

booklets

REBUILDING LIVES
Divorce, Welcome,
and Communion



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1. THE TEACHING OF THE BIBLE: WHAT DID JESUS SAY ABOUT MARRIAGE? (<i>Xavier Alegre Santamaría</i>)	5
2. THEOLOGICAL APPROACHES (<i>José Ignacio González Faus</i>)	11
3. TRUTH AND MERCY: THE THEOLOGICAL COGENCY OF CARDINAL KASPER'S PROPOSAL (<i>Jesús Martínez Gordo</i>)	17
4. THE ECCLESIOLOGICAL BACKGROUND: A SHEPHERD POPE FACED WITH ECCLESIAL RESTORATIONISM (<i>Andrés Torres Queiruga</i>)	22
NOTES	31

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‘If at root marriage is thought of as a life-long commitment and as a sacrament of salvation, one can no longer insist that people continue in it once it has become clear that it contributes nothing to their salvation or to healthy human relations, having, even, possibly become harmful: “It is to peace that God has called us” (1Cor 7,15)’.

BERNARD HÄRING

Prompted by the Synod on the Family, five cardinals, including Gerhard Müller, the current Prefect of the Congregation for the Doctrine of the Faith, published a book entitled *Remaining in the Truth of Christ: Marriage and Communion in the Catholic Church*. In this, they give voice to their opposition to the readmission to the sacraments of divorced persons who have remarried. We had not seen this book when we started work on the present study, but were aware of its existence, as also of its authors' wish that it be published in time for the opening of the Synod. The following reflections spring not from a desire for confrontation but are, rather, intended as a modest contribution to current debate (1 October 2014).

1. THE TEACHING OF THE BIBLE: WHAT DID JESUS SAY ABOUT MARRIAGE?

Xavier Alegre Santamaría

It is notable that whilst the Jesus of the gospels has little to say about sex and marriage, denunciation of the dangers posed by wealth is fundamental to his preaching, especially in Luke. It is surprising therefore that the teaching of the Church should have things the other way round, the contrast between its approach to social as opposed to sexual ethics being striking.¹

The *Catechism of the Catholic Church* (n. 2423) states that in the sphere of social ethics, “the Church’s teaching proposes principles for reflection; provides criteria for judgment; gives guidelines for action.” In everything to do with sexual ethics, on the other hand, the Church uncompromisingly declares what is and is not permissible, often referring to Jesus and to the Bible more widely. However, nothing in the Bible justifies such a difference of approach to gospel texts involving Jesus.

1.1. Preliminary remarks

If one wishes to understand Jesus’ stance towards marriage, and therefore, what he expected of his followers both today and yesterday (see Rom 15,4), it is important right from the start to stress a fundamental principle governing the reading of biblical texts: these may never properly be read in a literal, fundamentalist fashion, in abstraction from the literary, social, and more broadly cultural contexts in which they were composed. The

memories of Jesus preserved by the gospel writers always, like any other text and especially ancient ones, require appropriate interpretation.

From this, two points follow. In the first place, the words of Jesus ought not to be read in isolation from the literary context of the gospels taken as a whole, since 'taken out of context, a text easily becomes a pretext'. Secondly, neither should they be read without due awareness of the social-historical context in which they came to birth. Otherwise, we read them from our own context and presuppositions, rather than those of the Bible itself.

The Bible was not dictated verbatim by God. As the Second Vatican Council pointed out in the Constitution *Dei Verbum*, its language is human language, a divine revelation formulated by specific people in a specific time, place, and culture. Thus, it is a *continuous re-reading* of that library of books that is the Bible, of those basic texts that reflect a profound experience of God at a particular time, that will ensure a coherent view of it from beginning to end. We find such a re-reading already taking place in the Old Testament with reference to the experience of Exodus, and for Christians a high point comes with Jesus of Nazareth's own re-reading of the Old Testament (see Mt 5,17-48). The process was continued in the New Testament by his followers.

1.2. Jesus' stance on marriage in the gospels

Although Jesus said little about marriage, it seems undeniable that accord-

ing to the gospels (and this is something Paul takes for granted also), he declared that, in principle and in God's plan, marriage was indissoluble. In two fundamental texts written independently of one another, he is heard flatly to condemn divorce. This is in Mark's gospel (10,1-12, a text subsequently taken up by Matthew), and in a lost source on which both Luke and Matthew drew (Mt 5,31-32 / Lk 16,18).²

What did Jesus mean by this? If we are to interpret these texts appropriately, we must bear in mind that the gospels have Jesus saying many other radical things. For instance, he told his followers who were going to be the leaders of the Church that they should never let themselves be addressed as 'Father' or 'Master' (Mt 23,9-10), never wear special clothes, or occupy the most important seats in church (Mt 23,4-8). He required Christians without exception never to swear oaths, to turn the other cheek when someone struck them (Mt 5,38-42), and to love their enemies (Mt 5,43-48).

Obviously the Church has not interpreted all these sayings literally, or others like them (for instance Mk 10,25). It has taken that view only as regards divorce. The question we need to pose here, therefore, is whether, in order to be true to Jesus, it is right to interpret his words about divorce literally, in which case divorced persons who remarry and have sexual relationships with their partners should be denied Holy Communion. This is how the Catholic Church's Magisterium has interpreted things, unlike the Orthodox or Protestants who allow remarriage.

1.3. What Jesus intended by his words on marriage

For an adequate response to Jesus' words and their interpretation, we need to consider how he appears in the gospels, and examine the socio-cultural and literary context in which his words about divorce appear.

1.3.1. How Jesus is presented

Unlike the way the Pharisees, the scribes, and priests are depicted in the gospels (often with polemical intent), we never see Jesus adopting legalistic postures. If anything characterises him and the God he seeks to reveal to us in word and deed, it is mercy. Because that is what God is like, that is how his followers should be as well: 'Be merciful just as your father is merciful' (Lk 6,36).

And he shows this in the way he acts. He welcomes and shares his table with sinners and outsiders, thereby provoking criticism from those who thought themselves religious (Mk 2, 15-17; Lk 15,1-2;7,36-50). His conduct means to demonstrate that God loves everyone, making his sun rise on the evil and the good alike (Mt 5,44-45).

He never displays legalistic attitudes. Rather than prescribing specific rules, he recommends particular attitudes deeply grounded in human experience, what has been called an ethics based on maxims. He invites, he calls, us to perfection, as a matter of vocation, not of legal obligation (Mt 5,48). The Law, including one of the most sacred laws for Jews, the one regarding rest from work of every kind on the Sabbath (Ex 20,8-10), is not to be

read literally, he says, since it has been made for humankind, and not humankind for the Sabbath (Mk 2,27). On Jesus' scale of values, the good of human beings comes before all other laws, however sacred (Mk 3,1-6; Jn 5,1-18), and that is why the Law must never be interpreted simply literally (Mt 5,21-48).

1.3.2. The socio-cultural position of marriage in the time of Jesus

The view of marriage held in Jesus' world is radically different from our modern one. According to the Jewish Law, husband and wife were unequal, marriage being grounded not on the free choices of a couple but on the interests of their families and basically economic in character. In such a context women are plainly second class, since prior to their marriage they belong to their fathers, and after marriage, to their husbands. For this reason, in Jesus' day divorce was available only to husbands. According to the laxer view of things taken by the school of Rabbi Hillel and based on Deuteronomy 24,1-2, these could leave their wives for any reason at all, for instance because they had bad breath, or because the man had met a younger, prettier, woman. Alternatively, according to the stricter views obtaining in the school of Rabbi Shammai, divorce was permitted only in the event of adultery. No woman could in principle ever take the initiative and divorce her husband, regardless of how he behaved.

It is in such a context that (in order to test him, according to Mark 10,1-12) the Pharisees ask Jesus if it is permissible for a husband to divorce

his wife. They know Jesus to be no literalist and that he never interprets the Law in a fundamentalist fashion, but rather, favours the disadvantaged (such as women were in the case of divorce). They are looking for an opportunity to accuse him of lacking in respect for the Law.

Jesus refuses to play along with the kind of casuistry that puts women in a subordinate position. It was something he would never countenance. (According to texts like Luke 8,1-3, he even allowed women to become his disciples, against what the rabbis held [compare Lk 10,38-42].) When it came to denouncing the injustice inherent in rabbinical casuistry, though, he referred them to God's primordial intention in creation, which held up as an ideal the indissoluble love between husband and wife. (In Mark 10,5-9 he cites Genesis 1,27 and 2,24.) This *is* an ideal, often a utopian one, but in our own day when marriage is conceived in terms of mutual love between a couple, it is more relevant than ever to consider it with care.

As a good Jew of his time, Jesus should have spoken of divorce as the concern of men alone, since only they had the right to initiate it (see Mk 10,2-9). But Mark, writing in a Roman setting where men and women had a more equal right to divorce, adds verses 11-12, in order to make Jesus' position plainer in this fresh context, showing that the ideal of an indissoluble marital union is as valid for women as for men.

Jesus is not promulgating a law, but an ideal way of life, since as the Catholic scholar Gerhard Lohfink notes,³ the literary form to which the

evangelist has recourse here, whatever one might think at first, is not that of a legal text admitting no discussion, but rather, one that seeks to 'exhort and challenge', as happens also in the case of other sayings (for instance, Mt 7,13ff; 19,24).

What Jesus seeks to do is to lay bare the injustice women suffer on account of Jewish matrimonial law, and also, speaking as a prophet rather than a legislator, to present the thorough-going mutual love of spouses as a specific instance of the love of neighbour (Mt 22,39). This is the love that finds expression in the essential principle underlying all that the Law and Prophets had required: 'do to others as you would have them do to you' (Mt 7,12).

1.3.3. The literary context of the gospels' sayings about divorce

What we have established here finds confirmation in the literary context in which the evangelists set Jesus's words.

The first relevant text attributed to Jesus comes in Mark 10,1-12. In addition to the literary form of this text, we should also bear in mind the literary context in which Mark places it. It occurs in an important section of his gospel in which, in order the better to grasp what his followers understood by seeing Jesus as the Messiah, the Anointed (Mk 8,27-39), Mark sets out in detail the basic values that Jesus invites his followers to embrace (see Mk 8,31-10,45), framing them by three prophecies of the Lord's death and resurrection (Mk 8,31;9,31;10,32-34). These values, if lived out in a radical

way, lead straight to the Cross (Mk 8,34), and they are embodied in radical sayings. For instance, if the rich seek to be perfect they must give all they have to the poor (Mk 10,23-27), since it is easier for a camel to go through the eye of a needle than for someone rich to enter the kingdom of God (Mk 10,25). Or if our hand or our foot causes us to stumble or gives scandal to any little ones, we would do better to cut them off (Mk 9,42-48). Or whoever wishes to be become first and great must become the servant of all (Mk 10,42-45). And lest we take such invitations in too 'spiritual' or disembodied a sense, Jesus contrasts them with what kings and politicians are wont to do, both then as now.

This is the context in which we should interpret Jesus' words about divorce.

Matthew places the second text (Mt 5,31-32 / Lk 16,18) in the setting of the Sermon on the Mount (Mt 5-7), which is anything but a Code of Canon Law or a White Paper proposing irreversible legislation. Rather, it is a dynamic, ideal vision of a Christian life committed to fulfilling the divine plan (what Jesus calls the Kingdom of God). Luke, for his part, situates the saying during the journey to Jerusalem (Lk 9,51-19,28), an extensive body of text in which he sets out the greatest Christian ideals, which if radically lived as Jesus lived them, lead finally, in a world as unjust then as now, to the Cross, among other reasons because it directs harsh criticism against the rich who will not share with others (Lk 12, 13-21;16,1-13;19-31) and goes so far as to say you cannot serve God as well

as wealth (Lk 16,13). Such a context in no way permits us to interpret such sayings as immutable legal decrees.

1.3.4. A reinterpretation of the sayings on divorce in Matthew and in Paul

We may find confirmation of all this in Matthew's gospel and in Paul's First Letter to the Corinthians. These writers did not interpret Jesus' words about divorce literally, as absolute and permitting no exceptions, but rather, 'updated' them, applying them to the new situations in which their communities found themselves living.

Hence in 5,32, Matthew adds something that does not appear to have been a saying of Jesus himself, since it is found in no other New Testament text: it is an exception to the prohibition of divorce. Matthew's community will permit this in the case of adultery (or according to some scholars, in the case of 'legal impurity', as the language of Jewish matrimonial practice had it).

In 1Cor 7,10-11, Paul reminds his own community of Jesus' teaching that women should not leave their spouses, but that if they do, they should not remarry. Paul appears to believe it possible that a couple might be reconciled to one another again. (He is thinking specifically of a member of the Corinthian community that he knew well.) He does not take this as an absolute rule permitting of no exception, but does at least allow a particular instance in which divorce followed by remarriage might be considered legitimate, where the non-believing half of a couple has sought a separation. In such a case, the believ-

ing partner remains free, since, Paul explains, ‘the Lord has called you to live in peace’ (1Cor 7,15). The church has called this exception the ‘Pauline Privilege’.

1.4. Conclusion

This being the case, what should now be the attitude of a Church seeking to be true to Jesus towards divorced persons who have remarried?⁴ Should they be forbidden Holy Communion, unless they have met certain specific conditions, such as abstaining from sexual relations?

Beside the question of whether sin was or was not involved in their separation—in some cases this has obviously not happened and in others, maybe not— from what we have seen in the gospels we see that Jesus would have accepted them unconditionally, trusting that the experience of his loving welcome would help them to come closer to the Father. In fact, he did not eat at Zacchaeus’s house only once Zacchaeus had asked forgiveness and become reconciled with God’s people (Lk 19,1-10); he imposed no conditions on the sinners invited to his table (Mk 2,15-17). Participation in the Eucharist is always a matter of grace; it is gift to all. Only those who believe themselves sinless should cast the first

stone (Jn 8,1-11). We do not take part in the Eucharist because we are good but because we might become good through a closer union with Jesus.

What right have we to judge in any case? (The same goes for lesbians and gays, a subject we are not able to discuss here, but one which also requires us to re-read and re-interpret the apposite Biblical texts, in the light of the socio-cultural and literary contexts in which they appear.)

From what we have seen from the Bible, it seems plain that we may not in Jesus’ name judge or marginalise divorced persons within the Christian community; not if they have remarried, either. We see this from the gospels. The gospel texts, when read in context, give no support to peremptory condemnation, and even less to exclusion from the Eucharist.

Christians should always also bear in mind that Jesus reserved to himself the right to judge others, and it is a good thing that this should be so, since he plainly loves them. He warned us, too, not to try to uproot what we take to be the tares in our community, since we risk pulling wheat up with it (Mt 13,24-30;36-43). Jesus emphasised as well that we should be extremely slow to judge others, since the measure we give will be the measure we get from God (Mt 7,1-2).

2. THEOLOGICAL APPROACHES

José Ignacio González Faus

Properly understood, the ultimate basis for the indissolubility of marriage is the Incarnation, which goes beyond the affirmation of Genesis that they shall be one flesh. To invoke a distinction made by many Fathers of the Church, with the Incarnation we are on the way from being made in God's image to becoming like him.

2.1. What is meant by the Sacramental character of marriage

The early church saw the Incarnation as God's marriage to humanity. In this way, the prophecy of Isaiah (54,5) was fulfilled: 'Your maker is your husband'. And this goes for humanity as a whole, not just to a small group, in which however small, an image of humanity in its final state may be discerned. Thus the Letter to the Ephesians (5,25-32) speaks of the love between a man and a woman as a 'great mystery' symbolising God's love for humanity, his love for the Church as the first embodiment of humanity in its redeemed state.

God's love never goes back on itself: God does not repent of it even when humanity betrays his trust. This is something that the Old Testament prophets had already celebrated in metaphors of marriage (Hosea 2, Jeremiah 3), and it is what Christians' love for their wives and husbands should betoken. We are no longer simply in the same state as 'in the beginning' (Mt 19,4-8). We are in the end times, when God's love is shown in Jesus Christ (Rom 8,39). It is this dimension of 'making something visible' that explains the public character the Church has always claimed for marriage.

The Church in this has sought to preserve something of considerable importance, but the relationship between an end of history *already* anticipated and an end *still not* definitively present is problematic.

2.2. Historical factors

2.2.1. *The remarriage*

The early church was faced with the problem of second marriages undertaken by people who had been widowed. The sacramental view of marriage that we have set out already teaches us that God loves his people beyond death, when they are a people no longer. God continues to love them, he seeks them out in order to restore them and make them his once more. This process culminates in the resurrection of Jesus, who rescues from death not only victims but those who make them suffer and who are indifferent to their suffering. This Resurrection includes us all, and shows God's love for humanity to be unswerving. When humankind becomes inhuman, God is ready to seek it out and return it to a state of true humanity.

In the early church this deeply Christian view of things gave rise to a current of thought forbidding the remarriage of those who had been widowed, as a visible sign of fidelity towards their original partners and of the lasting nature of that love.⁵ In the 2nd century, Athenagoras held that the remarriage of a widower was 'a privileged adultery'. Despite this, the Church did not accept the prohibition of second marriages. At the Council

of Nicea (325) we find a Canon directed against a section of the clergy that sought to impose such a rule on grounds of purity:

Concerning the so-called Cathars [...] this holy and great synod decrees that they may remain among the clergy after receiving an imposition of hands. But before all this it is fitting that they give a written undertaking that they will accept and follow the decrees of the catholic church, namely that they will be in communion with those who have entered into a second marriage and with those who have lapsed in time of persecution.⁶

One might indeed wonder whether some cardinals today may not have points in common with those fourth century Cathars.⁷

2.2.2. "*Discipline of mercy*"

In the 16th century, the Council of Trent upheld a similar doctrine. Referring back to Genesis, it spoke of marriage as a 'perpetual and indissoluble bond', backing this up with reference to the text from Ephesians that we have commented on already, a text criticising those who confuse the teaching of the gospel with 'the licence of the flesh' (Tanner, II, pp. 753-754). Despite this, Trent did not wish to condemn the eastern churches' practice, either directly or indirectly.

Since more or less the time of Photios, the eastern churches had accepted a 'discipline of mercy', known also as *oikonomia*. This word is important. It means a way of doing or administering things. The question therefore is how to implement the

utopian vision of the gospels in a hard-hearted world (Mt 19,8). In some cases, Trent, without abandoning the gospel principle of indissolubility, is prepared to permit the readmission to the sacraments of divorced persons who have remarried, including the abandoned partner.

Trent did not expressly condemn the eastern practice. It condemned only the proposition according to which ‘the church erroneously taught and teaches, according to evangelical and ecclesiastical doctrine, that the bond of marriage cannot be dissolved by the adultery of one of the spouses [...]’ (Tanner, II, pp. 753-754). This canon replaced an earlier draft that read ‘if anyone should hold that marriage may be dissolved on account of another’s adultery’, a substitution that was made in order to avoid the impression that either the eastern churches or certain Church Fathers were in the firing line. The meaning of ‘erroneously’ is clear here, therefore: ‘It is not against a formal error that the Canon mobilised the infallibility of the Church; it sought to avoidant abuse of jurisdiction or an act of tyranny by which the Church would exceed its mission.’⁸

It is striking too that Trent in saying that the bond is not dissolved, merely asserts that the Church ‘does not err’, since many eastern churches also affirm the bond remains unbroken.⁹ This is not a matter of doctrine, therefore, but of discipline: it gives permission for a practice that otherwise appears to contradict a unanimous stance. The Church can uphold that it ‘does not err’ in not accepting this, simply because it preserves the truth in part, or because

it respects other churches holding a different position, one that may itself be a truth in part. This seems to be the nub of the matter.

2.3. Contradictions real or apparent?

We are therefore faced at Trent with a practice resembling Jesus’ own in Matthew’s gospel, where having stated that he has not come to abolish the law but to fulfil it, and that heaven and earth will pass away before one letter, before one stroke of a letter, passes from the law until it is accomplished’ (5,17ff), he proceeds to commit a series of specific infractions of that same law. This shows us that, torn as we are between an ‘already’ and a ‘not yet’ when it comes to the fullness of time, there are modes of behaviour which whilst unfaithful to the letter of the law, might be more faithful to its spirit and to the real will of God.

Perhaps there was a precedent for this in a Canon of the Council of Arles (314) declaring that young married persons abandoned by their spouses might be allowed to marry again. But the Arles record seems to have been modified subsequently since there are two different readings of the Council’s text, one declaring that it is permitted, and another that it is not. I mention Arles therefore not as an authoritative precedent but as an indication that the question we are treating here has stirred strong passions since far earlier times. (I tend personally to think that such modifications of a text are more likely to come from those in favour of the big stick than from those who

favour mercy. We may take as another example how the passage concerning the woman taken in adultery in John 8 has disappeared from several codices.)

Although Trent wisely avoided the question, many earlier theologians had accepted remarriage when a husband had left his wife... if this was in order to enter a monastery! Such a view, which these days would be likely to cause scandal, shows how far material interests are capable of influencing even theological opinion...

2.4. On balance

This necessarily extremely brief account arguably shows how understandable our contemporary range of opinions is.¹⁰ On the one hand we have the five cardinals' book, and on the other, Cardinal Madariaga's, or the carefully-argued work of Cardinal Kasper, who seems to share Pope Francis's feelings on the matter. We may recall as well the words of Karl Rahner, written more than forty years ago: 'it is not clear that divorced people who remarry after a first, sacramental marriage can in *no* circumstances be admitted to the sacraments as long as they stand by the second marriage as such.'¹¹

Classical theology teaches that when one comes to act morally one may adopt a position of *solid probability*, even when it is no more probable than its opposite. When it comes to determining such solid probability, arguments based on reason carry as much weight as those based on authority. This is what has been called 'probabilism'.

It is in this sense that one may agree fully with Cardinal Müller's view that 'no Christian may act against the will of God', although one may, on the other hand, believe it is not always clear what God's will is in certain specific cases. As Alegre has already explained, when Matthew (19,9) and Paul (1Cor 7,12-16) introduce exceptions to the words of Jesus whilst retaining all their seriousness, they do not appear to be enunciating an abstract revealed doctrine or setting up a unique privilege, but rather, applying to their own times the *oikonomia* mentioned previously. In proof of this, Paul gives as his reason that 'it is to peace that God has called us'.

The will of God never takes the form of abstract law but of specific commands, as Jesus clearly showed us when they asked him if it was permissible to do good on the Sabbath. The Church itself teaches that when being faithful to the law involves a greater evil whereas breaking it involves a lesser evil only, then the law's writ ceases to operate. Cases of this sort may be yet more frequent in the modern West where the Faith is no longer lived out or practised in Christian societies and confessional states, but in pluralistic secular ones instead.

2.5. Social change

Many couples embark on marriage without realising that through their love for their partners they are committing themselves to making God's love for humankind a social reality. So although they get married in church,

there is serious cause to doubt that they are married in the sense the Church maintains. Their union is more a natural contract than a sacrament. Understood in such a way, one may properly fear there are more null marriages than might at first appear.

It is understandable that the Church's practice regarding annulments tends to be open-handed, but all the same it is frequently misunderstood and scandalises many who see it as a hypocritical way of permitting divorce without admitting to the deed. Here is not the place to discuss how to resolve this point. I simply limit myself to pointing to a problem, where the element of scandal may sometimes be a greater evil than mere disobedience of legal precept.

Many Christians experience considerable difficulty when it comes to living their faith out totally in the open, to which factor may be added the greater social mobility of present times. Here are two real-life examples of what I mean.

Jorge is a committed Christian living in a somewhat secular environment and separated from his first wife. He is in a stable second union with a woman who is also a Catholic, and they have a child. He comes to see me about the child's first communion, the boy having asked his parents why he should take communion when they do not. As I listen to his life story, I suspect his first marriage may have been invalid, since he married not the woman he loved but the one approved of by his mother, a domineering and insistent character. I put it to him that he should seek an annulment, and he

does in fact obtain it relatively quickly. This story ends well, but it helped me understand how little sense there is in telling people in similar situations to content themselves with acts of spiritual communion, although these are as valid as sacramental communion itself. Advice of that sort seems given in order to keep sitting on the fence.

María Jesús is a devout Christian with a long-standing partner. She decides to go and work in Latin America, and in so doing leaves her future husband. After two years abroad, she marries somebody from there. For reasons that it would take too long to set out in detail, the marriage was not a success, the couple separate, and in order to get over the traumatic experience, María Jesús decides to return to Spain. Once back there, she gets together with her former partner once again, and has two daughters by him. When I suggest the possibility of seeking the annulment of her first marriage, she refuses. 'When I married it was in full awareness of what I was doing, so that to go against that now seems hypocritical to me. I prefer to think God knows I made a mistake, and that he doesn't shut the door on me, even if the church does. If I did what you say, it would weigh upon my conscience, whereas now it doesn't.' I try suggesting to her that the nullity would be on her ex-husband's part and not on hers, but she stands firm, concluding 'if I didn't go to mass I wouldn't go to church, and if I didn't go to church, I think I'd finish up losing my faith.'

If these two cases, and others like them although more complicated, provide food for thought, even so I

should place alongside them the testimony of many young people infinitely grateful to parents who despite a difficult marriage, kept together for their children's sake. I know how much this helped clarify matters for the youngsters, and I admire their parents as people who seem not to be interested in their children as no other than a source of entertainment.

2.6. Conclusion

Obviously, anyone with knowledge of the human heart is all too well aware that humans tend generally to take advantage of the mercy shown us, rather than be grateful for it. I mean by this that in my opinion, a change in the church's practice at this stage would give rise to another host of abuses. That is no reason to take a step backwards, but we should seek to head those abuses off at the pass by exercising the discipline of mercy with total seriousness. It is in this sense that Cardinal Kasper's proposal

discussed in the following chapter should not be taken lightly: whilst he underscores a betrayal or failure that affects the first bond in the eyes of God, he brings out as well God's merciful forgiveness, even towards those who betray him 'seventy times seven' (Mt 18,22).

We do not therefore seek to contradict the theological reasons advanced in favour of the indissolubility of marriage but seek to add to them Pascal's sharp-minded observation, that a truth can become a heresy if it leaves no room for other truths, truths that may be partial also, without themselves being untrue. We need to rediscover the Biblical teaching that God's love remains a fact even when the woman (humanity) has been unfaithful or an adulteress, the teaching that God is disposed to forgive, win back, and call back to himself those who have betrayed his trust. The theological basis for this 'discipline of mercy' is found in many beautiful passages of the Old Testament prophets.

3. TRUTH AND MERCY: THE THEOLOGICAL COGENCY OF CARDINAL KASPER'S PROPOSAL

Jesús Martínez Gordo

At the Pope's invitation, on 20 February 2014 Cardinal Kasper set out to the consistory of cardinals his arguments in favour of allowing divorced persons who had made a second, civil marriage to take part in the sacraments of reconciliation and Holy Communion, following a period of reorientation (*metanoia*). He indicated that in order for this proposal to be adopted, no doctrinal change is necessary in respect of the indissolubility of marriage. All that is required is to adopt 'different procedures, of a more pastoral and spiritual character' than the strictly judicial ones currently in force.

Such procedures, he proposed, might run as follows: repentance for the failure of the first marriage; the fulfilment of obligations contracted in that first marriage (once the possibility of its remaking has been conclusively excluded); the impossibility of abandoning the commitments undertaken in the new civil marriage without incurring in additional fault; a clear effort being made to live out this second marriage on the basis of the faith to the best of one's ability, and to bring up one's children in it; and finally, a desire to share in the sacraments as a source

of fortitude for the situation one now finds oneself in.

Negative responses were not slow to come, and there was a certain consistency to them, emanating (as for the most part they did) from cardinals who carry or have carried particular weight in the Curia and the Church's government. To the name of Cardinal Müller, Prefect of the Congregation for the Doctrine of the Faith, may be added those of Walter Brandmüller, Velasio De Paolis, Carlo Cafarra, and Raymond Leo Burke. Their responses appeared individually at first, but soon afterwards

in a joint publication to which certain other theologians contributed too, issued within a few days of the opening of the Extraordinary Synod.¹²

An overall consideration of these and other interventions made before and during the Extraordinary Synod makes clear the importance of a thoroughgoing discussion of Cardinal Kasper's proposals from scriptural, patristic, juridical, and dogmatic points of view.

3.1. 'What God has joined together let no man put asunder' (Mt 5,31;19,3-9)

Arguments from scripture are particularly prominent in the five cardinals' critique. Plainly, there is no question about the words of Jesus (the truth), but rather, about a reading of them that sidelines mercy. 'The truth about marriage' says for instance Cardinal Burke, 'is clearly recognised from the beginning of the Church, in Matthew's gospel, and that truth is the indissolubility of that bond.' There can be 'no change' of that.

As we have seen already, the two instances in Matthew's gospel where Jesus solemnly proclaims the indissolubility of the union between a woman and a man include two important 'asides', 'except for fornication' (5,31), and 'except for adultery' (19,9) –both apparently leaving the way open to exceptions in the case of adultery by one of the two spouses.

Catholic exegesis has gradually evolved since the time of the Fathers, moving from a rigid, non-permissive interpretation (but one that right from the start allowed exceptions in the

two cases we have just referred to) to one that is increasingly tolerant. In fact there are not two but three interpretations existing side by side, given the controversial meaning both of the Greek prepositions and of the generic substantive *porneia*, as to whether this stands for adultery, fornication, concubinage, illegitimate or illegal union, or union invalidated by forbidden degrees of kindred and affinity, a point that nowadays would be decisive.

Most modern exegetes incline, when it comes to matters of practice, towards considering the true sense of indissolubility in terms of mercy, and this they do since opting for a rigid interpretation of indissolubility (truth without mercy) appears to answer not, as Cardinal Burke roundly asserts, to the concerns of scriptural interpretation, but rather of another sort. Of a patristic sort, perhaps? No, not either, as we shall see.

3.2. The remarriage of divorced persons in the early church

The early church, like Matthew and Paul, spoke in terms of both indissolubility and of mercy. We see this in the way they distanced themselves from (and condemned) the Novatians, the fundamentalists of those times, people who invoked truth alone, despising mercy.

According to the historian and theologian Cereti, the first Christian communities preached total monogamy as the ideal, whilst also, after public penance, admitting to the Eucharist those who were divorced and who had married for a second time. Cereti has

found this practice ratified by Canon 8 of the Council of Nicea (325), and although set aside by the Latin Church, it was preserved by the orthodox probably from the 4th century, and certainly from the 5th century onwards.

This was a practice rooted in what was recognised as *oikonomia*, that is to say, an entitlement to deal with individual pastoral situations of a particularly difficult or painful sort, by invoking exceptions to what continued to be considered normative and unquestionable.¹³ Cereti remarks that his research has been fully accepted by the international scholarly community, even if Cardinal Brandmüller considers it ‘indefensible’.

Cereti says, however, that, *pace* Brandmüller, he has never in the early church found the concept of adultery applied to a widower who has remarried, and he reminds us that our present situation is quite similar to that of the early period. We too encounter divorced persons who have entered on a second or a third marriage. This opens the way to a better understanding of the Nicean canon in question, and makes it easier for us to return to the Church’s practice of the first centuries, which was to proclaim the truth of absolute monogamy as the Christian ideal, but at the same time and after a period of penance to apply the mercy of Christ to those who had been unable to fulfil the ideal presented to them when they contracted matrimony.

3.3. Juridical possibility

But there is a third possibility, which were it to be valid would be more

fatal than the two previous ones in its effect on Cardinal Kasper’s proposals. According to Cardinal De Paolis the doctrine of indissolubility has ‘for centuries been considered a divine law, admitting of no exceptions, and unable to be changed without endangering the Church’s credibility: it is a doctrine of faith.’ On such a view, Cardinal Kasper’s proposal is ‘illicit’, since it takes no account of the truth of that particular divine law.

It is already clear from what we have seen that Cardinal De Paolis’s position in defence of the impossibility of ‘exceptions’ has no basis in scripture, in the tradition of the church, in Trent, or in later declarations of the Magisterium.

3.3.1. *Truth and mercy at Trent (1563)*

At Trent the council fathers refused to condemn those who blessed second marriages or who taught that one might bless them. They did not do this, since such a condemnation ran counter to the law and practice of the Greek Church, as well as to the teaching of Origen, Basil of Caesarea, and Ambrosiaster. Thus they merely condemned those who, like Luther, considered that in taking up its positions on matrimonial matters, the Church was abusing its power and running counter to the gospel.

In consequence, Trent never sought to say that ‘divorce in the case of adultery is impossible’, as would be claimed in certain later interpretations that sought to introduce into the canonical text what the Council itself had been particularly concerned to exclude.¹⁴

3.3.2. *'Definitive' truth and the impossibility of debate*

Cardinal Cafarra has gone further, and basing his case on John Paul II's 2000 allocution to the Rota in which the Pope proclaimed the definitive character of the indissolubility of marriage, the Cardinal claims the power of the Roman Pontiff cannot change the situation regarding long-standing marriages that have been consummated. No further discussion by theologians of this matter is now possible, he holds, or any kind of doubt among the faithful. Cardinal Kasper's proposal may not be accepted, in so far as it affects this truth and sets going further debate about it. What is Cardinal Cafarra claiming here, as he presents us with a 'definitive' law that cannot be 'reformed' and that nobody may question?

As one may appreciate already, such a thesis can only be understood in the context of an 'infallibilist' mentality that, as was the case throughout John Paul II's pontificate, extends what holds for matters of faith that do properly count as infallible irreversible doctrine, to another, fallible, variety of the Magisterium, one that in the best of cases might be termed inerrant and unswerving. If this latter class of truths demands religious obedience (*obsequium religiosum*), infallible irreversible truths require the assent of faith (*assensus fidei*) since what is at stake there is the Faith and one's membership of the Church.

One should remember none the less that for a doctrine, proclaimed in the course of a solemn act, to be unequivocally recognised as infallible and irreversible, and therefore, in order

for it to receive the assent of faith, there are in the light of Vatican I and II four criteria that need to be met, criteria that Cardinal Müller took upon himself to recall during the recent Extraordinary Synod: it must be a truth revealed by God; proclaimed in a solemn act; requiring an irrevocable response on the part of faith; and excluding any contrary heretical proposition.¹⁵

When these criteria are applied to the passages Cardinal Cafarra cites from Pope John Paul II (the Apostolic Exhortation 'Familiaris consortio' as well as his 2000 address to the Rota), it is hard to accept the conclusion we are told to draw. What we actually have here is authentic but fallible teaching that requires obedience, but emphatically not infallible irreversible teaching that requires the assent of faith if one is to remain within the church.

Debate on Cardinal Kasper's proposal remains open in dogmatic and legal terms, therefore, as does the possible of voting on it, and this, among other reasons, is because John Paul II's various pronouncements do not, despite what Cardinal Cafarra claims, meet the first condition required if they are to be considered unequivocally infallible and irreversible, closing to door to debate of any sort. It is not a revealed truth that God has condemned joining indissolubility with mercy when faced with divorced persons who have remarried.

3.3.3. *The truth that will make us free (John 8,32)*

Thus, what is at stake is not a 'definitive' or 'divine' law regarding the indissolubility of marriage, but rather

what in the case of persons who are divorced but have remarried is its connection with the exercise of mercy. This is a question that Trent left open, and one that, backed by the unquestionable consensus of Church opinion and invoking arguments based on scriptural, patristic, and conciliar tradition, Pope Francis himself might, if he so decided, declare to be perfectly compatible with Christian revelation and Catholic tradition.

It is the Latin Church that has been the exception here, whilst never, even so, closing off the possibility of adopting such a course, at least not juridically or dogmatically.

3.4. What is the 'it' that God has joined?

As we know, for the Eucharist to 'last', we need the matter of the sacrament to last, that is to say the species of bread and wine. If these decay or become corrupted, the real presence of Christ in them ceases to be operative.

So, since matrimony is also a sacrament with lasting effects, how is it possible to maintain that the grace of God remains operative even when the 'species' of that sacrament have decayed, that is to say, when the spouses

are no longer linked by an affective bond, since their union exists no longer and they may have even come to hate each other? To maintain that the grace of God remains effective in situations such as these is something that strikes one as almost blasphemous.¹⁶

Arguably, therefore, the time has come to start asserting that 'if a union ends in failure, it is very probably not upheld by God, whilst on the other hand, the second marriage very probably is.'¹⁷

Perhaps also the time has come to think about the sacrament of matrimony not so much in terms of an indissoluble contract but of a conjugal bond that reveals the bond between our Loving Father, his Beloved Son, and Love the Holy Spirit. Such a conjugal bond, which is a revelation or sacrament of the divine communion, calls for faithfulness, monogamy, indissolubility, and creativity.

The roots of the pastoral approach that Pope Francis favours are in fact dogmatic. The five cardinals are right about that. But they are not right when they continue to be fixated on indissolubility alone and neglect the centrality of the communion existing within the Trinity that is *oikumenical* as well.

4. THE ECCLESIOLOGICAL BACKGROUND: A SHEPHERD POPE FACED WITH ECCLESIAL RESTORATIONISM

Andrés Torres Queiruga

Five cardinals, following the Prefect of the Congregation for the Doctrine of the Faith, have written a book clearly directed against Pope Francis's aim in calling the Synod, and they are announcing its publication with the unequivocal strategic intention of influencing the Synod's outcome. They make this plain in their chosen title: they are the ones who 'remain in the truth of Christ', leaving the obvious conclusion to be drawn that the present Pope is distancing us from it.¹⁸

The five cardinals' gesture would have been unthinkable under previous popes, who would unreservedly have condemned its perpetrators. It clearly aims at turning the clock back, implying that the present Pope is steering the wrong course. One cannot avoid asking what is going on for this to happen, and one cannot but look to history for an answer.

4.1. History repeats itself

As Congar said some time ago, when faced with fresh challenges one always ends up not with renewal but with

'restorations' imposed with ever greater force. One might mention off the cuff here the early modern return to the scholastics, neo-scholasticism, the anti-Modernist repression... and the silencing of theologians whose work not long afterwards would be at the heart of the Second Vatican Council.

Vatican II was a recognition of the extent to which a wrong path had been taken, one increasingly out of touch with the world's heartbeat and out of sympathy with the faithful. In order to preserve the true faith, the Council felt it necessary to distinguish between the core and the outer covering, between

what is fundamental and what is simply historically conditioned. Truth can only be preserved by rigorous updating. The Council renewed the Church, restored freedom, stimulated life, and recovered hope, making its impact on the world through empathy, dialogue, and collaboration. The new dawn associated with the Council was capable of being dimmed, but its brilliance would never be hidden or extinguished. It could, unfortunately, be harshly and tenaciously curbed, however. A fear of novelty was possible, and a return to the false security of the fleshpots of Egypt, in place of encouraging a prophetic sensitivity to the new things coming to birth.

4.2. The new restorationist resistance

In the case of the area with which we are concerned here, resistance sprang from two sources: an obsolete view of the sacraments, to which I shall return, and a legalistic dogmatism that denies moral autonomy, falsely identifying the Church's role as that of reiterating legal norms and maintaining prohibitions supported by a literalistic scriptural hermeneutics.

But where morality is concerned the Church's mission is to invite men to concur and help them meet their obligations, proclaiming and teaching that in this common often very arduous task we may rely on the help, the understanding, and the forgiveness of our Lord. Problems may arise that have previously been undefined, since 'the human race is moving from a more static view of things to one which is more

dynamic and evolutionary', towards 'new combinations of problems which call for new analyses and syntheses' (*Gaudium et spes*, 5). The Council recognises this explicitly: 'The Church, as guardian of the deposit of Gods word, draws religious and moral principles from it but it does not always have a ready answer to particular questions, wishing to combine the light of revelation with universal experience so that illumination can be forthcoming in the direction that humanity has recently begun to take' (33. My emphasis).

4.3. The Synod on the Family

All this provides a context for the problems that the Synod is addressing, solutions to which should be found with due regard for scientific advances and changes in the ways in which human beings basically understand themselves. What is needed is neither inquisitorial intransigence nor the canonist's rigour, but as Pope Francis insists repeatedly, the love and mercy of the Lord and the encouragement that leads to gospel joy. This holds equally for many rules found in the Old Testament and some found in the New, including certain words of Jesus himself, since it is widely understood that in certain circumstances these need fresh interpretation. No Christian woman now thinks that it is sinful to appear in Church with her head uncovered, even if St Paul judged differently. And the very people who are so keen on the letter of scripture are not aghast when others call them 'father', despite our Lord's having forbidden it...

From a faith perspective, there is no need, if we are to recognise it as a moral ideal to which all married folk aspire, to treat the indissolubility of marriage as dogma. The church's role is to proclaim it and encourage people to be true to it, whilst declaring also that in so doing, all may count on the Lord's help. This does not entail ignoring the plain fact that such an ideal may irreversibly fail, and often does. And faced with failure, inspired by Jesus who was clear about the ideal but understanding in the face of failure ('let anyone among you who is without sin...'), the genuine gospel response is one of understanding, encouragement, and support.

In such fresh socio-cultural circumstances as these, the Church's proper stance should be to side with those who warmly and sincerely try to discern the good of human beings, in the light of what is possible in our present culture, time, and place, young people in search of fulfilment, old people faced with difficulties and not infrequently with failure. I believe that this is the best, the most effective, way of making sure we get things right, against those who hold that such an approach is unfaithful to the gospel and injurious to the church's moral influence.

The sacraments are God's gift to us and a source of support, celebrations to which the Church commits her whole being, acknowledging and confirming God's loving presence amidst life's crises, when we feel threatened or are fearful in the face of new and challenging tasks. This should be obvious in the case of marriage. To turn celebration into a noose that tightens round

us, a burden that wears us down, or an absolute barrier closing off the future in the face of failure, is to pervert its most fundamental significance, which is one of celebrating community. Its sole purpose, when the faithful are faced with doubt and uncertainty about the future, is to help them to believe in the availability of God's help as they seek as best they can to make the bond of love a lived reality. Such a task is common to believers and unbelievers alike, not easy, but humanly valuable and creative.

Given the nature of the opposition to admitting to communion divorced persons who have remarried responsibly it is hard to see the spirit of the sacraments at work there. This is especially true of the Eucharist, which evokes Christ's solidarity with the publicans and sinners that he sat at table with. Jürgen Moltmann commented similarly: 'At the Lord's Supper, we celebrate the presence of Christ, not the correctness (Richtigkeit) of our theology of the Eucharist.'¹⁹ The Eucharist is not a reward for those who are perfect (and which of us is that?) but food and support for sinners wanting to be better people.

When one reads the comments and proposals of Pope Francis, so humane and fresh, one cannot but be aware of their gospel inspiration. They are calls to mercy, an insistence on God's love revealed in a Jesus totally committed to helping human kind, concerned about its wounds and sharing its rejoicing, without discrimination and without exception. And note as well, as Xavier Alegre has explained, that the New Testament itself shows clear

evidence of historical adaptations to Jesus' words, as we saw where Matthew speaks of porneía, and Paul about what later will be called the 'Pauline Privilege'.

4.4. The authority of Pope Francis

This is exactly what Pope Francis is about, and why some seek to undermine his authority. This Pope, they say, is from the Third World, he's not up to the standards of First World intellectuals, he will not live in the imposing residence that preserves, embodies, and defends the status of the papacy. In plain contradiction of their own principles, his critics rebel against an authority that previously they had held to be unquestionable, for as long as its decrees agreed with what they thought themselves. On top of all this, and without its idiocy being condemned by the group to which he officially belongs, Antonio Socci appears on the scene with the following would-be definitive diagnosis: he has discovered that this Pope isn't the Pope after all, that Bergoglio 'is not Francis'. Although dissent has not generally reached such a level of grotesqueness, it does seek to call the Pope's authority into question, to deny his theological competence, and to accuse him of departing from the faith.

By the same token, Olegario González de Cardedal is on the wrong track with his lecture-article *De Ratzinger a Bergoglio o Los vuelcos en la Iglesia*. Francis, he finds, is the shepherd-pope, a good man, but..., and this 'but' keeps reappearing like a refrain: he is lacking in this, that, or the

other, and it remains to be seen what is going to become of it all... Even his utterly humane gesture in not calling his document about the joy of the gospel (*Evangelii gaudium*) an encyclical, laying aside the usual solemn language popes have used, revealing his human doubts and questionings, is held to debase his theological authority. Given the widespread publicity they have received, many people will read things between the lines that could be seriously discouraging to them, so we must wait and see. That is the line. This pontificate is no more than a passing cloud; things will soon return to normal.

4.5. The decision to be a shepherd-pope

Right from the outset, straightforwardly and unequivocally, the newly-elected Francis appeared above St Peter's Square, calling himself not the Pope, but the Bishop of Rome, and when asked for his blessing, he asked first for the people to bless him. Everyone saw that something different was afoot. People remembered Pope John XXIII: it was as if he'd reappeared, and the spirit of the Council was being reborn in all freshness. It was all so natural but also revolutionary, to such a degree that from that time on, a lot of things would never revert to being as they had been before.

Later using one of those metaphors that hit the spot and are readily understood, just like the gospel parables, Francis said that priests should be shepherds with the 'smell of sheep', thereby putting into words what he was

setting in motion: the government of the church by a shepherd pope. The papal 'court' style has to disappear. 'I am not a renaissance prince', he said; and against the curse of careerism that his predecessor had denounced already, he insists on being a servant. He preaches daily, he seeks contact with people, turning conventional understandings upside down: diplomats, persons of high-rank, the lowly, are treated with equal respect. The same is evident from his choice of travel destinations and the manner in which he makes his visits.

He is a shepherd above all in his concern for and unconditional commitment to the poor, the suffering, and the needy in whatever form they come, something to which he assigns an absolute importance. He upsets the usual priorities, avoiding any of the traditional moralistic banging on about this and the other detailed aspects of sexual morality. At last we have a pope who places humanity's greatest and most cruelly pressing problems at the heart of his message. The world needs news of a God who down the centuries, through the prophets and in Jesus of Nazareth, has revealed that these are his own central concerns, and the yardstick by which the truth of the faith is to be measured.

From this springs too the Pope's call to abandon ecclesiastical self-absorption, to bang the drum, and stir people from inertia. One of his most luminous and original metaphors has been that of the Church as 'a field hospital after a battle', one that sets before all else the task of healing wounds and mending broken hearts.'

I every time prefer a church that's vulnerable to a church that's sick. When the church does not come out of itself to evangelize, it becomes self-referential and then gets sick. The evils that, over time, occur in ecclesiastical institutions have roots in self-referentiality, a sort of theological narcissism that leads to the evil of spiritual worldliness and to sophisticated forms of clericalism, preventing us from experiencing the "the delightful, the comforting joy of preaching the gospel" (Paul VI).'

All this, without demanding anything of others that he does not practise himself. 'I am called to put into practice what I ask of others' (*Evangelii gaudium*, 32).

4.6. The shepherd-pope's 'theology'

We now need only to discuss one remaining point some people make in order to dismiss him and others to skin him alive: they say that Francis is no theologian, and has no grasp of theology.

That he is not a professional theologian and does not wish to be one is plain enough. But anyone listening to him or reading him and who still fails to notice his profound and well-tuned theological wisdom either himself knows no theology or has an excessively narrow and academic take on what it is about and why. Keeping company with academic theology and nourishing it, there is a 'theological wisdom' more closely linked to real experience, to actual practice, and to people's actual devotional lives. Bergoglio has for many years been

expert in this wisdom, and as a shepherd pope, Francis clearly demonstrates he lives it, practises it, and is determined to promote it in the Church.

Above all, he is re-establishing the links with Vatican II. ‘Vatican II required a re-reading of the gospels in the light of contemporary culture’, as he put it in his interview with Antonio Spadaro. This was what John XXIII aimed to do when he called the Council and what he determinedly pursued, convinced as he was that ‘ours is not a faith confined to the laboratory, but a historical faith, a faith that is a way of life.’

Francis makes it clear that this involves no dreaded relativism but openness to a ‘God of surprises’. Even in lives that have profoundly lost their way or become deformed, there is always room for God’s love. This is why we are to ‘trust in God’, to leave behind the ‘prophets of doom’, and avoid turning the Christian spirit into a ‘Lent without Easter’ [EG 6]. He speaks not of optimism, but of hope, a hope that in turn requires valour and a spirit open to ‘the joy of the gospel’. The way of the Church involves a shared journey towards a goal that Jesus points to, whilst respecting each other’s differences.

Francis has understood the Council’s novel emphasis on a hierarchy of truths, and with a deep pastoral instinct, he has known how to extend this to preaching and to ethics. The paragraphs devoted to this topic in *Evangelii gaudium* are true to the gospel and theologically original at the same time, something rather rare in the work of professional theologians. And

at root there lies his conviction that the theological renewal the Church needs demands that we return to the original experience.

More precise theology of a thought-through, systematic and theoretical kind comes later..., taking care to avoid the danger of ‘living in a laboratory’. It requires both time and patience, eschewing dogmatism. ‘If anyone knows all the answers, it is plain that God is absent.’ But one needs to read no more than a single paragraph of *Evangelii gaudium* to see there is not the slightest naivety in what Francis says, but rather, a vision of our current situation that is both precise and alert:

Within the Church countless issues are being studied and reflected upon with great freedom. Differing currents of thought in philosophy, theology and pastoral practice, if open to being reconciled by the Spirit in respect and love, can enable the Church to grow, since all of them help to express more clearly the immense riches of God’s word. For those who long for a monolithic body of doctrine guarded by all and leaving no room for nuance, this might appear as undesirable and leading to confusion. But in fact such variety serves to bring out and develop different facets of the inexhaustible riches of the Gospel (40. See also 133).

Seen from such a perspective, this affirmation of the Pope’s has not been given its due. Faced with particularly contentious and much debated issues, he first insists that theological values be upheld, and he entrusts the task of discussing their application or updating

to theologians. He does not see it as his role to settle theological questions that are contested in a legitimately pluralistic context, nor does he seek to impose a particular theological line, but wishes to preserve dialogue among specialists, of a fraternal and unfettered kind.

4.7. Setting up and organising the Synod

The depth and originality with which Francis has set up and led the Synod on the Family can only be grasped in the light of his all-embracing vision of how the saving news of the gospel needs to be preached at the present time, responding appropriately to the primary needs of the age and adequately to its cultural demands, in so far as it is reasonable to do so.

a) The Pope's vision of the Church as an active body to which it is possible to respond explains the unprecedented gesture of sending out a questionnaire in advance. This comes together with an explicit call to speak and discuss things in complete freedom, something that his quiet, attentive, un-interfering personal presence guarantees.

b) His preference for the pastoral that, theologically wise, refuses to impose a pre-existent model in the name of a fully elaborated tradition, opens the door to creative reflection. He does not claim to have ready-made solutions to hand, but rather, exhorts people to let the Holy Spirit be their guide, lest 'God's dreams' be frustrated, and in order to pass beyond what is already known, working generously in

a spirit of true freedom, humility, and creativity. This is decisive, because it is amidst confusion that resistance dwells, seeking in the name of the faith what are simply moral positions conditioned by historical circumstances.

c) It is in this spirit of mutual understanding that a further dimension may be reached: the need to start from lived experience, growing in freedom, since one is firmly rooted in a security derived from trust in God's unfailing love. It follows from this that theologians must 'not content themselves with a lecture-hall theology', that pastors remember that 'authority is service', and that everybody understands the fundamental importance of 'pouring oil and wine on human wounds', resisting the temptation to 'view human kind, to judge them or to pigeonhole them, from the safety of an ivory tower'.

Seen from such a perspective, it is meaningless to take a rigorous line on giving communion to divorced persons. What is clear instead is that 'the Eucharist, although it is the fullness of sacramental life, is not a prize for the perfect but a powerful medicine and nourishment for the weak' because 'the Church is not a tollhouse; it is the house of the Father, where there is a place for everyone, with all their problems' [EG 47].

I bring these reflections to a close with a quotation from St John of the Cross: 'God's look is to love' (*'el mirar de Dios es amar'*). This is a call to greater understanding, to extending generous welcome, to solidarity, and to mutual support. And 'God's look is

to create' (*'el mirar de Dios es crear'*),
breaking down our narrowness and
self-absorbed churchiness, imagina-

tively opening ourselves up to God's
newness that is devoted to the making
of a humanity more truly human.

1. There are interesting reflections on this point in J. Y. CALVEZ, “Moral social y moral sexual”, *Selecciones de Teología*, 33 (1994), pp. 201-06.
2. A more rigorous Biblical analysis of this matter may be found in my article “Jesús i la indisolubilitat del matrimoni segons els Sinòptics”, in A. PUIG (ed.), *El matrimoni i l'ús dels béns en la Bíblia*, Tarragona&Montserrat 2008, pp. 208-36. See also M. THEOBALD, “Jesús habla sobre el divorcio: ¿ley o evangelio?”, *Selecciones de Teología*, 35 (1996), pp. 223-33.
3. See Gerhard LOHFINK, *The Bible: Now I Get It!*, New York 1979.
4. See P. M. ZULEHNER, “Divorciados vueltos a casar”, *Selecciones de Teología*, 35 (1996), pp. 234-40.
5. Curiously enough one finds something of this also in Eastern cultures such as those of India and Japan, operating in a crueller fashion and applying only to the woman. Perhaps one might see in this some glimmer of human warmth, however distorted.
6. Norman TANNER, SJ, *Decrees of the Ecumenical Councils*, London 1990, I. pp. 9-10)
7. Jesús Martínez provides a broader interpretation of this Canon in the chapter following, basing his views on work by Cereti that I have not myself studied.
8. This is the view of B. SESBOUÉ in his *Histoire et théologie de l'infallibilité de l'église*, Paris 2013.
9. Others appear to hold that the bond is constituted not by a mere contract or the sexual act, but by love. And when love dies, the bond disappears in the same way as happens when one of the two spouses dies.
10. For more on this topic, see José RODRÍGUEZ DIEZ, “Indisolubilidad y divorcio en la historia del matrimonio cristiano y canónico”, *Anuario Jurídico Escorialense*, 39 (2006), pp. 171-214; J. Silvio BOTERO, “El cónyuge injustamente abandonado”, *Teología y Vida*, 45 (2004), pp. 3-17; E.Hamel, ‘Divorcio y nuevo matrimonio en la iglesia primitiva’, *Selecciones de teología*, 74 (1980), pp. 154-56.
11. K. RAHNER, *The Shape of the Church to Come*, London 1974, p. 95.
12. Cf. Robert DODARO (ed.), *Remaining in the Truth of Christ: Marriage and Communion in the Catholic Church*, San Francisco 2014.
13. Cf. G. CERETI, *Divorzio, nuove nozze e penitenza nella Chiesa primitiva*, Bologna 1977.
14. See PIUS XI, “Casti connubi”, *AAS*, 22 (1930), 574.
15. See J. MARTÍNEZ GORDO, *¿Cómo hablar hoy de conciencia y magisterio moral?*, 2nd edn, Bilbao 2010, pp. 10ff, and B. SESBOUÉ, *op. cit.*
16. Giovanni CETERI, *Matrimonio e indissolubilità, nuove prospettive*, Bologna 1971.
17. Marco ZERBINO, “Giovanni Cereti: passare da un approccio giuridico ad uno sacramentale”, *Adista Notizie*, no. 6/2.
18. This reflection summarises a somewhat longer work in which certain questions that are raised here receive a fuller treatment.
19. This remark is to be found in his autobiography, *Weiter Raum*, Gütersloh 2006.

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