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THE LAW VERSUS THE GOSPEL IN *AMORIS LAETITIA*

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Abstract

In *Amoris Laetitia* the Pope reports to the whole Church the outcome of the two synods on the Family. The reality is that the polarizations present in the synod discussions continue in the church. On the one hand, there is the attempt to read *Amoris Laetitia* in a legal perspective (represented by the four Cardinals and their *dubia*). On the other hand, there is the pastoral approach (at present) of a few bishops to situations in which persons in an objective situation of sin, may “discern” that subjectively they are not guilty of sin and so, in a state of grace. The article discusses the fact that morality in the Catholic tradition is based on the natural law tradition perfected by the gospel, where there is gradualness not in the law, but in life. In any event, the judgment of the individual conscience has to be respected.

Keywords: *Amoris Laetitia*, Conscience, Discernment, Natural Law

Amoris Laetitia has become, as it were, a *leit motiv* of the pastoral orientation of Pope Francis. Even though in the approach he is not going against or very far beyond the pastoral perspectives of earlier times, especially the manuals, the approach is disturbing some persons, especially the four cardinals who have spoken on the issue. The problem can be briefly formulated in the following way:

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The Problem

On the one hand, promulgated on 14 December 1994, the Congregation for the Doctrine of the Faith in a *Letter to the Bishops of the Catholic Church Concerning the Reception of Holy Communion by Divorced and Remarried Members of the Faithful* # 4 stated:¹

This norm [exclusion from reception of the Eucharist] is not at all a punishment or a discrimination against the divorced and remarried, but rather expresses an objective situation that of itself renders impossible the reception of Holy Communion: "They are unable to be admitted thereto from the fact that their state and condition of life objectively contradict that union of love between Christ and his Church which is signified and effected by the Eucharist. Besides this, there is another special pastoral reason: if these people were admitted to the Eucharist, the faithful would be led into error and confusion regarding the Church's teaching about the indissolubility of marriage."²

The faithful who persist in such a situation may receive Holy Communion only after obtaining sacramental absolution, which may be given only "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, for example, for 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.'"³ In such a case they may receive Holy Communion as long as they respect the obligation to avoid giving scandal.

On the other hand, Pope Francis made two remarks, in footnotes, not dealing directly with the above directive, but adding certain nuances to the directive. Why communion is denied to such persons is that they are objectively in a state of sin. Does that hold also subjectively?⁴ The answer has to be discerned. Only the individual can provide a response and only God can judge. So in footnote 336 of AL, he states:

¹http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_14091994_rec-holy-comm-by-divorced_en.html

²John Paul II, Apostolic Exhortation *Familiaris Consortio* n. 84: AAS 74 (1982) 185-186 (cited in the letter that is quoted here).

³John Paul II, *Familiaris Consortio* *Ibid.*, n. 84: AAS 74 (1982) 186; cf. John Paul II, *Homily on the Occasion of the Closure of the Sixth Synod of Bishops*, n. 7: AAS 72 (1980) 1082 (cited in the letter that is quoted here).

⁴Pontifical Council for Legislative Texts, *Declaration Concerning the Admission to Holy Communion of Faithful Who are Divorced and Remarried* (24 June 2000) 2. Cf. also John Paul II, *Familiaris Consortio*, 84.

This is also the case with regard to sacramental discipline, since discernment can recognize that in a particular situation no grave fault exists. In such cases, what is found in another document applies: cf. *Evangelii Gaudium* (24 November 2013), 44 and 47: AAS 105 (2013), 1038-1040.

Through discernment, admission to communion may be possible. It is not a norm, but the result of a process. Thus, footnote 351 of AL indicates:

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).

Above all, Chapter 8 of AL is entitled "Accompanying, Discerning and Integrating Weakness."

The Doubt of the Four Cardinals

In the context of the papal teaching that preceded AL, four cardinals have sought clarification of their *dubia*,⁵ which are attached to a letter to the Pope. (Since they received no reply, they decided to go public.)

1. It is asked whether, following the affirmations of *Amoris Laetitia* (nn. 300-305), it has now become possible to grant absolution in the Sacrament of Penance and thus to admit to Holy Communion a person who, while bound by a valid marital bond, lives together with a different person "*more uxorio*" (in a marital way) without fulfilling the conditions provided for by *Familiaris Consortio*, n. 84 and subsequently reaffirmed by *Reconciliatio et Paenitentia*, n. 34 and *Sacramentum Caritatis*, n. 29. Can the expression "in certain cases" found in note 351 (n. 305) of the exhortation *Amoris Laetitia* be applied to divorced persons who are in a new union and who continue to live "*more uxorio*"?

2. After the publication of the Post-synodal Apostolic Exhortation *Amoris Laetitia* (cf. n. 304), does one still need to regard as valid the teaching of St John Paul II's Encyclical *Veritatis Splendor*, n. 79, based on Sacred Scripture and on the Tradition of the Church, on the existence of absolute moral norms that prohibit intrinsically evil acts and that are binding without exceptions?

⁵<https://www.lifesitenews.com/news/full-text-of-4-cardinals-letter-to-pope-francis-with-explanatory-notes-and>

3. After *Amoris Laetitia* (n. 301) is it still possible to affirm that a person who habitually lives in contradiction to a commandment of God's law, as for instance the one that prohibits adultery (cf. Mt 19:3-9), finds him or herself in an objective situation of grave habitual sin (cf. Pontifical Council for Legislative Texts, Declaration, June 24, 2000)?

4. After the affirmations of *Amoris Laetitia* (n. 302) on "circumstances which mitigate moral responsibility," does one still need to regard as valid the teaching of St John Paul II's Encyclical *Veritatis Splendor* n. 81, based on Sacred Scripture and on the Tradition of the Church, according to which "circumstances or intentions can never transform an act intrinsically evil by virtue of its object into an act 'subjectively' good or defensible as a choice"?

5. After *Amoris Laetitia* (n. 303) does one still need to regard as valid the teaching of St John Paul II's encyclical *Veritatis Splendor* n. 56, based on Sacred Scripture and on the Tradition of the Church, that excludes a creative interpretation of the role of conscience and that emphasizes that conscience can never be authorized to legitimate exceptions to absolute moral norms that prohibit intrinsically evil acts by virtue of their object?

Morality Based on "Nature" Ethics

At the time of Vatican II, there was hope that ethics would be supplemented by an anthropological personal approach as was seen in the case of GS dealing with moral issues. But very soon after the Council, Paul VI in *Humanae Vitae* (1968) went back to the nature/natural law approach and that has been the approach in the papal teaching that followed.⁶ However, this nature approach in the scholastic sense has its value that, while the abstract metaphysical concept of nature is retained, there is a variation of conclusions that can be derived from the nature and analysis of human act that operates in concrete circumstances to translate the "norm of nature" knowable by reason into action.

In the empirical sciences, scientific hypotheses are reached by the examination of a sufficient number of individual cases (inductive reasoning). These hypotheses are valid until further evidence leads to

⁶John Healy, *The "official" ethics of the Catholic Church: A journey from ante(i)modernity to postmodernity* (PhD Dissertation, University of Ottawa, 1996) at: hdl.handle.net/10393/9539; Stephen J. Pope, ed., *The Ethics of Aquinas* (Moral Tradition Series, Washington DC: Georgetown University Press, 2002, 412-425, cf.169-206.

their falsification.⁷ That is the basis of scientific development and progress. But in moral matters, according to the nature/natural law tradition,⁸ there is on the one hand, in the catholic tradition absolute moral norms which are worked out deductively from revealed premises. On the other hand, there is the individual who lives according to or against the moral norm. This is not simply the act of a man (*actus hominis*) but a truly human act (*actus humanus*) which involves the two higher human faculties, intellect and will. Hence, the traditional requirements for mortal sin – grave matter, full knowledge, full consent (CCC 1857-1859) and there can be a defect in full knowledge and consent depending on circumstances.⁹

Pope Francis, citing *Familiaris Consortio* 34, states in AL, 295

Along these lines, Saint John Paul II proposed the so-called “law of gradualness” in the knowledge that the human being “knows, loves and accomplishes moral good by different stages of growth.” This is not a “gradualness of law” but rather a gradualness in the prudential exercise of free acts on the part of subjects who are not in a position to understand, appreciate, or fully carry out the objective demands of the law. For the law is itself a gift of God which points out the way, a gift for everyone without exception; it can be followed with the help of grace, even though each human being “advances gradually with the progressive integration of the gifts of God and the demands of God’s definitive and absolute love in his or her entire personal and social life.”

⁷E.g. Huygens (1629-1695) proposed a wave theory of light. In 1690 Newton proposed the corpuscular theory of light. The quantum theory put forward by Max Planck in 1900 combined the wave theory and the particle theory, and showed that light can sometimes behave like a particle and sometimes like a wave.

⁸Cf. shift to empirical bases: Juhana Lemetti - Eva Piirimäe, ed., *Human Nature as the Basis of Morality and Society in Early Modern Philosophy* (Acta philosophica Fennica 83), Helsinki: Philosophical Society of Finland 2007; William Sweet, *The Bases of Ethics*, Milwaukee: Marquette University Press 2001; Joseph A. Selling, *Reframing Catholic Theological Ethics*, Oxford: Oxford University Press 2016. At base, the natural law remains the framework in regard to official sexual ethics; only in the early 20th century did a few theologians begin to move beyond discussing ‘the purposes of marital intercourse’ to discussing the meaning that the marital act might have for the spouses themselves: Cf. Robert E. Obach, *The Catholic Church on Marital Intercourse: from St. Paul to Pope John Paul II*, Lanham MD: Lexington Books, 2009.

⁹The official teaching regarding sin had been most systematically developed and articulated at the Council of Trent. That teaching provided the impetus and basic content for the subsequent moral manuals in their presentations on sin. In Vatican II, GS 13, 37 etc. set sin within the context of egocentricity of man and the historical realization of God’s plan. But the human act remains key; CCC 1849-1851, 1854-1864. Cf. Andrew Nelson, *Sin: An Evolving Theological Concept: A Historico-Theological Appraisal of the Understanding of Sin in the Pastoral Constitution of the Second Vatican Council*, PhD Dissertation, Marquette University 1981, Pro Quest Dissertations Publishing.

And this is the issue about the subjective situation of “full” knowledge and “full” consent and the depth of commitment or the lack of it at a given point in the growth of the human person. The consequence is many and varied issues that can arise and for which the answers are varied. Killing a human being is objectively evil. But, is it lawful to kill in appropriate self-defence? The answer is Yes. If the someone threatening your life has only his bare hands and you have a gun, is it lawful to shoot him in his head and kill him? The answer is No (on the principle of proportionality). And the questioning can go on and on with the Yes or No varying according to the formulation of the question.

In trying to place objective morality and subjective morality in opposition to each other without trying to see the bridge that links the two is that we have forgotten the basic principles that have been incorporated in the old manuals of moral theology.¹⁰ In the first part, there was the study of the principles – human acts, law, sin. In a second part, there was a study of the theological virtues, precepts of the Decalogue, contracts, duties attached to particular states, sacraments in general and each sacrament, censures. It was the principles of the first part that were carefully applied to the issues that arise as each of the issues in the second part were studied, evaluated and assessed. In AL and in the teachings of previous Popes¹¹ and in the instructions of the Holy See,¹² there has always

¹⁰Examples would be: Alphonsus Maria de Liguori, *Theologia Moralis*, Paris: Gauthier Fratrem et Soc. 1835; A. Vermeersch – Joseph Creusen, *Theologiae moralis principia, responsa, consilia*, Rome: Gregorian 1945-1954; Thomas Slater, *A Manual of Moral Theology I-II*, London: Burns Oates and Washbourne 1925.

¹¹John Paul II, *Familiaris Consortio* 34; Paul VI, *Humanae Vitae* 25: “If, however, sin still exercises its hold over them, they are not to lose heart. Rather must they, humble and persevering, have recourse to the mercy of God, abundantly bestowed in the Sacrament of Penance. In this way, for sure, they will be able to reach that perfection of married life which the Apostle sets out in these words: “Husbands, love your wives, as Christ loved the Church...” c f. 19, 29. Cf. Joseph Parkinson, “*Humanae Vitae* I: Pope Paul VI in Pastoral Mode,” *The Australasian Catholic Record* 90, 2 (2013) 185-195; Joseph Parkinson, “*Humanae Vitae* II: Conscience, Contraception, and Holy Communion” in *The Australasian Catholic Record* 90, 3 (2013) 297-310. Benedict XVI as regards the use of condoms, according to the Vatican Press Office: “At the same time, the pope considers an exceptional situation in which the exercise of sexuality represents a true risk to the life of another. In that case, the pope does not morally justify the disordered exercise of sexuality, but holds that the use of a condom in order to diminish the threat of infection is “a first assumption of responsibility,” and “a first step in a movement toward a different way, a more human way, of living sexuality,” rather than not using a condom and exposing the other person to a threat to their life.” (cf. <https://www.ncronline.org/blogs/ncr-today/vatican-statement-benedict-xvi-and-condoms>).

been an area, where the gradualness of human growth has been acknowledged. An action done in accord with an inculpably ignorant judgment of conscience is not only not sinful, but good. Such an action is put on the same moral level as an action based on a judgment that is actually true. This follows from the conception of conscience as an authority, and of good action as consisting in obedience to that authority.¹³ For Thomas Aquinas, the approach is rather different. It is not a *habitus* or authority, but an act of judgment. Built into the notion of making a judgment of conscience – whether erroneous or not – is the fact that the person believes something about the act being judged that makes it a good or bad act, even if the belief is something as general as “this act is commanded by God.” It is this reason, as believed to be true, that confers authority on the judgment of an erroneous conscience.¹⁴ (It is precisely to enable a person in an “irregular” situation to reach this judgment that Pope Francis advocates discernment – a word used 35 times in AL).

Gradualness – Not in Law, But in Life

The word gradualness has not always been used, but there has been provision for the weakness of the human situation. Conscience has always been acknowledged as the proximate law of morality and action. One is bound to follow one’s conscience, even if it is an erroneous conscience. The priest is to echo the voice and love of the redeemer,¹⁵ very clear in AL which speaks of pastoral care in a spirit of mercy and welcome (AL, 293-295).

This is not a “gradualness of law” but rather a gradualness in the prudential exercise of free acts on the part of subjects who are not in a position to understand, appreciate, or fully carry out the objective demands of the law. For the law is itself a gift of God which points out the way, a gift for everyone without exception; it can be followed with the help of grace, even though each human being “advances gradually with the progressive integration of the gifts of God and the demands of God’s definitive and absolute love in his or her entire personal and social life” (AL 295).

¹²E.g. Pastoral Council for Family, *Concerning Some Aspects of the Morality of Conjugal Life* (1997) 3, 9; *Catechism of the Catholic Church* 2343 (Chastity has its laws of growth).

¹³Suarez, *De bonitate et militia humanorum actum*, disp. 12, sect. 4, 7-9, in: *Opera omnia* 4, Paris: Vivès, 1856, 445. He is preceded in this by Ockham; for discussion see Michael G. Baylor, *Action and Person: Conscience in Late Scholasticism and the Young Luther*, Leiden: Brill, 1977, 87.

¹⁴Thomas Aquinas, *Summa Theologiae* I-II, q. 19, aa. 5-6 Cf. *De Verit* q. 17, a. 4; *Summa Theologiae* 1-2, q. 6, a. 8; q. 19, a. 6; q. 74, a. 5; q. 76, aa. 2-3

¹⁵Paul VI, *Humanae Vitae*, 29.

The mid-way Report on the Synod: the summary of Bishops' discussions stated:

*As regards the possibility of partaking of the sacraments of Penance and the Eucharist, some argued in favor of the present regulations because of their theological foundation, others were in favor of a greater opening on very precise conditions when dealing with situations that **cannot be resolved without creating new injustices and suffering**. For some, partaking of the sacraments might occur were it preceded by a penitential path¹⁶ – under the responsibility of the diocesan bishop –, and with a clear undertaking in favor of the children. This would not be a general possibility, but the fruit of a discernment applied on a case-by-case basis, **according to a law of gradualness, that takes into consideration the distinction between state of sin, state of grace and the attenuating circumstances**. (Emphasis added)*

Secondly, moral theology is not penal law. There is distinction between sin and delict.¹⁷ A *delict* should not be equated to *sin*, and the issue of *sin* should not be considered coterminous with legal imputability. *Guilt before the law has its own requirements; but in sin it is a question of guilt before oneself and God – response-ability to oneself and God. As Paul says: “I care very little, however, if I am judged by you or by any human court. In fact, I do not even judge myself. My conscience is clear, but that does not vindicate me. It is the Lord who judges me. Therefore judge nothing before the proper time; wait until the Lord comes. He will bring to light what is hidden in darkness and will expose the motives of men’s hearts. At that time each will receive his praise from God...”* (1 Cor 4:3-5).

¹⁶In referring to a penitential path, the mid-way Report might appear to be suggesting – as was recently suggested by Msgr. Jean-Paul Vesco, Bishop of Oran in Algeria <http://voiceofthefamily.info/wordpress/?p=235> – that the sins to be repented of are all in the past (Bishop Vesco refers to the sin of seeking the new relationship while one was still with the original marriage partner). Of course if the sins truly are all in the past, there would be no serious dilemma in regard to the Eucharist, provided the person is truly sorry for them. Those who have committed adultery or other serious sins (including other sexual sins) repent sincerely of their sin, receive the Sacrament of Penance, and are welcomed lovingly back to full communion.

¹⁷Massimo del Pozzo, “Il rapporto tra delitto e peccato nell’attualità del diritto canonico,” *Ius Canonicum* 53, 105 (2013)199-224; Elizabeth McDonough, “A ‘Novus Habitus Mentis’ for Sanctions in the Church,” *The Jurist* 48 (1088) 727-746; David E. DeCosse and Kristin E. Heyer, ed., *Conscience and Catholicism: Rights, Responsibilities, and Institutional Responses*, Maryknoll, NY: Orbis Books 2015; Herant A. Katchadouivan, *Guilt: The Bite of Conscience*, Stanford, CA: Stanford General Books 2010.

Thirdly, it is important to remember that in Church law the salvation of souls is the supreme principle.¹⁸ Much more so in pastoral practice. As Augustine says: “God does not command the impossible; but by commanding he exhorts you to do what you can and seek for what you cannot, so that he may assist you in order that you may be able.”¹⁹

Returning to the *Dubia*

There has been no tradition of the Pope answering *dubia* with Yes and No responses. There has been a history of the Congregation for the doctrine of Faith (and its predecessors) of doing so. Against the background of what is said above, there is a problem with answering the *dubia* proposed with Yes or No, in matters which deal with the area of morality.

As regards *dubium 3*, is there grave matter? Yes, there is. There is something that can be called an “objective situation of grave habitual sin.” This is the very heart of natural law ethics. As regards *dubium 2*, are there absolute moral norms which prohibit intrinsically evil acts? Again, Yes. But the answer is “abstract” in the same sense that the concept of man, good, evil, the prohibition “Thou shalt not kill” etc. – in fact, any universal concept (that includes universal law and prohibitions) – is abstract and exists in the mind. Where the abstract situation can be identified objectively, does it automatically mean the subjective situation of the given individual, his/her grave habitual sin?²⁰ No.

¹⁸ Scott L. Marczuk, *The Use of “Salus animarum est suprema lex” as a Principle for the Interpretation of Canon Law* (JCL Dissertation, Catholic University of America, 1989), published: Portland, OR: Theological Research Exchange Network, 2005; Thomas Schuller, *Die Barmherzigkeit als Prinzip der Rechtsapplikation in der Kirche im Dienste der salus animarum: ein kanonistischer Beitrag zu Methodenproblemen der Kirchenrechtstheorie*, Würzburg: Echter, 1993.

¹⁹*De Natura et Gratia* 43, 50.

²⁰In English criminal law, it is required that the *actus reus* and *mens rea* coincide. ‘*Actus non facit reum nisi mens sit rea*’ is a common law maxim which basically means that an act is not wrongful unless there is a wrongful state of mind. It is up to the prosecution to prove that the *mens rea* existed contemporaneously with the *actus reus*. Cf. Toni Pickard, Phil Goldman *et al.*, ed., *Dimensions of Criminal Law*, Toronto: Edmond Montgomery Publications Limited, ²1996; Kent Roach, *Criminal Law*, Toronto: Irwin Law Inc, ³2004; Enrico Amati, Valentina Caccamo *et al.*, ed., *Introduction al Derecho Penal Internacional*, Milano: Giuffrè, 2006; David Cowley, “Coincidence of *actus reus* and *mens rea*,” *Journal of Criminal Law* 56, 2 (1992); Winnie Chan - A.P. Simester, “Four Functions of *Mens Rea*,” *The Cambridge Law Journal* 70, 2 (2011) 381-396 . (In the situation of sin, there is no external prosecuting authority. It is the individual versus God (as natural law), i.e. conscience that is able to judge the

This is similar to the Sabbath controversies (Cf. Mt 12:2, Mk 2:24, Lk 6:2; Mt 12:10, Mk 3:6, Lk 6:7). The fact is that Jesus himself observed the Sabbath, but he viewed the Sabbath in the light of the kingdom – the kingdom present and active in his own person. Therefore his intention of untying (Greek: *luo*) or freeing the Sabbath from human interpretations and restrictions. He did not work to destroy the Law. He himself observed it with his fellow Jews. He sought to free it from misplaced casuistry in the light of the Kingdom.²¹

A Place for the Individual's Conscience

As pointed out earlier in this article, the whole practice of the confessional was to consider the individual who sins and identify whether a sin, for which one is guilty before oneself and God, exists. This approach has been appended to encyclicals like *Humanae Vitae*, which stressed objective morality and the apostolic exhortation. *Reconciliatio et Paenitentia* (1984) of John Paul II highlights the welcome of the Father commenting on the Parable of the Prodigal Son. The contribution of AL is precisely to highlight the fact that in marriage we are dealing with human reality in a whole range of circumstances, where diverse emotions and circumstances are present. The word “concrete” can be identified at least 20 times in AL (English translation). There is “a gradualness in the prudential exercise of free acts on the part of subjects who are not in a position to understand, appreciate, or fully carry out the objective demands of the law. For the law is itself a gift of God which points out the way, a gift for everyone without exception...” (AL, 295).

existence of *mens rea* wholly or partly or not at all (Cf. Paul's discussion of Rom 14 of deciding regarding food). And that is what is called the judgment of conscience and which according to Thomas Aquinas is the perception of the law of God in that situation. (One is obliged to follow one's conscience even if it is erroneous).

²¹Cf. Vanderlei Alberto Schach, *Fariseus e Jesus: Teologia e Espiritualidade em Relação ao Sábado a Partir de Mc 3:1-6: Características e avaliação crítica* (MA Dissertation, Escola Superior de Teologia, Instituto Ecumênico de Pós-Graduação em Teologia, 2007) at: http://www.globethics.net/library/overall-search?p_auth=iUP4Nyr3&p_p_id=read_panel_portlet_WAR_digitallibraryspring25portlet&p_p_lifecycle=1&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-3&p_p_col_count=1&function=showWeb&preSelectedDocUrl=http%3A%2F%2Ftede.est.edu.br%2Ftede%2Ftede_busca%2Farquivo.php%3FcodArquivo%3D43; Kim Papaioannou, “John 5:18: Jesus and Sabbath Law: A Fresh Look at a Challenging Text,” *Journal of the Adventist Theological Society* 20, 1-2 (2009) 244-261; David A. Skeel, “What were Jesus and the Pharisees Talking about When They Talked about Law,” *Journal of Law and Religion* 23, 1 (2007) 141-146; Thomas R. Schreiner, “The Abolition and Fulfillment of the Law in Paul,” *Journal for the Study of the New Testament* 38 (1989) 47-74.

There is no response to the *dubia* for those who want to equate sin and law, continuing to live in the Mosaic dispensation, which Paul emphasizes has been surpassed and transcended in Christ. John XXIII at the opening of Vatican II stated: “Nowadays however, the Spouse of Christ prefers to make use of the medicine of mercy rather than that of severity. She considers that she meets the needs of the present day by demonstrating the validity of her teaching rather than by condemnations.”²² “Jesus goes beyond the law. He does not say: ‘adultery is not a sin!’ But he does not condemn it according to law,”²³ the Pope explained in his 7 April 2014 homily during Mass at the St Martha guesthouse chapel. That is the spirit that lies at the heart of AL and it requires a *metanoia* to accept – God’s mercy is greater than human sin. “O happy fault...” (*Exsultet*, Holy Saturday). Pope Francis uses the word “mercy” 39 times in AL. “Saint Augustine teaches: “Just as, at the threat of a fire, we would run for water to extinguish it... so too, if the flame of sin rises from our chaff and we are troubled, if the chance to perform a work of mercy is offered us, let us rejoice in it, as if it were a fountain offered us to extinguish the blaze” (AL, 306).

Following the discussion above, it can be said:

- There is such a thing as absolute moral norms and an objective situation of grave habitual sin.

- Every human situation has to be considered within the framework of salvation history. The human history in which God works has been fraught with human infidelity and sin. But as Walter Kasper said addressing the Cardinals in the presence of Pope Francis in 2014:

The mercy of God in the ultimate analysis is the fidelity of God towards himself and his love for himself. Because God is faithful and also faithful, even if we are unfaithful (2 Tim 2:13). Mercy and faithfulness go together. Because of the faithful mercy of God no human situation exists which is absolutely devoid of hope of a solution...”²⁴

²²http://w2.vatican.va/content/john-xxiii/pt/speeches/1962/documents/hf_j-xxiii_spe_19621011_opening-council.html

²³Infatti “la legge diceva che lei doveva essere punita.” Oltretutto Gesù “era puro e poteva gettare per primo la pietra.” Ma egli “va oltre. Non le dice: non è peccato l’adulterio. Ma non la condanna con la legge.” Proprio “questo è il mistero della misericordia di Gesù,” http://w2.vatican.va/content/francesco/it/cotidie/2014/documents/papa-francesco-cotidie_20140407_perdonare-accarezzando.html

²⁴*Il Foglio Quotidiano* 19, no. 51 (1 March 2014). For the English version of Kasper’s address to the cardinals (February 20, 2014), see *Mercy: The Essence of the Gospel and the Key to Christian Life*, Mahwah, NJ: Paulist Press, 2014.

- The call to salvation does not cease in situations where irreversibly one finds oneself in an “irregular situation” (as in the case proposed in *dubium* 1). The baptismal vocation is lifelong.

- The principle of Augustine holds good in every situation: God does not command the impossible... (as above).

- Sin is to be evaluated on the one hand in terms of grave matter; on the other hand, in terms of the presence or absence of full knowledge and full consent. This evaluation takes place in a process of discernment, where the gradualness of human growth is acknowledged together with acceptance of objective moral norms (Cf. there is no gradualness in the law; however, there is gradualness in that the human being “knows, loves and accomplishes moral good by different stages of growth”).

- In accepting and following the judgment of conscience, to which one arrives by a process of discernment, one also has to determine whether the requirement is a life of penance without the sacraments or whether the sacraments can assist in that journey of growth,²⁵ particularly in the “field hospital” concept of the Church.²⁶

Traditionally, Catholic moral theology has been based upon an approach that over-emphasized the role of normative ethics and subsequently associated moral responsibility with following or disobeying moral rules. AL offers a pastoral approach, which, without destroying any of the valuable insights of normative ethics, reorients the discipline to consider human motivation and intention before investigating behavioural options for realizing one’s end.

We cannot forget that “mercy is not only the working of the Father; it becomes a criterion for knowing who his true children are. In a word, we are called to show mercy because mercy was first shown to us.”

²⁵Thomas Michelet, “Synode sur la famille: la voie de l’ordo paenitentium,” *Nova et Vetera* 90, 1 (2015) 55-80; A-M Henry, “Les Non-Sacramentalisables,” *Parole Et Mission* 8 (1960) 106-118; “Rapport du Pere Morel,” *Parole Et Mission* 8 (1960) 119-132 (the pastoral approach to “non-sacramentalisables”).

²⁶“The thing the church needs most today is the ability to heal wounds and to warm the hearts of the faithful; it needs nearness, proximity. I see the church as a field hospital after battle. It is useless to ask a seriously injured person if he has high cholesterol and about the level of his blood sugars! You have to heal his wounds. Then we can talk about everything else. Heal the wounds, heal the wounds... And you have to start from the ground up.” (Pope Francis in an interview with Antonio Spadaro, August 2013). Read footnotes 336 and 351 of AL in this perspective.

This is not sheer romanticism or a lukewarm response to God's love, which always seeks what is best for us, for "mercy is the very foundation of the Church's life. All of her pastoral activity should be caught up in the tenderness which she shows to believers; nothing in her preaching and her witness to the world can be lacking in mercy." It is true that at times "we act as arbiters of grace rather than its facilitators. But the Church is not a tollhouse; it is the house of the Father, where there is a place for everyone, with all their problems" (AL, 310).

Conclusion

As in the parable of the prodigal son, the Father's love is constant, for the son, who leaves home and for the son who remains at home. But the problem is that the two sons fortunately or unfortunately have two divergent responses to that love. The prodigal son returns and is welcomed home and so, it has been with those who have interpreted in a context of mercy the chapter 8 of AL. Christoph Cardinal Schönborn²⁷ of Vienna was one of the first to suggest guidelines for the pastoral handling of the situation of those divorced and remarried. Since then, the bishops of the Buenos Aires Pastoral Region formulated a detailed draft of their proposals to implement Chapter 8 of AL. They sent these to Pope Francis. He warmly approved the draft.²⁸ In a similar spirit we have the Bishops of Malta, issuing their *Criteria for the Application of Chapter VIII of Amoris Laetitia*.²⁹ *But there is also the response of the son who stayed at home. We know the Father persuaded him, but we do not know what happened after that. What did he do? Did he join the feast for the return of his younger brother? The gospel does not tell us, but in fact, we have that reaction also in today's church (e.g. in the Archdiocese of Philadelphia, USA³⁰).*

²⁷*Aufmerksamkeiten: Seelsorgliche Handreichung für den Umgang mit Geschiedenen und mit Menschen, die an eine neue Partnerschaft denken*, http://media.wige.kategoriale-seelsorge.at.s3.amazonaws.com/Dateien/73749_aufmerksamkeiten.pdf, where based around five questions, its aim is 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.

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<http://ms.maltadiocese.org/website/2017/press%20releases/Norms%20for%20the%20Application%20of%20Chapter%20VIII%20of%20AL.pdf>

³⁰http://archphila.org/wp-content/uploads/2016/06/AOP_AL-guidelines.pdf

As Pope Francis states, so do we conclude “All of her (Church’s) pastoral activity should be caught up in the tenderness which she shows to believers; nothing in her preaching and her witness to the world can be lacking in mercy.” It is true that at times “we act as arbiters of grace rather than its facilitators. But the Church is not a tollhouse; it is the house of the Father, where there is a place for everyone, with all their problems.” (AL, 310).