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LEGAL ASPECTS OF POPE FRANCIS' TEACHING. PART II

ASPEKTY PRAWNE NAUCZANIA PAPIEŻA FRANCISZKA. CZĘŚĆ II

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Abstract

During the years of his pontificate, Pope Francis has issued many amendments to the Code of Canon Law as well as other disciplinary norms. Even his magisterial documents, which are not sources of law in themselves, address legal issues. For example, teaching on human rights was complemented in Francis's *Laudato si'* in its reference to the right to drinking water which should be freely available to everybody. Nevertheless, in terms of the obedience of the faithful to the Magisterium, the question is whether this papal document on environmental protection binds the conscience of those faithful who are not convinced of the unquestionable validity of the theory of human-induced global warming. According to Francis's encyclical *Fratelli tutti*, the stark social inequalities in the world cause discrimination in people's access to basic human rights. Thus, the Pope advocates for completely unrestricted admission of migrants coming from poor countries to those ones which have, as the Pope suggests, gained undeserved and rather accidentally achieved prosperity. The death penalty, according to the Pope, should be abolished completely: the planet should be shared with convicted criminals, since they too have inalienable human dignity. Various aspects of interior church law can then be found in the post-synodal exhortations *Evangelii gaudium* and *Amoris laetitia*. In the exhortation *Querida Amazonia*, the Pope resisted the pressure for a partial relaxation of the celibate discipline of priests and for the ordination of women as deacons. According to the Pope, it is necessary to acknowledge that the structures of the Church do not live their own closeted life: above all, they all serve the common goal of evangelization.

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Abstrakt

W trakcie swojego pontyfikatu papież Franciszek wprowadził wiele zmian do Kodeksu Prawa Kanonicznego oraz innych norm dyscyplinarnych. Nawet jego dokumenty magisterialne, które same w sobie nie są źródłem prawa, poruszają kwestie prawne. Na przykład nauczanie o prawach człowieka zostało uzupełnione w encyklice Franciszka *Laudato si'* poprzez odniesienie do prawa do wody pitnej, która powinna być dostępna dla wszystkich bezpłatnie. Niemniej jednak, jeśli chodzi o posłuszeństwo wiernych wobec Magisterium, pojawia się pytanie, czy ten papieski dokument dotyczący ochrony środowiska wiąże sumienie tych wiernych, którzy nie są przekonani o niekwestionowanej słuszności teorii globalnego ocieplenia spowodowanego przez człowieka. Według encykliki Franciszka *Fratelli tutti*, rażące nierówności społeczne na świecie powodują dyskryminację w dostępie ludzi do podstawowych praw człowieka. W związku z tym papież opowiada się za całkowicie nieograniczonym przyjmowaniem migrantów z biednych krajów do tych, które, jak sugeruje papież, osiągnęły niezasłużony i raczej przypadkowy dobrobyt. Według papieża kara śmierci powinna zostać całkowicie zniesiona: planeta powinna być dzielona z skazanymi przestępcami, ponieważ oni również mają niezbywalną godność ludzką. Różne aspekty wewnętrznego prawa kościelnego można znaleźć w posynodalnych adhortacjach *Evangelii gaudium* i *Amoris laetitia*. W adhortacji *Querida Amazonia* papież oparł się presji na częściowe złagodzenie dyscypliny celibatu księży i święcenia kobiet na diakonów. Według papieża należy uznać, że struktury Kościoła nie żyją własnym, zamkniętym życiem: przede wszystkim służą one wspólnemu celowi ewangelizacji.

Słowa kluczowe: papież, prawo, magisterium, struktury kościelne, ewangelizacja, ekumenizm, małżeństwo, rozwód

In the first part of this article (published in the previous issue) focus was directed on the themes of Francis' encyclicals *Laudato si'*[1] and *Fratelli tutti*,[2] particularly concerning human rights and international law. It is also neces-

[1] Franciscus PP., Litterae encyclicae *Laudato si'* de communi domo colenda (24.05.2015), AAS 107 (2015), p. 847-945.

[2] Francesco, Lettera Enciclica *Fratelli Tutti* sulla fraternità e l'amicizia sociale (05.10.2020), Libreria Editrice Vaticana, Città del Vaticano 2020 [hereinafter: FT].

sary to consider the influence of Francis' thinking on other branches of law, namely civil criminal law with the issue of the death penalty, and also on canon law itself, which is intended to help shape optimally organized church structures and contribute to the sanctification of married couples' cohabitation. The Francis' teaching and stimulations concerning both civil and canon law are dispersed at the same time not only in his encyclicals, but also in apostolic adhortations issued after proceedings of synods convocated by the Pope.

1. The Question of Capital Punishment

Francis's efforts to eliminate capital punishment also had universal reach. The encyclical *Fratelli tutti* reflects the Pope's intervention in the official wording of the *Catechism of the Catholic Church*: the doctrine of the hypothetical inadmissibility of the death penalty in situations where the State has effective means of redress and protection has moved into its absolute prohibition in all circumstances: "There can be no stepping back from this position. Today we state clearly that "the death penalty is inadmissible" and the Church is firmly committed to calling for its abolition worldwide."[3] Here, judging from the urgency of his style, Francis comes close to his predecessor John Paul II, who in his encyclical *Evangelium vitae* also switched to the majestic plural to express the definitive commitment to the protection of innocent human life: "Therefore, by the authority which Christ conferred upon Peter and his Successors, and in communion with the Bishops of the Catholic Church, I confirm that the direct and voluntary killing of an innocent human being is always gravely immoral. This doctrine, based upon that unwritten law which man, in the light of reason, finds in his own heart (cf. Rom 2:14-15),[4] is reaffirmed by Sacred Scripture, transmitted by the Tradition of the Church and taught by the ordinary and universal Magisterium."[5]

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[3] FT 263, referring to the Pope's address on the 25th anniversary of the publication of the Catechism of the Catholic Church, AAS 109 (2017), p. 1196, and to the letter of the Congregation for the Doctrine of the Faith, L'Osservatore Romano (03.08.2018), p. 8.

[4] All the biblical quotations are based on the Revised Standard Version Catholic Edition, Compact Edition, Oxford University Press 2008.

[5] Ioannes Paulus PP. II, Litterae encyclicae de vitae humanae inviolabili bono *Evangelium vitae* (25.03.1995), AAS 87 (1995), s. 401-522 [hereinafter: EV], no. 57.

In cases where death penalty is used as a punishment for the most serious crimes, however, what is protected, it is not innocent human life, but "only" the human dignity of the perpetrator: "The firm rejection of the death penalty shows to what extent it is possible to recognize the inalienable dignity of every human being and to accept that he or she has a place in this universe. If I do not deny that dignity to the worst of criminals, I will not deny it to anyone. I will give everyone the possibility of sharing this planet with me, despite all our differences." (FT 269). The biblical rationale for this position is based on the example of Christ himself: "I ask Christians who remain hesitant on this point, and those tempted to yield to violence in any form, to keep in mind the words of the book of Isaiah: 'They shall beat their swords into plowshares' (2:4). For us, this prophecy took flesh in Christ Jesus who, seeing a disciple tempted to violence, said firmly: 'Put your sword back into its place; for all who take the sword will perish by the sword' (Mt 26:52). […] Jesus' reaction, which sprang from his heart, bridges the gap of the centuries and reaches the present as an enduring appeal." (FT 270).

The use of this selected and not entirely adequate biblical reference bypasses the New Testament passage dealing directly with capital punishment, which comes from the pen of the Apostle Paul: "Would you have no fear of him who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain; he is the servant of God to execute his wrath on the wrongdoer." (Romans 13:3-4). The "sword" (*machaira*) referred to in this text clearly designates execution, which deprives the guilty person of his/her life. While liberal Protestantism of the 19th century sought to deny the authenticity of this passage, and confidently claimed it was most certainly a later interpolation inserted into Paul's text, today we are left with two alternatives: either the option of wilfully ignoring these considerations of Paul's or, possibly, attributing them only limited temporal validity.

However, for two thousand years, Christianity has not questioned the right of secular authorities to impose capital punishment. It is thus impossible to disregard or belittle earlier conceptions which, in addition to the biblical authority of St. Paul, invoked e.g. the teachings of St. Augustine or St. Thomas Aquinas: "By the death penalty, which does not have the

nature of a cure (*poena medicinalis*), but the nature of retaliation and compensation for the harm inflicted, the head of the state protects the general welfare and deprives the state of an unhealthy and injurious element to the whole community of the state." [Dacík 1946, 239]. For many centuries, an important part of pastoral care had also been the spiritual accompaniment of those who were condemned to death, because they were imminently approaching either eternal salvation or eternal damnation, respectively.[6]

However, from the context of the encyclical, it is also clear that Pope Francis's concern is to eliminate the idea of revenge from the consideration of the punishing authority: "This does not mean impunity. Justice is properly sought solely out of love of justice itself, out of respect for the victims, as a means of preventing new crimes and protecting the common good, not as an alleged outlet for personal anger. Forgiveness is precisely what enables us to pursue justice without falling into a spiral of revenge or the injustice of forgetting." (FT 252).

2. Church Structures and Evangelisation

In the Apostolic Exhortation 'On the proclamation of the Gospel in today's world', *Evangelii gaudium* (*The Joy of the Gospel*), we return back to issues of intra-ecclesial concern.[7] Here the Pope summarizes the results of the deliberations of the Synod of Bishops on the theme 'A New Evangelization for the Transmission of the Christian Faith', held in 2012. From an ecclesiological point of view, the Pope favours the idea of decentralized Church: "Nor do I believe that the papal Magisterium should be expected to offer a definitive or complete word on every question which affects the Church and the world. It is not advisable for the Pope to take the place of local Bishops in the discernment of every issue which arises in their territory. In this sense, I am conscious of the need to promote a sound 'decentralization'." (EG 16).

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[6] The great moral theologian St. Alphonsus of Liguori (1696-1787) gives instructions for confessors of death row inmates: "During the first visit, let him begin by explaining that death is a grace which God gives him because he wants him to be saved. Tell him that we must all die and soon pass into eternity, either into the happy life of the blessed or into the unhappy life of damnation." [de Liguori 2012, 123].

[7] Franciscus PP., Adhortatio apostolica *Evangelii gaudium* de Evangelio Nuntiando nostra aetate (24.11.2013), AAS 105 (2013), p. 1019-137 [hereinafter: EG].

However, successive developments have shown that insufficiently circumscribed decentralization can threaten the unity of the universal Church by tending towards schism. Serious ideological disunity of the episcopates of various countries and continents was already clearly evident in the discussion of issues at the 2014-2015 Synod on the Family. Also, the Pope does not want to rely on building up ecclesial apparatus whose swelling may present more of an obstacle. The Pope sees the obsession with 'structures' as follows: "There are ecclesial structures which can hamper efforts at evangelization, yet even good structures are only helpful when there is a life constantly driving, sustaining and assessing them. Without new life and an authentic evangelical spirit, without the Church's 'fidelity to her own calling', any new structure will soon prove ineffective." (EG 26).

In examining the vitality of certain ecclesial structures, the Pope, following the suggestions of the participants in the Synod on the New Evangelization, defends the parish, mainly for its multiplicity and adaptability: "The parish is not an outdated institution; precisely because it possesses great flexibility, it can assume quite different contours depending on the openness and missionary creativity of the pastor and the community. […] This presumes that it really is in contact with the homes and the lives of its people, and does not become a useless structure out of touch with people or a self-absorbed group made up of a chosen few." (EG 28). Canon law lays down duties in this area practically only on the parish priest, who, among other things, "is to visit families, sharing especially in the cares, anxieties, and griefs of the faithful, strengthening them in the Lord […] with particular diligence he is to seek out the poor, the afflicted, the lonely, those exiled from their country, and similarly those weighed down by special difficulties. He is to work so that spouses and parents are supported in fulfilling their proper duties and is to foster growth of Christian life in the family." (Canon 529 § 1).[8] However, unlike the Code of Canon Law, the exhortation does not impose such a multifaceted burden only on the pastor. The Pope expresses the desire of the Synod participants that all this should also become an issue for the parishioners themselves, even though canon law has no means of leading the laity to such a broad and multifaceted co-responsibility. This was certainly one of the impulses on the ba-

[8] *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, p. 1-317 [hereinafter: CIC/83].

sis of which the Vatican's Congregation for the Clergy drafted and issued in 2020 the instruction *Pastoral Conversion of the Parish Community in the Service of the Church's Evangelizing Mission*. However, instead of a broader pastoral scope, once again it focuses on the structures.[9]

Outside the canonical structures, the so-called *base communities* (*comunidades de base*) have begun to form, especially in Latin America. However, there is a danger that their members and adherents may become separated from the Church's common work of evangelization: "But it will prove beneficial for them not to lose contact with the rich reality of the local parish and to participate readily in the overall pastoral activity of the particular Church. This kind of integration will prevent them from concentrating only on part of the Gospel or the Church, or becoming nomads without roots." (EG 29). What is said here about base communities is undoubtedly also true of ecclesial movements, various communities, and religious and similar societies. A priest who works in a parish, and is either a religious priest or a follower of one of the new ecclesial movements (*movimenti*), must make sure that his spirituality and commitment to the community are beneficial, not detrimental to the parish pastoral care entrusted to him.[10]

At the level of dioceses and parishes, the Pope praises the role of consultative bodies, which he calls "participatory organisms". In the very text of the adhortation, there are direct references to specific canons of the current Code of Canon Law. These include the diocesan council, the diocesan economic council, the diocesan pastoral council and the pastoral and economic council of the parish (Canons 460-468, 492-502, 511-514, 536-537). For them also, the principal role and objective are apostolic: "Yet the principal

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[9] "While its title seems to promise a spiritual adhortation addressed to all members of parish communities, calling them to inner renewal and full participation in the work of the new evangelization, the text itself, after some introductory reflections, is more directed to bishops, offering them guidance in their efforts to reform certain external structures in order to respond in a new way to the changing demands of today's world." [Čačík 2020, 35].

[10] "It should be noted that the various movements include priests who wish to base their priesthood on a new and powerful spiritual experience. There are many parish priests or other priests who are true spiritual shepherds and yet belong to one or another movement or spiritual movement. Each of them finds the source of his own spirituality in 'his' movement, if he draws enough strength there. At the same time, there are also many priests who are strongly influenced by their participation in the activities of Catholic Action, or who are members of secular institutes, or others who belong to the spiritual family of St. Ignatius, St. Francis, or Charles de Foucauld […]." [Gilson 2001, 87].

aim of these participatory processes should not be ecclesiastical organization but rather the missionary aspiration of reaching everyone, the aim of these participatory processes will not be primarily to organize the Church, but to fulfil the missionary desire that it wants to reach out to all." (EG 31).

Regarding the highest level of Church governance, the Pope invokes John Paul II's proposal, found in the 1995 encyclical on ecumenical efforts, *Ut unum sint*, that it is necessary to help find "a way of exercising the primacy which, while in no way renouncing what is essential to its mission, is nonetheless open to a new situation."[11] In this matter, e.g., one can follow the thesis of Joseph Ratzinger, the future Pope Benedict, that in relation to the Orthodox, the Catholic side cannot demand a broader framework of authority for the Roman Pontiff than that how the papal primacy was exercised in the first millennium of the common unity of Western and Eastern Christendom.[12] Pope Francis, however, states, "We have made little progress in this regard. The papacy and the central structures of the universal Church also need to hear the call to pastoral conversion." (EG 32).

The Pope was also unsatisfied with the results of the emancipation of the national bishops' conferences as opposed to Church-wide centralization: "Yet this desire has not been fully realized, since a juridical status of episcopal conferences which would see them as subjects of specific attributions, including genuine doctrinal authority, has not yet been sufficiently elaborated." (EG 32). The synodal process currently underway, however, has exposed the dangerous pitfalls of such excessive autonomy for episcopal conferences in cases, when their voting has clashed with the binding doctrine and discipline of the Church. In the same exhortation, the Pope himself affirms some points of controversy that are often rejected, as for example this: "The reservation of the priesthood to males, as a sign of Christ the Spouse who gives himself in the Eucharist, is not a question open to discussion, but it can prove especially divisive if sacramental power is too closely identified with power in general." (EG 104).

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[11] Ioannes Paulus PP. II, Litterae apostolicae motu proprio *Ut unum sint* de Oecumenico Officio (25.05.1995), AAS 7 (1995), p. 921-82 [hereinafter: US], no. 95.

[12] Orthodoxy, however, understands the institution of the papacy in a distorted way: "A radical change in the organization and structure of the Western Church followed, with the Roman Pontiff at its head claiming infallibility, which the Second Vatican Council extended from matters of faith to the personal conduct of the Pope." [Pružinský 1997, 46].

The scarcity of priests in a region as vast as the South American Amazon led Pope Francis, in his post-synodal apostolic exhortation *Querida Amazonia* – following the celebration of the 2019 Synod on the Amazon – to reflect on the irreplaceability of the sacramental priesthood: "The way of shaping priestly life and ministry is not monolithic; it develops distinctive traits in different parts of the world. This is why it is important to determine what is most specific to a priest, what cannot be delegated. The answer lies in the sacrament of Holy Orders, which configures him to Christ the priest. The first conclusion, then, is that the exclusive character received in Holy Orders qualifies the priest alone to preside at the Eucharist."[13] The misunderstanding, however, lies in an idea that replaces sacramental symbolism with an ecclesiologically inadequate way of thinking: "There are those who think that what distinguishes the priest is power, the fact that he is the highest authority in the community." (QA 87).

Pope Francis has resisted massive pressure to abolish the discipline of priestly celibacy (Canon 277) in the Amazon region and to experiment with the ordination of married "certified men" (*viri probati*) and even the ordination of women. These unsystematic steps, which would have to be introduced "from above", i.e. by a papal injunction, cannot replace the activity and the necessary vitality of the particular churches themselves in the Amazon region (and certainly, also, elsewhere): "Priests are necessary, but this does not mean that permanent deacons (of whom there should be many more in the Amazon region), religious women and lay persons cannot regularly assume important responsibilities for the growth of communities, and perform those functions ever more effectively with the aid of a suitable accompaniment. Consequently, it is not simply a question of facilitating a greater presence of ordained ministers who can celebrate the Eucharist. That would be a very narrow goal, were we not also to strive to awaken new life in communities. We need to promote an encounter with God's word and growth in holiness through various kinds of lay service that call for a process of education – biblical, doctrinal, spiritual and practical – and a variety of programmes of ongoing formation." (QA 92-93).

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[13] Francesco, Esortazione Apostolica Postsinodale *Querida Amazonia* (02.02.2020), L'Osservatore Romano, 13 February 2020, p. 3-8 [hereinafter: QA], no. 87.

3. Marriage and Conjugal Law

Canon matrimonial law is probably the most elaborate subsystem of the law of the Catholic Church. It is true, however, that canon law deals primarily with questions of the validity and permissibility of legal acts connected with the institution of marriage. Therefore, much remains to be said about the pastoral aspects of marriage and the family. This is precisely what the post-synodal apostolic exhortation on love in the family, *Amoris Laetitia*, issued in 2016, was meant to address.[14]

In the face of the decline of marriage and family in today's world, the Pope sets out the way in which the Church should respond to this reality: "It is true that there is no sense in simply decrying present-day evils, as if this could change things. Nor it is helpful to try to impose rules by sheer authority. What we need is a more responsible and generous effort to present the reasons and motivations for choosing marriage and the family, and in this way to help men and women better to respond to the grace that God offers them." (AL 35). While the Church's doctrine of marriage and its canonical regulation is stable, the opposite is true in the civil sphere: "In various countries, legislation facilitates a growing variety of alternatives to marriage, with the result that marriage, with its characteristics of exclusivity, indissolubility and openness to life, comes to appear as an old-fashioned and outdated option. Many countries are witnessing a legal deconstruction of the family, tending to adopt models based almost exclusively on the autonomy of the individual will." (AL 53).

The Church, of course, does not reject the act of human will; on the contrary, she attributes to it an absolutely constitutive role for the formation and duration of marriage: "The consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent. Matrimonial consent is an act of the will (*actus voluntatis*) by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage." (Canon 1057). From the statutory definition thus formulated, however, it is clear that the said will of the contracting parties is to be governed

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[14] Franciscus PP., Adhortatio Apostolica Post-Synodalis *Amoris laetitia* de Amore in Familia (19.03.2016), AAS 108 (2016), p. 311-446 [hereinafter: AL].

by the Church's concept of marriage. The Pope complements this legal aspect of marriage with his theologically anchored view of the Christian message (*kerygma*): "Our teaching on marriage and the family cannot fail to be inspired and transformed by this message of love and tenderness; otherwise, it becomes nothing more than the defence of a dry and lifeless doctrine. The mystery of the Christian family can be fully understood only in the light of the Father's infinite love revealed in Christ, who gave himself up for our sake and who continues to dwell in our midst." (AL 59). Still, the exhortation alludes to some legal aspects of the marriage covenant that flow from its very theological nature. If, "in the Church's Latin tradition, the ministers of the sacrament of marriage are the man and the woman who marry" (AL 75)[15] then it is also true: "Their consent and their bodily union are the divinely appointed means whereby they become 'one flesh' (*una caro*). By their baptismal consecration, they were enabled to join in marriage as the Lord's ministers and thus to respond to God's call. Hence, when two non-Christian spouses receive baptism, they need not renew their marriage vows; simply not reject them, since by the reception of baptism their union automatically becomes sacramental." (AL 75).

The intertwining of theology and canon law manifests itself in a very structured way: "Canon Law also recognizes the validity of certain unions celebrated without the presence of an ordained minister. The natural order has been so imbued with the redemptive grace of Jesus that a 'valid matrimonial contract cannot exist between the baptized without it being by that fact a sacrament'. The Church can require that the wedding be celebrated publicly, with the presence of witnesses and other conditions that have varied over the course of time, but this does not detract from the fact that the couple who marry are the ministers of the sacrament. Nor does it affect the centrality of the consent given by the man and the woman, which of itself establishes the sacramental bond."[16]

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[15] Here the Pope refers to the encyclical Mystici corporis Christi of Pius XII, according to which "the spouses are ministers of grace to one another": 'Matrimonio enim quo coniuges sibi invicem sunt ministri gratiae.' Pius PP. XII, Litterae encyclicae de mystico Iesu Christi Corpore deque nostra in eo cum Christo coniunctione *Mystici Corporis Christi* (29.06.1943), AAS 35 (1943), p. 193-248, p. 202.

[16] AL 75, using Canons 1116, 1161-1165 of the CIC/83; Canons 832, 848-852 of the *Codex Canonum Ecclesiarum Orientalium auctoritate Ioannis Pauli PP. II promulgatus* (18.10.1990), AAS 82 (1990), p. 1045-363; Canon 1055 § 2 of the CIC/83.

The Code of Canon Law contains a norm on the pastoral accompaniment of betrothed and married couples, which it divides into four phases: "Pastors of souls are obliged to take care that their ecclesiastical community offers the Christian faithful the assistance by which the matrimonial state is preserved in a Christian spirit and advances in perfection. This assistance must be offered especially by: 1) preaching, catechesis adapted to minors, youth, and adults, and even the use of instruments of social communication, by which the Christian faithful are instructed about the meaning of Christian marriage and about the function of Christian spouses and parents; 2) personal preparation to enter marriage, which disposes the spouses to the holiness and duties of their new state; 3) a fruitful liturgical celebration of marriage which is to show that the spouses signify and share in the mystery of the unity and fruitful love between Christ and the Church; 4) help offered to those who are married, so that faithfully preserving and protecting the conjugal covenant, they daily come to lead holier and fuller lives in their family." (Canon 1063).

Later on, the exhortation provides a concise commentary on each of the stages. Regarding the immediate preparation of couples preparing for marriage, the text refers to the Ignatian principle: "They do not need to be taught the entire Catechism or overwhelmed with too much information. Here too, 'it is not great knowledge, but rather the ability to feel and relish things interiorly that contents and satisfies the soul'."[17] Regarding immediate preparation, it was appropriate to draw on some concrete experience: "The Kenyan Bishops have observed that 'many [young people] concentrate on their wedding day and forget the life-long commitment they are about to enter into'." (AL 215). While canon law imposes the duty of accompanying couples and families only on spiritual shepherds, the exhortation addresses the families themselves on the same matter: "The parish is a place where such experienced couples can help younger couples, with the eventual cooperation of associations, ecclesial movements and new communities." (AL 223).

In a different way than the Code of Canon Law, the exhortation deals with the issues of the possible failure of marriage and divorce.[18] Canon

[17] AL 207, using the quotation from Ignatius of Loyola, Spiritual Exercises, note 2.

[18] "It should also be considered that faithfulness is a complete and permanent quality. One cannot be faithful only 'a little' or 'just occasionally'. Let us remember that faithfulness creates the entirety of our life story. If someone is married more than once, because at the first difficulty he tries again, he has had several beginnings but no whole." [Piťha 2006, 57].

Law lays down the conditions under which the procedures leading to the dissolution or annulment of a marriage can be initiated and carried out, while the exhortation deals with the concrete interpersonal and social situations in which marriage ceases to fulfil its positive role: "Family breakdown becomes even more traumatic and painful in the case of the poor, since they have far fewer resources at hand for starting a new life. A poor person, once removed from a secure family environment, is doubly vulnerable to abandonment and possible harm." (AL 242). The Pope then helped to make procedures more flexible by approving new legislation on canonical marriage procedures: "The slowness of the process causes distress and strain on the parties. My two recent documents dealing with this issue have simplified the procedures for the declarations of matrimonial nullity."[19]

However, the Church cannot accept the demands to equate marriage with permanent same-sex cohabitation: "In discussing the dignity and mission of the family, the Synod Fathers observed that, 'as for proposals to place unions between homosexual persons on the same level as marriage, there are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God's plan for marriage and family'." (AL 251). Moreover, some Synod Fathers objected to threats by the transnational political-financial lobby on these sensitive issues: "It is unacceptable 'that local Churches should be subjected to pressure in this matter and that international bodies should make financial aid to poor countries dependent on the introduction of laws to establish 'marriage' between persons of the same sex'." (AL 251).

The exhortation takes a nuanced approach to the situation of civilly remarried divorcees: "The divorced who have entered a new union, for example, can find themselves in a variety of situations, which should not be pigeonholed or fit into overly rigid classifications leaving no room for a suitable personal and pastoral discernment. One thing is a second

[19] AL 244 with references to: Franciscus PP., Litterae apostolicae motu proprio datae *Mitis Iudex Dominus Iesus* quibus canones Codicis Iuris Canonici de causis ad matrimonii nullitatem declarandam reformatur (15.08.2015), L'Osservatore Romano, 9 September 2015, p. 3-4 and Franciscus PP., Litterae apostolicae motu proprio datae *Mitis et misercors Iesus* quibus canones Codicis Canonum Ecclesiarum Orientalium de causis ad matrimonii nullitatem declarandam reformatur (15.08.2015), L'Osservatore Romano, 9 September 2015, p. 5-6.

union consolidated over time, with new children, proven fidelity, generous self-giving, Christian commitment, a consciousness of its irregularity and of the great difficulty of going back without feeling in conscience that one would fall into new sins." (AL 298). The exhortation sparked a stormy debate by a seemingly unassuming footnote in chapter eight of the text, which says that "in certain cases" one cannot rule out "also help of sacraments" (AL 305, note 351) for such couples, even though, according to the context in which the exhortation speaks of them, they may also live in an intimate relationship. The Pope has attempted to channel the debate by officially publishing and personally confirming the appropriateness of the pastoral norms of the Argentine ecclesial region of Buenos Aires,[20] according to which sexual abstinence in new unions is often unfeasible (*no factible*).[21] The progression from a footnote to the publication of the Spanish text by a select group of particular churches is completely outside of standard church practice. Procedurally, in the case of such a grave matter, it would be more appropriate to grant the Synod the right to issue a binding decision at the time of its celebration, which canon law allows (Canon 343).

Conclusion

During the pontificate of Pope Francis, there has come an unexpected legislative whirlwind: we have seen a long series of amendments to the Code of Canon Law. However, from the very beginning, Francis' pontificate has also been sending opposite signals: namely, that the Pope's focus will not be on law and discipline, but rather on mercy, pastoral care for people in need, especially the marginalized and the poor. Mainly magisterial, not juridical, were documents in which the Pope touched on his favourite

[20] Obispos de la Región de Buenos Aires, *Criterios básicos para la aplicación del capitulo VIII de Amoris Laetitia*, AAS 108 (2016), p. 1072-1074.

[21] "This view, however, implies a denial of the Church's previous unbroken moral teaching and, above all, a fundamental contradiction with the teaching of the recently canonized Pope John Paul II. It contradicts the doctrine of works that are 'intrinsically evil' (intrinsece malum), i.e., evil by their intrinsic nature. Unless one renounces them by will and abandons them, they constitute an obstacle to the celebration of the full communion with Christ through the reception of the Eucharist. [...] If it were permitted for those who are sexually active in an invalid union to receive the sacraments, the following problem would arise: it would imply that in certain circumstances it is possible to 'justify sin'?" [Beneš 2018, 14].

themes, but, clearly, even in these one cannot lose sight of the omnipresent juridical aspects. Thus, if Pope Francis presents his ideas on how to shape worldly order in today's world, he e.g., cannot avoid international environmental law or the international law of war. In the case of the desired abolition of the death penalty, which remains a national competence, the Pope necessarily touches on national legal orders as well.

Pope Francis evaluates ecclesial structures above all in terms of their pastoral necessity and their capacity to radiate the Gospel. In contrast, one of Francis's main planned tasks was to restructure the Roman Curia, which the Pope did in 2022 with his apostolic constitution *Praedicate Evangelium*.[22] The broader pastoral intent of the apostolic exhortation *Amoris laetitia* was then largely thwarted by the heated controversy over the admission of remarried divorcees to the sacraments. Although the exhortation, following the interpretation of the norms published by the Pope by the Argentine bishops, makes it possible under certain conditions, it is an inorganic intervention in the valid canonical discipline: "those who have been excommunicated or interdicted after the imposition or declaration of the penalty and others obstinately persevering in manifest grave sin are not to be admitted to holy communion." (Canon 915).

In fact, the adaptation of the pastoral approach to the individual circumstances of each Christian (*epikeia* or *oikonomia*) can only take place within the framework of the regulations and norms set by the Church herself. For the sovereign papal power to 'bind and loose' also needs to be carried out within the framework defined by the Lord himself. However, the Catholic Church after Vatican II seems to have been driven by the idea that to reform means to relax the requirements and loosen the discipline. On the contrary: the history of the Church teaches us that all the successful ecclesial reforms of the past have called not only for the clarification and tightening of the discipline and, above all, for the strict observance of the rules.

However, Pope Francis already expressed his strict attitude regarding catholic faith at the beginning of his pontificate in his first encyclical *Lumen*

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[22] Franciscus PP, Costituzione apostolica *Praedicate Evangelium* sulla Curia Romana e il suo servizio alla Chiesa e al Mondo (19.03.2022), https://www.vatican.va/content/francesco/it/apost_constitutions/documents/20220319-costituzione-ap-praedicate-evangelium.html [accessed: 24.12.2025]. Entered into force on 5 June 2022.

fidei where he took advantage of material left by his predecessor Benedict XVI: "Faith is 'one', in the first place, because of the oneness of the God who is known and confessed. All the articles of faith speak of God; they are ways to know him and his works. Consequently, their unity is far superior to any possible construct of human reason. They possess a unity which enriches us because it is given to us and makes us one."[23] On the other hand, Francis highly stressed the social message of Church teaching: "The Church's pastors, taking into account the contributions of the different sciences, have the right to offer opinions on all that affects people's lives, since the task of evangelization implies and demands the integral promotion of each human being. It is no longer possible to claim that religion should be restricted to the private sphere and that it exists only to prepare souls for heaven." (EG 182). There the teaching of Francis's documents regards not only the internal prescriptions of Catholic Church but also the civil and international law as it was analyzed in the first part of this study.

REFERENCES

Beneš, Josef. 2018. „Předmluva." In *Rozptýlit mlhu. Věcné úvahy nad exhortací 'Amoris laetitia'*, edited by Lukáš Novák, and Marie Tejklová, 9-16. Brno: Kartuziánské nakladatelství.

Čačík, Marián B. 2020. „Nad instrukcí o pastorální konverzi farnosti." *Revue církevního práva* 81, no. 4:25-36.

Dacík, Reginald M. 1946. *Mravouka.* Olomouc: Krystal.

Gilson, Georges. 2001. *Diecézny kňaz v pastoračnej službe*. Spišská Kapitula: Kňazský seminr biskupa Jána Vojtaššáka.

de Liguori, Alfonso M. 2012. *Praktický sprievodca zpovedníka.* Bratislava: Redemptoristi – Slovo medzi nami.

Piťha, Petr. 2006. *Zpověď, svátost smíření.* Praha: Studio Gabreta.

Pružinský, Štefan. 1997. *Aby všetci jedno boli. Pravoslávie a ekumenizmus*. Prešov: Metropolitná rada Pravoslávnej církvi na Slovensku.

[23] Franciscus PP., Litterae apostolicae *Lumen fidei* (29.06.2013), AAS 105 (2013), p. 555-96, no. 47.