

## Q&A: A Failed Case Study on *Amoris Laetitia*

By Dorothea Ludwig-Wang, 19 February 2022

Q. Maybe we're beating a dead horse by continuing to discuss *Amoris laetitia* six years later, but I've been wondering about a hypothetical situation. Let's say that two people divorce but are unable to obtain an annulment. The wife, Elizabeth, gains custody of the children and civilly "marries" Paul because he can provide financial support. She begins practicing the faith again after being away from Mass for several years and realizes that she and Paul should live as brother and sister. Paul thinks this is absurd, so he refuses. Elizabeth knows that if she leaves him, she and her children will suffer financially, so she reluctantly submits every time he asks her to engage in relations.

The Church teaches that there are three conditions for a mortal sin: grave matter, full knowledge, and full consent. Elizabeth knows that adultery is grave, but she doesn't consent to Paul's sexual acts and simply makes the prudential decision not to resist him. And because she fears for her children, this fear can also mitigate culpability. Since she isn't guilty of mortal sin, I don't see why she shouldn't be allowed to receive communion *remoto scandalo* after discerning this with her confessor. Doesn't this situation show that despite all the heterodox interpretations, *Amoris laetitia* can actually be applied properly?

A. The hypothetical situation described above not only fails to provide an orthodox interpretation of *Amoris laetitia* but also contains several errors in moral theology and canonical jurisprudence. The first error is failing to make the distinction between the objective and subjective elements of a human act; a person may commit an *objectively* grave sin without being *subjectively* culpable for it, or only partly culpable, thus rendering it a venial sin. While there are three conditions that must be met before one can be guilty of mortal sin (grave matter, full advertence, full consent of the will), the second and third conditions are not relevant to the nature and gravity of the act itself.

When a married woman engages in relations with a man who is not her husband, she is committing an objectively adulterous and gravely sinful act. The fact that Elizabeth only reluctantly allows Paul's sexual advances does not change this. Say a person attempts to attend Mass, but—unknown to him—the priest changes the essential words of consecration, rendering the Mass invalid. He worships the Host, erroneously believing it to be consecrated. Objectively, worshiping an unconsecrated Host is an act of idolatry, but in this case, the moral agent is not subjectively guilty, and thus there is no need to confess idolatry.

Because Paul and Elizabeth are not married to each other, sexual intercourse between them is necessarily adultery, and Elizabeth has the duty to resist Paul whenever he insists on engaging in relations. The Church has already clarified that a virgin must resist a rapist, and that a wife must resist a husband who insists on using artificial contraception—in these cases, there is an unjust aggressor who must be prevented from committing the evil act.<sup>1</sup> The same principle applies here: a woman must resist a man who is not her husband if he insists on engaging in relations with her, because he is an unjust aggressor. Under no circumstances may she actively consent or tacitly accept by deliberately failing to offer resistance, which she must do under pain of mortal sin.

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1 Sacred Penitentiary, 3 June 1916, Denz. 3638-40.

By failing to resist Paul, Elizabeth is tacitly consenting to adultery, and regardless of her intent or circumstances, this course of action cannot be justified. This is because adultery is intrinsically evil, and thus there are no situations under which it could possibly be morally licit. Even if she is afraid of the consequences of resisting Paul's illicit advances, such as her children being left without financial support, she cannot continue committing adultery in order to prevent these other evils: "Once the moral species of an action prohibited by a universal rule is concretely recognized, the only morally good act is that of obeying the moral law and of refraining from the action which it forbids."<sup>2</sup>

The question of whether to offer resistance is not a "prudential" one, as the questioner claims, but a moral one: while one or more prudential judgments in a specific situation may both be licit, in Elizabeth's case, there are clearly two options, one moral and obligatory, and the other immoral and prohibited. This is not a matter of making a choice between two things that are equal, namely, to resist or not to resist, because the Church has made it clear that in such a case, Elizabeth must resist Paul as she would a rapist. The obligation prevails, and the opposing choice cannot be respected, because one may not tacitly consent to an intrinsically evil and objectively gravely sinful act of adultery.

Further, it would be heretical to claim that Elizabeth's choice to continue engaging in relations with Paul may be rendered licit due to an impossibility to choose otherwise, contrary to the assertion that one's "concrete situation" may make it unfeasible to "act differently."<sup>3</sup> Continuing to engage in marital relations with Paul due to financial concerns is not a legitimate excuse, as there can be no excuses for intrinsically evil acts. There are other ways she can seek help, and the idea that sometimes a person's situation makes it impossible to avoid sin is condemned by the Council of Trent: "If anyone saith, that the commandments of God are, even for one that is justified and constituted in grace, impossible to keep; let him be anathema" (Session VI, Canon XVIII).

Having examined the objective moral law, let us now turn to the subjective: is it possible that, for one reason or another, Elizabeth may not be subjectively guilty of mortal sin if she refrains from resisting Paul? If she is simply unaware of the principles of moral theology, she may very well only be committing venial sin—or even no sin at all—from ignorance. In such a case, the role of her confessor is not to confirm her in her error by failing to offer correction when she approaches him, but to expound the Church's teaching clearly and help her amend her life. Having been informed about the Church's teachings, she can no longer claim to be free from subjective mortal sin if she continues upon the same path.

The questioner contends that Elizabeth's fear for her children's welfare is sufficient to mitigate her culpability when she chooses not to resist Paul's illicit advances. On the contrary, if she is sufficiently capable of thinking rationally to engage in "discernment" with her confessor, then her grave fear is not a *habitual* fear; even in her calm and clear-headed moments, she tacitly consents to remaining in her "irregular situation" (as *Amoris laetitia* euphemistically puts it). In such a case, the concept of "grave fear" loses its meaning and becomes nothing other than a lazy excuse to continue living an adulterous lifestyle, a state of life that is necessarily chosen. This is a clear example of persisting in manifest grave sin, thus necessitating the denial of communion under canon 915 of the Code of Canon Law.

These considerations of subjective culpability are not even truly relevant, as sacramental discipline cannot be determined solely on the basis of internal forum criteria. If

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2 John Paul II, *Veritatis splendor*, 67.

3 *Amoris laetitia*, 301.

Elizabeth's confessor identifies certain mitigating factors, his responsibility is to inform her of the Church's teaching and help her amend her life, which necessarily entails embracing a life of complete continence. It would be an abuse of the confessor's role to leave her in ignorance and allow her to continue excusing herself, thereby essentially dispensing her from following the moral law. This is contrary to what St. Thomas Aquinas teaches: "The precepts of the decalogue embody the intention of the legislator, that is God. Therefore, the precepts of the decalogue permit no dispensation."<sup>4</sup>

Not only does this hypothetical fail to provide an orthodox implementation of *Amoris laetitia*, it also exposes its fundamental doctrinal and juridical problems. Without stating all of these things explicitly, the Exhortation teaches that it can be permissible to commit intrinsically evil acts to avoid another evil or bring about a greater good, that sometimes it is impossible to follow the moral law, and that a confessor can allow a penitent to persist in a gravely sinful lifestyle through affected ignorance. These problems have the potential to undermine other teachings of the Church, extending far beyond the issue of divorced and "remarried" persons: in essence, objective morality is implicitly denied, or at least given a secondary place to subjective considerations of "conscience."

This then leads into the question of whether the root of the problem is *Amoris laetitia* itself or simply certain interpretations. Even the most ardent defenders of the Exhortation admit that many parts are ambiguous, leading to the multiplicity of interpretations, and so they conclude that we must find an orthodox interpretation. The problem here is that by containing these ambiguous propositions, the Exhortation is already censured by the magisterium, the existence of potential orthodox interpretations notwithstanding. Ambiguity is not simply a term used to describe a text that causes confusion in the reader, but a theological censure that refers to a proposition that may be interpreted in various ways, at least one of which is objectionable.

Yet in this case, "ambiguous" is not really the proper term here, as there is no question of interpretation. Further, any possible "hermeneutic of continuity" must be dismissed, given that the writer himself has unequivocally rejected such a hermeneutic by approving the Buenos Aires guidelines in the *Acta Apostolicae Sedis* in 2017 (translated):

In other, more complex cases, and when a declaration of nullity has not been obtained, the above mentioned option [of living in complete continence] 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.<sup>5</sup>

4 *Summa Theologiae I-II*, q. 100, art. 8, co.

5 Francis, "Epistula Apostolica ad Excellentissimum Dominum Sergium Alfredum Fenoy, delegatum Regionis Pastoralis Bonaërensis, necnon adiunctum documentum (de praecipuis rationibus usui capituli VIII Adhortationis post-synodalis 'Amoris Laetitia')." *Acta Apostolicae Sedis*, 108 (10): 1071–1074.

Prior discipline permitted divorced and “remarried” Catholics to be re-admitted to penance and communion *remoto scandalo* only after making a commitment to complete continence.<sup>6</sup> *Amoris laetitia*, beginning with the premise that this commitment might be impossible, allows for additional “discernment” on the basis of mitigating factors. While the questioner’s hypothetical fails to provide an orthodox implementation of *Amoris laetitia*, it does at least accurately interpret it in accordance with the Buenos Aires guidelines. It exposes three problematic propositions: (i) that sometimes it is impossible to follow the moral law, (ii) that intrinsically evil acts may be committed to avoid another evil, and (iii) that a person may be dispensed from following the moral law as a result of habitually-existing mitigating factors.

The first of these is heretical, as it falls under the anathema of the Council of Trent mentioned earlier—because this is directly written in *Amoris laetitia*, the text of the Exhortation itself falls under the censure of heresy. The second conclusion is also heretical, but because it is not explicitly stated in the text, it ought to be said that *Amoris laetitia* is also suspect of heresy, as it leads to a practical denial or abandonment of dogma. As for the third, it is likewise suspect of heresy, because the path of “discernment” based on mitigating factors will inevitably lead to a *de facto* dispensation from following the objective moral law, while the moral agent continues to justify his actions based on the alleged existence of these factors.

This response has only scratched the surface of what can be said on this topic, and as others have explained it in greater detail, it is sufficient to leave it at these three. But with these facts in mind, it is a small wonder how a theologian could examine the text of *Amoris laetitia* and apply various censures to its propositions. Revisiting this controversy may be “beating a dead horse,” as the questioner opines, but this case study has exposed more fundamental issues contributing to the general crisis in the Church.

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6 cf. John Paul II, *Familiaris consortio*, 84.