

BABEȘ-BOLYAI UNIVERSITY
FACULTY OF HISTORY AND PHILOSOPHY
DEPARTMENT OF MODERN HISTORY

**MOTIVES FOR CONSTITUTING AND DISSOLVING
COUPLES IN THE GREEK-CATHOLIC BISHOPRIC OF GHERLA
IN THE SECOND HALF OF THE 19TH AND THE BEGINNING OF THE 20TH**

– abstract of the PhD thesis –

ADVISOR:
Univ. Prof. Dr Toader Nicoară

PhD STUDENT:
Monica Mureșan

CLUJ-NAPOCA
2010

In the past half century the **family** with its many aspects gained a privileged place within socio-humanistic research. A considerable contribution was made by historians who, under the impulse received from the forerunners of the collective mentalities current and of the Annales School's social imaginary, retrieved "new" themes and subjects such as the major demographic phenomena: birth, marriage and death. Thus scientific research focusing on these issues was enriched by the retrieving of a subtle history of the human affects and behaviours. Such a history of sensibilities and mentalities can no longer be neglected in contemporary historiography which aims at the retrieving of a total history for which the experiences, representations and world view of simple men and of the groups they belonged to reveal the lived, palpable side of the "great history".

To this effect historical anthropology founded in the 1970–1980s made great contributions, for it proposed to bring to the foreground of scientific research the history of banal, everyday events – such as for example kinship structures, modalities for preserving one's material and symbolic inheritance – in order to realize a more analytical history interested rather in customs and habits than in events. By integrating actions in a system of significations, historical anthropology creates a history of the attitudes toward life interested in the evolution of society which is also the objective we assume in this PhD thesis. Since the majority of the 19th century Transylvanian population lived in the rural area and was illiterate, remaining thus anonymous, it is difficult to explore the most intimate secrets of their cotidian life, all the more as "peasantry is hiding and keeps silent". In this area the historian encounters a "cultural silence" as Michel Foucault justly remarked. Together with "the emergence of masses in history" the retrieving of a "microhistory" – namely, a history based on experienced reality, on the simple man's representations – constitutes a powerful impetus for studying the complex issues related to the family.

The analysis of the family between two terminal moments – formation and dissolution – meets the demands of the newest paradigms in the field of historical research, succeeding in offering a holistic and dynamic image on the phenomenon of marriage viewed both from a synchronic and a dyachronic perspective. While **marriage** represents a constant of civilized human society, a historical and social phenomenon which can offer valuable information on the society of an age, **divorce**, on the other

hand, represents an exception in traditional society, a breach with a powerful impact on the individuals' personal development. Thus, the anthropological-historical-demographical discussion of the family in its relationship with society, with the different transitory society and community typologies is a complex task which requires, besides the thorough analysis of the central defining elements, a methodological scope as well, which should also contain the elements considered marginal.

The starting point of this attempt, introspective and prospective to the same measure, consists in the discovery of an atypical behaviour for a deeply religious community usually obedient with respect to the norm imposed by civil or ecclesiastical means, namely contracting "forbidden" marriages, despite being aware of the serious biological and legal consequences, for economic interests opposed to the affective reasons for forming couples. At the opposite pole, the failure of such unions, ending often in divorce, accuses exactly the individuals' lack of initiative in outlining their own marital options, a lack which on the long run generated tension between the spouses forced to marry in this way, and, finally, it made them resort to drastic solutions, accepted neither by authorities, nor by the community.

Motives for Constituting and Dissolving Couples in the Greek-Catholic Bishopric of Gherla in the Second Half of the 19th and the Beginning of the 20th is intended, first of all, to be a synthesis with reference to the present stage of research; secondly, it also proposes an antithesis, an addition and an alternative model to the investigations dedicated to the issues of the family seen exclusively from numeric, ethical or aesthetical points of view. The novelty of the present approach consists exactly in the effort to question an often investigated domain with diversified working methods and instruments because history is permanently rewritten with the appearance of new research perspectives. Starting from a historiographical evidence – the permanence of human institutions –, we shall try to answer some questions essential for outlining a highly specific horizon of expectation, the Greek-Catholic community in the bishopric of Gherla, which is an ecclesiastical entity with a well outlined identity and clear spatial boundaries.

In order to reconstruct as faithfully as possible the family history of the people in that age with an emphasis on the affective dimension, on attitudes, mentalities and

behaviours, the dissertation is divided in **six main chapters**, to which an introduction and conclusions are added. The appendices of the thesis consist mainly of the unpublished archive material on which the analysis was based and which were banished to the end of the thesis under the title example, in order to make the main text more concise. We are now going to summarize each chapter separately.

I. The *Introduction* outlines the main ideas of the dissertation, the coordinates according to which we intend to elaborate on certain aspects starting from the rich historiography of the problem and from the primary sources questioned through an original method. It is necessary at this point to describe the source and the reading method of the analysis. The space and time limits of the research in line with the proposed aim are also fixed.

II. The first chapter dedicated to the *the constituent factors of traditional mentalities*, starting from the primary sources of the age, the main religious, philosophical and moral landmarks between which a traditional thinking type was fashioned, which imposed a certain conception about the role of love in matrimonial relationships in the Romanian families of the second half of the 19th century. Referring on the one hand to the doctrine of the Orthodox Church, and to the rigurocity of Catholicism on the other, the particularity of the studied Greek-Catholic community is revealed, this individuality resulting mainly from the specific way this community adapted itself to the imposed rules. The analysis of some narrative sources such as memoirs, fiction, folksongs resulted in an applied study of the love types present in the Transylvanian book culture in the second half of the 19th and the first half of the 20th century. By means of this subtle semantical and hermeneutical introspection applied in some case studies some extremely interesting aspects have been revealed: firstly, the role of love as a factor binding the couple in high literature, then the isolation of affection to the sphere of extramarital or premarital relationships in popular literature and folksongs, and, last but not least, the permanent clash between material interests and the wish for affective fulfilment in the characters of these works.

III. The third chapter of the work synthesizes a rich secondary literature on *matrimonial legislation* from the second half of the 19th the beginning of the 20th century. These laws constituted the norm, the ideal frame according to which specific attitudes

translated by the individual's real behaviour were shaped. The two main factors with respect to matrimony were, of course, the Church and the State, to which the coercive character of the community's public opinion was added. During the studied period complex relationships were established between these two institutions, relationships characterized either by cooperation or by the affirmation of one's authority in opposition to the other. This relationship was also visible at the level of the two legislation types issued: canonic and laic. Besides canon law works authored by personalities such as Ioane Rațiu, Samuil Micu Clain, Andrei Șaguna, Petru Maior, Iosif Pop Szilagi, Iuliu Simon, etc. "The Decrees of the First and Second Council" were the most important legislative measures by which the Greek-Catholic Church completed its procedural code. The civil legislation of the age consisted mainly in the 1853 "General Austrian Civil Code" and the 1894 "Civil Law No. XXXI, XXXII and XXXIII", a set of laws through which the state affirmed definitively its preeminence in managing matrimonial problems irrespective of denomination. Thus, beginning with the end of the 19th century, to respect religious obligations, procedures and conditions imposed on marriage or divorce became subject to one's own option, being obligatory no longer. It is an obvious turning point in the change of traditional mentality.

IV. Beginning with chapter four, we reach the actual core of the problem, since this part discusses in detail the procedure and principles of *marriage* at the Greek-Catholics. However, everything refers to an entire suite of restrictions, exclusion and limitations which conditioned the motivation of forming couples. Each subchapter was conceived with reference to a triple axis: etymological, evolutive, and qualitative in order to understand the mechanism by which the so called "forbidden marriages" – which affected deeply the Transylvanian society in general and the Greek-Catholic community in particular – were realized. This analysis is extremely important in understanding the process of dispensation, the functioning of the prohibition of incest, and, last but not least, the patrimonial relations it generated. Marriage dispensations, that is the special documents by which exemption was given from a matrimonial impediment, constitute the main source of the quantitative and qualitative analysis directed at the motives for marrying in the long duration (namely, the six decades between 1853 and 1914), a period when priorities had subtly changed shifting from the material aspect to the sentimental

one, from the interference of authorities and of the community to the individual's aspirations. Furthermore, revealing the evolution of the dispensation procedure it was possible for us to observe the hierarchical management of authority in the dispensation materials, passing from the request for dispensation submitted to the archpriest's office or to the episcopal see to recourse to the Apostolic Nunciature in Vienna. It is very interesting that after the introduction of civil marriage dispensation lost much of its value, its strictness gradually diminished and taxes were visibly decreased.

V. Similar observations resulted from the analysis of *divorce* (more precisely the process of marriage annulment) at Greek-Catholics as well. Here, however, things are much more nuanced, first of all because of the theoretical impossibility of separating a Greek-Catholic married couple definitively, who, at best, after a costly process led through an undetermined period of time and in several tribunals could only obtain a sentence of separation from bed and board. The way to follow from the submission of the request for separation to obtaining the sentence or decree was an extremely sinuous one due to the excessive bureaucracy of matrimonial procedures in religious tribunals. Thus, being in a *perpetuum mobile* between the successive postponement of the decision date in order to provide the lacking documents and the local vicar's insistent attempts to counsel them, the couples often renounced the process before its termination, preferring to lead separate lives. There were some cases when the same couple submitted a second request of separation some years later. Divorce statistics reflect exactly this sad truth; in an interval of fifty years more than three hundred separation cases were recorded in the second degree Matrimonial Court in Blaj, but not a quarter of them were concluded. The qualitative analysis of the marriage annulment processes reveal a tendency of dissimulation in the individuals in order to manipulate the decision of the ecclesiastical tribunals, as in the majority of the cases the requests were based on the words of ecclesiastic canons mentioning either constraint which tainted the freedom of consent, or the inability to fulfill the object of marriage – procreation. In other situations opportunism was even more obviously revealed when the couple blackmailed the ecclesiastical authority by saying they would convert to another “more tolerant” religion, or that they would simply perform the civil formalities.

Analyzing the text, subtext and context of the primary sources, dispensations or requests of divorce, our observations regarding the reality behind the numbers were followed by the examination of reality behind the documents showing without any doubt the fact that those “forbidden marriages” liable to have been arranged by the family of the spouses in order to preserve the inheritance did not pass the test of everyday life; for mainly the divorce requests justified by the moral or physical constraint exercised by parents or relatives on the young people constructed their entire argumentation starting from the lack of consent, and consequently of mutual affection (in other words the opposite of the dispensations’ discourse).

VI. Besides the “officially” recognized couple we detected other *alternatives to marriage and divorce* (celibacy, concubinage, illegitimate children, extramarital affairs, and remarriage) as marginal phenomena through which “illicit love” was manifest in the practice of the Greek-Catholic community in the bishopric of Gherla. In traditional communities the intervention of the community, of relatives, or the family was an obligatory factor of matrimonial relationships, having an important role in the public sanctioning of deviance. From among these “marginal forms” of illicit love concubinages and illegitimate children were the most numerous; we ought to mention that after 1894 the Church considered couples married only by civil ceremony concubines. Celibacy existed only sporadically, and remarriage only to a degree determined by the concrete reality of life. Extramarital affairs also constituted an important corrosive factor of conjugal cohesion.

VII. In the emancipation process of the individual will from the tutelage of the family or institutions a series of *catalyst factors of the change in mentality* had a powerful impact. Out of these we mentioned: modernity, the introduction of civil marriage, the outbreak of World War I, the emancipation of women, the propagation of middle class morals, and the influence of some currents of philosophy and ethics such as individualism, materialism, or hedonism. The appearance of love marriage, and through this the affirmation of individual freedom, was therefore favoured by these external factors which created a conjuncture generally propitious to the break with the frames of traditional thinking, partially accounting also for the change produced at the level of collective mentality.

VIII. In *conclusion*, at the beginning of the 20th century a rebelliousness against the intransigency of Greek-Catholic canons regarding marriage and divorce became more and more evident. This attitude can be detected both in archive materials in which different persons gave full rein to their dissatisfaction and contested the authorities' abuse, and at the level of public opinion which began to emerge in press questioning openly the immobility showed by the ecclesiastical legal system. The road from marriages arranged in order to obtain material or social benefits to marriages contracted on the basis of affective adhesion and affinity between spouses was definitive and irreversible, though the attitudes and the manifestations of sentiments became predominant subtly and under the form of changing priorities. However, this was no radical change in mentality as conservative attitudes lived on together with the innovative ones; it was rather a change of view since individuals began to have greater freedom in their marital options, using also the conjuncture propitious to civil authorities affirming themselves against ecclesiastic authority which had to moderate and to adapt its requirements in matrimonial cases.

We could clearly descry this changing world by permanently referring to the legal frame and to the normative discourse, projecting thus the image of a society in "transition" towards new values, towards new boundaries. All this was reflected in the cycle of family life in the Transylvanian society unfolded between religious and civil prescriptions and collective mentalities. The present discussion of this complex problem, without exhausting the whole problem of marriage and divorce in the Greek-Catholic bishopric of Gherla in the second half of the 19th and the beginning of the 20th century brings additional information on the evolution of the different motivations determining the formation or the dissolution of couples, motives which in the studied era, characterized by the emancipation of women and the modification of priorities in matrimonial relationships, were in full change, modernization, secularization. On the other hand, by choosing this segment of personal life for our study, we detected both the particular-general relationship by emphasizing the similarities between the above mentioned area and the whole of Transylvania, respectively Central and Southern Europe, and the particular situations characteristic to the Greek-Catholic Bishopric of Gherla.

The thesis constitutes a significant contribution to the history of the couple and love seen from a new perspective: the analysis of some exceptions in the formation and dissolving of the family (forbidden marriages and divorce) and the extrapolation of the observations to the entire social body by assuming collectively the sensibilities, attitudes and mentalities detected in these “critical” moments of the couple, and therefore of great sincerity, the only ones to leave written evidence.

KEYWORDS: marriage, divorce, matrimonial legislation, motivation, individual attitudes, collective mentalities, Greek-Catholic specificity

CONTENTS:

I. INTRODUCTION

II. THE CONSTITUENT FACTORS OF TRADITIONAL MENTALITIES

- 2.1. The Christian view about marriage and love
- 2.2. The Christian view about divorce generally
- 2.3. The specificities of divorce at Greek-Catholics
- 2.4. Philosophers’ and moralists’s view about marriage and love
- 2.5. The manifestation forms of love in narrative sources

III. MATRIMONIAL LEGISLATION

- 3.1. The State-Church relationship with respect to matrimony
- 3.2. Canon law
- 3.3. Civil law
- 3.4. Custom

IV. MARRIAGE AT THE GREEK-CATHOLICS

4.1 The conditions of a valid marriage

- 4.1.1. Family, community and matrimonial relationships
- 4.1.2. The precursory stages of marriage
 - 4.1.2.1. Basic conditions
 - 4.1.2.2. Choosing the partner
 - 4.1.2.3. Entrusting
 - 4.1.2.4. Examination
 - 4.1.2.5. Betrothal
 - 4.1.2.6. Banns
- 4.1.3. The wedding and the new couple’s introduction to the community

4.2. Matrimonial impediments

- 4.2.1. The definition of impediments
- 4.2.2. Classification
- 4.2.3. Matrimonial impediments specific only to civil law

- 4.2.4. Matrimonial impediments specific only to canon law
- 4.2.5. Matrimonial impediments common to both laws
- 4.2.6. Special situations
- 4.2.7. Removing matrimonial impediments
- 4.3. **The anthropology of kinship**
 - 4.3.1. The vocabulary of kinship, clarifying the concepts
 - 4.3.2. The axiological coordinates of kinship
 - 4.3.4. Types of kinship
 - 4.3.5. Calculating kinship degrees
 - 4.3.5.1. Consanguinity
 - 4.3.5.2. The comparison of the Greek-Catholic and the Orthodox system
 - 4.3.5.3. Affinity
 - 4.3.5.4. Spiritual kinship
 - 4.3.5.5. Adoption
- 4.4. **Marriage dispensations**
 - 4.4.1. Definition and aim
 - 4.4.2. History and evolution
 - 4.4.3. Description of form and content
 - 4.4.4. The procedure of dispensation
 - 4.4.5. Classification
 - 4.4.6. Authority or the power of dispensations
 - 4.4.7. Causes
 - 4.4.8. Taxes
 - 4.4.9. Resorting to the Apostolic Nuntiature
 - 4.4.10. The effect and end of dispensations
- 4.5. **Quantitative and qualitative analysis of marriage dispensations**
 - 4.5.1. Statistics of the “forbidden” marriages phenomenon in 1853-1914
 - 4.5.2. The evolution of mentalities regarding marriage
 - 4.5.3. Motives for forming couples
 - 4.5.5. Argument typology and categories

V. DIVORCE AT THE GREEK-CATHOLICS

- 5.1. **The marriage annulment process**
 - 5.1.1. Tribunals of the Greek-Catholic Church
 - 5.1.2. The founding of the Matrimonial Court
 - 5.1.3. The conduct of priests in separation processes
 - 5.1.4. Matrimonial law suit types
 - 5.1.5. Canonic motives for divorce
- 5.2. **The stages of a marriage annulment law suit**
 - 5.2.1. Accusing marriage, starting the matrimonial process
 - 5.2.2. The following steps in judging in matrimonial cases
 - 5.2.3. Decision or sentence and the possibility of appeal
 - 5.2.4. The consequences of marriage annulment
 - 5.2.5. Action's expenses

5.3. Quantitative and qualitative analysis of divorce processes

5.3.1. Statistics of divorce processes in 1860-1910

5.3.2. Reality behind the numbers

5.3.3. Motives for dissolving the couple

5.3.4. Reality behind the documents

VI. ALTERNATIVES TO MARRIAGE AND DIVORCE

6.1. Concubinage

6.2. Illegitimate children

6.3. Extramarital affairs

6.4. Celibacy

6.5. Remarriage

6.6. Attitudes generated by deviation from the norms

VII. CATALYST FACTORS OF THE CHANGE IN MENTALITY

7.1. Modernity

7.2. The introduction of civil marriage

7.3. The outbreak of World War I

7.4. The emancipation of women

7.5. The propagation of middle class morals

7.6. The influence of some philosophical and ethical currents (individualism, materialism, hedonism)

VIII. CONCLUSIONS

IX. BIBLIOGRAPHY

X . APPENDICES A

XI. APPENDICES B

XII. The list of appendices

XIII. The list of diagrams, chart and tables