

AMORIS LAETITIA & SENSUS FIDELIUM

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TWO SYNODS were convoked specifically to discuss the issue of marriage and family. The end result was that the prevailing doctrine, usage and understanding of these realities were repeated. The bishops gathered together could get no further.

As Pope Francis said in *Amoris Laetitia* (=AL)2:

The Synod process allowed for an examination of the situation of families in today's world, and thus for a broader vision and a renewed awareness of the importance of marriage and the family. The complexity of the issues that arose revealed the need for continued open discussion of a number of doctrinal, moral, spiritual, and pastoral questions. The thinking of pastors and theologians, if faithful to the Church, honest, realistic and creative, will help us to achieve greater clarity. The debates carried on in the media, in certain publications and even among the Church's ministers, range from an immoderate desire for total change without sufficient reflection or grounding, to an attitude that would solve everything by applying general rules or deriving undue conclusions from particular theological considerations.

At that point, one option would have been that of Paul VI, and *Humanae Vitae* (1968)¹. But, now almost fifty years later, we are aware of the consequences of that action. Yet there are some who uphold that approach. The option that Pope Francis has opted for, as stated in AL3 is

Since 'time is greater than space', I would make it clear that not all discussions of doctrinal, moral or pastoral issues need to be settled by interventions of the *magisterium*. Unity of teaching and practice is certainly necessary in

the Church, but this does not preclude various ways of interpreting some aspects of that teaching or drawing certain consequences from it. This will always be the case as the Spirit guides us towards the entire truth (cf. Jn 16:13), until he leads us fully into the mystery of Christ and enables us to see all things as he does. Each country or region, moreover, can seek solutions better suited to its culture and sensitive to its traditions and local needs. For 'cultures are in fact quite diverse and every general principle... needs to be inculturated, if it is to be respected and applied'

The statement of the Pope that 'time is greater than space' is a reference to *Evangelii Gaudium* #222-225. It is basically a call to give time for growth, development, to allow God's grace to work within individuals and communities. 'Space' is an area where we want to dominate, live by ideologies and insist on falling in line with a rigid application of teaching and doctrine. In doing so, he is well aware of LG #12 and the International Commission of Theologians' *Sensus Fidei in the Life of the Church*² (2014) # 74-80. When Newman wrote *On Consulting the Faithful in Matters of Doctrine* (1859)³, it was to demonstrate that the faithful (as distinct from their pastors) have their own, active role to play in conserving and transmitting the faith. It is significant that Pope Francis says explicitly that 'not all discussions of doctrinal, moral or pastoral issues need to be settled by interventions of the *magisterium*.' This is tantamount to stating that the bishops have seen a disparity between the ideals urged upon us and our Christian faith and the difficult challenges in which the faithful are called upon to live, but that they have been unable to find

a bridge over the divide.

In this process, the Pope acknowledges like Newman, that Christians have their own active role to play in conserving, transmitting and living the faith. In this process, 'the thinking of pastors and theologians, if faithful to the Church, honest, realistic and creative, will help us to achieve greater clarity.' (AL 2). The Pope is not speaking of abstract realities. He is not advocating a re-assertion of the past or a free fall unto cultural relativism. There is the need to rediscover what is essential to the Christian way of life, rediscover ways to ritualize that and reformulate what those rituals mean in terms that are faithful both to the teachings of Jesus and the experience of living according to them. This process will take a very long time as we learn from history. What he says is that 'the Lord's presence dwells in real and concrete families, with all their daily troubles and struggles, joys and hopes. Living in a family makes it hard for us to feign or lie; we cannot hide behind a mask. If that authenticity is inspired by love, then the Lord reigns there, with his joy and his peace.' (AL 315). From there the living out of the realities connected with sexual life will emerge—slowly, but surely.

The Pope advocates gradualness in pastoral care (AL 293-295), discernment (AL 293-306) and explains the logic of pastoral mercy (AL 307-312), within the context of his key principle 'time is greater than space'. Pope Francis is definitely not confining himself to abstract concepts. He uses the word 'concrete' often (at least 20 times in AL) and touches on issues that are more appropriate to pastoral and homiletic discourse than to academic and scientific writing. Most important of all, he notes the importance of conscience. 'We also find it hard to make room for the consciences of the faithful, who very often respond as best they can to the Gospel amid their limitations, and are capable of carrying out their own discernment in complex situations. We have been called to form consciences, not to replace them.' (AL 37). What he envisages is a possible



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development of lived doctrine and morality in the Christian community. Such developments do take place, often by a long and circuitous process. Humphrey O'Leary notes five stages, where a movement takes place in stages. Stage One, where the subject is not mentioned; Stage Two, where the practice is outright rejected; Stage Three, where some practice is allowed as exception; Stage Four, where the exception is encouraged and Stage Five, where the exception becomes the norm. Think of the Chinese and Malabar liturgical controversies of the 17th century; forbidding form criticism in the interpretation of the scriptures in the early 20th century; *Mortalium Animos* (1928) of Pius XI rejecting the ecumenical movement; Pius XII ruling out the celebration of the liturgy in the vernacular at the 1956 International Congress of Pastoral Liturgy and many other instances.

Development of Doctrine and Usage:

Two such cases I would briefly outline are the development of the doctrine of the Immaculate Conception and the church's attitude to usury. In regard to the doctrine of the Immaculate Conception for a long time, there was legitimate disagreement based on sound argumentation that all human beings (including Mary) needed Christ to be saved. Based on this premise, Mary could not have been conceived immaculate. But John Duns Scotus (1265/6-1308) offered a different perspective on Christ and why God would preserve Mary from all taint of sin at her conception. In *Lectura in*

Librum Tertium Sententiarum d.3 q, 1, he wrote³:

Christ was the most perfect mediator. Therefore, he exercised the highest degree of mediation in favour of another person. Now he could not be a most perfect mediator and could not repair the effects of sin to the highest degree, if he did not preserve his mother from Original Sin (as we shall prove). Therefore, since he was the most perfect mediator regarding the person of his mother, from this it follows that he preserved her from Original sin.'

It was several years later that in 1483, Pope Sixtus IV addressed the controversy over the Immaculate Conception, and gave Duns Scotus' conclusion in favor of the doctrine papal approval. This approval, it should be noted, did not mean 'Everybody but Scotus is wrong.' It simply meant that, in addition to the other theories of how Mary was preserved from sin floating around in the Catholic world, Scotus' view was admitted to the discussion as a legitimate contender. After this, there wasn't much of a quarrel in the Church. Most people happily celebrated the Feast of the Immaculate Conception. It was celebrated in the East (in the 5th century in Syria); then found its way in the 8th century to the Byzantine area of southern Italy and went from there to Normandy and eventually celebrated in Rome in 1568 (a very slow process).

The controversy died down (although there were holdouts among some Dominicans, who stuck with Thomas' theology on Mary's holiness right up until 1854 when the doctrine was defined). When it was defined in 1854, the distinction of Scotus was used: 'in the first instance of her conception, by a singular privilege and grace granted by God, in view of the merits of Jesus Christ, the Saviour of the human race, was preserved exempt from all stain of original sin.' It is the same sentiment that is used in the Opening Prayer of the Mass. But for the average Catholic it was a settled matter that the Church had arrived at a clearer understanding of Scripture by seeing just how full of *charis* (grace) Mary really was, when the angelic greeting '*Kaire, Kecharitomene!*'

(Hail, full of grace!) gave her a title as pregnant with meaning as her womb (Lk 1:28). Indeed, even early Reformers like Martin Luther had no problem with the doctrine.

In regard to usury, the general view prohibited usury. 'Usury is where anything more is required in return than was given. For example, if you lend 10 solidi and you seek anything more in return (*et amplius quesieris*), or if you lend one measure of wheat and you demand more in return' as Gratian stated (*circa* 1145)⁶. But Peter of John Olivi (1248-1298), *Tractatus de emptioibus et venditionibus, de usuris, de restitutionibus* (written *circa* 1295) granted that 'It is not possible to demand anything more in return (than the sum lent) without violating both equity and equality (*absque aperta lesura equitatis et equalitatis*).' Then he went on to explain 'The reason why [money of a certain kind] can be bought or exchanged for a price [more than itself] is because . . . money which in the firm intent of its owner is directed toward the production of probable profit (*ad aliquod probabile lucrum*) possesses not only the qualities of money in its simple sense but beyond this a kind of seminal cause of profit within itself, which we commonly call 'capital' (*communiter capitale vocamus*). And therefore it possesses not only its simple numerical value as money/measure but it possesses in addition a superadded value (*valor superadiunctus*).' From that point on, it was a long journey before the idea of interest on money given on loan was understood. Claudius Salmasius (1588-1653) pointed out the productive function of usury. Robert Jacques Turgot (1727-1781) was the first to identify the connection between usury and property rights. He saw the difference between the present and the future value of money. Jeremy Bentham (1748-1832) wrote *A Defense of Usury* (1787).

Vix pervenit (On Usury and Other Dishonest Profit) was an encyclical, promulgated by Pope Benedict XIV on 1 November 1745, which condemned the practice

of charging interest on loans as usury⁸. The encyclical was addressed to the Bishops of Italy. The Holy Office applied the encyclical to the whole of the Roman Catholic Church on 29 July 1836, during the reign of Pope Gregory XVI. By degrees a certain number of Catholic writers relaxed their severity. Economists generally uphold the theoretical lawfulness of interest on loans. For a long time civil law was in agreement with canon law; but as early as the 16th century, Germany allowed interest at 5 percent; in France, on the contrary, interest on loans was forbidden until the Decree of October 1789. Contemporary laws always consider the loan for consumption as gratuitous in principle, but allow a stipulation for the payment of interest to be added. The Holy See admits practically the lawfulness of interest on loans, even for ecclesiastical property, though it has not promulgated any doctrinal decree on the subject. The Code of Canon Law, promulgated in 1917, allowed those responsible for the church's financial affairs at the parochial and diocesan levels to invest in interest-bearing securities 'for the legal rate of interest (unless it is evident that the legal rate is exorbitant), or even for a higher rate, provided that there be a just and proportionate reason.' Thus, it took a long time from Peter of John Olivi for distinctions to be made and interest to be considered lawful, while usury (exorbitant interest is always unlawful). But the basis for the change was a different view of money—as Peter of John Olivi stated, money could be directed toward the production of probable profit. Thus, interest is permissible, but exorbitant interest is never permissible⁹.

The Scriptures

To return to a possible functioning of the *sensus fidelium* in regard to the problem issues in AL, the Pope says that rules set forth a good which can never be disregarded¹⁰ (AL304). But rules in the particular situation are not helpful or desirable (AL 35 cf. 2, 49, 201, 300). The

Pope acknowledges that there are pressures on people from various directions—a culture, which pressures young people not to start a family (AL 40); forced migration of families, resulting from situations of war, persecution, poverty and injustice, and marked by the vicissitudes of a journey that often puts lives at risk, traumatizes people and destabilizes families.(AL 46). In addition, there are situations where people are unable to live the Christian life in its fullness. What about them?

Following this divine pedagogy, the Church turns with love to those who participate in her life in an imperfect manner: she seeks the grace of conversion for them; she encourages them to do good, to take loving care of each other and to serve the community in which they live and work... When a couple in an irregular union attains a noteworthy stability through a public bond—and is characterized by deep affection, responsibility towards the children and the ability to overcome trials—this can be seen as an opportunity, where possible, to lead them to celebrate the sacrament of Matrimony'. (AL 78)

When faced with difficult situations and wounded families, it is always necessary to recall this general principle: 'Pastors must know that, for the sake of truth, they are obliged to exercise careful discernment of situations' (*Familiaris Consortio*, 84). The degree of responsibility is not equal in all cases and factors may exist which limit the ability to make a decision. Therefore, while clearly stating the Church's teaching, pastors are to avoid judgments that do not take into account the complexity of various situations, and they are to be attentive, by necessity, to how people experience and endure distress because of their condition. (AL79)

The instruction is addressed to pastors. They are to offer a service to help assist wounded families to live their calling in their particular situation as best they can.

Reviewing the Scriptural Tradition

The idea of harmonious lifelong relationships in marriage appears in imperial literature. Christians by and large inherited the marital

practices and ideology of their predecessors, but differed especially in two points. They condemned divorce and re-marriage after divorce and secondly, esteemed the refusal to marry and commitment to lifelong virginity more highly than marriage¹¹. Not until *De Bono Coniugali* of Augustine was marriage given a full theoretical treatment. Augustine countered extreme views against marriage e.g. those of Jerome in *Adversus Jovinianum*, that privileged virginity over the sanctioned pleasures of marriage¹².

Scripture texts on marriage do not give absolute rules, but offer formation and reasoning about matters of belief and practice. It is very intriguing that the Canticle of Canticles is part of the canonical scriptures. In its text, there is no mention of God. At no point is a marriage celebrated or even suggested. The sexual union between the partners is evoked throughout (may be even considered provocative at times. Cf the description of parts of her body Cant. 7:1-5). There is no mention of the procreation of children.

The first biblical commentary ever written was on *The Song of Songs* by Origen (3rd century), whose allegorical approach lies at the root of later Christian interpretation of the Song. For ancient interpreters the *Song of Songs* was reckoned among the deepest and most difficult texts in the Bible. The short eight chapters of the *Song of Songs* have generated more commentary than almost any other book of the Bible.¹³

In medieval Christian hermeneutics, different layers of Scripture were distinguished. First of all, the literal sense of the text, also called the historical meaning or narrative, was opposed to the non-literal spiritual or mystical sense. The non-literal sense, in turn, could be differentiated into an allegorical, an anagogical and a tropological or moral sense. Allegorically, the Old Testament, and thus the Song, was interpreted as a typology of Christ and the Christian Church. In the anagogical reading, events were

interpreted in relation to their ultimate fulfilment in the kingdom of heaven. The tropological interpretation placed the allegorical and anagogical meaning of the text in the light of the life and behaviour of the individual Christian. For medieval monastic authors, the literal sense of the Song was problematic; it is a love song in the form of a dialogue, possibly between Solomon and his Egyptian bride, in which God does not occur. Therefore, emphasis was laid on the spiritual meanings that can be found in the Song: the bridegroom and bride were either interpreted allegorically, as God and the Church, or tropologically, as the Word and the human soul. This made the text a story about the longing of the Church for God or the striving of the soul for union with Christ. However, in the twelfth century the focus shifted to the moral meaning of the Song as the soul's mystical union with God as the primary mode of interpretation¹⁴. In more recent times, 'double meaning' is used as a hermeneutical principle and leads to discover allusions to a messianic meaning developed within the poem that celebrated the love of Solomon and the daughter of the Egyptian Pharaoh¹⁵. Thus, the Biblical perspective offers many possibilities of reflection and attempts to live covenanted love today.

Marriage as it is understood today has come a long way since Biblical times. Each generation has moulded the marriage concept to make sense to them within their own cultural context. Is it fair to say that the Bible does not provide enough guidelines on the subjects of marriage and sex; therefore each generation revised the few rules there are to suit themselves? The fact that morality has changed and is changing is undeniable. We will have to make a responsible distinction between cultural customs and religious values. Our culture will be ever changing and customs that were once acceptable are no longer acceptable today¹⁶. What is the Christian call today?

The Road Ahead

In today's world as AL 41 states:

'The Synod Fathers noted that 'cultural tendencies in today's world seem to set no limits on a person's affectivity'; indeed, 'a narcissistic, unstable or changeable affectivity does not always allow a person to grow to maturity'. They also expressed concern about the current 'spread of pornography and the commercialization of the body, fostered also by a misuse of the internet, and about those 'reprehensible situations where people are forced into prostitution'. In this context, 'couples are often uncertain, hesitant and struggling to find ways to grow. Many tend to remain in the early stages of their affective and sexual life.'

And yet the challenge is to grow beyond the early stages of affective and sexual life into the maturity of love. As AL 135 states:

It is not helpful to dream of an idyllic and perfect love needing no stimulus to grow. A celestial notion of earthly love forgets that the best is yet to come, that fine wine matures with age. As the Bishops of Chile have pointed out, 'the perfect families proposed by deceptive consumerist propaganda do not exist. In those families, no one grows old, there is no sickness, sorrow or death... Consumerist propaganda presents a fantasy that has nothing to do with the reality which must daily be faced by the heads of families. It is much healthier to be realistic about our limits, defects and imperfections, and to respond to the call to grow together, to bring love to maturity and to strengthen the union, come what may.'

That is the struggle that people are going through and it is the situation, where pastoral care and concern is called for. As Pope Francis admits, we are at a stage when 'At times we find it hard to make room for God's unconditional love in our pastoral activity' (AL 311) with its footnote 364: 'Perhaps out of a certain scrupulosity, concealed beneath a zeal for fidelity to the truth, some priests demand of penitents a purpose of amendment so lacking in nuance that it causes mercy to be obscured by the pursuit of a supposedly pure

justice. For this reason, it is helpful to recall the teaching of Saint John Paul II, who stated that the possibility of a new fall 'should not prejudice the authenticity of the resolution' (*Letter to Cardinal William W. Baum on the occasion of the Course on the Internal Forum organized by the Apostolic Penitentiary* [22 March 1996], 5: *Insegnamenti* XIX/1 [1996], 589).

On the other hand 'Because of forms of conditioning and mitigating factors, it is possible that in an objective situation of sin - which may not be subjectively culpable, or fully such - a person can be living in God's grace, can love and can also grow in the life of grace and charity, while receiving the Church's help to this end' (AL 305) with its footnote 351: 'In certain cases, this can include the help of the sacraments. Hence, 'I want to remind priests that the confessional must not be a torture chamber, but rather an encounter with the Lord's mercy' (Apostolic Exhortation *Evangelii Gaudium* [24 November 2013], 44: AAS 105 [2013], 1038). I would also point out that the Eucharist 'is not a prize for the perfect, but a powerful medicine and nourishment for the weak' (*ibid.*, 47: 1039).'

Thus, the way forward is that the situation will develop as it may be handled (or mishandled?) by pastoral ministers and lay persons in situations that are outside the norm trying to discover the demands of the gospel in their situation. The life of the believing community goes on in a world that is facing rapid change at all levels in which people live—people who are rational, and are selfish in their choices. Salvation history works itself out not in a sterile situation free from sin, but in the midst of human fragility¹⁷. Just as the distinctions of Scotus led to the clarification of the doctrine of the Immaculate Conception and the contribution of Peter of John Olivi began the process of reflection that has led to the lawfulness of taking interest, so also in the case of sexual morality, there are several negative factors and myths¹⁸ operating to prevent the development and maturing of the

initial attractions that brings people together.

Some Insights of Recent Times:

As pastors and people try to live the demands of the gospel, there are several contributions of recent thinking that may or may not influence the direction of 'discernment' and the search for discovering the demands of the gospel. This would perhaps include the entire range of positions in regard to sexual morality. Some of these areas that may need to be reviewed and either incorporated into Christian life or rejected as unsuitable for integration in the context of following Christ could be briefly named. Which of them, if any, would have an impact on Christian life, it is difficult to predict.

1. The notion of complementarity of sexes: Over the course of the last half-century, the Vatican embraced sexual complementarity as the foundation of its theological anthropology. Sister Prudence Allen¹⁹, recently named by Pope Francis to the International Theological Commission stated that the word 'complementarity' appears in none of the cited sources from 750 BC to AD 1500. Previously, those who asserted essential differences between the sexes also asserted the superiority of men. The closest Allen comes to early traces of what later became complementarity is in the work of the twelfth-century abbess Hildegard von Bingen. Perhaps this concept needs to be rethought. Linked with this would be trying to understand a whole range of literature that currently circulates together with the contribution of Pope John Paul II and his series of 129 discourses (Sep 1979 to Nov 1984) on the Theology of the Body²¹ and Pope Benedict XVI's *Deus Caritas est* (2005) with its discussion of *eros* and *agape*.

2. New Questions as regards what sexuality is: One of the more interesting critiques of views on current sexuality is the work of Michel Foucault. In the first volume of the history, Foucault famously states that while 'as defined by the ancient civil or canonical codes, sodomy was a category of forbidden

acts,' 'the nineteenth-century homosexual became a personage'. In *The Use of Pleasure*, in contrast to either of these definitions, the Greeks of the classical period, rather than categorizing sexual activity in terms of the sex of the desired object, thus dividing among homosexual and heterosexual, categorized in terms of the dominance or passivity of the desired role, thus classing boys and women—as passive—together as objects of desire for men.

3. Homosexuality: There were same sex friendships called 'sworn friendships'²³ They were not only recognized; at least in practice at a point in the history of the Church, they were even ritually sanctioned. Recently, Bishop Johan Bonny²⁴ of Antwerp has suggested that homosexual couples, divorced and remarried Catholics, and cohabiting pairs should be given some sort of Church blessing as part of a 'diversity of rituals' that would recognize the 'exclusiveness and stability' of their unions.

4. The nature of the biological act: The official papal teaching banning the use of 'artificial' contraceptives for family planning is based on the belief that the biological 'laws of conception' show that each and every act of sexual intercourse has procreation as their natural 'finality' and 'significance.' From such a belief, the moral requirement is inferred that couples engaging in sexual intercourse must always be open to procreation. However, the vast majority of acts of sexual intercourse do not have the biological 'capacity' for procreation, and therefore they cannot have procreation as their 'finality' or 'significance.'

As for the intention of the agents, the Bible identifies a variety of morally worthy non-conceptive motives for engaging in sexual intercourse. This is confirmed by the evolutionary biology of human reproduction, and sociology, among other disciplines. The use of modern contraceptives can facilitate one or more of sexual intercourse's non-conceptive meanings, as well as have additional morally worthy purposes—e.g.

family planning, following the requirements of responsible parenthood (*Humanae Vitae* 10). Theologians are requesting a consideration of change²⁵.

The Progress of Discernment

There are some significant approaches to the situation of persons in irregular situations. Christoph Cardinal Schoenburg of Vienna, has proposed a method for his Archdiocese²⁶. Based around five questions, his proposal aims to help such faithful on a path of discernment, assist them in an examination of conscience and facilitate their integration into the Church's life. The five questions focus on i. What is the situation regarding your children? ii. What is the situation regarding your separated wife or husband? iii. Have you overcome guilt and feelings of guilt? iv. To faithfully married couples: How can you deepen your relationship and make it even happier? v. What does my conscience tell me? What is God asking of me?

Quite different are the *Pastoral Guidelines for Implementing Amoris Laetitia* of Archbishop Charles J. Chaput of Philadelphia (July 1, 2016) : With divorced and civilly-remarried persons, Church teaching requires them to refrain from sexual intimacy. This applies even if they must (for the care of their children) continue to live under one roof. Undertaking to live as brother and sister is necessary for the divorced and civilly-remarried to receive reconciliation in the Sacrament of Penance, which could then open the way to the Eucharist. Such individuals are encouraged to approach the Sacrament of Penance regularly, having recourse to God's great mercy in that sacrament if they fail in chastity.

Very fascinating is the proposal of the bishops (of the Buenos Aires Pastoral Region), which they drafted to implement Chapter 8 of AL. They sent these to Pope Francis and he warmly approved the guidelines²⁸. This is certainly a beginning and needs to be

integrated in the pastoral praxis of the church on a wider scale.

They suggested:

1) Firstly, we should remember that it is not advisable to speak of 'permissions' to have access to sacraments, but of a discernment process in the company of a pastor. It is a 'personal and pastoral discernment' (AL #300).

2) In this path, the pastor should emphasize the fundamental proclamation, the kerygma, so as to foster or renew a personal encounter with the living Christ (cf. AL#58).

3) Pastoral accompaniment is an exercise of the 'via caritatis'. It is an invitation to follow 'the way of Jesus, the way of mercy and reinstatement' (AL#296). This itinerary requires the pastoral charity of the priest who receives the penitent, listens to him/her attentively and shows him/her the maternal face of the Church, while also accepting his/her righteous intention and good purpose to devote his/her whole life to the light of the Gospel and to practise charity (cf. AL# 306).

4) This path does not necessarily finish in the sacraments; it may also lead to other ways of achieving further integration into the life of the Church: greater presence in the community, participation in prayer or reflection groups, engagement in ecclesial services, etc. (cf. AL# 299)

5) Whenever feasible depending on the specific circumstances of a couple, especially when both partners are Christians walking the path of faith, a proposal may be made to resolve to live in continence. AL does not ignore the difficulties arising from this option (cf. footnote 329) and offers the possibility of having access to the sacrament of Reconciliation if the partners fail in this purpose (cf. footnote 364, recalling the teaching that Saint John Paul II sent to Cardinal W. Baum, dated 22 March, 1996).

6) In more complex cases, and when a declaration of nullity has not been

obtained, the above mentioned option may not, in fact, be feasible. Nonetheless, a path of discernment is still possible. If it is acknowledged that, in a concrete case, there are limitations that mitigate responsibility and culpability (cf. 301-302), especially when a person believes he/she would incur a subsequent fault by harming the children of the new union, AL offers the possibility of having access to the sacraments of Reconciliation and Eucharist (cf. footnotes 336 and 351). These sacraments, in turn, prepare the person to continue maturing and growing with the power of grace.

7) However, it should not be understood that this possibility implies unlimited access to sacraments, or that all situations warrant such unlimited access. The proposal is to properly discern each case. For example, special care should be taken of 'a new union arising from a recent divorce' or 'the case of someone who has consistently failed in his obligations to the family' (AL#298). Also, when there is a sort of apology or ostentation of the person's situation 'as if it were part of the Christian ideal' (AL#297). In these difficult cases, we should be patient companions, and seek a path of reinstatement (cf. AL#297, 299).

8) It is always important to guide people to stand before God with their conscience. A useful tool to do this is the 'examination of conscience' proposed by AL# 300, specifically in relation to 'how did they act towards their children' or the abandoned partner. Where there have been unresolved injustices, providing access to sacraments is particularly outrageous.

9) It may be convenient for an eventual access to sacraments to take place in a discreet manner, especially if troublesome situations can be anticipated. At the same time, however, the community should be accompanied so that it may grow in its spirit of understanding and acceptance, without letting this situation create confusion

about the teaching of the Church on the indissoluble marriage. The community is an instrument of mercy, which is 'unmerited, unconditional and gratuitous' (AL#297).

10) Discernment is not closed, because it 'is dynamic; it must remain ever open to new stages of growth and to new decisions which can enable the ideal to be more fully realized' (AL#303), according to the 'law of gradualness' (AL#295) and with confidence in the help of grace.

This is why we would like to welcome the following words of the Pope: 'I also encourage the Church's pastors to listen [to the faithful] with sensitivity and serenity, with a sincere desire to understand their plight and their point of view, in order to help them live better lives and to recognize their proper place in the Church' (AL#312).

Dated 5 September 2016, Pope Francis replied To the Bishops of the Buenos Aires Pastoral Region, addressing himself to Mons. Sergio Alfredo Fenoy, Delegate of the Region.

Dear brother,

I received the document of the Buenos Aires Pastoral Region entitled 'Basic criteria for the implementation of chapter VIII of *Amoris laetitia*'. Thank you very much for sending it, and let me congratulate you on the work that you have undertaken: a true example of accompaniment of priests...and we all know how necessary it is for a bishop to stay close to his priests and for priests to stay close to their bishop. The bishop's 'neighboring' neighbor is the priest, and the commandment to love your neighbor as yourself begins, for us bishops, precisely with our priests.

The document is very good and thoroughly specifies the meaning of chapter VIII of *Amoris laetitia*. **There are no further interpretations.** And I am confident that it will do much good.

May the Lord reward this effort of pastoral charity. And it is precisely pastoral charity that drives us to go out to meet the strayed, and, once they are found, to initiate a path of acceptance, discernment and reinstatement in

the ecclesial community. We know this is tiring, it is 'hand-to-hand' pastoral care which cannot be fully addressed with programmatic, organizational or legal measures, even if these are also necessary. It simply entails accepting, accompanying, discerning, reinstating.

Out of these four pastoral attitudes the least refined and practised is discernment; and I deem it urgent to include training in personal and community discernment in our Seminaries and Presbyteries. Finally, I would like to recall that *Amoris laetitia* resulted from the work and prayers of the whole Church, with the mediation of two Synods and the Pope. For this reason, I recommend a full catechesis of the Exhortation, which will, most certainly, contribute towards the growth, consolidation and holiness of the family. Once again, thank you for your work and let me encourage you to carry on studying and teaching *Amoris laetitia* in the different communities of the dioceses. Please, do not forget to pray and to remind others to pray for me.

May Jesus bless you and may the Holy Virgin take care of you.

Fraternally,
FRANCIS

Conclusion:

Basic to any conclusion is: 'Because of forms of conditioning and mitigating factors, it is possible that in an objective situation of sin—which may not be subjectively culpable, or fully such—a person can be living in God's

NOTES

1. R. McClory, *Turning point: the inside story of the Papal Birth Control Commission, and how Humanae Vitae changed the life of Patty Crowley and the future of the Church* (New York: Crossroad, 1995); Charles E. Curran, *Loyal Dissent: Memoir of a Catholic Theologian* (Washington DC: Georgetown University Press, 2006); Charles E. Curran, 'After *Humanae Vitae*: A Decade of 'lively Debate' in: *Hospital Progress* 59/7 (July 1978) 84-89; Janet E. Smith, *Humanae Vitae: A*

grace, can love and can also grow in the life of grace and charity, while receiving the Church's help to this end' (AL 305). The pastoral role respects the law (there is no gradualness in the law), but is not legalistic (time is greater than space). The call to follow Christ remains, even though one finds oneself in an 'objectively' irregular situation. One embraces that call with one's whole being in the context of doing one's best in that situation.

There have already been in the church two disciplines that have been practiced during various periods of its history to achieve specific goals. First, there was the catechumenate (seeking to incorporate into the church, persons who were not yet baptized. Here the doctrinal element was foremost)²⁹. Secondly, there was the penitential discipline (seeking to re-incorporate those who had deviated from what was required of them by the enlightenment of baptism—to offer them a second plank of salvation, stressing repentance)³⁰. Perhaps the present would be an opportune moment to consider the institution of a discipline of discernment that provides a programme for those wishing to search in honesty for what they can do in their particular situations, combining reason, virtue in the context of gradualness in pastoral care (AL#293-295), discernment (AL# 293-306) and the logic of pastoral mercy (#AL 307-312) aware that 'time is greater than space', in the spirit in which Pope Francis has heartily endorsed the initiatives of the Bishops of the Pastoral Region of Buenos Aires, Argentina. It could even be the inauguration of a new mission in itself.

Generation Later (Washington DC: Catholic University of America, 1991); William H. Shannon, *The Lively Debate: Response to Humanae Vitae* (New York: Sheed & Ward, 1970); Paul F. de Ladurantaye, 'From *Humanae Vitae* to *Donum Vitae*: Symmetry and Consistency in Catholic Biomedical Teaching' in: *Linacre Quarterly* 66/1 (1999) 7-20

2. http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/

[rc_cti_20140610_sensus-fidei_en.html](#)

3. Cf. <http://www.newmanreader.org/works/rambler/consulting.html>

4. 'Reversal of Position by the Church', in *The Month* (Feb 2000) 68-70

5. Cf. C. Balic, 'Joannes Duns Scotus et Historia Immaculatae Conceptionis', *Antonianum* 30(1955) 36-58, 108-118. On the opposite side stood such outstanding scholars as Thomas Aquinas, who in *Commentary on Sentences*, Book 3, d1, q 1 a 1: Christ did not need to be redeemed, since he is the head of the human race, but all other persons had to be redeemed through him. Therefore, neither the Blessed Virgin nor any other person before Christ could have been given this privilege. Again in *STh* 3, 27,2: ... if the Blessed Virgin Mary did not contract Original Sin, she would not have needed redemption through Christ, Now this would have been out of place, since Christ had to be saviour. Cf. also Thomas M. Izbicki, 'The Immaculate Conception and ecclesiastical politics from the Council of Basel to the Council of Trent: The Dominicans and their foes', in *Archiv fuer Reformationsgeschichte* 96/1 (2014) 145-170; Sarah J. Boss (ed.), *Mary: The Complete Resource* (London: Burns and Oates, 2007) esp. 207-235 for development of doctrine of Immaculate Conception.

6. Gratian, *Decretum* II. 14. 3. c. 4

7. J.B.C. Murray, *The History of Usury* (Philadelphia: J.B. Lipicot & Co, 1866); Glyn Davies, *A History of Money* (Cardiff: Un. Of Wales, 1994); Benjamin N. Nelson, *The Idea of Usury: From Tribal Brotherhood to Universal Otherhood* (Princeton: Princeton University Pres 1949).

8. The pope stated: 'The nature of the sin called usury has its proper place and origin in a loan contract . . . [which] demands, by its very nature, that one return to another only as much as he has received. The sin rests on the fact that sometimes the creditor desires more than he has given . . . , but any gain which exceeds the amount he gave is illicit and usurious. . . . One cannot condone the sin of usury by arguing that the gain is not great or excessive, but rather moderate or small; neither can it be condoned by arguing that the borrower is rich; nor even by arguing that the money borrowed is not left idle, but is spent usefullyCf. Tomas Storck, 'Is Usury Still a Sin?', in *Communio: International Catholic Review*, 36/3 (Fall 2009), 447-474.

9. In *Quando nel principio* (1923), Pius XI cites social justice as a governing principle of the peoples of this earth that precedes and transcends the state. In the matter of war reparations the pope reminds the conquering forces that both social justice and social love, as well as the self-interest of the creditor states and of all nations, does not allow the restitution from the debtor of that which can be paid back only with the complete exhaustion of its powers and reserves.

10. In line with the development of the Immaculate Conception of Mary, no salvation without Christ; in regard to usury, no exorbitant interest.

11. Judith Evan Grubbs, *Law and family in late antiquity: the Emperor Constantine's marriage legislation* (New York: Oxford University Press 1999); Edward Westermarck, *The history of human marriage* (London: Macmillan 1921); Frances Gies—Joseph Gies, *Marriage and the Family in the Middle Ages* (London: Harpercollins 1987).

12. Augustine, *De Bono Coniugali, De Sancta Virginitate* (P.G. Walsh ed. & tr., Oxford: Oxford University Press 2001); Jane Barr, 'The Vulgate Genesis and Jerome's Attitude towards Women.' in *Studia Patristica*, 18 (1982) 268-273; Jane Barr, 'The Influence of Saint Jerome on Medieval Attitudes to Women', Janet A. Soskice (ed.), *After Eve : Women, Theology and the Christian Tradition* (New York: 1990) 89-102. Cf. Savitri Ashok , 'By God, If Wommen Hadde Written Stories': A Feminist Glance at the Wife of Bath's Love Versions and Subversions' [An interesting analysis of Chaucer's character] at: <http://pintersociety.com/wp-content/uploads/2014/05/Savitri-Ashok-10.pdf>

13. Judy Elise Lam, *The Canticle of Spiritual Direction: A Transformative Approach to the Song of Songs* (MA Dissertation, University of South Africa 2012), 1 at: uir.unisa.ac.za/handle/10500/8103

14. Lieke Smits, 'A Union Not Only Of Bodies But Of Spirits': *The Image Of The Kiss In The Commentaries On The Song Of Songs Of Bernard Of Clairvaux And William Of St. Thierry* (MA Dissertation, Utrecht University, 2014) at: <http://dspace.library.uu.nl/handle/1874/298188>. Jean Leclercq, *The Love of Learning and the Desire for God* (New York: Fordham University Press 1961) 84 notes that the Canticle of Canticles especially for Cistercians is equivalent to a treatise on the love of God. Its aim is to touch the heart rather than the mind. Cf. Hilary Elizabeth Elder, *The*

- Song of Songs in late Elizabethan, Jacobean and Caroline poetry* (PhD Dissertation, Durham University, 2009) 107-116 at: <http://etheses.dur.ac.uk/2165/>
15. Theodore of Mopsuetia (died 428) saw in the Canticle a poem celebrating marriage. Cf. Raymond Jacques Tournay, *Word of God, Song of Love: A Commentary on the Song of Songs* (Tr. J. Edward Crowley, Mahwah, NY 1988).
16. Maria Elizabeth Tukker, *Sexuality and marriage: Guidelines for the twenty-first century* ((MA Dissertation, University of Pretoria, 2011) at: <http://repository.up.ac.za/bitstream/handle/2263/25754/dissertation.pdf?sequence=1>; Peter Vardy, *The puzzle of sex* (London: HarperCollins 1997); Ralph Barnard, *Dis tyd dat Christene anders dink en praat oor seks* (Wellington: Hugenote Uitgewers 2000).
17. Moshe Weinfield, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon, 1972); Raymond F. Person Jr., *The Deuteronomic School: History, Social Setting, and Literature* (Studies in Biblical Literature 2. Atlanta: Society of Biblical Literature, 2002)
18. William N. Eskridge Jr., 'Six Myths that Confuse the Marriage Equality Debate', *Valparaiso University Law Review* 46/1(2011)103-116.
19. *The Concept of Woman* I-III (Grand Rapids, MI: William B. Eerdmans, 1997, 2002, 2016).
20. Cf. Anders Nygren, *Agape and Eros: A Study of the Christian Idea of Love and The History of the Christian Idea of Love* (Tr. Philip S. Watson)(Philadelphia: Westminster Press 1953; first pub. 1930)
21. Michael Waldstein, *Man and Woman He Created them: A Theology of the Body* (Boston: MA: Pauline Books and Media 2006); Christopher West, *Theology of the Body for Beginners* (Milwaukee, WI: Ascension 2004); Kenneth Schmitz, *At the Center of the Human Drama: The Philosophical Anthropology of Karol Wojtya, Pope John Paul II* (Washington DC: Catholic University of America Press 1993); Christopher West, *Theology of the Body Explained: A Commentary on John Paul's 'Man and Woman He Created Them'* (Boston, MA: Pauline Books and Media 2007)
22. *The History of Sexuality. Introduction, II. The Uses of Pleasure, and III. Care of the Self* (Tr. Robert Hurley, New York: Vintage Books, 1988-90; Original in French: Paris: Gallimard, 1976).
- Cf. Jeffrey Weeks, *Sexuality and Its Discontents: Meanings, Myths, & Modern Sexualities* (London: Routledge 1995).
23. Cf. Allen J. Frantzen, *Same Sex Love from 'Beowulf' to 'Angels in America'* (Chicago: Un of Chicago Press, 1998); John Boswell, *Same Sex Unions in pre-modern Europe* (Visalia, CA: Vintage, 1991); Alan Bray, *Homosexuality in Renaissance England* (New York: Columbia University 1966); Alan Bray, *The Friend*, (Chicago: University of Chicago Press 2006); Alan Bray, 'Friendship, the Family and Liturgy in Traditional Christianity', *Theology and Sexuality* 12(2000) 15-33; Lawa Gowing-Michael Hunter-Miri Rubin (eds.), *Love, Friendship and Faith in Europe: 1300-1800* (New York: Palgrave Macmillan, 2005), esp. 88-109; Gabriel Herman, *Ritualized Friendship and the Greek City* (Cambridge University Press, 1987). From legal perspective in USA: William N. Eskridge, *The case for same-sex marriage: From sexual liberty to civilized commitment* (New York: Free Press 1996).
24. Johan Bonny (with: Roger Burggraave—Ilse Van Halst), *Mag ik? Dank je. Sorry. Vrijmoedige dialoog over Relaties, huwelijk en gezin* (Tielt: Lannoo 2016).
25. Cf. *The Tablet* (24 Sep 2016) 29. See Catholic Scholars' Statement on the Ethics of Using Contraceptives at <http://www.wijngaardsinstitute.com/statement-ethics-using-contraceptives/>
26. Aufmerksamkeiten: Seelsorgliche Handreichung für den Umgang mit Geschiedenen und mit Menschen, die an eine neue Partnerschaft denken at: http://media.wige.kategoriale-seelsorge.at.s3.amazonaws.com/Dateien/73749_aufmerksamkeiten.pdf,
27. http://archphila.org/wp-content/uploads/2016/06/AOP_AL-guidelines.pdf
28. <http://www.periodistadigital.com/religion/diocese/2016/09/18/religion-iglesia-amoris-laetitia-el-arzobispo-de-granada-asume-los-criterios-de-los-obispos-de-baires-sobre-los-divorciados.shtml> Cf. also <http://www.cyberteologia.it/2016/09/basic-criteria-for-the-implementation-of-chapter-viii-of-amoris-laetitia/>
29. Michel Dujarier, *A history of the catechumenate: The first six centuries* (New York: William H. Sadlier 1979); Thomas M. Finn, *Early Christian Baptism and the Catechumenate: Italy, North Africa, and Egypt* (Collegeville, MN: Liturgical Press 1992); Thomas

M. Finn, *Early Christian Baptism and the Catechumenate: West and East Syria* (Collegeville, MN 1992); William Harmless, *Augustine and the Catechumenate* (Collegeville, MN: Liturgical Press 1995). Cf. also International Council For Catechesis, *Adult Catechesis In The Christian Community: Some Principles And Guidelines* (Libreria Editrice Vaticana 1990).

30. Marie-Francois. Berrouard, 'La pénitence publique durant les six premiers siècles: Histoire et sociologie', *La Maison-Dieu* 118 (1974) 92-130; G. Oggioni, 'Storia e teologia della Penitenza. Bibliografia', *Problemi e orientamenti di Teologia Dogmatica*, (Marzorati, Milano: Pontificia Facoltà Teologica di Milano 1957), 901-923; Bernhard Poschmann, *Paenitentia secunda : die kirchliche Busse im ältesten Christentum bis Cyprian und Origenes ; eine dogmengeschichtliche Untersuchung* (Bonn: P. Hanstein 1940); Nathaniel Marshall (a priest of the Church of England), *The Penitential Discipline of the Primitive Church for the First Four Hundred Years After Christ: Together with Its Declension from the Fifth Century Downwards to its present state impartially represented* (Oxford: John Henry Parker 1844) Available at: <http://archive.org/stream/>

penitentialdisci00mars / penitentialdisci00mars_djvu.txt;

31. Thomas Michelet OP, 'Synode sur la famille: la voie de l'ordo paenitentium', in *Nova et Vetera*, 90, 1/2015, p. 55-80. Cf. Pope Francis asked Jesuits in Poland to teach discernment in seminaries as an aid to the ministry, 30 July 2016. 'Oggi la Chiesa ha bisogno di crescere nel discernimento, nella capacità di discernere. E soprattutto i sacerdoti ne hanno davvero bisogno per il loro ministero. Per questo occorre insegnare ai seminaristi e ai sacerdoti in formazione: loro abitualmente riceveranno le confidenze della coscienza dei fedeli. La direzione spirituale non è un carisma solamente sacerdotale, ma anche laicale, è vero. Ma, ripeto, bisogna insegnare questo soprattutto ai sacerdoti, aiutarli alla luce degli Esercizi nella dinamica del discernimento pastorale, che rispetta il diritto, ma sa andare oltre. Questo è un compito importante per la Compagnia.... Bisogna davvero capire questo: nella vita non è tutto nero su bianco o bianco su nero. No! Nella vita prevalgono le sfumature di grigio. Occorre allora insegnare a discernere in questo grigio.' Cf. <http://ilsismografo.blogspot.com/2016/08/vaticano-dialogo-del-papa-con-alcuni.html#more>

The Synod process allowed for an examination of the situation of families in today's world, and thus for a broader vision and a renewed awareness of the importance of marriage and the family. The complexity of the issues that arose revealed the need for continued open discussion of a number of doctrinal, moral, spiritual, and pastoral questions. The thinking of pastors and theologians, if faithful to the Church, honest, realistic and creative, will help us to achieve greater clarity. The debates carried on in the media, in certain publications and even among the Church's ministers, range from an immoderate desire for total change without sufficient reflection or grounding, to an attitude that would solve everything by applying general rules or deriving undue conclusions from particular theological considerations.

(Amoris Laetitia par.2.)