

*Editorial*

**FAMILY TODAY**  
**Pastoral and Juridical Concerns**

**Cherian Thunduparampil, CMI**  
*Editor-in-Chief*

As *Iustitia* has accomplished five years of its mission, I would like to thank all those who are associated with it, especially its readers and contributors, for the generous support and encouragement they have extended. I am happy to inform the readers and contributors that, with a view to making itself available to a wider public and to ensure that the best of scholarship is gathered for the greater good of the people of God, *Iustitia* now accepts contributions also in Italian, French, and German.

Formerly, it was an undisputed, universally accepted, and recognized fact that family forms the foundation of any society, whether civil or ecclesiastical. From the conjugal union (“Therefore a man leaves his father and his mother and cleaves to his wife, and they become one flesh” [Gen 2:24]) of one man and one woman, in and through the socially accepted, recognized, and legitimate matrimonial contract or covenant, emerges a family which normally reaches its fullness with the procreation of offspring. From a faith perspective, we can affirm that God so designed marriage from the very beginning of human existence. In addition to the mutual good of the spouses (“It is not good that the man should be alone; I will make him a helper as his partner” [Gen 2:18]), procreation or multiplication of the human race (Gen 1:28) was another purpose of the divine foundation of the institute of marriage and family.

Now, the socio-cultural and politico-religious atmosphere, the ambience of study and work, ideologies and perspectives regarding even fundamental realities and basic values have either changed or are interpreted broadly beyond any confines as all inclusive. Consequently, new ideologies and concepts, many contrary to the divine and natural order, are gradually redefining several conventional values, traditions, and customs. Such changes have even affected the divine institutions of marriage and family. With various factors today disturbing the traditional ideas of these institutions, the

rate at which marriage bonds break continues to grow. These ruptures in the marital covenant lead to separation, divorce, co-habitation and the subsequent suffering of innocent victims, above all that of children born of such marriages. As a result, these ruptures in marriage damage even society at large.

In the wake of this alarming situation, the Holy Father, reading “the signs of God and the human history” (*Relatio*, 3)<sup>1</sup> decided, as the *Relatio* states, “to reflect upon the critical and invaluable reality of the family” by convoking the III Extraordinary Assembly of the Synod of Bishops with the theme *The Pastoral Challenges of the Family in the Context of Evangelization* in 2014. We see from the *Relatio* that the Synod Fathers have considered the issue most seriously in a collegial manner and have posed several directions/guidelines for discussion, deliberation and decisions to be arrived at in the next Ordinary General Assembly of the Synod to be held in October 2015.

The synodal report (nn. 5-8) presents various problems which directly or indirectly lead to rupture of the marriage bond: anthropological changes, demographic crisis, individualism, crisis of faith, poverty and unemployment, hesitancy to welcome new life, over influence of media, internet, pornography, children born outside marriage, single parentage, mixed marriage, considering old persons as a burden, and so on: “In countries where Catholicism is the minority, many mixed and interreligious marriages take place, all with their inherent difficulties in terms of jurisprudence, Baptism, the upbringing of children and the mutual respect with regards to difference in faith. ... In many places, and not only in the West, there has been a widespread increase in the practice of cohabitation before marriage or simply cohabitating with no intention of a legally binding relationship” (*Relatio*, 8). In other words, the synod reiterates that “A crisis in a couple’s relationship destabilizes the family and may lead, through separation and divorce, to serious consequences for adults, children and society as a whole, weakening its individual and social bonds” (*Relatio*, 10).

According to the report, the synod intends to treat this issue in threefold ways: i) firstly, “listening”; that is, to comprehend the

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<sup>1</sup>*Relatio*, n. 3, Extraordinary Assembly of the Synod of Bishops, October, 2014, Rome. Hereafter referred to as *Relatio*, [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20141018\\_relatio-synodi-familia\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20141018_relatio-synodi-familia_en.html)

context, complexity and challenges of the family today; ii) secondly, by "looking at Jesus: the gospel of the family and the Divine Pedagogy in the History of Salvation," and iii) finally, by confronting the "situation," that is, from a "pastoral perspective, proclaiming the Gospel of Family Today in various contexts."

The report gives the impression that, due to the gravity of the matter, the Synod Fathers and the Roman Pontiff want to take a primarily pastoral approach without neglecting or diluting the canonical dimension. It says that "in considering a pastoral approach towards people who have contracted a civil marriage, who are divorced and remarried or simply living together, the Church has the responsibility of helping them understand the divine pedagogy of grace in their lives and offering them assistance so they can reach the fullness of God's plan for them" (*Relatio*, 25). According to the Synod Fathers, those Christian faithful who are in such situations either due to their own fault or as innocent victims of such rupture, do participate in the life of the Church but "in an incomplete manner." Hence, the Church should consider them with love "looking to Christ, whose light illumines every person (cf. *Jn* 1:9; *Gaudium et Spes*, 22)," and as members of the Church they "need pastoral attention that is merciful and encouraging... and that adequately distinguishes situations" (*Relatio*, 26).

The report's stress on the pastoral aspects of this issue does not sacrifice its juridical dimension. It states that while those who, in view of their marriage, do *promise* "a total self-giving, faithfulness and openness to new life, the married couple recognizes these elements as constitutive in marriage, gifts offered to them by God, taking seriously their mutual commitment, in God's name and in the presence of the Church. ... God consecrates the love of husband and wife and confirms its indissolubility, offering them assistance to live their faithfulness, mutual complementarity and openness to life" (*Relatio*, 21). Jesus confirmed the indissolubility of this divine institution of marriage by asserting to the Pharisees that man should not put asunder what God has united (Mt. 19). Various other Church documents, including the codes of canon law, underline this fundamental reality. The report says that, "The family is truly the "school of humanity" (*Gaudium et Spes*, 52), which is much needed today. ... the family needs to be rediscovered as the essential agent in the work of evangelization" (*Relatio*, 2).

Pastors and those associated with the pastoral field often confront practical and legal challenges as well as pastoral ones. This author has personally faced such concrete situations. For example, in the same parish or in different parishes of the same eparchy or diocese, a confessor may, within or outside of the sacramental forum, have to address civilly married, divorced and remarried, or separated and cohabiting persons. Despite their canonically irregular status, such persons at times actively participate in the parish by teaching catechism, etc. and even frequent communion. The latter certainly gives scandal to many faithful and is subject to criticism. Others in the same irregular situation who nevertheless respect the law of the Church experience the pressure and pain of not being able to receive communion.

The Church's efforts to address the pastoral and legal consequences, to "listen" to the challenges of such spouses, and "to confront the situation," "looking at Jesus" who considered men and women in sinful situations with love and mercy, integrating legal and pastoral dimensions of the Church's mission, is important and praiseworthy.

Three of the articles in the current issue of *Iustitia* directly or indirectly address the pastoral as well as legal response needed by the institute of marriage and family, that is, the "domestic church" (LG. 11).

In this second part of his article, "Teologia e disciplina dei sacramenti della iniziazione cristiana nel CCEO - II", Dimitrios Salachas concentrates on the sacrament of Chrismation. He describes how presbyters with the faculty to chrismate, in receiving from the bishop the chrism to be used in sacraments, manifest communion with the bishop who is the witness and guarantee of the apostolic faith in his Church (p. 13). The expression "at the earliest" (*quam primum*) indicates the possibly successive time, less possible distant from baptism; certainly not the time of discretion as required by CIC, c. 891 for a child belonging to the Latin Church. He also points out how the expression "ordinary minister," which is more theological and juridical and corresponds more to the Latin tradition, draws criticism by suggesting that the oriental ministers of the sacrament of chrismation are extraordinary ministers (pp. 14, 16).

In the wake of the forthcoming Synod of Bishops on family and marriage, George Nedungatt makes available especially to English speakers the content of two mutually complementary Italian books: *Divorziati risposati e seconde nozze nella chiesa: Una via di soluzione*

(*Remarried Divorcees and Second Marriage in the Church: Towards A Solution*, 2012) and *Divorzio e seconde nozze nella tradizione greca: Un'altra via (Divorce and Second Marriage in the Greek Tradition: Another Way*, 2014). Written by the celebrated author Basilio Petrà, these books address "a topic that is of contemporary interest and is engaging the attention of the whole Catholic Church. The problem of divorce and of divorced people entering into a second marriage or a third marriage or successive marriages is indeed as old as the Church and even older" (p. 43). Having critically analysed the books, Nedungatt states, "Petrà has shown that the Catholic Church need not invent new solutions to the problems of marriage and family but may draw on a forgotten tradition, which is still alive in the East, *Ex oriente lux* (light from the East). To use the metaphor dear to St. John Paul II, the Church must breathe again with both its lungs, the Eastern and the Western, in order to be healthy, and we may add pastorally well-informed and Christ like" (p. 45). Jesu Pudumai Doss, responding to Pope Francis' inspiring and encouraging invitation to ordained pastors to take on the odour of their sheep, deals with priestly identity in his article "Shepherds with the Odour of the Sheep" *The Role of Priests as Pastor in the Church.*" The article addresses priests' identity, formation, and ministry as real pastors or shepherds in the Church from a canonical as well as a pastoral perspective. The author states that the "identity" of priests bids them "to be pastors" (p. 48); the future priests' "seminary formation" motivates them "to become pastors" (p. 55, cf. also *Relatio*, 37) and the "ministry" of priests demands them "to act as pastors" (p. 60) and thus, "the ministry of priests can essentially be seen as proclaiming Christ, perpetuating Christ and shepherding like Christ" (p. 61).

In his article, "Mixed Marriage: Conditions for Its Permission in CIC and CCEO," Fr. Jose Marattil critically exposes, explains, and evaluates the nuanced norms on "mixed marriage." He argues that despite canonical restrictions on mixed marriages, such unions are on the increase because "the growth and spread of civilization and industry, modern means of communication, urbanization, and the consequent rural depopulation and large migrations have broken some of the traditional, racial, cultural, geographical, and religious barriers to mixed marriages" (p. 74). He attempts to unveil the issues involved in the rather complex reality of mixed marriage, especially in the context of the modern globalized existence. While making declarations or promises to baptize and educate the offspring in the Catholic faith, the Catholic party also has to respect the conscience and rights of the non-Catholic party. Hence, the

author states: “the canonical issues and implications arising from marriage between Catholics and other Christians differ significantly from those raised by marriages between Catholics and the unbaptized” (p. 75). Fr. Benny Tharakunnel, in his article, *Patriarchal / Major Archiepiscopal Ordinary Tribunal as Tribunal of Third and Further Instances*, discusses the hierarchy of tribunals existing in the judicial system of the Catholic Church with different grades and instances that ensure proper and impartial administration of justice. On the necessity of having self-sufficient judicial systems for the Oriental Churches, he says: “A Church *sui iuris* is judicially self-sufficient only when it has the power and the faculty to conclude cases with an authoritative final sentence without having to resort to a higher tribunal. Such self-sufficiency necessarily requires the competence to handle all cases, except the reserved ones, up to the final instance without having to appeal to higher authorities” (p. 100). With the establishment of patriarchal or major archiepiscopal ordinary tribunal “CCEO has empowered patriarchal and major archiepiscopal Churches *sui iuris* to be judicially self-sufficient, allowing them to conclude the cases in all the grades of judgments through their ordinary tribunal (CCEO c. 1063) without having to resort to the tribunals of the Apostolic See” (pp. 96-97).

Let us hope that the forthcoming Ordinary General Assembly of the Synod of Bishops (2015), having “listened to” the complexity and context of the challenge that the institutions of marriage and family face today, “fixing the gaze on Christ” and having “confronted the situation,” will develop juridical as well as pastoral solutions to the problems discussed in the synod. Such precepts, decisions, instructions, guidelines, norms, regulations, instructions, etc. would enable the proper pastors of dioceses and parishes, who have direct contact with the faithful and know their concrete situations, and those engaged in the administration of justice in the ecclesiastical tribunals, to integrate the pastoral and juridical dimensions of the Church’s life for the benefit of the souls. In so doing, they would become more effective instruments of God’s mercy because, ultimately, the “*salus animarum*” (CIC c. 1752) is the supreme law in the Church.