

## Mercy, *Oikonomia* and Law in the Canonical Marriage System \*

SUMMARY: 1. Divine Mercy and Law in the Church.– 2. Law, *misericordiae dispensatio* and *oikonomia*.– 3. Mercy and the Other Virtues.– 4. Pastoral Care in Marriage; Mercy and Law: a) Pastoral prudence is enlightened by faith; b) Pastoral requirements in the different phases of the canonical marriage system; c) Law and mercy for members of the faithful divorced and remarried in civil law.

### 1. Divine Mercy and Law in the Church

God has shown his goodness through the Creation, wishing there to be creatures capable of taking part in his happiness. “Re-creation”, which is the work of Redemption, reflects one aspect of his goodness: his infinite mercy. Mercy brings to light, even more-so, the gratuity of his gift.

Mercy, as the composition of the word suggests, consists in having a compassionate heart: a heart that takes on the misery of another person (with misery here understood as a lack, a limitation, or something similarly negative). Saint Thomas teaches that being merciful consists in considering another’s misery as one’s own. Usually a person seeks to overcome misery or refuse it. Therefore, the action proper to mercy is to remove someone else’s misery. Mercy can concern material or spiritual needs, such as, for example, teaching or correction. The person who practices mercy is good and is happy<sup>1</sup>.

Perhaps the most notable of mercy’s works is forgiveness, through which the “misery” of a debt is removed. The liturgy does not hesitate to affirm that God manifests his all-powerfulness when he forgives<sup>2</sup>. The word itself (for-give) suggests that a great gift is at stake. Furthermore, in forgiving a debt the gratuity of the gift becomes clear.

“God is rich in mercy”<sup>3</sup>, and has shown this in the work of Redemption, through which we have been justified, forgiven an enormous debt. Without any merit on our part, the Word assumed human nature, sharing our condition in all things except sin, taking upon himself our misery, in order to give us, through the sacrifice of the Cross, what we had lost, and to bestow other gifts upon us<sup>4</sup>. Therefore it is no exaggeration to affirm that Christ is “mercy incarnate”.

To make Redemption effective in each of us, Christ founded the Church and entrusted to it the means of salvation. Therefore the Church is the administrator of divine mercy, and through the Church the salvific effects of divine mercy can be obtained. From the moment when Christ institutionalized the means of salvation (the Word and the Sacraments), entrusting their administration to the Church through its ministers, these instruments of salvation became a right for

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<sup>1</sup> «Beati misericordes, quoniam ipsi misericordiam consequuntur. Misericordem esse est habere miserum cor de miseria aliorum: tunc autem habemus misericordiam de miseria aliorum, quando illam reputamus quasi nostram. De nostra autem dolemus, et studemus repellere. Ergo tunc vere misericors es, quando miseriam aliorum studes repellere. Est autem duplex miseria proximi. Prima in istis rebus temporalibus; et ad istam debemus habere miserum cor; I Io. III, 17: qui habuerit substantiam huius mundi, et viderit fratrem suum necesse habere, et clauserit viscera sua ab eo, quomodo caritas Dei manet in eo? Secunda qua homo per peccatum miser efficitur: quia, sicut beatitudo est in operibus virtutum, ita miseria propria in vitiis; Prov. XIV, 34: miseros facit populos peccatum. Et ideo quando admonemus corruentes ut redeant, misericordes sumus; infra IX, V. 36: videns autem Jesus turbas, misericordia motus est. Isti ergo misericordes beati». SAINT THOMAS AQUINAS, *Super Evangelium Matthaei*, cap. 5, lc. 2.

<sup>2</sup> To see in what way grace can be affirmed as superior to creation, cf. S. Th., I-II, q. 113, a. 9.

<sup>3</sup> Eph. 2:4.

<sup>4</sup> Cf. Heb. 4:15 and Phil. 2:6-8.

us. The grace contained in the Sacraments, the saving power of the deposit of faith, is a free gift of divine mercy, but it is also a right the baptised can claim from the Church's ministers<sup>5</sup>.

The first tie-up of law and mercy in the Church consists, therefore, in this apparent paradox: the faithful have a right to divine mercy (clearly not from God, because this refers to mercy, but from the Church's ministers); these ministers have a duty in justice to spread divine mercy, because the grace of the Sacraments and the Divine Word are not merits of the ministers but are salvific goods that Christ has entrusted to the Church so that it might administer them<sup>6</sup>. There is even a right to forgiveness (the gratuitous elimination of debt), in the sense that the faithful have the right to receive from priests the Sacrament of Confession.

In the context of marriage it can be noted that lifting up the natural institution of marriage to the level of grace is a manifestation of divine mercy. Marriage, the indissoluble union between man and woman capable of making the human family grow, became "sacramentum magnum" signifying the indissoluble carnal union of the Word with humanity<sup>7</sup>, called to carry out the important mission of founding the "domestic church". Christian marriage is a Sacrament that confers the grace to carry out faithfully the vocational mission of marriage and to take up this path that leads to eternal life<sup>8</sup>.

The natural right to marry becomes, in the Church, a fundamental right of the faithful to receive the Sacrament conferring the grace that helps a faithful living-out of the Christian vocation to marriage. With a duty of justice, the Church should administer the grace the Christ intended for families: preparing engaged couples to receive the Sacrament of Marriage, assisting the spouses in their difficulties, helping parents to educate their children.

One part of the task of administering mercy in the context of marriage is to establish a legal order in this field, dictating the rules that govern how the grace connected to marriage is administered: the conditions for its celebration, the modalities of its celebration, the verification of its validity, the fixing of rights and duties, and still other aspects of this field. These rules should reflect what the Church believes about marriage and should make possible access to the plan of salvation that Christ intended for families. Taken together, these norms and the series of rights and duties surrounding the Sacrament of Marriage are usually referred to through the expression "canonical marriage system".

## **2. Law, *misericordiae dispensatio* and *oikonomia***

In setting out how the administration of mercy, that is to say the administration of the goods of salvation, is ordered, ecclesiastical law recognises and constitutes rights, fixes their boundaries, and in this way also establishes duties of justice, doing so in such a way that, in some situations, some of its dispositions can be burdensome. The duty in justice to fulfil a given law can be reduced in some cases, where exceptional circumstances make fulfilment of the general rule inapplicable, clearly inopportune or even unjust in that specific situation, while remaining valid for cases in general. Aristotle had explained this phenomenon (*epikeia*) based on the abstraction of human law: law being a general norm which abstracts from the real and historical world or from the singular circumstances of persons, places and time, it can happen that in a determined situation those

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<sup>5</sup> Canon 213, in effect, recognises the right of all the faithful "to be assisted by their Pastors from the spiritual riches of the Church, especially by the word of God and the sacraments".

<sup>6</sup> On the founding of the existence of law within the Church in the dimension of justice inherent to the sacraments and to the deposit of faith, cf. J. HERVADA, *Le radici sacramentali del diritto canonico*, in *Ius Ecclesiae*, 17 (2005), pp. 711-739.

<sup>7</sup> Cf. Eph. 5:31-32.

<sup>8</sup> Cf. *Catechism of the Catholic Church* nos. 1601-1605, 1612-1617 and 1655-1658.

circumstances that the legal provision has ignored mean that the most suitable solution differs from that of cases in general<sup>9</sup>.

Apart from borderline cases where legal obligation itself ceases, there are also other circumstances which, while not removing the legal duty as such, seem to advise the adoption of a solution that differs from the one set out in the general norm. In these situations, canonical tradition recognises the institution of dispensation, through which ecclesiastical authority exonerates from legal obligation in a single case on consideration of a just reason, while the applicable law remains for the other cases. Classical canonical authors, with regards to the *causa dispensandi*, distinguished forbidden dispensation (unjust, without legitimate cause) from permitted dispensation (depending on the prudential judgment of authority) and from dispensation as a due<sup>10</sup>. In fact, from its very beginnings, canon law study posed the problem of the limits of law and the need to harmonise the requirements of justice with the requirements of mercy<sup>11</sup>. In this context, dispensation was often referred to as *dispensatio misericordiae*, underlining how, at the origins of the word *dispensatio* there was a meaning of administration or distribution, precisely in relation to the broadening of mercy<sup>12</sup>. Dispensation from the law would be, therefore, the most emblematic institution, although not the only one, among those measures taken by an ecclesiastical authority manifesting mercy, in so far as it concerns a disposition referred to single cases and has as its effect the exoneration from an obligation<sup>13</sup>. Thanks to these institutions, the Church's juridical praxis can adapt itself to the real requirements of concrete cases without becoming entangled in the inflexible web of legalism.

The idea contained in the Latin expression *dispensatio misericordiae* is close to what the Orientals call *oikonomia*<sup>14</sup>. There is no authentic or unanimously recognised definition of *oikonomia*, but it is possible to affirm that the term intends to refer to the principal inspiring the activity of ecclesiastical authority – echoing somewhat the divine economy in relation to the plan of human salvation – when, in exceptional cases, ecclesiastical authority undertakes a measure that distances itself from the strict application of the canons (*akribeia*)<sup>15</sup>. Orthodox authors insist greatly on the characteristic of exceptionality, to the point that a solution taken by virtue of *oikonomia* cannot be used as a precedent, even in a similarly exceptional case: each case must be evaluated separately.

It would be in contrast with the Orthodox conception to purport to fix objective limits in advance for *oikonomia*: its correct application depends on the wisdom of the Pastor, assisted by the Holy Spirit. However, it is pacifically accepted that *oikonomia* cannot contradict either dogmatic

<sup>9</sup> Cf. ARISTOTLE, *Nicomachean Ethics*, Book V, no. 10.

<sup>10</sup> Cf. SAINT RAYMOND PENYFORT, *Summa de iure canonico* (ed. X. Ochoa – A. Díez, Rome 1975), II, 27, 6, coll. 143-144.

<sup>11</sup> This can be seen in the famous triple formula *rigor iuris, aequitas et dispensatio*: “Et nota quod aliud est rigor, aliud est ius, aliud est dispensatio [...] Rigor non est servandus, nisi ubi timetur exemplum mali [...] Dispensatio est idem, quod iuris relaxatio: et ea non est utendum nisi sit necessitas, vel utilitas. Ius autem media strata incedit inter rigorem, et dispensationem [...] Ius autem est aequitas, id est aequalitas, ius suum unicuique tribuens, bonis praemia, malis supplicia: hoc debet iudex semper observare” (D.50 c.25 gl. v. *detrahendum est*).

<sup>12</sup> The expression “*dispensatio misericordiae*” comes from Gratian (C.1 q.7 d.a. c.6), more specifically from the decree commented by Rufinus when he proposes as a definition for dispensation – and which inspires later canonical doctrine – : that specific institution with which authority can concede an exception to the law (“*iusta causa facente ab eo, cuius interest, canonici rigoris casualis facta derogatio*”). RUFINUS, *Summa decretorum*, ed. H. Singer (Paderborn 1902=Aalen 1963), ad C.1 q.7 d.a. c.6, p. 234.

<sup>13</sup> On this, see E. BAURA, *La dispensa canonica dalla legge*, Milan 1997, particularly pp. 7-33.

<sup>14</sup> Cf. S. BERLINGÒ, *La causa pastorale della dispensa*, Milan 1978, pp. 13-98.

<sup>15</sup> In the Catholic context, during the preparatory work for the current Code of Canons of the Oriental Churches, definitions of *economy* were proposed, but none of these was accepted. Cf. E. JARAWAN, *Révision des canons De normis generalibus – Canons préliminaires au Code tout entier*, in *Nuntia*, 10 (1980), pp. 92-94 and I. ZUZEK, *L'économie dans les travaux de la Commission Pontificale pour la Révision du Code de Droit Canonique Oriental*, in *Kanon*, 6 (1983), pp. 67-83.

truth or “essential norms”<sup>16</sup>. The problem comes with the interpretation of dogma and the determination of these essential norms, questions that remain subject to the prudent evaluation of each Pastor<sup>17</sup>.

*Oikonomia* has caught the attention of the Catholic world because of the practice, in Orthodox Churches, of “blessing”, in a certain way, the new weddings of people who are already married, referring this practice to *oikonomia*<sup>18</sup>. Depending on the criteria of each Pastor, a third union could also be celebrated, but a fourth “marriage” is never accepted.

At first glance, it does not seem possible to admit this practice as being well-founded, because the Orthodox Churches themselves do not consider this second “marriage” to be a sacrament, going so far as to give the ceremony of this second wedding a rather penitential character; a penance, however, that does not lead to removing the situation for which penance is being done, but does lead to admission to a new union that is considered illegitimate or, at least, non-sacramental. The only justification for this would be, in effect, *oikonomia*, understood as a mercy which, participating in divine power, presents itself somewhat under a veil of mystery that prevents a rational explanation for acting in this way<sup>19</sup>. Furthermore, there remains the puzzle caused by the limits imposed on this practice (never allowing a fourth union), given that the practice of mercy should not have limits.

One can understand why this praxis has constituted an obstacle in Ecumenism. On one hand, Catholic faith openly confesses “as a doctrine that is it be held definitively”<sup>20</sup> that the Church does not have the power to unbind ratified and consummated marriages. On the other hand, it does not seem easy to understand how a ceremony can be celebrated for a union that is considered illegitimate<sup>21</sup>.

Except for the gap that exists on this point, *oikonomia* and *misericordiae dispensatio* are, in this author’s opinion, quite close. In both cases what is dealt with is the possibility of emanating

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<sup>16</sup> Cf. P. L’HUILIER, *L’Economie dans la tradition de l’Eglise Orthodoxe*, in *Oikonomia, Mischehen*, W.M. Plöchl (Ed.), Vienna 1983, p. 24.

<sup>17</sup> For a first approach to the notion of *oikonomia*, with an abundant bibliography, cf. P. GEFAELL, *Oikonomia*, in *Diccionario General de Derecho Canónico*, J. Otaduy - A. Viana - J. Sedano (Eds.), vol. V, Cizur Menor 2012, pp. 695-700.

<sup>18</sup> Some authors have affirmed that Orthodox divorce is not through *oikonomia* but through law (cf. B. PETRÁ, *Il concetto di ‘economia ecclesiastica’ nella teologia ortodossa*, in «Rivista di teologia morale», 14 [1982], pp. 511-512), but, in any case, it refers to a law born from the practice of *oikonomia*.

<sup>19</sup> Some authors speak of “death” of the marriage (cf. B. PETRÁ, *Il matrimonio può morire? Studi sulla pastorale dei divorziati risposati*, Bologna 1996), but affirming that a second union can be celebrated because the previous marriage is dead is equivalent to denying the indissolubility of marriage.

<sup>20</sup> Cf. SAINT JOHN PAUL II, *Allocution to the Roman Rota*, January 21st 2000, in AAS, 92 (2000), pp. 350-355. In this allocution the Roman Pontiff referred to the: “limit of the Roman Pontiff’s power concerning ratified and consummated marriages, which ‘cannot be dissolved by any human power or by any cause other than death’ (CIC, can. 1141; CCEO, can. 853). This formulation of canon law is not merely disciplinary or prudential in nature, but corresponds to a doctrinal truth that has always been held so by the Church. Despite this, the idea has spread that the Roman Pontiff’s power, being a vicarious power of Christ’s divine power, is not one of those human powers to which these canons refer and, therefore, could perhaps be extended in some cases to the unbinding of ratified and consummated marriages. Faced with the doubts and uneasiness that could emerge from this, it is necessary to reaffirm that ratified and consummated sacramental marriage can never be unbound, even through the power of the Roman Pontiff”. After several citations in the same sense from Magisterium, Saint John Paul II concludes: “The Roman Pontiff, in fact, has the ‘*sacra potestas*’ to teach the truth of the Gospel, to administer the sacraments and to pastorally govern the Church in the name of Christ and with his authority, but this power does not include in itself any power over Divine or Natural positive law (...) It emerges clearly, therefore, that the non-extension of the Roman Pontiff’s power to ratified and consummated sacramental marriages is taught by the Magisterium of the Church as a doctrine that is to be held definitively, even if it has not been declared solemnly by means of an act of definition”.

<sup>21</sup> Some Orthodox Churches bless the new unions, while others, following tradition, consider that it is best to limit themselves to admitting these unions through *oikonomia*. In any case, the new union is not considered to be sacramental.

singular measures containing an exception to the general norm. Mercy translated through a moving away from the general rule must obey the need for a just cause that legitimates the exception and should concern a truly exceptional and unique case, not because mercy is exceptional but because mercy - which cannot be dissociated from either truth or justice – is habitually contained in the general norm. This is why classical canonical authors asked that the dispensation be *causalis et casualis*: that it have a justifying cause and that it be given in an exceptional case. Proceeding from these considerations what emerges is how misleading it would be to hypothesise on a solution to a problem of general dimensions through the use of exceptional measures. Among other things, setting things in this way would lead to a sterile casuistic with all of the risks connected to this. It is no surprise, therefore, that historically, faced with many dispensations to a law, the legislator has decided to change the general norm, as has happened with the abolition of some impediments to marriage.

The characteristic singularity of these measures requires a special prudence on the part of those in authority. Certainly, decisions of this type are subject to a greater risk of error than is the case for the emanation of general declarations or norms, and from this flows the difficulty of identifying Church doctrine or tradition using practice in borderline cases as a starting point<sup>22</sup>.

The previously mentioned point of divergence between Orthodox practice and Catholic practice brings to light the essential difference between Divine law and human law. Human law, as indicated above, is a rule that is extrinsic to the reality it tries to discipline, and is elaborated by abstraction. It can sometimes happen that an element of circumstance not considered in the law is determining for the resolution of a concrete case, and therefore justifies making an exception. This does not mean that everything found in this human law can be removed without there being a just cause. Moreover, it should not be forgotten that human law is a determination of Divine law, is based upon Divine law and draws its cogent force from Divine law<sup>23</sup>, and for this reason it is misleading to set up a reasoning whereby the disciplinary element would be divorced from all doctrinal consequences.

Divine law is law only in an analogical sense with regard to human law, be it ecclesiastical or civil. In fact, differently from human law, Divine law is creative, constitutive of reality, acting within the being of things, in such a way that no exception to it is possible because this would purport to say that something is not, or should not be, what it is in reality. Otherwise, one would fall into the voluntaristic conception of Divine law that is specific to nominalism. For example, there is no divine rule – in the sense of a positive norm, contingent, abstract and extrinsic to the reality it regulates – according to which marriage should be indissoluble; the reality is that God created man and woman in such a way that a given concrete marriage, if it is really a marriage, is indissoluble, in the same way that a human person, by the fact of being human (and not because of a subsequent positive norm) has a right to life. It is another thing, however, to refer to the human way (abstract) to formulate what we call laws or principles of Divine law: the human formulation of Divine law, specifically because it has the limits of abstraction, is susceptible to having exceptions made to it. Indeed, the possibility of making just exceptions to (legitimate) human laws is specifically based upon the impossibility of derogation from Divine law, because Divine law prevails over abstract human measures, however reasonable and obligatory these may be for cases in general.

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<sup>22</sup> For this reason, one should be very cautious in welcoming historical evaluations of the practice and the underlying doctrine concerning measures that are contrary to habitual ecclesiastical doctrine. Furthermore, it is important to carry out historical research with rigour, and without ideological leanings. For example, in years of lively debate on pastoral care in the sacraments, a work that was apparently important because of the historical novelties it contained was immediately characterised in one review by a specialist in this field as a “bluff”, “written with considerable journalistic skill” (H. CROUZEL, Review of “G. Cereti, *Divorzio, Nuove nozze e Penitenza nella Chiesa primitiva*. Studi e ricerche. Bologna, Edizioni Dehoniane, 1977, 8°, 416”, in *Civiltà Cattolica*, no. 3045 April 2<sup>nd</sup> 1977, pp. 304-305).

<sup>23</sup> Cf. SAINT AUGUSTINE, *De libero arbitrio*, 1, c.5, 11, in PL 32, col. 1227 and SAINT THOMAS AQUINAS, S. Th., I-II, q.95, a.2.

The apparent exceptions to moral law that can be found in some biblical texts should be interpreted in the sense of tolerations that do not legitimise (“because of your heard-heartedness”<sup>24</sup>) belonging to the divine pedagogy that culminates with the Revelation of the Word Incarnate. God is indeed mysterious, and Man certainly cannot completely explain God’s actions, but human reason was created by God so that it might know reality, and this to the point that “not acting according to reason is contrary to the nature of God”<sup>25</sup>. The impossibility of derogating from Divine law is not a limitation of power, but rather a perfection of being, a metaphysical coherence.

Regarding tolerance - otherwise called the non-recognition of the juridical effects of behaviour or of a situation considered negative from a moral point of view -, it should be noted that this is not usually so much a question of mercy (precisely because what is considered negative is not removed) but rather a question of legislative prudence or of finding that a given matter is without juridical relevance. Thus, the decriminalisation of a given immoral conduct (for example, duelling) replies to the legislator’s judgment that this behaviour is no longer a menace for society, but does not presuppose any special attitude of mercy towards duellers, and even less so a positive evaluation of what is merely tolerated<sup>26</sup>.

### 3. Mercy and the Other Virtues

Having considered the role of mercy in relation to the general norm, and before studying how this role is developed practically in the canonical marriage system, some thought is required on the relationship between mercy and the other virtues.

a) Prudence.— Mercy shuns the cold operation of logic in applying a general rule to a concrete case, and, on the contrary, fixes its attention on the circumstances of the person, considered as a unique and unrepeatable being. Practicing mercy, therefore, does not require knowledge of techniques of application and does not require special capacities in logic. It does require prudence in judging what should be done in a given single case.

b) Faithfulness.— As well as prudence, at the moment of giving as a solution an exception that distances itself from the general norm, there is a requirement of justice and faithfulness, so that the exception might be justified and not be a mere inobservance of the law. Classical canonical authors frequently recall the evangelical characteristics of the good administrator or steward – *fidelis ac prudens*<sup>27</sup> –, which are those that guarantee that the *dispensatio misericordiae* does not become *dissipatio*. The words of Saint Bernard of Clairvaux are famous, exhorting Pope Eugene III to take the just decision not because the *fidelis dispensation* is forbidden him, but because he must avoid *crudelis dissipatio*<sup>28</sup>.

<sup>24</sup> Mt. 19:8.

<sup>25</sup> Cf. BENEDICT XVI, Allocution at the University of Regensburg, September 12<sup>th</sup> 2006, in [www.vatican.va](http://www.vatican.va).

<sup>26</sup> Any *dissimulatio*, otherwise understood as the pretending on the part of authority that it does not know about the existence of a given situation or illegitimate action, has characteristics that are similar to tolerance. Because, differently from the institution of dispensation, it does not produce any juridical effect - that is to say it does not purport to create a new right -, *dissimulatio* can also refer to situations that are contrary to Divine law, and which do not become legitimated but simply, in fact, are not punished. *Dissimulatio* should only be done after a prudent pondering of its suitability, so as to verify that the *dissimulatio* avoids greater evils than those that would come from punishing the conduct in question. In any case, a *dissimulatio* is illegitimate when it involves a breach of another person’s rights or, as often happens in the case of *dissimulatio*, of the rights of the community (it is enough to think of the evil inflicted on the community and on individual persons, as recognised in recent years, through the imprudent and unjust *dissimulatio* of the criminal conduct of some clerics towards children). On *dissimulatio* and tolerance in Canon Law, see: G. OLIVERO, “*Dissimulatio*” e “*tolerantia*” nell’ordinamento canonico, Milan 1953.

<sup>27</sup> Cf. Mt. 24:45 and Lk. 12:42.

<sup>28</sup> “ ‘Quid?’ inquis. ‘Prohibes dispensare?’ Non, sed dissipare. Non sum tam rudis, ut ignorem positos vos dispensatores, sed in aedificationem, non in destructionem. Denique quaeritur inter dispensatores, ut fidelis quis inveniatur. Ubi necessitas urget, excusabilis dispensatio est; ubi utilitas provocat, dispensatio laudabilis est. Utilitas dico

c) Faith.— Faithfulness refers to faith. Prudent and merciful action should be guided by faith. It should be noted that the prudence of the merciful seeks out the truth in the other person's situation, and intends to take account of his or her real necessities. Faith is a light that enlightens the knowledge of reality, a reality that is historical and circumstantial. Faith is not an *ensemble* of theoretical beliefs which are ineffective on a practical level. Faith cannot be banished to the world of ideas in order to allow a practice – falsely considered “pastoral” – which is contrary to faith. The claim to justify a practice that is independent from faith is contrary to the Catholic faith: it would be a vision of the faith without works, proper to Lutheranism<sup>29</sup>, or an ideological and demagogical use of the truths of faith, professed abstractly but denied in practice.

As has already been affirmed, in matters of *dispensatio misericordiae*, concerning exceptional measures contrary to general norms, prudence is necessary in order to distinguish the requirements of human law - which, in so far as it is a determination of Divine law or is founded upon Divine law, is always abstract and therefore prone to being suspended in exceptional cases - from what flows from the Divine law inherent in historical and concrete reality. Faith helps prudence to carry out this function.

Faithfulness to truth is at the same time faithfulness to what is good, that is to say, to what is “truly good”. Because merciful action is an attempt to remove “misery”, that is to say the evil afflicting the other person, it is important to identify prudently the evil in question, bearing in mind that good and evil do not necessarily coincide with what the interested party might desire or refuse. Even in identifying what is good, and one might say especially in identifying what is good, the help that faith can give in order to avoid confusing authentic good with what is only apparently good is of the highest importance.

d) Fortitude.— On many occasions, what is good is arduous, and therefore fortitude will be required, even on the part of the person intending to exercise mercy, like a doctor giving bitter medicine or carrying out painful surgery. This is the fortitude that, so often, pastors must demonstrate in carrying out their ministry as stewards of mercy<sup>30</sup>.

One should not forget that in the field of mercy it is easy to give an excessive role to human sentiment. Mercy includes compassion: “*patire cum*” regarding another person. By nature, Man tends to manifest this compassion through sentiments. In the Gospel there are many examples of how Jesus, perfect God and perfect Man, was moved by the necessities of his fellows, including material necessities (lack of food, illness, death) and spiritual ones, sometimes to the point of weeping, as happened at the death of a friend and also at the ingratitude of men towards God. Nonetheless, the essence of mercy consists less in the feelings that the other person's misery might provoke and more of the will to remedy this misery. In any case, one should never confuse the sentiment that rightly accompanies these needs with sentimentalism. Sentimentalism is a deviation from sentiment, leading to the treating of pain in an irrational way, going against the truth of things. Sentimentalism leads, ultimately, to not dealing fully with problems, to not eliminating evils because this might have a price, or to removing them while causing greater evil.

Here, too, faith helps us understand that the path leading Man to happiness passes through the crosses of each day. *A sensu contrario*, it is easy to observe how a society both secularised and based on well-being naturally leads to sentimentalism, as is demonstrated in the discussions on the

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communis non propria. Nam cum nihil horum est, non plane fidelis dispensatio, sed crudelis dissipatio est” (SAINT BERNARD OF CLAIRVAUX, *De consideratione*, 3.4.18 [PL 182, col. 769]).

<sup>29</sup> Cf. Jas. 2:14-24.

<sup>30</sup> Regarding the characteristics that bishops should demonstrate, Pope Francis recently affirmed: “The courage to die and the generosity to offer his life and to expend himself for the flock are inscribed in the “DNA” of the Bishop. Renunciation and sacrifice are connatural with the mission of the Bishop” (FRANCIS, *Address to the Congregation of Bishops*, February 27<sup>th</sup> 2014, no. 4; (text at [www.vatican.va](http://www.vatican.va))).

major moral questions, which, based on apparently “merciful” arguments, have led to opulent societies allowing, even promoting, conduct which is contrary to human dignity.

Because sentimentalism is the preponderance of sentiments over the truth of things, the sentimentalist way of reasoning is one that presents borderline situations that naturally provoke a sense of compassion in order to reach, hastily or with demagoguery, an irrational solution: that is, a solution that does not correspond to the real good in question and cannot withstand rational critical analysis. Despite its irrationality, a sentimentalist slogan easily produces its intended result because it is not seeking the truth - this requires a phase of reflection – but, rather, immediate sentiment, perhaps because the experience of a sentimental motion is considered more important than a truth that might be difficult or impossible to achieve. In this way, serene and constructive dialogue becomes difficult. Because this is specifically the way in which sentimentalism operates, it is understandable that it is a highly-prized weapon for ideologies. In matrimonial questions, there is no lack of manifestations of misleading sentimentalism, even in the Catholic world, which do not reply to true mercy and consist in arguments that are apparently merciful but which are contrary to the truth of marriage and, therefore, are contrary to the dignity of man and the dignity of the woman.

e) Justice.— Finally, in considering the relationship of mercy with the other virtues, we must consider the question of mercy and justice – a classic question among philosophers, moralists and jurists.

First, it should be noted that thinking justice and mercy in dialectic terms, like two opposing or incompatible virtues, would be an erroneous way to consider the problem. Clearly, in the solution adopted in a given case it is necessary to decide if the just action must be carried out in order to satisfy a right or if a merciful action should be carried out in order to forgive a debt or gratuitously remedy an evil, but it is impossible that the action of a virtue be contrary to another virtue, because the virtues are the operative signs of a freedom inclined towards acting in a morally good way, and no one thing can be a moral good in terms of one virtue and yet be something evil in terms of another virtue. This is so because, although there can be different types of virtue by reason of their respective objects, the formal reason of all that is good is of the same type<sup>31</sup>. In definitive, an action cannot be morally good from one point of view and morally evil from another point of view.

It is precisely because there is a unity of good and a diversity of virtues that there is a need of prudence, the *auriga virtutum*, in order to act correctly from a moral point of view, practicing the virtues<sup>32</sup>. It has been noted that “justice” without mercy is cruelty and that mercy without justice brings dissipation<sup>33</sup>. Looking attentively, it can be seen that cruelty is unjust and that mercy without justice creates a greater evil, sometimes to the same person. Justice precedes mercy in the sense that before gratuitously removing evil from someone else, it is necessary to give that person what is due to him or her<sup>34</sup>. In other words, mercy must be practiced in justice and in truth. In short, it is understood that truth is the limit of the *oikonomia* that the Orientals recognise. In reality, it should

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<sup>31</sup> SAINT THOMAS AQUINAS, S. Th., I-II, q. 60, a. 1.

<sup>32</sup> This is why the juridical art has always been linked to prudence, going so far as to call juridical science “jurisprudence”. Saint Thomas Aquinas follows Aristotle in speaking of *gnome* as the part of the virtue of prudence capable of establishing the just solution in concrete cases when this requires departing from the general rule. (cf. SAINT THOMAS AQUINAS, S. Th., II-II, q. 48, a. 1).

<sup>33</sup> “Iustitia sine misericordia crudelitas est, misericordia sine iustitia mater est dissolutionis” (IDEM, *Super Evangelium Matthaei*, cap. 5, lectio 2).

<sup>34</sup> As Benedict XVI taught: “Charity goes beyond justice, because to love is to give, to offer what is “mine” to the other; but it never lacks justice, which prompts us to give the other what is “his”, what is due to him by reason of his being or his acting. I cannot “give” what is mine to the other, without first giving him what pertains to him in justice. If we love others with charity, then first of all we are just towards them.” (BENEDICT XVI, Encyclical Letter *Caritas in Veritate*, June 29<sup>th</sup> 2009, no. 6 (text at [www.vatican.va](http://www.vatican.va))).

be said that truth is not a limit, as if one were talking about some exterior borderline, but it should rather be affirmed that mercy, like justice, must be practiced in the truth.<sup>35</sup>

Mercy, in strict terms - and precisely because it is mercy-, cannot be legally requested, but it is no less compulsory from a moral point of view for this reason. However, it should be remembered that the Divine mercy present in the means of salvation entrusted to the Church constitutes rights for the faithful regarding the ministers who must, as a duty of justice, administrate this mercy. This administration must also be done in truth and with justice: the faithful have the right to receive the authentic goods that compose true mercy (e.g. authentic doctrine and not another doctrine, even if more adapted to custom). Also, taking account of justice in the administration of mercy will contribute to avoiding unjust discrimination.

#### 4. Pastoral Care in Marriage; Mercy and Law

##### a) *Pastoral prudence is enlightened by faith*

The term *pastoral* has multiple meanings, but here what is referred to is the pastoral activity that is proper to the *munus pascendi* entrusted to the *ordo* in order to lead souls to God through the means of salvation (the Word of God and the Sacraments that Christ has entrusted to the Church)<sup>36</sup>.

There is no doubt that pastoral practice must be guided by prudence. The first step of a prudent pastoral approach is to identify pastoral needs. This is what the Pope did in calling a synod to study how to face the pastoral problems of marriage and the family. Now, however, the concrete questions requiring study must be identified. In the present era, a new factor comes in to play that that has recently taken on special importance: public opinion.

Being able to count upon a lively public opinion with news from across the world has certainly many positive aspects, not least that it allows the faithful to participate in the life of the Church and to exercise their right to manifest, for the good of the Church, their own opinion, according to each person's knowledge and prestige<sup>37</sup>. Together with these positive elements, there is no doubt that account must be taken of the dangers that come with the debating in this context of difficult themes that implicate important human goods. In fact the Church's orientation must follow the *pars sanior*, while in this situation there is a risk of hearing above all the voice of the *pars fortiori*, given sometimes with ideological impositions that, relying on sentimentalism, might manipulate the opinion of the faithful.

Concretely, on questions of marriage and the family, public opinion can draw the debate to one single theme, that of the divorced and "remarried", in practice forgetting the problems of an adequate preparation for marriage, of the education of children - be they in normal families or in other situations -, and of support from families in ordinary circumstances and in times of crisis. On the specific question of persons divorced and later civilly re-married who desire to receive Eucharistic communion, it is clear that the theme is very precise, the most important pastoral problem being that the vast majority of divorced and remarried persons do not have any interest in

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<sup>35</sup> On the necessity of not dissociating mercy and truth, Pope Francis has recently stated: "Truth *and* mercy: let us not dissociate them. Ever. 'The charity in the truth – as Pope Benedict reminded us – is the principle motor force for the development of each person and of humanity as a whole'" (*Caritas in Veritate*, no. 1). Without the truth, love is an empty box that each person fills up on his own discretion, and a "Christianity of love without truth can easily be exchanged for a store of good manners that are useful for social living but are of marginal importance", having for this reason no impact on the projects and processes of building human development" (*Caritas in Veritate*, no. 4)". FRANCIS, Allocation to 66<sup>th</sup> General Assembly of the Italian Bishops' Conference, May 19<sup>th</sup> 2014, (text at [www.vatican.va](http://www.vatican.va)).

<sup>36</sup> On the meaning of pastoral care and especially on the relationship with law, see: E. BAURA, *pastorale e diritto nella Chiesa*, in *Vent'anni di esperienza canonica: 1983-2003*, Pontifical Council for Legislative Texts (Ed.), Vatican City, 2003, pp. 159-180.

<sup>37</sup> Cf. canons 208 and 212, §§ 2 e 3.

approaching the Church. Furthermore this is a question heard in rich countries, but that is not necessarily a pastoral problem in many other places where the Church is growing.

In this situation the pastors must act with extreme prudence. On the one hand, they should be in relation with the *mass media*, taking account of the *medias'* characteristics and its potential for evangelisation in determined circumstances, but without giving in to vain grandstanding or falling into the trap of setting up a debate between pastors under the gaze of the cameras that might give rise to useless division or confusion within the People of God. On the other hand, pastors must exercise a faithfulness and a fortitude in preaching the truth of the Gospel, not infrequently perceived as scandal or foolishness<sup>38</sup>, thus resisting the pressures that came from public opinion.

Pastoral prudence should show itself, naturally, at the moment when the solution to a problem is identified. It becomes particularly important at this point that prudence is enlightened by faith. In effect, this virtue is needed, first of all, in order to pose the problem in a perspective of faith, trusting in the action of the Holy Spirit, without giving in to pessimism or to the temptation of wanting to achieve pastoral success immediately and without effort. Faith is necessary in order to be convinced that the divine precepts offer what is best suited to Man, bringing true happiness. A faith that proclaims the prohibition to change doctrine but then presents doctrine and Divine law as inevitable limits, almost evils, for human freedom, is insufficient. On the contrary, mercy motivated by faith leads to announcing the Christian message, because this is what can give true happiness to Man. If I have understood correctly, this is the underlying idea of Pope Francis' Apostolic Exhortation *Evangelii Gaudium*.

b) *Pastoral requirements in the different phases of the canonical marriage system.*

It is not infrequent that pastoral care and canon law are referred to as two realities which, if not contradictory, are at least difficult to harmonise. In referring to them in this way, one loses sight of a fundamental truth: the faithful have the right to pastoral care, concretely to pastoral care carried out in truth. The rights of the faithful are not - as a liberal conception of subjective rights would have it - spaces of autonomous freedom, constituted by what the subject desires; rather they are objective goods due to each subject by virtue of a right attributed to that subject. In our case it is the goods of salvation that belong to the faithful because Christ, in his infinite mercy, entrusted them to his Church that she might faithfully administer them. What the faithful desire to receive from their pastors is not a right; rather the right is to what the Pastors have received from Christ in order to administer it to the faithful. In other words, the right to pastoral care is one exercised in the truth.

This is a point that must not be forgotten in the various phases that the pastoral care of marriage can involve. Thus, in the phase of accepting someone for marriage the *ius connubii* should be considered with justice and mercy. On the basis of this fundamental right things should be done in such a way as to facilitate the celebration of the sacrament as much as is possible; therefore its denial has to be clearly justified. In the perspective of mercy one should remember the necessity of preparing the couple well, helping them to overcome possible difficulties. At the same time it should be noted that accepting for marriage those people who cannot or who do not wish to celebrate a valid marriage would be contrary to justice and to mercy. It would not be consistent with mercy because it does not remedy the evil of not being able to or not wanting to contract a valid marriage, and, to this, one could add the evil of having falsely celebrated a marriage. Despite this being a context of welcoming a request, it would in fact do a wrong to the person making the request, because this person does not have the right to contract a marriage (because either they cannot or wish it not), but does have the right to receive orientation from the Church on a precise situation, according to Christ's doctrine, rather than being given a solution which is untruthful. One other thing to be considered is what damage is done to the community when a counterfeit ceremony is allowed.

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<sup>38</sup> Cf. I Cor. 1:23.

Analogous considerations could be made when faced with couples in crisis. Justice and mercy need to be sustained and guided. In cases where (with or without a “crisis”) there is a serious doubt as to the validity of the bond, the canonical marriage system provides for the verification of the sacrament’s validity. On this subject, some general reflections on the theme seem useful here.

Evidently, while not being contrary to law, declarations of nullity are exceptional in nature when compared to the normal circumstances consistent with presupposing that a formal celebration of marriage has indeed constituted a marriage bond. A declaration of nullity is always something traumatic for the community and, particularly, for the parties involved, even where this declaration is strongly desired by one of the parties. This is so independently of whether there has or has not been bad faith, because one discovers the falseness of something that appeared as a great good - as marriage is -, perhaps lived for years, the validity of this good also being strongly guaranteed by a solemn *ad validitatem* form. Therefore, leaving to one side the correctness or un-correctness with which the sentence of the marriage’s nullity is given, the very fact of there being a high number of sentences of nullity makes the canonical marriage system a paradox, with the result that it loses credibility with the faithful and with people in general. Certainly, calling upon processes of nullity in order to resolve a general situation is contradictory. It is not surprising that as the de-christianisation of society grows, the number of real cases of nullity grows too. Faced with this situation, pastoral efforts can only go in the direction of preventing nullity: the real problem is not so much how to declare null existing marriages (there is already a system in place for this, although it can certainly be improved), but how to avoid the situation where marriages being celebrated are null. On the other hand, the very fact of putting together in a general debate the problem of members of the faithful joined in a second union after having celebrated a canonical marriage and the problem of the nullity of marriage, demonstrates a will to instrumentalise nullity of marriage in order to externally regularise some situations, without concern for truth and so bringing greater discredit to the system.

Canonical tradition has handed down a procedural system turned towards verifying the truth of the existence of the marriage bond: a bond which, while it can logically be perfected, and particularly on a practical level, reflects a great respect for each person and a guarantee of seeking the truth of things. During a nullity procedure the pastors involved have several opportunities to demonstrate authentic pastoral care towards the parties, while always respecting the right to a just trial and all the other rights of the parties involved and of the community.

As far as the merits of the sentence are concerned, it should be remembered that there is a right to a just trial and to a just sentence, but not a right to “nullity”, even where this is what the spouses desire. It follows that a favourable sentence that fits with the expectations of the spouses but is contrary to truth, even if this is only because of a lack of moral certitude, is an act that is unjust towards the spouses and towards the community: being unjust (because it illegitimately deprives the holders of their rights) certainly cannot be merciful. Indeed, affirming that nullity has been established when it has not includes the negation of the right - the objective good - that the parties have to know the judgment of the Church on their situation (even when the parties have no real interest in it).

The Church must be in the service of consciences, enlightening them and guiding them with the light of the faith. An unjust sentence confuses consciences. It is not possible to know with certainty what happens within a person, but even in the best hypothesis, where a sentence *pro nullitate* takes away all moral responsibility from spouses in good faith, it is in reality leading them into error and is not giving to them something that is good, even where their own desire is satisfied, because the privatisation of the knowledge of the truth concerning their personal being is certainly an evil (in addition to the risk that in another phase of their life the question might reappear), and happiness founded on truth is much more consistent than happiness founded on an error. To call “pastoral” a solution that hides the truth, hoping that the error will be followed in good faith is to denature the finality of pastoral care to the highest degree. While it is true that in borderline cases it

is possible to leave someone in error – the classic case is putative marriage -, it is one thing to let be a pre-existing situation because no greater good is possible, but it is quite another to lead things positively towards such a situation. Certainly, the objective moral responsibility derived from the action of knowingly emitting a sentence that is null is enormous, because of the damage brought upon all parties and upon the whole community (clearly, this refers to action in itself objective, because concerning the conscience of the parties or of the judge, logically, nothing can be known).

Certainly, it would be equally unjust if a sentence denied the nullity of a marriage when nullity is established or where the nullity could have been established if procedures had been correctly carried out; in the same way that a trial is unjust if it lasts longer than is necessary on account of a lack of due care or expertise.

The canonical marriage system, particularly regarding what has been said about sentences of nullity, relies upon the presumption of validity of a marriage celebrated according to the established form, in such a way that a declaration of nullity requires establishing, with moral certitude, the nullity of the bond. It might be asked if this presumption should not be overturned or at least suspended in exceptional cases for reasons of mercy, because mercy is a principle of ecclesiastical law. This theme goes beyond the bounds fixed for this present study. Here, it will suffice to present some general considerations, bearing in mind that the question should be developed further, making the necessary distinctions.

First of all it should be noted that the presumption in question corresponds to a necessity for human social life: the presumption of the validity of acts that have been done in the required way as regards their outward elements, of which c. 124§2 is considered the *regina praesumptionis*. It would be absurd not to presume the validity of acts thus done, because being able to bring doubt upon any given thing would make life in society impossible. Permission to contract a second marriage in the case of a doubt concerning the validity of the first marriage, that is to say based on the existence of an impediment to the bond, would mean accepting the celebration of a second marriage objectively born in doubt (deprived of the presumption of validity). As well as the social harm that this would involve, it might be asked how much this could be called a merciful solution, because it would contribute to accomplishing a morally dubious action in a serious matter (the celebration of a second marriage), while leaving unanswered the question of what happens to the first doubtful marriage.

Concerning this specific problem, but in reality a consideration to be borne in mind for pastoral care of marriage as a whole, it is noteworthy that one of the prudential criteria indicated by classical canonical doctrine for determining the opportunity or inopportunity of granting the *dispensatio misericordiae* is the *periculum animae* of the beneficiary<sup>39</sup>. The supreme law of the Church is the *salus animarum*, as the conclusion of the Code of Canon Law reminds us, meaning that the good that the ecclesial order seeks to reach is the salvation of souls - *uniuscuiusque animae* - and that this should also be the scope of any given pastoral action.

Naturally, this discourse presupposes a perspective of faith and a vision of human life in the perspective of eternity. Concretely, in order to evaluate the *periculum animae* to which the classical authors refer, faith in the existence of hell as a place of eternal condemnation is absolutely necessary<sup>40</sup>. If one does not believe this truth of the faith (which manifests the greatness and the mystery of both human freedom and of the mercy and justice of God), or if this truth is left to one side, or if one thinks that this punishment is reserved for those few who are responsible for horrendous crimes, or if one thinks that hell is, in fact, empty; what is emptied is not hell itself, but

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<sup>39</sup> Thus said Hostiensis, for example, himself considered an emblematic representative of canon lawyers attentive to pastoral questions. Cf. ENRICO DA SUSA, *Summa aurea*, (Lyon 1537=Aalen 1962), lib. I, *de officio archidiaconi*, fol. 62rb and IDEM, *In quinque Decretalium libros commentaria* (Venetiis 1581=Torino 1965), ad X 3.5.30, fol. 25vb.

<sup>40</sup> Cf. *Catechism of the Catholic Church* nos. 1033-1037.

rather dogma and all reasoning on moral behaviour. The frequent reminders Jesus gives on this theme - He who is “incarnate mercy” -, should not be forgotten.

c) *Law and mercy for members of the faithful divorced and remarried in civil law*

Finally, we should ask how justice and mercy are combined in pastoral care for members of the faithful distanced from the Church’s institutional path and concretely, here, for those divorced and remarried in civil law. These faithful too should be offered the path of salvation, putting into practice the Church’s supreme law. Although they may have distanced themselves from the Church, they still have the right to receive the Word of God and the Church’s support in order to journey towards salvation.

Above all on this point, the considerations already made on the true nature of mercy and the relationship to the other virtues must be borne in mind, as well as having a realistic approach to pastoral challenges that appear. It is clear that social pressure tends to denature Catholic doctrine on marriage, often using the demagogy proper to sentimentalism. Given this, it seems particularly important to situate pastoral discourse in a perspective of faith.

Faith leads us, first of all, to being unintimidated by the current situation and to being convinced that it is faith that brings happiness to mankind. Thus, rather than accommodating the Gospel to fit with social custom, it is necessary to encourage people to make their behaviour fit with the Gospel. This was the attitude adopted by the first Christians, and also by the successive evangelisers of the pagan peoples, who succeeded in changing conceptions of the human person and the family, and in changing habits very far removed from Christian teaching.

Faith is also necessary in order to identify the true good of persons. Even if the problem of divorced and remarried Christians consists in the fact that most of them persevere in the will to remain distant from the Church, special attention must be given to the case of those members of the faithful who wish to come back to the Church. The question has become concrete - perhaps in oversimplified terms - in the possibility or impossibility of giving communion to these members of the faithful. It seems to this author that the problem should be posed through the question of whether, in the perspective of the faith, Eucharistic communion is a good for them: that is to say a good which helps them to reach eternal communion; or whether, on the contrary, it is something which they might take “for their own condemnation”<sup>41</sup>. In effect, just and merciful action does not necessarily mean giving what the other asks for, but rather means giving the other his or her good. Also, the good of other persons must not be ignored, in particular the good of the children of these couples.

I consider that before looking for new answers, the recent Magisterium on this question should be receive new consideration. In particular consideration should be given to no. 84 of Saint John Paul II’s exhortation *Familiaris Consortio* (dated November 22<sup>nd</sup> 1981). This text encourages pastors to learn how to distinguish between different situations, and to never tire of making the means of salvation available to the faithful and helping them, “and with solicitous care to make sure that they do not consider themselves as separated from the Church”. In repeating the practice “which is based upon Sacred Scripture, of not admitting to Eucharistic Communion divorced persons who have remarried”, because they have put themselves in a situation which objectively contradicts the meaning of the Eucharist, and the practice of not admitting ceremonies that might lead others into error concerning the indissolubility of marriage, this document teaches the possibility of giving “the sacrament of Penance which would open the way to the Eucharist” to those faithful who, while not able for serious motives to bring about separation, have truly repented, and, concretely, teaches that true repentance supposes making the commitment to live in full continence.

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<sup>41</sup> I Cor. 11:29.

To some, this reply might seem disappointing, as if it would be necessary to change doctrine and practice in order to practice mercy. Moreover, wishing to be more merciful, the hypothesis has been made that it be possible to give the Eucharist to these members of the faithful after having accompanied them on a path of “penance”, but where this path would not lead to changing their life on this point. However, it is not clear where the penance is, or the removal of evil, or which good is begin given to the person: that is to say it is not clear where the mercy is. Faith is even less visible in this hypothesis. Indeed, desiring to reach Eucharistic communion independently of the teaching on the salvation of souls, and understanding the impossibility of communion as a disciplinary prohibition unrelated to doctrinal and ontic facts, as if all was a question of aesthetics in an earthly community that admits or refuses its own members, rather leads this author to conclude that in this hypothesis the reality of the Eucharist and the eschatological dimension of the Church are being forgotten. Not even hope is visible in this hypothesis, because in the offering of a false hope there is, in effect, a lack of hope in the ability to find a solution to this situation which is true.

In terms of the juridical profile, it should be noted that leaving a person upon a path that objectively does not lead to salvation - it being understood that each person can be saved by God’s mercy, because it is not possible to judge that person’s conscience - and accompanying a person without helping them to change direction while, moreover, changing the “street signs” along the way, is a gravely unjust act towards that person, because that person has the right, at the very least, to know the “street signs” that the Church proposes. Certainly, it cannot be said that so doing is an act of *dispensatio misericordiae*. Rather, in classic terminology, it is a *crudelis dissipatio*.

On the other hand, if attention is given to the solution proposed in *Familiaris Consortio*, it involves taking up the burden of these persons, and giving them a real hope: one that passes by the Cross, and does not do so by accident. In order to reach this solution it is necessary to listen attentively to those concerned. It would be difficult to reach these solutions in group meetings, but it can come from patient work in the confessional, listening with attention, or in conversations characterised by friendship and confidentiality. All of this requires effort. In these conversations, what is sought is to help each person to act in conscience, enlightening by the light of faith and orienting in order to take the decisions that lead to eternal life, pointing out the *periculum animae*. This requires much effort. With God’s grace it is possible to repent, involving *metanoia*, that is to say, the decision to change one’s life. Because the current union is not authentically matrimonial (this is certain, independently of the doubts there may be concerning the previous marriage), it is respectful of the dignity of the person that his or her behaviour takes account of this: the complete continence of which *Familiaris Consortio* speaks appears as the only way of not trivialising sexuality and of making reconciliation possible. Certainly this solution requires much effort, but it is possible nonetheless, with the help of grace and with the pastoral support that accompanies the path of reconciliation.

In short, there is a clear necessity not to lose sight of the nature of true mercy: “True mercy takes the person into one’s care, listens to him attentively, approaches the situation with respect and truth, and accompanies him on the journey of reconciliation. And this is demanding, yes, certainly”<sup>42</sup>. True mercy gives happiness to those who receive it and who practice it.

*Eduardo Baura*

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<sup>42</sup> FRANCIS, Allocution to the parish priests of Rome, March 6<sup>th</sup> 2014, (text at [www.vatican.va](http://www.vatican.va)).