Access to the sacraments of penance and Eucharist by divorced and remarried Catholics is still possible under certain circumstances, even when an annulment of a prior marriage has not been obtained. The process by which such access is achieved, on a case by case basis, is a matter of moral discernment, not one of canonical judgment. This pastoral approach has been proposed and reproved in the past, but the debate over it is ongoing and vigorous. Personal conscience still has a role to play in this decision to participate fully in the celebrations of the sacraments of penance and Eucharist.

Church authorities have staked out and defended a fine line of official pastoral policy, namely that those who divorce and remarry without an annulment or dissolution of their first marriage remain fully incorporated in the church, they are neither separated from it nor are they subject to any canonical penalty (that is, they are not excommunicated or interdicted). They remain bound by all the obligations of other Catholics, including participation in Eucharistic celebrations, but they are not to be admitted to Eucharistic Communion, unless they separate from their spouses or, if this is not possible, they agree to abstain permanently from sexual intercourse.

The principal documents in which this policy was outlined and reiterated are John Paul II in his 1981 apostolic exhortation The Role of the Christian Family in the Modern World (Familiaris Consortio) (FC), a 1994 letter from the Congregation for the Doctrine of the Faith on the reception of Holy Communion by the divorced and remarried, and a 2000 declaration of the Pontifical Council for the Interpretation of Legislative Texts on the same subject.

The position I propose here is modest and quite limited. Stated most simply it is that Catholics living in “irregular marriages,” and here we are speaking specifically of those who have remarried civilly after experiencing the tragedy of divorce, may, in exceptional cases, resume participation in the sacraments of penance and Eucharist. Their personal judgment of conscience plays a key role in this decision to return to the sacraments; and a priest, deacon, or other well-schooled pastoral minister usually assists in the process.

This pastoral process of resuming sacramental participation presumes several conditions that are spelled out below. The

James A. Coriden, J.C.D., J.D., is professor in the pastoral studies department at Washington Theological Union, Washington, D.C. Among his works is The Rights of Catholics in the Church (Paulist Press, 2007).
The process does not involve any canonical judgment regarding a former marriage; no decision is made about its validity or invalidity. This is a process of moral discernment about personal worthiness for Holy Communion, after true repentance and God's merciful forgiveness.

**Criteria for Making a Moral Discernment**

First, if there is a reasonable possibility of a canonical solution to the situation of the divorced and remarried couple, it should be pursued by all means. That is to say, if the couple has access to a church tribunal or office and thus has the possibility of the validation of their present union following the annulment or dissolution of the first marriage, they should take advantage of that opportunity. This attempt at an official solution and reconciliation should be given clear priority.

If it is not possible to have the first marriage adjudicated by a tribunal, the process of reconciliation to the sacraments involving a moral judgment of conscience remains. It calls for serious, honest, personal reflection over a period of time. It follows the pastoral guidance offered to pastors and communities by John Paul II in FC, nos. 81 and 84: each situation and its actual causes should be considered case by case, and careful discernment should be exercised, so that the church’s means of salvation are put at the disposal of the faithful.

The mindset of many divorced and remarried couples is such that they view themselves as truly married. They consider themselves to be in a committed conjugal relationship. Their union has an official status, it is a civil bond, recognized by the government, that carries with it serious responsibilities. Their consciousness is “a married state of mind.”

For those with such a mindset, the following are among the criteria to be considered as they discern their proper disposition for penance and Holy Communion:

- The first marriage is irretrievably broken, no reconciliation is possible. Several years have passed since the original couple separated.
- The Catholic person(s) who has entered into a second marriage has repented and sought forgiveness for any sinful actions that contributed to the breakdown of the first union.
- The parties to the present union are fulfilling their responsibilities to the former spouse and children.
- The present union appears to be stable and enduring. It has been in place for some time, usually several years.
- The parties are rightly motivated, that is, they are not acting for reasons of human respect or personal gain, and they genuinely desire to participate in the sacramental life of the church.
- Every effort is made to avoid giving scandal or bad example, so that none of the faithful are led into error or confusion regarding the permanence of marriage.

In this entire process the couple should seek out and utilize the counsel and guidance of a pastoral minister of the church. They should carefully examine both the church’s teachings regarding marriage, the sacraments of penance and Eucharist, as well as their own actual situation within their parish community.

The element of scandal should be viewed in the context of their community. The couple’s “irregular situation” may not be known. Such is often the case. Or they and their pastoral guide can explain the process of their reconciliation to the sacraments to those who might inquire about it. Or, as a last resort, the couple might decide to take...
Communion in another parish where their situation is not known.

A Judgment of Conscience, Not an Action of Church Governance

This process of reconciliation does not entail any juridic act. It is not an act of the power of governance. It is a moral judgment, a decision taken in conscience. Those who engage in it, namely the remarried couple and their pastoral advisor, do not do or change anything in the juridic order. They make no judgment of validity or invalidity of the prior marriage. No authorization or permission to access the sacraments is sought or given by any authority figure.

Decisions in conscience are not exercises of the power of governance, they are not matters of the legal order, but of the moral order. Hence this process of discerning possible access to the sacraments of penance and Holy Communion is not a canonical judgment, but a judgment of one's own conscience.

Conscience, a Unique Mode of Judgment

Conscience in the Catholic tradition is a fundamental and sacred expression of human dignity, an inner voice to be listened to and obeyed when making moral judgments. “Conscience is a person’s most secret core and sanctuary. There the person is alone with God whose voice echoes deep within their hearts” (Pastoral Constitution on the Church in the Modern World 16.)

The council’s Declaration on Religious Liberty (16) spoke even more strongly about conscience:

The human person sees and recognizes the demands of the divine law through conscience. All are bound to follow their conscience faithfully in every sphere of activity so that they may come to God, who is their last end. Therefore the individual must not be forced to act against conscience nor be prevented from acting in accord with conscience, especially in religious matters.

Conscience, as the judgment of an act, is not exempt from the possibility of error.

This possibility underscores the need for the person to seek the truth, to take counsel, to pray, to study, and to reflect before acting.

In the matter at hand, the judgment of conscience is about a divorced and remarried person’s disposition to receive the sacraments of penance and Holy Eucharist. “Am I in the state of grace or in the state of sin?” “Am I living in adultery or in a committed marital relationship?” “Have I repented of whatever sins I may have committed relative to my former marriage and asked God to forgive them?” “Will my taking Communion publicly lead others to take their marriage vows less seriously?”

This personal judgment of conscience is about whether or not one is in the state of grace. The long-standing practice of the church has been to accept the conscientious decision of the person who presents him or herself to receive the sacraments.

General Rules Admit Exceptions

What is at stake here is the church’s disciplinary policy of excluding the divorced and remarried from the sacraments of penance and Eucharist. When viewed in terms of a normative policy the question is: is this policy a universal and absolute norm or does it admit of exceptions, that is, exceptions in addition to those explicitly mentioned in FC, no. 84, namely, separation of the spouses or living together “as brother and sister” without sexual intercourse? Does the policy admit of an exception, based on an informed judgment of conscience, that a person is worthy to receive the Eucharist?

The virtue of epiky (from the Greek, epikeia) is an ancient and honored staple of
Roman Catholic ethics. Epiky is that species of legal justice that compensates for the inherent inadequacies of general rules when they are applied to particular situations. Epiky applies general rules to individual circumstances, it seeks a just result. It allows for legitimate exceptions to rules.

A person, following a rightly formed conscience, who judges that the general policy barring the divorced and remarried from the sacraments of penance and Eucharist does not always apply in his or her particular situation, may well be exercising the virtue of epiky.

Are there dangers of delusion or self-deception in making such judgments of conscience? Surely there are, but that is the reason for protracted reflection and wise counsel. The Holy Spirit guides Christ’s faithful people when they attend to the Spirit’s prompting.

Conscience Is Always in Play

This is a restatement of a long-standing moral position that the faithful are entitled to make a judgment in conscience about their access to the sacraments of penance and Eucharist. The guided process of a return to sacramental participation through stages of moral discernment remains a legitimate option for divorced and remarried Catholics. However, they must take care to avoid giving scandal if they avail themselves of this option.

John Paul II in his 2003 encyclical Eucharist clearly asserts that “the judgment of one’s state of grace belongs only to the person involved, since it is a question of examining one’s conscience” (37). However, he reminds us, outward conduct, especially that which appears to be contrary to the moral norm, is also a matter of “the good order of the community and respect for the sacrament.”

The argument set forth here applies to the sacraments of penance and Eucharist, not to remarriage in the church. It does not suggest that a second marriage can be celebrated based on a personal judgment of conscience. This process involves a moral judgment regarding personal worthiness for Holy Communion. It represents an exception, based on the primacy of conscience and the virtue of epiky, to the general policy of exclusion from the sacraments.

Marriage is not a purely private matter, it has public significance. For this reason, the consequences of this personal decision of conscience for the moral integrity of the local Christian community must be a part of the discernment process. Still, conscience is always in play, and its judgment is a legitimate and decisive option.

References


