

## REPLY TO LAWRENCE J. WELCH

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*[In the course of his critique of Richard Gaillardetz's views on the ordinary universal magisterium, Professor Welch also called into question certain formulations on that topic articulated in various writings of Francis Sullivan. To clarify his own position and to elucidate further his own convictions, Sullivan here expatiates on his original intention and contextualizes several earlier statements. Central to the argument is his distinction between criterion and condition.]*

SINCE THE PRECEDING ARTICLE deals in part with the interpretation of what I said in my book *Creative Fidelity* about the conditions and criteria for the infallible teaching of the ordinary universal magisterium, the editor has invited me to enter this conversation between Lawrence J. Welch and Richard Gaillardetz, and to explain, perhaps more clearly than I did in my book, what I hold on these questions.

### CONDITIONS FOR INFALLIBLE TEACHING OF THE ORDINARY UNIVERSAL MAGISTERIUM

The conditions are those laid down by Vatican II in *Lumen gentium* no. 25, namely, that the bishops dispersed around the world, while maintaining the bond of communion among themselves and with Peter's successor, and teaching authoritatively on a matter of faith or morals, are in agreement that a particular judgment is to be held definitively. I have explained these conditions in my book *Creative Fidelity*,<sup>1</sup> and have also used a briefer formula to refer to the fulfillment of these conditions as "a consensus among Catholic bishops" (pages 104 and 106), and as an "ecclesial consensus" (page 106). In using the briefer formula I presume that this is a consensus in teaching a doctrine as definitively to be held. I also hold that

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<sup>1</sup> Francis A. Sullivan, *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium* (New York: Paulist, 1992) 102–3.

in order to be infallible, the consensus among bishops must not only be universal, it must be constant. Using terms derived from Greek, I argue that the consensus must be both synchronic and diachronic. I do not believe that one can appeal to a past consensus of bishops as infallible if they are no longer agreed in teaching that doctrine. To take one example: the bishops at the Council of Florence taught that all pagans and Jews would go to hell if they did not become Catholics before they died.<sup>2</sup> Since this is no longer Catholic doctrine, the medieval consensus about it can hardly be said to have fulfilled the conditions for infallible teaching. I think one could say the same about the longstanding teaching that infants who died without baptism would be deprived of the beatific vision.<sup>3</sup>

### CRITERIA

Most discussions of the ordinary universal magisterium have pointed to the difficulty of arriving at a certain judgment that the conditions for the infallibility of its teaching in a particular instance have been fulfilled. Three criteria on which such a judgment can be based have been proposed in official documents of the Church. The first is the positive response of the Catholic bishops to a question put to them by the pope with regard to their belief and teaching on a point of doctrine. This was a criterion used by Pope Pius IX and Pope Pius XII in judging that the doctrines of the Immaculate Conception and Assumption were definable. Secondly, Pius IX, in his letter *Tuas libenter*, referred to the “universal and constant consensus of Catholic theologians” as indicating that a doctrine was taught by the ordinary magisterium of the whole Church dispersed throughout the world.<sup>4</sup> Finally, the Code of Canon Law asserts that doctrine can be proposed as divinely revealed either by the solemn magisterium of the Church or by its ordinary and universal magisterium, and that this is manifested by the common adherence of the Christian faithful under the leadership of the sacred magisterium.<sup>5</sup> However, in my treatment of criteria in *Creative Fidelity*, I have referred only to the “universal and constant consensus of Catholic theologians.” Lawrence Welch claims that I have proposed this as a condition, and not merely a criterion, of the infallible teaching of the ordinary universal magisterium. In response to his critique I shall note two

<sup>2</sup> Denzinger-Schönmetzer, *Enchiridion symbolorum* 1351.

<sup>3</sup> For the modern teaching of the Catholic Church on this issue, see *Catechism of the Catholic Church* no. 1261, and the assurance given by Pope John Paul II to a woman who has had an abortion that her aborted child is “living in the Lord” (*Evangelium vitae*, no. 99).

<sup>4</sup> Denzinger-Schönmetzer, *Enchiridion symbolorum* 2879.

<sup>5</sup> Code of Canon Law, canon 750.

points: (1) I have several times in *Creative Fidelity* made it clear that I consider the consensus of theologians as a criterion; (2) in the passages in which Welch believes I have spoken of the consensus of theologians as a condition for the infallible teaching of the ordinary magisterium, the consensus to which I was referring included that of bishops.

### CONSENSUS OF THEOLOGIANS AS A CRITERION

In my discussion of Pius IX's letter *Tuas libenter* I wrote: "Two points in the statement of Pius IX are especially worth noting. First, he limits it to matters which are taught by the ordinary magisterium throughout the world as divinely revealed. Second, he suggests *how it can be known* which doctrines have been taught in this way: namely, by the universal and constant consensus among Catholic theologians that certain doctrines are matters of faith, even though they have not been solemnly defined."<sup>6</sup> A few pages later, I said: "As we have seen, Pius IX suggested a *sign by which one could know* that a doctrine had been taught by the universal magisterium as a matter of faith: it was the 'universal and constant' consensus of Catholic theologians that the doctrine was *de fide*."<sup>7</sup> I further observed that the use of the term "constant" by Pius IX "suggests that the kind of consensus *by which we can conclude* that a doctrine has been infallibly taught must be one that perseveres and remains unchanged. On the other hand, if it becomes evident that there is no longer a consensus on some point of doctrine about which, in former times, there was a consensus, it would seem necessary to conclude that this is not the kind of constant consensus *that points to* infallible teaching."<sup>8</sup> Later on, I said that the constant and universal consensus among Catholic theologians "would be a *reliable basis for judging*" that a doctrine had been taught infallibly by the ordinary universal magisterium.<sup>9</sup> I submit that the expressions that I have emphasized in the above citations are all such as describe the consensus of theologians as a criterion by which one can judge that the conditions for the infallible teaching of the ordinary universal magisterium have been fulfilled.

### CONSENSUS OF THEOLOGIANS AS A CONDITION?

Welch has quoted two passages of my *Creative Fidelity* which he believes prove his contention that I have taken the universal and constant consensus of Catholic theologians to be not merely a criterion, but a condition for the infallible teaching of the ordinary universal magisterium.<sup>10</sup> It is true that in these passages I have referred to a consensus needed to fulfill the condi-

<sup>6</sup> *Creative Fidelity* 100.

<sup>7</sup> *Ibid.* 103.

<sup>8</sup> *Ibid.* 104.

<sup>9</sup> *Ibid.* 107.

<sup>10</sup> See his article above 612.

tions required for the infallible exercise of ordinary universal magisterium. However, a careful look at the context will show that in both instances, the consensus to which I referred was that of bishops. In the first of the two passages, the “former consensus” to which I referred was “a consensus among Catholic bishops and theologians that the descent of all men from Adam was definable doctrine.”<sup>11</sup> The second of the two passages had to do with the consensus about contraception that John Ford and Germain Grisez claimed had satisfied the conditions for infallible ordinary magisterium, even though they admitted that this consensus was no longer present when they wrote their article.<sup>12</sup> Welch has quoted the passage in *Creative Fidelity* where I said: “But, to fulfill the conditions required for the infallible teaching of the ordinary universal magisterium, the consensus must not only be universal; it must also be constant.”<sup>13</sup> It would seem likely that because I have elsewhere referred to the consensus of theologians as universal and constant, Welch has concluded that the consensus to which I referred in this sentence was also the consensus of theologians. However, the context makes it evident that the consensus to which I referred was that invoked by Ford and Grisez: namely, the “consensus among Catholic bishops,” “the previously existing ecclesial consensus.”<sup>14</sup> As I have said above, I hold that the consensus of bishops, as well as that of theologians, must be universal and constant, but that only the consensus of the bishops is a condition required for the infallibility of their ordinary teaching.

### MY ARGUMENT BASED ON CANON 749.3

Welch has also criticized the argument that I have based on the provision of canon 749.3 that “no doctrine is understood to be infallibly defined unless it is clearly established as such.” It is my understanding that this law has to do with the fact that a person who would obstinately deny a doctrine that had been defined as revealed truth would be guilty of heresy and incur the penalty of excommunication. Since the publication of John Paul II’s motu proprio *Ad tuendam fidem*, it would also have reference to the fact that a person who would obstinately deny a doctrine that must be held as necessarily connected with revealed truth, would be liable to a canonical

<sup>11</sup> *Creative Fidelity* 104. I would now be willing to agree with Welch that my grounds for asserting the presence of consensus on the doctrine of monogenism prior to Vatican I are open to question, but here my point is that the “former consensus” to which I referred on page 105 was the “consensus among Catholic bishops and theologians” on page 104.

<sup>12</sup> John Ford and Germain Grisez, “Contraception and the Infallibility of the Ordinary Magisterium,” *Theological Studies* 39 (1978) 258-312, at 273.

<sup>13</sup> Welch above 612; see also *Creative Fidelity* 106.

<sup>14</sup> *Creative Fidelity* 106.

penalty.<sup>15</sup> Now it is true that canon 749.3 explicitly refers only to doctrine that has been infallibly defined. However, canon 750 declares that a revealed truth must be believed with divine and catholic faith whether it has been solemnly defined or infallibly taught by the ordinary universal magisterium, and *Ad tuendam fidem* states that doctrines that have been definitively stated by the magisterium require firm assent whether they have been defined or not. In each case, the consequences of obstinate denial are the same whether the doctrine was defined or infallibly taught by the ordinary universal magisterium. On this ground I have argued, from the evident intention of canon 749.3 to protect the faithful from wrongly incurring a canonical penalty, that no doctrine ought to be understood as having been taught infallibly by the ordinary universal magisterium unless this fact is manifestly established. I would further note that the canon requires the fact to be manifestly established in order for it to be *understood* that a doctrine has been infallibly defined. In other words, this is a question of criteria by which it can be known with certainty that a doctrine has been infallibly defined.

It is obvious that the criteria by which one can know with certainty that a doctrine has been defined are different from those by which one can be certain that a doctrine has been taught infallibly by the ordinary universal magisterium. Grisez and Welch have argued that because of this difference, one cannot argue, as I have done, from the provision of canon 749.3 to the conclusion that no doctrine ought to be understood as infallibly taught by the ordinary universal magisterium unless this fact is manifestly established. In my opinion, the difference between the criteria is irrelevant. I have argued from the evident purpose of the law: to protect the faithful from unjustly incurring canonical penalties. I would ask Grisez and Welch whether they really think it would be just for a person to incur the canonical penalty prescribed for rejecting a doctrine taught infallibly by the ordinary universal magisterium, unless it were manifestly established that the doctrine had indeed been so taught.

#### CONSEQUENCES OF A LACK OF CONSENSUS AMONG THEOLOGIANS

In his article, Welch notes: "My main point was while the consensus of theologians can be an important sign that the ordinary universal magisterium has taught a doctrine definitively, the absence of this sign does not necessarily mean that a doctrine has not been taught definitively."<sup>16</sup> If Welch thinks that I do not agree with this statement, I wish to assure him that I do. I do not hold that the absence of the consensus of theologians

<sup>15</sup> *Origins* 28 (July 16, 1998) 113–16. <sup>16</sup> See above 613.

would mean that *there has not been* a definitive teaching of the ordinary universal magisterium. What I do hold is that without such a consensus it would be difficult *to be certain* that the conditions for infallible teaching had been fulfilled. In other words, I hold that because Catholic theologians are professionally qualified to make informed judgments about the degree of authority with which doctrines have been taught by the magisterium, a lack of consensus among them as to whether a doctrine had been taught infallibly would make it questionable whether that fact was “manifestly established.” It is possible that it might subsequently become evident that the conditions for the infallible teaching of the ordinary universal magisterium had in fact been fulfilled. But until that fact was “manifestly established,” my position is that the doctrine should not be *understood* as infallibly taught, and no one should be liable to a canonical penalty for not accepting it as such.