1550-1610)

The significance of Thomas Sanchez regarding the meaning of the term \textit{consortium}, can be drawn from his teachings on the ends of marriage.\textsuperscript{82} Despite his admission of the current belief on the primacy of procreation, he gave notable importance to \textit{mutua habitatio} which would be close to the original idea of marital \textit{consortium}. Sanchez, though, went beyond the old understanding of \textit{mutua habitatio}. So while among the Romans an actual living together was not necessary for the conjugal partners, Sanchez believed that it should not be merely cohabiting under one roof, but also \textit{sitting at the same table and sleeping in the same bed}.\textsuperscript{83} This form of \textit{mutua habitatio} was so important that, for Sanchez, a permanent exclusion of this would make a marriage invalid.\textsuperscript{84} This conviction must have been based on his belief that for man and woman, mutual habitation was a \textit{natural} expression of that union known as marriage.

This is certain because the obligation of living together is not less than that of rendering the debt, but it takes its origin from this, and from the nature of marriage itself . . . \textsuperscript{85}

8. LEO XIII (1810-1903)

The next important event which helped in understanding the meaning of the term \textit{consortium} was the encyclical \textit{Arcanum} on Christian marriage written by Pope Leo XIII.\textsuperscript{86} In this encyclical, the Pope confirmed that marriage could look beyond the purpose of procreation, towards the rendering of the lives of the partners \textit{better and happier}. It was in this particular context that he also

\textsuperscript{82} The writings of Thomas Sanchez on marriage were considered classics by the Roman Curia (Wernz, 17).

\textsuperscript{83} T. Sanchez, \textit{De sancto matrimonii sacramento disputationum, Liber IX: De debito coniugali, Disputatio IV} (Venetiis: Apud Benedictum Milochum, 1672) 157, § 2.

\textsuperscript{84} Ibid., \textit{Liber V: De consensu conditionato, Disputatio X}, 374, § 5.

\textsuperscript{85} Ibid., \textit{Liber IX: De debito coniugali, Disputatio IV}, 157, § 2: "Et constat, quia non minor est obligatio cohabitandi, quam reddendi debitum, sed ex hac oritur, et ex ipsa matrim. natura . . ." Cf. ibid. 158, § 4.

\textsuperscript{86} Leo XIII, \textit{Epistola Encylica "Arcanum"} (10 February 1880), in \textit{AAS} 12, 385-402.
mentioned certain forms of sharing (*mutuo adiumento, communione omnium bonorum* and *animorum concordiam*) where the Romans’ original idea of marital *consortium* could be identified.

If, then, we consider the end of the divine institution of marriage, we shall see very clearly that God intended it to be a most fruitful source of individual benefit and of public welfare. Not only, in strict truth, was marriage instituted for the propagation of the human race, but also that the lives of husbands and wives might be made better and happier. This comes about in many ways: by their lightening each other’s burdens through mutual help; by constant and faithful love; by having all their possessions in common . . . Marriage also . . . has the power to strengthen union of heart in the parents . . .

After Leo XIII, the general direction continued to underscore *bonum prolis* as the primary purpose of marriage. And since the term *consortium* would seem to acquire a better background when seen in what will soon be known officially in the 1917 Code of Canon Law as the *secondary end* — that is, the *bonum coniugum* — the traditional concepts of marriage as *society, union, sharing* and *partnership* which were key notions in understanding marriage as *consortium*, were not much discussed. Nevertheless, these concepts were not totally ignored. They would be found, however, in the context of the partners’ use of each other’s right to their sexual acts for the principal aim of procreating and nurturing offspring.

9. THE 1917 CODE OF CANON LAW

Indeed, the primacy of procreation and its central role regard-


ing the understanding of marriage found their way into the 1917 Code of Canon Law. A definition of marriage, based on the canons asserting such primacy, could not be more clear in pointing this out:

Marriage is a lawful and exclusive contract by which a man and a woman mutually give and accept a right over their bodies for the purpose of acts which are in themselves suitable for the generation of children.

The term _consortium_, in Modestinus' definition, is found explicitly in Canon 1130. Yet the context hardly touched on the original meaning of the term. Nevertheless, there were two areas where the sense of _consortium_ could be considered: the secondary end of marriage as _mutuum adiutorium_ of Canon 1013, § 1; and the _societatem permanentem inter virum et mulierem_ of Canon 1082, § 1. In both cases, however, they assumed a secondary role to emphasize the primacy of procreation and the acts proper to it.

Therefore, it looked like the 1917 Code of Canon Law has finally given an accurate canonical content to the term _consortium_ of Modestinus. In other words, this generic term _consortium_ in Modestinus' definition was finally supplied with a specific canonical substance — something which used to be quite indistinct in the past. _Consortium_ was now granted the exact meaning of a

89. See Codex Iuris Canonici (1917), Canons 1013, § 1; 1081, § 2; 1082, § 1; 1086, § 2.
91. Canon 1130: "Coniunx innocens, sive iudicis sententia sive propria auctoritate legitime discesserit, nulla unquam obligatione tenetur coniugem adulterum rursus admittendi ad vitae consortium; potest autem eundem admittere aut revocare, nisi ex ipsius consensu ille statum matrimonio contrarium susceperit."
92. Canon 1013, § 1 was the first Church document that enumerated the various ends and assigned them a hierarchy of importance, either primary or secondary. It was also the first time that the terms primary and secondary appeared in a Church document (Navarrete, 28).
93. Such an inferior role was strictly held since one was not allowed to assume that the secondary end was as important as the primary. Cf. Pius XII, Allocutio (3 October 1941), in AAS 33 (1941) 423; Sacra Congregatio Sancti Officii, Decretemt "De matrimonii finibus" (1 April 1944), in AAS 36 (1944) 103; Pius XII, Allocutio (29 October 1951), in AAS 43 (1951) 849; Bouscaren, 567.
contractual exchange whereby each party gives and accepts a perpetual and exclusive right over the body, for acts which are of themselves suitable for the generation of children.\textsuperscript{94}

In the meantime, the significance of the term consortium continued to come out more and more clearly in that secondary end designated by the Code as mutuum adiutorium. This would include the following personal-societal dimensions of marriage: mutual love; a union of hearts and goods; a communion of bed, table and dwelling; and a personal assistance in the physical, emotional and spiritual matters of life. Eventually, the movement to continue clarifying the meaning and role of mutuum adiutorium caught the attention of many, including the Magisterium.

10. PIUS XI (1857-1939)

After the promulgation of the 1917 Code of Canon Law, the most significant work that called attention to the importance of the notion of marriage as consortium was what Pius XI stated in his encyclical Casti connubii.\textsuperscript{95} The primacy of procreation was reaffirmed. However, the Holy Father presented a solid occasion whereby the meaning of the term consortium was highlighted. This occurred when he used the term consortio to describe the proper context of the partners’ mutual love:

This outward expression of love in the home demands not only mutual help but must go further; must have as its primary purpose that man and wife help each other day by day in forming and perfecting themselves in the interior life, so that through their partnership in life they may advance ever more and more in virtue, and above all that they may grow in true love toward God and their neighbour, on which indeed “dependeth the whole Law and Prophets.”\textsuperscript{96}


\textsuperscript{95} Pius XI, Litterae encyclicae “Casti Connubii” (31 December 1930), in AAS 22 (1930) 539-92.

\textsuperscript{96} Ibid. 548: “Hoc autem opus in domestica societate non modo mutuum
It could be said that after placing the love between spouses in the context of the *mutua vitae consortio*, this term *consortium* has at last found the right setting in an official Church document—a setting where the original Roman definition of marriage must have intended it to be. The significance of the term was enhanced further by designating it as a vital means to arrive at true love of God and neighbor.

Pius XI made another important step in *Casti connubi* when he distinguished between marriage in the stricter sense and in its wider meaning. It was precisely in the latter where the meaning and significance of the term *consortium* would be further clarified.

This mutual interior conformation of husband and wife, this persevering endeavor to bring each other to the state of perfection, may in a true sense be called, as the Roman Catechism calls it, the primary cause and reason of matrimony, so long as marriage is considered, not in its stricter sense as the institution destined for the procreation and education of children, but in the wider sense as a complete and intimate life-partnership and association.97

Among those who were already looking beyond the stricter sense was a movement composed of twentieth-century thinkers.98 They claimed that the *person* contained a supreme value which determined the meaning of reality. This included marriage which

---


consisted of a *community of two persons* that possessed a value and, therefore, a meaning *within* itself. The movement is known as *personalism*.100

11. DIETRICH VON HILDEBRAND (1889-1977)

One of the important proponents of personalism was Dietrich von Hildebrand.101 In underlining the importance of *full communion of life* between the persons of the marital partners, he contributed significantly to an understanding of the term *consortium*.102 He made the crucial step when he supported the move to direct attention from the *ends* of marriage to its *nature* — that is, from what is *outside* of the married partners to what is involved *within* their own companionship.103 This presented a vital opportunity to recall the Roman understanding on the nature of marriage as *consortium*. Hence, for von Hildebrand, the essence of marriage was the *community of love* which the partners mutually sustained. Even the act of procreation had its funda-

99. Procreation, which has been dominating the value and meaning of marriage, was considered *outside* of the personalities of the marriage partners. Cf. Mackin, 226.


101. Dietrich von Hildebrand was a layman who married twice, the first wife having died.

102. It would not be correct to say that the *personalistic* notion of marriage originated with von Hildebrand or his contemporaries. As we have seen, *personalistic* ideas already existed in the past. Among those who earlier expressed personalistic ideas significantly were Hugh of St. Victor (see pp. 16 ff.) and Pope Leo XIII (see pp. 23 ff.). Von Hildebrand and company only made *personalism* more prominent in their teachings than others.

103. So far, the *ends* of marriage, especially the primacy of procreation, dominated discussions on marriage. Cf. D. von Hildebrand, *Purété et virginité*, trans. Joseph Schneuwly and Léon Barbel (Paris: Desclée, 1947) 25 ff. It is to be noted, however, that looking at marriage from its *ends*, is one valid approach in arriving at a legitimate understanding of its nature — just as the 1917 Code of Canon Law has done. Another approach would be from its *meaning*, just as the Romans did. Nevertheless, while one would be better from one aspect of marriage and the other from another, there is no question that both are interconnected and, therefore, complementary. In fact, this principle is being followed in this study.
mental meaning only in this kind of community. It was the principal expression of the partners’ loving union whereby self-donation between them became fullest. In marriage, therefore, it is the loving union that makes it possible for two persons to become one.

CONCLUSION

From this brief historical analysis, it is apparent that the attempt to understand the nature of marriage according to its meaning, was a movement which had its roots in Roman law. Definitions of marriage from that era showed this trend. It became evident too that it was through this classic Roman approach that the meaning of the term *consortium*, first employed by Modestinus to define marriage, would originally emerge.

From that perspective, the following is what surfaced regarding the meaning of *consortium*, namely, that marriage was essentially a *relationship*, characterized by a mutual sharing of the partners, of all that they are and of all that they have. It could be described too as a *community of love* which the partners mutually supported. In other words, the term *consortium* referred to a form of total *partnership* which had its foundation in the mutual interaction between husband and wife. This fact existed already in Roman marriage which was basically a social datum, manifested in mutual actions, and measured by social norms. Moreover, the early Christians significantly added the aspect of *equality* between partners to realize a truly Christian *consortium* in their marriage.

In the course of time, the meaning of the term *consortium* as a description of marriage would also be clarified by its ends.

105. Another personalist who contributed much to the value of the notion of marriage as *consortium* was Herbert Doms. His specific contribution was the lengthy analysis of insights which von Hildebrand had already touched regarding marriage. Cf. H. Doms, *Du sens et de la fin du mariage*, ed. P. and M.-S. Terèse (Paris: Desclée, 1937); A. Lanza, “De fine primario matrimonii,” in *Apollinaris* 13 (1940) 57-83 and 14 (1941) 12-39; Perego, “Le nuove teorie,” 241-44.
At first the trend was to consider such consortium to be essentially meant only for the bonum prolis — that is, for the propagation and education of children. Later on, marital consortium would be seen also as intended for bonum coniugum — that is, for the benefit of the spouses themselves. One important reason for this was the couples’ natural need to complement and fulfill each other in life. This idea has gained prominence lately due to a movement known as personalism.

From the viewpoint of its ends, one could arrive at various descriptions regarding the content of marital consortium itself: On the one hand, this sense of the term consortium as a relationship whose purpose is for procreation and rearing of children would be given much significance whenever concerns were directed to the aspect of marriage as an institution — its form and order, or its systematization and constitution which were treated as external to the married partners. One reason for institutionalizing marriage was to defend its moral value. This happened at the time of the Fathers whose champion was Augustine. Another occasion for institutionalizing was the urgency to respond to errors, like the denial of the sacramentality of marriage, which the Council of Trent condemned. Lastly, institutionalizing was needed to discipline abuses. This could explain the little attention given to the other end of marriage as consortium, that is, the bonum coniugum, in the 1917 Code of Canon Law. Whatever the situation, the effects of institutionalizing were understandably favorable to the institution.

On the other hand, the essential aspect of marital consortium as a relationship for the good of the spouses achieved notable significance whenever the focus was duly directed to the person of the partners themselves who were believed to be the inherent subjects of marriage as such. This aspect was perceived to be the sense of the classic Roman definition formulated by Modestinus when he first used the term consortium. This was followed through the centuries as the following instances confirm: when Augustine identified marital relationship as a natural bond whose guiding force must be the bond of mutual love that would eventually lead to genuine mutual support or domestic companionship between the partners who walk together; when Hugh of St. Victor indicated that the partners’ interpersonal relationship, which
included the material cares of daily life, was the essential task of marriage; when Thomas Aquinas spoke about a form of reciprocal support in the shared life of the spouses as something coming from a natural need made more perfect by a certain maxima amicitia which was unique in a human companionship; when the Council of Trent taught that two partners became truly one flesh in marriage, and that marital partnership was constituted not only by a natural love and an unbreakable unity, but also that it could be a source of sanctification for the partners; when Thomas Sanchez believed that in marriage mutua habitatio must entail an actual living together, sitting at the same table and sleeping in the same bed, since this form of living was a natural expression of marital union; when Pope Leo XIII asserted that the divine institution of marriage can be a most fruitful source of individual benefit, that it has the power to strengthen the union of heart in the partners, and that it can make their lives better and happier by lightening each other’s burdens through mutual help and by constant and faithful love, and by having all their possessions in common; when Pope Pius XI taught that love in marriage must express itself deeply in the spouses’ partnership in life whereby they themselves could further grow in true love of God and neighbor; and finally, when Dietrich von Hildebrand underlined the importance of full communion of life between the persons joined in marriage.

As can be seen above, whatever was the end of marriage as consortium, whether institutional or personal, there was a certain good that was being sought. In the former, it was the common good. While in the latter, it was the good of the partners themselves. And it seems that it is in the latter where the meaning of the term consortium would find a richer background.