

**“APOSTOLIC EXHORTATIONS DO NOT CHANGE DOCTRINE”**

Phoenix diocese offers clarification of 'Amoris Laetitia' in Q&A posted on its website: "With divorced and civilly-remarried couples, the truth about marriage as the Church understands it requires abstinence from sexual intimacy in order to be eligible to receive the Sacraments"

DECEMBER 16 2016 BY



**Bishop Thomas Olmsted of Phoenix** (photo from CatholicSun.org)

The following comes from the [Diocese of Phoenix](#) website:

Questions and Answers on Amoris Laetitia (The Joy of Love):

### **Does Amoris Laetitia change any Church teachings?**

No. Apostolic Exhortations do not change doctrine. Canon Law also is not changed by the Exhortation. For example, Pope Francis mentions that "...neither the Synod nor this Exhortation could be expected to provide a new set of general rules... What is possible is simply a renewed encouragement to undertake a responsible personal and pastoral discernment of particular cases... Priests have the duty to "accompany (the divorced and remarried) in helping them to understand their situation according to the teaching of the Church and the guidelines of the bishop." (300)

### **What about people who are divorced and remarried? Can they receive the Sacraments?**

All Catholics must sacramentally confess all serious sins of which he or she is aware, with a firm purpose to change, before receiving the Eucharist. With divorced and civilly-remarried couples, the truth about marriage as the Church understands it requires abstinence from sexual intimacy in order to be eligible to receive the Sacraments, and as long as there is no scandal or an implication that the Church's teaching can be set aside. Divorced and remarried persons should not hold positions of responsibility in a parish or carry out liturgical functions. This is a difficult teaching for many, but anything less misleads people about the nature of the Eucharist and the Church. The grace of Jesus Christ is more than a pious cliché: it is a real and powerful seed of change in the believing heart.

### **Is a person who is divorced and remarried "excommunicated" from the Church?**

No. A person who is divorced and remarried may not be eligible to receive Holy Communion (Eucharist), but being ineligible to receive Holy Communion is not excommunication.

### **What did the Pope say about treatment of people with homosexual attractions?**

Section 250 and 251 of Amoris Laetitia speaks to families about helping members with same-sex attraction. It mentions that the Synod Fathers "discussed the situation of families whose members include persons who experience same-sex attraction, a situation not easy either for parents or for children. We would like before all else to reaffirm that every person, regardless of sexual orientation, ought to be respected in his or her dignity and treated with consideration, while 'every sign of unjust discrimination' is to be carefully avoided, particularly any form of aggression and violence. Such families should be given respectful pastoral guidance, so that those who manifest a homosexual orientation can receive the assistance they need to understand and fully carry out God's will in their lives."

Pope Francis also reaffirmed that marriage is simply a lifelong, committed relationship between a man and a woman: "as for proposals to place unions between homosexual persons on the same level as marriage, there are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God's plan for marriage and family". It is unacceptable "that local Churches should be subjected to pressure in this matter and that international bodies should make

financial aid to poor countries dependent on the introduction of laws to establish ‘marriage’ between persons of the same sex”.

## **A CANONICAL PRIMER ON POPES AND HERESY**

No one in a position of ecclesial responsibility—not the **Four Cardinals posing dubia**, not **Grisez & Finnis cautioning about misuses**, and not the **45 Catholics appealing to the College**, among others—has, despite the **bizarre accusations made about some of them**, accused Pope Francis of being a heretic or of teaching heresy.

While **many are concerned for the clarity of various Church teachings** in the wake of some of Francis’ writings and comments, and while some of these concerns do involve matters of faith and morals, no responsible voice in the Church has, I repeat, accused Pope Francis of holding or teaching heresy.

That’s good, because the stakes in regard to papal heresy are quite high. Those flirting with such suspicions or engaging in such ruminations should be very clear about what is at issue.

First. Heresy is, and only is, “the obstinate denial or obstinate doubt after the reception of baptism of some truth that must be believed by divine and catholic faith.” 1983 CIC 751. Heresy is not, therefore, say, the failure to defend effectively specific truths of Revelation (though that might be negligence per Canon 1389); moreover, privately-held heretical views, even if they are leading to certain observable actions, are not in themselves actionable under law (Canon 1330).

Second. We can dismiss as impossible—indeed, as unthinkable thanks to the protection of the Holy Spirit—any scenario whereby a pope commits the Church to a heresy. See Ott, *Fundamentals* (1957) 287 or **Catholic Answers tract “Papal Infallibility” (2004)**. However grave might be the consequences for a pope falling into heresy, the Church herself cannot fall into heresy at his hands or anyone else’s. Deo gratias.

Those two points being understood, the canonical tradition yet recognizes (and history suggests) that a given pope could fall into personal heresy and that he might even promote such heresy publicly, which brings us to some thoughts on those possibilities.

Setting aside a few who, relying on half-baked notions like “**popes are not bound by canon law**”, throw up their hands in despair at the prospect of a heretical pope and predict the End-of-the-World-as-We-Know-It, others, more reasonably, point to Canon 1404, which states “The First See is judged by no one”, and conclude that the only remedies in the face of a genuinely heretical pope are prayers and fasting. May I suggest, though, that canon law has somewhat more to offer than that.

Wrenn, writing in the CLSA NEW COMM (2001) at 1618 states: “Canon 1404 is not a statement of personal impeccability or inerrancy of the Holy Father. Should, indeed, the pope fall into heresy, it is understood that he would lose his office. To fall from Peter’s faith is to fall from his chair.” While I suggest that Wrenn’s warning be read again, lest its startling impact be overlooked by the calm manner in which he expressed it, turning to the crucial question as to who would determine whether a

given pope has fallen into heresy, Wrenn notes that it is not settled by Canon 1404 nor, I would add, is it settled by any other canon in the Code. But again, one may turn to canonical tradition for insight.

To be sure, all admit that in talking about popes falling into heresy we are talking a very remote scenario. Vermeersch-Creusen, *Épitome I* (1949) n. 340, “This sort of case, given the divine protection of the Church, is considered quite improbable.” Beste, *Introductio* (1961) 242, “In history no example of this can be found.” And the great Felix Cappello, *Summa Iuris I* (1949) n. 309, thought that the possibility of a pope falling into public heresy should be “entirely dismissed given the special love of God for the Church of Christ [lest] the Church fall into the greatest danger.”

But Cappello’s confidence (at least in the scope of divine protection against heretical popes) was not shared by his co-religionist, the incomparable Franz Wernz, whose summary of the various canonical schools of thought about the possibility of a papal fall from office due to heresy is instructive. After reviewing canonical norms on loss of papal office due to resignation or insanity, Wernz-Vidal, *IUS CANONICUM II* (1928), n. 453, considers the impact of personal heresy on the part of a pope (emphasis and citations omitted):

Through heresy notoriously and openly expressed, the Roman Pontiff, should he fall into such, is, by that very fact, and before any declaratory sentence of the Church, deprived of his power of jurisdiction.

Now, concerning this matter there are five views, the first of which denies the basis for the entire issue, namely, that a pope could, as a private scholar, fall into heresy. While this opinion is clearly pious and probable, it cannot be said to be certain and common. So, accepting the premise of the question, it needs to be considered.

The second opinion holds that the Roman Pontiff loses his power upon the fact of even hidden heresy. This opinion is rightly said by Bellarmine to labor under a false supposition, namely, that secret heretics are entirely separated from the body of the Church. The third view holds that the Roman Pontiff, not even for obvious heresy, loses, upon that fact, his power, nor can he be deprived of office by deposition. But this opinion is called by Bellarmine, for ample reasons, “highly improbable”.

The fourth view, with Suarez, Cajetan, and others, argues that a pope is not, even upon the fact of manifest heresy, deposed, but that he can be and must be deposed upon a sentence (at least a declaratory one) of crime. “This view in my judgment cannot be defended” as Bellarmine teaches.

Finally there is the fifth view of Bellarmine which was expressed at the outset in the assertion [above] and which is rightly defended by Tanner and others as being more approved and more common. For he who is no longer a member of the body of the Church, that is, of the Church as a visible body, cannot be the head of the universal Church. But a pope who falls into public heresy would by that fact cease to be a member of the Church; therefore he would also, upon that fact, cease to be the head of Church.

So, a publicly heretical pope, who by the mandate of Christ and of the Apostle should be avoided because of danger to the Church, must be deprived of his power, as

nearly everyone admits. But he cannot be deprived of his power by a merely declaratory sentence.

For every judicial sentence of privation supposes a superior jurisdiction over him against whom the sentence is laid. But a general council, in the opinion of adversaries, does not have a higher jurisdiction than does a heretical pope. For he, by their supposition, before the declaratory sentence of a general council, retains his papal jurisdiction; therefore a general council cannot pass a declaratory sentence by which a Roman Pontiff is actually deprived of his power; for that would be a sentence laid by an inferior against the true Roman Pontiff.

In sum, it needs to be said clearly that a [publicly] heretical Roman Pontiff loses his power upon the very fact. Meanwhile a declaratory criminal sentence, although it is merely declaratory, should not be disregarded, for it brings it about, not that a pope is “judged” to be a heretic, but rather, that he is shown to have been found heretical, that is, a general council declares the fact of the crime by which a pope has separated himself from the Church and has lost his rank.

I know of no author coming after Wernz who disputes this analysis. See, e.g., Ayrinhac, *CONSTITUTION* (1930) 33; Sipos, *ENCHIRIDION* (1954) 156; Regatillo, *INSTITUTIONES I* (1961) 299; Palazzini, *DMC III* (1966) 573; and Wrenn (2001) above. As for the lack of detailed canonical examination of the mechanics for assessing possible papal heresy, Cocchi, *COMMENTARIUM II/2* (1931) n. 155, ascribes it to the fact that law provides for common cases and adapts for rarer; may I say again, heretical popes are about as rare as rare can be and yet still be.

In sum, and while additional important points could be offered on this matter, in the view of modern canonists from Wernz to Wrenn, however remote is the possibility of a pope actually falling into heresy and however difficult it might be to determine whether a pope has so fallen, such a catastrophe, *Deus vetet*, would result in the loss of papal office.

May that fact serve as a check against those tempted to engage in loose talk about popes and heresy.

—*Dr. Edward Peters, Canon Lawyer*