

2017

Forms of Patriarchy in Amoris Laetitia and in the Papacy of Francis

Mary Anne Case

Follow this and additional works at: [http://chicagounbound.uchicago.edu/
public_law_and_legal_theory](http://chicagounbound.uchicago.edu/public_law_and_legal_theory)

 Part of the [Law Commons](#)

Recommended Citation

Case, Mary Anne, "Forms of Patriarchy in Amoris Laetitia and in the Papacy of Francis" (2017). *Public Law and Legal Theory Working Papers*. 614.
http://chicagounbound.uchicago.edu/public_law_and_legal_theory/614

This Working Paper is brought to you for free and open access by the Working Papers at Chicago Unbound. It has been accepted for inclusion in Public Law and Legal Theory Working Papers by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

CHICAGO

PUBLIC LAW AND LEGAL THEORY WORKING PAPER NO. 613



FORMS OF PATRIARCHY IN *AMORIS LAETITIA* AND IN THE PAPACY OF FRANCIS

Mary Anne Case

THE LAW SCHOOL
THE UNIVERSITY OF CHICAGO

February 2017

FORMS OF PATRIARCHY IN AMORIS LAETITIA AND IN THE PAPACY OF FRANCIS*

Mary Anne Case

Almost all of the considerable attention, both negative and favorable, thus far given to Pope Francis's lengthy Apostolic Exhortation *Amoris Laetitia* has centered on a single footnote discussing access to the sacraments for the divorced and remarried,¹ and, more broadly, on Francis's treatment of those living in what Catholic orthodoxy deems irregular unions. In this chapter, taking a critical feminist approach to *Amoris Laetitia* and to other key elements of Francis's papacy to date, I will be putting the emphasis elsewhere, on what I see, not as promising new innovations, but as disturbing reaffirmations of a patriarchal vision of both the family and the Church, in each of which women are at risk of being seen as under male headship, even as the Church proclaims their conceptual equality with men. It is possible to chart a more optimistic course for feminism through the text of *Amoris Laetitia* and more generally through the papacy of Francis, as I shall also briefly discuss, but there is a certain ambivalence to be found in even the most affirmative of signals sent to date.

The Patriarchal Family of *Amoris Laetitia*

I only had to get a few pages in to *Amoris Laetitia* for it to be clear the document was literally not speaking to me or to any other woman.² Chapter One of the Exhortation begins with a quotation from Psalm 128, the responsorial psalm for the Feast of the Holy Family, which begins promisingly, "Blessed is every one who fears the Lord." Although the person spoken of is not yet literally the "*beatus vir*" ("blessed male") of Psalm 1, he will be identified as such by the end of the passage, and he is promised blessings the Church as yet offers no woman. "Your wife," the psalm says in the Exhortation's English translation, "will be like a fruitful vine within your house." This is problematic on many levels – in the absence of Church recognition of same-sex marriage,³ no woman

* Arnold I. Shure Professor of Law, University of Chicago Law School. This essay was prepared for the Free University of Brussels conference La sainte famille. Sexualité, filiation et parentalité dans l'Église catholique at the Academia Belgica Rome. I am grateful to the organizers, particularly Caroline Sagesser, David Paternotte, and Cecile Vanderpelen.

¹ Pope Francis, Apostolic Exhortation *Amoris Laetitia* (19 March 2013), available at https://w2.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf, p. 237, Ftnote 351.

² To have cause for concern about what it would mean for women and all in alternative family structures, I needed to get no further than the dedication, odd for a pontiff who decries clericalization and hierarchy:

TO BISHOPS, PRIESTS AND DEACONS
CONSECRATED PERSONS
CHRISTIAN MARRIED COUPLES
AND ALL THE LAY FAITHFUL.

³ According to the Exhortation, "We need to acknowledge the great variety of family situations that can offer a certain stability, but de facto or same-sex unions... may not simply be equated with marriage." AL52. See also AL251, rejecting recognition of same-sex relationships in language tracing to the 2003

can have a wife; moreover, the assumption, not merely that the role of a wife may be limited to fruitfulness,⁴ but that her place is “within [her husband’s] home,” is at least a rhetorical step back from the Vatican II era commitment to a role in public and cultural life for women, including wives and mothers.⁵ “Thus shall the **man** be blessed,”⁶ the quotation in *Amoris Laetitia* continues. Whether and how a woman will be comparably blessed is left unaddressed.⁷

Women themselves are similarly left unaddressed, as the Exhortation’s very first subheading takes as its subject “You and Your Wife.” (“*Tu e la tua sposa*” in the original Italian.)⁸ Again, the problems here are multiple⁹ – the heading not only excludes women, it also, like much of the rest of both the Exhortation and the Synod out of which it sprung, seems to equate “the family” with a man and his wife. This is, as a glance at the long history of Christianity will show, a relatively recent innovation, comparable with and not unrelated to the even more recent innovation of a theological anthropology of sexual complementarity, which I have documented in other work.¹⁰ As theologian Dale B. Martin argues, “the centrality of marriage and family ... in Christianity ... is actually only about 150 years old [;] the current focus on the heterosexual *nuclear* family dates back only to the 1950s.”¹¹

The Invention of the Patriarchal Nuclear Holy Family

Let us begin with scripture, as both Martin and *Amoris Laetitia* do. For all that the Church now proclaims the “Gospel of the Family” and Francis assures us in the first sentence of the Exhortation’s first chapter that the “Bible is full of families,” virtually the only nuclear family to appear in the New Testament is the Holy Family of Jesus, Mary and Joseph, of whom more later. Francis’s own example of a New Testament family, balancing out “Adam and Eve’s family with all its burden of violence but also its

Congregation for the Doctrine of the Faith’s Considerations Regarding Proposals To Give Legal Recognition To Unions Between Homosexual Persons.

⁴ It is to the possessor of a wife, not to the wife herself, that the psalm promises, “You shall eat the fruit of the labour of your hands; you shall be happy, and it shall go well with you.”

⁵ See e.g. Pope Paul VI, Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, December 7, 1965, available at

http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html, paragraph 60.

⁶ In both the original Hebrew and the Latin of the Vulgate, it is clear that this ‘man’ is a male, not a generic human, “vir” not “homo.”

⁷ Similarly, in the Islamic tradition, a male shahid or martyr may be promised seventy two virgins in the afterlife, but what the reward for a female martyr may be is left unclear.

⁸ See also AL 13, in which, rather than give Eve the dignity of a name, Francis writes that “Adam, who is also the man of every time and place, together with his wife, starts a new family.”

⁹ Among them are that the official addressees of the Exhortation are “Bishops, Priests, and Deacons, Consecrated Persons, Christian Married Couples, and All the Lay Faithful,” mostly categories of persons precluded by canon law from having a wife, even if they are male.

¹⁰ See Mary Anne Case, The Role of the Popes in the Invention of Sexual Complementarity and the Anathematization of Gender, *Religion & Gender*, Habemus Gender special issue (2016)

<https://www.religionandgender.org/articles/abstract/10124/>.

¹¹ Dale B. Martin, *Sex and the Single Savior: Gender and Sexuality in Biblical Interpretation* (Louisville: Westminster 2006) p. 136.

enduring strength” at the beginning of the Bible is the purely conceptual “wedding feast of the Bride and the Lamb,”¹² which ends the book of Revelations. As will be discussed below, the way in which Francis and his predecessors, from the Apostle Paul through Benedict XVI, toggle back and forth between conceptual families and real ones itself proves problematic from a feminist perspective.

In the Gospels, Jesus himself does not seem very family friendly, insisting, “If any man come to me, and hate not his father, and mother, and wife, and children, and brethren, and sisters, . . . he cannot be my disciple.”¹³ The human family relationships of the Gospels, both literal¹⁴ and figurative, center more on elective affinities and on siblinghood than on blood ties or on the marital couple. Indeed a focus on the family can create problems for the Church, as when Ananias and Sapphira, one of only two married couples mentioned in Acts, conspire to deceive the Church concerning their proceeds from a land sale.¹⁵

In the iconography of the medieval Church, the Holy Family is often “Die Heilige Sippe” or Holy Kinship – an extended family¹⁶ principally composed of Jesus’s aunts and young cousins, with the fathers typically occupying a background role, although in later depictions they are also shown actively involved in childcare.¹⁷ Perhaps as a counterpart to the Trinity, the iconography of Christ’s earthly family long centered on His mother and her mother, the so-called “Heilige Anna Selbdritt” or Virgin and Child with St. Anne, a holy matriarchy.

Only comparatively late in history, coincident with changes in family structures in European society, did St. Joseph begin to replace St. Anne in this earthly familial trinity and did the Holy Family begin to be seen as a nuclear, patriarchal family.¹⁸ St. Joseph seems to have received no recorded devotion from the faithful before the seventh century,¹⁹ no serious theological attention until the thirteenth century, no feast day of his

¹² AL paragraph 8.

¹³ Luke 14:26, Douay-Rheims translation.

¹⁴ As in the siblings Mary, Martha and Lazarus and the brothers Andrew and Peter.

¹⁵ Acts 5. For further discussion see Martin, *Sex and the Single Savior* at 140.

¹⁶ *Amoris Laetitia* acknowledges that “Jesus did not grow up in a narrow and stifling relationship with Mary and Joseph, but readily interacted with the wider family, the relatives of his parents and their friends.” AL 182 and does briefly consider that “[i]n addition to the small circle of the couple and their children, there is the larger family” including “[f]riends and other families . . . as well as communities of families who support one another.” AL 197.

¹⁷ St. Anne, according to this iconographic tradition, was thought to have had three husbands, to each of whom she bore a daughter named Mary; each of these daughters then married and bore sons, among them apostles. The shift from an emphasis on the maternal line to one in which “men begin to take tentative steps out of the background and into the foreground” occurs “in the early sixteenth century” as part of “a transition from one paradigm of marriage, and gender roles to another.” See Virginia Nixon, *Mary’s Mother Saint Anne in Late Medieval Europe*. (Penn. State Press 2004) p. 126.

¹⁸ See e.g. John R. Gillis, *A World of Their Own Making: Myth, Ritual, and the Quest for Family Values* (Harvard University Press 1997) p.28-9.

¹⁹ See United States Conference of Catholic Bishops (USCCB), *Name of Saint Joseph in the Eucharistic Prayers* (2013) available at <http://www.usccb.org/prayer-and-worship/the-mass/order-of-mass/liturgy-of-the-eucharist/saint-joseph-in-the-eucharistic-prayers.cfm>.

own until the fifteenth century,²⁰ no chapel dedicated to him until the sixteenth century.²¹ Only in 1870 did Pius XI declare St. Joseph Patron of the Universal Church, only in 1962 did Pope John XXIII first insert the name of St. Joseph into the Eucharistic Prayer of the Mass.

Pope Francis's Devotion to St. Joseph the Patriarch

Although it was in fact not released until nearly a month later, the official publication date of *Amoris Laetitia* remains March 19, 2016, the feast of St. Joseph.²² This date is indicative both of Pope Francis's personal devotion to the saint and of the modern tendency to see St. Joseph as central to a nuclear Holy Family.²³

Francis had similarly chosen the feast of St. Joseph exactly three years earlier for his papal inauguration. It was in the parish church of St. Jose de Flore where the young Jorge Bergoglio first felt called to the priesthood; the name he chose for the church he constructed while rector in Argentina was St. Joseph the Patriarch; his coat of arms incorporates a flower used to symbolize St. Joseph; and one of the few objects he brought to Rome was a statue of the sleeping St. Joseph which had been in his room for decades in Argentina, under which he frequently places prayers of petition.

Among Francis's earliest official acts as pope was to sign off May 1, 2013, the feast of St. Joseph the Worker, on the Decree of the Congregation for Divine Worship and the Discipline of the Sacraments mandating the insertion of the name of St. Joseph in Eucharistic Prayers II through IV,²⁴ John XXIII, as noted above, having already included the saint in the first Eucharistic Prayer. The only other saints specifically mentioned in each and every one of these prayers had been the Blessed Virgin Mary and the Apostles.²⁵ I must confess that learning of this mandated inclusion of St. Joseph caused me to become wary of the implications of the papacy of Francis for feminism much as learning that *Amoris Laetitia* began with the exclusionary Psalm 128 made me wary of what was to follow in this Apostolic Exhortation. My view was that it was bad enough that the ratio of women to men specifically mentioned in each Eucharistic Prayer was

²⁰ See Pamela Sheingorn, *Appropriating the Holy Kinship: Gender and Family History*, in *Interpreting Cultural Symbols: Saint Anne in Late Medieval Society*. Eds. Kathleen Ashley and Pamela Sheingorn. (University of Georgia Press, 1990) pp. 169 - 198.

²¹ See Carolyn C. Wilson, *St. Joseph in Italian Renaissance Art: New Directions and Interpretations* (Philadelphia: St. Joseph's University Press 2001) p. 1.

²² Not to be confused with the May 1 feast of St. Joseph the Worker, established by Pius XII in 1955 in part to compete with communist celebrations of that day as International Workers' Day.

²³ Unsurprisingly, John Paul II was also "very devoted to St Joseph," according to his successor Benedict XVI, whose baptismal name was Joseph. See Benedict XVI, *Angelus Address December 18, 2005* available at http://w2.vatican.va/content/benedict-xvi/en/angelus/2005/documents/hf_ben-xvi_ang_20051218.html.

²⁴ Available at http://www.vatican.va/roman_curia/congregations/ccdds/documents/rc_con_ccdds_doc_20130501_san-giuseppe_en.html.

²⁵ Each of the prayers referenced generally "all the saints" and two additionally referenced "the martyrs," with the First Eucharistic Prayer going on to mention some by name.

already at one to twelve.²⁶ To add, of all other men, the Virgin's spouse, seemed to me akin to suggesting that women couldn't appear in public without a male guardian or as other than part of a complementary couple. It seemed to subsume the Virgin within a patriarchal family much as Psalm 128 confined the wife in the recesses of her husband's home. The grouping of Mary with the apostles at least had echoes of Acts 1:13-4, which named the Apostles and Mary as coming together "in an upper room" before Pentecost "with the women... and with [Jesus's] brethren." To add so prominently St. Joseph, who plays a very minor part in the New Testament, in which he speaks not a word, and an equally minor part in the long history of Catholicism, was to elevate "Gospel of the Family" values to a new high point.²⁷

Women's Continued Subordination within the Family of the Church

My concerns, first awakened by the decree concerning St. Joseph, about what the papacy of Francis would bring for women were intensified by a number of Vatican actions and papal statements made in the first years of his papacy. Some of these pertained to the conceptualization of the role of women within what Galatians 6:10 called the "household of faith," another kind of holy family. I will mention here only three examples, each of which goes to women's ability to exercise authority within this household of faith. First, journalist Franca Giansoldati, noting that when Francis spoke of women it was "woman as spouse, woman as mother, etc., but women are now heads of state, multinationals, armies" went on to ask, "what posts can women hold in the Church?" Francis responded with a series of what he characterized as jokes ("battuta", the same word he used to describe the idea of women cardinals), noting that "women were taken from a rib" and that "many times priests wind up under the authority of their housekeepers."²⁸ This reproduces in both the clerical household and the household of faith, a quasi-marital relationship in which the woman, confined to domestic tasks within, as in Psalm 128, can only exercise indirect influence,²⁹ not share equally in decisionmaking authority.

²⁶ If anyone was to be added by name, why not, instead of Joseph, Mary Magdalene, given that the justification for Pope Francis's elevating the status of her feast was that she was referred to as the "Apostle of the Apostles" so "[t]herefore it is right that the liturgical celebration of this woman has the same grade of feast given to the celebration of the apostles ... and shines a light on the special mission of this woman, who is an example and model for every woman in the Church"? See Commemoration of St. Mary Magdalene raised to a Feast 10/06/16 available at http://en.radiovaticana.va/news/2016/06/10/commemoration_of_st_mary_magdalene_raised_to_a_feast/1236157. Could it be that Francis is projecting when he claims that "St Mark may not have liked Mary Magdalen much"? Pope Francis. Morning Meditation in the Chapel of the Domus Sanctae Marthae, Faith is not sold, Saturday, 6 April 2013 available at https://w2.vatican.va/content/francesco/en/cotidie/2013/documents/papa-francesco-cotidie_20130406_faith-not-sold.html.

²⁷ Cf. Walter Cardinal Kasper, The Gospel of the Family ("During the last Year of the Family, Pope John Paul II modified the words of his encyclical Redemptor Hominis (1979), 'Man is the way of the Church,' and said, 'The family is the way of the Church' (February 2, 1994).").

²⁸ See e.g. Phyllis Zagano, The wrong kind of papal 'ribbing', National Catholic Reporter, July 2, 2014 available at <https://www.ncronline.org/blogs/just-catholic/wrong-kind-papal-ribbing>.

²⁹ To be fair to Francis, on the literal level (unlike Joseph Ratzinger, whose sister kept house for him until she died) Jorge Bergoglio did his own housekeeping, and on the symbolic level, he on other occasions gave more serious and somewhat more receptive answers to the question, as noted below.

Far more than any priest is under his housekeeper's thumb, women religious have always been under the thumb of male clerics, as was made obvious during the investigations by the Congregation of the Doctrine of the Faith (CDF) into the U.S. Leadership Conference of Women Religious (LCWR) for alleged heresies including "radical feminism" and "tak[ing] a position not in agreement with the Church's teaching on human sexuality."³⁰ Although this investigation was begun under Benedict XVI and terminated early and apparently amicably under Francis, the harshest intervention into the LCWR's decisionmaking authority occurred during Francis's papacy in the spring of 2014, when Cardinal Gerhard Mueller, prefect of the CDF, demanded that the LCWR, whose recent choices of speakers and award recipients strongly displeased him, in future obtain advance approval for such decisions from the archbishop the Vatican had appointed as the group's overseer. Acknowledging that this "had been portrayed as heavy-handed interference in the day-to-day activities of the Conference," Mueller sought to characterize it instead, not "as a 'sanction,' but rather as a point of dialogue and discernment."³¹ But, as with the priest and his housekeeper, it is a very unequal dialogue, in which the sole participant with authority may at any point choose not to listen.

When representatives of another, less controversial group of women religious than the LCWR, the International Union of Superiors General, also objected that "women are excluded from decision-making processes in the Church" and asked another version of Franca Giansoldati's question, Francis gave them a less jocular answer, albeit one stressing sexual complementarity, conceding that women's "influence on decisions is very important" and "in consultations it is important that there are women" because "[t]he way of viewing a problem, of seeing things, is different in a woman compared to a man." Yet again, however, it seems Francis was only willing at most to concede to women an opportunity to exercise influence, not authority. "I don't know about a head of a dicastery," he said.³²

Francis did, however, respond affirmatively to the nuns' request that he "constitute an official commission to study" the question of opening "the office of the permanent diaconate" to women.³³ Unlike the International Union of Superiors General, I do not see this decision as unequivocally a step forward toward "better integration of women and consecrated women in the life of the Church."³⁴ This is because the deacon's role would remain a subordinate role – for women to be deacons and only men to remain priests,

³⁰ Congregation for the Doctrine of the Faith, Doctrinal Assessment of the Leadership Conference of Women Religious. 12 April 2012, available at http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20120418_assessment-lcwr_en.html

³¹ Cardinal Gerhard Mueller, Opening Remarks, Meeting of the Superiors of the Congregation for the Doctrine of the Faith with the Presidency of the Leadership Conference of Women Religious (LCWR) 30 April 2014 available at http://www.vatican.va/roman_curia/congregations/cfaith/muller/rc_con_cfaith_doc_20140430_muller-lcwr_en.html.

³² Pope's Q & A at Meeting With International Union of Superiors General, 13 May 2016 available at <https://zenit.org/articles/popes-q-a-at-meeting-with-international-union-of-superiors-general/>.

³³Id. One of those appointed to the commission was Phyllis Zagano, cited in a footnote above, an advocate for the female diaconate.

³⁴ Id.

bishops, and cardinals might paradoxically reinforce male superiority while also entrenching a gendered division of labor in which women serve (the meaning of the Greek word *diakon*) while men lead. Of course, Christ described himself as a servant, and the pope is, famously, the servant of the servants of God, but the work performed by deacons in the early Church was in both senses of the word women's work, that is to say for the male deacons charitable work historically gendered feminine and for the women service unseemly for a man to perform, such as tending to the bodies of other women. Indeed, given that Francis's response to the question of female cardinals was, 'Women in the Church must be valued not 'clericalised,'"³⁵ and that he sees the creation of deacons as clericalization,³⁶ female deacons could be the worst of both worlds – clericalized without being equally valued.

Synodality as Patriarchal Domination

The International Union of Superiors General went on to ask Francis questions that could more broadly be asked by all Catholic women:

How is it possible that quite often we are forgotten and not included as participants....? Can the Church afford to continue speaking about us, instead of speaking with us?³⁷

The absence of women's voices when women are of necessity being spoken about was particularly striking in the synod on the family which gave rise to *Amoris Laetitia*. The bishops themselves, were, of course, all male, as well as being without family ties other than to their family of origin. That would have been bad enough. But the synod's voting members additionally included other male clerics, including representatives from the Curia and the Eastern Churches and even lay brothers, but no women of any kind.³⁸ The invited auditors did include 30 women, including 14 members of invited married couples and three nuns. Of the 16 experts, half were clerics³⁹ and only four were women.

Some bishops did make some efforts to consult the lay faithful, soliciting responses to a questionnaire concerning their attitudes toward marriage and sexuality which had been circulated to the bishops for distribution to parishes by the synod's secretary Archbishop

³⁵ Andrea Tornielli, 'Never be Afraid of Tenderness', La Stampa, 14 December 2013 <http://www.lastampa.it/2013/12/14/esteri/vatican-insider/en/never-be-afraid-of-tenderness-5BqUfVs9r7W1CJIMuHqNeI/pagina.html>

³⁶As Francis told the International Union of Superiors General,"In Buenos Aires, I had this experience three or four times: a good priest came to me and said, I have a very good layperson in my parish: he does this and that, he knows how to organise things, he gets things done. Shall we make him a deacon? Or rather: shall we clericalise him? No! Let him remain a layperson. Don't make him a deacon. This is important." Id.

³⁷ Id.

³⁸ See James Martin, Where were the voting women at the Synod? America 24 Oct. 2015 available at <http://www.americamagazine.org/content/all-things/where-were-voting-women-synod-0>.

³⁹ Among the clerical experts was the infamous Tony Anatrella, as to whom, see Mary Anne Case, After Gender The Destruction of Man? The Vatican's Nightmare Vision of the Gender Agenda for Law, 31 Pace L. Rev. 802, 804-5 (2012).

Lorenzo Baldisseri.⁴⁰ But in other dioceses, the bishops merely assumed they knew what the faithful thought. (Or perhaps they feared what they might learn, given that reported responses to the questionnaire indicated overwhelming lack of acceptance by the laity of church teaching on matters such as contraceptive use).

Given that Francis told the International Union of Superiors General he favored “synodality in the parish, in the diocese” rather than a “parish or diocese ... led with a clerical spirit, by the priest alone,” he would have valued this local information gathering. Nevertheless, a half century after Vatican II, the question Cardinal Leo Suenens asked then is still relevant to the synod on the family: “Why are we even discussing the reality of the Church when half of the Church is not even represented here?”⁴¹ When the subject is family, sexuality, and reproduction, the absence of women’s voices and women’s votes is particularly tragic. As Lucia Scaraffia, a synod auditor relegated to the back bench, observed in her new book on women in the church, *Dall’Ultimo Banco: La Chiesa, Le Donne, e Il Sinodo*, even the voice of a nun who could testify from second hand experience that natural family planning is not an option for many African women whose husbands will insist on sex during their fertile period went unheeded. “[T]he synod fathers didn’t seem interested in distinguishing situations, reducing everything to a merely theological problem,” Scaraffia wrote. “It’s not their skin, not their bodies.”⁴²

Pope Francis himself seems oblivious to the irony of a patriarchal approach to such matters. When asked about “responsible parenting” on a visit to the Philippines, he said Catholics didn’t need to “breed like rabbits,” but, when there were serious reasons to discourage new pregnancies, should consult with their pastor about “solutions which are licit.”⁴³ That a pastor might not be the best source of family planning advice and that the woman pregnant with her eighth child on whom the Pope centered his remarks might not, without her husband’s cooperation, be in a position to take the advice seems not to have mattered to him.

At least as important as the substantive content of *Amoris Laetitia* is its approach to the procedures for implementation. In it, Francis early on makes

⁴⁰ See e.g. Patrick Kenny, Synod ‘Questionnaire’ Not Designed for Laity, NCR 29 Dec. 2014, available at <http://www.ncregister.com/daily-news/synod-questionnaire-not-designed-for-laity>; Rome wants the laity to respond to synod survey, Catholic Universe, 8 November 2013, available at <http://www.thecatholicuniverse.com/rome-wants-the-laity-to-respond-to-synod-survey-1992>.

⁴¹ See Mary Luke Tonin, Women in the Church Since Vatican II, America, November 1, 1986 available at <http://www.americamagazine.org/issue/100/women-church-vatican-ii>.

⁴² John L. Allen Jr., Meet the captain of the realists on the Church and women, Crux, 31 December 2016 available at <https://cruxnow.com/analysis/2016/12/31/meet-captain-realists-church-women/>.

⁴³ Apostolic Journey of his Holiness Pope Francis to Sri Lanka and the Philippines. In-Flight Press Conference of his Holiness Pope Francis from the Philippines to Rome, Vatican Online Archive, 19 January 2015 available at http://w2.vatican.va/content/francesco/en/speeches/2015/january/documents/papa-francesco_20150119_srilanka-filippine-conferenza-stampa.html.

clear that not all discussions of doctrinal, moral or pastoral issues need to be settled by interventions of the magisterium. Unity of teaching and practice is certainly necessary in the Church, but this does not preclude various ways of interpreting some aspects of that teaching or drawing certain consequences from it.... Each country or region, moreover, can seek solutions better suited to its culture and sensitive to its traditions and local needs. For “cultures are in fact quite diverse and every general principle... needs to be inculturated, if it is to be respected and applied” (AL 3).

That different bishops’ conferences and dioceses are taking radically different approaches to the availability of communion to the divorced and remarried in the aftermath of the Synod and in light of *Amoris Laetitia* may be for Francis a feature and not a bug. But there is a risk to women to putting them at the mercy of local cultures and traditions that may be particularly oppressive. (Consider in this regard, the Pope’s condemnation as “ideological colonization”⁴⁴ any attempt by Western NGOs to condition grants on gender mainstreaming). If the arbiter of local traditions, and thus of the rules that will govern, is a bishop or bishops’ conference, it is, by definition not just by current practice, a decision to be made by men only. Because a woman will be the head of a dicastery long before she will ever be bishop and be a member of one long before she will be a priest, somewhat paradoxically, a decision reserved to Rome may be one in which women have a more direct say than one premised on synodality. Synodality puts women under quasi-feudal patriarchal power, even if, in the more enlightened dioceses, that power may be exercised in their favor.

An “Artificial Theological Ideal of Marriage” that Subordinates Women

As part of his pitch for synodality, Francis acknowledges in *Amoris Laetitia*:

At times we have also proposed a far too abstract and almost artificial theological ideal of marriage, far removed from the concrete situations and practical possibilities of real families. (AL 36)

But he himself does not escape from the “excessive idealization” he condemns because he continues, like his predecessors, to insist on such abstractions as that marriage “becomes the icon of the relationship between God and his people”(AL70)⁴⁵ and that “the couple’s fruitful relationship becomes an image for understanding and describing the mystery of God himself, ...the Trinity” (AL 11). Both of these iconic images have problems, analytically and also from a feminist perspective.

⁴⁴ Apostolic Journey of his Holiness Pope Francis to Sri Lanka and the Philippines. In-Flight Press Conference of his Holiness Pope Francis from the Philippines to Rome, Vatican Online Archive, 19 January 2015, available at http://w2.vatican.va/content/francesco/en/speeches/2015/january/documents/papa-francesco_20150119_srilanka-filippine-conferenza-stampa.html

⁴⁵ Quoting Benedict XVI’s *Deus Caritas Est*.

As to the latter, the claim that the “triune God is a communion of love, and the family is its living reflection” (AL 11) might make more sense if the Trinity were, like its ancient Middle Eastern predecessors, such as Isis/Osiris/Horus, acknowledged to be a holy family with a female member, but Francis, like his predecessors, denies this.⁴⁶ He quotes John Paul II to the effect that “Our God in his deepest mystery is not solitude, but a family, for he has within himself fatherhood, sonship, and the essence of the family, which is love.” (AL 11).⁴⁷ But if “love” is the Spirit, notwithstanding that the Hebrew word for spirit is female and the Greek word is neuter, Francis follows his predecessors in referring to the Spirit exclusively with masculine pronouns, as “he,” not even “it,” let alone “she.” This is as hard to square with his rejection of the proposition that “sex is a property of God himself”(AL 10) as his description of the Trinity is with the marital family.

As for the oft-asserted proposition that the relationship of the husband to the wife is like that of Yahweh to the people Israel, Christ to the Church, and the priest to the faithful, it is even more problematic. For the marriage between God and the people Israel is a Jewish, not a Christian marriage – it is inegalitarian/hierarchical, role-differentiated, and potentially polygamous.⁴⁸ Christian marriage, by contrast has long been defined in canon law as a marriage of equals in which he owes her exactly what she owes him, from the marital debt to fidelity. Even the Pauline demand that wives submit to their husbands as to the Lord (Ephesians 5:22) is made reciprocal. Following John Paul II, *Amoris Laetitia* insists that “[t]he community or unity which they should establish through marriage is constituted by a reciprocal donation of self, which is also a mutual subjection.” (AL 156)⁴⁹ Francis is therefore quite correct to acknowledge that “the analogy between the human couple of husband and wife, and that of Christ and his Church, is ‘imperfect.’” (AL 73). The more seriously it is taken, the worse for women, who have been, as a result, not only subordinated in marriage, but excluded from the ministerial priesthood.⁵⁰

To What Extent Does *Amoris Laetitia* Allow the Wife to Emerge From Within the Home?

It is not just the Psalm with which *Amoris Laetitia* begins, but the rest of the text, that confines women within the home and family, while offering men a broader

⁴⁶ See AL 10. (“It is striking that the ‘image of God’ here refers to the couple, ‘male and female’. Does this mean that ... God has a divine female companion, as some ancient religions held? Naturally, the answer is no. We know how clearly the Bible rejects as idolatrous such beliefs, found among the Canaanites.”).

⁴⁷ John Paul II, Homily at the Eucharistic Celebration in Puebla de los Ángeles (28 January 1979), 2: AAS 71 (1979), 184.

⁴⁸ That there is hierarchy and role-differentiation between God and the people is obvious. As for potential polygamy, consider not only the promises made to Hagar in Genesis 16, but, more importantly, Francis’s acknowledgement in *Evangelii Gaudium* 247 that “We hold the Jewish people in special regard because their covenant with God has never been revoked.”

⁴⁹ Quoting John Paul II, Catechesis (11 August 1982), 4: *Insegnamenti* V/3 (1982), 205-206.

⁵⁰ See Sacred Congregation for the Doctrine of the Faith, *Inter Insigniores: Declaration on the Admission of Women to the Ministerial Priesthood* (15 October 1976) (using the “nuptial mystery” in which “Christ is the Bridegroom; the Church is his bride” to ground the requirement that the priest, like Christ, must be male).

scope. Reaching back from the Psalm to Genesis, Francis notes, “Man is presented as a labourer who works the earth, harnesses the forces of nature and produces ‘the bread of anxious toil’ (Ps 127:2), in addition to cultivating his own gifts and talents.”(AL 15) Does woman have a similar scope for her gifts and talents? Not if one takes AL’s reading of scripture at face value. According to Francis, “The Book of Proverbs also presents the labour of mothers within the family; their daily work is described in detail as winning the praise of their husbands and children (cf. 31:10-31).” (AL24) This limitation would be noteworthy enough if, like the Psalm with which *Amoris Laetitia* begins, the quoted text of Proverbs specifically confined a woman within her home and family circle. But it does not. The woman referred to in Proverbs is, of course, the Woman of Valor, who is as active in the world of commerce as of household labor.

In its analysis of Scriptural passages, *Amoris Laetitia* repeatedly downplays the role Scripture assigns to women in the family. It claims, for example, of Christ

He is also sensitive to the embarrassment caused by the lack of wine at a wedding feast (Jn 2:1-10)... and the anxiety of a poor family over the loss of a coin (Lk 15:8-10). (AL 21).

But in the Scripture it is importantly not in the first instance Christ but his mother who is “sensitive ... to the lack of wine.” He only reluctantly does her bidding. And it is not a “poor family” but a “woman” who is anxious over the loss of a coin. Eliding this detail is doubly damaging, both to woman’s role in the family and to her ability to be recognized as the image of God because the “woman” in Luke who finds her lost coin is meant to represent God rejoicing over a sinner who repents.⁵¹

When women are finally recognized as representing the divine in *Amoris Laetitia*, it is in the context of reinforcing not just equality but complementarity:

Husband and wife, father and mother, both “cooperate with the love of God the Creator, and are, in a certain sense, his interpreters” They show their children the maternal and paternal face of the Lord. Together they teach the value of reciprocity, of respect for differences and of being able to give and take. If for some inevitable reason one parent should be lacking, it is important to compensate for this loss, for the sake of the child’s healthy growth to maturity.... AL 172⁵²

⁵¹ See also AL 28 (saying of Psalm 27:10 that therein “the union between the Lord and his faithful ones is expressed in terms of parental [rather than specifically maternal] love”).

⁵² Quoting *Gaudium et Spes*.

Limits on Feminism and on Complementarity in *Amoris Laetitia*

To the extent *Amoris Laetitia* emphasizes complementarity, it tends to limit the traits women can exhibit to those gendered feminine and the domain in which they exhibit them to the domestic sphere.

Thus, immediately following the passage on reciprocity just quoted above, Francis claims:

The sense of being orphaned that affects many children and young people today is much deeper than we think. Nowadays we acknowledge as legitimate and indeed desirable that women wish to study, work, develop their skills and have personal goals. At the same time, we cannot ignore the need that children have for a mother's presence, especially in the first months of life. ... The weakening of this maternal presence with its feminine qualities poses a grave risk to our world. I certainly value feminism, but one that does not demand uniformity or negate motherhood. For the grandeur of women includes all the rights derived from their inalienable human dignity but also from their feminine genius, which is essential to society. Their specifically feminine abilities – motherhood in particular – also grant duties. ... “Mothers are the strongest antidote to the spread of self-centred individualism...” “ A father, for his part, helps the child to perceive the limits of life, to be open to the challenges of the wider world, and to see the need for hard work and strenuous effort. A father possessed of a clear and serene masculine identity who demonstrates affection and concern for his wife is just as necessary as a caring mother. There can be a certain flexibility of roles and responsibilities, depending on the concrete circumstances of each particular family. But the clear and well-defined presence of both figures, female and male, creates the environment best suited to the growth of the child. (AL 173-4)

From both the very long and rich document that is *Amoris Laetitia* and the very active albeit still short papacy of Francis, I have picked out some strands I find worrisome. This may seem like cherry-picking,⁵³ and a determined advocate for Francis and for Catholic feminism could equally carefully pick and choose passages more favorable. Perhaps we could call this strawberry-picking, given that Francis referred to the women theologians he appointed as “the strawberries on the cake”⁵⁴ and strawberries are sweeter than cherries. Lest I be accused of offering not cherries but sour grapes, I will end with a brief look at some passages a more favorable reading might focus on, but in doing so I must

⁵³ Cherry-picking may be a particularly appropriate metaphor for a paper negatively considering the role of St. Joseph, considering that the Cherry Tree Carol features his refusal to accommodate his pregnant wife by picking cherries for her. See e.g. Mary Joan Winn Leith, The Origins of “The Cherry Tree Carol” How a Christmas carol links the modern Middle East and medieval England available at <http://www.biblicalarchaeology.org/daily/biblical-topics/post-biblical-period/the-origins-of-the-cherry-tree-carol/>.

⁵⁴ See e.g. David Gibson, Seven Pope Francis Quotes That Make Women Wince, Huffington Post 11 Dec. 2014, available at http://www.huffingtonpost.com/2014/12/11/pope-francis-women_n_6307822.html.

note that Francis himself often places express limits on how far a favorable reading can be pushed.

Thus, Francis responds to

those who believe that many of today's problems have arisen because of feminine emancipation. This argument, however, is not valid, "it is false, untrue, a form of male chauvinism". The equal dignity of men and women makes us rejoice to see old forms of discrimination disappear. (AL 54)

But immediately thereafter, he warns that "certain forms of feminism have arisen which we must consider inadequate" (AL 54) and later specifies his objection to "the various forms of an ideology of gender that 'denies the difference and reciprocity in nature of a man and a woman and envisages a society without sexual differences.'" (AL 56) Yet he then notes that "there is no stereotype of the ideal family, but rather a challenging mosaic made up of many different realities" (AL 57). And in his inaugural homily he challenged the application of gender stereotypes to Joseph, whom he described as a "strong and courageous man, a working man, yet in his heart we see great tenderness, which is not the virtue of the weak, but rather a sign of strength of spirit and a capacity for concern, for compassion, for genuine openness to others, for love."⁵⁵ Perhaps, to the extent Francis is right to "see in the women's movement the working of the Spirit for a clearer recognition of the dignity and rights of women," (AL 54), the Spirit may eventually work to dissolve the remaining ambivalence in both him and the Church he leads.

⁵⁵ Homily of Pope Francis 19 March 2013 available at https://w2.vatican.va/content/francesco/en/homilies/2013/documents/papa-francesco_20130319_omelia-inizio-pontificato.html.