



AUSTRALIAN CATHOLIC BISHOPS CONFERENCE

Bishops' Committee for Doctrine and Morals

STATEMENT OF POLICY

THE EXAMINATION OF THEOLOGICAL ORTHODOXY

INTRODUCTION

The People of God have the right "to receive the Gospel message in its purity and entirety"¹ and the pastors of the Church have the duty and right to safeguard the integrity of faith and morals², For Christ's faithful entrusted to their care this duty and right belongs to the Bishops, both as individuals and in particular councils or Bishops' Conferences³. In the exercise of their responsibilities the Bishops are assisted by the Congregation for the Doctrine of the Faith⁴ whose proper function is to promote and safeguard the doctrine on faith and morals in the whole Catholic world⁵.

The ministry of the diocesan Bishop as teacher in the faith community means that "among the principal duties of bishops, the preaching of the Gospel occupies an eminent place. For bishops are preachers of the faith who lead new disciples to Christ. They are authentic teachers, that is, teachers endowed with the authority of Christ, who preach to the people committed to them the faith they must believe and put into practice. By the light of the Holy Spirit, they make that faith clear, bringing forth from the treasury of revelation new things and old (cf, Mt 13:52), making faith bear fruit and vigilantly warding off any errors which threaten their flock (cf. 2 Tim 4:14), (LG 25)"⁶

"In order that a bishop may be better able to perform his ministry of teacher and judge of faith, he would do very well to approach theologians for their assistance"⁷ for among the vocations awakened by the Spirit in the Church is that of the theologian".⁸ The role of the theologian is "to pursue in a particular way an ever deeper understanding of the Word of God found in the inspired Scriptures and handed on by the living Tradition of the Church",⁹ The theologian fulfils this role "in communion with the Magisterium which has been charged with the responsibility of preserving the deposit of faith".¹⁰

The rich diversity of theological expressions and approaches mirrors the richness of God's revelation. "By its nature, faith appeals to reason because it reveals to man the truth of his destiny and the way to attain it. Revealed truth, to be sure, surpasses our telling. All our

¹ Congregation for the Doctrine of the Faith, Regulations for Doctrinal Examination, June 29, 1997, Article 1.

² cf. *ibid.*, Article 2~ CIC can. 823 §1.

³ cf. *ibid.*, CIC can. 823 §2.

⁴ cf. John Paul II Apostolic Constitution *Pastor Bonus* (June 28, 1988) Article 50.

⁵ cf. *ibid.*, Article 48.

⁶ Sacred Congregation for Bishops *Directorium de pastorali ministerio Episcoporum* (22 February 1973) n.55.

⁷ *ibid.*, n.63.

⁸ Congregation for the Doctrine of the Faith "Instruction on the Ecclesial Vocation of the Theologian" *Donum veritatis* (May 24, 1990) n. 6.

⁹ *ibid.*

¹⁰ *ibid.*

concepts fall short of its ultimately unfathomable grandeur (cf. Eph. 3:19). Nonetheless, revealed truth beckons reason – God’s gift fashioned for the assimilation of truth – to enter into its light and thereby come to understand in a certain measure what it has believed. Theological Science responds to the invitation of truth as it seeks to understand the faith.”¹¹

Within his Church, as "the vicar and ambassador of Christ",¹² the diocesan bishop has the responsibility "to guard and interpret the Word of God and to make authoritative judgments as to what is or is not in conformity with it".¹³ Hence the Bishop has the duty "to supervise the entire ministry of the Word. In an appropriate way he should see to it that all who preach the Gospel are well instructed in sacred science and are urged on by apostolic prudence and charity. In good time, he reproves those who presume to preach doctrines foreign to the faith; and those who refuse to be corrected he deprives of the faculty of preaching or teaching".¹⁴ In the exercise of this duty the Bishop is to ensure that the dignity and responsibility of all those who preach and teach in the Church is recognised and promoted.¹⁵

In fulfilling their responsibilities Bishops may avail themselves of the assistance that can be offered by the Committee for Doctrine and Morals of the Australian Catholic Bishops Conference.¹⁶ The Apostolic See acknowledges also the contribution that competent scholars and academic institutions can make to Bishops in the fulfilment of their duties.¹⁷

Different situations can arise each of which needs to be considered in its own context and perspective and to be dealt with accordingly. The following four sections identify various circumstances in which Bishops are called upon to safeguard the integrity of faith or morals and recommend a procedure that Bishops may use in each situation.

These procedures refer to theologians who are to be "not only qualified in scientific and pedagogical expertise, but also outstanding in their integrity of doctrine and uprightness of life". (CIC cann.810 §1, 818).

A theologian has the right to have his or her good name and academic reputation respected, and to just procedures in the resolution of any concerns about his or her orthodoxy. These procedures should protect the theologian from any spurious or ill-formed criticisms. It would also normally be inappropriate for the procedures to involve the assistance of an Expert who was known to be personally or academically in conflict with the theologian.

Whenever the question of orthodoxy is being examined, the process should be undertaken without delay and in such a way as to respect the privacy of all parties concerned. Prior to resolution of the matter, there should be no public censure of the theologian or curtailment

¹¹ CONGREGATION FOR THE DOCTRINE OF THE FAITH "Instruction on the Ecclesial Vocation of the Theologian" *Donum veritatis* (May 24,1990) n.6

¹² VATICAN II "Dogmatic Constitution on the Church" *Lumen gentium* n.27

¹³ *Donum veritatis* n 19; CIC can. 823 §1

¹⁴ *Directorium* n.65

¹⁵ Cf. *ibid.*

¹⁶ cf CONGREGATION FOR THE DOCTRINE OF THE FAITH Letter to Presidents of Episcopal Conferences (November 23, 1990).

¹⁷ cf. CONGREGATION FOR THE DOCTRINE OF THE FAITH Instruction on Some Aspects of the Use of the Instruments of Social Communication in Promoting the Doctrine of the Faith (March 30, 1992) n.5 (2).

of his or her responsibilities, unless the pastoral situation demands some action, and, in that case, it should be as discrete as possible. Should the matter come to public attention, the Bishop or superior should acknowledge that the matter is being investigated according to due process, and that the final outcome will be made public.

In cases where the theologian is a member of an institute of consecrated life or a society of apostolic life the Bishop and the competent major superior are to proceed by way of mutual consultation (CIC 678:3)

If the theologian's Ordinary is a bishop other than the Bishop initiating the examination of orthodoxy, the Bishop and the theologian's Ordinary are to proceed by way of mutual consultation.

A: DIALOGUE BETWEEN BISHOPS AND THEOLOGIANs

It is possible that theologians, because of "the character of their research", may "encounter difficulties" with their Bishops over doctrinal matters.¹⁸ In these situations the issue in need of resolution is one between the Bishop and the theologian. In such circumstances theologians "should seek their solution in trustful dialogue with the Pastors in the spirit of truth and charity which is that of the communion of the Church".¹⁹

PROCEDURE FOR TRUSTFUL DIALOGUE

1. DEFINITIONS

In this procedure the following words shall have the meanings hereby assigned to them:

"Bishop" means the diocesan bishop of the diocese in which the theologian has either a domicile or quasi-domicile or in which the statement was published;

"Committee" means the Committee for Doctrine and Morals of the Australian Catholic Bishops Conference;

"Experts" means theologians with the required competence in their disciplines, chosen from the list of experts established by the Committee for Doctrine and Morals of the Australian Catholic Bishops Conference, after having received nominations from academic institutions and professional associations. In some instances the examination may involve matters beyond the expertise of the Committee or list of Experts. In these cases, additional Experts may need to be selected. This can be done by means of a dialogue between the Bishop, the Committee and the theologian whose statement is being examined.

"Statement" means the statement or statements on matters concerning faith or morals made by a theologian whether orally or in any written or published form or by any audio or audio/visual means of communication;

"Theologian" means a qualified theologian in accordance with the norms of canon law (CIC cann. 810 §1, 818). These procedures may also be followed in the case of someone who, though not a theologian in accordance with canons 810:1 and 818, makes statements of a theological nature that raise questions of orthodoxy.

The reference to days and months in this procedure is to be understood as canonical time in accordance with CIC can. 201 §2.

¹⁸ *Donum veritatis* n.40

¹⁹ *Ibid.*

2. PASTORAL RESOLUTION

- 2.1. When the Bishop has concerns about a statement of the theologian he is to explore every reasonable measure whereby a satisfactory pastoral resolution may be found.
- 2.2. Only when other methods of pastoral care have failed to satisfy his concerns is the Bishop to commence the following procedure.

3. DETERMINATION OF STATEMENT

- 3.1. When the Bishop has concerns about a statement of the theologian, the first task is to determine exactly which statement of the theologian is the object of the Bishop's concern.
- 3.2. The Bishop shall inform the theologian in writing which statement is the object of his concern and that he intends to enter upon the process of trustful dialogue with the theologian.

4. DETERMINATION OF MEANING

- 4.1. Unless it would appear to be entirely superfluous, the second task is to ensure that the exact meaning of the statement of the theologian is clearly established, in the context of the theologian's approach and methodology.
- 4.2. For this purpose the Bishop shall provide the theologian with adequate time to present to him in writing the exact meaning of the statement which is the object of the Bishop's concern.
- 4.3. The Bishop having examined the theologian's written explanation of the meaning of the statement may, if necessary, call the theologian for an interview to further clarify the meaning of the statement.
- 4.4. The theologian may freely choose a person whose assistance and support shall be available to him or her individually during the process. The name of the person chosen shall be made known to the Bishop and the Experts at the commencement of the process.

5. PRELIMINARY ADVICE ON ORTHODOXY

- 5.1. When the Bishop and the theologian are satisfied that the theologian's statement and its meaning have been clearly established, if concern still exists, the Bishop selects either Procedure A as outlined in 5.2-5.5 which works through the Committee or Procedure 8 outlined in 5.6-5.11 in which the Bishop himself conducts the procedure.

Procedure A – Matter referred to Committee

- 5.2. If the Bishop chooses to refer the matter to the Committee, the Committee, after dialogue with the theologian, shall designate two or more Experts who are to

"examine the text in question, give their opinions and evaluate whether it is conformity with the doctrine of the Church".²⁰

- 5.3. The Experts shall give their opinions and evaluation in writing, setting out the reasons why the theologian's statement is or is not in conformity with the teaching of the Church.
- 5.4. If the Experts consider that the theologian's statement is not in conformity with the teaching of the Church, they shall make recommendations as to what steps could be taken to address the matter in question.
- 5.5. The Experts are to respond to the Committee in writing within three (3) months of receipt of its request.
- 5.6. The Committee, having examined the opinions and evaluation of the Experts, shall if it deems necessary or expedient add its own observations and conclusions on the matter.
- 5.7. The Committee shall forward its report consisting of the opinions and evaluation of the Experts and its own observations and conclusions on the matter, if any, to the Bishop in writing within four (4) months of receipt of his request.

Procedure B – Matter referred to Experts

- 5.8. If the Bishop chooses to refer the matter to Experts he himself, after dialogue with the theologian, designates two or more Experts who are to "examine the text in question, give their opinions and evaluate whether it is conformity with the doctrine of the Church".²¹
- 5.9. The Experts shall give their opinions and evaluation in writing, setting out the reasons why the theologian's statement is or is not in conformity with the teaching of the Church.
- 5.10. If the Experts consider that the theologian's statement is not in conformity with the teaching of the Church, they shall make recommendations as to what steps could be taken to address the matter in question.
- 5.11. The Experts are to provide their report to the Bishop in writing within three (3) months of receipt of his request.

6. DECISION OF THE BISHOP AND REPORT TO THE THEOLOGIAN

- 6.1. Having examined the report either of the Committee or of the experts the Bishop judges whether "doctrinal errors or dangerous opinions have been found in the text, ... specifically identifying these in the light of the different categories of truth-propositions found in the *professio fidei*".²²

²⁰ *Regulations for Doctrinal Examination* Article 9

²¹ Cf. *Regulations for Doctrinal Examination* Article 9

²² *Ibid.*, Article 13

- 6.2. Within twenty (20) days of receipt of such report the Bishop makes his "authoritative judgment"²³ on the orthodoxy of the theologian's statement and informs the theologian of his decision in writing.
- 6.3. (i) If the Bishop judges the theologian's statement is in conformity with the teaching of the Church, he informs the theologian that such is his judgement and that his concerns in regard to the theologian's statement have been satisfactorily resolved.
- (ii) If the Bishop judges that the theologian's statement is not in conformity with the teaching of the Church, the Bishop informs the theologian that such is his judgement and forwards to the theologian a copy of the report he received from either the Committee or the Experts and invites the theologian to respond in writing within three (3) months.
- (iii) If the clarifications presented by the theologian to the Bishop do not satisfactorily resolve his concerns, the Bishop again consults with either the Committee or the Experts and then makes his "authoritative judgment,"²⁴ on the orthodoxy of the theologian's statement and informs the theologian of his decision in writing.
- 6.4. If the theologian refuses to accept the decision of the Bishop referred to in 5.3 (iii), the Bishop may initiate in accordance with the norms of canon law an administrative or judicial procedure.

B: REFERRALS FROM THE APOSTOLIC SEE TO BISHOPS

The Congregation for the Doctrine of the Faith "can always intervene and, as a rule, does so when the influence of the influence of a publication exceeds the boundaries of an individual episcopal conference or when the danger to the faith is particularly grave".²⁵

The Congregation for the Doctrine of the Faith, in accordance with Article 7 of its *Regulations for Doctrinal Examination*, can entrust a case to a Bishop. In these circumstances the Bishop brings the doctrinal problems considered to be present in a theologian's statement to the author's attention. The Bishop is "invited to deepen the study of the question and to ask the author to provide the needed clarifications for submission to the judgement of the Congregation".²⁶

When the Bishop receives such a request from the Apostolic See it is recommended that he use, *mutatis mutandis*, the Procedure for Trustful Dialogue.

²³ *Donum veritatis* n.19

²⁴ *ibid.*, n. 19

²⁵ *Regulations for Doctrinal Examination* Article 2

²⁶ *ibid.*, Article 7

C: DOCTRINAL EXAMINATIONS BY THE HOLY SEE

The Congregation for the Doctrine of the Faith, in accordance with its *Regulations for Doctrinal Examination*, involves a Bishop in its ordinary procedure of examination²⁷ and its examination in cases of urgency.²⁸

In the ordinary procedure of examination the Bishop has a particular role. In order to fulfil his responsibilities as stated in Articles 12 and 17, it is recommended that the Bishop discuss the erroneous or dangerous propositions of the theologian with both the Committee and the Experts referred to in the Procedure for Trustful Dialogue.

In the doctrinal examination in cases of urgency, the Bishop is required, in accordance with Article 27, to meet with the theologian who has published erroneous and dangerous statements and if necessary to forward his own opinion on the matter to the Congregation. In the formulation of his own opinion, it is recommended that the Bishop avail himself of the assistance of both the Committee and the Experts referred to in the Procedure for Trustful Dialogue.

D: COMPLAINTS REGARDING ORTHODOXY

Situations can arise in which members of the Church allege a statement of a theologian is contrary to the teaching of the Church. When the Bishop receives such complaints he must recognise that "theology and the Magisterium fulfil two vital roles in the Church" and that they "are of diverse natures and missions and cannot be confused".²⁹ In some circumstances the tensions which arise from such aspects of the life of the community can "degenerate into divisions".³⁰ In such cases the Bishop's "authority, which transcends particular positions and oppositions, must unite all in the integrity of the Gospel which is the "word of reconciliation" (cf. 2 Cor 5: 18-20)".³¹

PROCEDURE TO RESOLVE COMPLAINTS REGARDING ORTHODOXY

1. DEFINITIONS

In this procedure the following words shall have the meanings hereby assigned to them:

"Bishop" means the diocesan bishop of the diocese in which the theologian has either a domicile or quasi-domicile or in which the statement was published;

"Committee" means the Committee for Doctrine and Morals of the Australian Catholic Bishops Conference;

The reference to days and months in this procedure is to be understood as canonical time in accordance with CIC can. 201 §2.

²⁷ cf. *ibid.*, Articles 8-22

²⁸ cf. *ibid.*, Articles 23-27

²⁹ *Donum veritatis* n.40

³⁰ *Ibid.*

³¹ *Ibid.*

"Complainant" means any member of Christ's faithful who has either domicile or quasi-domicile or was actually present in the diocese of the Bishop when the statement was made by the theologian;

"Complaint" means an allegation made in writing to the Bishop claiming that the statement of the theologian is not in conformity with the teaching of the Church;

"Experts" means theologians with the required competence in their disciplines, chosen from the list of experts established by the Committee for Doctrine and Morals of the Australian Catholic Bishops Conference, after having received nominations from academic institutions and professional associations. In some instances the examination may involve matters beyond the expertise of the Committee or list of Experts. In these cases, additional Experts may need to be selected. This can be done by means of a dialogue between the Bishop, the Committee and the theologian whose statement is being examined.

"Statement" means the statement or statements on matters concerning faith or morals made by the theologian whether orally or in any written or published form or by any audio or audio/visual means of communication;

"Theologian" means a qualified theologian in accordance with the norms of canon law (CIC cann. 810 §1, 818). These procedures may also be followed in the case of someone who, though not a theologian in accordance with canons 810 §1 and 818, makes statements of a theological nature that raise questions of orthodoxy.

2. PASTORAL RESOLUTION

- 2.1. If the Bishop receives a complaint he is to explore every reasonable measure whereby a satisfactory pastoral resolution may be found.
- 2.2. Only when other methods of pastoral care have failed to resolve the complaint is the Bishop to commence the following procedure.

3. THE COMPLAINT

- 3.1. The Bishop shall not accept any complaint unless it is made in writing and signed by the complainant.
- 3.2. The complaint shall contain the following:
 - a the name of the complainant;
 - b the name of the theologian;
 - c the details of the statement made by the theologian;
 - d the circumstances in which the statement was made;
 - e the reasons why, in the opinion of the complainant, the statement is not in conformity with the Church's teaching.

- 3.3. If the statement of the theologian is available in any published form or on any audio or audio/visual means of communication, it shall be sufficient for the purposes of 3. 2(c) that the complainant produce such material for presentation to the Bishop. Opinions expressed by theologians in private communications (e.g. telephone conversations) may not form the basis of a legitimate complaint.
- 3.4. If the Bishop judges the complaint is without foundation he informs the complainant in writing that such is the case and that he will take no further action.

In all other cases the Bishop:

- (a) acknowledges in writing to the complainant receipt of the complaint;
- (b) informs the theologian in writing of the complaint, and encloses a copy of the published material (cf. 3.3) or a copy of the complaint, including all the details listed under 3.2.
- (c) instructs the theologian that under no circumstances shall the theologian approach the complainant about the complaint.
- (d) Instructs the complainant that he or she is not to take any further action against the theologian until the process has been completed.

4. REFERRAL TO THE COMMITTEE OR TO EXPERTS

- 4.1. The Bishop in dealing with the complaint may choose to avail himself of the assistance of either the Committee or Experts.
- 4.2. At the same time as writing to the complainant and to the theologian the Bishop shall forward to either the Committee or the Experts the complaint and a copy of his letters to the complainant and the theologian as required by 3.4(a) and 3.4(b)-(c).
- 4.3. The Committee or the Experts shall acknowledge receipt of the complaint from the Bishop within ten (10) days of such receipt.
- 4.4. If the Bishop chooses to refer the complaint to the Committee the Committee itself, after dialogue with the theologian, shall select two or more Experts.
- 4.5. If the Bishop chooses to refer the complaint to Experts he himself, after dialogue with the theologian, is to select two or more Experts.

5. DETERMINATION OF STATEMENT

- 5.1. Unless it is otherwise evident, the first task of the Experts is to determine exactly the theologian's statement which is being called into question by the complainant.
- 5.2. If necessary the Experts may by personal interview or through any other means seek from the complainant clarification of any aspects of the complaint made.
- 5.3. The Experts shall request the theologian to state in writing whether or not the statement as presented by the complainant is correct. If within the time limit fixed

by the Experts, the theologian does not agree with the statement as presented by the complainant, the Experts shall call the complainant and the theologian to a joint meeting in order to determine exactly the statement which is alleged to be not in conformity with the teaching of the Church.

- 5.4. Should it be necessary for the Experts to call any other persons for an interview to assist in the determination of the exact statement of the theologian, the names of any such persons shall be made known to both the complainant and the theologian.

6. DETERMINATION OF MEANING

- 6.1. Unless it would appear to be entirely superfluous, the Experts shall ensure that the exact meaning of the statement of the theologian is clearly established, in the context of the theologian's approach and methodology.
- 6.2. For this purpose the Experts shall provide the theologian with adequate time to present in writing to them the exact meaning of the statement against which a complaint has been made.
- 6.3. The Experts having examined the theologian's written explanation of the meaning of the statement may, if necessary, call the theologian for an interview.
- 6.4. The theologian and the complainant may freely choose a person whose assistance and support shall be available to them individually during the process. The names of the two persons chosen shall be made known to the Bishop and the Experts at the commencement of the process.

7. PRELIMINARY OPINION ON ORTHODOXY

- 7.1. When the Experts are satisfied that the theologian's statement and its meaning have been clearly established, the Experts "examine the text in question, give their opinions and evaluate whether it is in conformity with the doctrine of the Church".³²
- 7.2. The Experts shall give their opinions and evaluation in writing, setting out at least in summary form the reasons why the theologian's statement is or is not in conformity with the teaching of the Church.
- 7.3. If the Experts consider that the theologian's statement is not in conformity with the teaching of the Church, they shall make recommendations as to what steps could be taken to address the matter in question.

8. REPORT TO THE BISHOP

Procedure A - Complaint referred to the Committee

- 8.1. The Experts shall present to the Committee a written report containing the following:

³² cf. Regulations for Doctrinal Examination Article 9

- a the theologian's statement and its meaning which has been investigated by them
 - b their opinions and evaluation as to whether or not the statement is in conformity with the teaching of the Church
 - c their recommendations, if any.
- 8.2. The Committee, having examined the report of the Experts, shall if it deems necessary or expedient add its own observations and conclusions on the matter.
- 8.3. The Committee shall present its report to the Bishop within three (3) months of receipt of the complaint.

Procedure B - Complaint referred to Experts

- 8.4. The Experts shall present to the Bishop a written report containing the following:
- a the theologian's statement and its meaning which has been investigated by them
 - b their opinions and evaluation as to whether or not the statement is in conformity with the teaching of the Church
 - c their recommendations, if any.
- 8.5. The report shall be signed by each of the Experts.
- 8.6. The Experts shall present their report to the Bishop within three (3) months of receipt of the complaint.

9. DECISION OF THE BISHOP AND REPORT TO THE THEOLOGIAN

- 9.1. The Bishop, having examined the report of either the Experts or the Committee shall within (10) days of receipt of such report make his "authoritative judgement" on the orthodoxy of the theologian's statement.
- 9.2. If the Bishop decides that the statement is in conformity with the teaching of the Church, he shall inform in writing both the complainant and the theologian of his decision and that the matter is now concluded.

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