CHURCH TRADITION, AUTHORITY, AND PASTORAL DECISIONS

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Introduction 

The reaction amongst many in the Church, including cardinals, clergy and laity, to the pastoral initiatives of Pope Francis highlights the inability to move from the status quo or, perhaps, their status quo, to use God's gifts for the further development of the faith and God's creation, as God the Father has done through Jesus. It calls to mind how the Jewish religious leaders treated Jesus' pastoral initiatives in contrast to the dead letter of the Law that they insisted on. Nostalgia and fear of change sometimes seem to be the safer way.

The 21st century is different from yesterday in so many ways. Science, technology, communications, mobility, generally better standards of living, the overall and higher education that is available to so many, have changed our ways of thinking for better or sometimes for worse.

The Church, like many large cultural institutions that are not always the first to adapt to new horizons, has made giant efforts to be present and relevant to the people of the 21st century.

Vatican II is a fine example, initiated by a real leader, John XXIII, who appreciated the needs of the faithful and realized that the official Church, far from meeting these needs, was stifling the spirit of thinkers and theologians who were trying as Jesus had done to give us an example, to open our eyes to all that God has proposed for us.

Cardinal Ratzinger wrote about the terrible mistakes of the Church in confirming a fundamentalist approach to the interpretation of the Bible. He pointed out how wrong and harmful to both scripture scholars and the Church were the decrees of the Consistorial Congregation and the Biblical Commission in the first half of the 20th century. The pure objectivity of the historical method does not exist. One cannot simply eliminate the philosophical hermeneutical method.1

We note here also the Congregation for the Doctrine of the Faith's official withdrawal of its decrees condemning Fr Antonio Rosmini's theological thought and work: the Congregation for the Doctrine of the Faith, following an in-depth examination of the two doctrinal Decrees, promulgated in the 19th century, and 

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1 Joseph Cardinal Ratzinger, '100 Years: The Magisterium and exegetes,' in Theology Digest 51(2) (2004) 3-8, p. 5. "Nothing is intrinsecum or intrinsecus malum, because everything depends on context." Ratzinger, Renewal of Moral Theology, p. 190. Pius XII in the Encyclical Humani Generis tried to restore the scientific approach to the interpretation of the scriptures.

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3 Pontificial Apostolic Exhortation Amoris Laetitia, 19 March, 2016, n.300.
At the marriage feast at Cana Jesus provides an abundance of fine wine when, to the embarrassment of the host, they had run out of wine.

Although Jesus states that he has been called specifically for the children of Israel, when approached by pagans for healing as with the Syro-Phoenixian mother and the Roman centurion, their faith leads him to heed their request.

When he is criticized by the religious leaders for allowing his disciples to sample the ears of grain in the field (to reap) on the Sabbath, a ridiculous and legalistic interpretation of the Sabbath observances, he gives his wise summary of interpretation of law and tradition: 'the Sabbath was made for man, not man for the Sabbath.'

Jesus was not a yesterday's person, a status quo individual. The tradition was not to be abolished, but fulfilled. All had to be adapted and interpreted to meet what the Father had intended in the context of the present needs of the people, so difficult for the religious authorities of his time to accept that they had him crucified, turning a blind eye to the good he had done, to the obvious miracles he had wrought. Jesus is the keystone to our interpretation and practical application of the Catholic tradition.

Church Teaching and Tradition and authentic interpretation

Many in the Church still labour under the misconception, influenced by the Infallibility doctrine of the First Vatican Council, that every statement that came out of Rome is irrevocable, not subject to examination or interpretation. Thus, they criticise Pope Francis for his more human approach to some difficult human situations that arise in the context of Christian marriage. They forget Matthew's Gospel with his exception clause and that the great St Paul saw fit to interpret Jesus' teaching. We have St Paul, who claimed to have the Spirit of the Lord, in First Corinthians advising the dissolution of a real marriage and permitting a new marriage for the peace of the Christian party. Since this is one of the main points of disagreement with Pope Francis, we should examine in some detail the biblical and church tradition and practice concerning marriage.

It is important, first of all, to keep in mind the particular circumstances of Jesus' statements on marriage and divorce, noting also the cultural context where exaggeration to make a general point was understood and accepted. 'I considered that it would be quite important to offer an independent and self-contained exegesis of this tradition of Jesus' sayings on divorce in the hope that the exegetical discussion would subsequently lead to a more nuanced discussion of the hermeneutical issues as well as to a more nuanced assessment of the contemporary relevance and applicability of Jesus' sayings,' writes Raymond Collins. Collins then goes on at great length to discuss divorce and separation in cases where both are Christian and also where it is the case of a Christian married to a non-believer. 'He [Paul] must give an instruction which stems from his own authority - apostle that he is - and then argue the validity of his judgement... In sum, Paul is dealing with the Jesus tradition in much the same way that the other rubrics dealt with traditional Jewish Scriptures. By so doing, he is giving the contemporary reader an example of how the tradition of the church functions. Some years later, the evangelists Matthew, Mark, and Luke will do something similar as they, too, deal with Jesus tradition on divorce.4 The Scriptures, then, are not totally clear. Jesus gives the basic principle on the Creator's intention. He is not speaking in legal terms.

Pierre Grelot emphasizes that:

[T]he juxtaposition of an appeal to an absolute ideal and a realistic condescension towards human wretchedness constitutes a paradox which is incomprehensible outside the economy of grace instituted here on earth by the kingdom of God.

In discussing legal terminology here Scheilke writes:

[T]he declaration about the indissolubility of marriage appears in Matthew 5:31 4 L, in the series of antitheses in the Sermon on the Mount. These antitheses are lofty moral demands and obligations. Are they also juridically tenable paragraphs of a lawbook? Another antithesis says that anyone who is angry with his brother or who insults him is liable to judgment (Matthew 5:22f.). No one has ever attempted to see these antitheses as legal principles. Did not Jesus, after all, when engaged in argumentation with Jewish law, simply withdraw marriage from the area of controversial human law and base it upon the simple primeval order established by God?5

Jesus declares wife and husband equal; the woman is not a piece of property to be disposed of at will. Jesus speaks of all marriage, not of sacramental.6 We note here St John Paul II's allocation to the Roman Rota, 2002, where he speaks of indissolubility as belonging to marriage itself and not just to believers [italics added]. Like St Paul and Matthew the Church makes exceptions in Canons 1142 - 1150 which list the types of marriage subject to dissolution: Non-consummated; Pauline Privilege; canon 1148 re polygamy/polypandry (unbaptised in 'mission lands'); 'in favour of the faith' cases.

Thus, following Paul, the Church has dissolved every kind of real marriage (natural, if you like), but nonetheless genuine marriages, except the consummated sacramental marriage. History tells us that marriage was not regarded as a sacrament officially until Trent. Earlier, the Council of Lyon had used the term, but it was not the official teaching of the Church. Couples did not have to celebrate marriage in the church, except for clergies; the head of the family in earlier times was often the celebrant. True consent was the key condition. When Jesus and Paul spoke of marriage they had not heard of a sacramental marriage.7 In St Paul's view the Christian party made the

7 Formerly the ends, purposes of marriage were: 1st procreation, 2nd mutual needs (Code of Canon Law, 1917). Vatican II, Gaudium et Spes no. 15 and 1983 Code of Canon Law change this approach and state that marriage is a covenant relationship to establish a community of life, and for the procreation of children.
mixed marriage issues. "For the unbelieving husband is consecrated through his wife, and the unbelieving wife is consecrated through her husband" (1 Cor. 7:14).

Thus, the questions that arise are: What makes marriage a sacrament? Does the consent? Legal and ritual form? or capacity of the baptised to give of self in a covenant relationship? What is the 'thing' of marriage which makes it indissoluble? Is it an abstract principle or a lived reality? Can there be a sacrament without formation? Indissolubility belongs not to the abstract institution but to the personal and mutual giving of oneself to a community of life which they must develop to fruition. It depends on faith: doing what Christ and the Church intends, on making room for God within the marriage. Such an intention makes their marriage indissoluble from within, yet, as Christians, through the redeeming grace of Christ. It has an evangelising function in the larger society.

Understanding and Interpreting the Bible and Church Teaching

Jesus declared: 'I have come not to abolish the Law, but to fulfil it.' Jesus belonged to the long tradition of Israel and the Law, a tradition that clearly distinguished the Jewish people from the pagan nations surrounding them and their practices. However, the Law was given in particular circumstances and culture; it needed paring back to its fundamentals. Jesus interpreted the Law by returning its focus from legalism/things to persons. The authors of the New Testament, the Evangelists, understood this, and it has been the overall tradition of the Church, though at times some have fallen back into literalism.

8 For a detailed study of marriage as a sacrament see Theodore Mackin SJ, The Marital Sacrament, New York/Mahwah, N.J, Paulist Press 1989, Chapter 14 for 'Critical Reflections'. See also Victor Paul Furnish, The Moral Teaching of Paul: selected issues, Abingdon Press, Nashville, 2nd ed. p. 44: 'The question about "mixed marriages" between believers and unbelievers is still in view in verses 15-16 [1 Cor.], but now the Apostle comments on what the believing partner should do when the unbelieving spouse wants a divorce. In that case, Paul says, the Christian is 'not bound' to the Law's word prohibiting divorce (verse 15a). This instruction is based on the Apostle's conviction that, "because God has called us to peace" (verse 15b), a marriage can only be "holy" if it is marked by genuine harmony and concord. [He] would be unwilling to sanction the idea that marriage is an end in itself that must be maintained at any cost." Cf. John Paul II's Allocation to the Rota, 2002 noted above.

For a canonical explanation from the Supreme Tribunal of the Signature Apostolica we note the private reply to a diocesan tribun in 2015 par. 570 summary in trying to understand the juridical nature of the "bonum coniugum." we can conclude that it is an end of marriage, but also that ordination to this end, that is, ordination to the good of the spouses, is an essential element of the object of matrimonial consent. Thus, in order to keep that distinction clearly in mind a judge should not simply speak of "the good of the spouses" or of "bonum coniugum," but rather of "ordination to the good of the spouses or "ad bonum coniugum." This official reply goes on to quote Morris: Starkiesen in a sentence of April 20, 1989. (R.D. 81 1989)282,83, n. 4) "That only those matrimonial obligations which substantially contribute to the inauguration and perpetuation of the matrimony community by forming mutual and psychological integration can be considered essential and inherent to the good of the spouses."

The Bible and Church teachings are situated in a particular culture and period of history, in a particular language, to address a special question. The mysteries of God transcend human nature and full comprehension. They need to be interpreted to discover the essence and truth they convey.

This is the Church's official approach to interpretation, noting also the important role of conscience. Let us take a section from the Vatican Declaration (CDF) Mysterium Ecclesiae: [The Mystery of the Church] 11 May, 1973 confirming this approach.

The Nature of the Church's Infallibility not to be falsified

The transmission of divine Revelation by the Church encounters difficulties of various kinds. These arise from the fact that the hidden mysteries of God "by their nature so far transcend the human intellect that even if they are revealed to us and accepted by faith, they remain concealed by the veil of faith itself and are as it were wrapped in darkness." Difficulties arise also from the historical condition that affects the expression of Revelation.

With regard to this historical condition, it must first be observed that the meaning of the pronouncements of faith depends partly upon the expressive power of the language used at a certain point in time and in particular circumstances. Moreover, it sometimes happens that even dogmatic truth is first expressed incompletely (but not falsely), and at a later date, when considered in a broader context of faith or human knowledge, it receives a fuller and more perfect expression. In addition, when the Church makes new pronouncements she intends to confirm or clarify what is in some way contained in Sacred Scripture or in previous expressions of Tradition, but at the same time she usually has the intention of solving certain questions or removing certain errors. All these things have to be taken into account in order that these pronouncements may be properly interpreted. Finally, even though the truths which the Church intends to teach through her dogmatic formulas are distinct from the changeable conceptions of a given epoch and can be expressed without them, nevertheless it can sometimes happen that these truths may be enunciated by the Sacred Magisterium in terms that bear traces of such conceptions.

In view of the above, it must be stated that the dogmatic formulas of the Church's Magisterium were from the beginning suitable for communicating revealed truth, and that as they remain forever suitable for communicating this truth to those who interpret them correctly. It does not however follow that every one of these formulas has always been or will always be to the same extent. For this reason theologians seek to define exactly the intention of teaching proper to the various formulas, and in carrying out this work they are of considerable assistance to the living Magisterium of the Church, to which they remain subordinate. For this reason also it often happens that ancient dogmatic formulas and others closely connected with them remain living and fruitful in the habitual usage of the Church, but with suitable explanatory and explanatory additions that maintain and clarify their original meaning. In addition, it has sometimes happened that in this habitual usage of the Church certain of these formulas gave way to new expressions which, proposed and approved by the
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Sacred Magisterium, presented more clearly or more completely the same meaning.9

We might recall here a principle of interpretation offered by St Thomas Aquinas. St Thomas understood the tenor of the above instructions, warning that the further you moved from the general principle to the practical situation the more likely the general principle would not strictly apply.10

Canon Law and the Interpretation of the Law

Canonical jurisprudence and the Code of Canon Law itself emphasise the rights and conscience of the person and our God-given freedom. The 'Rules of Law' taken from ancient Roman Law and jurisprudence state that: Odisa sunt restringenda: favorabilis sunt amplianda.11 That is, when the law is restrictive of freedom you interpret it narrowly to include only those cases which can be definitely included under the law.12 If it is a matter of something favourable then you extend the law to include everything that might come within range, or as can 18 of the Code has it: 'acts imposing penalties must be strictly interpreted, and all others widely interpreted'.13 Consider another wise Rule of Law: Summum ius, summa iniuria (if you pursue the law to its limits you will bring about the greatest injury -- injustice). May we not be afraid to use these enshrined rules of prudence!

Canons 16 and 17 in Book I, General Norms, treat specifically of the interpretation of canon law. Canon 17 is pertinent here:

Ecclesiastical laws are to be understood according to the proper meaning of the words considered in their text and context. If the meaning remains doubtful or obscure, there must be recourse to parallel places, if there be any, to the purpose and circumstances of the law, and to the mind of the legislator.

Canon 27 notes that 'Custom is the best interpreter of laws.' The last canon of the Code, 1753, reminds us to observe always canonical equity, keeping in mind the salvation of souls, which in the Church must always be the supreme law.

10 St Thomas, Summa Theologica I-II, q. 94 where he treats of the secondary principles of natural law, the concrete application, where the universal principle cannot apply to all situations. Also I-I, q. 94, a. 4, II-II, q. 51, a. 4: the virtue of prudence demands we take into account all the circumstances of the concrete situation.
11 "Odisa restringi in favores convenit amplius; in poenis benignior est interpretatio faciundus."
12 See Benedict XVI to the Roman Rota, 'Authentic law is inseparable from justice. Obviously, this principle also holds true for canon law, in the sense that it cannot remain closed in a merely human system of norms but must be associated with a just ordering of the Church in which a higher law holds sway,' 21 Jan. 2012.
13 See also comm. 36, 37.
14 Cf. Sermo III, v. 25, q. 24, Ld 4, art. 3. -- in Sermone 25 2014, no.63. The believer does not treat himself/ herself as the ultimate criterion of the faith.
15 Benedict XV, Encurve: Ad Beatissimum Apostolorum, 1914, in Denn-Sch. 3625.
The text of *Sensus fidei in the Life of the Church* was approved *in forma specifica* by the majority of members of the Commission, by a written vote, and was then submitted to its President, Cardinal Gerhard L. Müller, Prefect of the Congregation for the Doctrine of the Faith, who authorized its publication. An earlier session of the *International Theological Commission*, 2011, approved by the Congregation of the Doctrine of the Faith, stated in no. 36: ‘*Attention to the sensus fidelium is a criterion of Catholic theology.*’ Theology should strive to discover and articulate accurately what the Catholic faithful actually believe. 16

**Conclusion**

It should become clear from the New Testament and above cited official documents of the Church summing up the long tradition from the teaching and approach of Jesus to understanding what God wants of us as a body of faithful followers guided by the Holy Spirit and children of a God and Father who wants love, not sacrifice, that we humans can never claim fully to comprehend the mind of God. We are always on the way to a better understanding of what God wants of us as persons of 21st century who are fundamentally called to love one another.

A status quo attitude will not evangelize people of the 21st century. The Apostles learnt this from Jesus and went out and gave the gospel, not the Law, to the world of their day as such good news that it has come down through the centuries to us in our time. The Church and the teaching are for us, not vice versa; or again, as Jesus put it: ‘*the Sabbath was made for man, not man for the Sabbath.*’

The goal of this essay is to remind us and keep us aware of the tradition of the Good News preached and put into action pastorally by Jesus and continued down the ages by the Church, albeit in a human fashion, but overshadowed by the Holy Spirit. The freedom the Creator endowed us with, the human culture we are immersed in, have at times allowed us to slip away from the authentic tradition. 17 Saints, doctors of the Church, great Councils like Vatican II have led us back to the pastoral path of care, compassion and deep peace laid out by Jesus.

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16 Confer what St Paul wrote in II Cor. 3:2-3, ‘*You yourselves are our letter of recommendation, written on your hearts, to be acknowledged and read by all men and you show that you are a letter from Christ delivered by us, written not with ink but with the Spirit of the living God, not on tablets of stone but on tablets of human hearts.*’

17 Some examples would be ‘*The Inquisition*, the legalism of the 19th and early 20th centuries, some aspects of the approach to ‘*Modernism*, the silencing and exiling of theologians and scripture scholars, the exclusion of the voice of the laity, the participation of women in the leadership of the Church, fortunately, now acknowledged as mistaken.'