

The Pastoral Approach to Marriage Should Be Founded on Truth

by [Cardinal Joseph Ratzinger](#)

The Vatican newspaper *L'Osservatore Romano* reprinted this essay on marriage and divorce, written by then-Cardinal Joseph Ratzinger in 1998, in response to public statements by the president of the German bishops' conference on admitting divorced and remarried Catholics to Communion.

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Concerning some objections to the Church's teaching on the reception of Holy Communion by divorced and remarried members of the faithful

*In 1998 Cardinal Joseph Ratzinger, Prefect of the Congregation for the Doctrine of the Faith, introduced the volume entitled '*On the Pastoral Care of the Divorced and Remarried*', published by the Libreria in the dicastery's series ("Documenti e Studi", 17)¹. Because of its current interest and breadth of perspective, *L'Osservatore Romano* reproduced below the third part along with the addition of three notes. This text is available on the Vatican website also in Italian, French, German, Portuguese and Spanish.*

The Letter of the Congregation for the Doctrine of the Faith of 14 September 1994 concerning the reception of Holy Communion by divorced and remarried members of the faithful was met with a very lively response across wide sections of the Church. Along with many positive reactions, more than a few critical voices were also heard. The fundamental objections against the teaching and practice of the Church are outlined below in simplified form.

Several of the more significant objections – principally, the reference to the supposedly more flexible practice of the Church Fathers which would be the inspiration for the practice of the Eastern Churches separated from Rome, as well as the allusion to the traditional principles of *epicheia* and of *aequitas canonica* – were studied in-depth by the Congregation for the Doctrine of the Faith. Articles by Professors Pelland, Marcuzzi and Rodriguez Luño², among others, were developed in the course of this study. The main conclusions of the research, which suggest the direction of an answer to the objections, will be briefly summarized here.

Some maintain that several passages of the New Testament suggest that the words of Jesus on the indissolubility of marriage allow for a flexible application and cannot be classified in a strictly legal sense.

Several exegetes point out critically that with regard to the indissolubility of marriage, the Magisterium cites almost exclusively one pericope – namely, Mk. 10:11-12 – and does not sufficiently take into account other passages from the Gospel of Matthew and the First Letter to Corinthians. They claim that these biblical passages speak of a certain exception to the Lord's words about the indissolubility of marriage, notably in the case of *porneia* (Mt. 5:32; 19:9) and

in the case of separation because of the faith (1 Cor. 7:12-16). They hold that these texts should be an indication that, already in apostolic times, Christians in difficult situations had known a flexible application of the words of Jesus.

In replying to this objection, one notes that magisterial documents do not intend to present the biblical foundations of the teachings on marriage in a complete and exhaustive way. They entrust this important task to competent experts. The Magisterium emphasizes, however, that the teaching of the Church on the indissolubility of marriage is faithful to the words of Jesus. Jesus clearly identifies the Old Testament practice of divorce as a consequence of the hardness of the human heart. He refers – over and above the law – to the beginning of creation, to the will of the Creator, and summarizes his teaching with the words: “Therefore what God has joined together, no human being must separate,” (Mk. 10:9). With the coming of the Redeemer, marriage is therefore restored to its original form intended at creation and is wrested away from human arbitrariness – above all from the whim of the husband, since for wives there really was no possibility of divorce. Jesus’ words on the indissolubility of marriage overcome the old order of the law with the new order of faith and grace. Only in this way can marriage fully become a God-given vocation to love and human dignity and the sign of the unconditional covenant of divine love, i.e., a sacrament (cf. Eph. 5:32).

The possibility of separation, which Paul discusses in 1 Cor. 7, regards marriage between a Christian and a non-baptized person. Later theological reflection has clarified that only marriages between baptized persons are a sacrament in the strict sense of the word, and that absolute indissolubility holds only for those marriages falling within the scope of Christian faith. So-called “natural marriage” has its dignity from the order of creation and is therefore oriented toward indissolubility, but it can be dissolved under certain circumstances because of a higher good – which in this case is faith. This is how systematic theology correctly classified St. Paul’s reference as the *privilegium paulinum*, that is, the possibility of dissolving a non-sacramental marriage for the good of the faith. The indissolubility of a truly sacramental marriage remains safeguarded; it is not therefore an exception to the word of the Lord. We will come back to this later.

Extensive literature exists regarding the correct understanding of the *porneia* clauses, with many differing and even conflicting hypotheses. There is no unanimity among exegetes on this point. Many maintain that it refers to invalid marital unions, not to an exception to the indissolubility of marriage. In any case, the Church cannot construct her doctrine and praxis on uncertain exegetical hypotheses. She must adhere to the clear teaching of Christ.

Others object that the patristic tradition leaves room for a more varied praxis, which would be more equitable in difficult situations; furthermore, the Catholic Church could learn from the principle of “economy” employed by Eastern Churches separated from Rome.

It is claimed that the current Magisterium relies on only one strand of the patristic tradition, and not on the whole legacy of the ancient Church. Although the Fathers clearly held fast to the doctrinal principle of the indissolubility of marriage, some of them tolerated a certain flexibility on the pastoral level with regard to difficult individual cases. On this basis Eastern Churches separated from Rome later developed alongside the principle of *akribia*, fidelity to revealed truth, that of *oikonomia*, benevolent leniency in difficult situations. Without renouncing the doctrine of the indissolubility of marriage, in some cases they permit a second and even a third marriage, which is distinct, however, from the sacramental first marriage and is marked by a penitential character. Some say that this practice has never been explicitly condemned by the Catholic Church. They claim that the 1980 Synod of Bishops proposed to study this tradition thoroughly, in order to allow the mercy of God to be more resplendent.

Father Pelland's study points out the direction in which the answers to these questions can be sought. Naturally, for the interpretation of individual patristic texts, the work of historians is necessary. Because of the difficult textual issues involved, controversies will not be lacking in the future. Theologically, one must affirm the following:

a. There exists a clear consensus among the Fathers regarding the indissolubility of marriage. Since it derives from the will of the Lord, the Church has no authority over it. For this reason, from the outset Christian marriage was distinct from marriage in Roman society, even though in the first centuries there did not yet exist any canonical system. The Church in the time of the Fathers clearly excluded divorce and remarriage, precisely out of faithful obedience to the New Testament.

b. In the Church at the time of the Fathers, divorced and remarried members of the faithful were never officially admitted to Holy Communion after a time of penance. It is true, however, that the Church did not always rigorously revoke concessions in certain territories, even when they were identified as not in agreement with her doctrine and discipline. It also seems true that individual Fathers, Leo the Great being among them, sought pastoral solutions for rare borderline cases.

c. This led to two opposing developments:

- In the Imperial Church after Constantine, with the ever stronger interplay between Church and State, a greater flexibility and readiness for compromise in difficult marital situations was sought. Up until the Gregorian reform, a similar tendency was present in Gallic and Germanic lands. In the Eastern churches separated from Rome, this development progressed farther in the second millennium and led to an increasingly more liberal praxis. Today in some of these churches there are numerous grounds for divorce, even a theology of divorce, which is in no way compatible with Jesus' words regarding the indissolubility of marriage. Without fail, this problem must be addressed in ecumenical dialogue.

- In the West, on account of the Gregorian reform, the original concept of the Church Fathers was recovered. This development came to its conclusion at the Council of Trent and was once again expressed as a doctrine of the Church at the Second Vatican Council.

On doctrinal grounds, the praxis of the Eastern churches separated from Rome cannot be taken up by the Catholic Church, as it is the result of a complex historical process, an increasingly liberal – and thus more and more removed from the words of the Lord – interpretation of several obscure patristic texts which were significantly influenced by civil law. Furthermore, the claim is incorrect that the Church simply tolerated such a praxis. Admittedly, the Council of Trent did not pronounce any explicit condemnation. The medieval canonists, however, consistently spoke of the praxis as improper. Furthermore, there is evidence that groups of Orthodox believers who became Catholic had to sign a profession of faith with an explicit reference to the impossibility of a second marriage.

Many propose to allow exceptions to the Church's norm on the basis of the traditional principles of *epikeia* and *aequitas canonica*.

Certain marriage cases, it is said, cannot be handled in the external forum. Some claim that the Church should not simply rely on juridical norms, but on the contrary ought to respect and tolerate the conscience of the individual. They say that theological notions of *epikeia* and *aequitas canonica* could serve to justify, from moral theology as well as juridically, a decision of conscience at variance from the general norm. Especially regarding the question of receiving the sacraments, they claim that the Church should take some steps forward and not just issue prohibitions to the faithful.

The contributions made by Professor Marcuzzi and Professor Rodríguez Luño throw light on his complex problem. To this end, there are three areas of inquiry which clearly need to be distinguished from each other:

a. *Epikēia* and *aequitas canonica* exist in the sphere of human and purely ecclesiastical norms of great significance, but cannot be applied to those norms over which the Church has no discretionary authority. The indissoluble nature of marriage is one of these norms which goes back to Christ Himself and is thus identified as a norm of divine law. The Church cannot sanction pastoral practices – for example, sacramental pastoral practices – which contradict the clear instruction of the Lord.

In other words, if the prior marriage of two divorced and remarried members of the faithful was valid, under no circumstances can their new union be considered lawful and therefore reception of the sacraments is intrinsically impossible. The conscience of the individual is bound to this norm without exception.³

b. However the Church has the authority to clarify those conditions which must be fulfilled for a marriage to be considered indissoluble according to the sense of Jesus' teaching. In line with the

Pauline assertion in 1 Cor. 7, she established that only two baptized Christians can enter into a sacramental marriage. She developed the legal concept of the Pauline privilege and the Petrine privilege. With reference to the *porneia* clauses in Matthew and in Acts 15:20, the impediments to marriage were established. Furthermore, grounds for the nullity of marriage were identified with ever greater clarity, and the procedural system was developed in greater detail. All of this contributed to delineating and articulating more precisely the concept of the indissolubility of marriage. One can say that, in this way, the Western Church also made allowance for the principle of *oikonomia*, but without touching the indissolubility of marriage as such. The further juridical development of the 1983 *Code of Canon Law* was in this same direction, granting probative force to the declarations of the parties. Therefore, according to experts in this area, it seems that cases in which an invalid marriage cannot be shown to be such by the procedural are practically excluded.

Since marriage has a fundamental public ecclesial character and the axiom applies that *nemo iudex in propria causa* (no one is judge in his own case), marital cases must be resolved in the external forum. If divorced and remarried members of the faithful believe that their prior marriage was invalid, they are thereby obligated to appeal to the competent marriage tribunal so that the question will be examined objectively and under all available juridical possibilities.

c. Admittedly, it cannot be excluded that mistakes occur in marriage cases. In some parts of the Church, well-functioning marriage tribunals still do not exist. Occasionally, such cases last an excessive amount of time. Once in a while they conclude with questionable decisions. Here it seems that the application of *epikeia* in the internal forum is not automatically excluded from the outset. This is implied in the 1994 letter of the Congregation for the Doctrine of the Faith, in which it was stated that new canonical ways of demonstrating nullity should exclude “as far as possible” every divergence from the truth verifiable in the judicial process (cf. No. 9). Some theologians are of the opinion that the faithful ought to adhere strictly even in the internal forum to juridical decisions which they believe to be false. Others maintain that exceptions are possible here in the internal forum, because the juridical forum does not deal with norms of divine law, but rather with norms of ecclesiastical law. This question, however, demands further study and clarification. Admittedly, the conditions for asserting an exception would need to be clarified very precisely, in order to avoid arbitrariness and to safeguard the public character of marriage, removing it from subjective decisions.

4. Some accuse the current Magisterium of reversing the doctrinal development of the Council and of substituting a pre-conciliar view of marriage.

Some theologians claim that at the new magisterial documents having to do with questions of marriage are based on a naturalistic, legalistic concept of marriage. Attention is given to the contract between the spouses and to the *ius in corpus*. It is claimed that the Council overturned this static understanding and described marriage in a more personalistic way as a covenant of love and life. Thus it would have opened up possibilities for resolving difficult situations more

humanely. Thinking further along this line, some scholars pose the question of whether or not one could speak of the death of the marriage, if the personal bond of love between the spouses no longer exists. Others resurrect the old question of whether or not the Pope would have the capability of dissolving marriage in such cases.

Yet anyone who attentively reads the more recent statements of the Church will note that their central assertions are based on *Gaudium et spes* and that they further develop the teaching contained therein in a thoroughly personalist line, in the direction indicated by the Council. However, it is inappropriate to set up a contradiction between the personalist and juridical views of marriage. The Council did not break with the traditional concept of marriage, but on the contrary developed it further. When, for example, it is continually pointed out that the Council substituted the broader and theologically more profound concept of covenant for the strictly legal concept of contract, one must not forget that within covenant, the element of contract is also contained and indeed placed within a broader perspective. The fact that marriage reaches well beyond the purely juridical realm into the depths of humanity and into the mystery of the divine, has always been indicated by the word “sacrament,” although often it has not been pondered with the same clarity which the Council gave to these aspects. Law is not everything, but it is an indispensable part, one dimension of the whole. Marriage without a juridical dimension which integrates it into the whole fabric of society and the Church simply does not exist. If the post-Conciliar revision of canon law included the realm of marriage, this is not a betrayal of the Council, but the implementation of its mandate.

If the Church were to accept the theory that a marriage is dead when the two spouses no longer love one another, then she would thereby sanction divorce and would uphold the indissolubility of marriage only in word, and no longer in fact. Therefore, the opinion that the Pope could potentially dissolve a consummated sacramental marriage, which has been irrevocably broken, must be considered erroneous. Such a marriage cannot be dissolved by anyone. At their wedding, the spouses promise to be faithful to each other until death.

Further study is required, however, concerning the question of whether non-believing Christians – baptized persons who never or who no longer believe in God – can truly enter into a sacramental marriage. In other words, it needs to be clarified whether every marriage between two baptized persons is *ipso facto* a sacramental marriage. In fact, the Code states that only a “valid” marriage between baptized persons is at the same time a sacrament (cf. CIC, can. 1055, § 2). Faith belongs to the essence of the sacrament; what remains to be clarified is the juridical question of what evidence of the “absence of faith” would have as a consequence that the sacrament does not come into being.⁴

5. Many argue that the position of the Church on the question of divorced and remarried faithful is overly legalistic and not pastoral.

A series of critical objections against the doctrine and praxis of the Church pertain to questions of a pastoral nature. Some say, for example, that the language used in the ecclesial documents is too legalistic, that the rigidity of law prevails over an understanding of dramatic human situations. They claim that the human person of today is no longer able to understand such language, that Jesus would have had an open ear for the needs of people, particularly for those on the margins of society. They say that the Church, on the other hand, presents herself like a judge who excludes wounded people from the sacraments and from certain public responsibilities.

One can readily admit that the Magisterium's manner of expression does not seem very easy to understand at times. It needs to be translated by preachers and catechists into a language which relates to people and to their respective cultural environments. The essential content of the Church's teaching, however, must be upheld in this process. It must not be watered down on allegedly pastoral grounds, because it communicates the revealed truth.

Certainly, it is difficult to make the demands of the Gospel understandable to secularized people. But this pastoral difficulty must not lead to compromises with the truth. In his Encyclical *Veritatis splendor*, John Paul II clearly rejected so-called pastoral solutions which stand in opposition to the statements of the Magisterium (cf. *ibid.* 56).

Furthermore, concerning the position of the Magisterium as regards the question of divorced and remarried members of the faithful, it must be stressed that the more recent documents of the Church bring together the demands of truth with those of love in a very balanced way. If at times in the past, love shone forth too little in the explanation of the truth, so today the danger is great that in the name of love, truth is either to be silenced or compromised. Assuredly, the word of truth can be painful and uncomfortable. But it is the way to holiness, to peace, and to inner freedom. A pastoral approach which truly wants to help the people concerned must always be grounded in the truth. In the end, only the truth can be pastoral. "Then you will know the truth, and the truth will set you free" (Jn. 8:32).

Notes:

1 This text reproduces the third part of Cardinal Ratzinger's Introduction to Volume 17 of the series produced by the Congregation for the Doctrine of the Faith, entitled "Documenti e Studi", *On the Pastoral Care of the Divorced and Remarried*, LEV, Vatican City 1998, pp. 20-29. Footnotes have been added.

2 Cf. Angel Rodríguez Luño, *L'epicheia nella cura pastorale dei fedeli divorziati risposati*, *ibid.*, pp. 75-87; Piero Giorgio Marcuzzi, S.D.B., *Applicazione di "aequitas et epikeia" ai contenuti della Lettera della Congregazione per la Dottrina della Fede del 14 settembre 1994*, *ibid.*, pp. 88-98; Gilles Pelland, S.J., *La pratica della Chiesa antica relativa ai fedeli divorziati risposati*, *ibid.*, pp. 99-131.

3 On this matter the norm referred to by John Paul II in his Apostolic Letter *Familiaris consortio*, no. 84, is quite valuable: “Reconciliation in the sacrament of Penance which would open the way to the Eucharist, can only be granted to those who, repenting of having broken the sign of the Covenant and of fidelity to Christ, are sincerely ready to undertake a way of life that is no longer in contradiction to the indissolubility of marriage. This means, in practice, that when, for serious reasons, such as for example the children's upbringing, a man and a woman cannot satisfy the obligation to separate, they ‘take on themselves the duty to live in complete continence, that is, by abstinence from the acts proper to married couples.’” See also the Apostolic Letter of Benedict XVI, *Sacramentum caritatis*, n. 29.

4 During the meeting with clergy in the Diocese of Aosta, which took place 25 July 2005, Pope Benedict XVI spoke of this difficult question: “ those who were married in the Church for the sake of tradition but were not truly believers, and who later find themselves in a new and invalid marriage and subsequently convert, discover faith and feel excluded from the Sacrament, are in a particularly painful situation. This really is a cause of great suffering and when I was Prefect of the Congregation for the Doctrine of the Faith, I invited various Bishops’ Conferences and experts to study this problem: a sacrament celebrated without faith. Whether, in fact, a moment of invalidity could be discovered here because the Sacrament was found to be lacking a fundamental dimension, I do not dare to say. I personally thought so, but from the discussions we had I realized that it is a highly complex problem and ought to be studied further. But given these people's painful plight, it must be studied further.”

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