Recent Proposals for the Pastoral Care of the Divorced and Remarried: A Theological Assessment

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POPE FRANCIS has convoked an extraordinary Synod of Bishops for October of 2014, and an ordinary Synod of Bishops for the Fall of 2015, both on the theme of "Pastoral Challenges to the Family in the Context of Evangelization." Some initial proposals have emerged, most notably those outlined by Cardinal Walter Kasper in his address to the extraordinary Consistory of Cardinals on February 20, 2014. There, he analyzed the state of the family, concluding with two specific proposals concerning the divorced and remarried for the Synods' consideration. Soon after, his address was published in Italian, and then in the form of a small book (with a preface and additional reflections) in English and German.[1] His

[1] Walter Kasper, "Bibbia, eros e famiglia," *Il Foglio*, March 1, 2014, Vaticano Esclusivo I-III; Walter Kasper, *The Gospel of the Family*, trans. William Madges (New York: Paulist Press, 2014); Walter Kasper, *Das Evangelium von der Familie: Die Rede vor dem Konsistorium* (Freiburg im Breisgau: Herder, 2014).

proposals are similar to those that have appeared in the media in recent months as discussed by the German Bishops' Conference.

Although relatively simple in themselves, proposals such as these raise a wide array of important theological questions. As Catholic theologians serving on Pontifical Faculties or in other ecclesiastical institutions, we seek to offer an assessment of them from a theological perspective. Our goal in doing so is to aid the Church's reflection on these key questions. Consequently, we have endeavored to make our analysis of each question brief and concise, akin to an encyclopedia article, rather than a lengthy study. We hope that this assessment can thus serve as a scholarly reference for the Church's pastors, and a starting point for an ongoing discussion on an issue of major significance.

For ease of reference, our analysis is subdivided as follows:

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A. Summary of Present Proposals

We take Cardinal Kasper's recent book (based on his Consistory address) as typical of the proposals on divorce and remarriage on offer for the Synods' consideration. Since this text was carefully prepared and has been published widely, it can serve as a clear and well-known point of reference. It contains two specific proposals.

First, it states that a valid marriage requires that the parties have faith in "the mystery that is signified by the sacrament," and since this is often lacking, that many marriages are not validly contracted even though they follow the correct ecclesial form. As a remedy, it proposes that, instead of following a "juridical path," "other, more pastoral and spiritual procedures" be used. Alternatively, it suggests that "a bishop could entrust [the decision about the validity of a marriage] to a priest with spiritual and pastoral experience as a penitentiary or episcopal vicar."[2]

Second, it addresses the case where there is "a valid and consummated marriage between baptized individuals, for whom the marital life partnership is irreparably broken and one or both partners have contracted a second, civil marriage." Pope Benedict XVI encouraged such persons to make a spiritual communion instead of receiving the Eucharist, which suggests that they are not "in contradiction to Christ's commandment." It then discusses various practices from the Patristic period.[3] Finally, it proposes that such persons be admitted to Holy Communion:

> If a divorced and remarried person is truly sorry that he or she failed in the first marriage, if the commitments from the first marriage are clarified and a return is definitively out of the question, if he or she cannot undo the commitments that were

[2] Ibid., 28.

[3] Ibid., 29-31.

> assumed in the second civil marriage without new guilt, if he or she strives to the best of his or her abilities to live out the second civil marriage on the basis of faith and to raise their children in the faith, if he or she longs for the sacraments as a source of strength in his or her situation, do we then have to refuse or can we refuse him or her the sacrament of penance and communion, after a period of reorientation?[4]

We will address these proposals in reverse order.

B. General Principles

B-1. Sacramental Marriage Is Indissoluble

Christ elevated marriage to the dignity of a sacrament, and it signifies his spousal love and his unbreakable fidelity to the Church (Eph 5:32). According to the Lord's own words, "whoever divorces his wife and marries another, commits adultery against her; and if she divorces her husband and marries another, she commits adultery (Mk 10:11-12)."

Between two baptized persons, natural marriage cannot be separated from sacramental marriage.

> The sacramental nature of marriage between the baptized is not an accidental element that . . . could just as well not be, but is rather so tied into the essence of it as to be inseparable from it. . . . [T]he Church cannot in any way recognize that two baptized persons are living in a marital state equal to their dignity and their life as 'new creatures in Christ' if they are not united by the sacrament of matrimony.[5]

A ratified and consummated marriage between two baptized persons cannot be dissolved by any human power, including the vicarious power of the Roman Pontiff. Pope John Paul II, citing a long list of his predecessor's statements, taught that this point is settled. He concluded:

> The Catechism of the Catholic Church, with the great doctrinal

[4] Ibid., 32.

[5] International Theological Commission, "Propositions on the Doctrine of Christian Marriage" (1977), in *Texts and Documents, 1969-1985*, ed. Michael Sharkey (San Francisco: Ignatius Press, 1989), nos. 3.1, 3.2.

> authority conferred on it by the involvement of the whole Episcopate in its drafting and by my special approval . . . read[s]: "Thus the marriage bond has been established by God himself in such a way that a marriage concluded and consummated between baptized persons can never be dissolved. This bond, which results from the free human act of the spouses and their consummation of the marriage, is a reality, henceforth irrevocable, and gives rise to a covenant guaranteed by God's fidelity. The Church does not have the power to contravene this disposition of divine wisdom."[6]

Consequently, the Church insists (even in the face of great pressure) that where a valid bond exists, no second marriage is possible during the life of the first spouse. (For an analysis of the early Church's practice, see section C-2, below.) Even before Nicaea, this teaching was enshrined in formal declarations. [7]

Finally, the papal Magisterium has clarified that private judgments or an individual's personal conviction (e.g., that one's previous marriage was invalid) may not form the basis for setting aside a marriage's validity. A judgment about the validity of a sacramental marriage "belongs to the Church by divine institution," and so "reference must be made to the judgment correctly emanating from legitimate authority" according to objective norms.[8]

B-2. The History of the Definition of Adultery and of Church Teaching on Divorce

The Sixth Commandment states: "You shall not commit adultery (Ex 20:12)." Jesus gives the definitive interpretation to this commandment. "Everyone who divorces his wife and marries another commits adul-

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[6] Pope John Paul II, "Address to the Roman Rota" (Jan. 21, 2000). St. John Paul added: "[A] ratified and consummated sacramental marriage can never be dissolved, not even by the power of the Roman Pontiff. . . . [Pius XII] presented this doctrine as being peacefully held by all experts in the matter."

[7] See, e.g., Can. 9 of the Synod of Elvira (300-303), in Heinrich Denzinger, *Compendium of Creeds, Definitions, and Declarations on Matters of Faith and Morals*, 43rd ed., ed. Peter Hünermann (San Francisco: Ignatius Press, 2012) [hereinafter, "DH"], no. 117.

[8] John Paul II, "Address to the Roman Rota" (Feb. 10, 1995). Cf. *Code of Canon Law*, c. 135 §3; c. 1085.

tery, and he who marries a woman divorced from her husband commits adultery (Lk 16:18)." Indissoluble marriage was intended by God from the beginning; the Torah permitted divorce only as a concession to the hardness of the human heart (Mt 19:8). Christ does allow the separation of spouses "due to unchastity [mê epi porneia]," but the Church, the infallible interpreter of sacred Scripture, has always understood this as permitting separation in cases of adultery, not remarriage (unless the first marriage was invalid).[9] In fact, given the Jewish practice at the time of Jesus, his teaching and its shocking novelty (even his disciples found it difficult) would make no sense unless he were articulating it in just the sense in which the Church has always understood it.

The prohibition of divorce and remarriage is clear even in the earliest official pronouncements of the Catholic Church. [10] Since the Reformation, Popes have repeatedly reaffirmed it. For example, in 1595, Pope Clement VIII issued an instruction on the rites of Eastern Catholics in Italy, noting that bishops were in no way to tolerate divorce. Similar teachings on the impossibility of divorce for Eastern rite Catholics were reiterated by Urban VIII (1623-1644), and Benedict XIV (1740-1758).[11] In eighteenth-century Poland, the abuse of annulments was particularly widespread, prompting Benedict XIV to address three strongly-worded apostolic letters to the Polish Bishops to correct it. In the second of these, in 1741, he issued the constitution *Dei miseratione*, requiring a canonical defender of the bond for every marriage case.[12] In 1803, Pius VII reminded the German bishops that priests could in no way celebrate second marriages, even if required of them by civil law, since this would "betray their sacred ministry." He decreed: "As long as the impediment [of a prior bond of marriage] endures, if a man is conjoined to a woman, it is adultery."[13] Permissive practices by Eastern rite bishops in Transyl-

[9] On the united testimony of the Latin Fathers regarding this interpretation (which anticipates the doctrinal teaching of the Catholic Church), see G. H. Joyce, *Christian Marriage: An Historical and Doctrinal Survey* (London: Sheed and Ward, 1948), 304-31. See also section C-2, below.

[10] See, *e.g.*, Synod of Elvira (c. 300-303), DH 117; Council of Carthage, Canon 11 (407); and Council of Angers, Canon 6 (453).

[11] Joyce, *Christian Marriage*, 400-401.

[12] Benedict XIV, *Dei miseratione* (1741).

[13] Pius VII, Brief *Etsi fraternitatis* to the Archbishop of Mainz (1803), DH 2705-06. The latter quoted sentence is not reproduced in Denzinger; we have translated the Latin text reproduced in Joyce, *Christian Marriage*, 407 n. 1.

vania gave rise to an 1858 decree of the Congregation of the Propagation of the Faith underscoring the indissolubility of sacramental marriage.[14] Finally, Leo XIII's teaching against divorce in 1880 in *Arcanum*, his encyclical on marriage, could hardly be stronger.

As this history shows, the proclamation of Christ's teaching on adultery and divorce has always been difficult, and calls every epoch to conversion. That it remains so in our age is unsurprising. This is all the more reason for the Church to bear witness to this truth today.

B-3. Marriage Is Essentially Public

Some proposals for the Synods would move assessments about the existence of valid marriages into the subjective sphere of conscience or into private judgments, rather than addressing marriage as a public reality. However, marriage has an essentially public nature, in three respects: (1) it is a public contract between the spouses; (2) it serves the public good by providing and educating children; and (3) the sacrament is a public witness and sign of Christ's fidelity and love for his Church.

First, marriage is a covenantal contract between a man and woman. This contract is, and must be, public. There are witnesses in every marriage ritual; being married imposes duties on the spouses as well as giving them rights and benefits. Among these, it entails that spouses are faithful to each other (especially in their conjugal life), that they will help and care for each other in good times and in bad, and that they will cooperate in raising their children. What is more, they are, and should be, treated as a unit under law: they form a single marital community with common resources, empowered to represent each other, and with the right not to be separated nor positioned against each other.

Second, marriage serves the common good inasmuch as married couples bring children into the world and commit themselves to raising them. Admittedly, it has become controversial in many places to teach that a primary good of marriage is the procreation and education of children. It is even regarded as a form of prejudice by those who advocate legally-sanctioned homosexual unions. Yet if the Church acquiesc-

[14] Congregation of the Propagation of the Faith, Instr. ad Archiep. Fogarasien. et Alba-Iulien. *Non latet* (Mar. 24 1858), in P. Gasparri & J. Serédi, eds., *Codicis Iuris Canonici Fontes* (Vatican City: Typis Polyglottis Vaticanis, 1923-1949), doc. no. 4844.

es to the growing pressure to fall silent about this public dimension of marriage, it will be taking a step towards these negative developments, and will be abandoning an essential element of and reason for marriage. Where marriage is no longer identified as a public institution worthy of legal and cultural support, it becomes little more than a personal profession of love.

Third, the sacrament of matrimony perfects the marital union of baptized Christians. The indissolubility of this union is not only central to God's divine plan for man and woman (Mt 19:3-10), but it allows their permanent and faithful love to serve as a sacramental sign of Christ's love for and fidelity to his bride, the Church (Eph 5:32).

The Church now stands as one of the few remaining voices in Western culture that faithfully proclaims the truth about marriage. Her theology, law, and liturgical practice highlight the importance of marriage and family in society and in the Church. Married couples cooperate with God in the creation of new life, are the first teachers of the faith, and thus generate new adopted sons and daughters of God destined to share in his eternal inheritance. In their fidelity, they are public witnesses to Christ's unwavering fidelity to his people.

C. Analyzing Proposals for Holy Communion for the Divorced and Remarried

C-1. Despairing of Chastity?

At the heart of the present proposals is a doubt about chastity. Indeed, removing the obligation of chastity from the divorced is their principal innovation, since the Church already permits the divorced and remarried who, for a serious reason (like the raising of children), continue to live together, to receive Communion if they agree to live as brother and sister, and if there is no danger of scandal. Both John Paul II and Benedict XVI taught this.

The assumption of the present proposals, however, is that such chastity is impossible for the divorced. Does this not contain a hidden despair about chastity and about the power of grace to conquer sin and vice? Christ calls every person to chastity according to his or her state in life, whether unmarried, celibate, married, or separated. He promis-

es the grace to live chastely. In the Gospels, Jesus repeats this call and promise, along with a vivid warning: what causes sin should be "plucked out" and "cut off," because "it is better that you lose one of your members than that your whole body be thrown into hell (Mt 5:27-32)." Indeed, in the Sermon on the Mount, chastity is the heart and soul of Jesus's teaching about marriage, divorce, and conjugal love.

This chastity is a fruit of grace, not a penance or a deprivation. It refers not to the repression of one's sexuality, but to its right ordering. Chastity is the virtue by which one subjects sexual desires to reason, so that one's sexuality serves not lust, but its true end. Its result is that the chaste person governs his passions rather than being enslaved by them, and hence becomes capable of a total and permanent gift of self. In short, it is indispensable for following the way of Christ, which is the only authentic path to joy, freedom, and happiness.

Today's culture claims that chastity is impossible or even harmful. This secular dogma is directly opposed to the Lord's teaching. If we accept it, it is hard to see why it should apply only to the divorced. Is it not equally unrealistic to ask single people to remain chaste until marriage? Should not they too admit themselves to Holy Communion? The examples could be multiplied.

Some civilly-remarried couples *do* try to live chastely as brother and sister. They may find it hard, and may sometimes fall, but, moved by grace, they rise again, confess, and start over. If the present proposal were accepted, how many of them would give up the struggle to be chaste?

Of course, many divorced and remarried persons do not live chastely. What distinguishes them from those who try for (and sometimes fail at) chastity is that they *do not yet recognize unchastity as seriously wrong*, or at least *do not yet have any intention to live chastely*. If they are permitted to receive the Eucharist, even if they go to confession first, intending all the while to live unchastely (a radical contradiction), there is a real danger that they will be confirmed in their present vice. They are unlikely to grow in their understanding of the objective sinfulness and gravity of their unchaste actions. One might wonder whether their moral character will be improved, or whether it is more likely to be disrupted or even deformed.

Christ teaches that chastity *is* possible, even in difficult cases, because God's grace is more powerful than sin. The pastoral care of the

divorced should be built on this promise. Unless they hear the Church proclaim Christ's hopeful words that they can truly be chaste, they will never try.

C-2. The Precedents from Early Councils and the Church Fathers

The nearly universal witness in the early Church affirms the unicity and indissolubility of marriage as the teaching of Christ himself, and is what distinguishes Christian from Jewish and pagan practices. Divorce and remarriage was out of the question; indeed, even whether one could marry after a spouse's death raised serious concern. St. Paul allows this second marriage "only in the Lord," but encourages the widow to "remain as she is" (1 Cor 7:39-40). The great patristic writers, following Matthew 19:11-12 and St. Paul's exhortations, generally emphasize the good of virginity and chaste widowhood as preferable to the good of marriage.

Recently, it has been claimed that the First Council of Nicaea (325) addressed the admission of the divorced and remarried to Communion. This is a serious misreading of that Council and misunderstands the second and third century controversies over marriage. Various rigorous and heretical sects in the second century forbade marriage in general, in contradiction to Christ's teaching (and to St. Paul's). Others in the second and third centuries, especially the Novatianists, forbade a "second marriage" after a spouse's death. Canon 8 of Nicaea I aims precisely at the error of the Novatianists about a "second marriage," commonly understood to be *after a spouse's death.*[15]

This is confirmed in the Byzantine interpretation of a fourth-century canon on "second marriage" and the reception of Communion. The canon was applied specifically to young widows and widowers who, induced by "the arising of the fleshly spirit," remarried after a spouse's death. They were criticized for this "second marriage," but were none-

[15] Council of Nicaea (325), Canon 8, DH 127: "It is fitting that they [the Novatianists] profess in writing . . . to remain in communion with those who have been married twice and with those who have lapsed during persecution." Cf. Henri Crouzel, *L'Église primitive face au divorce: du premier au cinquième siécle* (Paris: Beauchesne, 1971), 124. Thus, St. Epiphanius of Salamis (d. 403), writing against the Novatianists, explains that the clergy may not remarry after a spouse's death, while the laity may. *The Panarion of St. Epiphanius, Bishop of Salamis: Selected Passages*, trans. and ed. Philip R. Amidon (New York: Oxford University Press, 1990), 205.

theless permitted to receive Communion if they completed a period of prayer and penance.[16]

There are some ambiguous fourth-century texts dealing with divorce and an adulterous second relationship. They speak of admitting one who has entered such an adulterous relationship to Communion only after a lengthy period of penance (e.g., seven years). It is implausible, however, that they permitted that second relationship—which they expressly condemn as adulterous—to continue. The more natural reading is that repenting of adultery formed a part of the penance necessary for Communion.[17]

In sum, the Church Fathers and the early Councils bear a very strong witness against admitting the divorced and remarried to Holy Communion.

C-3. The Eastern Orthodox Practice

In the early Church, it was disputed whether one could remarry after a spouse's death, but divorce and remarriage was forbidden (see section C-2, above). Some Eastern Fathers (e.g., St. Gregory of Nazianzus) preached against lax imperial laws permitting remarriage. Gregory called subsequent unions "indulgence," then "transgression," and finally "swinish." [18] These were not permissions for divorce and remarriage, but attempts to curtail subsequent unions, even after a spouse's death.

Over time, and under pressure from the Byzantine emperors who asserted an aggressive authority over the Eastern Church, Eastern Christians came to conflate "second marriages" after a spouse's death with divorce and remarriage, and to re-read patristic texts in this light. In the tenth century, Byzantine Emperor Leo VI effectively forced the Eastern

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[16] Matthew Blastares, *The Alphabetical Collection*, Gamma (chap. 4, about Laodicea 1), in Patrick Demetrios Viscuso, ed. and trans., *The Alphabetical Collection of Matthew Blastares: Selections from a Fourteenth-Century Encyclopedia of Canon Law* (Brookline, MA: Holy Cross Orthodox Press, 2008), 95.

[17] See, *e.g.*, St. Basil the Great, Canon 77, in St. Basil's Epistle 217. In St. Gregory of Nazianzus's Oration 37.8, Gregory is most likely preaching before the Theodosian court in Constantinople in order to change the lax laws on marriage of the Empire. The ambiguity in Gregory's preaching is clarified in his Epistle 144, where he calls divorce "completely disagreeable with our laws, even if those of the Romans [of the Empire] judge otherwise."

[18] Gregory of Nazianzus, Oration 37.8.

Orthodox to accept divorce and remarriage.[19] Their present approach permits, by the practice of "economy," second and third marriages after divorce, although with wedding rites outside the Eucharist. Since these unions are not considered adulterous, the divorced and remarried are admitted to Communion.

This practice diverges from the clearest tradition of the early Church common to both East and West. As the Congregation for the Doctrine of the Faith declared in 1994: "Even if analogous pastoral solutions have been proposed by a few Fathers of the Church and in some measure were practiced, nevertheless these never attained the consensus of the Fathers and in no way came to constitute the common doctrine of the Church nor to determine her discipline."[20] Such a determination accurately reflects the historical record.

Further, the Catholic Church has repeatedly determined that it cannot admit the Eastern Orthodox practice. The Second Council of Lyon (1274), specifically addressing the Eastern Orthodox practice, declared that "neither is a man allowed to have several wives at the same time nor a woman several husbands. But, when a legitimate marriage is dissolved by the death of one of the spouses, [the Roman Church] declares that a second and afterward a third marriage are successively licit."[21]

What is more, present proposals advocate what even the Eastern Orthodox would not accept: Communion for those in unblessed *civil* (adulterous) unions. The Eastern Orthodox admit the divorced and remarried to Communion only if their subsequent union has been blessed in an Eastern Orthodox rite. In other words, admitting the divorced and remarried to Communion would inevitably require the Catholic Church to recognize and bless second marriages after divorce, which is clearly contrary to settled Catholic dogma and Christ's express teaching.

[19] Concerning Emperor Leo's Novella 89, Orthodox theologian John Meyendorff laments: "the Church was obliged not only to bless marriages which it did not approve, but even to 'dissolve' them (i.e., give 'divorces'). . . . The Church had to pay a high price for the new social responsibility which it had received; it had to 'secularize' its pastoral attitude towards marriage and practically abandon its penitential discipline." John Meyendorff, *Marriage: An Orthodox Perspective*, 2nd ed. (Crestwood, NY: St. Vladimir's Seminary Press, 1975), 29.

[20] 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.

[21] Profession of Faith of Michael Paleologus, DH 860.

C-4. These Questions Were Decided in the Reformation Controversies

The Reformation directly contested the Church's teachings regarding marriage and human sexuality, using arguments quite similar to those used today. Clerical celibacy was said to be too difficult, exceeding what fallen human nature can bear, even under grace. [22] The sacramental nature of Christian marriage was denied, as was its indissolubility. [23] Civil divorce was introduced in Germany with the argument that the state could not be expected to privilege, promote and defend life-long marriage.[24] In effect, the Reformation radically redefined marriage.

The Council of Trent responded to this crisis in four ways. First, the Council dogmatically defined the traditional teaching on the sacramentality and indissolubility of Christian marriage, explicitly identifying remarriage as adultery.[25] Second, the Council made mandatory a public, ecclesial form of marriage, correcting the abuse of private or secret marriages. (In such cases, one spouse sometimes abandoned the marriage based only on his private and subjective decision and then remarried publicly. The Council forbade this subjective and privatized approach.)[26] Third, Trent defined as dogma the Church's jurisdiction over marriage cases, requiring for the sake of the integrity of the sacraments that they be judged by objective standards in ecclesiastical courts. [27] Fourth, the Council expressly taught that adulterers lose the grace of justification: "Adulterers" and "all others who commit mortal sins," "even though [their] faith is not lost," lose "the grace of justification" and are "exclude[d] from the Kingdom of God," unless they repent, give up and

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[22] Martin Luther, *An Appeal to the Ruling Class of German Nationality*, III, 14; John Calvin, *Institutes of the Christian Religion* IV, c. 13, nos. 15, 17.

[23] Martin Luther, *The Babylonian Captivity of the Church*, §5.

[24] See, *e.g.*, Martin Luther, *Brief an den Rath zu Danzig*; Philip Melanchthon, *De Conjugio*, cited in Joyce, *Christian Marriage*, 409-29. See also John Calvin, Institutes of the Christian Religion IV, c.19, nos. 34-37.

[25] Council of Trent, Decree and Canons on Marriage (1563), DH 1797-1812. On remarriage as adultery, see Can. 7.

[26] Council of Trent, Decree Tametsi (1563), DH 1813-16.

[27] Council of Trent, Canon 12 on Marriage, DH 1812. Pius VI later clarified Can. 12's meaning: "these cases belong to the tribunal of the Church alone . . . because the marriage contract is truly and properly one of the seven sacraments of the evangelical law." Pius VI, *Deessemus nobis* (1788), DH 2598. John Paul II reiterated this in his 1995 Address to the Roman Rota.

detest their sin, and make a sacramental confession.[28] (Elsewhere, Trent decreed that they may not receive Holy Communion until they do so.)[29]

It is simply not possible to admit those persevering in adultery to Holy Communion and also to affirm these conciliar doctrines. Trent's definitions of adultery, of justification (which implies charity as well as faith), or the meaning and significance of the Eucharist, would be changed. Neither may the Church treat marriage as a private matter, nor one to be adjudicated by the state, nor something to be decided by individual judgments of conscience. After long debate, these issues were clearly resolved by an ecumenical council in the most solemn manner. Those declarations have been repeatedly reiterated by the contemporary Magisterium, including the Second Vatican Council and the *Catechism of the Catholic Church*.[30]

C-5. The Precedent of the Modern Anglican Communion – A Slippery Slope?

Over the past century, the Anglican Communion has largely followed a practice of pastoral accommodation to the changing social and sexual mores in Europe and North America. It has liberalized divorce, allowed contraception, admitted those engaged in homosexual activity to communion and even (in some places) to the ordained ministry, and begun to bless same-sex unions. Some of these changes were initially justified on the pretext that they would apply only to rare cases, yet these practices are now widespread.

This has caused bitter divisions and even open splits, if not outright schism, in the Anglican Communion. In the same period, its active membership in England and North America has collapsed dramatically. While the cause of this collapse is debatable, no one can reasonably argue that accommodation has helped it (or other Protestant denominations) to retain members.

The Catholic Magisterium has not taken this path. Already in 1930, Pope Pius XI foresaw the serious threat posed by contraception, divorce,

[28] Council of Trent, Decree on Justification (1547), c. 15, DH 1544; on the need to confess, see c. 14, DH 1542-43.

[29] Council of Trent, Decree on the Eucharist (1555), DH 1646-47.

[30] *Lumen Gentium* (1964), §11; *Gaudium et Spes* (1965), §§47, 49, 50; CCC, §§1415; 1640, 1650. See also John Paul II, *Familiaris Consortio* (1981), §§13, 19, 20, 83, 84.

and abortion,[31] a view reaffirmed by Pius XII, John XXIII, Paul VI, and Vatican II.[32] John Paul II reiterated the Church's teachings on divorce, contraception, homosexuality and abortion,[33] underscored the reproductive end of marriage, and offered a theological grounding for the Church's teaching in his catechesis on the theology of the body. The *Catechism of the Catholic Church* repeats these perennial teachings, treating human sexuality in light of the virtue of chastity.[34] And in 2003, the Congregation of the Doctrine for the Faith declared that legal recognition of homosexual unions can in no way be approved; this is part of the moral law, accessible to reason by way of the natural law.[35]

Thus, the Church has borne a consistent witness in the contemporary world to the full truth about human sexuality and the complementarity of the sexes. The good of human sexuality is intrinsically related to its potential to generate new life, and its proper place is in a shared life of mutual, loving fidelity between a man and a woman. These are saving truths that the world needs to hear; the Catholic Church is, increasingly, a lone voice proclaiming them.

Although the present proposals concern only the divorced-and-remarried, adopting the—even as a "merely" pastoral practice—requires that the Church accept in principle that sexual activity outside of a permanent and faithful marriage is compatible with communion with Christ and with the Christian life. If accepted, however, it is hard to see how the Church could resist admitting to Holy Communion unmarried cohabiting couples, or persons in homosexual unions, and so forth. Indeed, the logic of this position suggests that the Church should bless such relationships (as the Anglican communion is now doing), and even accept the full gamut of contemporary sexual "liberation." Communion for the divorced-and-remarried is only the beginning.

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[31] Pius XI, Casti Connubii (1930), DH 3715.

[32] See, e.g., Pius XII, *Address to Midwives* (Oct. 29, 1951); John XXIII, *Mater et Magistra* (1961); *Gaudium et Spes*, nos. §§48, 51; Paul VI, *Humanae Vitae* (1968).

[33] John Paul II, *Familiaris Consortio* (1981); *Veritatis Splendor* (1993); *Evangelium Vitae* (1995).

[34] *CCC*, §§1621-65; 2380-2400.

[35] Congregation of the Doctrine for the Faith, "Considerations regarding proposals to give legal recognition to unions between homosexual persons" (2003).

C-6. Spiritual or Sacramental Communion for the Divorced and Remarried?

It is argued that divorced and remarried Catholics with a valid first marriage might receive Holy Communion, according to the following reasoning: (1) Pope Benedict XVI suggested that such persons should make a spiritual communion; (2) but a person who makes a spiritual communion is also worthy of receiving Holy Communion sacramentally; (3) therefore, the divorced and remarried should be admitted to Holy Communion.

The problem here is an ambiguous use of the phrase "spiritual communion." Depending on the context, it may refer to either (a) the ultimate fruit or effect of a sacramental reception of the Eucharist, namely, a perfect spiritual communion with Christ in faith and charity; (b) the same spiritual communion with Christ, but without a sacramental Communion (e.g., a daily communicant who misses a weekday Mass and so renews, by an act of living faith, the perfect communion with Christ previously received sacramentally); or (c) the desire for Communion of a person conscious of grave sin or living in a situation that objectively contradicts the moral law, who does not yet have a perfect communion with Christ in faith and charity.[36]

This third meaning is very different from the other two, because the person desires the Eucharist without yet renouncing a grave obstacle to perfect communion with Christ. (In the first two cases, "spiritual communion" refers to the accomplishment of this perfect communion.) It is very good for such a person to foster this desire, since through it, and with the help of grace, he may finally be converted from sin and restored to the fullness of ecclesial communion and the state of grace (faith vivified through charity, and thus a full communion with Christ). But—and this is the key—this desire is valuable *precisely insofar as it aids him to renounce the obstacle.*

Were he admitted to the Eucharist without renouncing the obstacle, the situation would be worse. He would make a sacramental Communion while unable to receive Christ in faith and charity, because of his

[36] See Paul J. Keller, O.P., "Is Spiritual Communion for Everyone?" *Nova et Vetera* (English) 12 (2014): 631-55. Benoît-Dominique de La Soujeole, "Communion sacramentelle et communion spirituelle," *Nova et Vetera* 86 (2011): 147-53. See also St. Thomas Aquinas, *Summa Theologiae* [ST] III, q. 80, aa. 1-4.

ongoing attachment to grave sin or to an objectively disordered living situation. He might be lulled into thinking his situation is unproblematic. Clearly, Pope Benedict encouraged the divorced and remarried to desire the Eucharist so they would align themselves with Christ's teaching on marriage, not so that they would dispense themselves from it.

Moreover, to receive the Eucharist, the sacrament of charity containing Christ himself, while conscious of grave sin, is itself a grave sin (1 Cor 11:27-31). The divorced and remarried who remain bound by a valid first marriage are living in objective contradiction to Christ's command; conjugal acts in such a relationship are adulterous, a serious sin. Such persons may not receive Communion.

They should, however, be encouraged to desire union with Christ and to pray for the grace to conform their lives to him. Assisting at Mass will help them on their journey away from sin and towards new life in God and in the Church. Premature sacramental Communion will only hinder them from arriving at a true and perfect spiritual communion with Christ.

C-7. Forgiveness is Impossible without Repentance and Firm Purpose of Amendment

It has been suggested that a divorced and civilly-remarried person, while remaining bound by a valid first marriage, nonetheless could be admitted to the sacrament of Penance (and then to Communion), if he or she "is truly sorry that he or she failed in the first marriage," if the first marriage cannot be restored nor the second relationship abandoned "without new guilt," and "if he or she strives to the best of his or her abilities to live out the second civil marriage on the basis of faith and to raise their children in the faith."[37] No mention is made of living as brother and sister; although the words "repentance" and "conversion" are used, it seems implicit that conjugal life would continue in the second relationship.

According to Christ's words, "whoever divorces his wife and marries another, commits adultery against her" (Mk 10:11). If a first marriage is valid, then one who knowingly and freely engages in marital acts with another (even after civil remarriage, and even assuming the mitigating

[37] Kasper, *The Gospel of the Family*, 32, 45-46.

circumstances mentioned) commits adultery. Objectively, this is grave matter and leads to mortal sin.[38]

To posit that such a person could receive forgiveness in the sacrament of Penance without repenting of and confessing this sin is simply incompatible with definitive Catholic doctrine. Indeed, the Church has solemnly declared this as Catholic dogma and a matter of divine law. As the Council of Trent's Canon 7 on the sacrament of Penance says:

> If anyone says that for the remission of sins in the sacrament of penance it is not necessary by divine law to confess each and all mortal sins that one remembers after a due and diligent examination . . . let him be anathema.[39]

Scripture teaches that repentance is necessary for the forgiveness of sins and communion with Christ: "If we say we have communion with him while we walk in darkness, we lie and do not live according to the truth (1 Jn 1:6)." As St. John Paul II wrote: "Without a true conversion, which implies inner contrition, and without a sincere and firm purpose of amendment, sins remain 'unforgiven,' in the words of Jesus, and with him in the Tradition of the Old and New Covenants."[40] According to Trent, one must "detest the sin committed" and "resolve not to sin any more" to be forgiven.[41]

Regardless of which sacrament is involved (whether Penance or the Eucharist), Catholic doctrine excludes the possibility of the forgiveness of sins without contrition for all mortal sins and firm purpose of amendment. To suggest such a possibility to the divorced and remarried would lead them astray from the truth, with potential consequences for them of the utmost gravity.

C-8. Consequences of Taking Holy Communion while in Grave Sin

The Eucharist is holy, and it demands holiness. We reverence and adore

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[38] *CCC*, §§1856, 1858, 2380-81, 2400.

[39] Council of Trent, Canon 7 on the Sacrament of Penance (1551), DH 1707. See CCC §1456, which repeats Trent's text verbatim. See also Trent's Decree on Justification (1547), DH 1542-44, which also affirms this.

[40] John Paul II, Encyclical Letter *Dominum et Vivificantem* (1986), §42

[41] Council of Trent, Decree on the Sacrament of Penance (1551), c. 4, DH 1676. See also *CCC* §1451.

this sacrament because it contains Christ himself. St. Paul cautioned against its unworthy reception: "Anyone who eats and drinks unworthily, without discerning the body of the Lord, eats and drinks judgment upon himself" (1 Cor 11:29). The Church has always applied this to those in grave sin. As Trent declared: "those whose conscience is burdened with mortal sin, no matter how contrite they may think they are, first must necessarily make a sacramental confession if a confessor is available. If anyone presumes to teach or preach or obstinately maintain or defend in public disputation the opposite of this, he shall by the very fact be excommunicated."[42]

The reason for St. Paul's "fearful" warning (as Trent called it) is simple: the sign and meaning of Communion is that one is united to Christ. One who lacks faith animated by supernatural charity is not, and cannot be, united to Christ. By definition, a person in mortal sin lacks this charity. Were he to receive the Eucharist, his act would contradict what the sacrament itself signifies. This is, properly speaking, sacrilege.[43]

The proper sacramental remedy for one in grave sin is confession, where the sinner expresses his repentance and his firm purpose of amendment. In *Ecclesia de Eucharistia*, St. John Paul II explains this at length. "The celebration of the Eucharist . . . cannot be the starting-point for communion; it presupposes that communion already exists, a communion which it seeks to consolidate and bring to perfection."[44] He quotes St. John Chrysostom: "I too raise my voice, I beseech, beg and implore that no one draw near to this sacred table with a sullied and corrupt conscience. Such an act, in fact, can never be called 'communion,' . . . but 'condemnation,' 'torment' and 'increase of punishment.'"[45] John Paul II solemnly concludes: "I therefore desire to reaffirm that in the Church there remains in force, now and in the future, the rule by which the Council of Trent gave concrete expression to the Apostle Paul's stern warning when it affirmed that, in order to receive the Eucharist in a

[42] Council of Trent, Canon 11 on the Eucharist (1555), DH 1661.

[43] See *CCC*, §2120, which identifies it a sin against the first commandment; see also ST III, q. 80, a. 5.

[44] John Paul II, *Ecclesia de Eucharistia* (2003), §35.

[45] Ibid., §36.

worthy manner, 'one must first confess one's sins, when one is aware of mortal sin.'"[46]

It is hard to imagine how this teaching could be modified without undermining the doctrine of the Eucharist. Rather, as the International Theological Commission wrote (speaking about admitting the divorced and remarried to Communion), "if the Church could give the sacrament of unity to those who have broken with her on an essential point of the mystery of Christ, she would no longer be the sign of the witness of Christ but rather a countersign and counterwitness."[47]

C-9. Reviving a Rejected Moral Theory?

Consider a divorced and remarried couple who acknowledge a first marriage as valid but nonetheless are freely living together as husband and wife. This amounts to an admission of adultery and hence of mortal sin. According to the Church's teaching, the couple should be helped to see that in such a spiritual state they must abstain from the Eucharist.

Is there another alternative? Could we admit that the first marriage was valid and that the couple's current sexual relationship is morally problematic, or at least not in full accord with the Gospel, and yet hold that, at least in some cases, this does not reverse their belief in and love for God, that they are still in friendship with him, and thus can fruitfully receive the Eucharist? Perhaps such individuals should even be encouraged to receive Communion, on the theory that the Eucharist will fortify their relationship with God with new graces and help them grow as Christ's disciples.

This point of view depends upon a broad version of "fundamental option" theory, which claims that one can distinguish a person's concrete behavior from his or her basic orientation towards or away from God. Couples should be warned away from the false comfort of this approach, on two grounds.

The first is the teaching authority of the Church itself. St. John Paul II's encyclical letter *Veritatis Splendor* condemns just such a "fundamental option" approach, denying that one "could, by virtue of a funda-

[46] Ibid. (emphasis added).

[47] International Theological Commission, "Christological Theses on the Sacrament of Marriage" (1977), §12.

mental option, remain faithful to God independently of whether or not certain of his choices and his acts are in conformity with specific moral norms."[48] "With every freely committed mortal sin, [one] offends God . . . ; even if he perseveres in faith, he loses 'sanctifying grace,' 'charity' and 'eternal happiness.' As the Council of Trent teaches, 'the grace of justification once received is lost not only by apostasy, by which faith itself is lost, but also by any other mortal sin.'"[49]

The second is internal to fundamental option theory: a fundamental option is likely in play when one makes basic decisions about the orientation of one's life. A decision regularly to engage in sexual relations outside of a valid marriage is surely such a decision. It is a chosen habituation and a way of life. It is hard to describe this as a fleeting sin of weakness or passion.

Of course, there is no problem with the remarried couple who try to live as brother and sister and sometimes fail. These can (and do) confess this; in principle, they can receive Communion. The problem arises if they have no intention of foregoing sexual relations. In this case, it is not a matter of struggling to live continently. Admitting them to the Eucharist will not help them overcome their attachment to sin, but will likely confirm them in the option they have already chosen.

C-10. Admitting the Remarried to Communion Would Cause Grave Scandal

"Scandal is an attitude or behavior which leads another to do evil. The person who gives scandal becomes his neighbor's tempter."[50] One person's bad example misinforms the intellect or weakens the will of another, leading to sin.

The Church has been constant in teaching that divorce and remarriage cause grave scandal. Vatican II called divorce a "plague," and decried the "obscuring effect" that it has upon the "excellence" of "marriage and the family."[51] As the *Catechism* explains: "Divorce is immoral . . . because it introduces disorder into the family and into society. This

[48] *Veritatis Splendor*, §68

[49] Ibid.

[50] *CCC*, §2284.

[51] *Gaudium et Spes*, §47.

disorder brings grave harm to the deserted spouse, to children traumatized by the separation of their parents and often torn between them, and because of its contagious effect which makes it truly a plague on society."[52] Remarriage after divorce magnifies this scandal.[53]

Some may argue that the greater frequency of divorce in our age and its widespread acceptance diminish any scandal, and therefore are reasons to admit the divorced and remarried to Communion. "Would anyone be shocked by it today?"

This misunderstands the evil of scandal, which is not a psychological shock but a temptation to others to sin. The offender need not intend to tempt his neighbor; the temptation is an effect of the sin itself. When sins become socially common, the scandal grows instead of shrinking. With each new person who gives in to it, the resolve of others to resist is endangered and the social pressure to accept is increased. Indeed, the Church teaches that widespread acceptance of sinful behavior creates a social structure of sin, an institutionalization of scandal.[54] The Christian finds it increasingly difficult to live in such a society without cooperating in or tolerating the sinful behavior. The Church exhorts the faithful to resist such structures of sin.

In *Familiaris Consortio*, John Paul II named scandal as a reason that the divorced and remarried cannot receive Holy Communion: "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."[55] To depart from this traditional prohibition would tell the faithful, at least implicitly, that divorce and remarriage are acceptable. It would also raise the question why others in grave sin could not receive Communion too. The scandal would increase.

Receiving Holy Communion is, objectively, a sign of communion with Christ and thus with the Church. It publicly proclaims that the recipient is living in accord with the faith and with good morals. To admit those in a public state of sin to the Eucharist would lead others to

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[52] *CCC*, §2385.

[53] *CCC*, §2384.

[54] *Gaudium et Spes*, §25; John Paul II, *Reconciliatio et Paenitentia* (1984), §16, and *Sollicitudo Rei Socialis* (1987), §36. On such structures and Christian marriage and family, see *Familiaris Consortio*, §81.

[55] *Familiaris Consortio*, §84.

conclude that the Church's teaching on that sin is not of grave import and that the sin can be tolerated. This is the essence of scandal.

D. Analyzing Proposals to Change the Annulment Process

D-1. Is Authentic Faith Necessary for a Valid Marriage?

It is sometimes suggested that when a couple marries in the Church without an authentic commitment to the Church's faith or without an understanding of marriage's sacramental dimension (for example, a poorly catechized couple who are Catholics in name but lack a personal engagement with the faith), something is defective in the sacrament itself, despite their valid consent according to the Catholic form. This argument is incompatible with Catholic doctrine and pastoral practice, for three reasons.

First, the Church teaches that sacramental, indissoluble bonds of marriage can be contracted between Catholics and baptized non-Catholics (e.g., Orthodox or Protestants).[56] In such cases, the non-Catholic does *not* profess the Catholic faith in its full integrity. Likewise, when a Protestant couple becomes Catholic, the Church regards their marriage as sacramental and indissoluble, even if, at the time of their wedding, they did not believe marriage to be a sacrament and intended only the natural ends of marriage.[57] Yet the above argument suggests that professing the integral Catholic faith is necessary for sacramental validity. This would effectively make all mixed marriages and non-Catholic marriages non-sacramental.

Second, this argument would undermine a central pillar of the sacramental economy: valid sacraments do not depend on the minister being in the state of grace (something ultimately unknowable) but on the correct form and matter. The spouses are the ministers of matrimony. If they lack faith formed by charity (i.e., if they are not in a state of grace), then they may not benefit from the graced *effects* of the sacrament, but *the sacrament itself is valid*, assuming they exchange valid consent and

[56] Benedict XIV, *Matrimonia quae in locis* (1741), DH 2515-20; Code of Canon Law, c. 1055 §1, c. 1059.

[57] See *Matrimonia quae in locis*, DH 2517-18; c. 1099.

intend to do what the Church does, as Benedict XVI clearly taught[58]. Indeed, this question was resolved in the fourth-century controversy with the Donatists, who had claimed, like the argument above, that ministers not in the state of grace could not validly confect the sacraments.

Third, this argument would change the Church's express teaching that a valid marriage requires only that a person intend the natural goods of marriage. As John Paul II explained, "the Church does not refuse to celebrate a marriage for the person who is well disposed, even if he is imperfectly prepared from the supernatural point of view, provided the person has the right intention to marry according to the natural reality of marriage. In fact, alongside natural marriage, one cannot describe another model of Christian marriage with specific supernatural requisites."[59] In fact, in his address to the Roman Rota in 2013, Benedict XVI responded directly to the argument that defective faith invalidates marriage, and pointedly reaffirmed the teaching of John Paul II that intending marriage's natural ends is sufficient.[60]

D-2. Annulments Cannot Be Granted Absent Canonical Expertise and Procedures

The process for the declaration of nullity of marriage is not just another procedure: it is essentially connected with the perennial teaching of the Church expressed by canon 1141: "A marriage that is *ratum et consummatum* can be dissolved by no human power and by no cause, except death." Underlying this canon are two rotal allocutions of Pius XII and, above all, *Gaudium et Spes* §48. Moreover, marriage possesses the favor of law: the validity of a marriage must be upheld until the contrary is proven (c. 1060). The procedure for the declaration of nullity of marriage aims at the declaration of a juridic fact (cf. c. 1400 §1) and is a search for the truth. The judge must have moral certitude about the

[58] Benedict XVI, "Address to the Roman Rota"(Jan. 26, 2013): "The indissoluble pact between a man and a woman does not, for the purposes of the sacrament, require of those engaged to be married, their personal faith; what it does require, as a necessary minimal condition, is the intention to do what the Church does." Cf. c. 1060; *CCC*, §1640.

[59] John Paul II, "Address to the Roman Rota" (Jan. 30, 2003); "Address to the Roman Rota" (Jan. 27, 1997).

[60] Benedict XVI, "Address to the Roman Rota" (Jan. 26, 2013).

marriage's nullity in order to pronounce the sentence (c. 1608 §1). The norms of the Code of Canon Law and of the instruction *Dignitas connubii*[61] safeguard this search for the truth and protect against the false mercy St. John Paul II and Benedict XVI warned against in their rotal allocutions of 1990 and 2010 respectively.

The best guarantee that marriage cases will be handled with both justice and efficiency is for the procedural and substantive norms of canon law to be followed faithfully, and for them to be undergirded by a proper theological understanding. This, however, depends on a proper canonical and theological formation of the tribunal's ministers, who must *sentire cum Ecclesia*.

The lack of these basic requirements is often a major source of problems with the annulment process. For example, the Roman Rota is sometimes criticized for taking years to decide cases, but the problem usually originates in first instance tribunals where cases have not properly been instructed and the procedures have not been followed. It is extremely difficult (if not impossible) to correct at a higher level what has been done improperly at first instance. Basic formation and continuing education are therefore key to a well-functioning process. This is why ministers of the tribunal must be degreed canon lawyers (cc. 1420 §4, 1421 §3, and 1435). Further, ministers of the tribunal need sufficient time to dedicate themselves to the cases assigned to them and should not be overburdened with other time-consuming tasks.

If cases are properly instructed, the requirement of the double conforming sentence is not an obstacle but a guarantee of justice. The procedure is fairly simple, and the mandatory review of the first decision is a practical incentive for the first instance tribunal to follow the law carefully. Abandoning this second review will surely lead to a loss of quality at the first instance tribunal.

A pastoral approach is often seen as opposed to a canonical one. This is a false dichotomy. Benedict XVI exhorted seminarians "to understand and—dare I say it—to love canon law, appreciating how necessary it is and valuing its practical applications: a society without law would

[61] Pontifical Council for Legislative Texts, "Instruction To Be Observed by Diocesan and Interdiocesan Tribunals in Handling Causes of the Nullity of Marriage," *Dignitas Connubii* (2005).

be a society without rights. Law is the condition of love."[62] A canonical approach is pastoral in essence, because it lays down the conditions necessary in truth for changing hearts. Where this does not happen, canon law itself has been misunderstood. Unfortunately, what is often called a pastoral approach leads to arbitrary and thus unjust decisions. That is the imminent danger when one considers abandoning the procedures outlined by the law.

D-3. The Impossibility of Subjective or Personalized Judgments in Marriage Cases

Could a more pastoral approach to annulment cases replace a juridical process? It is sometimes alleged that the present canonical process is impersonal, bureaucratic, and insensitive to the unique personal dimension of particular situations. Further, some of the divorced and remarried are subjectively convinced in their conscience that their previous marriage was invalid. Their pastor may agree. In such cases, why not permit a determination of nullity in a personal discernment involving an individual and his or her pastor, or with a priest named as a special episcopal vicar for such matters?

There is a long history behind these questions. During the Reformation, various Protestants proposed that, in some cases, one could divorce if a divorce decree were granted by civil authorities, irrespective of the Church's tribunals. The Council of Trent condemned this view: "If anyone says that matrimonial cases do not belong to ecclesiastical judges, let him be anathema."[63] Pope Pius VI later clarified that such cases belong to Church tribunals alone, since sacramental validity is at stake.[64] The recent Magisterium has definitively ruled out subjective resolutions of annulment cases (e.g., an "internal forum solution").[65]

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[62] Benedict XVI, "Letter to Seminarians" (Oct. 18, 2010): *AAS* 102 (2010) 796; English translation in *Origins* 40/21 (Oct. 28, 2010): 323-24.

[63] Council of Trent, Canon 12 on Marriage (1563), DH 1812.

[64] Pius VI, *Deessemus nobis* (1788), DH 2598.

[65] Thus, the Congregation for the Doctrine of the Faith rejected an "internal forum solution" for annulments, with the express approval of Pope John Paul II, in the letter "Concerning the Reception of Holy Communion by Divorced and Remarried Members of the Faithful" (Sept. 14, 1994), in AAS 86 (1994): 974–79. See also Pontifical Council for Legislative Texts, "Concerning the Admission to Holy Communion of Faithful Who Are Divorced and Remarried" (June 24, 2000); English translation in *Origins* 30/11 (Aug. 17, 2000): 174–75.

Why cannot decisions about one's freedom to marry be decided in a private process? First, even on a natural level, marriage is a permanent, public act between one man and one woman that establishes a family, the basis for society. There are therefore no "purely private" or "purely internal" resolutions of marriage cases. Second, the marriage between two baptized persons is a sacrament. The reception of any sacrament is an ecclesial act, never totally private. And it is proper to the Church to judge the validity of the sacraments according to objective criteria.

Moreover, following a personalized process could easily produce injustice. Consider a husband tempted to adultery. He could make a private judgment based on an erroneous conscience that his marriage was invalid and that he was free to depart and even to marry the second woman. His pastor might not learn the whole truth without making an inquiry, for which some process would be necessary. This is precisely the task of a marriage tribunal, which is better situated to carry it out with appropriate safeguards for all concerned. Further, the man's wife and family have rights that the Church is bound in justice to uphold. Even setting aside the implications for the integrity of the sacrament, permitting an erroneous judgment to issue from a private process would do grave harm to his wife, his children, and, indeed, the whole community.

Finally, disorder would result. If one priest rejects a "solution" but another approves it, or if a couple is not known to be married but acts as if they are, the Church's life will be marred by confusion and scandal.

E. Elements of a Positive Proposal for the Upcoming Synods

The Church's teachings regarding marriage, sexuality, and the virtue of chastity come from Christ and the Apostles; they are perennial. They cannot be changed, but they are always in need of being articulated anew. Given the crisis of marriage and the family in our epoch, this task is particularly urgent. To this end, the following points seem promising to us.

First, renewing and deepening the understanding and practice of the virtue of chastity would be an important positive step towards rebuilding family life. There is a veritable crisis of chastity in the contemporary world, and it plays no small part in the crisis of marriage and family life. Today's secular culture misunderstands what this virtue

is about and doubts that it can be lived. Indeed, this is even the case for some couples married in the Church and for some of the clergy, as recent scandals manifest. A defense, explanation, and instruction regarding the practice and freedom of the life of chastity—and even an "anthropology of chastity"—would be a major contribution. Addressing the epidemic of pornography, the dangers it poses to the family, and making practical recommendations for a pastoral response for those afflicted by this plague, would also be of great value.

Second, it would be valuable to articulate anew the transforming love and mercy of God, which does not stop at forgiving past guilt but transforms the person from within, so that he or she may live in freedom from vice and sin. That God's grace not only forgives but heals and elevates its recipient is a classic mark of Catholic teaching. Explaining how this works in the individual sacraments (especially Matrimony, Penance, and the Eucharist), revitalizing catechesis on this point, and encouraging the practice of regular and worthy reception of these sacraments (especially Penance, without which it is difficult to uproot vices and cultivate virtues), would be another considerable step forward.

This good news about grace and mercy is a dimension of the full truth about marriage. When the Gospel is proclaimed with love and hope, its truth has the power to bring the hearer to encounter Jesus himself, and thus to be changed by his grace. The truth that Christ teaches—including the truth about human sexuality—liberates the sinner and provides, by grace, a way out, a path of hope.

Third, with respect to the divorced and remarried, the Synods could investigate how to build pastoral structures to implement the teaching of *Familiaris Consortio* in the concrete. The divorced and remarried

> should be encouraged to listen to the word of God, to attend the Sacrifice of the Mass, to persevere in prayer, to contribute to works of charity and to community efforts in favor of justice, to bring up their children in the Christian faith, to cultivate the spirit and practice of penance and thus implore, day by day, God's grace. Let the Church pray for them, encourage them and show herself a merciful mother, and thus sustain them in faith and hope.[66]

[66] *Familiaris Consortio*, §84.

What can be done on the diocesan and parish level to facilitate a deeper pastoral solicitude for those living in such a situation? Offering Communion is, in a certain sense, both too much and too little. The truth about the situation must be acknowledged, with compassion and mercy, but also with truth, prayer, and patience.

Fourth, in many places, the preparation for marriage needs to be greatly strengthened. In truth, building healthy marriages also depends on a good preparation for the sacraments of Penance, Holy Communion, and Confirmation. Renewing and augmenting sacramental preparation would be a great help.

Fifth, marriage tribunals of the first instance need to be strengthened. They perform an essential service that cannot be transferred to others without causing even greater problems. Ministers of these tribunals need an adequate canonical and theological formation, and should follow a regular program of continuing education (as is common among civil lawyers). Tribunals need to be adequately staffed and supported so that cases can be treated with dispatch while following sound canonical norms and procedures. Those assigned to tribunals need sufficient time to carry out their duties and should not be saddled with other time-consuming charges.

Finally, the Synods might articulate anew why the Church's teaching on marriage and sexuality does not involve prejudice, bigotry, or the condemnation of persons, but rather aims at the authentic good of all persons. This is particularly needed with regard to homosexuality, since many contemporary Catholics face immense pressure to conform to a secular, permissive ethos that regards all opposition to homosexuality as irrational. (Offering practical strategies for the appropriate pastoral care of persons with homosexual tendencies would also be of great value.) To exposit the truth of the natural law clearly, and in relation to the universal vocation of Christian love, would shore up the family against the powerful destabilizing currents that prevail in many places.

F. Conclusion

The Church is aided in every age by the Holy Spirit, promised to her by Christ himself (Jn 15:26). Therefore, whenever the Church faces great challenges in evangelization, she also knows that God is willing to ac-

cord her the graces needed for her mission. Many of our contemporaries find themselves in the midst of great suffering. The sexual revolution has caused millions of casualties. They have deep wounds, hard to heal. Challenging as this situation is, it also represents an important apostolic opportunity for the Church. Human beings frequently have an awareness of their failings and even their guilt, but not of the remedy offered by the grace and mercy of Christ. Only the Gospel can truly fulfill the desires of the human heart and heal the deepest wounds present in our culture today.

The Church's teaching on marriage, divorce, human sexuality, and chastity can be hard to receive. Christ himself saw this when he proclaimed it. However, this truth brings with it an authentic message of freedom and hope: there is a way out of vice and sin. There is a way forward that leads to happiness and love. Recalling these truths, the Church has reason to accept the task of evangelization in our own age with joy and hope. N&V