

Book Review for Canadian Evangelical Review.

From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition by John Witte Jr., Louisville, Kentucky: Westminster John Knox Press, 1997. ISBN 0-664-25543-4. Pp xii+315.

Few would dispute that issues concerning marriage and family life are crucial for contemporary Western societies. This important volume by the Professor of Law and Ethics at Emory and Director of its Law and Religion Program is part of a series (“The Family, Religion and Culture”) which addresses these issues.

Witte’s scholarly work is an excellent resource drawing on legal, theological, ethical and pastoral discussions of marriage in Western history to shed light on how we arrived at our current situation. It suggests that one reason we often don’t know how to respond effectively today is that we have either forgotten or never really understood how the conception of marriage has evolved through the centuries and how changing legal and religious perspectives have shaped each other and moulded us. Witte addresses the full range of issues - what constitutes marriage, how it is entered, whether and how it can be dissolved, questions relating to divorce and remarriage - and traces changing legal and theological responses within Christendom. The book is thoroughly researched and well-documented (with over 50 pages of endnotes and nearly 30 pages of bibliography) and contains a helpful index of biblical references and of subjects and authors cited. Yet, despite its breadth and at times detailed technical discussions, it is also a readable book. It should, I believe, be accessible to the interested intelligent layperson because the author takes great care to explain his thesis, helping readers see both the wood and the trees as he guides them through the extensive materials he has mastered.

The book’s central thesis is summed up in its title - having begun with a sacramental conception of marriage the Western world now has a contractual understanding. There is, however, much more to his argument than that sound-bite summary. The introduction provides a succinct outline of the argument which then shapes the structure of the book itself. Witte discerns five different theological models which have shaped our legal traditions. Devoting one chapter to each model he illustrates them with particular legal cases and reforms and skilfully traces the chronological and conceptual movements between them.

The earliest model is the Catholic *sacramental* model of the mid 12th century which shaped canon law and hence Western marriage law as a whole. Recognising that much has already been written here, Witte disappointingly keeps his discussion of this foundational model and its biblical and patristic bases to a bare minimum. His major interest lies in the

comparatively neglected area of how the Reformation maintained elements of this model but also radically critiqued and reconfigured it, most significantly in its changed evaluations of celibacy and divorce. Witte distinguishes three new Protestant models and examines in detail the legal reforms they generated. The Lutheran *social* model saw marriage as part of the earthly kingdom and so gave civil courts and statutes a much more important role in marriage. The Calvinist model, most fully developed in 16th century Geneva, accepted many Lutheran reforms but particularly emphasised the *covenantal* character of marriage. Then, in the following century, the Anglican tradition embraced but recast each of these three earlier models by developing a *commonwealth* model where the common good of the couple, the children, the church and the wider society were central to the conception of marriage. These four Christian models each gave shape and theological foundation to the various patterns of marriage law found in different parts of Western Europe and North America until they were replaced this century by a legal system based on the Enlightenment *contractarian* model. This was developed in the 18th and 19th centuries and places the voluntary agreement of two individuals at the centre of marriage.

There are, inevitably, details in Witte's account and interpretation which some would dispute. In addition, some of his arguments could perhaps have been strengthened by relating his changing models of marriage to wider developments in Western social and political thought. Nevertheless, the book provides both an illuminating overview of the Western tradition's different understandings of marriage and a wealth of detail about marriage law and its constant interplay with changing theological attitudes. It is a work which will repay close study for any interested in such diverse areas as Christian ethics, the history of ideas, and the relationship between law and religion. Perhaps even more significantly, it could provide a much needed historical perspective for those Christians seeking to find appropriate legal and political responses to the current crisis in Western marriage and family life.

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