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LEGAL ANALYSIS OF THE APPLICATION OF THE DOCTRINE OF INDISSOLUBLE MARRIAGE ACCORDING TO THE CANON LAW OF THE CATHOLIC CHURCH AND ITS RELEVANCE TO MARRIAGE LAW IN INDONESIA

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Abstract

This study aims to analyze the legal status and relevance between the doctrine of the indissolubility of marriage under Catholic Church Canon Law and the positive marriage law in Indonesia, as well as to identify legal solutions for Catholic couples facing marital breakdown without violating canonical faith provisions. The research method used is normative legal research (normative juridical) using a statutory approach and a conceptual approach. Data were collected through a literature review to examine primary legal materials in the form of the Codex Iuris Canonici 1983 and the Indonesian Marriage Law, alongside secondary legal materials, which were then analyzed qualitatively. The results indicate a normative dualism; Canon Law views marriage as a monogamous sacrament that is absolutely indissoluble by any human power (Canon 1055 and Canon 1141), whereas the Indonesian Marriage Law opens an avenue for the dissolution of marriage through civil court divorce (Article 38). For Catholic marriages that cannot be maintained, Canon Law provides theologicallegal solutions that do not dissolve the sacramental bond, including: declaration of nullity (annulment), separation of bed and board (separatio tori et mensae), privilegium fidei (Paulinum and Petrinum), and sanatio in radice. This study concludes that civil recognition of Ecclesiastical Tribunal decisions through state district court decrees is a relevant step to bridge the two legal systems and ensure legal certainty for citizens.

Keywords: Catholic Marriage, Sacrament, Indissolubility, Annulment, Canon Law

INTRODUCTION

A juridical asymmetry and normative conflict arise when a Catholic marriage confronts the reality of marital breakdown leading to civil divorce in Indonesia. Article 38 of the Marriage Law explicitly establishes that a marriage may be dissolved due to death, divorce, or a court decision. For nonMuslim couples (including Catholics), divorce petitions are filed with the District Court pursuant to Article 63 paragraph (1) letter b of the Marriage Law. This stark disparity creates a dual legal status: even though a Catholic couple has been legally divorced under civil law by the district court, the Catholic Church canonically continues to regard their marital bond as valid and indissoluble for life.

Consequently, from the perspective of the Catholic faith, they are prohibited from officially remarrying within the Church; if they proceed to remarry civilly without an ecclesiastical annulment, they incur pastoral sanctionsspecifically, a prohibition against receiving the Sacrament of the Eucharist as stipulated in Familiaris Consortio A juridical asymmetry and normative conflict arise when a Catholic marriage confronts the reality of marital breakdown leading to civil divorce in Indonesia. Article 38 of the Marriage Law explicitly establishes that a marriage may be dissolved due to death, divorce, or a court decision. For nonMuslim couples (including Catholics), divorce petitions are filed with the District Court pursuant to Article 63 paragraph (1) letter b of the Marriage Law. This stark disparity creates a dual legal status: even though a Catholic couple has been legally divorced under civil law by the district court, the Catholic Church canonically continues to regard their marital bond as valid and indissoluble for life. Consequently, from the perspective of the Catholic faith, they are prohibited from officially remarrying within the Church; if they proceed to remarry civilly without an ecclesiastical annulment, they incur pastoral sanctions specifically, a prohibition against receiving the Sacrament of the Eucharist

as stipulated in Familiaris Consortio (no. 84) and Amoris Laetitia. This legal tension is further complicated by a scarcity of literature and a lack of understanding among the faithful regarding the theologicaljuridical solutions provided by Canon Law. Many believers assume that Church law is rigid and unadaptable to unhealthy marital situations, such as domestic violence, infidelity, or a refusal to have children (childfree). This misconception drives some to take shortcuts, such as simply abandoning their spouse, obtaining a civil divorce without a canonical resolution, or even converting to another religion in search of greater legal flexibility. In reality, however, Canon Law offers comprehensive legal instruments that do not sever the sacramental bond, including: a declaration of nullity (annulment) in cases where a defect of consent or an impediment existed from the outset; separation of bed and board (separatio tori et mensae); and the privilegium fidei (Pauline and Petrine privileges) for nonsacramental marriages. and sanatio in radice (healing at the root of marriage). (no. 84) and Amoris Laetitia. This legal tension is further complicated by a scarcity of literature and a lack of understanding among the faithful regarding the theologicaljuridical solutions provided by Canon Law. Many believers assume that Church law is rigid and unadaptable to unhealthy marital situations, such as domestic violence, infidelity, or a refusal to have children (childfree).

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Kedua, How can solutions to marital issues within the context of the Catholic doctrine of indissolubility be implemented, and what is their relevance to the civil marriage laws applicable in Indonesia? Theoretically, this research aims to enrich the body of knowledge regarding civil law, family law, and canon law within the context of legal pluralism in Indonesia. Practically, the research output is intended to serve as a legal guide for Catholics to make informed decisions, a reference for legal practitioners (advocates and judges) handling marriage cases involving Catholic couples, and a resource for Catholic marriage pastoral care providers in offering guidance that balances the dimensions of faith and civil law.

RESEARCH METHODS

This study is a normative legal (juridical-normative) inquiry focusing on the vertical and horizontal synchronization of legal norms specifically regarding the dual application of the doctrine of the indissolubility of marriage under the Catholic Church's Canon Law and its relevance to positive marriage law in Indonesia. To examine and address the legal issues raised, the study employs both a statutory approach and a conceptual approach. Data were derived from primary and secondary legal sources collected through library research. Primary legal materials include the Codex Iuris Canonici (1983) and Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019. Secondary materials comprise legal textbooks, scholarly journal articles, papal encyclicals, and other relevant supporting documents. All collected materials were qualitatively analyzed using deductive reasoningdrawing conclusions from general legal premises to specific facts regarding disputes over the civil and canonical marital status of Catholics with the aim of ensuring legal certainty (Blasius Suoerma, 2025).

RESULT AND DISCUSSION

The existence of Catholics in the Indonesian legal landscape has given rise to a complex legal discourse regarding the dualism of normative systems. On the one hand, Catholic individuals are bound by national positive legal instruments, represented by Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019. On the other hand, their spiritual and ecclesiastical existence is absolutely subject to the internal ecclesiastical legal order, namely the 1983 Codex Iuris Canonici (CIC), or the Code of Canon Law. A dogmatic-juridical study of these two legal systems reveals points of convergence of values as well as sharp points of divergence of paradigms, particularly when the institution of marriage is faced with the emergency of marital dissolution.

Convergence and Similarities in Juridical Characteristics: Although based on different sources of authority national law arising from the political consensus of state sovereignty based on the One Almighty God and canon law arising from the theological tradition of the Church's magisterium the two legal codifications share five fundamental similarities in formulating the basic postulates of marriage. These normative similarities are the basis for why Catholic marriage can be well adopted into the Indonesian legal system

The Principle of Essential Absolute Monogamy: The concept of marital unity (unitas) in Catholic law is rigidly regulated in Canon 1056, which strictly excludes all forms of polygamy and polyandry. This main characteristic is linearly in line with the ideals of national law contained in Article 3 paragraph (1) of the Marriage Law, which confirms that in principle in a marriage a man may only have one wife and a woman may only have a wifeA woman may have only one husband. Although state law allows for polygamy under strict conditions for adherents of certain religions, for Catholics, the principle of monogamy remains absolute and is not subject to the discretion of civil law (Elagaima, 2025).

Free Consent as a Constitutive Requirement: The formation of the marital bond is driven by the genuine consent of the parties. Canon 1057 § 1 outlines the core doctrine of matrimonium

facit partium consensus (consent of the parties makes the marriage), meaning that the interpersonal agreement which cannot be substituted by any human authority is the factor that brings the marriage into existence. The same legal logic is found in Article 6 paragraph (1) of the national Marriage Law, where the validity of a marriage requires consent based on the free will of both prospective spouses, free from any element of coercion, error, or psychological manipulation.

Standardization of Minimum Age Limits for Psychological Maturity: Legal protection regarding the mental and physical readiness of prospective spouses is implemented through minimum age restrictions. Through the normative update in Law No. 16 of 2019, the state established a minimum age limit of 19 years for both men and women. Within the ecclesiastical sphere, Canon 1083 § 1 actually sets a relatively low minimum canonical age limit: 16 years for men and 14 years for women. However, Canon 1083 § 2 grants the Episcopal Conference (in this case, the KWI) the legislative right to set a higher age limit, which in practice is aligned with local positive law to ensure personal maturity before entering into family life.

Prohibition of Incestuous Marriage (Blood Relations): Regulations prohibiting marriage between blood relatives aim to preserve the social moral order and the biological health of offspring. Canon 1091 absolutely prohibits marriage in the direct line of ascent or descent, as well as in the collateral line up to the fourth degree. This legal restriction has been consistently adopted by Indonesian positive law through the provisions of Article 8, letters (a), (b), and (c) of the Marriage Law, which prohibit marriage between parties sharing a blood relationship in either the direct or collateral line of descent.

The Noble Teleology of the Marriage Institution: Both legal systems reject the secular view that reduces marriage to a mere ordinary civil contract. Canon 1055 § 1 defines the purpose of marriage as a partnership of the whole of life directed toward the well-being of the spouses (bonum coniugum) and the procreation and education of children (bonum prolis). This noble orientation is deeply rooted in Article 1 of the Marriage Law, which defines marriage as a physical and spiritual bond aimed at forming a happy and enduring family based on the belief in the One and Only God.

Conceptual discrepancies which give rise to legal uncertainty and burdens of conscience for Catholics stem from profound differences regarding ontological aspects, the nature of the bond, and formal judicial authority. These fundamental differences are outlined as follows:

First, regarding the nature of the institution, the Indonesian Marriage Law constructs marriage as a physical and spiritual bond that is legally valid under state law if performed according to the respective religious laws, with an emphasis on civil administrative-juridical protection. Conversely, Canon Law views marriage as transcending the dimension of civil contract law; rather, it is an indelible covenant (foedus) raised by Christ Himself to the dignity of a Sacrament, thereby possessing a divine and supernatural dimension that binds the souls of the baptized (Kristeno & Meo, 2025).

Secondly, a sharp contrast exists regarding the aspect of the indissolubility of the marital bond. The philosophy of Indonesian positive law is grounded in the principle of making divorce difficult to obtain; nevertheless, the state provides a legal avenue a divorce decree issued by the judiciary once the legal grounds for divorce have been validly met. This paradigm stands in diametric opposition to the doctrine of indissolubility found in Canon Law. Under Canons 1056 and 1141, a valid and consummated Catholic marriage (ratum et consummatum) possesses an absolute intrinsic and extrinsic indissolubility; the bond cannot be severed by any temporal authority whether a monarch, a president, or a civil court judge and can only be dissolved by the death of one of the spouses.

Thirdly, this discrepancy extends to the legal status following divorce. When a District Court issues a divorce decree that has acquired permanent legal force (inkrah), state law deems the marital bond dissolved by operation of law, and the parties revert to the civil status of being

single. However, from the perspective of the canonical judicial system, such a civil court decree has absolutely no power to alter the sacramental bond. In the eyes of the Church, a civil divorce decree is merely a temporal regulation concerning the separation of residence and the division of assets, whereas the spiritual marital bond before God remains steadfast.

Fourthly, the implications of this differing status directly affect the right to remarry. State law grants a divorced person the full right to legally marry another individual. Conversely, Canon Law strictly prohibits such a new marriage because, as long as the first spouse remains alive, the individual is barred by the impedimentum ligaminis (an impediment arising from a prior marital bond). A new marriage entered into under civil law is regarded as a form of objective adultery that violates divine law. Fifth, this dualism is reinforced by the distinction in formal judicial jurisdiction. Indonesian positive law stipulates that the District Court is the sole judicial forum authorized to hear, try, and adjudicate divorce cases involving non-Muslim citizens. Conversely, Canon Law exclusively asserts that only ecclesiastical authorities acting through Ecclesiastical Tribunals possess absolute competence to adjudicate and rule upon the validity and sacramental status of marriages between Catholics (Pabubung, 2022).

The juridical nexus at the root of this legal complexity lies in Article 2, paragraph (1) of the Marriage Law, which stipulates that a marriage is valid if performed in accordance with the laws of the respective religions and beliefs of the parties involved. Through this provision, Indonesian positive law incorporates religious law into its legal structure; in other words, the state adopts and recognizes the criteria for validity established by Canon Law as the requirements for a valid Catholic marriage.

However, serious complications arise when such a marriage suffers an irreparable breakdown in fact, and one or both parties choose to pursue legal action by filing for divorce in a District Court. This action creates a "double bind" phenomenon, placing Catholics in a position of extreme legal paradox. A divorce ruling handed down by a District Court judge creates a dual status that is mutually contradictory: under national civil law, the individual is declared free and entitled to start a new life through a subsequent civil marriage, yet canonically, they remain absolutely bound by their initial vow of fidelity.

The sociological, psychological, and pastoral impacts of this clash of norms impose an immense spiritual burden on the faithful. If a Catholic who has obtained a civil divorce decides to remarry before a civil registrar without a decree of nullity (annulment) from an Ecclesiastical Tribunal, that action automatically places them in a state of "irregular marriage." Based on the pastoral guidelines in Familiaris Consortio No. 84, the ecclesial legal consequence of this status is a prohibition against receiving the Sacrament of the Eucharist (Rikardus Jehaut, 2020). Although Pope Francis, through the Apostolic Exhortation Amoris Laetitia, has introduced a more inclusive and compassionate (misericordia) pastoral approach one that allows room for interior discernment under the guidance of a parish priest the inner conflict stemming from this legal incongruity remains profound. In practice, the inability to bear the burden of this legal dualism often drives Catholics to make pragmatic decisions that are regrettable from the perspective of faith: they choose to convert to another religion solely to secure certainty and consistency regarding their marital status both in the eyes of civil law and under the laws of their newly adopted faith.

A Critical Juridical Solution to Catholic Marriage Issues Based on Canon Law and Its Application in Indonesia. The Catholic Church, drawing upon centuries of proven legal and pastoral wisdom, is not indifferent to the genuine human suffering, psychological trauma, and threats to personal well-being experienced by the faithful in dysfunctional marriages. To bridge the tension between the obligation to uphold the doctrine of indissolubility and the urgent need to resolve such humanitarian crises, Canon Law provides four juridical instruments as practical, formal solutions.

The primary legal instrument often misunderstood by both the laity and civil law practitioners in Indonesia is the declaration of nullity, or annulment. It must be stated with conceptual clarity that annulment is not the same as, and must not be equated with, civil divorce. Divorce proceeds from the premise that a valid marriage existed but was subsequently dissolved due to post-marital circumstances. In contrast, annulment is a declaratory legal act by an Ecclesiastical Tribunal judge stating that, from the very moment the marriage vows were exchanged at the altar, the marriage never objectively existed or was never validly constituted due to a constitutive legal defect that invalidated the marriage (Suma, 2023).

Based on an in-depth analysis of canon procedural law, the grounds for a petition to annul a marriage (Capita Nullitatis Matrimonii) are strictly classified into three categories of juridical reasons. Defect of Consent (Vitium Consensus): This category accounts for the largest share of annulment cases, wherein the expression of will by one or both parties is deemed not to meet the psycho-juridical requirements stipulated in Canons 1095 through 1103. This defect manifests as a lack of sufficient use of reason (defectus usus rationis) under Canon 1095 §1, experienced by a party suffering from an acute mental disorder or under the influence of certain substances at the time of the marriage.

Defect of Discretion of Judgment and Psychological Incapacity: Another form of defect in consent is a severe defect of discretion of judgment regarding the essential rights and obligations of marriage (defectus discretionis iudicii), pursuant to Canon 1095, n. 2. Furthermore, Canon 1095, n. 3 addresses psychological incapacity to assume the essential obligations of marriage (inabilitas ad assumendas obligationes matrimonii), often caused by severe personality disorders or hidden sexual anomalies. Other legal grounds include intentional deceit (dolus) under Canon 1098 such as the concealment of sterility, a dangerous disease, or a criminal record and the simulation of marriage (simulatio) under Canon 1101 § 2, wherein a person internally excludes an essential element of marriage, such as indissolubility or openness to procreation.

Diriment Impediments (Impedimenta Dirimentia): A marriage is declared invalid from the outset if it is contracted under the shadow of one of the twelve canonical diriment impediments as stipulated in Canons 1083–1094 and no written dispensation has been obtained from the Bishop regarding said impediment. These impediments include the existence of a prior marital bond that has not been canonically dissolved, absolute and permanent impotence, and disparity of cult (disparitas cultus) entered into without official permission.

Defect of Canonical Form (Defectus Formae): A mandatory procedural-juridical requirement for Catholics is adherence to the canonical form of celebration. If a marriage is solemnized without the presence of a competent Church official (such as a parish priest or a delegated deacon) and without at least two official witnesses and if no dispensation regarding this formal requirement has been granted by the bishop then the marriage suffers from a defect of form and is deemed invalid by law. In the context of law enforcement in Indonesia, the execution of a decree of canonical nullity must be aligned with state administrative procedures through the Civil-Canonical Combination Model. Given that the principle of national legal sovereignty dictates that Ecclesiastical Tribunal rulings are internal religious matters lacking civil executory force, couples facing such a defective marriage are advised to first file a lawsuit for marriage annulment or divorce in a District Court. This step is crucial to securing civil legal standing regarding child custody, the division of marital assets, and the updating of civil registry records. (Wea, 2020)

Upon obtaining a final and binding judgment from a civil District Court, an interested party may file their case with the Diocesan Tribunal by submitting a libellus (canonical petition), a comprehensive chronology, and supporting evidence. Following the reform of canonical procedural law introduced by Pope Francis via the Motu Proprio Mitis Iudex Dominus Iesus, the ecclesiastical judicial process has been streamlined for greater efficiency.

The first-instance examination generally concludes within approximately one year; should an appeal be lodged by the Defender of the Bond (defensor vinculi), the appellate process takes about six months, resulting in a total resolution period of roughly one and a half years. If the Tribunal issues a declaration of nullity, the parties regain their canonical freedom to marry, and children born during the period of cohabitation remain canonically legitimate, in accordance with the guarantee provided by Canon 1137.

Canon law recognizes emergency situations wherein continued cohabitation under one roof ceases to be beneficial and instead results in human calamity. In the event of severe marital discord particularly involving domestic violence that threatens the safety, physical integrity, or mental health of the spouse and children the Church provides a legal avenue through the institution of separatio tori et mensae (separation of bed and board), as stipulated in Canons 1151 through 1155. Juridical Characteristics of the Separation: The formal nature of this solution entails the granting of official permission by Church authority for the husband and wife to cease the obligation of physical cohabitation (separating their residence, bed, and table) in order to restore safety and peace of mind; however, this is subject to an absolute juridical proviso: the sacramental bond of their marriage remains intact, valid, and spiritually binding.

Holy See of Peter in the Vatican. This dissolution is granted based on papal authority regarding the keys, for the sake of the spiritual well-being and growth in faith of one of the parties involved in the natural marriage. This fourth legal instrument operates on a logic diametrically opposed to that of annulment. While annulment identifies a constitutive defect to invalidate a marriage, sanatio in radice is designed to salvage and legitimize a marriage that has effectively existed in good faith (bona fides) and produced a family, yet remains canonically invalid due to a hidden legal impediment or a defect in canonical form at the time the marriage was originally celebrated. Based on the systemic provisions of Canons 1161 through 1165, sanatio in radice is defined as a legal act by competent ecclesiastical authority (the Diocesan Bishop or the Pope) to retroactively heal and validate such a defective marriage.

Through this decree of validation, the marriage's validity is restored retrospectively, taking effect from the very day the marriage vows were first exchanged. The juridical advantage of this pastoral solution lies in its efficiency: the couple need not renew their consent or repeat the marriage ceremony publicly before the altar instead, the legal impediment is automatically removed through the force of the issued decree. In the sociological context of Indonesia, this instrument serves as a highly effective legal solution for Catholic couples facing issues stemming from past ecclesiastical administrative errors, allowing their marriage to be canonically validated while maintaining a civil registration that is synchronized and legally valid under Indonesian state law (Yohanes Subroto, 2017).

CONCLUSIONS

A juridical analysis of the dualism between Indonesian positive law and the Canon Law of the Catholic Church reveals a sharp clash of ontological paradigms regarding the institution of marriage, particularly concerning the dissolution of the marital bond. While both legal systems converge on principles such as monogamy, free consent, minimum age requirements, and prohibitions against incestuous unions, they are diametrically opposed in their views on divorce. Law No. 1 of 1974 (as amended by Law No. 16 of 2019) allows for the dissolution of marriage through a final and binding District Court judgment. Conversely, the 1983 Codex Iuris Canonici (CIC) steadfastly upholds the principle of absolute indissolubility, asserting that a valid sacramental marriage cannot be dissolved by any earthly authority other than death. This lack of synchronization creates a "double bind" phenomenon, wherein individuals who are civilly divorced face status ambiguity: they are declared free by the state yet remain spiritually bound in the eyes of the Church. To address marital crises, Canon Law actually provides remedial juridical instruments such as a declaration of nullity (annulment), separatio

tori et mensae (separation of bed and board), privilegium fidei (privilege of the faith), and sanatio in radice (radical healing) without compromising the dogma of indissolubility. However, since Ecclesiastical Tribunal rulings lack civil executory power in Indonesia, the faithful must adopt a "Civil-Canon Hybrid Approach" resolving the case in a District Court first to ensure legal certainty regarding child custody and civil registration, and only then addressing their sacramental status within the ecclesiastical court system.

Academically and practically, fostering internal harmony among the faithful requires strengthening pre-marital legal education at the parish level to minimize defects of consent from the very outset of the marriage. Furthermore, revitalizing the performance of the Diocesan Tribunal following the Mitis Iudex Dominus Iesus motu proprio reform alongside the application of inclusive pastoral discretion grounded in Amoris Laetitia is crucial for accompanying the faithful experiencing marital breakdown, ensuring they do not fall prey to a crisis of faith or resort to forced religious conversion solely for the sake of civil legality.

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