

# CONSIDERATIONS ON THE DUBIA OF THE FOUR CARDINALS

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Cardinals Brandmüller, Burke, Caffarra and Meisner have performed a signal service to the Church by sending five *dubia* on the apostolic exhortation *Amoris laetitia* to the Holy See, requesting an authoritative clarification of the meaning of that document, and then making public the text of the *dubia* when no response to them was given. Cardinal Burke has performed a further service to the Church by explaining this initiative in an interview with Edward Pentin of the *National Catholic Register* on Nov. 15<sup>th</sup> 2016, and stating that if no response was given to the *dubia* the cardinals would have to make a formal act of correction of a serious error.

As is proper, the *dubia* were formulated in a manner appropriate to an official request of this kind, and the formal act of correction to which Cardinal Burke refers is an act with a legal character. Catholics may find it helpful to be given a presentation of the canonical, historical and theological background to the *dubia* and the suggested act of correction, and to the situation that has led to the action of the Cardinals. This background is no doubt well known to the four Cardinals, but it is less accessible to those who lack their specialised knowledge. This article is intended to help with the comprehension and appreciation of their initiative.

## *The dubia*

The *dubia* of the four cardinals were sent to Pope Francis on Sept. 16<sup>th</sup> 2016. They are as follows (the numbering is inserted here for ease of reference):

1. It is asked whether, following the affirmations of *Amoris laetitia* (nn. 300-305), it has now become possible to grant absolution in the sacrament of penance and thus to admit to Holy Communion a person who, while bound by a valid marital bond, lives together with a different person *more uxorio* without fulfilling the conditions provided for by *Familiaris consortio* n. 84 and subsequently reaffirmed by *Reconciliatio et paenitentia* n. 34 and *Sacramentum caritatis* n. 29. Can the expression “in certain cases” found in note 351 (n. 305) of the exhortation *Amoris laetitia* be applied to divorced persons who are in a new union and who continue to live *more uxorio*?
2. After the publication of the post-synodal exhortation *Amoris laetitia* (cf. n. 304), does one still need to regard as valid the teaching of St. John Paul II’s encyclical *Veritatis splendor* n. 79, based on Sacred Scripture and on the Tradition of the Church, on the existence of absolute moral norms that prohibit intrinsically evil acts and that are binding without exceptions?
3. After *Amoris laetitia* (n. 301) is it still possible to affirm that a person who habitually lives in contradiction to a commandment of God’s law, as for instance the one that prohibits adultery (cf. Mt 19:3-9), finds him or herself in an objective situation of grave habitual sin (cf. Pontifical Council for Legislative Texts, Declaration, June 24, 2000)?

4. After the affirmations of *Amoris laetitia* (n. 302) on “circumstances which mitigate moral responsibility,” does one still need to regard as valid the teaching of St. John Paul II’s encyclical *Veritatis splendor* n. 81, based on Sacred Scripture and on the Tradition of the Church, according to which “circumstances or intentions can never transform an act intrinsically evil by virtue of its object into an act ‘subjectively’ good or defensible as a choice”?

5. After *Amoris laetitia* (n. 303) does one still need to regard as valid the teaching of St. John Paul II’s encyclical *Veritatis Splendor* n. 56, based on Sacred Scripture and on the Tradition of the Church, that excludes a creative interpretation of the role of conscience and that emphasizes that conscience can never be authorized to legitimate exceptions to absolute moral norms that prohibit intrinsically evil acts by virtue of their object?

No response to these dubia has as yet been received

A *dubium* is an inquiry on a canonical, liturgical or doctrinal question that is sent to the Holy See with a request for an authoritative and final response. It is a prerogative of bishops to send such *dubia*, since the answers to the questions in them can be necessary for the exercise of their office. They are formulated in such a way as to be susceptible of a ‘yes’ or ‘no’ answer, since the response to them is an authoritative act of ruling as well as of magisterial teaching. *Dubia* from bishops are in consequence always answered, and the refusal of the Holy See to answer these *dubia* is thus an extraordinary act.

The formulation of the *dubia* may seem curious, since they ask if *Amoris laetitia* has contradicted and abolished teachings that are described in the *dubia* themselves as based on Scripture and Tradition. As Cardinal Burke observes, magisterial statements have the opposite function – that of clarifying and upholding the teaching of Scripture and Tradition – and they do not have the power to contradict or abolish these teachings. Their formulation is however understandable in the light of the reason given for the *dubia*, which is the grave disorientation and great confusion of many faithful regarding extremely important matters for the life of the Church, and the fact that within the episcopal college there are contrasting interpretations of Chapter 8 of *Amoris laetitia*. This disorientation and division results from the fact that many Catholic bishops, priests, and laity do indeed understand *Amoris laetitia* as abolishing elements of Scripture and tradition, and claim that these elements should be rejected on the authority of *Amoris laetitia*. The cardinals rightly seek an authoritative statement from the Holy See to the effect that this is not the case. The questions in the *dubia* should be read as having the form of those Latin questions beginning with the word ‘num’, a word that indicates that the answer to the question should be ‘no’.

It is useful to compare the *dubia* to the theological censures of *Amoris laetitia* signed by 45 Catholic scholars and sent to Cardinal Sodano, the dean of the College of Cardinals, on June 29<sup>th</sup> 2016.[1] These censures and the *dubia* were developed and sent independently – although

the four cardinals would have been aware of the contents of the censures, since a copy of them was sent to every member of the Sacred College. The *dubia* do not inquire about the meaning of texts of *Amoris laetitia* or the content of the teaching it contains. They simply ask for clarification that this text and teaching do not contradict divine teaching. The censures on the other hand assert that some of the texts of *Amoris laetitia* are heretical, in the sense that the average reader is liable to attribute to their words. The 'average reader' is defined as one who is not trying to twist the words of the document in any direction, but who will take the natural or the immediate impression of the meaning of the words to be correct. The four cardinals are more circumspect in their approach. Their position is not however incompatible with that of the censures, since their *dubia* would not be worth raising if the text of *Amoris laetitia* did not in fact contradict Catholic teaching on a natural interpretation of its words.

The content of the *dubia* is closely related to that of the censures ; *dubium* 1 corresponds to censure 12, *dubium* 2 corresponds to censure 11, *dubium* 3 corresponds to censures 7 and 8, *dubium* 4 corresponds to censures 10 and 11, and *dubium* 5 corresponds to censure 10). More generally, both the *dubia* and the censures identify two kinds of heretical deviations that seem to be present in *Amoris laetitia*; errors concerning specific questions concerned with the morality of actions by divorced and remarried Catholics, and errors about general moral and theological principles that are used to justify the specific erroneous claims (and that must be maintained if these specific claims are to be defended). The general claims are important because they extend the denial of Catholic teaching beyond the area of marriage and sexual morality, and into fundamental questions of law, grace, and justification. These fundamental questions extend the theological issues at stake beyond the content of *Amoris laetitia*, because they are related to the statements of Pope Francis on the theology of Martin Luther. The agreement between the *dubia* and the censures is significant as indicating that the four cardinals are not simply upholding their individual theological opinions, or engaging in a purely political attack on *Amoris laetitia*. They are presenting a theological position that is shared by a large number of reputable and scholarly Catholic theologians.

#### *The nature of the error in Pope Francis's statements*

Cardinal Burke in his interview with the *National Catholic Register* states, "There is, in the Tradition of the Church, the practice of correction of the Roman Pontiff. It is something that is clearly quite rare. But if there is no response to these questions, then I would say that it would be a question of taking a formal act of correction of a serious error."

The initiative of formally correcting the error of the Supreme Pontiff is quite a different kind of act from the submission of *dubia*. The idea of such an initiative is not familiar to most Catholics, and raises a number of questions that call for answers. To begin with, the term 'error' in this context requires discussion. In order to understand what it could mean, we must first consider the nature of heresy.

The essence of heresy lies in the denial of a truth that has been divinely revealed, i.e., that has been communicated to mankind by God Himself, and that is believed to be true on this account, because God can neither lie nor be deceived. Such a truth can be denied either by doubting it – and thus implicitly rejecting its divine origin – or by positively affirming a proposition that contradicts it.

This denial itself can take more than one form. On a *moral* level, it is the refusal of an individual to believe or profess that a doctrine of the faith is true and is known to be true as being communicated by God. This refusal, which in a Catholic is a sin against the theological virtue of faith, can be judged by a priest in the confessional. It can be absolved or not absolved, depending on whether or not the individual in question manifests contrition for this sin and rejects it by again believing and professing the truth that he had denied. On a *doctrinal* level, heresy is a property of propositions rather than of persons. ('Proposition' is a technical term for a basic notion ; a proposition is anything that can be true or false and can be thought or expressed in language.) A heretical proposition is one that contradicts a proposition that has been divinely revealed.

On a *juridical* level, heresy is a crime that is punishable by canonical means. The juridical notion of heresy involves not only public expression of a heretical proposition, but pertinacious adherence to this proposition. Such pertinacity exists when the individual is confronted with the fact that the proposition is heretical by the responsible authorities of the Church, and refuses to renounce the proposition.

A person who is juridically culpable of heresy may be presumed to also be guilty of the sin of heresy. The medicinal function of canonical punishment for heresy, which seeks to promote the spiritual good of the person upon whom it is imposed by providing them with a motivation to turn away from their sin of unbelief (cf. 1 Tim. 19-20), presupposes that the juridical offence is an indication of personal sin against faith. The converse is not the case; the personal sin of heresy does not in itself make a person guilty of the canonical offence of heresy, or make them subject to a canonical punishment for heresy. This offence and punishment require a public statement of a heresy and pertinacious adherence to it.

These different senses of heresy enable us to explain the possible senses of error as applied to the statements of Pope Francis. Error can be explained in terms of the moral sense of heresy. In this sense, it occurs when a Catholic holds a belief that contradicts divine revelation, but is unaware of the fact that the belief in question is heretical. Such unawareness can be blameless, as in cases where it is due to a simple lack of education that the believer in question is not in a position to remedy, or it can be culpable, when the doctrine of the faith that is denied by the heresy believed is one that the believer could and should have known. Nonetheless, even if it is culpable, such error is not heresy provided that the believer does not know that it contradicts what the Catholic Church teaches as being divinely revealed.

The term 'error' can also be understood as meaning the theological censure 'erronea' or 'erronea in fide'. The only theological censure whose meaning has been defined by the Church is 'haeretica', which is understood in the doctrinal sense of 'heresy' given above. The term 'erronea' has however frequently been used in magisterial condemnations of propositions.[2] Theologians are not agreed on its meaning. For some, it refers solely to propositions that contradict theological conclusions, i.e., to propositions that contradict statements that are not themselves divinely revealed but are logically implied by divine revelation.[3] For others, it includes propositions that can be said with reasonable certainty to be divinely revealed, but that are not infallibly taught by the Church to be divinely revealed and hence can be denied without committing the sin of heresy. The latter view is to be preferred, since it is universally admitted that some propositions whose denial at one time was merely erroneous have been defined by the Church as divinely revealed, and a proposition cannot change from not being a part of divine revelation to being included in that revelation.

It seems that the term 'error' in the *dubia* should be understood in the moral sense of heresy, rather than in the sense of the theological censure of error. The erroneous theses of a general character that the *dubia* refer to include denial of the existence of absolute moral norms that prohibit intrinsically evil acts and that are binding without exceptions, and the assertion that circumstances or intentions can transform an act intrinsically evil by virtue of its object into an act 'subjectively' good or defensible as a choice. These are fundamental moral principles that are presupposed by all the numerous specific moral teachings found in divine revelation. They are clearly heretical. The specific theses about the reception of communion by the divorced and civilly remarried flatly contradict the statements of the Holy Scriptures about marriage, divorce, and the reception of the Holy Eucharist. The theological censures of *Amoris laetitia* identity specific Scriptural and magisterial statements on the content of divine revelation that are contradicted by passages in the apostolic exhortation; Exodus 20:12, Luke 16:18, Mk. 10:2-12, Mt. 3:9-12, 1 Cor. 5, 1 Cor. 7:10, and 1 Cor. 11:27 are the key texts for divorce and remarriage, and should be reviewed by anyone considering this issue.

It is helpful to compare these specific theses with the position of Protestants on marriage and divorce. Since the Reformation, Protestants have claimed that it is possible for Christian marriages to be dissolved. They base this claim on a Scriptural text (Matthew 19:9) that they misinterpret as providing an exception to Christ's ban on divorce. In consequence, they hold that it is permissible for divorced and remarried Christians to receive the Eucharist, because they think that such Christians are no longer married to the former spouses and are actually married to the persons they have remarried. But *Amoris laetitia* explicitly upholds Catholic teaching on the indissolubility of marriage. It rules out the possibility of divorced and remarried Christians no longer being married to their original spouses and actually being married to their civil partners. In consequence, when it states that the divorced and remarried

may under certain circumstances receive Communion, it is explicitly asserting that adulterers may receive the sacrament. It is difficult to identify a heresy in the history of the Church that has so flatly denied Scriptural teaching.

This affirmation of the indissolubility of marriage logically requires support for some elements of Luther's understanding of justification. Justification makes a person acceptable in the sight of God and secures their eternal salvation. If a person can break a divine law – the law pertaining to divorce and remarriage in this case – yet not be in a state of mortal sin, and not suffer eternal damnation if they continue to break this divine law without repenting and choosing to keep it, then their justification must consist in something other than their keeping divine law; and it must not require their keeping of the divine law. This is what Luther's conception of justification claims. Following this logic, Pope Francis has in fact endorsed Luther's conception of justification, as we shall see below. This endorsement need not be supposed to extend to every component of Luther's thought on justification, but it certainly embraces Luther's claim that justification is independent of the keeping of the divine law. Pope Francis's stand on Luther suggests that his approach to divorce and remarriage is not a purely practical one that is motivated by a desire to accommodate divorced and remarried Catholics, but a worked out theoretical position.

The assertion that the positions mentioned in the *dubia* are errors would then refer to the character of Pope Francis's act in publicly upholding them. It would mean that his adherence to these positions is not claimed to be formally heretical, but is taken to be simply erroneous, i.e., to be made in ignorance of the fact that they are rejections of divinely revealed truth. The reason for taking this stand is presumably that any Catholic, and especially the Supreme Pontiff, should be given the benefit of the doubt when they express heretical views, and not be accused of heresy until they uphold these views pertinaciously after being informed that the views are heretical.

This characterisation of the statements of Pope Francis as erroneous does however imply that their content is actually heretical. This implication may shock some Catholics, either because they deny that it is possible for a pope to be a heretic, or because they deny that Pope Francis has actually advanced heretical views. Both these issues need to be discussed.

#### *The possibility of a heretical pope*

It is probable that rejection of the very possibility of a heretical pope is influenced by a theological claim of the ultramontane school, according to which a pope is not only capable of teaching infallibly when the proper conditions are satisfied, but is entirely immune from heresy in virtue of his office.

This opinion seems to have originated with Albert Pighius in the 16<sup>th</sup> century. It is mentioned by St. Robert Bellarmine, who personally adhered to it but described it as a less probable

opinion (in the sense of being rejected by the majority of theologians). This view was not taught by the First Vatican Council, as is clear from the statement made about it in the *relatio* on papal infallibility made at that council by Bishop Vincent Ferrer Gasser:

“As far as the doctrine set forth in the Draft [of *Pastor Aeternus*] goes, the deputation is unjustly accused of wanting to raise an extreme opinion, viz., that of Albert Pighius, to the dignity of a dogma. For the opinion of Pighius, which Bellarmine indeed calls pious and probable, was that the Pope, as an individual person or private teacher, was able to err from a type of ignorance but was never able to fall into heresy or teach heresy... The doctrine in the proposed chapter is not that of Albert Pighius or the extreme opinion of any school, but rather it is one and the same which Bellarmine teaches in the place cited by the reverend speaker and which Bellarmine adduces in the fourth place and calls most certain and assured, or rather, correcting himself, the most common and certain opinion.” [4]

This doctrine adduced by Bellarmine to which Bishop Gasser refers as being taught by the draft of the conciliar document is the doctrine that the Pope is infallible when he exercises his papal office to define doctrine to be held by the entire Church. Gasser stresses that this doctrine, which is what the First Vatican Council ultimately taught about papal infallibility, is not the view of Pighius, a view that he describes in disparaging terms.

This ultramontane position should be rejected, for the following reasons.

i) Personal immunity from heresy is a property that cannot belong to human nature. It is a supernatural prerogative that we can only attribute to a person on the basis of divine revelation. There is no divine teaching that assigns this prerogative to the Pope. When the nature of the divine promise to preserve the faith of the Pope was described and taught in the most solemn manner at the First Vatican Council, the claim that this prerogative belonged to the Pope *ex officio* was officially excluded from the teaching of the council and described as an extreme opinion of some theologians. It cannot therefore claim to be taught by the Church, and since it is not taught by the Church there is no reason for believing in it.

ii) It is incompatible with magisterial teachings that have condemned popes for heresy, and with the facts of history. The case of Pope Honorius is the clearest example of papal heresy. Roberto de Mattei gives a good account of his condemnation : “On August 9th 681, at the end of the XVI session [of the third ecumenical council of Constantinople], the anathema against all the heretics and supporters of the heresy, including Honorius were renewed : Sergio haeretico anathema, Cyro haeretico anathema, Honorio haeretico anathema, Pyrro, haeretico anathema» (Mansi, XI, col. 622)... the Council Acts, after more than 19 months of a “*sede vacante*”, were ratified by [Pope Agatho’s] successor Leo II. In the letter sent May 7th 683 to the Emperor Constantine IV, the Pope wrote : “We anathematize the inventors of the new error, that is, Theodore, Bishop of Pharan, Sergius, Pyrrhus, Paul, and Peter, betrayers rather than leaders of the Church of Constantinople, and also Honorius, who did not attempt to sanctify this Apostolic Church with the teaching of apostolic tradition, but by profane

treachery permitted its purity to be polluted” (Mansi, XI, col. 733)... The condemnation of Honorius was confirmed by Leo II’s successors, as attests the *Liber diurnus romanorum pontificum*, and by the seventh (789) and eighth (867-870) Ecumenical Councils of the Church.”[5] Honorius was condemned not only as guilty of the personal sin of heresy, but as guilty of the canonical crime of heresy, which means that he obstinately and publicly maintained heretical doctrine. This condemnation is a dogmatic fact that Catholics are not free to deny.

iii) Since the theological opinion that the pope is personally incapable of heresy is no more than an opinion and has no magisterial teaching as its basis, it can only be defensible if there are no good examples of a pope advancing heretical claims. If there is good evidence for a pope's doing this, then the claim should be rejected. The opinion thus cannot be used as an objection to solid evidence for Pope Francis's having advanced heretical views.

#### *The existence of heretical statements by Pope Francis*

Some Catholic commentators have claimed that *Amoris laetitia* does not contain any of the heresies described above, or make any statements that are contrary to the Catholic faith. This assertion is not a criticism of the *dubia* of the cardinals, since these *dubia* do not offer any interpretation of that document, but it would serve as a basis for criticising any formal act of correction of Pope Francis for teaching error. However, this claim is shown to be false by the actions of Pope Francis and by the statements he has made about the teaching of *Amoris laetitia*. These actions and statements are relevant to a possible formal correction, so they should be described.

A). Pope Francis personally named a number of bishops and cardinals as participants in the Synod on the Family who would otherwise not have been eligible to take part in it, and who were known for opposing Catholic teaching on marriage, family, and sexual morality. These included Cardinal Walter Kasper, Cardinal Godfried Danneels, Archbishop Bruno Forte, Cardinal Christoph Schönborn, Cardinal Dionigi Tettamanzi, Cardinal Oscar Andrés Rodríguez Maradiaga, Cardinal Lluís Martínez Sistach, Cardinal Raymundo Damasceno Assis, Cardinal Luis Antonio Tagle, Cardinal John Dew, Archbishop Victor Fernández, and Fr. Antonio Spadaro.

B). Pope Francis intervened in the composition of the *Relatio post disceptationem* for the Synod on the Family. The *Relatio* proposed allowing Communion for divorced-and-remarried Catholics on a “case-by-case basis”, and said pastors should emphasize the “positive aspects” of lifestyles the Church considers gravely sinful, including civil remarriage after divorce and premarital cohabitation. These proposals, which were supported by the participants in the Synod named in A) above, were included in the *Relatio* at Pope Francis’s personal insistence, despite the fact that they did not receive the two-thirds majority required by the Synod rules for a proposal to be included in the *Relatio*.



C). In an interview in April 2016, Pope Francis was asked by a journalist if there are any concrete possibilities for the divorced and remarried that did not exist before the publication of *Amoris laetitia*. Pope Francis replied 'Io posso dire, si. Punto'; that is, 'I can say yes. Period.' He then stated that the reporter's question was answered by the presentation given by Cardinal Schönborn on *Amoris laetitia*.

In this presentation Cardinal Schönborn stated:

"My great joy as a result of this document resides in the fact that it coherently overcomes that artificial, superficial, clear division between "regular" and "irregular", and subjects *everyone* to the common call of the Gospel, according to the words of St. Paul : "For God has consigned all to disobedience, that He may have mercy on all" (Rom. 11, 32)... what does the Pope say in relation to access to the sacraments for people who live in "irregular" situations ? Pope Benedict had already said that "easy recipes" do not exist (AL 298, note 333). Pope Francis reiterates the need to discern carefully the situation, in keeping with St. John Paul II's *Familiaris consortio* (84) (AL 298). "Discernment must help to find possible ways of responding to God and growing in the midst of limits. By thinking that everything is black and white, we sometimes close off the way of grace and of growth, and discourage paths of sanctification which give glory to God" (AL 205). He also reminds us of an important phrase from *Evangelii gaudium*, 44 : "A small step, in the midst of great human limitations, can be more pleasing to God than a life which appears outwardly in order but moves through the day without confronting great difficulties" (AL 304). In the sense of this "via caritatis" (AL 306), the Pope affirms, in a humble and simple manner, in a note (351) that the help of the sacraments may also be given "in certain cases".

He amplified this statement by asserting that *Amoris laetitia* endorses the approach to the divorced and remarried that is practised in his diocese, where they are permitted to receive communion.

D). On Sept. 5th 2016 the bishops of the Buenos Aires region issued a statement on the application of *Amoris laetitia*. In it they stated:

"6). In other, more complex cases, and when a declaration of nullity has not been obtained, the above mentioned option may not, in fact, be feasible. Nonetheless, a path of discernment is still possible. If it comes to be recognized that, in a specific case, there are limitations that mitigate responsibility and culpability (cf. 301-302), especially when a person believes they would incur a subsequent wrong by harming the children of the new union, *Amoris laetitia* offers the possibility of access to the sacraments of Reconciliation and Eucharist (cf. footnotes 336 and 351). These sacraments, in turn, dispose the person to continue maturing and growing with the power of grace....

"9) It may be right for eventual access to sacraments to take place privately, especially where situations of conflict might arise. But at the same time, we have to accompany our

communities in their growing understanding and welcome, without this implying creating confusion about the teaching of the Church on the indissoluble marriage. The community is an instrument of mercy, which is 'unmerited, unconditional and gratuitous' (297).

"10) Discernment is not closed, because it "is dynamic; it must remain ever open to new stages of growth and to new decisions which can enable the ideal to be more fully realized" (303), according to the "law of gradualness" (295) and with confidence in the help of grace. [6]"

This asserts that according to *Amoris laetitia* confusion is not to be created about the teaching of the Church on the indissolubility of marriage, that the divorced and remarried can receive the sacraments, and that persisting in this state is compatible with receiving the help of grace. Pope Francis wrote an official letter dated the same day to Bishop Sergio Alfredo Fenoy of San Miguel, a delegate of the Argentina bishops' Buenos Aires Region, stating that the bishops of the Buenos Aires region had given the only possible interpretation of *Amoris laetitia*:

"Beloved brother, I received the document from the Buenos Aires Pastoral Region, 'Basic Criteria for the Application of Chapter Eight of *Amoris laetitia*'. Thank you very much for sending it to me. I thank you for the work they have done on this: a true example of accompaniment for the priests ... and we all know how necessary is this closeness of the bishop with his clergy and the clergy with the bishop. The neighbor 'closest' to the bishop is the priest, and the commandment to love one's neighbor as one's self begins for us, the bishops, precisely with our priests.

"The document is very good and completely explains the meaning of chapter VIII of *Amoris laetitia*. There are no other interpretations.[7]"

E). Pope Francis has appointed Archbishop Vincenzo Paglia as president of the Pontifical Academy for Life and grand chancellor of the Pontifical Pope John Paul II Institute for Studies on Marriage and Family. As head of the Pontifical Council for the Family, Archbishop Paglia was responsible for the publication of a book, *Famiglia e Chiesa, un legame indissolubile* (Libreria Editrice Vaticana, 2015), that contains the lectures given at three seminars promoted by that dicastery on the topics of 'Marriage: Faith, Sacrament, Discipline'; 'Family, Conjugal Love and Generation'; and 'The Wounded Family and Irregular Unions : What Pastoral Attitude'. This book and the seminars it described were intended to put forward proposals for the Synod on the Family, and promoted the granting of communion to divorced and remarried Catholics.

F). Pope Francis has appointed Bishop Kevin Farrell as prefect of the newly established Dicastery for Laity, Family and Life, and promoted him to the rank of cardinal. Cardinal Farrell has expressed support for Cardinal Schönborn's proposal that the divorced and remarried should receive communion. He has stated that the reception of communion by the divorced and remarried is a 'process of discernment and of conscience.'

G). In a press conference on June 26<sup>th</sup> 2016, Pope Francis stated:

“I think that the intentions of Martin Luther were not mistaken. He was a reformer. Perhaps some methods were not correct. But in that time, if we read the story of the Pastor, a German Lutheran who then converted when he saw reality – he became Catholic – in that time, the Church was not exactly a model to imitate. There was corruption in the Church, there was worldliness, attachment to money, to power... and this he protested. Then he was intelligent and took some steps forward justifying, and because he did this. And today Lutherans and Catholics, Protestants, all of us agree on the doctrine of justification. On this point, which is very important, he did not err.”

H). In his homily in the Lutheran Cathedral in Lund, Sweden, on Oct, 31<sup>st</sup> 2016, Pope Francis stated:

“As Catholics and Lutherans, we have undertaken a common journey of reconciliation. Now, in the context of the commemoration of the Reformation of 1517, we have a new opportunity to accept a common path, one that has taken shape over the past fifty years in the ecumenical dialogue between the Lutheran World Federation and the Catholic Church. Nor can we be resigned to the division and distance that our separation has created between us. We have the opportunity to mend a critical moment of our history by moving beyond the controversies and disagreements that have often prevented us from understanding one another.

“Jesus tells us that the Father is the “*vine dresser*” (cf. v. 1) who tends and prunes the vine in order to make it bear more fruit (cf. v. 2). The Father is constantly concerned for our relationship with Jesus, to see if we are truly one with him (cf. v. 4). He watches over us, and his gaze of love inspires us to purify our past and to work in the present to bring about the future of unity that he so greatly desires.

“We too must look with love and honesty at our past, recognizing error and seeking forgiveness, for God alone is our judge. We ought to recognize with the same honesty and love that our division distanced us from the primordial intuition of God’s people, who naturally yearn to be one, and that it was perpetuated historically by the powerful of this world rather than the faithful people, which always and everywhere needs to be guided surely and lovingly by its Good Shepherd. Certainly, there was a sincere will on the part of both sides to profess and uphold the true faith, but at the same time we realize that we closed in on ourselves out of fear or bias with regard to the faith which others profess with a different accent and language....

“The spiritual experience of Martin Luther challenges us to remember that apart from God we can do nothing. “How can I get a propitious God?” This is the question that haunted Luther. In effect, the question of a just relationship with God is the decisive question for our lives. As we know, Luther encountered that propitious God in the Good News of Jesus, incarnate, dead and risen. With the concept “*by grace alone*”, he reminds us that God always takes the initiative, prior to any human response, even as he seeks to awaken that response. The doctrine of justification thus expresses the essence of human existence before

God.”

I). Pope Francis has refused to reply to the *dubia* of the four cardinals, or to instruct the Congregation for the Doctrine of the Faith to reply to them. Since these *dubia* ought to have been given an answer according to normal procedure, and since the content of the *dubia* is a request to rule out heterodox interpretations of *Amoris laetitia* in order to counter a grave and present danger to the faith of Catholics that is being produced by these interpretations, this refusal cannot be reconciled with the claim that *Amoris laetitia* is intended by Pope Francis to be understood in a Catholic sense.

Pope Francis has cited the joint Catholic/Lutheran statement on justification as a basis for his claims about Martin Luther’s theology of justification.[8] The joint statement cannot however offer grounds for a defence for his remarks, for the following reasons:

- i) it does not address the theology of Luther himself, but of some current Lutherans;
- ii) it does not state that Catholics and Lutherans have reached entire agreement on justification, but acknowledges important differences between the two sides;
- iii) it has no magisterial authority;
- iv) it has been severely criticised by competent Catholic theologians.[9]

Pope Francis has achieved the difficult feat of being unjust to the memory of Martin Luther, since Luther would undoubtedly have rejected indignantly (and probably scatologically) any suggestion that his views on justification could be reconciled with Catholic teaching.

We should distinguish here between statements of Pope Francis that are public, and statements that have a juridical value. Pope Francis’s endorsement of the interpretation of *Amoris laetitia* given by Cardinal Schönborn had no juridical force, since it was given in an interview with a journalist. Nonetheless it was a public statement and as such constituted a public assertion of heresy. His letter to the bishops of the Buenos Aires region, however, was an official document with juridical force, since it was sent to the Argentine bishops in his capacity as Pope as a confirmation of an official act that was intended to determine the proper interpretation and implementation of *Amoris laetitia*. It was private in the sense of being addressed to the bishops and not to the general public (although it became known to the public almost immediately and its authenticity was confirmed by the Vatican), but it was not private in the sense of expressing Pope Francis’s personal opinion rather than his decision as Pope.

The cumulative evidence of A) to I) above, together with *Amoris laetitia*, transforms the nature of these pieces of evidence. In isolation, most of them are not clearly incompatible with the Catholic faith ; they could be taken as ambiguous, unfortunately expressed, or inspired by good and Catholic intentions that were not properly thought out. When they are taken as a whole, the doubtful and ambiguous character that each of them possesses individually

indicates a deliberate strategy to advance their heterodox content, by a constant promotion of this content that is never quite open enough to force its opponents to take a stand against it.

*The formal correction of a pope*

The very grave situation detailed above raises the urgent question of what Catholics are to do about it.

St. Thomas Aquinas's teaching on fraternal correction cannot be bettered as a starting point for answering this question. He states:

"The correction of the wrongdoer is a remedy which should be employed against a man's sin. Now a man's sin may be considered in two ways, first as being harmful to the sinner, secondly as conducing to the harm of others, by hurting or scandalizing them, or by being detrimental to the common good, the justice of which is disturbed by that man's sin. Consequently the correction of a wrongdoer is twofold, one which applies a remedy to the sin considered as an evil of the sinner himself. This is fraternal correction properly so called, which is directed to the amendment of the sinner. Now to do away with anyone's evil is the same as to procure his good : and to procure a person's good is an act of charity, whereby we wish and do our friend well. Consequently fraternal correction also is an act of charity, because thereby we drive out our brother's evil, viz. sin, the removal of which pertains to charity rather than the removal of an external loss, or of a bodily injury, in so much as the contrary good of virtue is more akin to charity than the good of the body or of external things. Therefore fraternal correction is an act of charity rather than the healing of a bodily infirmity, or the relieving of an external bodily need. There is another correction which applies a remedy to the sin of the wrongdoer, considered as hurtful to others, and especially to the common good. This correction is an act of justice, whose concern it is to safeguard the rectitude of justice between one man and another." (2a2ae q. 33 a. 1 co.)

St. Thomas teaches that fraternal correction is a matter of precept and must be performed. He asserts that it does not belong solely to prelates:

"It is written (Dist. xxiv, qu. 3, Can. Tam Sacerdotes) : 'Both priests and all the rest of the faithful should be most solicitous for those who perish, so that their reproof may either correct their sinful ways. or, if they be incorrigible, cut them off from the Church.' As stated above, correction is twofold. One is an act of charity, which seeks in a special way the recovery of an erring brother by means of a simple warning : such like correction belongs to anyone who has charity, be he subject or prelate. But there is another correction which is an act of justice purposing the common good, which is procured not only by warning one's brother, but also, sometimes, by punishing him, that others may, through fear, desist from sin. Such a correction belongs only to prelates, whose business it is not only to admonish, but also to correct by means of punishments." (2a2ae q. 33 a. 3.)

A subject may correct his prelate :

“A subject is not competent to administer to his prelate the correction which is an act of justice through the coercive nature of punishment : but the fraternal correction which is an act of charity is within the competency of everyone in respect of any person towards whom he is bound by charity, provided there be something in that person which requires correction.... Since, however, a virtuous act needs to be moderated by due circumstances, it follows that when a subject corrects his prelate, he ought to do so in a becoming manner, not with impudence and harshness, but with gentleness and respect.” (2a2ae q. 33 a. 4.)

This correction should be public if the offence is public :

“With regard to the public denunciation of sins it is necessary to make a distinction : because sins may be either public or secret. In the case of public sins, a remedy is required not only for the sinner, that he may become better, but also for others, who know of his sin, lest they be scandalized. Wherefore such like sins should be denounced in public.” (2a2ae q. 33 a. 7.)

St. Thomas allows that fraternal correction directed towards the amendment of the wrongdoer may be omitted if it is foreseeable that such correction will simply make the wrongdoer worse, but he denies that the fraternal correction directed towards the common good may be omitted for this reason (2a2ae q. 33 a. 6).

In the light of this teaching, the duties of Catholics towards Pope Francis are clear.

In the case of the laity, those Catholics who are sufficiently well informed about the statements and actions of Pope Francis detailed above and about the divinely revealed teaching that he is rejecting have a duty to publicly offer him the fraternal correction that is an act of charity. They have the same duty to offer fraternal correction to any Catholics who follow Pope Francis in his errors.

In the case of prelates, they have the same duty of charity to offer fraternal correction to Pope Francis. This duty is stronger than the duty of laymen, since bishops and cardinals are bound to do this in virtue of their office. Cardinals are the counsellors of the Pope and as such have a strict duty to offer him this fraternal correction, a duty whose omission is a mortal sin. Bishops are fellow members of the episcopal college and fellow successors of the Apostles, albeit members and successors that are junior to the Pope. Their duty to a fellow member of this college, to the head of this college, and to the college as a whole binds them to offer this fraternal correction.

It would not seem respectful to offer St. Thomas’s reason for omitting this fraternal correction, and maintain[ing] that it should not be practised because it would simply make Pope Francis worse. Moreover, the claim that such fraternal correction would not lead Pope Francis to renounce the heretical statements he has made, but would lead him to increase his support

for heresy, implies that Pope Francis is in fact a formal heretic. In that case the steps for dealing with a heretical pope would have to be taken.

Prelates, unlike the laity, are also bound upon pain of mortal sin to the correction that is an act of justice and is directed towards the common good rather than towards the amendment of the sinner. St. Thomas notes that this correction is *sometimes* accompanied by punishment, which implies that it need not necessarily be so accompanied. In the case of Catholics who are subject to them and who follow the heresies advanced by Pope Francis, they are bound to offer this correction, and may exercise this correction through the means of punishment. In the case of Pope Francis, they are bound to offer this correction in the form of rebuke and admonishment, but may not exercise this correction in the form of punishment, since he does not fall under their jurisdiction and hence they do not have the authority to do so.

The fact that Pope Francis may not be punished by prelates for advancing heresy does not mean that he can promote heresy with impunity, and that they can do nothing about it. The act of fraternal correction to which prelates are bound in the face of Pope Francis's heretical statements is concerned with the moral sense of heresy insofar as it is motivated by charity towards the Pope, but it also has consequences for the juridical sense of heresy. As well as being an act of charity, it constitutes the warning that is necessary before a person can be judged guilty of the canonical crime of heresy. The *dubia* of the cardinals and the publication of these *dubia* is not such an act of warning, but the formal act of correction that Cardinal Burke envisages would be such an act. If such a warning were repeated twice and Pope Francis refused to heed both of these warnings, he would become canonically guilty of heresy.

Some might argue that the *dubia* and other criticisms of *Amoris Laetiti* that have been made already suffice as warnings to Pope Francis, and hence that he can now be judged to be guilty of the canonical crime of heresy. These criticisms might be said to make it clear to informed observers that Pope Francis is in fact a heretic rather than simply in error. But for juridical purposes – especially for the very serious purpose of judging a Pope to be a heretic – they do not suffice. The evidence needed for a juridical judgment of such gravity has to take a form that is entirely clear and beyond dispute. A formal warning from a number of members of the College of Cardinals that is then disregarded by the Pope would constitute such evidence.

The possibility of a Pope being canonically guilty of heresy has long been admitted in the Church. It is acknowledged in the *Decretals* of Gratian, the foundational work of canon law composed in the 12<sup>th</sup> century. The *Decretals* were incorporated in the *Corpus Iuris Canonici*, of which they form the first part. Gratian states:

“If the Pope, remiss in his duties and neglectful of his and his neighbour's salvation, gets caught up in idle business, and if moreover, by his silence (which actually does more harm to himself and everyone else), he leads innumerable hordes of people away from the good with him, he will be beaten for eternity with many blows alongside that very first slave of

hell. However, no person can presume to convict him of any transgressions in this matter, because, although the Pope can judge everyone else, no one may judge him, unless he, for whose perpetual stability all the faithful pray as earnestly as they call to mind the fact that, after God, their own salvation depends on his soundness, is found to have strayed from the faith." [10] (Gratian, *Decretum*, Part 1, Distinction 40, Chapter 6.)

Various explanations have been proposed of how a Pope can be removed from office if he commits the canonical crime of heresy. The explanations seek to explain how the Pope can lose office without being judged by any of his inferiors in the Church on earth. The simplest and possibly the best explanation that has been offered is that the Pope by pertinaciously maintaining heresy effectively removes himself from office. However, all these explanations agree that a Pope who is juridically guilty of heresy can and must be removed from office. There is no dispute among Catholic theologians on this point – even among theologians like Bellarmine who do not think that a Pope is in fact capable of being a heretic.

It is to be hoped that the correction of Pope Francis does not have to proceed this far, and that he will either reject the heresies he has announced or resign his office. Removing him from office against his will would require the election of a new Pope, and would probably leave the Church with Francis as an anti-Pope contesting the authority of the new Pope. If Francis refuses to renounce either his heresy or his office, however, this situation will just have to be faced.

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#### NOTES:

[1] A link to the document and its accompanying letter is available here:

<https://www.lifesitenews.com/news/full-text-of-45-theologians-appeal-to-correct-amoris-laetitas-errors-revealed>

[2] See John Cahill O.P., *The Development of the theological censures after the Council of Trent, 1563-1709*, for a discussion of the various censures.

[3] Some theologians assert that only some propositions logically implied by divinely revealed propositions are theological conclusions, while others are themselves divinely revealed. The distinction depends on the basis for the logical implication; it is not of interest for our discussion.

[4] *The Gift of Infallibility: The Official Relatio on Infallibility of Bishop Vincent Ferrer Gasser at Vatican Council I*, 2nd ed., tr. James O'Connor (Ignatius Press: San Francisco, 2008), pp. 58-59.

[5] <http://rorate-caeli.blogspot.com/2015/12/the-heretic-pope.html#more>

[6] 6) En otras circunstancias más complejas, y cuando no se pudo obtener una declaración de nulidad, la opción mencionada puede no ser de hecho factible. No obstante, igualmente es posible un camino de discernimiento. Si se llega a reconocer que, en un caso concreto, hay limitaciones que atenúan la responsabilidad y la culpabilidad (cf. 301-302), particularmente cuando una persona considere que caería en una ulterior falta dañando a los hijos de la nueva



unión, *Amoris laetitia* abre la posibilidad del acceso a los sacramentos de la Reconciliación y la Eucaristía (cf. notas 336 y 351). Estos a su vez disponen a la persona a seguir madurando y creciendo con la fuerza de la gracia....

9) Puede ser conveniente que un eventual acceso a los sacramentos se realice de manera reservada, sobre todo cuando se prevean situaciones conflictivas. Pero al mismo tiempo no hay que dejar de acompañar a la comunidad para que crezca en un espíritu de comprensión y de acogida, sin que ello implique crear confusiones en la enseñanza de la Iglesia acerca del matrimonio indisoluble. La comunidad es instrumento de la misericordia que es «inmerecida, incondicional y gratuita» (297).

10) El discernimiento no se cierra, porque «es dinámico y debe permanecer siempre abierto a nuevas etapas de crecimiento y a nuevas decisiones que permitan realizar el ideal de manera más plena» (303), según la «ley de gradualidad» (295) y confiando en la ayuda de la gracia.

[7] Querido hermano : Recibí el escrito de la Región Pastoral Buenos Aires «Criterios básicos para la aplicación del capítulo VIII de *Amoris laetitia*». Muchas gracias por habérmelo enviado; y los felicito por el trabajo que se han tomado: un verdadero ejemplo de acompañamiento a los sacerdotes... y todos sabemos cuánto es necesaria esta cercanía del obispo con su clero y del clero con el obispo . El prójimo «más prójimo» del obispo es el sacerdote, y el mandamiento de amar al prójimo como a sí mismo comienza para nosotros obispos precisamente con nuestros curas.

El escrito es muy bueno y explícita cabalmente el sentido del capítulo VIII de *Amoris Laetitia*. No hay otras interpretaciones.

[8] This declaration can be found at

[http://www.vatican.va/roman\\_curia/pontifical\\_councils/chrstuni/documents/rc\\_pc\\_chrstuni\\_doc\\_31101999\\_cath-luth-joint-declaration\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/documents/rc_pc_chrstuni_doc_31101999_cath-luth-joint-declaration_en.html)

[9] These include Cardinal Avery Dulles S.J., 'Justification: The Joint Declaration', *Josephinum* 9 (2002), available at <http://www.pcj.edu/journal/essays/dulles9-1.htm> ; Aidan Nichols O.P., 'The Lutheran-Catholic Agreement on Justification: Botch or Breakthrough?', *New Blackfriars* 82 (2001); and Prof. Christopher Malloy, *Engrafted into Christ: A Critique of the Joint Declaration* (New York: P. Lang, 2005).

[10] Si papa suae et fraternae salutis negligens reprehenditur inutilis et remissus in operibus suis, et insuper a bono taciturnus, quod magis officit sibi et omnibus, nichilominus innumerabiles populos cateruatim secum ducit, primo mancipio gehennae cum ipso plagis multis in eternum uapulaturus. Huius culpas istic redarguere presumit mortalium nullus, quia cunctos ipse iudicaturus a nemine est iudicandus, nisi deprehendatur a fide deuius; pro cuius perpetuo statu uniuersitas fidelium tanto instantius orat, quanto suam salutem post Deum ex illius incolumitate animaduertunt propensius pendere.

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