Amoris Laetitia and Admission of Divorced and Remarried Catholics to the Sacraments

Patrick D. Boyoc

Admission to the sacraments, especially to the Holy Eucharist is a contentious topic in *Amoris Laetitia,* a post-synodal apostolic exhortation of Pope Francis. Does the document open the path of the sacraments for those in irregular situations, especially the divorced and remarried Catholics? Although this topic was highlighted in the 2014 and 2015 Synods, the document does not give a lengthy discourse or explanation regarding the issue. Hence, there is a continuing debate whether the document has allowed the re-admission of those in irregular unions to the sacraments.

Church Teaching

Before 1980, there was no exact pronouncement from the Church Magisterium regarding admission of those in irregular marital situations, particularly the divorced and remarried Catholics, to the sacrament of Reconciliation and the Eucharist. However, many considered their state of life contrary to the Gospel and the apostles' teachings regarding the indissolubility of marriage. In the Synoptic Gospels (Mt. 5:32; 19:9; Mk. 10:11-12; Lk. 16:18), Jesus explicitly forbids divorce to marry another. St. Paul declared this practice unlawful based on the teachings of Christ. He specifically banned remarriage for divorced persons and exhorted them to remain single or be reconciled to their spouse (1 Cor 7:10-11).

In 1977, the International Theological Commission released the document "Propositions on the Doctrine of Christian Marriage," which enumerated Christian marriage foundations. Part of the proposal asserted the radical teaching on non-remarriage after divorce. Thus, the divorced who have remarried are alienated from "the precept and mystery of the paschal love of the Lord"[1] made manifest in the Eucharist.

This proposition entered official papal magisterium in 1981 in Pope John Paul II's Apostolic Exhortation *Familiaris Consortio.* The document acknowledged the urgency of pastoral care for divorced and remarried Catholics and the careful discernment of their situations. On the other hand, it also reaffirmed the Church practice of not admitting into Eucharistic Communion those in irregular marital situations. For instance, Catholics married civilly and divorced and remarried persons.[2] However, particular attention is given to the latter since they would be in irregular status for as long as both of them live unless they decide to regularize their union according to the Church's laws. Concerning pastoral practice, the sacrament of Reconciliation may be administered only to those divorced and remarried Catholics who wish to reform their lives by living in continence. In addition to these sacraments, the document also disallowed pastors from performing ceremonies for divorced and remarried Catholics that may

1 International Theological Commission, "Propositions on the Doctrine of Christian Marriage," Vatican Archive, http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_1977_sacramento-matrimonio_en.html (accessed Sept 12, 2017), no. 5.3.

2 John Paul II, *Apostolic Exhortation on the Role of the Christian Family in the Whole World (Familiaris Consortio)*, November 22, 1981, Vatican Archive, http://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_19811122_familiaris-consortio.html (accessed September 28, 2018), nos. 82 and 84. Henceforth referred to as *FC.*

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give an impression that the Church acknowledges these forms of unions.[3]

Meanwhile, the 1983 Code of Canon Law seemed to make an ambiguous statement regarding those to be banned from the reception of the Holy Eucharist. Canon 915 states that "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."[4] Although there is no explicit inclusion of the divorced and remarried persons here, the phrase "others obstinately persevering in manifest grave sin" is open to interpretation. Some commentators consider this phrase as including divorced and remarried persons since they publicly and objectively contradict the commandment of Christ regarding the indissolubility of marriage.[5] Others hold that since the canon does not explicitly name those divorced and remarried, including them would be unfair. Instead, one must look at the degree of sinfulness, responsibility, and culpability of each person in an irregular marital situation before concluding that the canon applied to them.[6]

In the encyclical *Reconciliatio et Paenitentia,* John Paul II reiterates the Church's principle of mercy and compassion on the one hand, and truth and consistency on the other. He maintains that the Church is not only a merciful mother who seeks her lost children. She is also a beacon of truth and consistency, whereby she does not call the good evil and

3 *FC* no. 84.

4 Holy See, *The 1983 Code of Canon Law,* January 25, 1983, Vatican Archive, https://www.vatican.va/archive/ENG1104/__P1.HTM (accessed at September 28, 2018), no. 915. Henceforth referred to as *CIC*.

5 Kevin T. Kelly, *Divorce and Second Marriage: Facing the Challenge*, 2nd ed. (London: Geoffrey Chapman, 1996), 147-148.

6 Kelly, *Divorce and Second Marriage,* 149-154.

the evil good.[7] Thus, the document asks those in "painful" situations to approach God's mercy through means other than the Sacrament of Reconciliation and Eucharist, unless they have attained the required disposition (living in continence, abstaining from any sexual act). These other means of coming close to God include piety, mass attendance, prayer, and acts of faith, hope, and charity, which may dispose them to full reconciliation with the church and her precepts.[8]

The *Catechism of the Catholic Church* repeats the instructions given in *FC* on the admission to the sacraments of divorced and remarried Catholics. *CCC, no.* 1650 states that the divorced and remarried Catholics are not to be admitted to the sacraments following the mandate given by Christ in the Gospels (cf. Mk 10:11-12): "They find themselves in a situation that objectively contravenes God's commandments" and have "violated the sign of the covenant and of fidelity to Christ."[9] Moreover, CCC, no. 2384 emphasizes that aside from the grave offense caused by divorce, remarriage adds to the gravity of the matter; ergo, the divorced and remarried person's situation is considered public and permanent adultery.

In the Apostolic Exhortation *Sacramentum Caritatis,* Pope Benedict XVI reasserts the teachings of his predecessor on the non-admission of divorced and remarried persons to the Eucharist. According to him: "The Eucharist inexhaustibly

7 John Paul II, *Apostolic Exhortation on Reconciliation and Penance in the Mission of the Church Today (Reconciliatio et Paenitentia)*, February 12, 1984, Vatican Archive, http://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_02121984_reconciliatio-et-paenitentia.html (accessed at September 28, 2018), no. 34. Henceforth referred to as *RP*.

8 Ibid.

9 CBCP-ECCE, *Catechism of the Catholic Church*, Definitive Edition Based on the Latin *Editio Typica* (Manila: ECCCE and Word & Life Publications, 1994), no. 160. Henceforth referred to as *CCC*.

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strengthens the indissoluble unity and love of every Christian marriage. By the power of the sacrament, the marriage bond is intrinsically linked to the Eucharistic unity of Christ the Bridegroom and his Bride, the Church (cf. Eph. 5:31-32)."[10] Therefore, the Eucharist is the nuptial sacrament of Christ and his Church. As such, divorced and remarried couples objectively contravene this union made present in the Eucharistic banquet.

Theological Basis of Non-Admission

What is the theological basis for the practice of non-admission to the sacraments of divorced and remarried Catholics? There are four possible explanations for such practice.

First, divorced and remarried persons are considered as "living in sin." Many Catholics believe that those in irregular marital situations are excommunicated or ostracized from the Church because of their sinful lifestyle. Some regard the Catechism's statement on divorce and remarriage as an absolute judgment on couples that are unworthy for Eucharistic communion.[11] Some also deem the prohibition in Canon Law--that bans who persist in their life of sin from the reception of the sacraments--as further ground for this treatment of divorced and remarried persons.[12]

Second, most of the documents refer to the divorced and remarried situation as "living in contradiction." Contradiction here is not automatically synonymous to "sin," but refers to the fact that their situation contravenes the essence of faithful

10 Benedict XVI, *Apostolic Exhortation on the Eucharist as the Source and Summit of the Church's Life and Mission* (*Sacramentum Caritatis*) (Pasay City: Paulines Publishing House, 2007), 27.
11 Cf. *CCC*, no. 1650.
12 Cf. *CIC*, no. 915.

love between spouses. Furthermore, the second union after divorce contradicts the teaching of Christ and the Church on the indissolubility of marriage. Many couples are fully aware of their irregular situation but decide to remain in the second union, believe that it is their best option under the given circumstances. Such willful contradiction prevents the Church from admitting them back to the Eucharist and reconciliation without resolving their situations.

The third reason for their non-admittance to the sacraments in general and communion in particular is that the situation of divorced and remarried persons contradict the Eucharist itself. This was first argued in the ITC's proposition in 1978, reaffirmed in *FC* and elaborated in *Sacramentum Caritatis.* In the last document, Pope Benedict XVI emphasized the intrinsic unity between marriage and the Eucharist. He states that: "Conjugal love is a sacramental sign of Christ's love for his Church, a love culminating in the Cross, the expression of his 'marriage' with humanity and at the same time the origin and heart of the Eucharist. For this reason, the Church manifests her particular spiritual closeness to all those who have built their family on the sacrament of Matrimony."[13] Thus, the Eucharist signifies the "irrevocable nature of God's love in Christ for his Church."[14] It implies that both the Eucharist and Matrimony should express the indissoluble bond of love of Christ and the Church in the life of the spouses. Hence, the irregular situation of divorced and remarried persons is a contradiction of the sacramentality of the Eucharist and Matrimony.

The fourth argument is a scandal: "So that people will not be misled into thinking the Church is no longer committed

13 Benedict XVI, *Sacramentum Caritatis*, 27.
14 Ibid., 29.

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to indissolubility."[15] By the same token, *FC*, no. 84 prohibits ministers from performing ceremonies which may lead people to think that the Church approves such unions. The risk of scandal arising from admitting the divorced and remarried to the sacraments threatens to increase the incidence of marriage breakdowns in the Church. Thus, the safer approach is to avoid all risk of scandal.

Despite the emphasis given to this practice, the Church does not entirely forbid administering the sacraments to the divorced and remarried. There is no existing ecclesiastical law that explicitly prohibits these couples from receiving the sacraments. *CIC*, no. 912 states that any baptized person who is not forbidden by law may and must be admitted into the Eucharist. Meanwhile, *CIC,* no. 915 classifies those forbidden by the law into two: those excommunicated or interdicted and those who persist in manifest grave sin. *FC*, no. 84 does not name the divorced and remarried as excommunicated or interdicted persons. Meanwhile, they cannot be automatically considered as "those who obstinately persist in manifest grave sin" since sin is a subjective disposition or sphere of the person, which cannot be specified by a general law.[16]

Treating divorced and remarried couples as excommunicated would run counter to the constant assertions of papal documents reaffirming their connectedness and membership in Christian communities. For instance, *FC* explicitly exhorts pastors to be concerned with them and to integrate them into the community mercifully. Moreover, official Church Magisterium has never categorically condemned the second union as sinful, since sin is a technical term for the person's willful and conscientious turning away from God. Thus, even

15 *FC,* no. 84.
16 Kelly, *Divorce and Second Marriage,* 65.

if the second union is considered disordered since it contravenes the bond established in the first marriage, some theologians suggest that God's grace might still be active in the second union and that those in second unions could become collaborators in the Church's evangelical mission.[17]

In practice, the Church sets forth conditions before readmitting the divorced and remarried to the sacraments. First, the person needs to have a contrite heart and the intention to regularize his/her marital situation. He/she will either separate from the second spouse or, for serious reasons e.g., the upbringing of children, live in complete continence by abstaining from all sexual acts. Having firmly resolved this, the person may then be granted absolution and receive the Eucharist. However, this requires a painful decision on the part of the spouses who have established their second family or are in the process of building their family in the second union.

The other alternative is via the external forum. "Ministry in the external forum is exercised directly and immediately for the good of the Christian community as a whole; it is the ambit of the common good."[18] It involves canonical and judicial processes. Its ordinary instrument is the law and judicial certitude. In cases of marriage problem and breakdown, the diocesan marriage tribunal arbitrates. Annulment is the proper external forum for the canonical dissolution of an invalid marriage. When the first marriage is annulled, both parties may enter another Catholic marriage without losing access to the sacraments.

17 Kelly, *Divorce and Second Marriage,* 50.

18 Theodore Davey, "Internal Forum," in *Divorce and Second Marriage: Facing the Challenge,* ed. Kevin T. Kelly, 2nd ed. (London: Geoffrey Chapman, 1996), 180.

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The Internal Forum

In 1973, the CDF published a letter concerning marriage indissolubility and administration of the sacraments to those in irregular unions. Former Prefect of the CDF, Cardinal Seper, wrote: "Regarding the administration of the Sacraments, local Ordinaries should strive, on one hand, to encourage the observance of the discipline in force in the Church, and on the other hand, to act so that pastors of souls show particular solicitude toward those who live in an irregular union, seeking to resolve these cases through the use of the approved practices of the Church in the internal forum."[19]

Thus, the CDF identified the internal forum as a means of administering pastoral care for those in irregular unions. In general, the ministry of internal forum "is concerned directly and immediately in favor of individual persons, or, as the final canon (1752) of the 1983 code puts it, 'having before one's eyes the salvation of souls, which is the supreme law of the Church.'"[20] Some of the instances of internal forum include the sacrament of confession, spiritual direction or private vows made by the faithful. It is also employed when individual consciences come in conflict with the external law.

In this way, the CDF instructs the bishops to uphold church practice and discipline while at the same time seeking out those in irregular situations by including the internal forum solution. At that time in the 1970s, the internal forum solution was still relatively unknown. Thus, Archbishop Bernardin of Cincinnati asked the CDF to clarify its statement. Archbishop Hamer, secretary of the CDF, replied as follows:

19 Franjo Cardinal Seper, "Letter Regarding the Indissolubility of Marriage" April 11, 1973, Vatican Archives, http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19730411_indissolubilitate-matrimonii_en.html, (accessed September 28, 2017).

20 Davey, "Internal Forum," 180.

> I would like to state now that this phrase [internal forum] must be understood in the context of traditional moral theology. These couples may be allowed to receive the sacraments in two conditions, that they try to live according to the demands of Christian moral principles and that they receive the sacraments in churches in which they are not known so that they will not create any scandal.[21]

The CDF was aware of and approved a process other than the canonical and sacramental way of accompanying persons in irregular unions. The internal forum solution then became a matter of interest for pastors seeking to minister effectively to these persons.

Theodore Davey gave two common situations where persons in irregular unions need the intervention of a priest through an internal forum. One is when the person/s involved is convinced that the previous marriage was never valid but could not be proven so in the external forum. This can happen because of insufficient evidence, inoperative diocesan marriage tribunal, and the like. The second situation is when the person/s involved is certain in the conscience of the validity of their previous marriage and the cessation of their marital relationship because of infidelity, abandonment, or other circumstances. Through the internal forum, the pastor may lead the persons in irregular unions to discernment of their situation, proper integration to the Church, and if possible, the reception of the Sacraments.[22]

Gerald D. Coleman also gives some uses of the internal forum considering the present canonical jurisprudence and the 1973 CDF letter and Archbishop Hamer's letter. First, the

21 Ibid., 179.
22 Ibid., 180-181.

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internal forum solution is used to lead persons in irregular unions to the canonical process of radical sanation (*sanatio in radice*). In this process, the couples validate retroactively the consent given in their invalid marriage ceremony (e.g., civil marriage). The Church, through a competent authority, heals and dispenses the impediments of the invalid marriage and recognizes the validity of the consent given from the very beginning of their marriage, without the need of a renewal of consent.[23] Having been dispensed from their impediment, the couple is now free to receive the sacraments. Second, the internal forum is used to dialogue with couples in an irregular marriage who, believing that their first marriage is valid but are unable to separate from the spouse of the second marriage for pastoral reasons (e.g., care for children), resolve to live a life of continence. Third, regarding those persons who are truly unaware in the conscience of the invalidity of their union, the priest, through the internal forum solution, can lead these persons to the sacraments upon proper discernment and considering the gravity of the situation. If he deems it necessary to tell the invalidity persons, he should lead them to other pastoral solutions as stated above. Fourth, the internal forum can be used for a couple in a subsequent marriage who believes that the first marriage is invalid but cannot obtain an annulment for it. In this case, the internal forum may allow those in irregular unions to receive the sacrament only if the first marriage was invalid, according to Canon Law, albeit without the benefit of an official declaration of nullity. Nonetheless, if a person is convinced of the validity of the first marriage, the person should be advised to live in continence as a condition for receiving the sacraments.[24]

23 *CIC*, no. 1161.

24 Gerard D. Coleman, *Divorce and Remarriage in the Catholic Church* (Mahwah, NJ: Paulist Press, 1989), 55-56. Coleman enumerated these

In 1991, Cardinal Joseph Ratzinger clarified that the magisterium does not sanction the internal forum as a solution that allows those in irregular unions to receive the sacraments for various reasons. First, according to him, the statement released by Cardinal Seper in 1973 was misinterpreted.

> First, Cardinal Seper's mention in his letter of 1973 of the 'approved practice in the internal forum' which Fr. Davey cites was not referring to the so-called internal forum solution which properly understood concerns a marriage known with certainty to be invalid but which cannot be shown to be such to a marriage tribunal because of a lack of admissible proof. Cardinal Seper for his part was not addressing the question of the validity of a prior marriage, but rather the possibility of allowing persons in a second, invalid marriage to return to the sacrament, if, in function of their sincere repentance, they pledge to abstain from sexual relations when there are serious reasons preventing their separation and scandal can be avoided.[25]

For Ratzinger, Cardinal Seper's position does not refer to the internal forum as a means of determining or resolving the validity or invalidity of the previous marriage, which can be done only in the external forum. Instead, it points to the use of the internal forum solution as a way for couples in irregular unions to receive the sacraments despite their situation.

In the internal forum, the pastor may enlighten them on Church discipline that requires sexual continence, if they cannot separate for serious reasons and avoid scandal.

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in the light of the existing magisterial teaching during that time, the CDF letter, and the letter of Archbishop Hamer.

25 Joseph Cardinal Ratzinger, "Letter to *The Tablet*" in *Divorce and Second Marriage: Facing the Challenge,* ed. Kevin T. Kelly, 2nd ed. (London: Geoffrey Chapman, 1996), 184.

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Second, judgment in the internal forum has significant consequences in the external forum, which may confuse the family, the upbringing of the children, as well as the Church and civil communities. In contrast, the marriage tribunal in the external forum can provide a clear closure to the question of marriage validity. Third, the internal forum solution is open to abuse. Priests may rashly decide to grant absolution without enough inquiry and discernment, causing scandal among the faithful. Lastly, Archbishop Hamer's statement in his 1975 letter merely affirms current Church teaching that instructs the divorced and remarried persons to live according to the demands of Christian moral principles by abstaining from sexual acts. Therefore, it does not represent or require what is promoted as the internal forum.[26]

The German Initiative

In 1993, three German Bishops of the Upper Rhine Province, namely, Bishop Karl Lehmann, Bishop Walter Kasper, and Archbishop Oskar Saier, wrote a pastoral letter on the care for the divorced and remarried. They issued guidelines and principles which direct pastors on how to discern the situations of those in irregular unions and how to accompany them towards full communion with the Church. The letter affirmed *FC*'s teachings *and* reemphasized the prohibition against admitting the divorced and remarried to the sacraments. However, they also saw the need to look carefully at individual situations and form individual consciences such that admission to the sacraments could be possible later. Moreover, they proposed sustained counseling by a priest as an aid for couples to learn how to form their conscience and to understand their situation before God.

26 Ibid., 184-185.

The bishops also acknowledged the difficulty of fulfilling the mandate of living in continence especially for young couples in irregular situations. Thus, the bishops highlighted the need to exercise careful discernment of situations as stated in *FC*, no. 84. In this regard, they enumerated certain guidelines to assist pastors in facilitating the discernment and judgment of various situations.

When there is serious failure involved in the collapse of the first marriage, responsibility for it must be acknowledged and repented;

- It must be convincingly established that a return to the first partner is really impossible and that with the best will the first marriage cannot be restored;
- Restitution must be made for wrongs committed and injuries done insofar as this is possible;
- In the first place this restitution includes fulfilment of obligations to the wife and children of the first marriage (cf. *CIC*, no. 1071,1.3);
- Whether or not a partner broke his or her first marriage under great public attention and possibly even scandal should be taken into consideration;
- This second marital partnership must have proved itself over a long period of time to represent a decisive and also publicly recognizable will to live permanently together and also according to the demands of marriage as a moral reality;
- Whether or not fidelity to the second relationship has become a moral obligation with regard to the spouse and children should be examined;

- It ought to be sufficiently clear – though certainly not to any greater extent with other Christians – that the partners seek truly to live according to the Christian faith and with true motives, i.e., moved by genuinely religious desires, to participate in the sacramental life of the Church. The same holds true in the children's upbringing.[27]

After a series of conversations with the couple in dialogue and discernment, the pastor will judge whether the persons concerned may be admitted to the sacraments or seek other ways of integrating into the community. This depends on how well the discernment process is undertaken, especially the disposition of the persons involved.

To address the possibility of scandal, the pastor must inform and catechize the community to help those in irregular unions in their desire to be integrated into the Catholic community. The teaching about the indissolubility of marriage should be reinforced so that people may not misinterpret this response as weakening the Catholic stand on marriage. This should be accompanied by strengthening community efforts in healing broken marriages and marriages heading towards a breakdown. After a series of conversations with the couple in dialogue and discernment, the pastor will judge whether the persons concerned may be admitted to the sacraments or seek other ways of integrating into the community. This depends on how well the discernment process is undertaken, especially the disposition of the persons involved.

In December 1993, the CDF sent a letter informing the three bishops that they did not fully uphold Church teaching.[28]

27 Karl Lehmann et.al., "The Bishops' Principle of Pastoral Care," in *Divorce and Second Marriage: Facing the Challenge,* ed. Kevin T. Kelly, 2nd ed. (London: Geoffrey Chapman, 1996), 112.

28 Ibid., 129.

Consequently, they were called to Rome for dialogue and clarification. In September 1994, the CDF published a letter addressed to all bishops concerning Holy Communion for the divorced and remarried. It reiterated the current teaching of not admitting to Holy Communion the divorced and remarried persons whose previous marriage has not been declared null or have not resolved to maintain sexual continence. Pastoral practices that contravene the approved teaching were to be discontinued. The CDF letter emphasized the following:

1. 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 [29]

2. 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

29 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,* September 14, 1994, Vatican Archives, http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_14091994_rec-holy-comm-by-divorced_en.html, (accessed September 28, 2017), no.4.

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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'"(8). In such a case, they may receive Holy Communion as long as they respect the obligation to avoid giving scandal.[30]

3. 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.[31]

4. It is certainly true that a judgment about one's own dispositions for the reception of Holy Communion must be made by a properly formed moral conscience. But it is equally true that the consent that is the foundation of marriage is not simply a private decision since it creates a specifically ecclesial and social situation for the spouses, both individually and as a couple.

30 Ibid.
31 Ibid., no. 6.

> Thus, the judgment of conscience of one's own marital situation does not regard only the immediate relationship between man and God, as if one could prescind from the Church's mediation, which also includes canonical laws binding in conscience. Not to recognize this essential aspect would mean in fact to deny that marriage is a reality of the Church, that is to say, a sacrament.[32]

5. In inviting pastors to distinguish carefully the various situations of the divorced and remarried, the Exhortation *Familiaris Consortio* recalls the case of those who are subjectively certain in conscience that their previous marriage, irreparably broken, had never been valid. It must be discerned with certainty by means of the external forum established by the Church whether there is objectively such a nullity of marriage. The discipline of the Church, while it confirms the exclusive competence of ecclesiastical tribunals with respect to the examination of the validity of the marriage of Catholics, also offers new ways to demonstrate the nullity of a previous marriage, in order to exclude as far as possible every divergence between the truth verifiable in the judicial process and the objective truth known by a correct conscience.[33]

32 Ibid., no. 8.
33 Ibid., 9.

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These positions highlight the exclusion of those in irregular union from the sacraments unless they regularize their situation via external forum or by living in continence while avoiding scandal (although it maintains a case-to-case approach). The German bishops replied to the CDF letter[34] and clarified their position while promising to continue striving for a consensus with the Holy See on a solution which is theologically acceptable and pastorally responsible.

Amoris Laetitia and Admission to the Sacraments

AL does not explicitly state that the divorced and remarried Catholics can be admitted to the sacraments. Instead, a simple footnote in Chapter 8 gives a hint regarding the issue.

> In certain cases, this can include the help of the sacraments. Hence, "I want to remind priests that the confessional must not be a torture chamber, but rather an encounter with the Lord's mercy" (Apostolic Exhortation *Evangelii Gaudium* [24 November 2013], 44: AAS 105 [2013], 1038). I would also point out that the Eucharist "is not a prize for the perfect, but a powerful medicine and nourishment for the weak" (*ibid*., 47: 1039)[35]

The footnote speaks of the sacraments as the Church's available aid for those struggling to regularize their marital situation. Pope Francis reminds pastors of two guiding principles from *Evangelii Gaudium*. First, regarding the sacrament of Confession, the pope wants priests to use the

34 Lehmann et.al., "The Three German Bishops' Message to Their People (Comment on the CDF Letter, 14 October, 1994," 134.

35 Francis, *Apostolic Exhortation on Love in the Family (Amories Laetitia)*, March 19, 2016, https://w2.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf (accessed September 28, 2017), no. 305. Henceforth referred to as *AL*.

sacrament to accompany people and help them encounter God's mercy. Second, he quotes *EG, no,* 47, where he presents the sacraments of Eucharist and Confession, not as a reward but as a medicine to be taken each time we fall because of our weakness. This view is derived from St. Ambrose and St. Cyril of Alexandria who speak of the power of the Eucharist to forgive sins, making it a remedy for sinfulness, and who consequently urge people to come to it for spiritual healing.[36] *AL* sees the sacraments as an opportunity for encounter where weak members can experience the mercy and help of the Christian community.

Meanwhile, *AL, no.* 305 states that the sacraments may be administered in certain cases where one discerns psychological and social conditioning and other mitigating factors that significantly diminish the person's subjective culpability. Thus, a person can be deemed as living in God's grace even if one is in an objective situation of sin, and the Church must extend her maternal care to such persons through the administration of the sacraments.

Furthermore, *AL,* no. 299 revitalizes the call for integrating the divorced and remarried into the Christian communities. Their irregular status should not isolate or hinder them from being active members of the community. To this end, *AL* presents the method of careful pastoral discernment of situations before God as open access to proper integration into the Church. Pastoral discernment via the internal forum is essential to making the help of the sacraments available to them.

36 Cf. Francis, *Apostolic Exhortation on the Proclamation of the Gospel in Today's World (Evangelii Gaudium),* November 24, 2013 (Pasay City: Paulines Publishing House, 2013), no. 47; footnote no. 51. Henceforth referred to as *EG.*

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Commentaries and Theological Discussion

Local ordinaries and the academic community differ in their reception of *AL* on the admission of divorced and remarried to the sacraments. Generally, there are two interpretations of footnote 351 of *AL*. The first interprets *AL* as allowing the admission of the divorced and remarried persons to the sacrament so long as the conditions set forth by *FC*, no. 84 are fulfilled. The second interprets AL as adapting the conditions for admitting to the sacraments according to *AL*'s pastoral discernment of situations, which takes mitigating factors and subjective culpability into consideration.

Adherents of the first interpretation claim to be more faithful to the teachings of the Church. For instance, the *dubia* signed by the four cardinals reiterates the three conditions given by John Paul II in *FC*, no. 84. First, they can be admitted to the sacraments if they separate and end the irregular union, presuming no impediment hinders such separation. Second, if they cannot separate because of grave reasons (e.g., the upbringing of children), they should live in complete sexual continence. Third, they should avoid giving scandal by behaving as if their relationship were normative or approved by the Church. Moreover, the *dubia* reemphasizes that sexual relations is exclusively for married couples. Hence, any sexual activity outside marriage counts as adultery and is prohibited by the 6th commandment. In light of this, they posit that admitting those in irregular unions to the sacraments would endanger the connection between Church teaching and practice. "The sacraments, therefore, are detached from life: Christian rites and worship are on a completely different sphere than the Christian moral life."[37]

37 Brandmuller, Walter, Burke, Raymond, Caffarra, Carlo and Meisner,

Cardinal Caffarra elaborates on their stand in the *dubia* by emphasizing that the Church cannot cease to teach and enlighten people regarding "adulterous" unions. The pastoral practice prescribed by *AL* causes doctrinal instability and havoc in actual practice. How will a priest accompany these persons? "If I say to the person who cannot have sexual relations with him who is not her husband or his wife, but in the meantime, seeing that it takes such effort, one may have (sexual relations)… only once instead of three times per week, it makes no sense; and I do not show mercy to this person."[38] Only by helping the persons arrive at a firm resolution to amend their ways could they be properly accompanied to receive the sacraments.

In an interview, Cardinal Burke says that admitting those in irregular situations to the sacraments "constitutes a formal error that goes against what Jesus himself taught and has always been the teaching of the Church."[39] By failing to respect the demands of the moral law, this approach does not lead them to spiritual liberation. Rather, it leads them further into a sort of moral imprisonment. The prohibition against entering such a union, which the prohibition against admitting them to the sacraments is meant to support, is not

Joaquim, "Full Text and Explanatory Notes of Cardinals' Questions on *Amoris Laetitia*," *National Catholic Register*, November 14, 2016, https://www.ncregister.com/blog/edward-pentin/full-text-and-explanatory-notes-of-cardinals-questions-on-amoris-laetitia (accessed February 1, 2017).

38 Matteo Mattuzzi and Carlo Caffarra, "Only a Blind Man can Deny that there is Great Confusion in the Church," *The Catholic World Report*, January 15, 2017, trans. Andrew Guernsey, https://www.catholicworldreport.com/2017/01/15/only-a-blind-man-can-deny-that-there-is-great-confusion-in-the-church/ (accessed December 3, 2019). Original Italian version is published in *Il Foglio*.

39 Staff Reporter, "Cardinal Burke: There Are 'Other Cardinals Who Fully Endorse the Dubia'," *Catholic Herald,* January 12, 2017, http://catholicherald.co.uk/news/2017/01/12/cardinal-burke-there-are-other-cardinals-who-fully-endorse-the-dubia/ (accessed May 12, 2017).

only a simple commandment but also a path to freedom and happiness.

In a similar vein, Cardinal Gerhard Muller, former prefect of the CDF, gave a speech regarding *AL* at a seminary in Oviedo. He likened the Church to Noah's ark, and today's ecclesial challenges to the Great Flood. He stressed that the pope had not changed any teaching nor had he departed from the Church discipline regarding the sacraments. Otherwise, he said, the pope would have given enough reasons for the change. A footnote cannot give enough arguments to enact change. Instead, the footnote referred to objective situations of sins in general and did not pertain directly to those in irregular situations. For Muller, the situation of those in irregular unions "has particular characteristics that distinguish it from other situations."[40] Thus, he also interpreted the pronouncements of the document regarding the access to the sacraments based on previous magisterial teachings. For him, "the first key element for this journey of accompaniment is the harmony between the sacramental celebration and Christian life."[41] The sacraments should not be administered without conforming one's life to the Christian ideal. The basic principle for this teaching is that no one can truly desire a sacrament without conforming one's life to the demands of the sacrament. A person who receives the sacraments must live as a visible sign of the sacramental reality.

This has been the teaching from the very beginning and the Church cannot alter what Christ commanded. The Cardinal indicated that interpreting Pope Francis' statements

40 Gerhard Cardinal Muller, "What Can we Expect From the Family?" trans. Matthew Sherry, May 4, 2016, http://chiesa.espresso.repubblica.it/articolo/1351294bdc4.html?eng=y (accessed October 19, 2017).

41 Ibid.

as contrary to current teaching amounts not a gesture of mercy but "a way of the disintegration of the ecclesial ark, a way of water."[42] He also cautioned against the great emphasis on the individual at the expense of considering a wider perspective of the Church. Therefore, allowing access without desire for conversion would affect the essence of Church communion that is founded on the ontology of the sacraments.[43]

Several bishops have chosen to interpret *AL* solely through the lens of *FC*. For instance, the bishop of Marquette maintains *FC*'s criteria, given that *AL* does not explicitly refer to communion for divorced and remarried persons. Thus, he argues that *AL* should be interpreted according to the current practice of the Church, highlighting the criteria in the 1993 CDF letter concerning the reception of Holy Communion by the divorced and remarried.[44] The bishops of Alberta and Northwest Territories emphasize in turn that there is no change of practice in the pastoral care for those in irregular unions: "They are bound to live with the consequences of that truth as part of their witness to Christ and his teaching on marriage."[45] Likewise, the bishop of Portsmouth addresses the issue by declaring no change in pastoral practice regarding the administration of the sacraments. Instead, he prescribes a method of accompaniment and discernment for those in irregular marital situations.[46]

42 Ibid.
43 Ibid.
44 John F. Doerfler, "Guidelines in the light of *Amoris Laetitia*," Diocese of Marquette, http://www.dioceseofmarquette.org/images/files/Bishop/GuidelinesInLightOfAmorisLaetitia.pdf (accessed July 13, 2017).
45 The Catholic Bishops of Alberta and the Northwest Territories, "Guidelines for the Pastoral Accompaniment of Christ's Faithful who are Divorced and Remarried without a Decree of Nullity,", September 14, 2016, Pastoral Letters, http://www.dioceseofst-paul.ca/images/Pastoralletters/BishopsofAB2016/2016-09-14_PastoralAccompanimenttoDivorcedandRemarried.pdf (accessed December 3, 2019).
46 Philip Egan, "Pastoral Message from Bishop Philip about the

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Meanwhile, Bishop Steven Lopes of the Personal Ordinariate of the Chair of St. Peter underscores the duty of couples in such situations to live in complete continence. A civilly married couple, if committed to complete continence, may have the Eucharist available to them, after proper discernment with their pastor and having recourse to the sacrament of reconciliation.[47] The bishop knows the difficulty of this pastoral practice but he believes that it is not impossible, with God's grace.

The Polish bishops likewise believe that Pope Francis' teachings do not contradict those of John Paul II concerning the reception of the Eucharist by divorced and remarried Catholics. Following the teachings of John Paul II, they withhold sacramental absolution and the Eucharist unless the parties are led to true repentance and sacramental reconciliation[48] and are committed to live as brother and sister.[49]

Bishop Charles Chaput also advocates a traditional stand regarding the pastoral practice. He affirms the Church practice as described in *FC* and other magisterial documents. As a rule, communion should not be given to those who persist in grave sin. They should confess if they have sufficient

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Apostolic Exhortation *Amoris Laetitia*," April 24, 2016, http://www.portsmouthdiocese.org.uk/bishop/docs/20160424-BoP-Pastoral-Message-Amoris-Laetitia.pdf (accessed December 3, 2019).

47 Stephen J. Lopes, "A Pledged Troth: A Pastoral Letter on *Amoris Laetitia*, Letters and Statements," https://ordinariate.net/letters-and-statements (accessed December 3, 2019).

48 Staff Reporter, "Polish Bishops: *Amoris Laetitia* Does Not Allow Communion for the Divorced and Remarried," *Catholic Herald,* June 12, 2017, http://www.catholicherald.co.uk/news/2017/06/12/polish-bishops-amoris-laetitia-does-not-allow-communion-for-the-divorced-and-remarried/ (accessed October 19, 2017).

49 Staff Reporter, "Updated: Polish Bishops Consider New Document on Accompanying the Divorced and Remarried," *Catholic Herald*, October 18, 2017, http://www.catholicherald.co.uk/news/2017/10/18/polish-bishops-conference-accompany-the-remarried-but-no-communion/ (accessed February 25, 2018).

knowledge of having committed serious sins. In the case of diminished subjective responsibility, the person should repent, and amend his/her ways. The divorced and remarried couple should remain in sexual continence, living as brother and sister to be worthy of the sacraments. The bishop also encourages the divorced and remarried that if they fail in chastity, they must regularly approach the sacrament of Penance to open the way to the Eucharist.[50]

The second interpretation of *AL* regarding admission to the sacraments is a more progressive stand which considers the conditions given by *FC*, including the possibility of an internal forum solution. Through the internal forum, the persons concerned and the pastor discern the situation, after which judgment could be rendered as to whether admittance to the sacraments is possible.

Some local ordinaries have formulated guidelines on how to implement this internal forum option. For instance, the German bishops grant access to the sacraments only after a particular situation has been discerned. For them, accompaniment in discernment by a pastoral worker does justice to the particularity of each case. However, the divorced and remarried are not free to receive the sacraments unconditionally. The bishops specify that the pastoral worker should know and teach the way of life demanded by the Gospels. As such, going through a discernment process does not guarantee a path to the sacraments.[51]

50 Charles Chaput, "Pastoral Guidelines for Implementing *Amoris Laetitia*, Archdiocese of Philadelphia," http://archphila.org/wp-content/uploads/2016/06/AOP_AL-guidelines.pdf (accessed December 3, 2019).

51 Elise Harris, "German Bishops Say the Divorced-and-Remarried May Receive Communion," *Catholic News Agency,* February 1, 2017, https://www.catholicnewsagency.com/news/german-bishops-say-the-divorced-and-remarried-may-receive-communion-43199

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The Belgian bishops also published a pastoral letter that addresses the implementation of *AL*, especially in wedding preparations, family ministry, and pastoral discernment. Like the German bishops, the Belgian bishops open a path to the sacraments for the divorced and remarried based on the judgment of the pastor-in-charge. However, no clear-cut procedure is spelled out for pastorally discerning such situations.[52] The Maltese bishops likewise published their criteria for the application of Chapter 8 of AL.[53] While these do not give step by step instructions on how to care for those in irregular unions, they exhort pastors to help couples observe the following: adequate distinctions between situations, nullity of a previous marriage bond, an examination of conscience, determination of moral responsibility, sexual continence, and the law of gradualness. If the couple or person is able to form one's conscience properly regarding one's situation before God, and if one believes that one is at peace with God, nothing should preclude the person from receiving the sacraments.

In a statement for the Pontifical Council for the Family, Cardinal Ennio Antonelli invites Christians in irregular unions to regularize their situations in conformity with present norms. He encourages them to undertake the path of discernment and recommends the following steps to guide them. First, the validity of the previous marriage and the possibility of its annulment must be verified. Second,

(accessed February 2, 2017).

52 Belgian Bishops' Conference, "*Amoris Laetitia* Lettre Pastorale*", Church Militant,* https://docs.google.com/document/d/1aakAo-H6BiigKUzeS_n11aL0j4g2MAE2BEjRHQ6sjPw0/edit (accessed October 19, 2017).

53 Charles J. Scicluna and Mario Grech, "Criteria for the Application of Chapter VIII of *Amoris Laetitia*," Press Releases, http://ms.maltadiocese.org/WEBSITE/2017/PRESS%20RELEASES/Norms%20for%20the%20Application%20of%20Chapter%20VIII%20of%20AL.pdf (accessed December 3, 2019)

where possible and appropriate, a religious marriage must be celebrated, or a radical sanation of a civil marriage must be performed. Third, the cohabitation must end if there are no impediments. Fourth, sexual continence must be practiced if other solutions are not possible. Fifth, in the case of temporarily invincible error and refusal of sexual continence, the rectitude of conscience needs to be determined in the light of personal and global experience. Sixth, sacramental absolution and Holy Communion may be given while avoiding scandal.[54] Nevertheless, the Cardinal cautions that "it does not seem that a Christian, as long as he remains in an objectively disordered situation, can claim the right to receive the sacraments, by appealing to his inner disposition and his judgment of conscience."[55]

Meanwhile, a set of guidelines crafted by the Buenos Aires bishops contains a more detailed account on the way of discernment and accompaniment for those in irregular situations. First, the guidelines issue a disclaimer that this particular method of pastoral care allows all divorced and remarried to receive the sacraments. Each couple must then undergo their own process of discernment under the guidance of a pastor. This discernment process emphasizes the *via caritatis,* a commitment "to follow the way of Jesus, the way of mercy and integration,"[56] where the persons meet and discern with competent pastors. The pastor listens to the person's situations and admonishes them to live according to

54 Ennio Cardinal Antonelli, "*Amoris Laetitia*: For its Interpretation and Actuation," http://www.familiam.org/pcpf/allegati/13757/Amoris_Laetitia_ING.pdf (accessed 3 December 2019).

55 Ibid.

56 Buenos Aires Bishops, "Basic Criteria for the Implementation of Chapter VIII of *Amoris Laetitia*," *Catholic Voices*, September 18, 2016, , https://cvcomment.org/2016/09/18/buenos-aires-bishops-guidelines-on-amoris-laetitia-full-text/ (accessed December 3, 2019).

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the Gospel. However, this path does not necessarily lead to readmission to the sacraments and may culminate in other forms of integration into the community. Second, the pastor should always help the couple to consider the option of a life of sexual continence, even while recognizing the great difficulty this entails. The pastor should also assure them of recourse through the sacrament of confession each time they fail to keep sexual continence. Third, in more complex situations where nullity of the previous marriage cannot be established and continence is not feasible, the pastor may consider if mitigating factors diminish subjective responsibility and culpability. If so, the person may be admitted to the sacraments. However, the document insists that there are cases that do not merit the reception of the sacraments, especially where it involves family injustice or that their behavior seems to assert that their situation is perfectly normal and acceptable publicly. Moreover, to avoid scandal, communities must be catechized in accompanying and guiding those in irregular situations. Private access to the sacraments may also be considered if situations of conflict become unavoidable.[57]

The Buenos Aires guidelines, though brief, embody a clearer articulation of the process of discernment and integration. Pope Francis received the document and then sent a letter affirming and lauding the efforts of the Argentine bishops in formulating the guidelines. He also declared that, "The document is very good and completely explains the meaning of chapter VIII of *Amoris Laetitia.* There are no other interpretations. And I am certain that it will do much good. May the Lord reward this effort of pastoral charity,"[58]

57 Ibid.

58 Francis, "Text of Letter of Pope Francis to Mons. Sergío Alfredo Fenoy, Delegate of the Buenos Aires," *Pastoral Region,* September 5, 2016, , trans. Matthew Cullinan Hoffman, https://franciszekfalszywyprorok.files.wordpress.com/2016/09/

thereby giving the document his papal recommendation, even if unofficial.

Several theologians have in turn expressed their interpretation of the pastoral practice prescribed by AL. Cardinal Francesco Coccopalmerio, President of the Pontifical Council for the Legislative Texts, gives an in-depth method of interpreting and understanding the document. He confirms that the document allows the readmission to the sacraments of the divorced and remarried persons under certain conditions. First, "it is impossible that all these faithful (those in irregular unions) may not be living 'in a state of mortal sin,' and are not 'deprived of sanctifying grace.'"[59] Therefore, some are rightfully denied in the sacraments. But others may be deprived of full knowledge of situations because of a possible ignorance of the rule, an inability to recognize the "good" of the rule, or an inability to act as the rule dictates without committing more sins.[60] These latter persons must be led through a process of discernment and catechism. However, there are those who are unable to end the irregular union as the rule dictates because of grave reasons such as the upbringing of children: "Abandoning the irregular situation would harm other people who are themselves innocent, namely the partner and the children."[61]

Second, some persons may be fully aware of the irregularity of their situation and thus are conscious of their sinful condition.[62] Church teaching clearly states that these couples

letter_of_pope_to_pastoral_region_of_buenos_aires__september_5__2016.pdf (accessed October 19, 2017).

59 Francesco Coccopalmerio, *A Commentary on Chapter Eight of Amoris Laetitia* (Mahwah, NJ: Paulist Press, 2016), 3.1.

60 Cf. *AL*, no. 301.

61 Coccopalmerio, *Commentary,* no. 3.3.

62 Ibid.

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should live as brothers and sisters, abstaining from sexual relations. *AL* does not rule out encouraging couples to practice sexual continence. However, *AL* also considers that lack of sexual intimacy may lead to infidelity, thereby endangering the good of the children.[63] It cites *GS*, no. 51 which admits the necessity of intimacy in strengthening family ties in legitimate conjugal relationships and applies this consideration to cases of irregular unions as well. Thus, embracing continence or leaving the union may be considered inadvisable in certain cases, if it will bring serious harm upon the partner and/or the children.[64]

Third, subjective reasons such as behavioral conditioning may lead to difficulty in the observance of the law. AL speaks of forms of conditioning and mitigating factors that may not hold those in irregular unions subjectively culpable. Because of this, paragraph 305 strives to emphasize the help that the Church may render in this situation. This help also does not exclude the possibility of admission to the sacraments.

> The Church, therefore, could allow access to Penance and the Eucharist, for the faithful who find themselves in an irregular union, which, however, requires two essential conditions: they desire to change the situation, but cannot act on their desire. Clearly, the essential conditions above must be carefully and authoritatively discerned by the ecclesial authority… the ecclesial authority will, at least normally, be the pastor, who knows the people directly, and for this reason can make a proper judgment in these delicate situations.[65]

However, Coccopalmerio also addresses the need to avoid scandal in exercising this pastoral care. The faithful must be

63 *AL*, no. 298; footnote no. 329.
64 Coccopalmerio, *Commentary,* no. 3.5
65 Ibid., no. 3.7

informed and instructed about the pastoral efforts to integrate into the Church community those divorced and remarried persons.

> And this is achieved instructing the faithful and in a practical way offering to them the following yardstick: when the faithful who live in irregular situations are allowed access to the Eucharistic table, this means that the faithful themselves, in the judgment of the Church which knows their situations, confirms that the two conditions, which must always be considered essential, have been satisfied: the desire to change and the inability to do so.[66]

Coccopalmerio holds that in this interpretation of chapter 8, the doctrines are respected. The doctrine of indissolubility is maintained because the document affirms the illegitimacy of such unions and they are objectively contradicting the precepts of the law. Thus, by clearly affirming the need to avoid scandal, the document does not welcome such unions' proliferation. The doctrine of genuine repentance is affirmed since the prescribed pastoral intervention of integration targets persons who are conscious of their situation and intend to reform their situation but are not yet able to do so. The doctrine of sanctifying grace as a requirement for admission to the sacraments is also respected by considering their intention to regularize their situation amidst mitigating factors that may nullify or diminish culpability. Moreover, Coccopalmerio maintains that the Church may not admit to the sacraments those who are aware and conscious of their sinful situation but do not intend to change their irregular situation.[67]

66 Ibid.
67 Ibid., no. 3.8.

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Archbishop Victor Manuel Fernandez, a very close adviser of Pope Francis and one of the drafters of *AL,* confirms that the pope desires to open the path of the sacraments to those in irregular situations. But to keep the focus of *AL* on the broader reflection on love and marriage, Pope Francis decided to address the issue discreetly in the footnotes. Nevertheless, his approach has generated much attention and controversy.

Archbishop Fernandez further confirms that the Pope's letter to the Buenos Aires bishops regarding their pastoral guidelines calls attention to possible reforms in the pastoral practice of the Church involving those in irregular situations. In a sense, the Buenos Aires guidelines received an authoritative endorsement from the Pope, shedding light on how the Pope interprets his exhortation. However, Fernandez cautions that this does not open the path of the sacraments to everyone. If the person is not in a state of grace, he/she remains precluded from receiving the Eucharist. In this way, the path of discernment should be made available to discern one's situation before God: "In this discernment, the conscience of the concrete person plays a central role with regard to his real situation before God, his real possibilities, and his limits. That conscience, accompanied by a pastor and enlightened by the guidelines of the Church, is capable of an assessment that gives rise to a judgment, sufficient to discern regarding the possibility of access to communion."[68] Thus, merely examining one's objective faults is insufficient for assessing one's spiritual state. This is the essence of pastoral discernment.

68 Victor Manuel Fernandez, "Chapter VIII of *Amoris Laetitia:* What is Left after the Storm," trans. Andrew Guernsey, https://rorate-caeli.blogspot.com/2017/08/full-text-pope-francis-ghostwriter-of.html (accessed October 19, 2017).

Rocco Buttiglione, an Italian philosopher, defends the pastoral practice employed by Pope Francis. Buttiglione traces traditional Church teaching regarding mortal sin and forgiveness from it and finds that they are honored in *AL*. "The path the Pope proposes to divorced and remarried persons is exactly the same as the Church proposes to all sinners: go to confession, and the priest, having considered all the circumstances, will decide whether to give you absolution and admit you to the Eucharist or not."[69] Also in line with Church teachings, the pope includes mitigating factors and forms of conditioning among the considerations in assessing the culpability of persons. Buttiglione reiterates that *AL* does not indiscriminately allow all divorced and remarried persons into the sacraments. Instead it invites them to undergo the path of discernment, which does not guarantee absolution and reception of the Eucharist because of the variety and complexities of situations.

Cardinal Christoph Schönborn, archbishop of Vienna and one of the official presenters of *AL* to the press, reflects on the continuity of the Apostolic Exhortation with previous magisterial teachings. He believes that the document opens the path to the sacraments for those in irregular situation under certain circumstances. The Exhortation emphasizes that all "are called to beg for mercy, to desire conversion: 'Lord I am not worthy…'"[70] Following the pope's meditation on Paul's letter to the Corinthians about worthiness in receiving communion,

69 Rocco Buttiglione, "The Joy of Love and the Consternation of Theologians: Some Comments on the Apostolic Exhortation *Amoris Laetitia*," *L'Osservatore Romano*, July 19, 2016, http://www.osservatoreromano.va/en/news/joy-love-and-consternation-theologians (accessed December 3, 2019).

70 Christoph Cardinal Schönborn and Antonio Spadaro S.J, "Cardinal Schönborn on "The Joy of Love": The Full Conversation," America, August 9, 2016, https://www.americamagazine.org/issue/richness-love (accessed December 3, 2019).

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he underscores the need for everyone to discern their spiritual disposition before receiving the Eucharist. Discernment may show that some who are faithful in observing the rules are not disposed to receive the Eucharist. Alternatively, discernment may show that a person in an objective situation of sin may be in a state of grace and receive the sacraments.

> The Pope invites us not only to look at the external conditions (which have their own importance) but also to ask ourselves whether we have this thirst for a merciful pardon… One cannot pass from the general rule to 'some cases' merely by looking at formal situations. It is therefore possible that, in some cases, one who is in an objective situation of sin can receive the help of the sacraments.[71]

Schönborn sees a parallel between admitting to communion those in irregular marital situations under special circumstances and those belonging to other ecclesial communities that are not in full communion with the Catholic Church. Both instances are justified by the intention "to meet a grave spiritual need for the eternal salvation of an individual believer"[72] The Church believes in the primacy of her mission to lead people to salvation and to secure for them an access towards it especially in critical and consequential situations.

Schönborn understands that the change in pastoral practice proposed by *AL* is one step in evolution, as Pope Francis contemplates the signs of the times. There is a new consciousness of an ongoing evolution in our societies, that is, the various social conditionings that affect our capacity to make

71 Ibid.

72 John Paull II, *Encyclical Letter on the Eucharist in its Relationship to the Church (Ecclesia de Eucharistia),* April 17, 2003, Vatican Archives, http://www.vatican.va/holy_father/special_features/encyclicals/documents/hf_jp-ii_enc_20030417_ecclesia_eucharistia_en.html (accessed October 20, 2017), no. 45.

the right decisions. Discernment takes into account these conditions, which render persons less culpable or responsible in their objective situations.

Some Theological Considerations

Before examining the consistency of *AL* with Church teaching, it is important to ask whether or not the document approves the readmission of those in irregular marital situations to the sacraments. Did Pope Francis change the present Church practice on this matter? The answer is yes, but only in certain cases. This is implied in footnote 351 which names the Eucharist and Reconciliation as possible aids that the Church can make available for those in irregular situations. We can also deduce this from the Pope's letter to the Buenos Aires bishops commending their interpretation of AL that allows the readmission to the sacraments of persons in an irregular union, though only after a process of pastoral discernment with a pastor. Archbishop Victor Fernandez, close adviser to Pope Francis and one of the document's drafters, and Christoph Cardinal Schönborn, one of the presenters of the document, similarly favored the interpretation of the Argentine bishops. Therefore, we may conclude that AL allows the readmission to the sacraments in specific cases.

We may now ask: Is this pastoral practice of admitting to the sacraments the divorced and remarried persons consistent with Church moral tradition? The answer is yes. Notwithstanding the perceived deviation from traditional pastoral practice, the essence and soul of the Church's moral tradition remain consistent and unchanged. *AL*, as such, updates earlier pastoral practice by incorporating pertinent Church teachings such as the primacy of conscience, mitigating factors, the use of

the internal forum, and pastoral discernment to help couples who are in irregular marital situations adequately. Church teachings that were somehow sidelined in previous pastoral practice are presently being put to good use to supplement the ongoing development of Church practice.

The pastoral practice advocated by Pope John Paul II is to admit the divorced and remarried to the Eucharist and Penance only after their firm resolve to change their situation, or in cases where there is an impediment to breaking the relationship, the commitment to live in complete sexual continence. *AL* maintains this tradition. However, *AL* points out that there are extreme cases where, even if there is firm resolve to change their situation and live in continence, they cannot do so without endangering the family's situation. AL identifies that lack of intimacy between couples may lead to infidelity or endanger children's upbringing. People in such cases and other similar circumstances that prevent them from acting in accord with Church teaching should be given appropriate help and guidance.

Nevertheless, Pope Francis encourages those in irregular unions to come to confession and take the path of discernment so that they may truly understand their situation and what God wants them to do under the guidance of Church teachings and pastors. This process of discernment is evident in *FC*'s directives where John Paul II also reminded pastors about this path of discernment.[73] Nonetheless, Pope Francis does add substance to the discernment process prescribed in *FC.* He fine-tunes the concept of pastoral discernment by calling attention to persons' particular situations and mitigating factors and forms of conditioning that affect persons'

73 *FC*, no. 84

decisions. These mitigating factors are also recognized by the Catechism and are used in discerning the subjective culpability of a person.

Pope Francis underscores the use of the internal forum. As stated above, the CDF issued directives regarding the use of the internal forum in marital irregularity situations. The internal forum may come in different forms. The CDF letter understood the internal forum solution in the context of marriage annulments. On the other hand, Pope Francis refers to the internal forum as it is practiced in the Sacrament of Confession and in the process of pastoral discernment. The CDF did not recognize the internal forum as a solution for those who fail to obtain a declaration of nullity for a previous marriage. Acknowledging the CDF position, Pope Francis clarifies that the internal forum would contribute to the person's moral maturity and hopefully lead to one's integration with the Church community. Thus, the internal forum envisioned by Pope Francis does not privately or internally annul marriages.

The admission to the sacraments that *AL* prescribes, particularly Reconciliation and Eucharist, is not indiscriminate. The pope opens the path of the sacraments only to certain cases of the divorced and remarried.[74] He refrains from enumerating these cases, and instead allows the pastoral discernment to fulfill its role, precisely in recognition of the complexities of particular situations. However, he expressly defines the condition of those who cannot be admitted to the sacraments as those persons who, while being aware of their objectively sinful situation, persist in and exhibit their situation as something permitted and sanctioned by the Catholic

74 *AL*, no. 297.

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Church.[75] Two concerns need prior clarification prior to admission to the sacraments.

First, admission to the sacraments makes sense only if a person is remorseful and resolved to avoid sin, which does not seem to be the case of someone who remains in an irregular marital situation. Remarriage of divorced persons during the lifetime of their previous spouse is considered an adulterous union which is sinful. Indeed, the second union objectively contradicts the Gospel teaching and is therefore, an objective situation of sin.

AL does not deny this but considers the subjective culpability of persons in an objective situation of sin. Far from undermining the moral law, the Pope stresses that ascertaining the subjective culpability is essential in the discernment of situations and determining whether someone should be admitted to the sacraments. Sin is a personal 'no' to the call of God to goodness. However, to be in a state of mortal sin, there must be sufficient knowledge, full consent of the will and freedom, and serious gravity of the act. For instance, a prostitute may be in an objective situation of sin, yet, in many cases, one does not have the freedom or full knowledge in what one does. Thus, while prostitution remains an immoral act, we cannot brand them in an automatic and unqualified manner as sinful persons. The Catechism likewise identifies mitigating factors and forms of conditioning that may reduce or even nullify persons' culpability. The Pope includes these in the discernment process to provide access to the sacraments, not for all, but for persons in irregular situations who precisely have significantly limited culpability. For him, the sacraments aid the Church in helping these persons, by the

75 Ibid.

grace of God, to achieve a firm resolve towards the regularization of their current situation. In this way, the sacraments serve as the universal remedy for the weak to ensure their encounter with the Lord's mercy.[76]

The other problem is that the second marriage contradicts the union of Christ and his Church. This is the main reason why those in irregular situations are prevented from receiving the sacraments unless they mend their ways or resolve to live in complete continence. Admitting them to the sacraments, especially the Eucharist, without proper contrition and resolution contradicts the Eucharist's essence, which signifies the marriage feast of the Bride, who is the Church, and the Paschal Lamb who is Christ.

AL does not deny this contradiction but affirms the irregularity of the situation of these couples that they are indeed objectively contradicting Church belief and teaching. It also guards against the risk of scandal that can arise from admitting the divorced and remarried to the sacraments. As such, *AL* exhorts pastors as a precaution to explain to the faithful the updated pastoral programs of integration for those in irregular unions. A catechesis that affirms the values and indissolubility of marriage is essential in this age of marital breakdowns. The Church must also spearhead the formation of faith groups, which can greatly assist these persons, especially in their integration to the Church›s life.

To conclude, the changes and developments proposed by AL appear to be faithful to Church teaching in light of the signs of the times. First and foremost, the document is issued to address the difficulty and challenges of married life in this present age. Through it, the Pope urges the Church to

76 Cf. *AL*, no. 305; footnote no. 351.

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exert more effort in caring for couples, especially in difficult marital situations. The sacraments become the most powerful aid for our weak brethren. At the same time, the document does not weaken the Church's commitment to marriage indissolubility, nor does it water down Gospel values. Instead, it empowers the Church to enhance the affirmation of its doctrine while reaching out to those in irregular situations. The supplemental considerations, such as mitigating factors and forms of conditioning, the inability of parties to act according to the moral law without committing graver sins, internal forum, and pastoral discernment in general, are components that are expected to further the continuous development of doctrine. *AL* has not departed from doctrine; rather, it revolutionizes and highlights the Church's attention and care for its faithful in irregular marital unions.