

BOOK REVIEWS

**José María Martí SÁNCHEZ, Mar Moreno MOZOS (eds.),
Matrimonio religioso y Derecho español concordato,
Comares, Granada, 2016, 131 pp.**

The present work is a legal monograph on religious marriage according to the Spanish law. Each of its chapters is written by a different author: the first chapter is entitled: "*Some notes regarding the Jewish people and marriage in the field of Roman Law*" and its authorship belongs to Prof. José Antonio Martínez Vela (pp. 1-23). The second chapter, by Prof. José M. Martí Sanchez, is dedicated to "*Marriage, religious and concordat tradition*" (pp. 25-53). Prof. Davis García-Pardo writes the following chapter entitled "*Civil Efficacy of Religious Marriages in Spain*" (pp. 56-73). The fourth chapter, by Prof. Santiago Catalá, bears the title of "*Muslim Marriage*" (pp. 75-94). The fifth chapter, entitled "*The Protestant and Orthodox Marriage*", is written by Prof. Antonio Escudero Rodríguez (pp. 95-118). The monograph ends with a sixth chapter, from prof. Mar Moreno, on: "*Critical assessment of the recognition of civil effects to religious marriages of confessions with notorious social roots*" (pp. 119-131).

The body of the book is preceded by the dedication of the work to professors Iván C. Ibán, Luis Prieto Sanchís and Augustín Motilla, of the summary, and a brief presentation. In the presentation it is noted the need to analyze the complex situation that crosses the legal configuration of civil marriage, and the need to pay attention to religious groups, which can provide conceptual solutions; in order to do so, the book aims to contribute to the knowledge of marriage, family and religious freedom, as well as its proper legal treatment is presented.

In the first chapter, Prof. Martínez Vela makes an interesting and relatively extensive historical introduction to the relations between Rome and the Jewish people, then he goes on to contemplate marriage before Roman Law, both the contract between those who had recognized the *ius connubii*, like those in which one of the contracting parties was a foreigner,

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in each case deriving different consequences. Finally, the situation of the Jewish marriage in the scope of the Empire is contemplated, at the same time this religious marriage is compared with the Roman one.

Prof. Martí Sanchez offers, on the other hand, an intellectual journey on marriage and the family that starts from the modernist roots of its current sociological and legal situation, as well as the anthropological bases that should be taken as a starting point for its adequate regulation. He continues to conduct his argument through the ups and downs of marriage in the jurisprudence of the European Court of Human Rights and its treatment by the Constitutions of the States, making a halt in the Spanish Constitution of 1978. Finally, it offers a study of the Concordat regulations of Catholic marriage as well as the covenants of other religious marriages in different countries of the world. This itinerary leads to the conviction that, faced with the disconcerting legal situation of such a fundamental aspect for the proper organization of life in society, such as the legal regulation of marriage and family, it is very convenient to take into account the religious factor. Religions can offer their rich heritage and experience, while facilitating the proper legal regulation of marriage and family by contributing their ability "to convince important sectors of the population of moral principles, such as the sense of sacrifice, the gratuity and the interest for others, necessary to assume the marital commitment and to found a family".

Prof. García-Pardo situates us, after an outline of his historical evolution, before the current Spanish regulation of the civil effectiveness of the religious matrimony. On the other hand, he makes a good synthesis of all the dubious and problematic aspects in relation to the subject. As it can not be otherwise, he takes note of the difference of regulation in the recognition of canonical marriage and of other religious marriages and studies them separately. At the same time, it highlights the contradictions in the configuration of our matrimonial system, mainly due to the disagreements between the Agreement on Legal Affairs with the Holy See and the regulation of the Civil Code, which seems to settle, at least in some of its articles, by an optional system of Anglo-Saxon type. In relation to the recognition of the religious marriage of confessions with notorious roots, and with the inscription of the religious marriage of the confessions to which the 1992 Agreements are applicable with the Federation of Evangelical Religious Entities of Spain, the FCI and the CIE, the author makes an

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update of the modifications made - or by having - by the promulgation of Law 15/2015, of July 2, of the Voluntary Jurisdiction; and, with respect to the recognition of canonical marriage, in particular to the recognition of nullity judgments, of the amendments made to Law 29/2015, of July 30, on international legal cooperation in civil matters.

Prof. Catalá gives us, in his chapter, a critical knowledge in a subject that is usually unknown, at least, in detail, such as marriage and the Muslim family. After an introduction in which the author reflects on the current cultural and legal situation of marriage and family, the author goes into the origins of the Muslim concept of marriage and family, connected with the attempt - not successful - to overcome the situation of the Arab woman of the moment; precisely the legal regulation of marriage for the Muslim religion would have, in the opinion of the author, a great dependence on pre-Islamic traditions, which are precisely those that would most constrain the freedom of women. It manages to open an interesting approach to the reader towards novel elements that allow us to read the Islamic reality, based on the experience that such an achievement is not easy for a Westerner.

The study of Protestant marriage and orthodox marriage is the responsibility of Prof. Escudero Rodríguez, who, with respect to Protestantism, begins his work underlining the fact that, as a result of his doctrine, it is Protestantism - his notion, deprived of a sacred character, of marriage - that has marked the secularization of marriage in history. The following is a tour of the situation of the Protestant marriage in Spain and, later, on the situation of Anglican marriage in Great Britain.

As for the orthodox marriage, the author is trying to explain the main differences with respect to the canonical marriage, for example, the greater relevance of the function of the sacred minister, whose intervention becomes an essential element of the matrimonial rite. The author dedicates his attention to the Orthodox marriage in Spain, and, finally, offers the situation in Greece, with the aim of showing an example of application of a civil legislation to orthodox marriage.

The last chapter is that of Prof. Moreno, who presents a critical assessment of the civil effectiveness of the marriages of the confessions with notorious roots. In this area, the promulgation of Law 15 / 2015 of July 2, of the Voluntary Jurisdiction, has had a strong impact. Among the novelties of this Law, as explained in the chapter, there is the possibility

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So we can conclude with the consideration that the present collective work shows us as a good instrument to deepen in a field of study that is in great need of reflection. Certainly, the studies included in this work are - despite all of them dealing with matrimonial matters - very heterogeneous, both because of the concrete material object to which they dedicate their attention, as well as because of their different authorship; nevertheless, they have the same line as the others, and it is the pretension to offer the reader, and the student in particular, a series of knowledge that goes beyond the scope that other legal research works tend to offer. Either by the historical contextualizations - and also anthropological and religious - of the subjects studied, or by the specific themes chosen and the syntheses they carry out, in the end a scientific contribution has been achieved that can be very useful for the intended objective, and for that reason I only have to congratulate the coordinators and the rest of the authors of this book.

Rev. Constantin Rus