

# BREAKING DOWN OF MARRIAGES AND RECEIVING THE HOLY COMMUNION<sup>1</sup>

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Due to ignorance of Church law, some identify divorce as a canonical offense punished with excommunication; while some divorced Catholics, particularly those who have attempted civil marriages, voluntarily distance themselves from the Church because they feel abandoned by the ecclesial community for reason of their restricted participation in the sacraments. Whether these people can receive the Holy Communion has been the single biggest question on the minds of the Catholics for a very long time. It gained momentum from the beginning of the papacy of Pope Francis in 2013 and especially at the synods of family in 2014 and 2015.

The post synodal exhortation “*Amoris Laetitia*” was released in April 2016. Since then, a media storm has broken out asking whether Pope Francis favors giving Holy Communion to divorced and remarried couples. A focal point for this question comes in footnote 351 of paragraph 305 of “*Amoris Laetitia*”, regarding pastoral care to those in “irregular situations” - couples cohabiting while not validly married. The footnote reads, “In certain cases, this can include the help of the sacraments ... I would also point out that the Eucharist ‘is not a prize for the perfect, but a powerful medicine and nourishment for the weak’.” Many feel that this statement of Pope Francis is misleading and they want to know the exact present position of the Catholic Church regarding giving the Holy Communion to the couples in difficulties especially to the divorced and remarried couples.

To meet this end, in this paper, I attempt to analyze the canonical situation of the divorced members of the faithful by departing from the ecclesiology of the Second Vatican Council which describes the Church as *communio* and also by comparing the relevant provisions of the canonical discipline from 1917 Code till the present. Finally, I expose the present teaching of the Church regarding the question of admitting the couples in difficulties especially the divorced and remarried couples to the Holy Communion.

## **I. CANONICAL SITUATION OF THE COUPLES IN DIFFICULTIES AND THEIR RIGHTS AND DUTIES IN THE CHURCH**

### **A. Civil Divorce and Ecclesial Communion**

To be able to understand the canonical situation of a member of the People of God, it is important to depart from the notion of the Church as communion. It describes not only the integration of the faithful in the Church but also the ontological reality of who is a faithful.

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<sup>1</sup> Refer also: Sahayaraj LOURDUSAMY, “Admission of the Divorced and Civilly Remarried Catholics to the Eucharistic Communion- Towards a Definitive Solution?”, in *Studies in Church Law*, 10, 2014-2015, Vol. X, pp. 217-237

Communion is not a vague disposition; rather, it is an organic reality requiring a juridical form and the animation of charity. To understand the canonical situation of the divorced faithful, it is helpful to distinguish between the mystical and juridical dimensions of communion. Such distinction, however, should not lead to a radical separation between these two aspects of one reality<sup>2</sup>. Internal or mystical communion, on the one hand, is the participation of the faithful in the Mystical Body of Christ through the action of God's grace and charity. This can be destroyed partially by mortal sin, and it can be lost totally through the loss of faith. On the other hand, external or juridical communion is determined by the faithful's union with the Church through the bonds of profession of faith, the sacraments and ecclesiastical governance<sup>3</sup>.

Lumen Gentium teaches that though a person is externally incorporated into the Church, if he does not persevere in charity, that person is not saved: "In addition to these (external) bonds, however, for full incorporation it is necessary to possess the Spirit of Christ, in other words to be united to God in love through sanctifying grace"<sup>4</sup>. Thus, the faithful's communion with God and with the Church could be strengthened or it can be weakened depending on how the individual responds to the demands of sanctity<sup>5</sup>.

Divorce, when sought unjustly and without any legitimate and licit reasons is a grave offense<sup>6</sup>. Those who are innocent and had been abandoned unjustly do not contravene the moral law, and therefore, do not destroy the bonds of their mystical (internal) communion in the Church<sup>7</sup>. Those who are guilty of this offense destroy partially their mystical (internal) communion with the Church.

"Contracting a new union, even if it is recognized by civil law, adds to the gravity of the rupture: the remarried spouse is then in a situation of public and permanent adultery"<sup>8</sup>. Those who are guilty and have not repented of their sin remain to be members of the Church for they retain the indelible character produced by baptism. This means that the external bonds of communion remain intact though the internal bonds are partially destroyed. For this reason, Saint John Paul II called "upon the pastors and the whole community of the faithful to help the divorced and remarried with solicitous care to make sure that they do not consider themselves as separated from the Church, for as baptized persons

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<sup>2</sup> Congregation for the Doctrine of Catholic Faith, Litterae "*Communio notio*", 28. 05. 1992, AAS, 85, 1993, No. 4, p. 838-850.

<sup>3</sup> *Ibid.*, Nos. 3 and 4. Cf., also CIC, c. 204.

<sup>4</sup> *Lumen Gentium*, No. 14.

<sup>5</sup> John Paul II, Encyclical Letter "*Ecclesia de Eucharistia*", 17.04.2003, AAS, 95, 2003, No. 36.

<sup>6</sup> Catechism of the Catholic Church, Nos. 1649; 2383-2386.

<sup>7</sup> *Ibid.*, No. 2386.

<sup>8</sup> *Ibid.*, No. 2384.

they can and indeed must share in her life”<sup>9</sup>. However, due to the weakened bonds of communion, they encounter certain limitations in their participation in the mission and life of the Church. This juridical effect has its origin in the objective situation created by an irregular marriage situation.

## **B. Difficult Family Situations and Irregular Marriage Situations**

The Apostolic Exhortation, *Familiaris Consortio* includes within the category of difficult family situations the state of separated spouses or simple divorcees<sup>10</sup> and of the divorced and remarried<sup>11</sup>. The expression difficult situation is used to refer to any objective problematic situation concerning either the family or the married state. Both simple divorcees and the remarried belong to this situation since their condition contradicts the normal situation of marriage. The concept of difficult situation is greater in scope than the concept of irregular situations. While all irregular situations are difficult situations, not all difficult situations are irregular since there are difficult situations which could arise involuntarily and do not have any connotation of immorality or contradiction with the Divine or ecclesiastical laws.

The Apostolic Exhortation also contemplates a series of irregular situations from the canonical point of view and also some situations which are irregular from the perspective of civil law<sup>12</sup>. The condition of the divorced is referred to as an irregular marriage situation.

It is important to understand the scope of the expression irregular marriage situation in order to be able to describe the situation of the divorced in the Church. Examining the situations given by *Familiaris Consortio*, López-Alarcón and Navarro-Valls believe that the situations mentioned as irregular marriage situations in *Familiaris Consortio* 80-84 are all valid, though not all of these forms of irregular situations are absolutely rejected by Canon law since there are irregular marriage situations which receive a weaker rejection due to their capacity of producing certain legal effects. Irregular marriage situations which are not totally rejected by Canon law can be regularized if the involved parties have the will to fix their situation. Thus there exist two classifications of irregular matrimonial situations: juridical situations which are absolutely contrary to Canon law, and juridical situations which are relative or weak. From this classification, the civil marriage of the divorced is an irregular marriage situation absolutely rejected and contrary to Canon law. The juridical situation of those who have received a decree of civil divorce but have not remarried is also an

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<sup>9</sup> *Familiaris Consortio*, No. 84.

<sup>10</sup> *Ibid.*, No. 83.

<sup>11</sup> *Ibid.*, No. 84.

<sup>12</sup> *Ibid.*, No. 79.

irregular situation but not totally rejected by Canon law.

J. Carreras and H. Franceschi define an irregular marriage as that situation of the marital life of a Catholic faithful, presenting elements of public or manifest stability, but has not been (or cannot be) recognized as valid by the legitimate authorities of the Church since it does not manifest the ecclesial dimension of the conjugal union of the baptized since it contradicts publicly the teachings of the Church on marriage. An irregular marriage situation has the following characteristics: it is a situation related to the Church; it is a notion denoting formality; it is juridical by nature; those who are in irregular marriage situations are not subject to a punishment or any ecclesiastical penalty; and, it is a situation which is eminently pastoral.

### **C. Rights and Duties of Simple Divorcees**

Simple divorcees, after receiving the civil decree of divorce, are characterized by their negation to contract any subsequent marriage while the other spouse is alive. However, it is important to distinguish two situations from the viewpoint of Christian morality: those who are guilty of having destroyed a valid marriage and those who had been abandoned unjustly. For those who are guilty of having destroyed a valid marriage, their sin could be absolved in sacramental confession if they sincerely repent and try to repair the scandal, and they should attempt to reconcile and live common conjugal life.

Following the opinion of López-Alarcón and Navarro-Valls, the situation of divorced Catholics but not remarried is also an irregular situation in the sense that it is a juridical situation contrary to the nature of marriage demanded by Canon law. This situation is not totally rejected by the Canon law since certain juridical effects may be recognized by the Church. However, their condition is an anomalous situation since conjugal life is suspended.

The canonical situation of the divorced but not remarried is assimilated to the situation of separated spouses<sup>13</sup>, since their marital rights and obligations are temporarily or perpetually suspended. Those who had received a divorce decree are considered in the eyes of God and of His Church as spouses who are separated but their bond of marriage remains to be intact.

The simple divorcee has to adhere to the obligations dictated by Church law, such as: living a chaste life, avoiding the near occasions of falling into adultery, maintaining the conviction in the indissolubility of marriage<sup>14</sup>, participating

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<sup>13</sup> *Ibid.*, No. 83.

<sup>14</sup> Catechism of the Catholic Church, No. 1649.

actively in the life and activities of the Church, and providing the necessary support and education of their children<sup>15</sup>. Canon law encourages that “when the reason for separation ceases, the common conjugal life is to be restored, unless otherwise provided by ecclesiastical authority”<sup>16</sup>. Another recommendation which the Code explicitly states is the moral duty of the innocent spouse to forgive the guilty party and resume common life when this is possible<sup>17</sup>.

The separated and the simple divorcees are to observe the rights and obligations of the faithful according to their respective condition<sup>18</sup>. Those who have decided not to enter a new union indeed exercise their prophetic function by giving testimony to a heroic degree to the indissolubility of marriage. Those who are guilty but had repented and had received sacramental absolution and those who had been abandoned unjustly can participate fully in the sacramental life of the Church. Those who are guilty of having created such irregular situation have the duty to repent and ask sacramental absolution before they can be accepted to the sacraments<sup>19</sup>. They also have the right to be attended with the adequate means of pastoral care. Their perseverance to live a continent life and to remain in the Church could be assured by the establishment of support groups in the parish or in the diocese. By virtue of their right to associate they can indeed create these types of associations or associate themselves to existing groups. Where there is no inconvenience and scandal is avoided, they can also collaborate actively in liturgical functions and other ecclesial activities.

Given that their situation is also anomalous from the canonical viewpoint, they encounter certain limitations in the exercise of their rights. For example, they could not be accepted to join an institute of consecrated life, or in the case of women, they cannot be accepted to the order of virgins. The most obvious limitation which could be attributed to these members of the faithful is the impediment to contract another valid marriage since their previous marriage is presumed by Church law to be valid and existent<sup>20</sup>.

#### **D. Rights and Duties of the Divorced and Remarried Couples**

The remarriage of those who had received the civil decree of divorce while the legitimate spouse lives is considered by the Church as null and invalid due to the impediment of the bond of an existing marriage<sup>21</sup>. This contradicts the indissolubility and unity of marriage demanded by natural and divine laws.

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<sup>15</sup> CIC, c. 1154.

<sup>16</sup> CIC, c. 1153, § 2.

<sup>17</sup> CIC, c. 1155.

<sup>18</sup> CIC, cc. 208-231; CCEO cc. 7-26

<sup>19</sup> *Familiaris Consortio*, No. 83.

<sup>20</sup> CIC, cc. 1085; 1060

<sup>21</sup> CIC, cc. 1073; 1085.

Therefore, divorce and remarriage is a situation absolutely rejected but not penalized by Canon law. For objective reasons, their situation does not allow them the plenitude of communion enjoyed by those members of the faithful who are in the state of grace. This objective situation of sin brings along with it a series of consequences like the limitations which they experience in the exercise of their subjective rights in the Church, particularly in the sphere of the right to receive and to be administered the sacraments. Their full participation in the threefold office of Christ is also partially impeded.

As members of Christ's faithful, the divorced and remarried are invited to exercise their rights and obligations according to their personal condition and always in accordance with the nature of the ecclesial function by observing the relevant canonical provisions and the demands of ecclesial communion. The exercise of their rights and obligations as members of the faithful depends on the degree of their communion with the Church which is the basis for their exercise. Communion serves as the principal criterion in determining the limitations of the exercise of the rights of the faithful. Full communion with the Church does not only imply visible incorporation to the ecclesial society, but it also includes the state of grace of the faithful. The faithful who is in the state of grace exercises more his rights and obligations than those who are in a state of grave sin because this partially damages ecclesial communion<sup>22</sup>. The deprivation from Eucharistic communion, as in the case of the divorced and remarried, modifies their juridical status in the Church. The competent Church authority has the obligation to regulate the exercise of these rights and obligations in the ecclesial society in order to safeguard the common good.

Divorced and remarried Catholics participate in the life of the Church in a limited manner. There are certain ecclesial functions and activities which do not correspond to their objective irregular situation. For this reason, they are impeded by the ecclesiastical discipline from performing such functions. In most cases, these ecclesiastical prohibitions are a consequent development of what has been established previously by Divine will.

The divorced and remarried faithful have their rights and obligations to be either operative or suspended. Since they opted to live an irregular situation, their communion with the Church is debilitated. Such situation warrants the automatic suspension of some rights and obligations. If the exercise of these rights and obligations are not suspended, it may provoke inconsistency with their nature and purpose; and may even cause scandal on the rest of the members of the faithful. Consequently, it can cause disturbance to the common good.

This legal technique is called suspension, not extinction, since rights and

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<sup>22</sup> Lumen Gentium, No. 14.

obligations are proper and inherent to all the faithful and they cannot be renounced. Neither could this mechanism be called suppression. Rights and obligations can never be legitimately suppressed. Suppression of such rights and obligations would mean absolute injustice since they are inherent to the dignity of a Christian. They can only be extinguished by death. It is also important to distinguish between the tenure of rights and obligations from the exercise of these rights and obligations. One may have rights and obligations but some personal conditions or situations may necessarily limit or impede their exercise. In such cases, the rights and obligations of the faithful remain to be intact and in a potential situation, waiting for the removal of the obstacles which limit or impede their exercise.

## **II. QUESTION OF ADMISSION OF DIVORCED AND REMARRIED TO THE SACRAMENT OF COMMUNION**

### **A. The Right of the Faithful to Receive the Sacraments**

Given that the exercise of the rights of the faithful is not absolute, so is also the exercise of the right to receive the sacraments. Canon 843 gives the following conditions for the lawful reception of the sacraments: the opportunity of the petition, the right disposition of the subject and the absence of any ecclesiastical legal prohibition from receiving the sacraments. These conditions have to be verified by the minister. Obviously, what could be verified are the external manifestations of such limitations. In case the proper disposition is judged lacking or insufficient, then the minister has the obligation to deny the sacrament since in such situation there does not exist properly a right to receive the sacrament.

### **B. The Prohibition to Receive Holy Communion in the teaching of the Church**

This is the most delicate problem which the Church faces in the pastoral attention of the divorced and remarried members of the faithful. An abundant theologico-pastoral and canonical literature had already been published on this question. Pastors also have issued a good number of norms treating to reorient some misinterpretations in the pastoral application of some previous documents. However, some documents, instead of orienting and clarifying the documents of the Holy See, have produced confusion and a pastoral practice which is not totally in line with the ecclesial discipline.

The discipline prohibiting the reception of Holy Communion by the divorced and remarried is based on Sacred Scriptures. Their situation of adultery makes

them unworthy to receive the Body and Blood of Christ<sup>23</sup>.

The discipline of the primitive Church has been maintained by the ecclesiastical discipline. The 1917 Code considered remarriage while a valid bond exists as a grave sin and a delict warranting a just punishment: legal infamy, ex-communication or personal interdict<sup>24</sup>. Such condition was included within the category of the expression publicly unworthy subjects to receive Holy Communion<sup>25</sup>.

In 1973 the Sacred Congregation for the Doctrine of the Faith issued a circular letter to the Roman Catholic episcopate warning Pastors on the proliferation of erroneous opinions regarding the indissolubility of marriage. The letter urged local Ordinaries to observe the ecclesiastical discipline which prohibited those in irregular unions to receive the sacraments. It also reminded pastors of their duty to attend to their pastoral needs by applying the appropriate pastoral solutions provided by Canon Law and the approved praxis of the Church for the internal forum.

The praxis of the Church not to admit the divorced and remarried to Holy Communion was insisted by an unpublished Instruction issued exclusively to bishops before the opening of the 1980 Synod of Bishops. At the closing Mass of the 1980 Synod of Bishops, the Pope mentioned explicitly that the divorced and remarried cannot receive the Eucharist unless they fulfill the conditions demanded by Christian morality<sup>26</sup>. This pronouncement was confirmed by the Post-Synodal Apostolic Exhortation *Familiaris Consortio*<sup>27</sup>. The same discipline was reiterated in the Post-Synodal Exhortation *Reconciliatio et Paenitentia*.

### C. Prohibition according to the Codes of Canon law

The Code of Canon law of 1983 maintains the norm which regulates the external conditions necessary to receive the Eucharist (CIC, c. 912). Canon 915 of the Code of canon law of 1983 (CCEO, c. 712) is very plain in stating that Catholics are not to be allowed to receive Holy Communion if they are under the penalty of excommunication or interdict, or obstinately persist in manifest grave sin:

“Those upon whom the penalty of excommunication or interdict has been imposed or declared, and others who obstinately persist in **manifest grave sin**, are not to be admitted to Holy Communion”.

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<sup>23</sup> Mk 10:11-12; Mt 19:9; 1Cor 11:23; 27-29.

<sup>24</sup> CIC/1917, cc. 2356; 2260; 2275, n. 2.

<sup>25</sup> CIC/1917, cc. 855, § 1; 856.

<sup>26</sup> JOHN PAUL II, *Homilia in Xystino sacello habita VI exeunte Synodo episcoporum*, 25.10.1980, no. 7 in AAS, 72, 1980, 1082-1083.

<sup>27</sup> *Familiaris Consortio*, No. 84.



The inclusion of the divorced and remarried under the category of those who persevere obstinately in manifest grave sin had been clarified prior to the promulgation of the Code of 1983.

#### **i. Manifest Grave Sin and Publicly Unworthy**

The wording of canon 915 is very plain. The grave sin must be manifest. However, the text does not say that the obstinate persistence in that manifest grave sin needs to be manifest. The obstinate persistence simply needs to be a fact known to the person distributing Communion.

The proper interpretation of Canon 915 is reflected further in the parallel Canon 712 of the Eastern Code: “Those who are publicly **unworthy** are forbidden from receiving the Divine Eucharist”. This canon uses the phrase ‘publicly unworthy’ which was already used in the Latin Code of canon law of 1917.

The wordings of these two canons of the two Codes are simply two different expressions of the same requirement of the eternal moral law. The prohibition found in these canons, by its nature, is derived from divine law and transcends the domain of positive ecclesiastical laws: the latter cannot introduce legislative changes which would oppose the doctrine of the Church.

In other words, the prohibition envisaged in canon 915 of CIC and c. 712 of CCEO is an expression of Divine law (the eternal moral law) and so this prohibition would still exist, even if canon law did not exist. Neither does canon law have any ability to contradict or change the eternal moral law on this or any other point. It is a teaching of Sacred Scripture that those who are unworthy are not to receive Communion.

The Declaration of the Pontifical Council for the Interpretation of Legislative Texts states:

“In effect, the reception of the Body of Christ when one is publicly unworthy constitutes an objective harm to the ecclesial communion: it is a behavior that affects the rights of the Church and of all the faithful to live in accord with the exigencies of that communion”<sup>28</sup>.

So the phrase “**obstinately persevering in manifest grave sin**” is sufficiently represented by the phrase “**publicly unworthy.**” This Declaration also rectified the erroneous interpretation of canon 915 by some authors who sustained that this canon cannot be applied generally to the divorced and remarried.

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<sup>28</sup> PONTIFICIUM CONSILIUM DE LEGUM TEXTIBUS INTERPRETANDIS, « Dichiarazione », 24, VI, 2000, in *Communicationes*, 32, 2000, p. 159-162.

Hence, the admission of the divorced and remarried Catholics to the Holy Communion affects both the sacrament of the Eucharist and the indissolubility of marriage.

## ii. Internal Forum

Canon 916 of the Code of 1983 (CCEO, c. 711) states the norm valid for the internal forum. This canon is clearly directed to those who have to abstain voluntarily from receiving Holy Communion while in the state of grave sin. It notes that as a rule, anyone who is conscious of grave sin may not celebrate Mass (in the case of a priest) or receive the Eucharist without previously having been to sacramental confession. This is entirely in keeping with the Catechism of the Catholic Church which teaches that

“Anyone conscious of a grave sin must receive the sacrament of Reconciliation before coming to Communion”<sup>29</sup>.

It is important to note that at issue here is not only a Catholic’s own personal, *internal* spiritual state, which might very well be known to him alone; but also his *external*, visible status in the Church, that may be known by other members of the faithful as well. The Church is therefore concerned simultaneously with three different, although inter-related issues:

- (a) an individual Catholic’s personal spiritual wellbeing;
- (b) the need to maintain reverence toward the Most Holy Eucharist; and
- (c) the need to avoid public scandal.

In most cases when a person is divorced and remarried, the vast majority of members of a parish and of the faithful present at a particular Mass would not know the individual and his or her situation. And yet the Pontifical Council for the Interpretation of Legislative Texts states that the divorced and remarried are to be denied Communion. This proves that the terms manifest and public are not to be interpreted as requiring “a substantial majority of the community in question” to be aware of the grave sin<sup>30</sup>.

According to the teaching of the Church, the divorced and civilly remarried Catholics can receive the Eucharistic communion only when they fulfill certain conditions like abstaining from sexual relations, living with their new partners as brother and sister. At times, these conditions are found to be practically difficult. Hence, many of the divorced and remarried Catholics expect that the Church could allow them to the Eucharistic communion. The Church is also trying to find out a solution which expresses the mercy of God towards them and which also respects the dignity of Christian marriage.

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<sup>29</sup> *Catechism of the Catholic Church*, No. 1385.

<sup>30</sup> *Ibid.*

### III. SOME OF THE SOLUTIONS PROPOSED

In the process of finding new ways to integrate the divorced and remarried Catholics in the Church and especially to admit them to the Eucharistic communion, many proposals have been put forward with canonical and theological reasoning. All these proposals have their own positive and negative effects which have to be carefully examined before arriving at any definitive conclusion.

#### A. Specific Cases of Admission to the Eucharistic Communion

In some parts of the Church in the world, there have been some ‘specific cases’ of the divorced and remarried Catholics who have been permitted to Eucharistic communion<sup>31</sup>. In such specific cases, the pastors can consider themselves authorized according to a judgement of their conscience to do so. Some of those people considered as specific cases are:

- the unjustly abandoned spouse, in spite of his or her sincere effort to save the marriage,
- the one who is convinced of the nullity of the previous marriage, even if he or she is unable to demonstrate it in the external forum,
- The one who has already gone through a long period of reflection and penance.

There can be separate pastoral commission in the universal and particular levels to identify these specific cases to avoid the refusal of the Eucharistic communion to all the divorced and remarried people in general. Extraordinary care must be undertaken to identify these specific cases and any doctrinal confusion of indissolubility of marriage should be avoided.

#### B. Principles of *Salus Animarum* and Canonical Equity

The question remains whether the canonical structure of the Catholic Church can offer a merciful mediation between canonical norms and the reality of everyday life that, patterned on the model of Jesus, promotes human sanctity. In fact, in the Catholic canonical tradition, the principle of applying general norms to concrete life situations includes the principles of *salus animarum* and canonical equity. The principle of *salus animarum*, the ultimate aim of the Church and, in canon law can be applied to the concrete situations (CIC, c. 1752; CCEO, c. 1400).

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<sup>31</sup> Joseph CHINNAYAN, “Pastoral care of the Families in Difficult Marital Situations”, in *Word and Worship*, Vol. 47, No. 2, April-June 2014, p. 360.

In the case of divorced and remarried Catholics, the issue of the non-admittance to the Eucharistic communion in accordance with CIC, c. 915 (CCEO, c. 712) could be resolved basing on the principles of *salus animarum* and canonical equity. Divorced Catholics could seek an ecclesially recognised remarriage by invoking the application of canonical equity for the sake of spiritual well being of the dissatisfied persons, even as regards the impediment of an existing marriage according to CIC, c. 1085, §1 (CCEO, c. 802).

The Church accepts civil laws of the States for the marriage of their citizens, especially the marriages which respect the natural law and civil laws of the countries. Likewise, without ‘sacramentalising’ the remarriages of the divorced people, the Church can look for recognizing such marriages. However this type of recognition should not confuse the indissolubility of marriage.

### **C. Simplified Procedure for Annulment**

How to combine on one side the indissolubility of the marriage, and on the other seeming to deny *de facto* the same principle? According to Cardinal Scola, this way of thinking would end in a separation between doctrine and pastoral care and discipline and indissolubility would be almost reduced to a Platonic idea which is not reflected in real life. Hence he made four proposals in full continuity with the traditional doctrine and practice on marriage, but not devoid of innovative elements:

- Spiritual communion, or “of desire”;
- Recourse to the sacrament of reconciliation even without absolution;
- Sexual continence while remaining in the civil union; and
- Verification of the validity or invalidity of a marriage not only by the diocesan tribunals or the Rota, but also with a more streamlined non-judicial canonical procedure under the supervision of the local bishop.

Following the various proposals, Pope Francis wanted to simplify the procedure, making it more streamlined. He instituted a special commission on the 27<sup>th</sup> August, 2014 for the reform of canonical matrimonial processes, with the warning of safeguarding the principle of the indissolubility of marriage.

In September 2015, Pope Francis issued two Motu Proprios “The Gentle Judge, the Lord Jesus” and “The Meek and Merciful Jesus,” to streamline the annulment process out of “concern for the salvation of souls” while maintaining Catholicism’s traditional ban on divorce. He has introduced the changes in the procedures for annulment of marriages with the aim that the heart of the faithful awaiting clarification of their marital status is not long oppressed by the darkness of doubt. He has made the annulment process less cumbersome and expensive.

## CONCLUSION

It is true that there are divorced people who without any fault of their own for the breakdown of their marriage, long to receive communion after penance and sacramental confession. It is always better that they have to respect the laws of the Church for the annulment of their first marriage. For the people who follow the discipline of the Church, it is not at all a difficulty.

From the side of the Church, Pope Francis has simplified the procedure for the annulment of marriage with the concern that the divorced Catholics should not be put into unnecessary difficulties to receive the annulment of their marriage. Of course, there are valid marriages which have been broken down civilly by divorce cannot be annulled by the Church.

Pope Francis has clarified categorically that “Integrating into the life of the Church does not mean receiving Communion.” According to him, to do so “would be an injury also to marriage, to the couple, because it would not allow them to proceed on this path of integration.”

In his Apostolic Letter “*Misericordia et Misera*”, Pope Francis returns to the main idea contained in the document “*Amoris Laetitia*”, and asks us to “regard all human problems from the standpoint of God’s love, which never tires of welcoming and accompanying”<sup>32</sup>. He reminds the priests how they should care for those who want to return to the life of faith, but are divorced and have remarried or live a delicate personal situation. It is a matter of exercising “a careful, profound and far-sighted spiritual discernment, so that everyone, none excluded, can feel accepted by God, participate actively in the life of the community and be part of that People of God which journeys tirelessly towards the fullness of his kingdom of justice, love, forgiveness and mercy”<sup>33</sup>.

Even if the problem of divorced and remarried couples consists in the fact that most of them persevere in the will to remain distant from the Church, special attention must be given to the case of those members of the faithful who wish to come back to the Church. It seems that the problem should be posed through the question of whether, in the perspective of the faith, Holy Communion is a good for them: that is to say a good which helps them to reach eternal communion; or whether, on the contrary, it is something which they might take for their own condemnation (I Cor 11, 29). In effect, just and merciful action does not necessarily mean giving what the other asks for, but rather means giving the other his or her good. Also, the good of other persons must not be ignored, in particular the good of the children of these couples.

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<sup>32</sup> POPE FRANCIS, Apostolic Letter *Misericordia et Misera*, No. 14.

<sup>33</sup> *Ibid.*