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## Kasper's Flawed Path to Mercy for Divorced and Remarried

[Monica Migliorino Miller](#)



**In a recent interview with EWTN journalist Raymond Arroyo,** Cardinal Walter Kasper stated that Pope Francis never approved his “proposal” that would permit divorced and remarried Catholics to receive Holy Communion. Most of those commenting on Kasper’s clarification focus on this aspect of *The World Over* interview. After all, this seems to be something of a startling admission given the fact that for months a definite impression prevailed that indeed the pope was at least sympathetic to Kasper’s revisionist theology. Pope Francis highly praised Kasper’s February 20, 2014 opening speech to the Vatican’s Consistory on the Family in which the German bishop laid out in detail how the Church could admit divorced and remarried Catholics to Communion.

The following day, Francis called Kasper’s approach “profound theology,” “serene theology,” saying “it did me good” and called it “theology on one’s knees.” Thus

commentators and Kasperian allies may be excused if they thought Francis approved of Kasper's proposal. Now Kasper states that the pope never approved of his theology, he only approved of opening debate on the subject. Many think Kasper is responding to a change in the wind as the Vatican prepares for the October 2015 Synod on the Family.

While Kasper humbly admits that Francis never supported his theology, the Kasper/Arroyo interview provides the freshest publicly accessible articulations of Kasper's arguments as to how the Church can admit divorced and remarried Catholics to Holy Communion. In this article we wish to make sense of his position and its implications for the Church. Kasper affirms that sacramental marriages are indissoluble. Motivated by mercy he seeks a way to admit to Holy Communion those faithful Catholics who are divorced and remarried while *at the same time* not compromising the unchangeable doctrine that he described as "the word of Jesus Christ" that sacramental marriage is indissoluble. The question is—does his theology succeed?

Kasper's argument rests on a distinction between what is referred to (especially among canon lawyers) as the *internal* versus the *external* forum. The internal forum is a person's own subjective conviction of their spiritual state, while the external forum is the objective judgment of the Church. As applied to marriage it is possible that while a marriage tribunal affirms that a person's first marriage is valid, one or both of the spouses sincerely believes it is not. This could actually work in the reverse, where a tribunal makes a declaration of nullity, but the spouses fully believe in conscience that the marriage was indeed valid! Of course, the Kasper proposal concerns only the first situation—that of a spouse or couple, whether they have sought an annulment or not, who truly believe that the marriage was not a true sacramental bond and have contracted a second marriage in a civil court. Kasper believes that such couples should be allowed to receive Communion since they are not in "grave sin."

Of course, the objection is raised that they are in "grave sin," that the second marriage constitutes adultery as it is an attack on the sacred unbreakable one-flesh union of the first marriage. But for Kasper the divorced and remarried are not necessarily in the eyes of God committing "grave sin." For one to be in a state of "grave sin" one must *believe* that what he or she is doing is wrong. So Kasper talks about the criteria that needs to be applied by a confessor or parish priest to discern that such and such a couple are not in "grave sin." First, the couple has no doubt that the first marriage was invalid, as Kasper told Arroyo "grave sin is not only grave material" (objective offense against the good) but involves conscience, intentionality (movement of the will to do evil) and also the subjective circumstances. Thus with heavy reliance on *internal forum* the Church will trust or presume that the first bond was not indissoluble, that certain divorced and remarried couples are not in "grave sin" and thus mercifully may open a path for them to receive Holy Communion. In other words, the Church is *not* permitting those actually *guilty* of adultery to receive Communion and so the doctrine of the indissolubility of marriage is preserved. I don't know if this is "theology on one's knees" but it is rather ingenious.

The authority Christ gave to his Church to bind and loose comes into play. Kasper has quite an idiosyncratic approach to the sacrament of marriage and the power of the keys. He told Arroyo that marriage is "an icon, an image of the alliance of God with his people." He appears to accept that this "image" is an unbreakable bond that participates

and makes present the bond between Christ and the Church. However, he goes on to say “often the people of God abandoned him” and that “Jesus was rejected by his people.” He then states that Jesus gave the apostles the authority to “forgive or not to forgive, to bind and to loose and all this is also a sign of mercy.” Mercy has priority over justice and since “God acts in this way, the Church can do it also.”

Kasper is arguing that while marriage is a sacrament—like the people who abandoned God and rejected Christ, there is sin in marriages and couples often fail to live the bond of marriage. The Church has the power to forgive such failures by her authority to bind and loose. Thus, assuming the proper internal forum criteria is met, the Church can “loose” a person or couple from the first marriage, permit the second marriage and welcome such couples to Holy Communion.

Kasper’s analogy of the Jews’ abandonment of God with the failure of couples in a sacramental marriage is improper. The fact is, unhappy and failed marriages do not affect the sacramental indissolubility of marriage. Unlike the Jews abandoning God, failed marriages do not mean there is no marriage. Jesus taught that while Moses permitted divorce “because of the hardness of heart” such is not the case in the New Covenant. Couples can through the power of the keys, receive forgiveness for whatever role they may have played in the failure of the marriage—but the power of the keys cannot make them unmarried. Canon 1141 states no human power, meaning not even a pope, can dissolve ratified and consummated sacramental bonds.

Kasper argues his position by referring to none other than Cardinal Ratzinger (Benedict XVI). In 1994 the then head of the Congregation for the Doctrine of the Faith issued a letter to bishops affirming that divorced and remarried Catholics are not permitted to receive the Eucharist, yet they may avail themselves of “spiritual communion.” Kasper seizes on this point and argues that by spiritual communion the person is “united with Christ he cannot live in grave sin, this would be a contradiction.” He believes if the divorced and remarried can receive the spiritual benefits of Holy Communion through “spiritual communion” (through sacrament of desire) it is illogical to forbid them to actually receive the Eucharist.

We cannot provide here a [full explanation](#) of spiritual communion. Suffice it to say that it is possible to receive spiritual benefits of Communion through an act of desire for the sacrament itself. Kasper doesn’t sufficiently account for a distinction between spiritual and sacramental Communion. We must keep in mind that the point of Kasper’s *entire* thesis is that, according to certain criteria of the internal forum, the divorced and remarried *may not be in grave sin*. If the Church encourages them to make acts of spiritual communion—then such couples should be able to receive the real thing itself! After a period of penance for the failure of the first bond, those in a second marriage commit no *personal* sin against God, and so mercy requires that they be allowed access to Communion.

However, even if a Catholic truly believes in his or her heart that the first marriage was not valid, and even if this were in fact *objectively the case*, the Kasper proposal fails to sufficiently recognize the duties Catholic couples have toward the Body of Christ.

Marriage is an ecclesial reality, not a merely private one, the status of which cannot be sufficiently resolved in the privacy of conscience. The Catholic owes the Church a witness and a fidelity to the bond of marriage contracted in the Church before the community of believers and this is why there is a formal process for discerning through that annoying and aggravating external forum, the status of the bond. It may be argued that Catholics who are divorced and remarried who present themselves for Communion are thus not entirely in good conscience because they fail to fulfill their obligations to the ecclesial community.

Kasper's proposal creates canonical and spiritual difficulties:

- 1.) If the public status of a sacramental marriage can be privately discerned, the door is opened to increased divorce and remarriage among Catholic couples—as ecclesial responsibility to the bond of marriage is lessened.
- 2.) There will be a drop in the number of couples who seek an official declaration from a marriage tribunal and who could perhaps actually regularize the second marriage depending on the tribunal's decision.
- 3.) With Kasper's approach to the internal forum and the power of the keys, no logical reason exists why this approach should apply only to the problem of divorce and remarriage. His policy could be applied to other kinds of spiritual/moral failure. What's to keep Kasper's proposal from being applied to priests who believe their ordinations are not valid, who leave the priesthood, marry, have children and are not laicized, etc.?

Kasper's path to a sacrament that speaks and makes present the nuptial union of Christ and his Church may be a mercy—but, for the divorced and remarried it may be mercy wrapped in a lie.

## By [Monica Migliorino Miller](#)

Monica Migliorino Miller is the Director of [Citizens for a Pro-life Society](#) and Associate Professor of Theology at Madonna University in Michigan. She holds a degree in Theatre Arts from Southern Illinois University and graduate degrees in Theology from Loyola University and Marquette University. She is the author of several books including *The Theology of the Passion of the Christ* (Alba House) and, most recently, [The Authority of Women in the Catholic Church](#) (Emmaus Road).