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## ARTICLES

**Mary Katherine Tillman**

Newman: The Dialectic of "Liberalism" and  
"Conservatism"

**John T. Ford, C.S.C.**

Was Newman an Ecumenist?

**Gerard H. McCarren**

Newman on Papal Primacy in an Ecumenical Context

**Edward Jeremy Miller**

Newman's *Grammar of Assent* Put to Pastoral Usage

**Edward J. Enright, O.S.A.**

Newman's Tests of Development: Some Nineteenth  
Century Critics

**Dennis J. Billy, C.Ss.R.**

What is Lay Spirituality? A Contextual Approach

**Rodney A. Howsare**

The Eucharist as Sacrifice: A Marian Dimension

**Larry Chapp**

Spiritual Exegesis in Balthasar's Theology: A Response  
to Rodney Howsare

**Thomas Petriano**

The Pneumatology of Walter Kasper

**Christopher Kaczor**

Marital Acts Without Marital Vows: Social Justice and  
Premarital Sex

BOOK REVIEWS

# Marital Acts Without Marital Vows: Social Justice and Premarital Sex

*Christopher Kaczor*

In our divided Church, some conceive of the moral life for the most part in terms of personal justice; others, for the most part, in terms of social justice. Those primarily concerned with personal justice focus on one set of moral issues, such as sexual morality. Those primarily concerned with social justice focus on another set of moral issues, such as concern for the weak and disadvantaged. The search for common ground is advanced by noting that these two kinds of justice are not opposed to one another but rather can be complementary and mutually reinforcing. For example, premarital sex, though typically considered an issue of personal morality, could also be considered as a social justice concern.

Social justice means in part that the poor and weak rather than the rich and powerful should be given a preferential option. Achieving social justice means treating with special care historically disadvantaged groups, including women and children. The disadvantaged should not be subject to needless risks by the advantaged. Such efforts to bring Gospel values of social justice to contemporary problems in society are indeed a part of the very character and mission of many religiously-sponsored universities.

Most young people do not accept the Church's teaching about premarital sex and know of no rationale for it. When asked why premarital sex is immoral in their "elders'" view, students frequently can offer no answer. Some say "God" or "the church," but very few can say why. Basic principles of social justice and the relevant sociological data can provide an answer to the question.

It is a basic principle of social justice that we should not harm or needlessly risk harming our neighbor, particularly our disempowered neighbor. Of course, there are cases when endangering the well-being of oneself or someone else is legitimate: Firefighters and police officers often put their own well-being, and by extension their families' well-being, in jeopardy; yet these professionals take a great risk in order to secure a great good. On the other hand, to risk one's own or

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someone else's well-being for the sake of a thrill or for mere pleasure is immoral. Clearly, playing chicken with automobiles, playing Russian roulette, or driving drunk do not *always* lead to bad consequences. Some people play chicken without scratching a car; others play Russian roulette without smelling gun powder; some drink and drive without injuring anyone. Nevertheless, presumably all of these activities are morally problematic in view of the fact that they needlessly risk someone's well being.

To engage in premarital sex, particularly serial premarital sex, is to risk one's physical health and emotional well-being. Sexually transmitted diseases, including HIV/AIDS, are typically spread through *premarital* sex. Although most people know that the use of condoms lowers one's risk of contracting these and many other diseases, unfortunately they do not know that condoms provide no protection against other incurable sexually transmitted diseases, such as genital warts.

The risks, of course, are not merely physical. In William Sneck's *America* article, "Premarital Divorce," he reflects on his own experience of living with students in dorms and speaks to the person who has been emotionally hurt by premarital sex.

You have been married and are now divorced! Without benefit of clergy, you have been wed to your first (and subsequent) loves and now are suffering psychological effects like those from separation and divorce. As a late teen, you had plunged yourself into the deepest mutual experience of human intimacy possible, but without the societal supports and sanctions that accompany marriage. Now you are agonizing over the dismemberment of your 'one flesh.' Although not legally or ecclesiastically married, you have been emotionally wed, and now you suffer the pangs of divorce, without being able to name the trauma and garner the assistance of family and friends.<sup>1</sup>

Undoubtedly, many people have experienced first- or secondhand the emotional upheaval that feeling sexually used or rejected can bring.

Since, however, social justice concerns are often framed in terms of caring *for others*, rather than caring for oneself, a corresponding lack of emphasis on premarital sex as a social justice concern is not surprising. If someone puts his or her *own* life and health at risk through smoking, excessive drinking, or unhealthy eating, such behaviors do not seem to be a social justice concern (though they would seem to be the concern of those who seek to "care for the whole person"). According to a certain privatization of sexual morality, premarital sex may be seen as something to be discouraged but nevertheless a fairly unproblematic expression of personal freedom. Hence, to the extent that social justice education

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1. William Sneck, "Premarital Divorce," *America* 177, no. 15 (November 15, 1997): 27.

typically emphasizes a concern for others, and because the activities of consenting adults involve no other people, such activities tend to fall out of the scope of social justice.

Premarital sex, however, clearly risks involving other people. Even when properly used, there is no such thing as fool-proof, one-hundred-percent reliable contraception. For example, condoms show a failure rate of only 2 percent under lab conditions but 16 percent in *actual use*. James Trussel of the Program in Statistics and Operations Research at Princeton University estimates that “There are 27,000 condom breaks in the United States each night.” Slightly more than half (53 percent) of women who had unplanned pregnancies in the United States used a contraceptive method in the month in which they became pregnant.<sup>2</sup> To state the obvious, premarital sex often results in and always risks premarital pregnancy. Contraception simply reduces but cannot eliminate this risk. (For perspective, compare that the absolute chance of being involved in an accident while driving drunk is only 0.00045 percent, yet driving drunk is still wrong despite its relatively low risk.) Sallie Tisdale, an employee of an abortion clinic, has seen firsthand the failure of birth control. She writes:

I grew up on the great promise of birth control. Like many women my age, I took the pill as soon as I was sexually active. To risk pregnancy when it was so easy to avoid seemed stupid, and my contraceptive success, as it [was], was part of the promise of social success. But birth control fails, far more frequently than laboratory trials predict. Many of our clients take the pill; its failure to protect them is a shocking realization. We have clients who have been sterilized, whose husbands have had vasectomies; each one is a statistical misfit, fine print come to life.<sup>3</sup>

What is the immediate effect of a typically unplanned premarital pregnancy? Summarizing sociological research on women’s experience, Paul Swope writes that:

Unplanned motherhood ... represents a threat so great to modern women that it is perceived as equivalent to a ‘death of self.’ While the woman may rationally understand that this is not her own literal death, her emotional, subconscious reaction to carrying the child to term is that her life will be ‘over.’... [T]he sudden intrusion of motherhood is perceived as a complete loss of control over their present and future selves. It shatters their sense of who they are and will become.<sup>4</sup>

2. Stanley K. Henshaw, *Family Planning Perspectives* 30 (January/February 1998): 24-29.

3. Sallie Tisdale, “We Do Abortions Here,” in *Sex and Gender: A Spectrum of Views*, ed. Philip Devine and Celia Wolf-Devine (Belmont, CA: Wadsworth, 2003), 151.

4. Paul Swope, “Abortion: A Failure to Communicate,” *First Things* 82 (April 1988): 31-35; <<http://www.firstthings.com/ftissues/ft9804/articles/swope.html>>.

The life of a woman with an unplanned premarital pregnancy is not of course literally over, but nevertheless many women report that they feel as if life as they have known it really is coming to an end. According to Swope's study, many women in such a situation feel as if they have only evil options from which to choose.

## Responses to Premarital Pregnancy

There are four possible responses to premarital pregnancy: "shot-gun" marriage, single parenthood, adoption, and abortion. Shot-gun marriages can and have worked; however, generally it is not a good idea to make such an important, life-changing decision under the pressure involved in an unplanned pregnancy. Many couples in this situation would have never married had they not gotten pregnant beforehand; other couples would have wisely chosen to wait until later. Couples married under these circumstances may be forever haunted by the idea that were it not for the child's conception, there would have never been a wedding. Thus, premarital pregnancy can cast a shadow of doubt on the intentions of the spouses in entering marriage, a fact that can itself undermine the marriage.

Single parenthood is another response to pre-marital pregnancy. Although there are many exceptions to the rule, single parenthood greatly increases the chances that the child will have a disadvantaged life. In an April 1993 *Atlantic Monthly* article, Barbara Dafoe Whitehead concludes her vast survey of social science research as follows:

Single-parent families are not able to do well economically.... In fact, most teeter on the economic brink, and many fall into poverty and welfare dependency. Growing up in a disrupted family does not enrich a child's life or expand the number of adults committed to the child's well-being. In fact, disrupted families threaten the psychological well-being of children and diminish the investment of adult time and money in them. Family diversity in the form of increasing numbers of single-parent and stepparent families does not strengthen the social fabric. It dramatically weakens and undermines society, placing new burdens on schools, courts, prisons, and the welfare system. These new families are not an improvement on the nuclear family, nor are they even just as good, whether you look at outcomes for children or outcomes for society as a whole.<sup>5</sup>

Whitehead notes that children from single-parent families have typically more trouble in school, are more likely to end up on welfare, and have a greater chance of spending time in prison. In fact, "The relationship is so strong that controlling for family configuration erases the relationship between race and crime and

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5. Barbara Dafoe Whitehead, "Dan Quayle was Right," *Atlantic Monthly* (April 1993), available online at: <<http://www.theatlantic.com/politics/family/danquayl.htm>>.

between low income and crime.”<sup>6</sup> Single parenthood risks putting both single parents and children at a disadvantage. There are certainly children of single parents who flourish admirably, yet these exceptions do not alter the statistical probability that children of single parents are at greater risk of harm than children of married parents. Even risking such harms without good reason, especially risking the well-being of one’s own child for whom one has a special responsibility, is morally problematic.

Compared with “shot-gun” marriage and single parenthood, adoption is often the best response, all things considered, to a premarital pregnancy, yet it too is clearly making the best of an imperfect situation. As those involved can attest, adoptions often cause intense emotional upheaval for birth parents, adoptive parents, and adopted children. In many cases this choice is the one that is in a child’s best interest. Nevertheless, this choice seems extremely unattractive, particularly from the perspective of the expecting mother. Summarizing the sociological research, Swope notes:

Adoption, unfortunately, is seen as the most ‘evil’ of [possible responses to unplanned pregnancy], as it is perceived as a kind of double death. First, the death of self, as the woman would have to accept motherhood by carrying the baby to term. Further, not only would the woman be a mother, but she would perceive herself as a bad mother, one who gave her own child away to strangers. The second death is the death of the child ‘through abandonment.’ A woman worries about the chance of her child being abused. She is further haunted by the uncertainty of the child’s future, and about the possibility of the child returning to intrude on her own life many years later. Basically, a woman desperately wants a sense of resolution to her crisis, and in her mind, adoption leaves the situation the most unresolved, with uncertainty and guilt as far as she can see for both herself and her child. As much as we might like to see the slogan ‘Adoption, Not Abortion’ embraced by women, this study suggests that in pitting adoption against abortion, adoption will be the hands-down loser.<sup>7</sup>

Adoption is a loving, indeed heroic, choice, but it is also a difficult one that many women find themselves unable to make. Many birth fathers as well sense a feeling of great loss at placing a child up for adoption. From the perspective of the adopted child, while some children are perfectly adjusted and at ease with their adoptive parents, others feel deeply unsettled.

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6. Ibid.

7. Swope, “Abortion: A Failure to Communicate,” online.

Abortion is the remaining and most morally problematic response. Almost everyone involved in the contentious abortion debate admits that abortion is not a positive choice for mother or offspring. Even those in favor of legalized abortion often say it should be safe, legal, *and rare*. Abortion in the United States is, sadly, not at all rare. One third of all pregnancies end in abortion (some 1.2 to 1.6 million abortions each year). According to the Alan Guttmacher Institute, those that are not married undergo more than 4/5 of these abortions.<sup>8</sup> This means that non-marital sex results in between 970,000 and 1.2 million abortions yearly, more than 30 million abortions since *Roe v. Wade* in 1973. Thus, concern about getting to the very causes of the “culture of death” (cf. John Paul II), which fails to protect in law and respect in life all members of the human family, leads to a concern about premarital sex. For many, even—it would seem—the Supreme Court in the *Casey* decision,<sup>9</sup> abortion must be morally permissible, since we have already as a societal culture sanctioned related values including premarital sex.

### Relevant Circumstances

Of course, not all couples are fertile. What if one or both partners have been sterilized and all possibility of offspring has been eliminated? Or what if the sexual behaviors of the couple are all of a non-fertile kind? If no children can possibly be conceived, then the arguments given thus far against premarital sex fail. This objection must take into account the social nature of human beings. People are deeply influenced by the behaviors of others, and actions speak louder than words. The example of the non-fertile couples will strongly influence the behavior of fertile couples, breaking down traditional prohibitions and social sanctions. To risk such breakdowns without a serious reason is morally irresponsible.

One difficulty in understanding why premarital sex is wrong arises from understanding “all premarital sex is morally problematic” as “all premarital sex is *equally* problematic.” As with killing, or any other sort of moral act, circumstances matter. Intercourse with a fiancé(e) is not as bad as intercourse with a stranger, some would argue. The difference depends upon the degree to which pregnancy is risked and the degree to which the couple is prepared to take responsibility for their actions. The greater the likelihood of pregnancy and the less prepared a couple is to be responsible parents, the more dubious their actions. Clearly, two actions can both be intrinsically evil, always wrong to do, and yet not equally wrong. Following Augustine of Hippo in *Contra mendacium* and *De Mendacione*, one might argue that it is always wrong to lie and yet still suggest that not all lies are equally bad. It is worse to lie in court under oath than to lie in

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8. S. K. Henshaw and K. Kost, “Abortion Patients in 1994-1995: Characteristics and Contraceptive Use,” *Family Planning Perspectives* 28 (1996): 140-147, 158.

9. *Planned Parenthood of Southeastern Pennsylvania v Casey* (91-744), 505 U.S. 833 (1992), available online at <<http://supct.law.cornell.edu/supct/html/91-744.ZO.html>>; Scalia’s dissent: <<http://supct.law.cornell.edu/supct/html/91-744.ZX4.html>>.

casual conversation. It is better to lie in defense of another's well-being than to lie for one's own personal advantage. Similarly, it might be always wrong to steal and yet less wrong to steal from a rich person than a poor person. Premarital sex then would be morally problematic in all cases, and yet one could still admit that casual sex is worse than sex before marriage in the context of marital courting.

## **Cohabitation**

Some would argue that those engaging in premarital sex are not acting for the sake of mere pleasure but, like firefighters, have a very good reason for risking the many harms they do. Some believe, for example, that cohabitation is necessary in order to avoid making a mistake in marriage that will lead to divorce and the very problems of single parenthood described previously. Many unmarried couples look forward to the intimacy of a lasting relationship that is fostered by cohabitation. Responsibility, they say, demands not only premarital sex but cohabitation.

Since cohabitation is the fastest growing "family" configuration over the last two decades, up some 700 percent, cohabitation merits special consideration when addressing the topic of premarital sex. The growing acceptance of cohabitation suggests that we should consider the moral aspects of this practice in greater depth. There are a few common arguments for cohabitation that deserve our consideration. After all, some argue, in light of the Church's teachings on divorce, should it not allow those contemplating marriage a chance to test their relationship by living together? Living together before marriage seems not only morally unproblematic (no victim, no crime), but would appear to provide the ideal testing grounds for determining whether a marriage will really work out. Marriage is so important that couples should not rush into it without the prior experience of living together. Cohabitation, some argue, is a dress rehearsal for marriage, one that allows the couple to realistically discern whether a marriage would work. Thus, the argument runs, living together before the wedding helps insure a successful marriage, helps lower divorce rates, and helps families in the long run to be more stable.

Others justify cohabitation as a relationship enhancer, asserting that people should stay together out of love, not because of some legal agreement. Cohabitation, some argue, actually produces more loving relationships than marriage, for both cohabiting parties remain, if they remain, out of love and not merely from the constraint of marriage. After all, couples will either stay together or they will not; a marriage license will not change a thing.

In a feat of logical gymnastics, sometimes both kinds of arguments are put forth by the same people. On the one hand, marriage is so important that couples should not to rush into it without prior experience (how much?), but on the other hand, marriage does not really make any difference anyway. It cannot be both ways, but much more than consistency leads me to disapprove of cohabitation.

In coming to this understanding, I owe a great debt to Glen Stanton's book *Why Marriage Matters*, which adduces literally hundreds of studies demonstrating that the empirical data does not support either rationale for cohabitation.<sup>10</sup> Sociological research indicates that cohabitation, far from decreasing the likelihood of later divorce, actually *increases* the likelihood of divorce. Sociologists from the University of Michigan and the University of Chicago discovered that those who live together before marriage have a 50 to 100 percent higher rate of divorce than those who do not.<sup>11</sup> Another professor from the University of Victoria in British Columbia reports: "Contrary to conventional wisdom that living together before marriage will screen out poor matches and therefore improve marital stability, there is considerable empirical evidence demonstrating that premarital cohabitation is associated with lowered marital stability."<sup>12</sup> In fact, the longer the cohabitation, the higher the likelihood of divorce. In the words of one study: "Cohabitators perceived greater likelihood of divorce than couples who didn't cohabit before marriage, and longer cohabitation was associated with higher likelihood of divorce."<sup>13</sup> Once married, prior cohabitators experienced many more problems than those who had not lived together. UCLA Professors Newcomb and Bentler reported in *The Journal of Personality Assessment* that:

In regard to problem areas, it was found that cohabitators experienced significantly more difficulty in their marriages with adultery, alcohol, drugs, and independence than couples who hadn't lived together. Apparently, this makes marriages preceded by cohabitation more prone to problems often associated with other deviant lifestyles—for example, use of drugs and alcohol, more permissive sexual relationships, and an abhorrence of dependence—than marriages not preceded by cohabitation.<sup>14</sup>

Empirically speaking, there is no evidence to suggest that cohabitation helps ensure a happy, healthy, long-lasting marriage. Rather, the research indicates that cohabitators tend to leave one relationship without looking back and enter the next relationship without looking forward.

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10. Glen Stanton, *Why Marriage Matters: Reasons to Believe in Marriage in a Postmodern Society* (Colorado Springs: Pinion Press, 1997).

11. William G. Axinn and Arland Thornton, "The Relationship Between Cohabitation and Divorce: Selectivity or Casual Influence," *Demography* 29 (1992): 357-374.

12. Zheng Wu, "Premarital Cohabitation and Postmarital Cohabiting Union Formation," *Journal of Family Issues* 16 (1995): 212-232.

13. Elizabeth Thomson and Ugo Colella, "Cohabitation and Marital Stability: Quality or Commitment?" *Journal of Marriage and the Family* 54 (1992): 266.

14. Michael D. Newcomb and P. M. Bentler, "Assessment of Personality and Demographic Aspects of Cohabitation and Marital Success," *Journal of Personality Assessment* 44 (1980): 11-24.

What, however, of the other rationale for cohabitation, that love is what really matters, not legalities? What difference does a ring make? Certainly, a wedding does not guarantee that a marriage will last, so why bother at all? A relationship will either survive or it will not, regardless of marriage. This argument, were it true, proves too much. After all, promises and signed contracts of all kinds are no guarantee that persons fulfill their obligations, yet we still insist on them with respect to other important matters in our lives, such as cars, medical insurance, and jobs. Should we not bother with promises and contracts in these areas as well? After all, our employers either will or will not keep up their side of the bargain, for example, so why bother making a promise? Sometimes, a promise or a contract helps ensure that someone fulfills an obligation.

“Marriage changes nothing. It is no big deal. What does it matter?” I am not impressed with the “guy argument.” I say the “guy argument” because it is usually men who make it. Those who make this argument know the truth: If marriage changes nothing, then why are people (usually men) so reluctant to do it? Going to McDonalds rather than Burger King is no big deal. Choosing to watch “Friends” rather than “Frasier” is no big deal. If it is “no big deal,” then why not get married if one partner wants to? I wish that those who hear from their partners that marriage is “no big deal” would respond: “Great. If you feel that way, then it should be no big deal for you to let me have my way in such a trivial, insignificant matter.”

Marriage *is* a big deal, for men and for women, because public promises are much different from private ones. It is one thing to pledge “eternal love” alone, at night, in the back seat of the car, during stolen moments of passion. It is another entirely to say the same things in the bright of day, before God and man, having alerted everyone of your intentions, having planned for this moment for months. Reneging on public promises carries with it a societal pressure that differs from private promises. Furthermore, society supports legally and socially married couples in a way that it does not support those who are simply cohabitating. Hence, married couples have a greater likelihood of making their love last forever.

Perhaps this societal support and pressure, however, makes cohabitation preferable to marriage. Do cohabitators enjoy better relationships than their married counterparts? Do cohabitators know a happiness and satisfaction in their relationships that those bound by marriage vows lack? Again, the empirical data suggests not. Cohabiting couples “compared with married couples have less healthy relationships. They have lower relationship quality, lower stability, and a higher level of disagreements.”<sup>15</sup> Stanton notes that cohabitators experience violence and abuse more often than their married counterparts, have lowered sexual exclusivity, and more trouble with alcohol and drug abuse. Married women by contrast are physically safer, enjoy better mental health, feel more secure, and receive more

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15. Stanton, 60.

help from their partners in household chores than do cohabiting women. Men enjoy a better sex life, longer life, and improved health. The research suggests that married couples on the whole enjoy better relationships with one another than do those who are merely cohabiting. We have already seen that couples who cohabit before marriage are more likely to divorce later; and we have also already seen that single-parent families do *not* improve the lives of children involved in these situations; hence, cohabiting does not bode well for raising offspring.

In conclusion, although it is only one among many, premarital sex is a social justice issue. It involves the well-being of disempowered people, women and children in particular. Is premarital sex the worst of injustices? Of course not, but consistency as well as charity demand that we take quite seriously marital acts without marital vows. ■