

RELEVANCE OF *AMORIS LAETITIA* FOR THE DIVORCED AND REMARRIED IN THE CATHOLIC FAMILIES OF KERALA

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Abstract

Increase in the number of divorce and remarriage makes the relevance of *Amoris Laetitia* very significant in the Catholic families of Kerala. The pastoral discernment proposed in *Amoris Laetitia*, asks the pastors to accompany and integrate the divorced and remarried. The Church in Kerala needs to implement *Amoris Laetitia* pastorally to welcome the divorced and remarried with due discernment. Reading the signs of the times, the pastoral care of the divorced and remarried as well as their children has to be addressed properly. Apart from the theological discussions, the authors suggest some concrete proposals that can implement *Amoris Laetitia* in the Kerala scenario. These proposals are more pastoral, practical and compassionate, which are in fact the 'logic' of *Amoris Laetitia*.

Keywords: Divorce and Remarriage, Formation of Conscience, Mercy, Pastoral Accompaniment, Pastoral Discernment

Although the *Instrumentum Laboris* of the III Extra Ordinary General Assembly observes that there is less number of divorces, separation and remarriage in Africa and Asia,¹ many of the statistics

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¹Synod of Bishops, III Extra Ordinary General Assembly, *Instrumentum Laboris*, Roma: The General Secretariat of the Synod of Bishops and *Libreria Editrice Vaticana*, 2014, 86.

indicate that the actual situation of India is different or fast changing. Among the different states of India, increase in the number of divorce is alarming in Kerala, which is the most literate state, and which can be said to be the most Catholic state considering the number of Catholics. According to data compiled by the Department of Justice of the Government of India, Kerala tops the list of states with the highest number of matrimonial disputes pending in family courts, with over 52,446 cases awaiting adjudication at the end of November 2016. The data shows that 28 family courts in Kerala disposed of 43,914 cases in 2013, 53,564 in 2014 and 51,288 in 2015. However, the latest data shows that 52,446 cases are still pending in Kerala in 2016.²

The above mentioned data motivated us to analyse the data of the different tribunals of the Syro Malabar and Syro Malankara Churches of Kerala. Based on this data, we made an attempt to analyse the importance of *Amoris Laetitia* and the need to implement it in the Kerala context especially on the issue of divorced and remarried couples.

The data from the Syro Malabar Major Archiepiscopal Tribunal of Ernakulam-Angamaly,³ shows that there is an increase in the number of declaration of nullity.

Activity of the Tribunal in the Second Instance	Causes Pending at the beginning of the Year	Causes introduced in the Year	Decreases of Ratification (Declaration of Nullity) ⁴
2013	29	313	229
2015	39	290	306

The total number of cases processed by the Tribunals of the first instances during the year 2012 is 1045 and the affirmative sentences

²<http://164.100.47.190/loksabhaquestions/annex/9/AU3115.pdf> accessed on 26 February 2017.

³http://www.syromalabarchurch.in/resources_details.php?res=131 accessed on 15 February 2017.

⁴The Declaration of Nullity of marriage is a procedure to discover the truth regarding the claim that what happened to be true marriage consent was, in fact null or void. The term annulment may be misleading since the term has both constructive and declarative connotations, where the constructive meaning is prevalent. In fact, the term annulment refers to the cancellation of a reality. It is not a declaration. Hence the proper word would be “declaration of nullity. See Navya Thattil, “Marriage and Family: Special Situations and Canonical Considerations,” in Astrid Lobo Gajiwala and Vincent Kundukulam, ed., *Marriage and Family Today: An Indian Theological Search*, Bangalore: TPI, 2016, 73-88, 86.

are 400. The total number of cases processed by the Tribunals of the first instances during the year 2015 is 1240 and the affirmative sentences are 535. This is a clear indication that there is an increase in the declaration of nullity while we consider the data from the different Tribunals of the Syro Malabar Church. The number of cases in 2015 is high in dioceses like Ernakulam-Angamaly (183), Changanassery (159), Palai (155) and Trichur (139). The number of Catholics in these dioceses may give us a clearer idea of the proportion of marital problems: Ernakulam-Angamaly (5,20,000), Changanassery (3,90,000), Palai (3,45,850), Trichur (4,85,300).⁵ The number of marriage breakdown may be still low compared to some other countries. However, the number is rising very fast.

When we analysed the statistics from the Syro Malankara Church, there were 42 causes introduced in the year 2015 in the Major Archbishopial Tribunal of the Syro Malankara Church and all of them were declared null. There was an increase in the number of cases compared to the year 2012. Moreover, there is an increase in the total number of cases processed in the different eparchies of the Syro Malankara Church. The number of cases is high in the urban diocese of Trivandrum (38), and less in the rural diocese like Mavelikara (15), Bathery (8) whereas the total number of the faithful in these dioceses is Trivandrum – 2,19,500, Mavelikara – 25,470, Bathery – 24,000 according to the unpublished statistics of 2016-'17.⁶

This is a clear indication that there is an increase in the declaration of nullity while we consider the data from the different Tribunals of the Syro Malabar and Syro Malankara Churches.

This is only a tip of an iceberg. The real picture may be even more alarming. The couples go through great hardships when they go through the processes of the declaration of the nullity of their first marriage. There are a good number of couples who do not wish to go through this process and distance themselves from the Church. It is very difficult to get the actual number of these couples. What can the Catholic Church in Kerala do for their integration into the Church? How far the changes in the approach of the Catholic Church towards the divorced and remarried influenced the Church in Kerala? Or Does the Catholic Church in Kerala have an official guideline for their pastoral care? This search leads us to explore more into the real life situations of the divorced and remarried couples.

⁵Based on *AnnuarioPontificio* 2012 <http://www.syromalabarchurch.in/syro-malabar-church-@-a-glance.php> accessed on 16 February 2017.

⁶The Tribunals of the Syro Malankara Church did not publish these data so far.

In order to give pastoral care for these people it would be better to know some of the important reasons for divorce and remarriage in the context of Kerala. The current theological discussions should influence the Church in Kerala to have a constructive initiative for their pastoral care. The change in the approach of the Universal Church should specifically reflect in the Kerala Church too, especially regarding the sacramental reception and their integration.

1. Reasons for the Increase of Marriage Cases in the Catholic Church in Kerala

The Christian families in Kerala have been considering marriage as a sacred bond which inspires them to continue their marital bond in spite of all other difficulties. But the wrong understanding of freedom, individualism, modernism, sexuality, etc. has challenged the stability of marital relationship in Kerala.

While analysing the grounds for the dissolution of marriage in the Syro Malabar Major Archiepiscopal Tribunal in 2015, we could find several of them. The main grounds are force or grave fear, infidelity, fraud, lack of discretion, etc. which lead us to analyse other reasons for the breaking up of marriages.

Domestic violence is one of the most common problems that families face in catholic homes in Kerala. A wife or a female partner is more commonly the victim of domestic violence. Domestic violence, gender inequality and gender discrimination also cause the break-up of marriage.

Lack of intimacy and communication also cause the breaking up of marriages. Marital break-up and break down usually happen due to psychological and interpersonal incompatibility of spouses because they do not spend enough time with each other to strengthen their relationship. Intolerance, in-law interference, cultural disparity, religious differences, etc. add to this.⁷ According to *Instrumentum Laboris*, the absence of mutual trust and lack of intimacy along with the domination of one partner over the other is one of the challenging situations of the families in general.⁸ The couples are often not willing to solve these issues through fruitful communication; rather, they live in isolation and file for the civil divorce. Loss of cultural values and

⁷Laurence Culas, "Pastoral Programme for Families in the Light of New Challenges," in Assisi Saldanaha, et al., *Biblical Perspectives on Family in the Context of Synod on Family*, Bangalore: TPI, 2016, 25-42, 28.

⁸Synod of Bishops, III Extra Ordinary General Assembly, *Instrumentum Laboris*, 64.

weakened faith in the Catholic families also are causes for the breaking up of the marriages.

The negative influence of media badly affects the marital relationship in the Catholic families. Today, television, smart phones and computers have become a real hindrance to communication among family members. This leads to a breakdown and alienation in relationships. "The negative aspects of media and entertainment industries are threatening the traditional values and in particular the sacredness of marriage and the stability of the family."⁹ Family members remain in virtual relationship which replaces the real one.

Individualism is another reason for breaking up of family relationships. Both men and women are concerned about their freedom, and they like to be self-reliant. Women in the Catholic families of Kerala have become self-reliant since they are more educated and employed. This could be considered as a positive development. But, instead of strengthening the family relationships, it leads to an independence which is rather self-centred. That is, self-reliance has not led people into family relationships based on interdependence. As Pope Francis says, "individualism of our postmodern and globalised era favours a lifestyle which weakens the development and stability of personal relationships and distorts family bonds."¹⁰ This is true in the case of the Catholic families in Kerala.

One of the continuing forms of discrimination against women in Kerala which leads to marriage breakup is dowry system. Dowry makes marriage an unequal relationship and makes woman inferior. Dowry is against the Christian vision on marriage, founded on love, mutuality, equality and complementarity.¹¹ It is a structural sin which leads to the breaking up of marriage.

The critical situations and challenges within the family which are mentioned in the *Instrumentum Laboris*¹² also indicate some of the reasons for the breaking up of marital relationship in Kerala. But the limited scope of this article does not allow us to deal with them in detail.

⁹Francis, *Evangelii Gaudium*, 62, in *AAS* 105 (2013), 1019-1137.

¹⁰Francis, *Evangelii Gaudium*, 67.

¹¹Shaji George Kochuthara, "Sexuality, Love Marital Life: The Indian Scenario Today-Changing Perspectives and Ethical Challenges," *Asian Horizons* 4, 1 (2010), 86-97, 96.

¹²Synod of Bishops, III Extra Ordinary General Assembly, *Instrumentum Laboris*, 64-69.

2. Changes in the Attitude of the Church towards the Divorced and Remarried

There is a notable change in the attitude of the Church towards the divorced and remarried couples after the promulgation of *Amoris Laetitia*. *Amoris Laetitia* invites the tribunals of the Church to simplify the annulment process. It helps the divorced couples to lead a life without the burden of guilt of living in sin. Through the *Motu Proprio*, Pope Francis has made the legal procedures to declare the nullity of the marriage much simpler and easier without compromising the basic canons of the Church. This has given a great relief for the faithful who are divorced and remarried. The briefer process of giving the verdict within 45 days is a great step that provides great relief for the people in irregular situations.¹³ The intention of Pope Francis in bringing out the new *Motu Proprio* seems to be the logic of the gospel, that is, not to condemn but to integrate all. He says, “no one can be condemned for ever, because that is not the logic of the Gospel! Here I am not speaking only of the divorced and remarried, but of everyone, in whatever situation they find themselves” (AL, 297) The Church understands that her ministry is not condemning but “pouring out the balm of mercy” (AL, 296) to all especially to the divorced and remarried.

In a special address Pope Francis reminds the Church: “do not close the salvation of people inside a juridical bottleneck. The function of law is directed toward the *salus animarum*...”¹⁴ Imbibing the true spirit of *Amoris Laetitia* and the *Motu Proprio* of Pope Francis, the Church in Kerala has taken some constructive steps for the pastoral care of the divorced and remarried couples. Each Eparchial Tribunals in Kerala has made the procedures of the declaration of nullity faster and easier. Through this initiative a good number of divorced and remarried couples were integrated into the body of Christ.

3. Importance of Theological Discussions in the Catholic Church in Kerala

Even before *Amoris Laetitia*, the western theologians had already initiated discussions on the issues of divorced and remarried persons.¹⁵ The Church in Kerala also needs similar discussions and

¹³Francis, “*Mitis et Misericors Iesus*,” Roma: Libreria Editrice Vaticana, 2016.

¹⁴Pope Francis, “Address to the Officials of the Roman Rota for the Inauguration of the Judicial Year,” Roma: Libreria Editrice Vaticana, 23 January 2015.

¹⁵For example, Cardinal Walter Kasper together with Cardinal Karl Lehmann and Archbishop Oskar Saier circulated a pastoral letter in their respective dioceses approving the reception of the Holy Eucharist for the divorced and remarried persons in 1993. After a series of meetings with these German bishops, the

initiatives on this traumatic situation because these people suffer on different areas of their life. The theological discussions have to look into the issues of these people such as disappointment, sadness, personal injury, self-doubt and feelings of guilt. These discussions should serve as a bridge between the broken people and their society. It also should help them to rescue themselves from isolation, because today in the Catholic Church in Kerala, divorced and remarried people feel that the Church and society lack understanding and that they are left alone with their problems. They feel discriminated and even condemned in the Church activities.¹⁶ In their dying experience of marriage, the theological discussions should enable them to find the “seed of resurrection and new life.”¹⁷ It will be a resurrection experience for them if they are integrated in the sacramental life of the Church through pastoral discernment that *Amoris Laetitia* dreams. All the theological discussions should imbibe the mercy of Jesus, which is the logic of the gospel. For, “a Church without charity and without mercy would no longer be the Church of Jesus Christ.”¹⁸

Although several seminars and discussions on marriage and family problems were conducted in the Catholic Church in Kerala, there is an urgent need to have solid theological contributions which provide joy and hope for the divorced and remarried people in Kerala.

4. Need to Accompany, Discern and Integrate the Divorced and Remarried

The problem of the divorced and remarried is a complex and thorny problem. “We cannot reduce the problem to the question of admission to the communion. It touches upon pastoral care for

Congregation of the Doctrine of Faith sent a letter to the worldwide episcopacy entitled “Concerning the Reception of Holy Communion by Divorced-and-Remarried Members of the Faithful.” In this letter they reaffirmed the ban on reception of the Eucharist for those living in irregular unions. See more in Oskar Saier, Karl Lehmann and Walter Kasper, “Pastoral Ministry: The Divorced and Remarried,” in Charles E. Curran and Julie Hanlon Rubio, *Marriage: Readings in Moral Theology*, No. 15, New York: Paulist Press, 2009, 381-386; Richard A. McCormick, “Divorce, Remarriage and the Sacraments,” in Paulinus Ikechukwu Odozor, ed., *Sexuality, Marriage and Family: Readings in the Catholic Tradition*, Notre Dame: University of Notre Dame Press, 2001, 385.

¹⁶Oskar Saier, Karl Lehmann and Walter Kasper, “Pastoral Ministry: The Divorced and Remarried,” 382.

¹⁷Kevin T. Kelly, “Looking Beyond Failure: Life after Divorce,” *The Tablet* 3, August (1991) 935-937.

¹⁸Walter Kasper, *Mercy: The Essence of the Gospel and the Key to the Christian Life*, New York: Paulist Press, 2013, 158.

marriage and family life in their totality.”¹⁹ The new pastoral approach suggested by Pope Francis is of ‘accompanying, discerning, and integrating.’ This new approach is that

the Church must accompany with attention and care the weakest of her children, who show signs of a wounded and troubled love, by restoring in them hope and confidence, like the beacon of a lighthouse in a port or a torch carried among the people to enlighten those who have lost their way or who are in the midst of a storm. Let us not forget that the Church’s task is often like that of a field hospital.²⁰

This approach made a tremendous impact on the life of the faithful and raised lot of rethinking in the Church. Rather than “casting off” those who are in “irregular situations” the Church must accompany them and pastorally discern how best they can be integrated into the Church’s life, with an aim to bringing them into complete conformity with the teaching of Christ.²¹

The Bishops of Malta and Gozo, have given guidelines²² to the priests in their dioceses, in order to accompany these people through “a responsible personal and pastoral discernment” to an awareness of their life situation in the light of Jesus. The Bishops of Buenos Aires also have published a document named, “Basic Criteria for the Application of Chapter VIII of *Amoris Laetitia*,”²³ for the pastoral care of these people. No. 6 of this document says that “*Amoris Laetitia* opens the possibility of access to the sacraments of reconciliation and the Eucharist” (AL, Foote Note, 336, 351).²⁴ Pope Francis praised that, “the document is very good and completely explains the meaning of the chapter VIII of AL. There are no other interpretations.”²⁵ The Catholic Bishops of the Alberta and North West Territories also drafted a guideline named, “Guidelines for the Pastoral

¹⁹Walter Kasper, *The Gospel of the Family*, New York: Paulist Press, 2014, 32.

²⁰ Francis, *Amoris Laetitia*, 221.

²¹John Meinert and Brian Pedraza, “Fidelity and Discernment: Reading *Amoris Laetitia*.” <http://churchlife.nd.edu/2016/06/06/fidelity-and-discernment-reading-amoris-laetitia/> accessed on 04 November 2016.

²²Charles J. Seicluna and Mario Grech, “Criteria for the Application of Chapter VIII of *Amoris Laetitia*,” <http://ms.maltadiocese.org/WEBSITE/2017/PRESS%20RELEASES/Norms%20for%20the%20Application%20of%20Chapter%20VIII%20of%20AL.pdf> accessed on 1 March 2017.

²³<https://cvcomment.org/2016/09/18/buenos-aires-bishops-guidelines-on-amoris-laetitia-full-text/> accessed on 28 February 2017.

²⁴<https://cvcomment.org/2016/09/18/buenos-aires-bishops-guidelines-on-amoris-laetitia-full-text/> accessed on 1 March 2017.

²⁵https://www.lifesitenews.com/images/pdfs/Letter_of_pope_to_Pastoral_Region_of_Buenos_Aires_September_5_2016.pdf accessed on 1 March 2017.

Accompaniment of Christ's Faithful who are Divorced and Remarried without a Decree of Nullity,"²⁶ for the pastoral care of these people. The Archdiocese of Philadelphia also has issued "Pastoral Guidelines for Implementing *Amoris Laetitia*."²⁷

The Church in India needs to instruct the faithful about *Amoris Laetitia* and give clear guidelines to the clergy about the implementation of the same especially on the issue of the divorce and remarriage. Moreover, the pastors have the obligation to discern and accompany these people in order to integrate them to the Church because "as priests, we have the duty to enlighten consciences by proclaiming Christ and the full ideal of the Gospel."²⁸

5. How to Implement *Amoris Laetitia* in the Kerala Context?

The aforementioned discussion leads us to suggest some practical guidelines to implement the teaching of *Amoris Laetitia* in the context of the Catholic Church in Kerala. The Church in Kerala was rather late to implement the *Amoris Laetitia* pastorally though there were a few initiatives. Rather than conducting few seminars on *Amoris Laetitia*, there were no official teachings from the part of the Church about implementing the positives suggestions of *Amoris Laetitia*. Though some Bishops Conferences outside India have clearly put forward Guidelines for the pastoral accompaniment of the divorced and remarried, the Church in India is rather silent about it. Taking the true spirit of *Amoris Laetitia*, we suggest some of the possible guidelines for the effective pastoral care of the divorced and remarried couples.

1. As Pope Francis envisions, the Church must be a place of mercy, where everyone can feel welcomed, loved, forgiven and encouraged to live the good life of the gospel (EG, 114). There should be a place for every one with all their problems. So the Church must welcome the divorced and remarried couples. It is the duty of the church to heal the wounds of the divorced and remarried.

2. The pastors of the Church in Kerala should be aware of the presence in the community of the divorced and of those who have

²⁶<https://www.catholicottawa.ca/documents/2017/2/170215%20Guidelines%20for%20the%20Pastoral%20Accompaniment%20of%20Christs%20Fainthful%20Who%20are%20Divorced%20and%20Remarried%20Without%20a%20Decree%20of%20Nullity.pdf> accessed on 3 March 2017.

²⁷http://archphila.org/wp-content/uploads/2016/06/AOP_AL-guidelines.pdf accessed on 15 February 2017.

²⁸Scicluna and Grech, "Criteria for the Application o the Chapter VIII of *Amoris Laetitia*," 2.

remarried without a decree of nullity. Particularly in the moments of sacramental celebrations we cannot disregard the presence of the divorced and remarried persons. Pastors must bear in mind that “they belong to the Church as the body of Christ... They are baptized; they are brothers and sisters” (AL, 299). Church in Kerala cannot be silent on this issue of distancing themselves from the Church. She must come with an invitation to integrate them into the body of Christ. Rather than distancing them from the mainstream of the Church, each parish community should be prepared to reach out to them to welcome them as brothers and sisters.

3. Eparchial Tribunals should have a complete familial engagement with the divorced and remarried people in the light of the new *Motu Proprio*. The Pope is not giving general rules or readymade answers to the different situations. Rather, he asks to discern the situation and apply the rules considering uniqueness of the situation and understanding the needs of each situation. More than canonical analysis, pastoral discernment should be done according to the needs of the particular cases (AL, 300).

4. Pastors must welcome these brothers and sisters and encourage them to go through the process of the dissolution of their (first) marriage at the Eparchial marriage Tribunal. The Tribunals in the Catholic Church in Kerala should provide the couples to have an easier access to them and have their situations examined without undue delay. The Tribunals have to make use of the relevant teachings of the Codes of the Canon Law and the *Motu Proprio* of Pope Francis with due mercy.

5. The Church in Kerala needs to issue a clear teaching about the reception of the sacraments by the divorced and remarried. This is also very important for the faith formation of their children. For when children in the families of the divorced and remarried never see their parents go to the sacraments, then they too normally will not find their way to confession and communion.

6. Pastoral care of the children of the divorced and remarried is a vital issue in the Catholic Church in Kerala. Church in Kerala needs to take immediate steps to integrate these children because their children are important members of the Church. Their children, whether from the first marriage or from their subsequent marriage/s or relationship/s, are integral to the life of the Catholic community, and they should be brought up in the Christian faith.

7. The pastors should support these couples to examine their conscience and prepare them to form their conscience. Priests have the duty to accompany them and help them to understand their situation according to the teaching of the Church. In light of this, priests must help the divorced and civilly-remarried to form their consciences according to the truth. It should be undertaken with patience, compassion and a genuine desire for the good of all concerned, sensitive to the wounds of each person, and gently leading each toward the Lord.

8. The Church in Kerala must guide the people who have lost their way. The parish priests have a big role to play in the name of the Church. They are teachers and pastors and their walking with them is all the more important when they find themselves in difficult situations or when they do not yet see the value of the Church's teaching, or its meaning in their life. Pastors should be prudent enough to avoid judgement or arrogance while dealing with the people of divorced and remarried.

9. Our Catholic parish communities should welcome with generosity and love men and women who are divorced and remarried. Pastors should ensure that they are not abandoned and take necessary step to integrate them in the parish activities. Pastors should encourage these people to participate in the liturgical activities of the Church since they are baptized because they are also the living members of the body of Christ where everybody can feel welcomed, loved and forgiven.