

**PASTORAL CARE OF COUPLES IN  
IRREGULAR MARRIAGES :  
A REFLECTION ON *AMORIS LAETITIA* CHAPTER- 8**

**Introduction**

Issuing the Apostolic Exhortation *Amoris laetitia* (promulgated during the Extraordinary Jubilee of Mercy, on 19 March 2016), Pope Francis has brought out the continued reflection by the Synod of 2015 on the Church's teaching about the sacrament of matrimony and the Christian understanding of the family. The Exhortation once again calls the Church to revitalize the pastoral assistance to the people of God in the light of God's mercy and love. *Amoris laetitia* calls forth more compassionate, practical and situational interpretation of canonical norms pertaining to the essential ends and properties of the sacrament of matrimony in the context of the administration of the sacraments of penance and Eucharist and other pastoral care to be rendered to the families in irregular marriages. The Holy Father takes a special step ahead and invites those involved in the pastoral ministry to strengthen the families, and to reach out to those who are in irregular marriages including those alienated from the life of the Church. His Holiness also exhorts that a sympathetic and a accompaniment approach has to be adopted towards those with a distorted understanding of Christian teaching on marriage and family life, and those who may have in some way defected from the Catholic communion, and yet desire to be more fully integrated into the life of the Church, especially in the reception of the Sacraments of Penance and Eucharist.

Pope Francis addresses all important challenges the Church faces today in the context of marriage and family. Family, as the "domestic church" is to be pastorally attended with care and compassion after the model of the Good Shepherd by the parishes,

“the family of families. Challenging issues, like mixed and disparity of cult marriages, people who distrust marriage and live together, people who distrust marriage and break a commitment already made and immediately assume a new one, people who flaunt an objective sin, and the divorced who have entered a new union, are carefully dealt in the document. The exhortation invites not only those directly involved in the pastoral ministry but also the experienced couples to come forward to render help to younger couples who confront challenges in their family lives.

The Exhortation is built on a solid moral theology and canonical discipline on the truth about marriage and how the individual person grasps and applies that truth to the particular pastoral situations in his or her judgment of conscience regarding the sacramentality and the essential ends and properties of marriage. However, people can go wrong in matters of conscience, especially in a culture that is already deeply confused about complex matters of marriage, sexuality and the life as a family. Hence, chapter eight of *Amoris laetitia* (nn. 291-312) clearly states that those involved in pastoral care, moved by mercy, should adopt a sensitive pastoral approach in all such situations.

### **1. Canonical Relevance of the Document (300)**

Regarding the canonical relevance of the exhortation number 300 of the Document states that if we consider the immense variety of concrete situations ..., it is understandable that neither the Synod nor this Exhortation could be expected to provide a new set of general rules, canonical in nature and applicable to all cases. What is possible is simply a renewed encouragement to undertake a responsible personal and pastoral discernment of particular cases, one which would recognize that, since “the degree of responsibility is not equal in all cases”,<sup>1</sup> the consequences or effects of a rule need not necessarily always be the same. This is

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<sup>1</sup> Relatio Finalis 2015, 51.

also the case with regard to sacramental discipline, since discernment can recognize that in a particular situation no grave fault exists. In such cases, what is found in another document, namely, *Evangelii gaudium* applies.<sup>2</sup>

Therefore, the Exhortation should be understood in continuity with the official teachings of the Church Councils, and previous magisterial documents. In this regard *Amoris laetitia* exhorts the priests to accompany the divorced and the remarried in helping them to understand their situations according to the teachings of the Church and the guidelines of the bishop.<sup>3</sup> The canonical norms regarding the sacramental discipline cannot have one universal interpretation rather the interpretation and the application of the norms are left to the discernment of each pastor according to the particular case and situation. The pastors are exhorted to make a contextualized interpretation and a merciful application of the norms after the example of Jesus, the Good Shepherd, who went after the lost sheep.

## **2. The Sacrament of Marriage**

“Christian marriage, as a reflection of the union between Christ and his Church, is fully realized in the union between a man and a woman who give themselves to each other in a free, faithful and exclusive love, who belong to each other until death and are open to the transmission of life, and are consecrated by the sacrament, which grants them the grace to become a domestic church and a leaven of new life for society” (292).

A marriage validly celebrated in the Catholic Church is considered to be a covenantal relationship established between the couple after the model of the union between Jesus and the Church. The valid marriage of two baptized persons is a sacrament that confers grace, with the potential to deepen the couple's life

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2: cf. *Evangelii Gaudium* (24 November 2013), 44 and 47: AAS 105 (2013), 1038-1040.

3 AL 300.

in Christ,<sup>4</sup> especially through the shared privilege of bringing new life into the world and raising children in the knowledge of God. Marriage and child-rearing are sources of great joy.<sup>5</sup>

### **3. The Irregular Marriages (297)**

The document emphatically states that any breach of the marriage bond “is against the will of God” (291). Some of the irregularities identified in chapter eight of the document, are: Those contracted a civil marriage, divorced and remarried, and simply living together.

### **4. The Approach of the Church Towards People in Irregular Marriages**

- From the time of the Council of Jerusalem the Church’s way has always been the way of Jesus, the way of mercy and reinstatement (296).
- Church is not to condemn anyone forever, because that is not the logic of the Gospel (297).
- Pouring out the balm of God’s mercy on all those who ask for it with a sincere heart (296).
- Avoid judgements which do not take into account the complexity of various situations
- To be attentive, by necessity, to how people experience distress because of their condition<sup>6</sup> (296)
- It is a matter of reaching out to everyone to find his or her proper way of participating in the ecclesial community and thus to experience being touched by an “unmerited, unconditional and gratuitous” mercy (297)

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<sup>4</sup> “From the institution of Christ a valid marriage between baptized persons is by that very fact a sacrament, by which the spouses, in the image of an indefectible union of Christ with the Church, are united by God and, as it were, consecrated and strengthened by sacramental grace” *CCEO* c. 776 §2; Ref. *CIC* c. 1134.

<sup>5</sup> Marriage is “by its nature ordered toward the good of the spouses and the generation and education of the offspring” *CCEO* c. 776 §1; *CIC* c. 1055.

<sup>6</sup> *Relatio Finalis* 2015, 51.

- Turns with love to those who participate in her life in an incomplete manner, recognizing that the grace of God works also in their lives by giving them the courage to do good, to care for one another in love and to be of service to the community in which they live and work”.<sup>7</sup>
- The Church has the responsibility of helping those in irregular marriage to understand the divine pedagogy of grace in their lives and offering them assistance so they can reach the fullness of God’s plan for them”,<sup>8</sup> something which is always possible by the power of the Holy Spirit (297)
- Conscious of the frailty of her children.
- Grace of God works also in the lives of those participate in the life of the Church in an incomplete manner.
- The church holds up the call to perfection and asks for a fuller response to God.
- Task of the Church is to be lighthouse in a port or a torch carried among the people to enlighten those who have lost their way or who are in the midst of a storm and to be like that of a field hospital (291).
- The Church does not disregard the constructive elements in those situations which do not yet or no longer correspond to her teaching on marriage (292).
- Concerning mitigating factors and situations the demands of the Gospel shall in no way be compromised (301)
- The following conditions necessarily to be present are humility, discretion and love for the Church and her teaching, in a sincere search for God’s will and a desire to make a more perfect response to it”.<sup>9</sup> (300)

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<sup>7</sup> Ibid. 25.

<sup>8</sup> Relatio Synodi 2014, 25.

<sup>9</sup> Relatio Finalis 2015, 86.

- Essential for avoiding the grave danger of misunderstandings, such as the notion that any priest can quickly grant “exceptions”, or that some people can obtain sacramental privileges in exchange for favours.(300)

## **5. Specific Irregular Situation**

Chapter eight of the document identifies the following irregular situations in the marriage and family life.

### **5.1. Merely Civil Marriage and Simple Cohabitation**

According to the norms of the Catholic Church, “only those marriages are valid which are celebrated with a sacred rite, in the presence of the local hierarch, local pastor, or a priest who has been given the faculty of blessing the marriage by either of them, and at least two witnesses ...”.<sup>10</sup> Hence, Catholics who are civilly married and simply cohabit are considered to be in invalid marriages because of the lack of canonical form. Also, those in such irregular marriages are considered to be defected from the Catholic communion by violating the discipline of the Church regarding the sacrament of marriage. The document states:

When such unions attain a particular stability, legally recognized, are characterized by deep affection and responsibility for their offspring, and demonstrate an ability to overcome trials, they can provide occasions for pastoral care with a view to the eventual celebration of the sacrament of marriage.<sup>11</sup>

### **5.2. People who Distrust Marriage and Live Together**

The document also identifies those who continue in their marital life having no trust marriage and the Christian values and sanctity attached to the sacrament of marriage. The Church has the greater pastoral role by assisting them through experienced couples to render help to confront challenges in their family lives and gain spiritual strength.

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<sup>10</sup> CCEO c. 828 §1; CIC c. 1108.

<sup>11</sup> AL 293.

### **5.3. People who Distrust Marriage and Break a Commitment Already Made and Immediately Assume a New One**

People who distrust marriage and live together, putting off indefinitely the commitment of marriage, while yet others break a commitment already made and immediately assume a new one.

#### **5.3.1. The Reason for Such Marriages: (294)**

Looking compassionately at the faithful in irregular matrimonial situations, the Holy Father states that the reasons for such marriage are:

- Not prejudice or resistance to a sacramental union, but by cultural or contingent situations.<sup>12</sup>
- Often a choice based on a general attitude opposed to anything institutional or definitive.
- Awaiting more security in life (a steady job and steady income).
- In some countries de facto unions due to material poverty, not because of a rejection of values concerning the family and matrimony, but primarily because celebrating a marriage is considered too expensive in the social circumstances.

#### **5.3.2. Pastoral Care:**

As members of the Church, they too need pastoral care that is merciful and helpful through pastoral discernment of the situations and entering into pastoral dialogue with them. Through the pastors are to identify elements that can foster evangelization and human and spiritual growth.<sup>13</sup> Show respect for those signs of love which in some way reflect God's own love. To be more specific in action:

- These couples need to be welcomed and guided patiently and discreetly that can lead to the full reality of marriage and family

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<sup>12</sup> Relatio Finalis 2015, 1

<sup>13</sup> Relatio Finalis 2015, 41

in conformity with the Gospel<sup>14</sup> as Jesus treated the Samaritan woman in bringing her to the full joy of the Gospel (cf. Jn 4:1-26).

- Show the “law of gradualness” in the knowledge that the human being “knows, loves and accomplishes moral good by different stages of growth”.<sup>15</sup>

Means: Prudent pastoral application of law to those who are not in a position to understand, appreciate, or fully carry out the objective demands of the law. Though the law is the gift of God it has to be effected through the grace of God<sup>16</sup> (295).

#### **5.4. People who Flaunt an Objective Sin**

People who exhibit an objective sin as if it were part of the Christian ideal, or wants to impose something other than what the Church teaches. This is a case of something which separates from the community (cf. Mt 18:17)

##### **5.4.1. Pastoral Care**

Even People who flaunt an objective sin there can be some way of taking part in the life of community, whether in social service, prayer meetings or another way that his or her own initiative, together with the discernment of the parish priest, may suggest.

#### **5.5. The Divorced who have Entered a New Union: (298)**

The divorced and remarried should ask themselves: how did they act towards their children when the conjugal union entered into crisis; whether or not they made attempts at reconciliation; what has become of the abandoned party; what consequences the new relationship has on the rest of the family and the community of the faithful; and what example is being set for young people

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<sup>14</sup> Relatio Synodi 2014, 43

<sup>15</sup> Apostolic Exhortation *Familiaris Consortio* (22 November 1981), 34: AAS 74 (1982), 123.

<sup>16</sup> FC 9



who are preparing for marriage. A sincere reflection can strengthen trust in the mercy of God which is not denied anyone”.<sup>17</sup>

### **5.5.1. Pastoral Care**

The Rationale of the pastoral care is that they are baptized; they are brothers and sisters; the Holy Spirit pours into their hearts gifts and talents for the good of all. (299)

- No overly rigid classifications leaving no room for a suitable personal and pastoral discernment.
- The discernment of pastors must always take place “by adequately distinguishing”,<sup>18</sup> with an approach which “carefully discerns situations”.<sup>19</sup> We know that no “easy recipes” exist.<sup>20</sup>
- The baptized who are divorced and civilly remarried need to be more fully integrated into Christian communities allowing them to realize that they belong to the Church as the body of Christ, to have a joyful and fruitful experience in it. However while avoiding any occasion of scandal (299), Their participation can be expressed in different ecclesial services, in the liturgical, pastoral, educational and institutional framework, can be surmounted.
- A process of accompaniment and discernment which “guides the faithful to an awareness of their situation before God (300)
- Conversation with the priest, in the internal forum (300)

### **5.5.2. The Pastoral Understanding**

- A subject may know full well the rule, yet have great difficulty in understanding “its inherent values”,<sup>21</sup> (301)

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<sup>17</sup> Relatio Finalis 2015, 85.

<sup>18</sup> Relatio Synodi 2014, 26.

<sup>19</sup> Ibid., 45.

<sup>20</sup> Benedict XVI, Address to the Seventh World Meeting of Families in Milan (2 June 2012), Response n. 5: Insegnamenti VIII/1 (2012), 691.

<sup>21</sup> John Paul II, Apostolic Exhortation Familiaris Consortio (22 November 1981), 33: AAS 74 (1982), 121.

- A subject may know full well the rule, but in a concrete situation which does not allow him or her to act differently and decide otherwise without further sin. (301)
- Although someone may possess all the infused moral virtues, he does not clearly manifest the existence of one of them, because the outward practice of that virtue is rendered difficult (301). So in such cases: Saint Thomas Aquinas himself recognized that someone may possess grace and charity, yet not be able to exercise any one of the virtues well;<sup>22</sup> “Certain saints are said not to possess certain virtues, in so far as they experience difficulty in the acts of those virtues, even though they have the habits of all the virtues”.<sup>23</sup> (302)
- Lessen or even extenuate moral culpability: The Catechism of the Catholic Church clearly mentions these factors: “imputability and responsibility for an action can be diminished or even nullified by ignorance, inadvertence, duress, fear, habit, inordinate attachments, and other psychological or social factors”.<sup>24</sup> In another paragraph, the Catechism refers once again to circumstances which mitigate moral responsibility, and mentions at length “affective immaturity, force of acquired habit, conditions of anxiety or other psychological or social factors that lessen or even extenuate moral culpability”.<sup>25</sup>
- For this reason, a negative judgment about an objective situation does not imply a judgment about the imputability or culpability of the person involved.<sup>26</sup>

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<sup>22</sup> Cf. *Summa Theologiae* I-II, q. 65, art. 3 ad 2; *De Malo*, q. 2, art. 2.

<sup>23</sup> *Ibid.*, ad 3.

<sup>24</sup> No. 1735.

<sup>25</sup> *Ibid.*, 2352; Congregation for the Doctrine of the Faith, Declaration on Euthanasia *Iura et Bona* (5 May 1980), II: AAS 72 (1980), 546; John Paul II, in his critique of the category of “fundamental option”, recognized that “doubtless there can occur situations which are very complex and obscure from a psychological viewpoint, and which have an influence on the sinner’s subjective culpability” (Apostolic Exhortation *Reconciliatio et Paenitentia* [2 December 1984], 17: AAS 77 [1985], 223).

<sup>26</sup> Cf. Pontifical Council for Legislative Texts, Declaration Concerning the Admission to Holy Communion of Faithful Who are Divorced and Remarried (24 June 2000), 2.

### 5.5.3. The Pastoral Discernment (298)

- a. The second union consolidated over time, with new children, proven fidelity, generous self giving, and Christian commitment.
- b. The great difficulty of going back without feeling in conscience that one would fall into new sins.
- c. The Church acknowledges situations “where, for serious reasons, such as the children s upbringing, a man and woman cannot satisfy the obligation to separate”.<sup>27</sup>
- d. “those who have entered into a second union for the sake of the children s upbringing, and are sometimes subjectively certain in conscience that their previous and irreparably broken marriage had never been valid”.<sup>28</sup>
- e. Another thing is a new union arising from a recent divorce, with all the suffering and confusion which this entails for children and entire families.
- f. The case of someone who has consistently failed in his obligations to the family. It must remain clear that this is not the ideal which the Gospel proposes for marriage and the family.
- g. While taking into account a person s properly formed conscience, must take responsibility for these situations. Even the consequences of actions taken are not necessarily the same in all cases”.<sup>29</sup>

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<sup>27</sup> John Paul II, Apostolic Exhortation *Familiaris Consortio* (22 November 1981), 84: AAS 74 (1982), 186. In such situations, many people, knowing and accepting the possibility of living “as brothers and sisters” which the Church offers them, point out that if certain expressions of intimacy are lacking, “it often happens that faithfulness is endangered and the good of the children suffers” (Second Vatican Ecumenical Council, Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, 51).

<sup>28</sup> *Ibid.*

<sup>29</sup> *Relatio Finalis* 2015, 85.

- h. Individual conscience needs to be better incorporated (303).
- i. Encourage the development of an enlightened conscience
- j. Ever greater trust in God's grace.
- k. Remember discernment is dynamic; it must remain ever open to new stages of growth and to new decisions which can enable the ideal to be more fully realized.

### **5.5.3.1. Pastoral Discernment and the Rules (304)**

- It is to be understood that the formulation general rules set forth a good cannot provide absolutely for all particular situations.
- What is part of a practical discernment in particular circumstances cannot be elevated to the level of a rule. That would not only lead to an intolerable casuistry, but would endanger the very values which must be preserved with special care.<sup>30</sup>
- Laws are not stones to throw at people's lives. (305)
- Judge not with superiority and superficiality difficult cases and wounded families".<sup>31</sup>
- Do not discourage paths of sanctification which give glory to God.
- "A small step, in the midst of great human limitations, can be more pleasing to God than a life which appears outwardly in order, but moves through the day without confronting great difficulties".<sup>32</sup>

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<sup>30</sup> In another text, referring to the general knowledge of the rule and the particular knowledge of practical discernment, Saint Thomas states that "if only one of the two is present, it is preferable that it be the knowledge of the particular reality, which is closer to the act": *Sententia libri Ethicorum*, VI, 6 (ed. Leonina, t. XLVII, 354.).

<sup>31</sup> Address for the Conclusion of the Fourteenth Ordinary General Assembly of the Synod of Bishops (24 October 2015): *L'Osservatore Romano*, 26-27 October 2015, p. 13.

<sup>32</sup> Apostolic Exhortation *Evangelii Gaudium* (24 November 2013), 44: AAS 105 (2013), 1038-1039.

- invitation to pursue the *via caritatis* (306) “Maintain constant love for one another, for love covers a multitude of sins” (1 Pet 4:8)

### **5.5.3.2. Pastoral Discernment and the Logic of Pastoral Mercy (307)**

- Avoid lukewarm attitude, any kind of relativism in proposing the full ideal of the sacrament of marriage.
- Do not propose less than what Jesus offers to the human being.
- Pastoral effort to strengthen marriages and thus to prevent their breakdown.
- need to accompany with mercy and patience. (308)
- Gospel itself tells us not to judge or condemn (cf. Mt 7:1; Lk 6:37).
- “The Church is commissioned to proclaim the mercy of God, the beating heart of the Gospel, which in its own way must penetrate the mind and heart of every person. The Bride of Christ must pattern her behaviour after the Son of God who goes out to everyone without exception”.<sup>33</sup> (309)
- Church is not a tollhouse; it is the house of the Father, where there is a place for everyone, with all their problems”.<sup>34</sup>
- Avoid a cold bureaucratic morality in dealing with more sensitive issues. (312)
- A pastoral discernment filled with merciful love, which is ever ready to understand, forgive, accompany, hope, and above all integrate.
- “Open our hearts to those living on the outermost fringes of society”.<sup>35</sup>

<sup>33</sup> Bull *Misericordiae Vultus* (11 April 2015), 12: AAS 107 (2015): 407.

<sup>34</sup> Apostolic Exhortation *Evangelii Gaudium* (24 November 2013), 47: AAS 105 (2013), 1040.

<sup>35</sup> Bull *Misericordiae Vultus* (11 April 2015), 15: AAS 107 (2015), 409.

## 6. The Canonical Implications and the Pastoral Approach

A question that arise here is - can the divorced and civilly-remarried receive the sacraments? As a general principle, ‘once a Catholic is always a Catholic,’ a member of the Church is always invited to the sacraments. The confessional s doors are always open to the repentant and to the contrite of heart. If so what about the Holy Communion? Here the attention must be focused on that which the document says in its footnote no. 336. It states: “... with regard to sacramental discipline, since discernment can recognize that in a particular situation no grave fault exists. In such cases, what is found in another document applies: cf. *Evangelii gaudium* (24 November 2013), 44 and 47.” It means the pastoral discernment plays a great role in the decision making of giving communion. The document states:

Everyone can share in some way in the life of the Church; everyone can be part of the community, nor should the doors of the sacraments be closed for simply any reason. This is especially true of the sacrament which is itself “the door”: baptism. The Eucharist, although it is the fullness of sacramental life, is not a prize for the perfect but a powerful medicine and nourishment for the weak. These convictions have pastoral consequences that we are called to consider with prudence and boldness. Frequently, we act as arbiters of grace rather than its facilitators. But the Church is not a tollhouse; it is the house of the Father, where there is a place for everyone, with all their problems.<sup>36</sup>

The document makes clear the mind of the Church regarding the administration of the sacraments, especially the Eucharist which is “the fullness of sacramental life”. In administering this sacrament of Eucharist, the documents reminds the pastors that it “is not a prize for the perfect but a powerful medicine and nourishment for the weak.” Hence it is obvious that the sacrament shall not be denied arbitrarily to someone just because he/she is in an irregular or difficult situation of marital life.

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<sup>36</sup> *Evangelii Gaudium*, 47.

The Codes of Canon Law provide specific norms regarding sacramental discipline relevant here (*CCEO* cc. 711, 712; *CIC* cc. 915, 916).<sup>37</sup> *CCEO* canon 712 states that those who are publicly unworthy are forbidden to receive the Divine Eucharist and *CIC* canon 915 declares that those upon whom the penalty of excommunication or interdict has been imposed or declared, and others who obstinately persist in manifest grave sin, are not to be admitted to Holy Communion. Both the Codes say that a person who is conscious of serious sin is not to celebrate the Divine Liturgy nor receive the Divine Eucharist unless a serious reason is present and there is no opportunity to receive the sacrament of penance. The canons speak that the existence of serious/grave sin (*peccatum gravum*) prohibits one from receiving the Divine Eucharist.<sup>38</sup> In this context another term used by the Codes is *peccatum gravum* (*CCEO* cc. 719 and 720; *CIC* cc. 960, 962 §1, 988, 989).<sup>39</sup>

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<sup>37</sup> *CCEO* c. 711 - A person who is conscious of serious sin is not to celebrate the Divine Liturgy nor receive the Divine Eucharist unless a serious reason is present and there is no opportunity of receiving the sacrament of penance; in this case the person should make an act of perfect condition, including the intention of confessing as soon as possible. *CCEO* c. 712: Those who are publicly unworthy are forbidden from receiving the Divine Eucharist. *CIC* c. 915: Those who have been excommunicated or interdicted after the imposition or declaration of the penalty and others obstinately persevering in manifest grave sin are not to be admitted to Holy Communion. *CIC* c. 916 A person who is conscious of grave sin is not to celebrate Mass or receive the body of the Lord without previous sacramental confession unless there is a grave reason and there is no opportunity to confess; in this case the person is to remember the obligation to make an act of perfect contrition which includes the resolution of confessing as soon as possible.

<sup>38</sup> *CCEO* c. 711; *CIC* c. 916.

<sup>39</sup> *CCEO* c. 719: Anyone who is aware of serious sin is to receive the sacrament of penance as soon as possible; it is strongly recommended to all the Christian faithful that they receive this sacrament frequently especially during the times of fasts and penance observed in their own Church *sui iuris*.

Some commentators have opined that *CIC* c. 915 (*CCEO* c. 712) would not be applicable to faithful who are divorced and remarried. In this context, on 24 June 2000, the Pontifical Council for Legislative Texts, in agreement with the Congregation for the Doctrine of the Faith and with the Congregation for Divine Worship and the Discipline of the Sacraments clarified that canon 915 of the Code of Canon Law (also *CCEO* c. 712) applies to those living in a second, invalid marriage. The interpretation of the Pontifical Council states, “In the concrete case of the admission to Holy Communion of faithful who are divorced and remarried, the scandal, understood as an action that prompts others towards wrong doing, affects at the same time both the sacrament of the Eucharist and the indissolubility of marriage.”<sup>40</sup> Pastors must strive

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***CCEO* c. 720 §1:** Individual and integral confession and absolution constitute the ordinary way by which the Christian faithful who is aware of a serious sin is reconciled with God and the Church; only physical or moral impossibility excuses one from confession of this type, in which case reconciliation can take place in other ways.

***CIC* c. 960:** Individual and integral confession and absolution constitute the only ordinary means by which a member of the faithful conscious of grave sin is reconciled with God and the Church. Only physical or moral impossibility excuses from confession of this type; in such a case reconciliation can be obtained by other means.

***CIC* c. 962 §1:** For a member of the Christian faithful validly to receive sacramental absolution given to many at one time, it is required not only that the person is properly disposed but also at the same time intends to confess within a suitable period of time each grave sin which at the present time cannot be so confessed.

***CIC* c. 988 §1:** A member of the Christian faithful is obliged to confess in kind and number all grave sins committed after baptism and not yet remitted directly through the keys of the Church nor acknowledged in individual confession, of which the person has knowledge after diligent examination of conscience.

**§2:** It is recommended to the Christian faithful that they also confess venial sins.

***CIC* c. 989:** After having reached the age of discretion, each member of the faithful is obliged to confess faithfully his or her grave sins at least once a year

<sup>40</sup> *Declaration* 1, accessed from [http://www.vatican.va/roman\\_curia/pontifical\\_councils/intrptxt/documents/rc\\_pc\\_intrptxt\\_doc\\_20000706\\_declaration\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/intrptxt/documents/rc_pc_intrptxt_doc_20000706_declaration_en.html) on 22 December 2017.



to explain to the concerned faithful the true ecclesial sense of the norm, in such a way that they would be able to understand it or at least respect it. However, in those situations, in which these precautionary measures have not had their effect or in which they were not possible, the minister of Communion must refuse to distribute it to those who are publicly unworthy. They are to do this with extreme charity, and are to look for the opportune moment to explain the reasons that required the refusal. They must, however, do this with firmness, conscious of the value that such signs of strength have for the good of the Church and of souls.

On 14 September 1994 the congregation for the doctrine of the faith concerning the reception of Holy Communion by the divorced and remarried members of the faithful emphatically stated:

... a general admission of divorced and remarried to Eucharistic communion would not be possible, but the divorced and remarried members of the faithful could approach Holy Communion in specific cases when they consider themselves authorised according to a judgement of conscience to do so.<sup>41</sup>

The Letter undoubtedly states that there is no onetime universally applicable norm in admitting divorced and remarried to Eucharistic communion. It is left to the prudent and impartial judgment of the conscience of the parties by the pastors. Nonetheless, the judgment made by the pastor will not have the force of an official authorization to receive the sacrament. The letter proposes that “in order objectively to examine their actual situation, the divorced and remarried would have to consult a prudent and expert priest. This priest, however, would have to respect their eventual decision to approach Holy Communion,

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<sup>41</sup> Congregation for the Doctrine of Faith (CDF), “ Letter to the Bishops of the Catholic Church Concerning the Reception of the Holy Communion by the Divorced and Remarried Members of the Faithful (Letter to the Bishops), 14 September 1994, n. 3.

without this implying an official authorization.”<sup>42</sup> Moreover, the letter suggests some pastoral tips in evaluating a particular situation, “for example, when they had been abandoned completely unjustly, although they sincerely tried to save the previous marriage, or when they are convinced of the nullity of their previous marriage, although unable to demonstrate it in the external forum or when they have gone through a long period of reflexion and penance, or also when for morally valid reasons they cannot satisfy the obligation to separate.”<sup>43</sup>

Even in such a pastoral context, holding on to the doctrine and discipline, “the Church affirms that a new union cannot be recognized as valid if the preceding marriage was valid. If the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God’s law. Consequently, they cannot receive Holy Communion as long as this situation persists.”<sup>44</sup> The Church finds a force of divine law in this norm, because the sacrament of marriage is a covenant founded by the Creator and instituted by Christ (CCEO c. 776). Justifying the force of the norm the letter states that it “is not at all a punishment or a discrimination against the divorced and remarried, but rather expresses an objective situation that of itself renders impossible the reception of Holy Communion”<sup>45</sup> for both theological and pastoral reasons. Theological because, they “objectively contradict that union of love between Christ and his Church which is signified and effected by the Eucharist,” and pastoral reason is that “if these people were admitted to the Eucharist, the faithful would be led into error and confusion regarding the Church’s teaching about the indissolubility of marriage.”

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<sup>42</sup> CDF, Letter to the Bishops, n. 3.

<sup>43</sup> CDF, Letter to the Bishops, n. 3.

<sup>44</sup> CDF, Letter to the Bishops, n. 4.

<sup>45</sup> CDF, Letter to the Bishops, n. 4.

The pastoral solution offered in this regard is:

The faithful who persist in such a situation may receive Holy Communion only after obtaining sacramental absolution, which may be given only to those who, repenting of having broken the sign of the Covenant and of fidelity to Christ, are sincerely ready to undertake a way of life that is no longer in contradiction to the indissolubility of marriage. This means, in practice, that when for serious reasons, for example, for the children's upbringing, a man and a woman cannot satisfy the obligation to separate, they 'take on themselves the duty to live in complete continence, that is, by abstinence from the acts proper to married couples. In such a case they may receive Holy Communion as long as they respect the obligation to avoid giving scandal.<sup>46</sup>

The pastoral prudence suggests that in order to safeguard absolute indissolubility character of a ratified and consummated marriage, and to avoid public scandal, the couples who have divorced and remarried have "the duty to live in complete continence, that is, by abstinence from the acts proper to married couples," so that they may receive Holy Communion". The question is: if the absolute indissolubility of a sacramental marriage<sup>47</sup> has the force of divine law who on earth has the competence to judge the conscience of someone who persists in the sin against God's Law? Canonically even the invalid marriage enjoys the favor of the law, because "the validity of a marriage is to be upheld until the contrary is proven" (*CCEO* c. 779; *CIC* c. 1060). In the situations of the divorced and remarried, the Letter states that the case of those who are subjectively certain in conscience that their previous marriage, irreparably broken, had never been valid, "must be discerned with certainty by means of the external forum established by the Church whether there is objectively such a nullity of marriage."<sup>48</sup>

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<sup>46</sup> CDF, Letter to the Bishops, n. 4.

<sup>47</sup> *CCEO* c. 776 §3: "The essential properties of marriage are unity and indissolubility which in the marriage between baptized persons they acquire a special firmness by reason of the sacrament" (Ref *CIC* c. 1056).

<sup>48</sup> CDF, Letter to the Bishops, n. 9.

Further, the doctrine and discipline of the Church regarding the reception of the Holy Communion by those divorced and remarried, the Letter reaffirms the discipline envisaged in the Apostolic Exhortation *Familiaris consortio* that the constant and universal practice of not admitting the divorced and remarried to the Holy Communion is founded on Sacred Scripture. Hence, Letter says: “this practice, which is presented as binding, cannot be modified because of different situations.”<sup>49</sup> In this regard the Congregation for the Doctrine of Faith continues:

Members of the faithful who live together as husband and wife with persons other than their legitimate spouses may not receive Holy Communion. Should they judge it possible to do so, pastors and confessors, given the gravity of the matter and the spiritual good of these persons as well as the common good of the Church, have the serious duty to admonish them that such a judgment of conscience openly contradicts the Church’s teaching. Pastors in their teaching must also remind the faithful entrusted to their care of this doctrine. This does not mean that the Church does not take to heart the situation of these faithful, who moreover are not excluded from ecclesial communion. She is concerned to accompany them pastorally and invite them to share in the life of the Church in the measure that is compatible with the dispositions of divine law, from which the Church has no power to dispense.<sup>50</sup>

According to this teaching, the faithful, who live together as husband and wife with persons other than their legitimate spouses and receive Holy Communion, openly contradict the teaching of Church. The Letter further instructs that the pastors “must do everything possible to ensure that this is understood not to be a matter of discrimination but only of absolute fidelity to the will of Christ who has restored and entrusted to us anew the indissolubility of marriage as a gift of the Creator” (n. 10). These disciplinary

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<sup>49</sup> CDF, Letter to the Bishops, n. 5.

<sup>50</sup> CDF, Letter to the Bishops, n. 6.

statements categorically reiterate the divine force of the norm regarding the indissolubility of the sacrament of marriage and that no human power can modify it. The Christian faithful who enter into a valid marriage establish themselves a covenantal relationship after the model of the union between Christ and Church by reason of the sacrament (*CCEO* c. 776 §3; *CIC* c. 1056). Anyone who breaches this relation defects onself from the ecclesial communion, because,

The Church is in fact the Body of Christ and to live in ecclesial communion is to live in the Body of Christ and to nourish oneself with the Body of Christ. With the reception of the sacrament of the Eucharist, communion with Christ the Head can never be separated from communion with his members, that is, with his Church. For this reason, the sacrament of our union with Christ is also the sacrament of the unity of the Church. Receiving Eucharistic Communion contrary to ecclesial communion is therefore in itself a contradiction. Sacramental communion with Christ includes and presupposes the observance, even if at times difficult, of the order of ecclesial communion, and it cannot be right and fruitful if a member of the faithful, wishing to approach Christ directly, does not respect this order.

It does not mean that the faithful are completely excluded from the ecclesial communion; rather the Church “is concerned to accompany them pastorally and invite them to share in the life of the Church in the measure that is compatible with the dispositions of divine law.” They are to be pastorally “helped to deepen their understanding of the value of sharing in the sacrifice of Christ in the Mass, of spiritual communion, of prayer, of meditation on the Word of God, and of works of charity and justice,” and it is necessary to instruct them that their participation in the life of the Church is not “reduced exclusively to the question of the reception of the Eucharist.” Hence it is to be conclude that as long as the indissolubility norm of the sacrament of matrimony has the force of divine law, any faithful who violates it, violates the divine law and

defects oneself from the ecclesial communion. Therefore, he/she cannot be admitted for the reception of the Holy Communion, which is the sign of full ecclesial communion, until the first marriage is established null and void. However, they are not to be considered as excommunicated or fully defected from the ecclesial communion and that they are entitled to have the pastoral care and participate in the life of the Church according to the particular pastoral situation compatible with the dispositions of divine law and public propriety.

Establishing a renewed encouragement to undertake a responsible personal and pastoral discernment of particular cases, *Amoris laetitia* presents the teaching on mitigating factors in pastoral discernment.<sup>51</sup> The document says, “The Church possesses a solid body of reflection concerning mitigating factors and situations. Hence, it can no longer simply be said that all those in any „irregular situation are living in a state of mortal sin and are deprived of sanctifying grace.”<sup>52</sup> The aspects of full knowledge and complete consent affect the gravity of sin. So there is the principle of rendering a grave objective sin less grave due to reduced subjective responsibility and culpability. The documents such as *Persona humana* (10), *Reconciliatio et paenitentia* (16, 17), *Catechism of the Catholic Church* (1735, 1754, 1857, 1859, 2352), *Veritatis splendor* (70), etc teach on the reduced subjective responsibility and culpability.

This principle of diminished responsibility and culpability is implied in the Codes of Canon Law.<sup>53</sup> The perpetrator of a violation is not exempt from a penalty, but the penalty established by law or

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<sup>51</sup> See AL 301-303.

<sup>52</sup> AL 301.

<sup>53</sup> Ref. CIC c. 1324; CCEO cc. 1413 & 1415.

precept must be tempered or a penance employed in its place if the delict was committed:

- 1° by a person who had only the imperfect use of reason;
- 2° by a person who lacked the use of reason because of drunkenness or another similar culpable disturbance of mind;
- 3° from grave heat of passion which did not precede and hinder all deliberation of mind and consent of will and provided that the passion itself had not been stimulated or fostered voluntarily;
- 4° by a minor who has completed the age of sixteen years;
- 5° by a person who was coerced by grave fear, even if only relatively grave, or due to necessity or grave inconvenience if the delict is intrinsically evil or tends to the harm of souls;
- 6° by a person who acted without due moderation against an unjust aggressor for the sake of legitimate self defense or defense of another;
- 7° against someone who gravely and unjustly provokes the person;
- 8° by a person who thought in culpable error that one of the circumstances mentioned in can. 1323, nn. 4 or 5 was present;
- 9° by a person who without negligence did not know that a penalty was attached to a law or precept;
- 10° by a person who acted without full imputability provided that the imputability was grave.<sup>54</sup>

In the Declaration of 24 June 2000, the Pontifical Council for Legislative Texts stated that *CIC* c. 915 is applicable also to the faithful who are divorced and civilly remarried. However, according to the Declaration: “To establish the presence of all the conditions required for the existence of mortal sin, including those which are subjective, necessitating a judgment of a type that a minister of Communion could not make *ab externo*... being that the minister of Communion would not be able to judge from subjective imputability.” *Amoris laetitia* nowhere abrogates or modifies the existing canonical norms. It wants to revisit, rather,

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<sup>54</sup> *CIC* c. 1324 §1.

how it ought to be applied in a way that mercifully re-incorporates people into the Church, recognizing the complexity of the contemporary family and offering hope in them.

## Conclusion

The Exhortation *Amoris laetitia* has raised a number of theological as well as canonical questions, sometimes with apprehension in the context of the applications of traditional disciplines of the Church. Applying the norm of “an objective state of sin”<sup>55</sup> *Amoris laetitia* makes a wider interpretation of the disciplines of the Church regarding marriage and pastoral care,<sup>56</sup> especially the administration of sacrament to those in irregular marriage. Pope Francis encourages pastors to act with mercy and compassion when administering the sacraments of penance and the Holy Eucharist. Holy Father justifies these changes in the application of the traditional discipline by stating: “The Church possesses a solid body of refection concerning mitigating factors and situations. Hence, it can no longer simply be said that all those in any “irregular” situation are living in a state of mortal sin and are deprived of sanctifying grace. More is involved than mere ignorance of the rule. A subject may full well know the rule, yet have great difficulty in understanding “its inherent values” , or be in a concrete situation which does not allow him or her to act differently and decide otherwise without further sin.”<sup>57</sup>

Allowing those who have publicly defected from Catholic discipline to receive Holy Communion would lead the local Catholic community into error and confusion regarding the Church s teaching about the essential properties of marriage. There is a possibility for

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<sup>55</sup> AL 305.

<sup>56</sup> See FC 84; Congregation for the Doctrine of the Faith , *Letter to the Bishops of the Catholic Church Concerning the Reception of Holy Communion by the Divorced and Remarried Members of the Faithful*, 1994, 4; The Pontifical Council for Legislative Texts issued a *Declaration*, 2000, 1.

<sup>57</sup> AL 30.



the people to think that the Church no longer considers the violation of the canonical disciplines of marriage as a prohibition to receive Holy Communion. The canonical prohibition of Holy Communion for those “who obstinately persist in manifest grave sin”<sup>58</sup> is based on a reasonable presumption that a public sinner is not completely ignorant of his Catholic Faith and has sufficient knowledge that his behavior violates the disciplines of the Church.

Pope Francis who advised the pastors to have “the smell of the sheep” is asking them to possess the compassionate heart of Jesus who went in search of the one leaving the ninety-nine.

Naturally, every effort should be made to encourage the development of an enlightened conscience, formed and guided by the responsible and serious discernment of one’s pastor, and to encourage an ever greater trust in God’s grace. Yet conscience can do more than recognize that a given situation does not correspond objectively to the overall demands of the Gospel. It can also recognize with sincerity and honesty what for now is the most generous response which can be given to God, and come to see with a certain moral security that it is what God himself is asking amid the concrete complexity of one’s limits, while yet not fully the objective ideal.<sup>59</sup>

Through *Amoris laetitia* Pope Francis introduces the scope for a wider interpretation of the canonical norms and more compassionate pastoral approach in sacramental practice, which he sees to be simply a “way of interpreting” or “drawing certain consequences.”

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<sup>58</sup> CIC c 915.

<sup>59</sup> AL 308.