

Miller, Bruce

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UNDERSTANDING AND IMPLEMENTING *AMORIS LAETITIA* CHAPTER VIII

BRUCE MILLER¹

SUMARIO: I. 2015 Changes in Marriage Law. II. Rights to sacraments and the Strict Interpretation of the Laws Governing Them before Amoris Laetitia. III. Sacraments in General. IV. Canon 915, an Exegesis without Reference to Amoris Laetitia. V. Amoris Laetitia Elements Reviewed. VI. A Concluding Image. Appendix A: Bishops of the Buenos Aires Region of Argentina. Appendix B: "The joy of love experienced by families is also the joy of the Church". Appendix C: Criteria for the application of Chapter VIII of Amoris Laetitia.

RESUMEN: Este artículo desarrolla el tema de la interpretación del Capítulo VIII de Amoris Laetitia, comparándolo con los cánones sobre la interpretación de las leyes que regulan el acceso a los sacramentos. El autor analiza el acceso al Bautismo y a la Comunión. Concluye resaltando la importancia no sólo de la confesión, sino también del proceso de acompañamiento de las personas a través de las charlas, retiros, consejería y vida parroquial que conforman la comunidad.

PALABRAS CLAVE: Matrimonio, Derecho matrimonial, Papa Francisco, Código de derecho canónico

ABSTRACT: This article is about the interpretation of Chapter VIII of Amoris Laetitia, made in comparison with the canons on the interpretation of laws governing access to the sacraments. The author analyzes the access to Baptism and Holy Communion. He concludes stating the importance not only of confessional but also the process of accompanying people through classes, assisting people in retreat ministry, counseling and in parish life that forms community.

KEY WORDS: Marriage, Matrimonial Law, Pope Francis, Code of Canon Law

1. El autor es sacerdote de la Diócesis de Alexandria (USA) y actualmente es el presidente de la *Canon Law Society of America* (CLSA).

I. 2015 CHANGES IN MARRIAGE LAW

As a result of two synods the apostolic exhortation *Amoris Laetitia* was published. Between the two synods *Mitis Iudex* and *Mitis Misericors* were issued *motu proprio* by Pope Francis. *Mitis Iudex* and *Mitis Misericors* significantly changed marital processes in the respective Codes.

The Canon Law Society of America (CLSA) at its convention in St. Louis in 2014 called for a task force to be formed to offer input to the pontifical commission known to be working at the time on the reformation of matrimonial tribunal procedures in the *Code of Canon Law*. The following narrates a recognition of the pastoral realities of countries not endowed with resources to implement those procedures as well as the circumstances in countries such as the United States where the services of church courts are not fully utilized. Thus, the task force was realistic about the reception and reach of the procedural law that was being reformed.

The following preamble was proposed to the task force. It fell to the editing room floor, however, and was never part of the official report in the name of each of the canonists on the task force that was sent to the pontifical commission². It did reach the commission through a member of that commission who also served the task force. Moreover, the same situation should be borne in mind when considering the *Amoris Laetitia*. The text of that preamble follows:

We live in a place and time endowed with an excess of benefits that render the tribunals in the USA very capable. The parties and witnesses also have easy access to the tribunals. Experts are readily available. While many people are not typical in their capacities, no one truly lacks the technical ability to avail themselves of canonical advocacy through some means.

As we set out to make our recommendations, we are mindful that these circumstances do not exist for perhaps half or more of the Catholics or those wishing to marry Catholics in the world. Thus, as we offer suggestions for the streamlining of matrimonial procedure, we would be remiss if we did not acknowledge that this very law regardless of its form places burdens on those faithful and potential spouses for which there is no remedy. We are mindful that there are no parallels in the canons on procedure that strike the pastoral tone of canon 1116 §1, 2° or contain the extraordinary dispensing powers similar in spirit to those mentioned in canon 1080 for those who have no access to tribunals when marriages fail.

2. A task force of the CLSA speaks in their own names and not in the name of the Society or its Board of Governors.

Furthermore, although the services of tribunals are readily available, less than one third of divorced Catholics in the USA ever approach them. Some have argued, therefore, that the number of decisions in favor of nullity is relatively small compared to the number of divorces among Catholics or those attempting to marry Catholics. Of greater concern, is the fact that both Catholics and non-Catholics attempting merely civil marriages with them refuse to approach an available tribunal. Such behavior raises the specter of the non-reception of an institute of law.

Thus the following suggestions are offered for places where tribunals are active and persons in need of their services willingly approach them....

II. RIGHTS TO SACRAMENTS AND THE STRICT INTERPRETATION OF THE LAWS GOVERNING THEM BEFORE *AMORIS LAETITIA*

Also leading up to *Amoris Laetitia*, and especially Chapter VIII, it is appropriate to examine the canons on the interpretation of laws governing access to the sacraments and especially canon 915 as they were understood before this apostolic exhortation. In that way, the reader can compare and contrast what was already permitted in the law of the 1983 Code to determine the *novum* in *Amoris Laetitia*.

Can. 18 Laws that prescribe a penalty, or restrict the free exercise of rights, or contain an exception to the law, are to be interpreted strictly.

When any law, guideline, policy, etc. by whatever name touches upon the free exercise of rights to obtain access to the sacraments of the church, canon 18 comes into consideration as the norm governing the interpretation of that statement. As is traditionally said, the words employed are to be construed in ways no more, no less and no differently than their proper meaning, and therefore, not extended to encompass more circumstances or have a broader meaning than a narrow understanding would lend them. Precision is required in interpretation, therefore, so that every circumstance or person is given the benefit of the doubt, and no one is held to a higher standard to meet the requirements of the law or the requisites broadened or lowered so as to make one subject to the law not intentionally covered by the Legislator.

The limitation of the rights of the Christian faithful, cleric and lay, are to be interpreted strictly. These rights are outlined in the context of obligations and duties that naturally arise from the nature of the institution of the church and when individuals or groups are recognized as naturally having them or they are granted them by law.

The universal law of the church as expressed in canon law or liturgical law cannot be reinterpreted in particular law or policy, guideline or other similar

statement contrary to canon 18. Such a limitation may be imposed when explanations are drawn for distribution to candidates and parents or those who take their place by well-meaning pastoral leaders who unintentionally restrict the lawful freedom granted by the universal law³.

Can. 213 The Christian faithful have the right to receive assistance from the sacred pastors out of the spiritual goods of the church, especially the word of God and the sacraments.

This canon cannot be invoked apart from other canons touching upon the teaching and sanctifying offices. There is no place for canonical fundamentalism that reads one canon out of context or to the exclusion of other canons that more precisely deal with a particular matter. For instance, one could read this canon such that there is no right to baptism, since prior to baptism, one is not a member the Christian faithful. Such an interpretation would be absurd. Equally, one cannot demand that the diocesan bishop himself do all the teaching and administer all the sacraments. Rather, this canon provides the context that is to come later in the Code in the Book on the Teaching Office and in the Book on the Sanctifying Office in canon 843. It is in that canon that primarily the rights of the Christian faithful and correspondingly the obligations of the ministers of the church will be more specifically delineated. Then, within the canons of each individual sacrament, even more specific requirements for their reception will be listed. It is to this final group of canons regarding specific sacraments that the strict interpretation required by canon 18 would more necessarily apply.

Can. 217 Since they are called by baptism to lead a life in keeping with the teaching of the gospel, the Christian faithful have the right to a Christian education by which they are to be instructed properly to strive for the maturity of the human person and at the same time to know and live the mystery of salvation.

With this canon the language becomes formational and not merely educational as it begins to talk about a right to acquire those things necessary to strive for the maturity of the human person. When hearing the language of this canon, one cannot help but think of the four pillars (human, spiritual, intellectual and pastoral) around which seminarians and deacon candidates are to be formed as

3. An interesting discussion of this principle of strict interpretation is found in Javier Otaduy, "Commentary on Canon 18," in *Exegetical Commentary on the Code of Canon Law*, English language edition ed. Ernesto Caparros et al. (Chicago and Montreal: Midwest Theological Forum and Wilson & Lafleur, 2004) [hereafter *Exegetical Commentary*] 1: 338-345.

they prepare for ordination. To teach as Jesus did requires gifted educators who draw out of their charges their giftedness and inspire them to desire to know and live a life of grace that brings about the salvation of human persons. This goal is a lofty one that is not easily achieved.

III. SACRAMENTS IN GENERAL

Can. 843 §1. Sacred ministers cannot deny the sacraments to those who seek them at appropriate times, are properly disposed, and are not prohibited by law from receiving them.

§2. Pastors of souls and other members of the Christian faithful, according to their respective ecclesiastical function, have the duty to take care that those who seek the sacraments are prepared to receive them by proper evangelization and catechetical instruction, attentive to the norms issued by competent authority.

It is not uncommon to hear canon 843 quoted out of context, that is, without reference to canon 843 §2. In §1 the burden of proof that one or more of these elements is lacking is, in fact, on the sacred ministers who cannot refuse the sacrament otherwise. Then, in the second paragraph not only are the clergy's duties specifically identified, but also other members of the Christian faithful are named and denoted as having a specific responsibilities. In this second paragraph it is clearly stated that there is a duty on the part of the leadership of parishes to receive those who seek the sacraments by proper evangelization and catechetical instruction. Indeed this description is of a proactive welcome and not merely a reactive exclusion to those who come.

This canon emphasizes that those who come seeking the sacraments are not to be simply delayed much less be denied and they are to be received in the spirit of evangelization and afforded catechetical instruction necessary to achieve the fruitful reception of the sacraments. It does not appear that this canon is here as an obstacle to those who approach asking for a sacrament but it is an exhortation to those who have the pastoral responsibility to evangelize and to catechize.

It is important to note, especially for the sacrament of marriage that it is a sacrament *in fieri* and *in facto esse*. Every other sacrament is also a sanctifying moment of grace that begins to operate effectively in the person's life.

It is not within the power of the pastor of souls or the other pastoral leadership and decision-makers in the parish to create impediments to the sacraments of salvation. It is only within their power to evangelize and catechize so

that candidates or their parents ask more opportunely, are more rightly disposed and have the opportunity to overcome any impediments imposed by legitimate authority. Bearing this responsibility in mind, when questions arise in the parish setting; when devising their own policies or interpreting them; pastoral leaders should be advocates for the rights of the Christian faithful in the reception of the sacraments. This canon ultimately calls for the inclusion of persons and is not a measure for their exclusion in the reception of the sacraments at the beginning of the various phases of their faith journeys.

In 2012 at the Chicago convention the Canon Law Society of America in a presentation, I discussed the application of these canons to the sacraments of initiation. I reviewed the actions of the Congregation of the Doctrine of the Faith leading to the 1983 Code of Canon Law concerning the requirements for the delay of sacraments especially of infant baptism. Oddly, there are many parallels between what was said prior to the 1983 Code and what Pope Francis is now teaching in *Amoris Laetitia*.

An instruction *Pastoralis Actio* was issued that sounds as though it might have been issued quite recently. It begins,

*The pace of change in society, however, is making it difficult for the young to be brought up in the Faith and to persevere in it, and the resulting problems encountered by Christian parents and pastors have not been completely eliminated*⁴.

Many parents are distressed to see their children abandoning the Faith and no longer receiving the sacraments, in spite of their own efforts to give them a Christian upbringing, and some pastors are asking themselves whether they should not be stricter before admitting infants to baptism. Some think it better to delay the baptism of children until the completion of a catechumenate of greater or less duration, while others are asking for a re-examination of the teaching on the necessity of baptism, at least for infants, and wish the celebration of the sacrament to be put off until such an age when an individual can make a personal commitment, perhaps even until the beginning of adult life⁵.

However, this questioning of traditional sacramental pastoral practice cannot fail to raise in the church justified fears of jeopardizing so essential a doctrine as that of the necessity of baptism. In particular, many parents are scandalized at

4. SACRA CONGREGATIO PRO DOCTRINA FIDEI, instruction *Pastoralis Actio* [*Past. Act.*], October 20, 1980, in AAS 72 (1980) 1154-1155, n° 1.

5. *Past. Act.*, 2.

finding baptism refused or delayed when, with full awareness of their duty, they request it for their children⁶.

The instruction then concludes:

In addressing the Bishops, the Congregation for the Doctrine of the Faith was fully confident that, as part of the mission that they have received from the Lord, they will take care to recall the church's teaching on the necessity of infant baptism, promote an appropriate pastoral practice, and bring back to the traditional practice those who, perhaps under the pressure of comprehensible pastoral concerns, have departed from it. The Congregation also hopes that the teaching and guidelines contained in this Instruction will reach all pastors, Christian parents and the ecclesial community, so that all will become aware of their responsibilities and make their contribution, through the baptism of children and their Christian education, to the growth of the church, the Body of Christ⁷.

What are the proper pastoral practices in light of the 1980 Instruction and the 1983 Code so that the practice of infant baptism would not be jeopardized by overly stringent requirements or that it would become a meaningless cultural ritual? In other words, how might the extremes be avoided?

To understand the view of the Congregation of the Doctrine of the Faith, let us journey to an even earlier response given after some three years of study. On July 13, 1970 in a private communication, Most Reverend Barthélemy-Pierre-Joseph Hanrion, O.F.M., Bishop of Dapango, Togo, was informed of the decision of the Cardinals of the Congregation that had been ratified by the Holy Father⁸. In it a distinction was drawn between the Christian parents, who were “regular” for whom it was said to be “normal” for them to desire to have their infants baptized as soon as possible after birth and parents who were not Christian or were “irregular Christians”. The latter were characterized as those who would turn to Islam if baptism were not granted, and if it were, for the most part, the children would not receive a Catholic education. Among these irregular Christians were the polygamists, “concubinaries”, lawful spouses who had abandoned all regular practice of their faith or who requested baptism of the infants for the sole reason of social propriety.

6. *Past. Act.*, 3.

7. *Past. Act.*, 34.

8. It is cited in the *fontes* of c. 868 §1, 2°, but had long been known before its publication. Sacred Congregation for the Doctrine of the Faith, Response [Private], July 13, 1970: *CLD* VII:592-594. It is only referenced on the Vatican website as a CDF document.

For the latter group, it was deemed sufficient that they were conscious of their responsibilities to rear the children as Christians and thus judgment by their proper pastors was to be passed based on the sufficiency of the guarantees made regarding the Catholic education of the infants to be baptized. These guarantees could be given by some member of the family or by the godfather or godmother. Or the sufficiency that could be found even in the support of the community of the faithful, would suffice. The guarantee was concerning the “founded hope of Catholic education”. When these conditions were met, in the judgment of the pastors, the infants were to be baptized because “the infants were baptized in the faith of the church”.

Failing any finding of some evidence that would be sufficient to warrant baptism, infants were to be enrolled in a kind of catechumenate with a view to baptism later. Then, action was required of the clergy who were to have continual pastoral contacts with the infants as they matured and with their parents, with a view to eventual preparation and the reception of baptism.

This venture to Africa has not been in vain because very similar elements were mentioned again in the 1980 *Pastoralis Actio*. In this document the traditional doctrine on baptism was reviewed as well as the teaching of the magisterium. Then, the church’s mission was outlined. In Part Two, in light of the teaching that had been recalled some of the current - day concerns were reviewed.

Concerning the link between baptism and a personal act of faith the document echoes the 1970 response stating, “baptism is never administered without faith: in the case of infants, it is the faith of the church”⁹. The document insists on the deposit of Christ in the person of the child who is thereby not deprived of freedom, once consciousness and freedom awake. Lamentably, it noted the possibility that the child may indeed reject the grace given. Against the notion that baptism is only suitable in a homogeneous society and is inappropriate in a pluralistic one, the document astutely notes:

It is worth adding that all too often pluralism is being invoked in a paradoxical way, in order to impose on the faithful behavior patterns that in reality are an obstacle to the exercise of their Christian freedom.

In a society whose mentality, customs and laws were no longer inspired by the Gospel it was therefore of great importance that in questions connected with infant baptism the church’s own nature and mission should have been taken into consideration before all else.... In particular with regard to infant baptism... [the church’s] practice must have not depended only on criteria borrowed from the human sciences¹⁰.

9. *Past. Act.*, 18.

10. *Past. Act.*, 24.

In the third part, the suggestion of the definitive abandonment of infant baptism or even offering a choice between immediate and deferred baptism were all to be rejected. Rather, two principles were enunciated: first, baptism, since it was necessary for salvation and was a blessing to infants, must not be delayed and second, assurances were required that the gift would be nurtured by an authentic education in the faith and Christian life. Not surprisingly, these assurances were allowed from the parents or close relatives and then it was said that “various substitutions are possible within the Christian community”. Only if the assurances were not serious or if they were non-existent can the sacrament of baptism be “refused”¹¹.

Again, the distinction was drawn between believing families and families with little faith or non-Christian families.

It noted that all the rules for believing families were given in the introduction to the baptismal ritual, notably at number 8. It stipulated that, unlike the prior ritual, the parents have priority over the godparents who still were to assist in the education of the child. Also, special importance was to be given at the time to prayer, catechesis and appropriate advice. There was no sense of a need to rush from the birth to the baptism. The document counsels consideration of the welfare of the child and the mother that she may be present, giving time for preparation and actual celebration in keeping with the Paschal character of the sacrament unless there was a danger of death of the child.

While the document spoke of “refusal” of baptism as noted above, in no sense should this statement be interpreted as a summary dismissal. Rather, pastors must have had a dialogue with families with little faith or non-Christian families. The instructions were all rather precise:

In this case, the pastor will endeavor by means of a clear-sighted and understanding dialogue to arouse the parents’ interest in the sacrament they are requesting and make them aware of the responsibility that they are assuming.

In fact, the church can only accede to the desire of these parents if they give an assurance that, once the child is baptized, it will be given the benefit of the Christian upbringing required by the sacraments. The church must have a founded [reasonable] hope that the baptism will bear fruit.

If the assurances given – for example, the choice of godparents will take sincere care of the child or the support of the community of the faithful – were sufficient, the priest could not refuse to celebrate the sacrament without delay, as in the case of children of Christian families. If on the other hand, they were insufficient, it would have been prudent to delay baptism. However, the pastors should have kept in contact with the parents so as to secure, if possible, the conditions

11. *Past. Act.*, 28.

required on their part for the celebration of the sacrament. If even this solution failed, it was suggested, as a last recourse, that the child be enrolled in a catechumenate to be given when the child reached school age¹².

The rules were then clarified since they had already been in force as of the publication of the baptismal ritual. Thus, one could in no way speak of “refusal” as it was generally understood, but rather of a need for a pedagogical delay that looked to the advancement of the family in faith as it became more aware of its responsibility. In no sense was it envisioned that such faith development could transpire in a vacuum or on its own. Otherwise, the action to delay would be tantamount to denial. With regard to the promises made, it was sufficient that there was a reasonable or realistic hope that the children would have a Christian upbringing.

Furthermore, for those for whom baptism was delayed, there was to be no ceremony since it might have been mistaken for baptism. Rather, they were to be presented later in the Rites of Christian Initiation as Children of Catechetical Age. Mention was then made that in no way did the church consider it preferable or typical to delay baptism until such an age.

Finally, if Christian families were to live in areas where there was a proliferation of families of little faith or non-Christian families, special provision was to be made so that they may retain their full right to have their infants baptized shortly after birth as usual.

The role of the family in the parish community had also been highlighted. Notably, the whole spectrum from care for engaged couples, young marrieds without children and families with children should have received special attention and catechetical formation concerning the baptism of infants. This whole undertaking was to be a task for the parish community as it undertook the preparation and celebration of the baptism of infants.

Amoris Laetitia tries to address issues similar to *Pastoralis Actio*, of whether a person can be forever excluded from the sacraments.

IV. CANON 915, AN EXEGESIS WITHOUT REFERENCE TO *AMORIS LAETITIA*

To compare and contrast the past with the present it is important to comprehend what was possible already. In this section, therefore, careful distinctions will be drawn so that the determinations in can. 915 pre-*Amoris Laetitia* can be properly appreciated.

12. *Past. Act.*, 30.

Can. 915 Those who have been excommunicated or interdicted after the imposition or declaration of the penalty and others obstinately persevering in manifest grave sin are not to be admitted to holy communion.

The law bans from holy communion a member of Christ faithful who obstinately persist in manifest grave sin.

This canon is most commonly understood to apply to remarried divorcees, since the fact that they have sealed with the civil contract their unhallowed and indeed sinful (because it is adulterous) union means they have declared their intention to “obstinately persist” and render entirely “manifest” their living in grave sin (adultery).

The same might not apply to people who are simply living together and could not be said to “obstinately persist” (to fall under the prohibition of the canon, it is not enough to “persist” but to do so “obstinately” so something more than mere persistence is required, e.g. the “in your face” nature of the civil marriage after divorce from the legitimate spouse), but here we are entering into a realm of casuistry that is not really related, not directly at any rate.

Care must be taken not to paint the application of canon 915 with broad brushstrokes. Such is not warranted preeminently because of canon 18.

The sacred pastors must carefully distinguish the erroneous opinion at every possible turn that encourages cohabitation prior to marriage as a good and denounce it on the one hand, but it is entirely something else to exclude publicly such a person from receiving holy communion.

There is also a great distance between the confessor of one living in concubinage, knowing rather more than we can ever know, telling him that he is wrong, and even denying him absolution (granting, for this purpose, but not necessarily agreeing, that this could be legitimate) and publicly excluding him from holy communion on the strength of canon 915. We must beware the temptation to collapse the subtleties and distinctions of Catholicism, which have served the church and souls so well. This matter also highlights what is not the role of the Eucharistic server and even the Eucharistic minister in the public forum vs. the private forum especially in regard to nonpublic figures.

V. *AMORIS LAETITIA* ELEMENTS REVIEWED

First, what is the role of the church vis-à-vis the family unit? Is there an ideal family unit? What can the church hope to accomplish as teacher and mother?

In *Pastoralis Actio* the church encouraged an accompaniment of the parents of infants who had been delayed. The focus of such ongoing dialogue was evangelization so that the conditions required on the part of the parents could be achieved with the result that there would be a fruitful celebration of the baptism of their infants. So, it had as a goal the fruitful celebration of the baptism of their infants as the result of this accompaniment. When we read *Amoris Laetitia* we hear this same language of bringing similar people, working with them, in accompanying them and having a similar goal. One of the things we must take a look at in *Amoris Laetitia* is this progression, “gradualness” as it is called in the document. It is a progression towards a goal. The goal cannot be achieved instantly, but evangelization is the goal. Slowly but surely, transformation and evangelization are the promises of the process of patient accompaniment.

We have to take care that we not take canon 915 and broaden the brush strokes of it forgetting that there is a canon 18. *Amoris Laetitia* is carefully nuanced reminder that we must be careful not to paint people into corners from which they cannot escape from the law that is made harsher and bitterer than it is. If you look at *Amoris Laetitia*, for instance in paragraphs 31 and 32, it speaks about the welfare of the family as being decisive for the future of the church and the world. In paragraph 32 speaks about the reality of the family and how it is the responsibility of the church to promote the family. Note that these paragraphs speak both of the ideal and the real. Does a family ever reach the ideal? Does a family ever reach perfection? No. Could it be that, if we are accompanying families that are struggling that they move toward those ideals?

Now, I wish to direct your attention to n° 86-88 to set the tenor of the document that is filled with goals and aspirations. Again when you read these paragraphs consider them in terms of goals and aspirations. The church looks to families who remain faithful to the teachings of the Gospel and encourages them and thanks them for the testimony they offer and for the way they bear witness in a credible way to the beauty of marriage. The church is a family of families. The experience of love in families is a perennial source of strength for the life of the church. The unitive end of marriage is a constant summons to make this love grow and deepen. Through their union in love the couple experiences the beauty of fatherhood and motherhood and shares plans, trials, expectations and concerns. So the Holy Father was trying to set up a vision of the ideal, but he also does not kid anyone. It is not always possible to achieve those goals.

In n° 185 and 186, the Holy Father draws from I Corinthians 11:17-34 where Paul addresses the issue of discrimination between the rich and the poor when the poor are made to watch the rich eat. Pope Francis then calls our attention to the fact that in Eucharistic sharing it is also possible to create scandalous

distinctions and divisions among the members of the church. Again, he sounds the call to perfection.

In these paragraphs there is a wonderful reflection on First Corinthians and where Pope Francis talks about discerning the body. In paragraph 186, he addresses the demand that we are inclusive, especially in regards to the Eucharist.

Then in paragraphs 284 and 286, he talks about the law of gradualness. That is certainly not the gradualness of the law. Truth does not develop over time. Rather, there is a gradualness during which people come to appreciate the fullness of truth. There is a kind of gradualness as people are able to have a conversion of heart. *Amoris Laetitia* is first and foremost, I believe, a call to conversion. You will find a phrase in several places in *Amoris Laetitia*, translated in English as “time is greater than space”. What it really means is that “life is bigger than explanations”. We can have all the wonderful explanations in the world, but our attempts to define and elucidate never really capture the full mystery of life. It is even more difficult to embrace the full mystery of life. The Holy Father is trying to thread a needle between what it means to be a church of compassion and of inclusion on the one hand and the church of the ideal on the other. We cannot speak simplistically. It can no longer simply be said that all those in an irregular marriage are living in a state of sin and deprived of sanctifying grace. It is too black and white as he put in the document. He takes pains to underscore the Christian ideal of a couples living in lifelong exclusive commitment above all. At the same time he acknowledges the possibility of discernment that recognizes in complex situations vis-à-vis church teaching the consequences or effects of a rule that need not necessarily always be the same. Then, a rigid consistency in regards sacramental discipline need not be always embraced. He cites the church’s solid body of reflection concerning the mitigating factors and situations that have been taught in moral theology, but that have not ever been transmitted or carefully applied to people.

In addition, he addresses the admission of the civilly married couples to the Eucharist. He is reluctant actually to provide a new set of general rules canonical in nature as he puts it and applicable to each and every cases. People’s lives are different and it is hard to make them fit into pigeon holes we might say. A pastor cannot feel that it is enough simply to apply moral laws to those living in irregular situations as if they were “stones to throw” at people’s lives. I wonder where he got that idea about throwing stones.

Such thinking reminds him also of those who hide behind the church’s teachings sitting on the chair of Moses and judging at times with superiority and superficiality difficult cases and wounded families. No one can be condemned forever the Pope says because that is not the logic of the Gospel. In every situation when dealing with those who have difficulties in living God’s law the full invitation to pursue the *via caritatis* must be clearly heard.

Fraternal charity is the first law of Christians. Respectful pastoral guidance is required for those who manifest a homosexual orientation. They can receive the assistance they need to understand and fully how to carry out God's will in their lives.

Regarding birth control, the Synod Fathers stated that there is a growth of a mentality that would reduce generation of human life to one variable of an individual's or couple's plans. That cannot be. The church's teaching is meant to help couples to experience a complete harmonious and conscious communion as husband and wife together with their responsibility for procreating life. We need to return to the message of the encyclical *Humanae Vitae* of Blessed Pope Paul VI where he highlights the need to respect the dignity of the person in morally assessing methods of regulating birth. So, he goes on, and the need for dialogue and again the idea of accompaniment, we have to be careful that we are not in the process of handing out permissions. That we are not in the process of making decisions for people.

Dr. Huels talked about the need for spiritual direction and training in spiritual direction in order to achieve the goals set out for ministry in light of *Amoris Laetitia*¹³. He also pointed out the fact that conscience is a faculty and not a feeling. We who are priests in the confessional are not there to replace the conscience of people. There is a true need for teachers, catechists and preachers who can evangelize and bring about the conversion of heart that can take place within a group that is being accompanied and ultimately formed into a community of support. In various settings the task is to form consciences with the truth but it is not the task of those in ministry to be the permission giver, to be the person who takes the place of the acting moral agent.

People must be assisted with knowledge and that is a hard thing to do. It is not a matter of training but forming people. That does not only happen in the confessional. It is a process of accompanying people through classes, assisting people in retreat ministry, counseling and in parish life that forms community.

VI. A CONCLUDING IMAGE

So too, when [the Good Shepherd] found wandering in the mountains and hills the one sheep that had strayed from God's flock of a hundred, he brought it back to

13. John HUELS, JCD, Professor Saint Paul University, "The Internal Forum Solution and the Brother-Sister Requirement: A Development in Doctrine in the Jubilee Year of Mercy" 2017 Convention, Canadian Canon Law Society, <https://ccls-sccl.ca/documents/2017/1/2016%20Convention-1.pdf>.

the fold, but he did not exhaust it by driving it ahead of him. Instead, he placed it on his own shoulders and so, compassionately, he restored it safely to the flock¹⁴.

The English translations of the statements extant at the time of publication of three bishops' conferences that correspond to Chapter VIII of *Amoris Laetitia* follows for the convenience of those who wish to study and compare them.

14. St. Maximus the Confessor, abbot (Epist. 11: PG 91, 454-455), Fourth Week of Lent, Wednesday, Office of Readings.

APPENDIX A¹⁵

BISHOPS OF THE BUENOS AIRES REGION OF ARGENTINA

Dear priests: We welcome with joy the exhortation *Amoris Laetitia*, which calls us first and foremost to grow the love of the spouses and to motivate the young people to choose marriage and family. Those are the big issues that should never be neglected or overshadowed by other issues. Francis opened several doors in the family ministry and we are called to take advantage of this time of mercy, to assume as a pilgrim church the wealth that the Apostolic Exhortation offers us in its different chapters.

We now turn to Chapter VIII alone, since it refers to “the bishop’s directions” (300) in order to discern the possible access to the sacraments of some “divorced in a new union.” We believe, as bishops of the same pastoral region, to agree on some minimum criteria. We offer them without prejudice to the authority that each Bishop has in his own diocese to specify, complete or delimit them.

- 1) Firstly, we should remember that it is not appropriate to speak of “permissions” to access the sacraments, but rather a process of discernment accompanied by a pastor. It is a “personal and pastoral” discernment (300).
- 2) In this way, the pastor should emphasize the fundamental announcement, the kerygma, which stimulates or renews the personal encounter with the living Jesus Christ (cf. 58).
- 3) The pastoral accompaniment is an exercise of the “via caritatis”. It is an invitation to follow “the way of Jesus, that of mercy and integration” (296). This itinerary calls for the pastoral charity of the priest who welcomes the penitent, listens attentively and shows him the maternal face of the church, while accepting his right intention and his good intention to place his whole life in the light of the Gospel and to practice charity (cf. 306).

15. The Statement of the Argentine Bishops of the Buenos Aires Region, September 5, 2016.

- 4) This way does not necessarily end in the sacraments, but can be oriented to other ways of integrating more into the life of the church: a greater presence in the community, participation in groups of prayer or reflection, commitment in various ecclesial services, etc. (cf. 299).
- 5) When the concrete circumstances of a couple make it feasible, especially when both are Christians with a path of faith, the commitment to live in continence can be proposed. *Amoris Laetitia* does not ignore the difficulties of this option (see note 329) and leaves open the possibility of accessing the sacrament of Reconciliation when it fails in that purpose (see note 364, according to the teaching of John Paul II to Cardinal W Baum, March 22, 1996).
- 6) In other more complex circumstances, and where a declaration of nullity could not be obtained, the option mentioned may not in fact be feasible. However, a path of discernment is equally possible. If one comes to recognize that, in a particular case, there are limitations that diminish responsibility and guilt (see 301-302), particularly when a person considers that he would fall into a further fault by damaging the children of the new union, *Amoris Laetitia* opens the possibility of access to the sacraments of Reconciliation and the Eucharist (notes 336 and 351). These in turn enable the person to continue to mature and grow with the power of grace.
- 7) But we must avoid understanding this possibility as an unrestricted access to the sacraments, or as if any situation justified it. What is proposed is a discernment that adequately distinguishes each case. For example, special care requires “a new union that comes from a recent divorce” or “the situation of someone who has repeatedly failed to fulfill family commitments” (298). Also, when there is a sort of apology or ostentation of one’s own situation “as if it were part of the Christian ideal” (297). In these more difficult cases, pastors must accompany with patience, seeking some way of integration (cf. 297, 299).
- 8) It is always important to orient people to their conscience before God, and for this the “examination of conscience” proposed by *Amoris Laetitia* 300 is useful, especially as regards “how they have behaved with their children” Or with the spouse abandoned. When there were unresolved injustices, access to the sacraments is particularly scandalous.
- 9) It may be advisable that eventual access to the sacraments be made in a reserved manner, especially when situations of conflict are envisaged. At the same time, however, we must not fail to accompany the community in order to grow in a spirit of understanding and acceptance, without creating confusion in the church’s teaching on indissoluble marriage. The community is an instrument of mercy that is “undeserved, unconditional and gratuitous” (297).

10) Discernment does not close because “it is dynamic and must always remain open to new stages of growth and new decisions that allow the ideal to be realized more fully” (303), according to the “law of gradualness” (295) and Trusting in the help of grace.

We are primarily pastors. That is why we want to welcome these words of the Pope: “I invite pastors to listen with affection and serenity, with the sincere desire to enter the heart of the drama of people and to understand their point of view, to help them live better and recognize His own place in the church” (312).

With affection in Christ.

The Bishops of the Region. September 5, 2016

APPENDIX B¹⁶

“THE JOY OF LOVE EXPERIENCED BY FAMILIES IS ALSO THE JOY OF THE CHURCH”

An invitation to renewed pastoral care of marriage and of the family in the light of *Amoris Laetitia* Statement by the German Bishops adopted by The Permanent Council of the German Bishops’ Conference on 23 January 2017

We are highly gratified about the great gift that Pope Francis has given to the Church, and to all people of good will who support a successful life in marriage and the family, in the shape of his Post-Synodal Apostolic Exhortation *Amoris Laetitia*. In this Exhortation, he has summarised and continued the results of the synodal journey that the Church was able to explore with him in 2014 and 2015. At the same time, he has linked the thoughts and reflections with the message of the Bible, with the tradition of the Church and with his own pastoral experience, so that they form a convincing whole. Especially the everyday, positive language that Pope Francis uses when he speaks about marriage, partnership, sexuality, parenthood, family, and in particular love, makes *Amoris Laetitia* an inspiring source for a life in marriage and in the family. We cordially invite everyone to read and study the Pope’s Apostolic Exhortation. As Pope Francis himself emphasises: “The greatest benefit, for families themselves and for those engaged in the family apostolate, will come if each part is read patiently and carefully, or if attention is paid to the parts dealing with their specific needs” (AL No. 7). We especially recommend reading the 4th chapter on “Love in marriage”. In his reflections on 1 Cor 13, the Holy Father lays a solid foundation for reading the different pastoral

16. “The Word of the German Bishops, The joy of love, which is lived in families, is also the joy of the Church - Invitation to a renewed marriage and family pastoral in the light of *Amoris Laetitia*” was presented by the Permanent Council of the German Bishops’ Conference on January 23, 2017 in Würzburg.

challenges in the light of the Holy Scripture which might lead to concrete actions, since “The sacrament of marriage is not a social convention, an empty ritual or merely the outward sign of a commitment. The sacrament is a gift given for the sanctification and salvation of the spouses, since their mutual belonging is a real representation, through the sacramental sign, of the same relationship between Christ and the Church”. (AL No. 72) Christian marriage is thus a visible sign of God’s love and of its effective power: a piece of the living Church. For this reason, the Church speaks of marriage and the family as a church in a small setting, of a “domestic church”.

We would like first of all to offer our thanks, not only to the Holy Father for his encouragement, but also to everyone who has contributed in the preparations and guidance of the synodal journey in the surveys during the preparatory period, as well as in the technical preparations. We are also grateful for all the prayers that have accompanied the synod participants and their deliberations. Everyone has contributed in their own way towards ensuring that this synodal journey was a journey for the whole Church.

The many and varied sets of circumstances in which married couples and families live today were also made clear to us on this journey. We regard with considerable respect the efforts which people today have to make in society, at work and in bringing up their children. All those who practice on a day-to-day basis faithfulness in a partnership, parental love, care and parenting, solidarity between the generations and sincere relationships in their family environment make an infinitely valuable contribution to society, and above all to one another. The untiring work done by parents in accompanying their children on their path into life and encouraging them to become responsible personalities is irreplaceable. We are therefore highly grateful to spouses and families for their testimony to life and for their faith. We wish to support people on this path, wherever we are able.

What consequences does *Amoris Laetitia* now have for pastoral care of marriage and of the family in Germany? Much of this will have to be developed in the concrete pastoral situations. We are therefore only stating a few important reference points. These are the first focal points on which we wish to particularly concentrate in future. This does not come close to exhausting the riches offered by *Amoris Laetitia*. We would also like to continue to address the Gospel of the Family, as it was developed in *Amoris Laetitia*, and to develop further focal points. We would like to start by discussing the following:

- preparation for marriage;
- marriage guidance;
- strengthening the family as a place to learn to believe;
- dealing with frailty: accompanying - discerning – integrating.

Preparation for marriage

Pastoral guidance for couples, parents and families starts with preparation for marriage. “The complexity of today’s society and the challenges faced by the family require a greater effort on the part of the whole Christian community in preparing those who are about to be married” (AL No. 206). We would like couples who wish to marry in Church to know that we rejoice in their decision, for “The joy of love ... is also the joy of the Church” (AL No. 1). We are glad to invite them to accompany us in taking a look at their specific circumstances and tackling the spiritual as well as the sacramental dimension of their partnership. Additional efforts are needed here in order to develop a catechumenate of marriage which accompanies them on their path towards marriage as a deliberate path of faith. We already have large numbers of models, initiatives and projects in the German dioceses for preparation for marriage, starting by promoting young people in their ability to engage in relationships, such as in youth work, religious instruction and pastoral care of the family, on seminars for couples and marriage, through to direct preparation for the marriage service. Many of these offers are however provided on too isolated a basis, and reach too few couples. The precious asset which the marriage sacrament signifies on the basis of faith is frequently too weakly communicated to young couples.

Our pastoral work in preparation for marriage therefore needs to be stepped up and to take on a more binding and at the same time a more convincing character. Both on the ground and in exchanges at diocesan and supra-diocesan level, there is a need to develop on and expand these pastoral offerings.

Marriage guidance

We are also faced with a duty to double our marriage guidance efforts. To this end, there needs to be an appreciation in particular of all the successful elements with all their efforts and positive results. It should be celebrated in services marking special occasions and at wedding anniversaries. It is also important to explore the sacrament of marriage and its meaning in greater detail in proclamation, in preaching and in adult education. On the other hand, however, it is not sufficient to withdraw to the proclamation of principles. “What we need is a more responsible and generous effort to present the reasons and motivations for choosing marriage and the family, and in this way to help men and women better to respond to the grace that God offers them” (AL No. 35). We are explicitly promoting all efforts in marriage and family circles in parishes, associations and spiritual communities. In all this, we are particularly keen on developing a spiri-

tuality of marriage and the family. Especial significance also attaches to the large numbers of inter-denominational marriages in our country. Their situation poses a special challenge, but also provides an opportunity in the ecumenical dialogue. We know that the pain of the separation between the Churches is felt particularly acutely in such a marriage. This will certainly be felt particularly when it comes to the question of baptism and in parenting methods, or when celebrating first communion or confirmation.

Above all, the fact that full communion at communion is not yet possible makes clear the pain caused by the separation of Christianity in such marriages and families. We are aware that it is not easy to communicate the Catholic position in our time whilst also addressing this question in pastoral responsibility.

In addition to the appreciation of success, help is also indispensable when problems and difficulties arise in accompanying married couples and families. Families face situations on an almost daily basis which make their lives difficult. The spectrum ranges from economic challenges, through illnesses, physical impairments, problems with parenting and relationships, housing shortages, job loss, caring for aged parents, to the death of family members. The help that is offered needs to be appropriately varied. The services offered by Caritas, the range of pastoral care of marriage and of the family and the Church's advisory agencies, as well as the possibility to directly approach staff working in parish ministry and in the Church's facilities, for instance in kindergartens, are already doing a great deal now in this respect. We would like to take this opportunity to thank all those who are committed to working in these areas. This is the only way in which the Church can be experienced as having a kind face and as willing to help in people's everyday lives. The appeal from *Amoris Laetitia* applies to all of us: "In such difficult situations of need, the Church must be particularly concerned to offer understanding, comfort and acceptance ..." (AL No. 49).

Strengthening the family as a place to learn to believe

With *Amoris Laetitia*, we point to the particular significance of the family as a place to learn to believe: "Raising children calls for an orderly process of handing on the faith" (AL No. 287). Families are the place in which the first personal relationships are formed, and they create an intimate place of experience. Children are particularly sensitive towards the major questions of life, and parents can create an awareness of these questions among their children. Daily rituals are helpful, such as praying the benediction cross together, which they draw on their foreheads. And the conscious keeping of Sunday and church festivals in the family provides an opportunity for religious instruction and for passing on the

faith. Parents wish to give to their children an orientation for their future lives. This also includes speaking about their own faith: “Faith is God’s gift, received in baptism, and not our own work, yet parents are the means that God uses for it to grow and develop” (AL No. 287). Thus families seek shared forms of viable expression. The shaping of religious elements and rituals in family life does not need the extraordinary, but needs to be close to everyday life. We would like to support parents and grandparents to do even more to seek and find new, suitable forms. Children need adults who accompany them in their questioning and seeking. Children however also challenge adults with their questions. This can help adults to re-think their faith and their religious practice, and to grow in their faith. The co-existence of children and adults can therefore be a real school of faith. We wish to increase our support for these processes in pastoral terms, particularly since the religious element of family life has to a large extent ceased to be something that can be taken for granted.

Dealing with frailty: accompanying - discerning – integrating

Despite all the good will on the part of spouses, and in spite of all the preparation for marriage, relationships do sometimes break down. People see themselves faced by the shattered remains of their life plans that were based on a partnership. They suffer from having failed and having been unable to do justice to their ideal of life-long love and partnership. Their self-doubt is frequently also exacerbated by economic woes. It is the children of a failing relationship who are particularly affected. In this predicament, it is the job of the Church to accompany and support people. In many cases it is the Church’s advisory centres and those providing pastoral care to lone parents which provide this service. Having said that, everyday pastoral work must be practiced with an open ear and a generous heart so that it is possible to encourage “openness to grace” (AL No. 37).

We would therefore also like to address the question of how the Church approaches those who are divorced and civilly remarried and who long to receive the sacrament of Reconciliation and the Eucharist. The indissolubility of marriage is part and parcel of the Church’s indispensable set of beliefs. *Amoris Laetitia* leaves as little doubt in this regard as it does concerning the need to take a differentiated view of the respective circumstances in which people find themselves “Consequently, there is a need “to avoid judgements which do not take into account the complexity of various situations” and “to be attentive, by necessity, to how people experience distress because of their condition.” (AL No. 296) *Amoris Laetitia* stresses the three aspects of accompanying, discerning and integrating as central guiding concepts, on the basis of the fundamental statement that: “No

one can be condemned for ever, because that is not the logic of the Gospel!” (AL No. 297). In circumstances which are frequently felt to be unsettling and taxing, those concerned should be able to experience that their Church does not let them fall. It needs to be made clear when dealing with remarried divorcees that they belong to the Church, that God does not take His love away from them, and that they are called on to practice both God’s love and brotherly love, and to be real witnesses of Jesus Christ. The Holy Father unambiguously stresses the aspect of guidance by stating: “Such persons need to feel not as excommunicated members of the Church, but instead as living members, able to live and grow in the Church and experience her as a mother who welcomes them always, who takes care of them with affection and encourages them along the path of life and the Gospel.” (AL No. 299)

It becomes clear what the Pope means in this context by discerning when he states in *Amoris Laetitia*: “The Church possesses a solid body of reflection concerning mitigating factors and situations. Hence it can no longer simply be said that all those in any “irregular” situation are living in a state of mortal sin and are deprived of sanctifying grace.” (AL No. 301). *Amoris Laetitia* does not offer a general rule with regard to this matter, and it does not provide an automatic mechanism to admit all those who are divorced and civilly remarried to the sacraments. *Amoris Laetitia* neglects neither the grave fault which many people take on in such situations of break-down and failure of marital relationships, nor the problem that civil remarriage contradicts the visible symbol of the sacrament of marriage, even if the person concerned was left without guilt. *Amoris Laetitia* however does not stop at categorical and irreversible exclusion from the sacraments. Footnote 336 (to AL No. 300) makes it clear that discernment which “can recognise that in a particular situation no grave fault exists” should also lead to discerning consequences in terms of sacramental discipline. Footnote 351 (to AL No. 305) furthermore points out that, in an objective situation – which may not be subjectively culpable, or fully such – “a person can be living in God’s grace, can love and can also grow in the life of grace and charity” (AL 305), while receiving the Church’s help and in certain cases also the help of the sacraments. This too speaks in favour of the possibility of receiving the sacraments in such situations.

Not all faithful whose marriages have broken down and are divorced and civilly remarried can receive the sacraments without discernment. Rather, there is a need for discerning solutions which do justice to the individual case and then come to bear if the marriage cannot be annulled. In this context, we encourage all who have justified doubts that their marriage was concluded validly to take up the service of the Church’s marriage courts so that, where appropriate, they may enter into a new church marriage. We would like to take this opportunity to thank everyone working in the Church’s courts for their discrete pastoral commitment.

Amoris Laetitia presupposes a process of decision-making guided by a pastoral worker. Subject to the proviso of this decision-making process, which is highly demanding on the consciences of everyone involved, *Amoris Laetitia* opens up the possibility to receive the sacraments of Reconciliation and the Eucharist. In *Amoris Laetitia*, Pope Francis stresses the significance of conscience-based decisions when he says: “We also find it hard to make room for the consciences of the faithful, who very often respond as best they can to the Gospel amid their limitations, and are capable of carrying out their own discernment in complex situations. We have been called to form consciences, not to replace them.” (AL No. 37). Such a spiritual process, which is always concerned about integrating, does not always conclude with the receipt of the sacraments of Reconciliation and the Eucharist. The individual decision in the respective circumstances of not, or not yet, being able to receive the sacraments deserves respect and recognition. But a decision in favour of receiving the sacraments must also be respected. There is a need to avoid both a laxistic stance lacking intensive assessment when it comes to accompanying, discerning and integrating, and also a rigorist stance which hastily pre-judges people and continues to define their situations as “irregular”. Such extreme stances need to be replaced by discernment (Lat. “discretio”) exercised in a personal discussion. We consider it to be our task to deepen the path of conscience-formation among the faithful. This makes it necessary to enable our pastors and provide them with criteria. The Holy Father provides such detailed and excellent conscience-forming criteria in *Amoris Laetitia* (see AL Nos. 298-300).

This guiding principle of accompanying, discerning and integrating signifies a considerable claim and a major challenge, for pastors and for the faithful alike. Particularly in a situation of failure, but also over and above it, people are to be able to learn that the Church is with them and invites them to go along with Her. “The Church’s pastors, in proposing to the faithful the full ideal of the Gospel and the Church’s teaching, must also help them to treat the weak with compassion, avoiding aggravation or unduly harsh or hasty judgements.” (AL No. 308) Pope Francis touched on many situations in his Exhortation: Be it lone parents, migrants and displaced families, interdenominational, interreligious or intercultural couples, those where one partner believes and the other believes much less strongly, or indeed not at all, families living in poverty looking after family members who are old, ill or in need of particular care, and not lastly also those couples who are not yet able to decide to marry, and married couples after divorce and civil remarriage. Some of them we will only be able to accompany on a brief section of their journey, or we will only maintain a distant contact with them, whilst we will be able to accompany others more intensively, and some will be on the road with us permanently. And we must not deny the Gospel of the family here. “We would be depriving the world of values that we can and must offer.” (AL No. 35). Accompanying couples undergoing crises, divorces and civil

remarriage also means a major challenge and an opportunity to spark a discussion of the Church and Her understanding of marriage.

We would like to encourage anyone wishing to take the path of marriage and family with the Church to personally take the ground-breaking text *Amoris Laetitia* to heart, and hence to discover the riches of the Gospel of the family for their own lives. We would like to support, further and guide all spouses and all families on this path. The Holy Father himself has given us a message to take with us on our journey: “All of us are called to keep striving towards something greater than ourselves and our families, and every family must feel this constant impulse. Let us make this journey as families, let us keep walking together. What we have been promised is greater than we can imagine. May we never lose heart because of our limitations, or ever stop seeking that fullness of love and communion which God holds out before us.” (AL No. 325)

APPENDIX C¹⁷

CRITERIA FOR THE APPLICATION OF CHAPTER VIII OF *AMORIS LAETITIA* JANUARY 2017

Dear Brother in the Priesthood,

Like the star which led the Magi towards their encounter with Jesus, the Apostolic Exhortation *The Joy of Love* enlightens our families in their journey towards Jesus as his disciples.

This message is also relevant to the couples and families who find themselves in complex situations, especially those involving separated or divorced persons who have entered a new union. Although they may have “lost” their first marriage, some of these persons have not “lost” their hope in Jesus. Some of these earnestly desire to live in harmony with God and with the Church, so much so, that they are asking us what they can do in order to be able to celebrate the sacraments of Reconciliation and the Eucharist.

Akin to the Magi, who took a different route back home after meeting Jesus (see Mt 2, 12), these persons – at times after a strenuous and difficult journey – are able to meet Christ who offers them a future even when it is impossible for them to follow the same route as before. Through accompaniment and honest discernment, God is able to open up new routes for these persons, even if their previous journey may have been one of “darkness”, marked with past mistakes or sad experiences of betrayal and abandonment. In their encounter with Christ and with His Church, these people find a “light” that illumines their present life and encourages them to return to God with hope and courage.

17. The Statement of Archbishop Charles J. Scicluna of Malta and Bishop Mario Grech of Gozo, January 8, 2017.

Therefore, in line with the directions given by Pope Francis, we, the Bishops of Malta and Gozo, are offering these guidelines to the priests in our dioceses, in order to accompany these people through “a responsible personal and pastoral discernment” to an awareness of their life situation in the light of Jesus (AL 300). It is important that the following guidelines be read in the light of the indicated references:

1. Above all, we must always keep in mind that our pastoral ministry towards persons who live in complex family situations, is the same ministry of the Church who is Mother and Teacher. As priests, we have the duty to enlighten consciences by proclaiming Christ and the full ideal of the Gospel. At the same time, in the footsteps of Christ himself, we have the duty to exercise the “art of accompaniment” and to become a source of trust, hope, and inclusion for those who request to see Jesus (see Jn 12, 21), especially for those persons who are most vulnerable (see AL, 291, 296,

308; EG 169). In the case of couples with children, this inclusion is necessary not only for the couple but also for “the care and Christian upbringing of their children, who ought to be considered most important” (AL 299; see also AL, 245-246).

2. When we meet or come to know of persons who find themselves in so called “irregular” situations, we need to commit ourselves to enter in dialogue with them and to come to know them in a spirit of authentic charity. If, subsequently, they show a genuine desire or accept to engage in a serious process of personal discernment about their situation, we should accompany them willingly on this journey, with true respect, care and attention. They “should be made to feel part of the Church. ‘They are not excommunicated’ and they should not be treated as such, since they remain part of the ecclesial community” (AL 243). Throughout this process, our role is not simply that of granting permission for these people to receive the sacraments, or to offer “easy recipes” (see AL 298), or to substitute their conscience. Our role is patiently to help them to form and enlighten their own conscience, in order that they themselves may be able to make an honest decision before God and act according to the greatest good possible (see AL 37).

3. Before dealing with the pastoral care of those disciples of the Lord that have gone through the experience of failure in their marriage and are now living in a new relationship, we would like to address the situation of those who cohabit or who have only married civilly. These situations call for “pastoral care that is merciful and helpful” (AL 293) and “require a constructive response seeking to

transform them into opportunities that can lead to the full reality of marriage and family in conformity with the Gospel” (AL 294). In pastoral discernment it is important to distinguish between one situation and another. In some cases, “the choice of a civil marriage or, in many cases, of simple cohabitation, is often not motivated by prejudice or resistance to a sacramental union, but by cultural or contingent situations” (AL 294) and, therefore, the degree of moral responsibility is not the same for all cases. “Let us remember that a small step, in the midst of great human limitations, can be more pleasing to God than a life which appears outwardly in order, but moves through the day without confronting great difficulties” (AL 305, EG 45).

4. We now address our ministry with persons who are either separated and divorced, who have entered a new union. If during the discernment process with these people, a reasonable doubt arises concerning the validity or consummation of their canonical marriage, we should propose that these people make a request for a declaration of the nullity or dissolution of their marriage bond.

5. Throughout this discernment, an adequate distinction should be made between one situation and another, because not all cases are the same. “One thing is a second union consolidated over time, with new children, proven fidelity, generous selfgiving, Christian commitment, a consciousness of its irregularity and of the great difficulty of going back without feeling in conscience that one would fall into new sins. The Church acknowledges situations ‘where, for serious reasons, such as the children’s upbringing, a man and woman cannot satisfy the obligation to separate.’ There are also the cases of those who made every effort to save their first marriage and were unjustly abandoned, or of ‘those who have entered into a second union for the sake of the children’s upbringing, and are sometimes subjectively certain in conscience that their previous and irreparably broken marriage had never been valid.’ Another thing is a new union arising from a recent divorce, with all the suffering and confusion which this entails for children and entire families, or the case of someone who has consistently failed in his obligations to the family. It must remain clear that this is not the ideal which the Gospel proposes for marriage and the family” (AL 298).

6. It would be appropriate that throughout this process of discernment, we accompany these people to make “an examination of conscience through moments of reflection and repentance”, in which they “should ask themselves: how did they act towards their children when the conjugal union entered into crisis; whether or not they made attempts at reconciliation; what has become of the abandoned party; what consequences the new relationship has on the rest of the

family and the community of the faithful; and what example is being set for young people who are preparing for marriage” (AL 300). This applies in a special way for those cases in which a person acknowledges his or her own responsibility for the failure of the marriage.

7. Throughout the discernment process, we need to weigh the moral responsibility in particular situations, with due consideration to the conditioning restraints and attenuating circumstances. Indeed, “factors may exist which limit the ability to make a decision,” (AL 301) or even diminish imputability or responsibility for an action. These include ignorance, inadvertence, violence, fear, affective immaturity, the persistence of certain habits, the state of anxiety, inordinate attachments, and other psychological and social factors (see AL 302; CCC 1735, 2352). As a result of these conditioning restraints and attenuating circumstances, the Pope teaches that “it can no longer simply be said that all those in any ‘irregular situation are living in a state of mortal sin and are deprived of sanctifying grace’ (AL 301). “It is possible that in an objective situation of sin – which may not be subjectively culpable, or fully such – a person can be living in God’s grace, can love and can also grow in the life of grace and charity, while receiving the Church’s help to this end” (AL 305). This discernment acquires significant importance since, as the Pope teaches, in some cases this help can include the help of the sacraments (see AL, note 351).

8. “By thinking that everything is black and white, we sometimes close off the way of grace and of growth, and discourage paths of sanctification which give glory to God” (AL 305). This calls for more prudent instruction in the law of gradualness, (see AL 295) in order to discern the presence, the grace and the working of God in all situations, and help people approach closer to God, even when “not in a position to understand, appreciate, or fully carry out the objective demands of the law” (AL 295).

9. Throughout the discernment process, we should also examine the possibility of conjugal continence. Despite the fact that this ideal is not at all easy, there may be couples who, with the help of grace, practice this virtue without putting at risk other aspects of their life together. On the other hand, there are complex situations where the choice of living “as brothers and sisters” becomes humanly impossible and give rise to greater harm (see AL, note 329).

10. If, as a result of the process of discernment, undertaken with “humility, discretion and love for the Church and her teaching, in a sincere search for God’s

will and a desire to make a more perfect response to it” (AL 300), a separated or divorced person who is living in a new relationship manages, with an informed and enlightened conscience, to acknowledge and believe that he or she are at peace with God, he or she cannot be precluded from participating in the sacraments of Reconciliation and the Eucharist (see AL, notes 336 and 351).

11. During this discernment process, we should examine with these people, how “their participation can be expressed in different ecclesial services”, particularly within “the liturgical, pastoral, educational and institutional frameworks” (AL 299). One should not exclude that these people be considered suitable to be godparents. On the other hand, “if someone flaunts an objective sin as if it were part of the Christian ideal, or wants to impose something other than what the Church teaches, he or she can in no way presume to teach or preach to others”. It is our duty to preach anew “the proclamation of the Gospel message and its call to conversion”. Moreover, there could also be ways in which the person participates in the life of the community, such as in the social field, in prayer meetings, or as suggested by his or her personal initiative, together with our discernment (see AL 297).

12. In this journey of accompaniment, we must listen to and give value to the suffering of the persons who are innocent victims to separation, divorce or abandonment. Conditions of poverty make this pain even more traumatic. Forgiving an injustice suffered and endured is far from easy, but grace makes this journey possible (see AL 242).

13. While exercising our ministry, we must be careful to avoid falling into extremes: into extreme rigour on the one hand, and laxity on the other. This process should be an invitation to harness certain attitudes, such as pastoral charity, honesty, discretion, an ongoing conversion, and love for the Church and her teaching (see AL 267, 300); attention to what God made “from the beginning” (see AL 61-66); humility in order to shed our sandals in front of the sacred ground of the other (see Ex 3, 5; EG 169); the wish sincerely to seek God’s will, and to be able to present the fragrance of Christ’s presence and his personal gaze (see EG 169).

14. In order to avoid any cause for scandal or confusion among the faithful (see AL 299), we must do our utmost in order to inform ourselves and our communities by studying and promoting the teachings of *Amoris Laetitia*. This teaching requires us to undergo a “pastoral conversion” (EG 25). Together with

the Pope, we do understand those who would prefer a “more rigorous pastoral care”, but together with him, we believe that “Jesus wants a Church attentive to the goodness which the Holy Spirit sows in the midst of human weakness, a Mother who, while clearly expressing her objective teaching, ‘always does what good she can, even if in the process, her shoes get soiled by the mud of the street’” (AL 308).

We pray to God, with the intercession of the Holy Family of Nazareth, that through her priests, the Church in Malta and Gozo can indeed be a messenger that helps today’s Christians to be open to God’s voice in their conscience and, thereby, see the new path opening before them, leading from darkness to light.

Today, 8th January 2017, Solemnity of the Epiphany of the Lord.

+Charles J. Scicluna, Archbishop of Malta; +Mario Grech, Bishop of Gozo