

## Introduction

### Arcanum

We are examining the current marriage crisis in the light of the original creation and the code of canon law. I am pleading that we need to implement canon law on separation of spouses especially where the civil-courts have “no-fault” divorce.

In this presentation, I’ll describe no-fault divorce and summarize the canon law on separation and divorce. We’ll explore how the annulment mentality contributes to broken families. Lastly, I’ll read excerpts from diocesan authorities wherein they denied the faithful’s request to help stop marital abandonment in particular cases.

Listen to what Pope Leo XIII taught about the properties of marriage in his encyclical “On Christian Marriage,” *Arcanum Divinae*..

The true origin of marriage, . . . is well known to all . . . that God, on the sixth day of creation, having made man from the slime of the earth, and having breathed into his face the breath of life, gave him a companion, whom He miraculously took from the side of Adam when he was locked in sleep . . . And this union of man and woman . . . even from the beginning manifested chiefly two most excellent properties . . . namely, unity and perpetuity.

Nowadays, canon 1056 restates that the properties of marriage are unity and indissolubility. By unity, the code means spouses will never share themselves with another partner for acts befitting to the procreation of children, so long as they are both alive.

Jesus taught in Mathew 19 that Moses had allowed for divorce because of the people’s hardness of heart, but Jesus said “from the beginning it was not so.” With God’s grace, we can be free from the hardness of heart resulting from original sin.

As a community working to overcome original sin, among other things, we have our Canon Law. I see it as providing a system to ensure justice in our interactions.

The first three canons in the title on marriage show what makes a marriage a marriage (1055-1057). Other canons deal with separation of spouses and the validity of marriage. These issues were not supposed to be judged by the civil courts, as explained in 1880 in *Arcanum*. Pope Leo XIII said:

... Let no one, then, be deceived by the distinction which some civil jurists have so strongly insisted upon - the distinction, namely, by virtue of which they sever the matrimonial contract from the sacrament, with intent to hand over the contract to the power and will of the rulers of the State, while **reserving** questions concerning the sacrament of the Church. A distinction, or rather severance, of this kind cannot be approved;

Unfortunately, it is common to do just what Pope Leo forbid: to separate the sacrament of marriage from the contract of marriage, and then give the government power over marriage. When chancery officials tell Catholics to get divorced before applying for annulments, the Church appears to be saying that this is acceptable – because the civil courts are not trying to judge whether or not the Catholic marriage is valid.

### **Marriage Contracts, *quam in specie et de solutionibus* (c. 1290)**

To address the current crisis, and examine no-fault divorce, we need to define both civil marriage contracts and Catholic marriage contracts. Both are agreements, intended to be enforceable by law, wherein two parties promise to uphold certain obligations. In both the civil and Catholic legal systems, some contracts are invalid, for example, in cases of fraud or insanity.

For civil marriage, marital status gives parties certain rights and obligations for things like property ownership, debt, income taxes, and health insurance. When either party wants to end the *marriage*, a civil no-fault divorce judge will issue a divorce decree upon request. The civil laws in most states only require that one party claim the parties are incompatible, have irreconcilable differences, or that the marriage has irretrievably failed. In other states, they only require that one party lives separated from the other for a specific number of months. If the couple has not worked out the details on their own divorce plan, the judge will make decisions about child custody, property division, and support.

In Catholic marriage contracts, the parties agree to be permanently married and open to children. They have the obligation and right to mutual help and sexual fidelity. They have the obligation and right to live together unless a morally legitimate reason for separation exists, about which I'll elaborate later.

When Catholics disregard the canon law on separation of spouses and have civil no-fault divorce judges adjudicate marital disputes, we are handing marriage to the state.

## Current Practice, Summary of Canon Law

### Civil Forum's no-fault divorce

In civil no-fault divorce, judges and lawyers have no interest in the reason for separation. Lawyer's fees are regularly tens of thousands of dollars. To avoid the fees, a spouse (who has done nothing bad enough to merit separation) will often *agree* to a divorce. If both spouses do not agree, a civil judge will still issue a divorce upon request, and the judge will decide on child custody, property division and support.

Among those who study this topic, it is known that most divorces are forced or coerced. To learn more about no-fault divorce, I recommend the work of Professor Stephen Baskerville, author of "Taken Into Custody: The War Against Fathers, Marriage, and the Family." He was also a speaker at the 2009 World Congress of Families in Amsterdam.

Often, in no-fault divorce, a normal decent husband is forced to live separate from his wife and children and then ordered to pay her spousal and child support. Children and innocent spouses can lose their homes because the court will reward abandoners with half or more of the marital property. If one parent is committing adultery, the court still orders the children to spend overnight visits, or live in a home with the parent committing adultery and the new sex partner.

### Summary of Canon Law

It will be important at this point to summarize canon law's approach to the separation of spouses (primarily canons 1151 to '55 and 1692).

Separation, in and of itself, is the factual occurrence of spouses no longer living together. An Ecclesiastical-Separation is a decree from the Church. It defines the status of those who are living apart, whose marriage has not been proven invalid. Canon 1060 requires that all marriages must be presumed valid until proven otherwise.

For parties in a Catholic marriage, the husband and wife must live together, except when one spouse is doing something so bad that the other spouse has a just cause for living apart (c. 1151). Emotionally growing apart and simple annoyances are not a basis for separation.

Adultery by one party gives the other reason to live apart. Nevertheless, the innocent party is encouraged to forgive the adulterous partner. If an innocent spouse wants to exercise this reason for living apart, he must ask for a separation decree within six

months of learning about the adultery. If the innocent spouse does not ask for a separation decree, it is presumed that the adultery is forgiven and that the innocent spouse is willing to continue living together (c. 1152).

Canon 1153 states that other offenses that justify separation, include causing mental or physical danger, and rendering the common life too difficult. A spouse is not supposed to live apart on his own authority. If a spouse feels there is a reason to separate, the spouse should seek an ecclesiastical investigation and some kind of separation decree. To interpret canon law correctly, one must understand the interpretation in the judgments from the tribunal of the Roman Rota and historical authoritative judgments. The President of the Pontifical Council for Legislative Texts recommends the University of Navarra's *Exegetical Commentary* on canon law. It says three conditions must apply to justify separation for the reason of making the common life too difficult: the behavior must be dangerous; it must be repeated; and separation must be the only way to solve the problem. If there is danger in delay, a party can live apart on his own authority and define his marital status with an ecclesiastical decree thereafter (c. 1153).

Remember, a separation decree defines the status of the spouses who otherwise have the obligation to live together. Jurisprudence from the Roman Rota says, "light injustices from abusive words or / the incompatibility of the personalities of the spouses which make cohabitation troublesome / cannot be considered as sufficient causes to separate the spouses." However, in the civil forum, many states' divorce laws use "incompatibility of spouses" alleged by one party as the ground for divorce.

When ecclesiastical separation decrees are issued, they come from either a tribunal judge (who works for the bishop) or from the local bishop himself (c. 1692 §1). A civil divorce decree (or civil separation or civil annulment) can only be sought after first getting the bishop's permission to approach the civil forum (c. 1692 §2).

If one spouse abandons his marriage when the other has done nothing bad enough to give a morally legitimate reason for separation of spouses, the Tribunal of the Roman Rota has called this malicious abandonment. Malicious abandonment has been considered by the Roman Rota to be a reason for issuing an ecclesiastical separation decree. The decree can also instruct the abandoner to reform his wrongful behavior.

When the spouses live apart, the adequate support and education of children must always be suitably provided (See canon 1154). Historically, jurisprudence normally gives the care of the children to the innocent party where they are to be reared at the

expense of the guilty partner. One Rota case explicitly said that a party at fault in separation is not due support from the innocent party.

As I said, a party can not file for divorce without first having the bishop's permission. The bishop can not grant permission to a party to approach the civil forum without first weighing the special circumstances of the parties. Furthermore, certain conditions must be satisfied before the bishop can give permission to file in the civil forum. One condition is that the decree in the civil forum will be in accord with divine law. The other condition is that an ecclesiastical decree of separation will have no civil effects (c. 1692 §2).

Regarding the two conditions that the bishop must consider before giving permission to file for civil divorce, there is more to be said that I included in the Endnote of my written presentation.

A tribunal judge can send a party to the civil forum from the start, if, after the bishop gives permission, it is known that the case concerns only the *merely* civil effects of marriage. It is important to know what constitutes the *merely* civil effects of marriage, because whatever they are, if a case concerns only them, the case can be handed over to the rulers of state after getting the bishop's permission.

If a tribunal judge believes it is OK for a party to file for civil divorce because the civil court only handles the *merely civil effects* of marriage, it appears that he is mistaken. Civil courts purport to release a party from his obligation to maintain an intact home and this is not a *merely civil effect* of marriage, so it should not be handled by the civil judge. I argue that custody, child support, and alimony are also not the *merely civil effects* of marriage.

The most critical part in the canon law on separation of spouses is that no one is allowed to file for civil divorce without first having the bishop's permission.

### Leading Sources and Contrasts

Regarding canon 1692 that includes the aforementioned requirement, the commentary by the Canon Law Society of America in 1985 shows only these two sentences:

When the consulters met in 1979 to discuss this section, it was proposed that section should be suppressed because, worldwide, spouses hardly ever bring such matter to a church court; therefore, in those few localities where such cases do come to the attention of the church court, local

legislation would suffice. It was finally decided however, to retain this chapter as a kind of restatement of canon 1671.

In their 1985 comments on the canon about the obligation to restore common conjugal life, the Canon Law Society of America included this section titled “Penalties and Separation”:

[c. 1155] There are no ecclesiastic penalties for failure to observe the canons on separation. Spouses who separate without ecclesiastical permission may not be deprived of the sacraments unless one or the other enters a subsequent marriage without ecclesiastical approval.

This statement is curious, to say the least, because some of those who separate may well be in a state of serious sin even if they do not remarry. For example, one can imagine that an adulterer or an abandoner would be in a state of objective grave sin.

Before we had the 1983 code, Article 126 from the Third Plenary Council of Baltimore was still in effect in the United States. It says, “Anyone who petitions in the civil forum ... without the ecclesiastical permission incurs grave guilt and is to be punished through the judgment of the bishop.” While it is true that the 1983 code derogated the *punishment* part of this particular law, the new code has no effect on the objective sinfulness of actions.

The Catechism clearly says that divorce is immoral, a grave offense against nature, and only allowable in circumstances as defined in canon law. The Catechism uses the words *grave* and *immoral*, and according to canon 915, those who obstinately persevere in grave manifest sin shall not be admitted to Holy Communion.

In 1984, the Vatican’s publishing company had an article on “The Cases of Separation of Spouses in the New Code” that emphasized the Church’s role in trying to restore troubled marriages and described the canonical procedure for handling cases of separation.

## **Annulment Mentality**

### **Why does one abandon marriage?**

There are too few Catholics—especially in positions of authority—willing to intervene and relentlessly discourage someone from filing for divorce.

## Statistics

Those who try are up against a well-funded establishment of tribunals. In 2012, sixty-two active tribunals, that covered half the Catholic population in the U.S., granted annulments in the first instance to 98.7 percent of the petitioners. In 23 of these dioceses, annulments were granted to 100% of the petitioners. The total annual expenses reported by these tribunals was over fifteen million dollars.

## Problems

### Procedure

Incorrectly interpreting the grounds for nullity is a problem that occurs in a number of U.S. tribunals. I'll share two examples of procedural violations.

I know respondents who wanted to defend themselves but had no idea where to start because the tribunal never gave them what canon law requires: the petitioner's general description of the facts and proofs that support the claim of invalidity of the marriage. This is as preposterous as being falsely accused of stealing a car, and not being told when and where the alleged crime occurred.

#### *Petitioner Not Informed During Procedure*

One man told me that / after have been the defendant in a no-fault divorce, / he was persuaded by the deacon who conducted the couple's marriage preparation to petition for invalidity of his marriage. The man learned years after the tribunal granted the annulment, that the tribunal had issued two different versions of their final "definitive decree." In the man's version, the argument section was six lines long. In the woman's version, the argument section was four pages long, and man was dumbfounded that it was based on his alleged psychological problems primarily attributed to his difficult upbringing. If this story had been included in the original petition, he would never have signed it. Moreover, in this longer decree, the psychic anomaly was unsubstantiated by any expert psychologist witness. The tribunal judge had even quoted a civil forum psychologist who had written: "There is no persuasive evidence that [the] father suffers from any serious mental illness or mood disorder."

## Annulment Reform - *Motu Proprio, Mitis Iudex, Dominus Iesus.*

Changes in the annulment procedures were just announced that include the option for a streamlined process. On September 8<sup>th</sup>, Pope Francis issued his *Motu Proprio*. The

June 23 working document for the upcoming bishops' synod, said that there was an interest in making the procedure in cases of nullity more accessible, less time-consuming and less expensive.

Regarding expense, in dioceses that grant annulments in over 98% of the cases, if a Respondent wants to defend his marriage, there are virtually no diocesan canon lawyers (advocates) available who have experience working on cases that upheld the marriage bond. So a Respondent either has to learn how to defend himself, or hire a private canon lawyer. Many parties defending the validity of their marriage have been financially ruined after being a defendant in a no-fault divorce.

Cardinal Raymond Burke emphasizes, that if done properly, the ordinary contentious process, used for complex nullity cases, is not terribly time consuming. He says that it is not the process that is problematic, but the lack of trained personnel ready to execute the process. This begs the question. Are the personnel disregarding the procedural requirements because they do not know the process, do not want to follow it, or are put in the impossible situation of not having enough staff to follow it?

Our organization, Mary's Advocates, sent a proposal to the eleven members of Pope Francis' commission for annulment. We introduced a way to use technology to make the procedure more accessible, less time-consuming and less expensive, once the system is set up. Our proposal could also minimize the risks of abuse and misinterpretation of the grounds for invalidity of a marriage.

In Pope Francis new annulment rules, he eliminated the automatic review by a second tribunal before a decree of nullity could take effect. If this review was an incentive for judges to follow the law and interpret grounds for nullity in accord with the jurisprudence from the Roman Rota, then removing the review increases the risk of abuse.

The new Canon 1672 removes the Respondent's right to be consulted before the competency is chosen, so now the case could be judged by the Petitioner's diocese even if the Respondent objects.

Canon 1678 §2 removes the requirement for testimony to be corroborated.

The annulment reform's canon 1675 eliminate the judge's obligation to use pastoral means to try to have the spouses reconcile. Some number of marriages fail because one spouse abandoned the marriage and is unwilling to reconcile, even though the other did nothing bad enough to justify separation. If there is any chance that the abandoner might

change his mind if encouraged by the Church to reconcile, it is unfortunate for the children and the faithful spouse that the judge in an annulment case is no longer obligated to “use pastoral means to induce the spouses . . . to restore conjugal living” (c. 1676).

### *Streamlined*

Pope Francis’ *motu-PROPRIO* announced a new streamlined annulment process for certain cases. In the streamlined process, personnel who are not canon lawyers manage the collection and summary of proofs.

On the streamlined track, the bishop / who may never have studied canon law / is the judge. When a bishop wants virtually all petitioners in his diocese to get their annulments, the streamlined process will enable him to achieve his goal with fewer diocesan resources. For example, if a bishop believed the claim of simple immaturity in relational matters was a ground for nullity, it could be made known that the petitioner needs to make that claim on a petition and request the streamlined process, and the bishop himself could issue the decree of invalidity quickly.

Regarding the claim that simple immaturity is a ground for invalidity, St. John Paul II publicly corrected this error in his 1987 address to the Roman Rota. It was also corrected publicly by the Dean of the Roman Rota in 2006.<sup>1</sup>

### **Idea: Nullity accusations can result in separations in accord with Divine Law**

My hope is that we will start making honest distinctions between  
a party who was incapable of marriage consent,  
a party who chose to renege on his or her marital obligations, and  
a party who lied (simulated) when making marriage promises.

These facts should be uncovered before a party approaches the civil forum for divorce because these distinctions are relevant to determining the parameters of a separation plan that is not contrary to divine law. This determination is part of what the local bishop is supposed to consider before giving permission for anyone to approach the civil forum (as required in canon 1692 §2).

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<sup>1</sup> Some Indications about Canon 1095 in the Instruction *Dignitas Connubii*, His Excellency Antoni Stankiewicz, Titular Bishop of Novapetra, Dean of the Tribunal of the Roman Rota. Page 38. Published in *Studies on the Instruction Dignitas Connubii*, Patricia M. Dugan and Luis Navarro (Editors), Proceedings, Grantianus Series, Montreal, Wilson & Lafleur Ltee, 2006 pages 33-49

## Disregarding Canons on Separation of Spouses

In cases for separation of spouses, the canons still show that the judge is obligated to attempt to work toward reconciling the couple (in canon 1695). Let me share with you what I have learned from Catholics who have asked the Church for help when a spouse wanted a no-fault divorce.

### Clergy Responses to Pleas from the Faithful

#### **Felix**

One husband (I will call him Felix) told me about his experience. When his wife became unhappy in their marriage, she told Felix that she no longer loved him, liked him, or even respected him. According to the wife, the associate pastor told her “If she had done everything she can do, then she should divorce Felix.” Felix says there is no way he was doing anything bad enough to merit separation.

Felix wrote to the diocesan offices, describing his concern about the associate pastor encouraging separation and divorce, and telling his wife that she was free to date. Here is an excerpt from the response:

It is not pastorally wise to force people to stay in marriages that are not happy or good. The very fact that the Church has a Marriage Tribunal indicates that there is a recognition of the reality that some marriages are judged not to be sacramental. While it is our responsibility to encourage and promote marriage as a sacramental, permanent union, sometimes that does not occur.

Felix knows that church cannot force his wife to reconcile, but they could at least teach her that in their circumstances divorce is immoral and a grave offense against nature (¶2384-2385). In St. John Paul II’s 2004 address to the Roman Rota he taught that, “[In] accordance with human experience marked by sin, a valid marriage can fail because of the spouses’ own misuse of freedom.” Felix could find no one to tell his wife that her interest in divorcing Felix could be sinful. He could find no one to tell her that their difficulties “could be overcome, were it not for their refusal to struggle and make sacrifices” as taught by St. John Paul II, in his 1988 address to the Roman Rota.

### **Unwilling to decide case on separation of spouses**

Another husband I know petitioned his bishop's office seeking the intervention of the diocese to help reconcile his marriage after his wife had abandoned him for no legitimate reason. Furthermore, he requested that if his wife would not reconcile, a decree of separation would be issued "in recognition of wife's unilateral decision to abandon the conjugal life." He received a two-paragraph reply. The first paragraph described how the couple's pastor said the wife "has no interest in addressing issues of reconciliation." In the second paragraph, the husband's request for a decree of separation was denied because the diocesan official thought that issuing a decree of separation would harm the rights of either party to petition for a decree of nullity in the future.

### **No Delict, No Crime**

In another case, a letter was written to the bishop by some people who were disappointed about a husband abandoning his wife (We will call him Jack). Citing Canon Law and the Catechism, they requested a preliminary investigation and possible penalties, hoping to motivate the abandoning husband to reform. They also said that the husband should be denied Communion if he obstinately perseveres in grave manifest sin (per canon 915). Here are excerpts from the bishop who denied their request and referred to a letter he had written Jack earlier:

The letter I wrote to Jack was a pastoral exhortation to encourage him to reconcile with his wife. There is no canonical penalty attached to his failure to respond. [...] Jack could justly argue that he is being singled out for unjust treatment because an investigation of others who separate and divorce without permission from the legitimate Church authority is not done. [...] Jack would not be considered in manifest grave sin unless he was cohabiting with a woman or remarried. Even if he were to cohabit or remarry, neither is a delict. [...] Divorce is a grave matter. Divorce however is not a crime in Church law. [...] I respectfully remind you that no one may unlawfully harm the good reputation of an individual or violate the right to protect his or her privacy (canon 220) which is also an obligation in natural law. Your reference to Jack as "offender" is presumptive, inflammatory and lacking in charity.

I cannot figure out why this bishop says that Jack would not be considered in grave manifest sin unless he was cohabiting. This bishop appears to believe that marital

abandonment and forcing divorce is not a grave sin. Moreover, the abandonment is manifest to everyone who knows the family closely.

It is true that in canon law, marital abandonment is not specifically listed as a delict (crime). However, both the Promoter of Justice at the Apostolic Signatura and the Secretary explained in 2005 how the bishop could proceed easily with an administrative penal process, even if a particular offense is not clearly identified as a delict.

Cardinal Raymond Burke addressed the confusion about whether the denial of Communion is a canonical penalty in his 2007 article “Canon 915: The Discipline,” published by Gregorian University. He said “there are other cases in which Holy Communion must be denied, apart from any imposition or declaration of a canonical penalty.”

I propose that marital abandonment (where the other spouse has done nothing bad enough to merit separation) may well rise to the level wherein Holy Communion must be denied.

## Communion after divorce

Catholic officials regularly teach that those who are divorced are free to receive Holy Communion, and it is only those who are remarried without an annulment who may not receive Holy Communion. When this statement stands alone without clarifying the distinction between a faithful spouse and an abandoner, the Church appears to condone both parties in all divorces. An innocent spouse who has a morally legitimate reason for separation must be distinguished from a spouse who does something bad enough to merit separation for the other.

## Support Programs

After divorces have occurred, there are pressures everywhere encouraging people to give up on marriage, even in the Church. For example, *Irene's* husband left her over six years ago and forced her through a no-fault divorce. She remains faithful to him even though others tell her that she should date and find a new spouse.

In diocesan-sponsored programs, she has found virtually no support to remain faithful to her husband. In the United States, two popular programs in fact do the opposite. There is the collective assumption that the wrong spouse was chosen in the first marriage. Annulments are described as the healing, pastoral practice that frees

participants to date and seek another spouse, and annulments should be sought. It is presumed that everyone is free to date and find a new partner after certain emotional steps are completed.

In Irene's example, though her husband is renegeing on his marital obligations, they *are married*, and Irene cannot *stop being married* any more than I can stop being my son's mother.

Irene **DOES** however feel supported by Cardinal Müller, prefect of the Congregation for the Doctrine of the Faith. Listen to what he said in 2014 about the Church's role in healing wounds.

The Church, on the other hand, is called in this world to give the hope that enables us to endure life patiently with the wounds that we accumulate. It is neither lawful nor right, for example, for a layman or a priest to tell someone who is suffering because she has been abandoned by her spouse, 'Well, now you can marry someone else.' That does not help, since this person is still wounded by the abandonment that she has suffered, and as we know, a wound is not healed simply by covering it up or even by denying that it exists. One is not healed by merely trying to 'start over from zero.' One is healed by offering up to Christ the wound that one has suffered, by fighting the good fight of the faith.

## Leading to Conclusion

### Implementing Canon Law

I can only guess how challenging it would be to start implementing the canon laws on separation of spouses in a region where no-fault divorce practitioners have been controlling separations for decades.

A starting point would be for priests and professed Catholic counselors to stop telling dissatisfied spouses that it is all right to divorce simply because you feel love is dead or you have grown apart. Pastors could also widely publicize the availability of helps that have high success rates for reconciling spouses, such as *Retrouvaille*, Focus on the Family's National Institute for Marriage, or The Alexander House.

Moreover, before a pastor recommends a marriage counselor, he could check whether the counselor would be willing to keep in mind the canon law on separation, including the need for the bishop's permission before filing for civil divorce.

After the recent US Supreme Court ruling giving homosexual couples the right to enter civil marriages, Catholic priests might want to stop being *officiants* for state marriages altogether. In the United States, when parties exchange vows in a Catholic Marriage Rite, the priest is simultaneously performing a marriage ceremony for the state. In essence, the state thereafter recognizes that the parties are civilly married, thereby leaving an innocent spouse and children susceptible to the maneuverings of no-fault divorce practitioners. Because the rights and obligations of Catholic marriage are so contradictory to the rights and obligations of civil marriage, it may be time to officially separate the contracts. Parties who are canonically qualified to enter Catholic marriage could exchange vows in the Rite of Catholic marriage, and only if they wanted the health insurance or tax benefits of having a civil marriage, they could afterwards do so through a contract that is completely distinct from entering a Catholic marriage.

Constitutional law expert, Stephen Safranek, says we could provide a better framework for Catholics to think about the type of marriage they are entering. An engaged couple could sign an agreement promising to abide by canon law and designating the Church as the arbitrator of any future disputes. This agreement should be acknowledged by the civil court as a prenuptial agreement.

### **Separation in accord with Divine Law**

If we are truly interested in implementing canon law on separation of spouses, experts in Church law and moral theology must explore how justice and natural law should be applied in common cases of separation. It would not be too hard, to list, for example, 20 common reasons why marriage's break-up. We could include legitimate reasons for ecclesiastical separation decrees intermixed with grounds for invalidity of marriage when those are applicable. There are many questions that need to be answered so the faithful can receive instructions about the parameters of a separation plan that is in accord with divine law.

Consider, for example, a wife that wants to divorce her husband because she feels they have grown apart. Shouldn't the children keep in every-day contact with their father? Shouldn't the wife be expected to contribute her share to the maintenance of home where the innocent husband can live with the children? In no-fault divorce decrees, the wife has the power to financially devastate her children by forcing the resources of two parents to be split to maintain two households.

Imagine a case in which one party is faithful to the marriage and did not cause the separation or divorce. Shouldn't that party be able to have the children live with him?

Think about one who was responsible a break up (who was either the cause of the separation, or the cause of an invalid marriage). Picture a man who abandoned a marriage because he wanted to have a sexual relationship with another woman. Presume it could be proven that this man entered an invalid marriage because he simulated his vows and never intended to be sexually faithful. After separation, if he wants to see the children, shouldn't he see them in such a way as to not disturb the normal household and community schedule of the children with their mother? No-fault divorce decrees commonly would order the children to spend overnight visits with their Dad and his new sex partner.

Answers to these questions can show what is in accord with divine law and even natural law.

In conclusion, I emphasize the dire need for the Church to implement our own Canon law about separation of spouses before anyone files for divorce in the civil forum – especially in regions with civil no-fault divorce. Canon 1692 §2 has the bishop consider whether or not a civil decree would be in accord with divine law. When a professed Catholic abandons his or her marriage for no morally legitimate reason, I ask the Church to implement canon law and to do what Pope Leo XIII described in *Arcanum*: “soften the evils of separation by such remedies and helps as are suited to the parties' condition and never cease to endeavor to bring about reconciliation.”