

## DEVELOPMENTS IN TEACHING AUTHORITY SINCE VATICAN II

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*The author describes and comments on developments that have taken place since Vatican II with regard to teaching authority. Among subjects exercising such authority he treats episcopal conferences and the Congregation for the Doctrine of the Faith. Among objects of definitive teaching he treats truths that are not revealed but necessarily connected with revealed truth. As a way of exercising teaching authority, he discusses papal declarations that a doctrine has been taught infallibly by the ordinary universal magisterium.*

**D**URING THE YEAR 2012 a half-century will have passed since the opening of the Second Vatican Council. No doubt this “golden anniversary” will stimulate much serious reflection on the effects that this remarkable event has had on not only the Catholic Church but also the world with which the council encouraged the church to dialogue. One can expect articles to be written, and perhaps a book will be published with the title “What Has Happened since Vatican II?”

Having spent a good part of those 50 years teaching future priests (and some future bishops) about the magisterium, it seems useful for me to share these reflections on the developments that have taken place with regard to teaching authority in the Catholic Church since Vatican II. I will divide the matter into three parts: (1) the subjects (the authoritative teachers); (2) the object (what they teach about); and (3) the exercise (how they teach).

### THE SUBJECTS OF TEACHING AUTHORITY

Between the years 1852 and 1884 all the Catholic bishops in the United States met together three times in plenary councils to enact laws that would

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adapt the church to life in this new nation. They have not gathered again in a plenary council since 1884. However, the archbishops began to hold annual meetings in 1890, and in 1919 the National Catholic Welfare Council was founded in which all the bishops would have a voice. At the insistence of the Holy See, the term “council” was changed to “conference.” The preference of the bishops of the United States to meet in unofficial conferences rather than in canonically regulated plenary councils was shared by the bishops of many other nations, especially after the promulgation of the Code of Canon Law in 1917. The result of this development was that when the bishops of the whole world gathered in 1962 for the Second Vatican Council and were presented at once with a slate of candidates from which they were expected to choose the members of the conciliar commissions, the bishops insisted on drawing up new lists of candidates, whom they would choose in meetings of their conferences. Thus the reality of episcopal conferences was present from the very beginning of Vatican II.

### Episcopal Conferences

The role that episcopal conferences would have in the life of the church was mentioned in three of the conciliar documents. In its Constitution on the Sacred Liturgy, Vatican II recognized the part that “groupings of bishops” with “territorial ecclesiastical authority” would play in the local adaptation of the liturgy.<sup>1</sup> In the Dogmatic Constitution on the Church, after speaking of organic groupings of churches, the council declared: “This variety of local churches, in harmony among themselves, demonstrates with greater clarity the catholicity of the undivided church. In a similar way episcopal conferences can today make a manifold and fruitful contribution to the concrete application of the spirit of collegiality.”<sup>2</sup> In the Decree on the Pastoral Office of Bishops in the Church, an episcopal conference is described as “a kind of assembly (*coetus*) in which the bishops of some nation or region discharge their pastoral office in collaboration.”<sup>3</sup> Since the pastoral office conferred on bishops at their ordination obviously includes the office of teaching the faith, it is not surprising that after Vatican II, episcopal conferences saw that it was within their competence to issue pastoral letters in which they were exercising their teaching office. Thus, our National Conference of Catholic Bishops (NCCB)<sup>4</sup>

<sup>1</sup> *Sacrosanctum concilium* nos. 22, 36, 39.

<sup>2</sup> *Lumen gentium* no. 23. Throughout the article I quote the English translation of the conciliar documents from *Decrees of the Ecumenical Councils*, 2 vols., ed. Norman P. Tanner, S.J. (Washington: Georgetown University, 1990).

<sup>3</sup> *Christus Dominus* no. 38.

<sup>4</sup> On July 1, 2001, the NCCB combined with the US Catholic Conference to become the US Conference of Catholic Bishops (USCCB).

produced a number of doctrinal pastoral letters during the 15 years between *Human Life in Our Day* (1968) and *The Challenge of Peace* (1983).

During the preparation of the pastoral letter on peace, controversy erupted over the teaching role of episcopal conferences. With a view to promoting a broad consensus on issues concerning war and peace, the Holy See summoned representatives of the NCCB along with those of the episcopal conferences of six European nations to an "informal consultation" at the Vatican. The chairman of the consultation, Cardinal Joseph Ratzinger, prefect of the Congregation for the Doctrine of the Faith (CDF), proposed five points for discussion. The first began with the statement: "A bishops' conference as such does not have a *mandatum docendi*. This belongs only to the individual bishops or to the college of bishops with the pope."<sup>5</sup> In view of the controversy that arose on this question, the Extraordinary Synod of 1985 summoned by Pope John Paul II proposed that a study should be made concerning the theological status and the teaching authority of episcopal conferences. In January 1988, the prefect of the Congregation for Bishops, Cardinal Bernardin Gantin, sent the bishops a document entitled: "Theological and Juridical Status of Episcopal Conferences," along with a letter in which he described the document as a "working paper" (*instrumentum laboris*), and requested corrections and emendations from bishops and episcopal conferences before the end of 1988. This document echoed Ratzinger's view, saying, "The episcopal conferences do not, as such, properly speaking possess the *munus magisterii*."<sup>6</sup>

This "working paper" received severe criticism from many episcopal conferences, more than one of which suggested that an entirely new draft be prepared. In 1998 Pope John Paul II settled the question by issuing *motu proprio* his Apostolic Letter *Apostolos suos*.<sup>7</sup> In section 4 of this document, entitled "Complementary Norms Regarding the Conferences of Bishops," in Article 1, the pope prescribed the conditions under which episcopal conferences can issue authoritative doctrinal statements in the name of the conference itself:

Article 1. In order that the doctrinal declarations of the conference of bishops referred to in No. 22 of the present letter may constitute authentic magisterium and be published in the name of the conference itself, they must be unanimously approved by the bishops who are members, or receive the *recognitio* of the Apostolic

<sup>5</sup> "Rome Consultation on Peace and Disarmament: A Vatican Synthesis," *Origins* 12 (1983) 691–95, at 692.

<sup>6</sup> "Draft Statement on Episcopal Conferences," *Origins* 17 (1988) 731–37, at 735. The term *munus magisterii* can be translated as "office of teaching authority."

<sup>7</sup> The Vatican's English translation, with the title, "The Theological and Juridical Nature of Episcopal Conferences," was published in *Origins* 28 (1998) 152–58.

See if approved in plenary assembly by at least two-thirds of the bishops belonging to the conference and having a deliberative vote.<sup>8</sup>

To my knowledge there is no historical precedent for the requirement that a conciliar decree must have been unanimously approved for it to be published in the name of a council. Councils have always sought, with the help of the Holy Spirit, to achieve consensus, which may be described as moral unanimity, but they have not required actual unanimity. One can reasonably expect that the difficulty of achieving unanimous approval would have the result that conferences would avoid controversial topics for doctrinal statements, and choose only those topics on which they were confident that their statement would receive the Holy See's *recognitio*. The topics on which the USCCB has produced doctrinal statements since those conditions were imposed strike me as being of that kind.<sup>9</sup>

One might speculate as to the reason that led John Paul II to introduce those conditions for the exercise of teaching authority by episcopal conferences. I suggest that his reason may have been the coherence between those conditions and Ratzinger's opinion referred to above, that episcopal conferences do not have a mandate to teach, since this belongs only to individual bishops, the pope, and the college of bishops with him. Meeting the conditions laid down by the pope would supply the authority that an episcopal conference would lack if it had no mandate to teach. A statement that was approved unanimously by the members of the conference would have the collective authority given it by all the individual bishops. And *recognitio* by Rome would give it the authority that a statement approved by only two-thirds of the bishops would not have. I find a confirmation of this interpretation of the effect of *recognitio* by the Holy See in the comparison that John Paul II made between the *recognitio* given to a doctrinal statement and the mandate of the Holy See that an episcopal conference needs in order to issue legislative decrees. Referring to the *recognitio* required for the publication by an episcopal conference of a doctrinal statement not approved unanimously, he said: "The intervention of the Apostolic See is analogous to that required by law in order for the episcopal conference to issue general decrees."<sup>10</sup>

I conclude that John Paul II's conditions for the publication of authoritative doctrinal statements by an episcopal conference are consistent

<sup>8</sup> *Apostolos suos*, *Origins* 157. The "doctrinal declarations of episcopal conferences" to which *Apostolos suos* no. 22 referred are "those to which the faithful are obliged to adhere with a sense of religious respect to the authentic magisterium of their own bishops." "Religious respect" is the Vatican translation here of *obsequium religiosum*.

<sup>9</sup> The titles of these statements are listed on the USCCB's website, <http://usccb.org/> (this and all other URLs cited herein were accessed on June 12, 2012).

<sup>10</sup> *Apostolos suos*, *Origins* 157.

with Ratzinger's opinion that teaching authority is properly held at only two levels: the universal level (the pope and by the whole college of bishops with him), and the local level (the individual bishops). In other words, episcopal conferences as such do not have teaching authority. This conclusion would imply that there is a basic theological difference between episcopal conferences and the regional councils of the early church that, by their exercise of teaching authority, played an important role in the faithful handing on and development of Christian doctrine. I do not see on what grounds one can judge that there is a basic theological difference between those regional councils and episcopal conferences.

### The USCCB's Committee on Doctrine

In *Apostolos suos*, articles 2 and 3 of the "Complementary Norms," John Paul II prescribed the limits of the powers that an episcopal conference can grant its commissions, such as its committee on doctrine:<sup>11</sup>

Article 2. No body of the episcopal conference outside of the plenary assembly has the power to carry out acts of authentic magisterium. The episcopal conference cannot grant such power to its commissions or other bodies set up by it.

Article 3. For statements of a different kind, different from those mentioned in Article 2, the doctrinal commission of the conference of bishops must be authorized explicitly by the permanent council of the conference.

In view of a recent controversy, it would seem opportune to apply these norms to the question of the teaching authority of a statement issued on March 24, 2011, by the USCCB's Committee on Doctrine entitled "Statement on *Quest for the Living God: Mapping Frontiers in the Theology of God*, by Sister Elizabeth A. Johnson."<sup>12</sup> One might begin by asking whether this statement of the Committee on Doctrine qualifies as an act of "authentic magisterium." Article 2 of the papal norms makes it clear that it does not, since the Committee on Doctrine does not have the power to carry out such an act, nor can the Conference grant it that power. It follows that the faithful of the United States are not obliged to respond to its statement with *obsequium religiosum*. According to Article 3 of the papal norms, the statement on Johnson's book would then be "of a different kind . . . from those mentioned in Article 2," for which the commission "must be authorized explicitly by the permanent council of the conference." That such authorization was given has been affirmed by the president of the USCCB, Archbishop Timothy M. Dolan, in his letter of July 7, 2011, addressed to

<sup>11</sup> Ibid.

<sup>12</sup> *Origins* 40 (2011) 704–11.

Professor John E. Thiel, president of the Catholic Theological Society of America (CTSA).<sup>13</sup> Here Dolan wrote:

I should also point out, that according to USCCB rules, any proposed statement by a committee must be approved by a vote of the Administrative Committee. As President of the Episcopal Conference I serve as chairman of that committee. At its March meeting, the Administrative Committee discussed both the content of and the procedure leading up to the statement of the Committee on Doctrine. In view of the pastoral concerns presented by the Committee on Doctrine, and following their proposal, the Administrative Committee unanimously authorized the immediate publication of the statement.

It is noteworthy that Dolan explicitly mentioned the discussion by the USCCB Administrative Committee of both the content and the procedure leading up to the statement, and their approval of its immediate publication. The controversial element of the procedure used in making this statement was its publication before any opportunity had been given to Johnson to respond to the severe criticisms it expressed concerning her book. This procedure was particularly deplored by the board of directors of the CTSA, in view of the fact that in 1989 the NCCB had approved the document *Doctrinal Responsibilities*, which provided that when misunderstandings arise between bishops and theologians about the teaching of the gospel and the ways of expressing it, “informal conversation ought to be the first step towards resolution.”<sup>14</sup>

Cardinal Donald Wuerl, archbishop of Washington and chairman of the Committee on Doctrine of the USCCB, replied to the criticism of the fact that his committee had not followed the procedure proposed in *Doctrinal Responsibilities* for the solution of conflicts between bishops and theologians. In his document entitled “Bishops as Teachers: A Resource for Bishops,”<sup>15</sup> he wrote:

*Doctrinal Responsibilities* was intended to promote cooperation in resolving misunderstandings between individual diocesan bishops and theologians. *Doctrinal Responsibilities* did not address the special responsibilities of the Committee on Doctrine of our national episcopal conference. In addition the document is presented for consideration as one way of proceeding but not as obligatory.<sup>16</sup>

One may grant that the Committee on Doctrine is not obliged to follow the procedure for formal doctrinal dialogue proposed in *Doctrinal Responsibilities*.

<sup>13</sup> This letter was posted on the CTSA website: [http://www.ctsa-online.org/pdf\\_doc\\_files/Letter%20of%20Archbishop%20Dolan%20to%20CTSA%20President,%20July%207,%202011.pdf](http://www.ctsa-online.org/pdf_doc_files/Letter%20of%20Archbishop%20Dolan%20to%20CTSA%20President,%20July%207,%202011.pdf).

<sup>14</sup> NCCB, *Doctrinal Responsibilities: Approaches to Promoting Cooperation and Resolving Misunderstandings between Bishops and Theologians* (Washington: NCCB, 1989) 4. The CTSA statement was published in *Origins* 41 (2011) 18–19.

<sup>15</sup> Published in *Origins* 41 (2011) 19–23.

<sup>16</sup> *Ibid.* 23.

But it is surely obliged to follow a procedure that respects the rights of theologians, among which the same document names “the right to a good reputation, and, if needed, the defense of that right by appropriate administrative or judicial processes within the Church,” and “in cases of dispute the right to expect access to a fair process.”<sup>17</sup> In his defense of the procedure followed by the Committee on Doctrine in Johnson’s case, Wuerl mentioned the fact that his committee had been entrusted with a mandate by the CDF. This suggests that one could usefully compare the procedure followed by his committee, with the procedure that John Paul II prescribed for the CDF to follow in its examination of books and other writings touching on faith and morals. In his apostolic constitution *Pastor bonus* John Paul decreed:

[The Congregation] examines carefully writings and opinions that seem to be contrary or dangerous to true faith, and, if it is established that they are opposed to the teaching of the Church, reproves them in due time, having given authors full opportunity to explain their minds, and having forewarned the Ordinary concerned; it brings suitable remedies to bear, if this be opportune.<sup>18</sup>

As one would expect, when the CDF published the new Regulations for Doctrinal Examination in 1997, the rules for “ordinary procedure” gave the authors whose works were examined full opportunity to respond, first in writing and then orally, to the objections communicated to them, before the publication of any critical judgment on their work.<sup>19</sup> The Regulations also laid down the following rules for examination in cases of urgency:

Article 23. An urgent examination is employed when the writing is clearly and certainly erroneous and, at the same time, its dissemination could cause or already has caused grave harm to the faithful. . . .

Article 26. If the ordinary session judges that the above-mentioned propositions are in fact erroneous and dangerous, after the approval of the Holy Father they are transmitted to the author, through his ordinary, with the request that they be corrected within two canonical months.

Article 27. If the ordinary, having heard the author, believes it is necessary to ask him for a written explanation, this text must be forwarded to the congregation together with the opinion of the ordinary. Such an explanation is then presented to the ordinary session for the appropriate decisions.<sup>20</sup>

In his defense of the decision of his committee to publish its critical judgment on Johnson’s book *Quest for the Living God*, without having

<sup>17</sup> NCCB, *Doctrinal Responsibilities* 8.

<sup>18</sup> *Pastor bonus*, art. 51, [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/apost\\_constitutions/documents/hf\\_jp-ii\\_apc\\_19880628\\_pastor-bonus\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/apost_constitutions/documents/hf_jp-ii_apc_19880628_pastor-bonus_en.html).

<sup>19</sup> Regulations for Doctrinal Examination, sec. III, Ordinary Procedure for Examination, *Origins* 27 (1997) 222.

<sup>20</sup> *Ibid.*, sec. IV, Examination in Cases of Urgency.

communicated its objections to her or given her an opportunity to respond, Wuerl said that she could have initiated a dialogue with a bishop by requesting an *imprimatur* for her book, a step that he noted is recommended by canon 827.2, even when it is not required. He went on to say: "Once a theological work is published, however, it is ipso facto open to response. It is like the tennis ball that has been hit in a tennis match. It is already in play. If it is called out of bounds, it is not an adequate defense to say that the referee did not enter into dialogue with the player beforehand."<sup>21</sup>

Does this mean that Wuerl recommends that bishops enter into dialogue with authors about theological opinions they express in their books only if the authors have initiated such a dialogue by requesting the *imprimatur*? One would hope that the Administrative Committee of the USCCB would not approve this as the policy of its Committee on Doctrine, and that it would rather adopt as its own policy that it will not authorize the publication of a critical judgment on a theologian's work unless the objections of the Committee on Doctrine had been communicated to the author with ample opportunity to respond to them. This policy would enable authors to clarify the meaning of what they had written, and thus prevent the damage that the bishops' teaching authority would suffer if it could subsequently be shown that the severe judgment published by the Committee on Doctrine was based, at least in part, on a misunderstanding of what the author had written.

### **Congregation for the Doctrine of the Faith**

Founded by Pope Paul III as the Sacred Congregation of the Universal Inquisition, renamed the Sacred Congregation of the Holy Office by Pope Pius X, it received its present name, the Congregation for the Doctrine of the Faith, from Pope Paul VI in 1965, when he added to its original function of protecting the faith from error, the positive task of promoting sound doctrine.<sup>22</sup> This twofold task is now expressed in the regulations given to the CDF by John Paul II in 1988.<sup>23</sup> Since the time of Paul VI, but especially during the pontificate of John Paul II, the CDF has been fulfilling its new positive task by issuing authoritative teaching documents on a variety of topics. It described its own magisterial function in its "Instruction on the Ecclesial Vocation of the Theologian" (*Donum veritatis*) where it said:

The Roman Pontiff fulfills his universal mission with the help of the various bodies of the Roman Curia and in particular with that of the Congregation for the Doctrine of the Faith in matters of doctrine and morals. Consequently, the documents

<sup>21</sup> Cardinal Wuerl "Bishops as Teachers: A Resource for Bishops," *Origins* 41 (2011) 19–23, at 22.

<sup>22</sup> Apostolic Letter *Integrae servandae, Acta apostolicae sedis (AAS)* 57 (1965) 953.

<sup>23</sup> Apostolic Constitution *Pastor Bonus*, arts. 48–51, *AAS* 80 (1988) 873.



issued by this Congregation expressly approved by the Pope participate in the ordinary magisterium of the successor of Peter.<sup>24</sup>

For this reason, every document issued by the CDF must have received papal approval, and the fact of such approval is affirmed at the conclusion of the document. In his statement of approval, the pope may single out particular articles in the document, and declare that he is approving those articles *in forma specifica*. Articles that are thus specifically approved have the authority of statements made by the pope himself, while the rest of the document has teaching authority that is delegated by him.

As an example of ordinary papal approval it seems useful to cite the formula used at the conclusion of *Donum veritatis* referred to above: “*This Instruction was adopted at a Plenary Meeting of the Congregation for the Doctrine of the Faith and was approved at an audience granted to the undersigned Cardinal Prefect by the Supreme Pontiff, Pope John Paul II, who ordered its publication.*”<sup>25</sup> My reason for citing the statement of papal approval at the conclusion of *Donum veritatis* is that no such statement is found at the conclusion of a document entitled “Commentary on Profession of Faith’s Concluding Paragraphs,” which was signed by the prefect of the CDF, Cardinal Joseph Ratzinger, and by its secretary, Archbishop Tarcisio Bertone, and was published along with the apostolic letter of Pope John Paul II, *Ad tuendam fidem*.<sup>26</sup> A new Profession of Faith, consisting of the Nicene-Constantinopolitan Creed followed by three paragraphs drawn up by the CDF, had been published in *L’Osservatore Romano* on February 25, 1989.<sup>27</sup> In the following year, in *Donum veritatis* no. 23, the CDF briefly explained the meaning of those paragraphs. One can well understand the assumption that a more extended commentary on them, signed by the cardinal prefect and the secretary of the CDF, would have the teaching authority of a document issued by the CDF. This assumption seemed to be confirmed by what Ratzinger and Bertone said in the cover letter they sent to all the bishops along with the “Commentary.”<sup>28</sup> After speaking of the objections and questionable interpretations that had been published by theologians, especially with reference to the Profession of Faith’s second paragraph, they wrote: “For these reasons, this congregation has judged it opportune to publish this doctrinal commentary on the concluding formula of the Profession of Faith, which is intended in the first place for bishops, the teachers

<sup>24</sup> *Donum veritatis* no. 18, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19900524\\_theologian-vocation\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19900524_theologian-vocation_en.html).

<sup>25</sup> *Ibid.* no. 42, emphasis original.

<sup>26</sup> *Origins* 28 (1998) 114–16, with the “Commentary” 116–19.

<sup>27</sup> Subsequently published in *AAS* 81 (1989) 104–6.

<sup>28</sup> “Letter Regarding Commentary on the Profession of Faith,” *Origins* 28 (1998) 163–64.

of the faith.”<sup>29</sup> However, the absence of a concluding statement, affirming that the “Commentary” was published by the CDF with papal approval, still raised doubts about its doctrinal authority.

In the following year, Ratzinger responded to questions that had been raised about the “Commentary” by attaching a note to an article entitled *Stellungnahme*, which he published in *Stimmen der Zeit*. This note’s importance justifies giving it here in full:

This text was composed by the entire congregation and was presented to the meeting of the cardinals in its several drafts, and was finally approved by them; it also received the approval of the Holy Father. But it was agreed that this text should not be presented as having its own teaching authority, but solely as a help for understanding, and therefore should not be published in the form of an independent document of the congregation. On the other hand, in order to show that it was not a private writing of the prefect and secretary of the congregation, but rather an authorized aid to the understanding of the text, the way it was published was deliberately chosen. One conclusion that is correctly drawn is that the examples [we gave] have no greater doctrinal weight from their mention in the commentary than they already had.<sup>30</sup>

While this strikes me as a puzzling explanation of the way the “Commentary” was published, it clearly means that it does not have the doctrinal weight of a document of the CDF and therefore does not oblige Catholics to give *obsequium religiosum* to its doctrinal statements. The reference to “examples” has to do with the judgments its authors expressed as to the paragraph of the Profession of Faith to which various particular doctrines belong. Thus, it is significant that they described the doctrine that the church has no authority to ordain women to the priesthood as belonging to the second paragraph. This means that in their judgment that doctrine has not been taught as a revealed truth, but as one that is definitively taught and calls for a firm assent of the mind. I suggest that this judgment may account for the fact that the “Commentary” was published along with *Ad tuendam fidem*, which added to the Code of Canon Law a penalty for the obstinate rejection of a doctrine of that kind (c. 1371.1).

An interesting question one might raise about the “Commentary” is whether its teaching authority has been enhanced by the fact that the prefect and secretary of the CDF who signed it are now the supreme pontiff and his secretary of state.

### THE SECONDARY OBJECT OF INFALLIBILITY

The object of teaching authority, which has undergone significant development since Vatican II, is what theologians have called “the secondary object of infallibility,” that is, truths that are not revealed but are intimately

<sup>29</sup> Ibid. 164.

<sup>30</sup> *Stimmen der Zeit* 217 (1999) 169–71, at 171 (my translation).

connected with revealed truth. There has been development on three issues: (1) the nature of the connection with revealed truth that qualifies something as a secondary object of infallible teaching; (2) the “theological note” of the proposition that the magisterium can speak infallibly about such nonrevealed truths; and (3) the assent that must be given to such truths when the magisterium proposes them in a definitive way.

### The Nature of the Connection with Revealed Truth

At Vatican I, Bishop Vincent Gasser, the official spokesman for the *Deputatio de Fide*, explained the propositions that could be defined not as “dogmas of faith,” but as “truths to be held,” as those that are “required for the defense and explanation of the deposit of faith, since without these the deposit of faith could not be guarded and explained.”<sup>31</sup>

Vatican II described the limits of the object of infallible magisterium by saying that it “extends just as far as the deposit of divine revelation that must be guarded as sacred and faithfully expounded.”<sup>32</sup> This last phrase was explained by the Doctrinal Commission as referring to those things that “are required in order that the same deposit may be religiously safeguarded and faithfully expounded.”<sup>33</sup>

In its declaration *Mysterium ecclesiae* of June 24, 1973, the CDF made its own the explanation that had been given at the two Vatican Councils, of the connection with revealed truth that is required for a nonrevealed truth to be taught infallibly. It declared: “According to Catholic doctrine, the infallibility of the Church’s Magisterium extends not only to the deposit of faith but also to those matters without which that deposit cannot be rightly preserved and expounded.”<sup>34</sup>

However, in *Donum veritatis* the CDF did not explain such truths as being necessary for the preservation or exposition of revealed truth, but as being “intimately connected with them in such a way that the definitive character of such affirmations derives in the final analysis from revelation itself.”<sup>35</sup> In another place in the same document, the CDF described such truths as “strictly and intimately connected with revelation.”<sup>36</sup> This description raised the question whether it was no longer the official position that for such connected truths to be taught infallibly they must be “matters without which the deposit of faith cannot be rightly preserved and expounded.”

<sup>31</sup> Mansi, *Sacrorum conciliorum nova collectio* 52:1226.

<sup>32</sup> *Lumen gentium* no. 25.

<sup>33</sup> *Acta synodalia Sacrosancti Concilii Oecumenici Vaticani Secundi*, vol. 3, pt. 8, p. 89 (my translation).

<sup>34</sup> *Mysterium ecclesiae* no. 3, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19730705\\_mysterium-ecclesiae\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19730705_mysterium-ecclesiae_en.html).

<sup>35</sup> *Donum veritatis* no. 16.

<sup>36</sup> *Ibid.* no. 23.

An authoritative answer to this question was given by John Paul II in his apostolic letter *Ad tuendam fidem*. Here he introduced into the Code of Canon Law a paragraph (c. 750.2) affirming the obligation of the faithful firmly to embrace and hold each and every proposition that is stated definitively by the magisterium and is “required for the sacred preservation and faithful explanation of the deposit of faith.”<sup>37</sup> In the introductory section of his letter, the pope explained that such propositions are intimately linked to revealed truths “either for historical reasons or through logical connection.”<sup>38</sup> But it clearly is not enough that there be a historical or logical connection with revealed truth. The new paragraph in the Code makes it clear that the propositions that the second paragraph of the Profession of Faith says must be firmly embraced and held are those required for the preservation and explanation of revealed truth.

### **“Theological Note” of the Proposition that the Magisterium Can Teach Infallibly about Its Secondary Object**

At Vatican I, when Bishop Gasser spoke of the possibility that the pope could define a proposition that was not revealed but was required for the defense and explanation of revealed truth, he explained that it was not the council’s intention to define papal infallibility in regard to such a matter as a dogma of faith, but to leave that infallibility in its actual state as “theologically certain.”<sup>39</sup>

At Vatican II, an early draft of the paragraph treating the infallible ordinary magisterium of the whole body of bishops spoke of the object of such teaching as “revealed faith.” To satisfy an objection, the text was amended to allow for the possibility of infallible teaching on matter connected with revelation. The change of the text involved substituting “matters concerning faith and morals” for “revealed faith.” The reason the Doctrinal Commission gave for this change was “lest the infallibility of the episcopal body seem to be restricted to that only which is proposed to be believed as divinely revealed.”<sup>40</sup> Thus, Vatican II followed Vatican I in allowing for the possibility of infallible teaching regarding the secondary object, but can hardly be said to have expressly affirmed this as conciliar doctrine.

However, as we have seen above, in its declaration *Mysterium ecclesiae*, the CDF wrote: “According to Catholic doctrine, the infallibility of the Church’s Magisterium extends not only to the deposit of faith but also to those matters without which that deposit cannot be rightly preserved and expounded.”<sup>41</sup> The theological note “Catholic doctrine” usually refers to authoritative but

<sup>37</sup> *Ad tuendam fidem* no. 4A, *Origins* 28 (1998) 115.

<sup>38</sup> *Ibid.* no. 3.

<sup>40</sup> *Acta synodalia* vol. 3, pt. 1, p. 251.

<sup>39</sup> Mansi 52:1226–27.

<sup>41</sup> *Mysterium ecclesiae* no. 3.

nondefinitive teaching of the magisterium. The CDF did not explain its reason for classifying the infallibility of the magisterium with regard to its secondary object as “Catholic doctrine.”

An even stronger affirmation of the official status of the doctrine that the magisterium can speak definitively about its secondary object was made when the CDF drew up the new formula for the profession of faith. In the second paragraph after the Creed, the person making the profession says: “I also firmly accept and hold each and everything definitively proposed by the Church regarding teaching on faith and morals.”<sup>42</sup> The CDF, in *Donum veritatis* no. 23, explained that this paragraph of the Profession of Faith refers to definitive teaching about matters that are not revealed, but are “strictly and intimately” connected with revelation. To require firm adherence to such teaching in the Profession of Faith is obviously a strong assertion of the church’s ability to speak definitively about matters that are not in themselves revealed.

John Paul II affirmed this ability even more strongly in *Ad tuendam fidem* no. 4A. Here he introduced the obligation to adhere to such teaching into the Code of Canon Law, and declared that anyone who rejects those propositions that are to be held definitively is opposed to the doctrine of the Catholic Church.<sup>43</sup> He further decreed that anyone who pertinaciously rejects such a proposition and who does not make a retraction after being admonished by the apostolic see or the ordinary is to be punished with a just penalty.<sup>44</sup>

It is to be noted that in both the Profession of Faith and *Ad tuendam fidem*, in reference to matter that is only connected with revelation, the magisterium is described as proposing doctrine “definitively”; the term “infallibly” is not used in these texts. Some theologians have drawn the conclusion that here we have a new category of teaching that is definitive but not infallible. However, in their “Commentary,” Ratzinger and Bertone clearly express their understanding that when the magisterium definitively teaches a doctrine that belongs to the second paragraph of the Profession of Faith, it also speaks infallibly. They explain that such doctrines can be either solemnly defined or taught infallibly by the ordinary universal magisterium. They conclude: “Every believer, therefore, is required to give *firm and definitive assent* to these truths, based on faith in the Holy Spirit’s assistance to the Church’s magisterium and on the Catholic doctrine of the infallibility of the magisterium in these matters.”<sup>45</sup>

The development that has taken place with regard to the infallibility of the magisterium when it speaks definitively about truths not revealed but

<sup>42</sup> CDF, Profession of Faith, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_1998\\_professio-fidei\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_1998_professio-fidei_en.html).

<sup>43</sup> C. 750.2.

<sup>44</sup> C. 1371.1.

<sup>45</sup> “Commentary” no. 6, emphasis original.

required for the defense or explanation of revealed truth can be summed up by observing that what was considered only “theologically certain” at Vatican I is now described as “Catholic doctrine.” This development is implied in the second paragraph of the Profession of Faith and is enforced by canon law.

**The Nature of the Response to Be Given to Propositions of the  
“Secondary Object” When They Are Taught Definitively**

The *Catechism of the Catholic Church*, in its original edition of 1994, in paragraph no. 88, under the heading, “The Dogmas of the Faith,” states:

The Church’s Magisterium exercises the authority it holds from Christ to the fullest extent when it defines dogmas, that is, when it proposes truths contained in divine Revelation or having a necessary connection with them, in a form obliging the Christian people to an irrevocable adherence of faith.<sup>46</sup>

Here the *Catechism* espoused the opinion that by defining a doctrine that is not revealed but has a necessary connection with revealed truth, the magisterium makes that unrevealed truth into a dogma that requires the irrevocable adherence of faith. This opinion has been held by a few theologians, but it was never before proposed as the doctrine of the Catholic Church. Previous official statements had said that such doctrines, when proposed definitively, were to be “firmly accepted and held,” but did not speak of an “irrevocable adherence of faith.”

Three years later, the definitive Latin edition of the *Catechism* was published with a corrected version of no. 88, which in the second English edition reads:

The Church’s magisterium exercises the authority it holds from Christ to the fullest extent when it defines dogmas, that is, when it proposes, in a form obliging the Christian people to an irrevocable adherence of faith, truths contained in divine revelation, or also when it proposes, in a definitive way, truths having a necessary connection with these.

Here there is a clear distinction between truths contained in divine revelation and truths having a necessary connection with them. Only of the former is it now said that they can be proposed as dogmas obliging the Christian people to an irrevocable adherence of faith. Of the latter it is now said only that the church’s magisterium exercises its authority to the fullest extent also when it proposes such truths in a definitive way. It says nothing about the response due them when they are so taught. One can presume that the proper response is that expressed by the words “firmly accept and hold” used in the second paragraph of the Profession of Faith.

<sup>46</sup> *Catechism of the Catholic Church* (St. Paul, MN: Wanderer, 1994) no. 88.

In the “Commentary” signed by Ratzinger and Bertone the distinction between dogmas of faith and definitively proposed “connected truths,” is expressed by the two terms: “doctrines *de fide credenda*” and “doctrines *de fide tenenda*.”<sup>47</sup> While I think the distinction between doctrines “to be believed” and doctrines “to be held” is clear enough, it strikes me as misleading to say that truths that are not revealed are “to be held *de fide*,” since the term *de fide* normally refers to faith in revealed truth. At Vatican I an earlier draft of the definition of papal infallibility said that the pope is infallible when he defines “what is to be held as of faith” (*tamquam de fide tenendum*).<sup>48</sup> Archbishop Henry Edward Manning and some other bishops objected to this formula on the grounds that the term *de fide tenendum* would limit the object of papal infallibility to revealed truth.<sup>49</sup> I think that to describe the definitively proposed “connected” truths as *de fide tenenda* is a way of expressing the required response that can only cause further confusion about a matter that has already caused a good deal of confusion.

### THE EXERCISE OF TEACHING AUTHORITY

A significant development has taken place since Vatican II with regard to the exercise of teaching authority in the form of official declarations that certain doctrines have been taught infallibly by the ordinary universal magisterium. Vatican I’s Dogmatic Constitution on the Catholic Faith declared: “By divine and catholic faith all those things are to be believed which are contained in the word of God as found in scripture and tradition, and which are proposed by the church as matters to be believed as divinely revealed, whether by her solemn judgment or in her ordinary and universal magisterium.”<sup>50</sup> Vatican I did not explicitly attribute infallibility to what is taught by the ordinary universal magisterium, but Vatican II did so, spelling out the conditions under which it enjoys the charism of infallibility, namely, that the Catholic bishops dispersed throughout the world but maintaining the bond of communion among themselves and with the successor of Peter are agreed in teaching a doctrine concerning faith and morals as to be held definitively.<sup>51</sup>

While Catholic theologians had been accustomed to speaking of certain doctrines as taught by the ordinary universal magisterium, the first official document that specifically named particular doctrines as having been so taught was the 1995 encyclical *Evangelium vitae* of John Paul II. Here he

<sup>47</sup> “Commentary” no. 8.

<sup>48</sup> Mansi 52:7.

<sup>49</sup> See Umberto Betti, *La costituzione dogmatica “Pastor Aeternus” del Concilio Vaticano I* (Rome: Pontifical University “Antonianum,” 1961) 390, 401.

<sup>50</sup> Denzinger-Schönmetzer, *Enchiridion symbolorum*, 34th ed., no. 3011 (my translation).

<sup>51</sup> *Lumen gentium* no. 25.

declared that the grave immorality of the direct and voluntary killing of an innocent human being,<sup>52</sup> of direct abortion,<sup>53</sup> and of euthanasia<sup>54</sup> is “taught by the ordinary and universal magisterium.” It is noteworthy that he did not say that those doctrines had been taught infallibly, even though in each case the footnote referred to *Lumen gentium* no. 25, which includes the statement cited above about the infallible teaching of the whole body of bishops when they are in agreement that a particular doctrine is to be held definitively.

Later in the same year 1995, the CDF issued its “Reply to the *dubium* concerning the teaching contained in the apostolic letter *Ordinatio sacerdotalis*.”<sup>55</sup> Here, referring to the teaching that the church has no authority to confer priestly ordination on women, which in that letter John Paul II had said must be held definitively, the CDF declared: “This teaching requires definitive assent, since, founded on the written word of God and from the beginning constantly preserved and applied in the tradition of the church, it has been set forth infallibly by the ordinary and universal magisterium.”<sup>56</sup> Here we have the first official statement explicitly identifying a particular doctrine as having been taught infallibly by the ordinary universal magisterium. In the “Reply to the *dubium*” this doctrine was twice described as *pertinens ad depositum fidei*, which seemed to mean that it was proposed as a divinely revealed truth. However, it was later made clear that the word *pertinens* in the “Reply to the *dubium*” meant “related to” rather than “belonging to,” since, as I have noted, Ratzinger and Bertone, in their “Commentary,” placed the doctrine excluding women from the priesthood among truths that were not taught as revealed, but as necessarily connected with revelation.

In that same “Commentary” they named other doctrines as having been taught infallibly, including the doctrines of the grave immorality of the direct and voluntary killing of an innocent human being, and of euthanasia.<sup>57</sup> In those two instances, their footnotes refer to the passages of *Evangelium vitae* in which the pope declared that those doctrines had been taught by the ordinary universal magisterium.<sup>58</sup> They clearly take the pope’s statements to mean that those doctrines had been taught infallibly. They offer the following explanation of the significance of a papal declaration that a doctrine has been taught by the ordinary universal magisterium:

The magisterium of the church . . . teaches a doctrine to be *believed as divinely revealed* (first paragraph) or to be *held definitively* (second paragraph) with an act which is either *defining* or *nondefining*. . . . In the case of a *nondefining* act, a truth is

<sup>52</sup> *Evangelium vitae* no. 57.

<sup>54</sup> *Ibid.* no. 65.

<sup>56</sup> *Ibid.* 403.

<sup>58</sup> On the killing of an innocent person their footnote refers to *Evangelium vitae* no. 57; on euthanasia it refers to no. 65.

<sup>53</sup> *Ibid.* no. 62.

<sup>55</sup> *Origins* 25 (1995) 402–3.

<sup>57</sup> “Commentary” no. 11.



taught *infallibly* by the ordinary and universal magisterium of the bishops dispersed throughout the world who are in communion with the successor of Peter. *Such a doctrine can be confirmed or reaffirmed by the Roman pontiff, even without recourse to a solemn definition*, by declaring explicitly that it belongs to the teaching of the ordinary and universal magisterium as a truth that is divinely revealed (first paragraph) or as a truth of Catholic doctrine (second paragraph). Consequently, when there has not been a judgment on a doctrine in the solemn form of a definition, but this doctrine, belonging to the inheritance of the *depositum fidei*, is taught by the ordinary and universal magisterium, which necessarily includes the pope, such a doctrine is to be understood as having been set forth infallibly. The declaration of *confirmation* or *reaffirmation* by the Roman pontiff in this case is not a new dogmatic definition, but a formal attestation of a truth already possessed and infallibly transmitted by the church.<sup>59</sup>

The problem that Catholic theologians have always had with the doctrine of the infallible teaching of the ordinary universal magisterium is with the verification of the fact that the bishops along with the pope have been and are in agreement in teaching a particular doctrine as definitively to be held. Three criteria for such verification have been invoked in the past. The first is the positive response given by the bishops to the pope when he asked them what they believed and were teaching about a doctrine on which the pope planned to issue a statement. Pius IX, when he defined the Immaculate Conception, and Pius XII, when he defined the Assumption, each named the common affirmative response he had received from the bishops among the grounds on which he based his definition. John Paul II likewise invoked the “unanimous agreement of the bishops, albeit dispersed throughout the world,” in response to his consultation of them about abortion, when he declared that the grave immorality of abortion “is taught by the ordinary and universal magisterium.”<sup>60</sup> A second criterion was proposed by Pius IX, who invoked the universal and constant consensus of Catholic theologians that a doctrine called for the response of faith, as proof that it was being taught by the ordinary and universal magisterium as revealed truth.<sup>61</sup> A third is found in the Code of Canon Law, where Canon 750 says that when a doctrine is taught as divinely revealed by the ordinary and universal magisterium, this is manifested by the common adherence of Christ’s faithful.

The recent development in this matter is that a new criterion has been proposed which is easier to verify than the last two: this is an exercise of ordinary papal magisterium, or a statement by the CDF, declaring that a particular doctrine has been taught infallibly by the ordinary universal magisterium. In neither case would the declaration as such be infallible. It would

<sup>59</sup> “Commentary” no. 9, emphasis original.

<sup>60</sup> *Evangelium vitae* no. 62.

<sup>61</sup> Pius IX, *Tuas libenter* (December 21, 1863), Denzinger-Schönmetzer, *Enchiridion* 2879.

seem to be understood that when such a declaration has been made, there would be no need of further verification of the fact that the bishops were in agreement in teaching that doctrine as definitively to be held. With regard to such a doctrine as the grave immorality of the direct and voluntary killing of an innocent person, the question would hardly arise whether the Catholic bishops agreed in teaching that doctrine as definitively to be held. But this was not the case when, in the “Response to the *dubium*,” the CDF declared that the doctrine that the church has no authority to ordain women to the priesthood was taught infallibly by the ordinary universal magisterium. It was evident that Catholic bishops had not been ordaining women to the priesthood, and that in this regard they had been following a tradition that went back to the apostolic age. But it was not so evident that the bishops had been in agreement in teaching that the faithful must hold definitively that the church has no authority to ordain women to the priesthood. In the “Commentary” by Ratzinger and Bertone a footnote suggests how they might have responded to someone who asked for the evidence that prior to the publication of *Ordinatio sacerdotalis*, the bishops had been agreed in teaching that doctrine. This footnote reads:

It should be noted that the infallible teaching of the ordinary and universal magisterium is not only set forth with an explicit declaration of a doctrine to be believed or held definitively, but is also expressed by a doctrine implicitly contained in a practice of the church’s faith, derived from revelation or, in any case, necessary for eternal salvation and attested by the uninterrupted tradition.<sup>62</sup>

It seems to me that this response would be based on the assumption that if the bishops were asked why they ordained only men to the priesthood, they would have given a reason that would explain and justify that tradition, and that the reason they gave would be the doctrine implicitly contained in their practice. But this assumption raises two questions. In the years before the publication of *Ordinatio sacerdotalis* is it likely that the reason that all the bishops would have given for not ordaining women to the priesthood was that Christ had not given the church the authority to do so? And even if this doctrine had been implicit in their practice, would that satisfy the condition laid down by Vatican II for the infallible teaching of the ordinary universal magisterium? It strikes me that the idea that a doctrine that was *implied* in a traditional *practice* could for that reason be understood as having been infallibly *taught* by the ordinary universal magisterium needs further discussion.

Another question that needs serious theological examination is whether a papal declaration that a particular doctrine has been taught by the ordinary universal magisterium definitively settles the question whether the

<sup>62</sup> “Commentary,” note.

conditions laid down by Vatican II for the infallible teaching of the ordinary universal magisterium have been fulfilled in this case. It is well known that after Vatican I defined the dogma of papal infallibility, more than one attempt was made to extend the pope's infallibility to his ordinary magisterium.<sup>63</sup> One can hardly be surprised that the question has been raised whether this recent development would not introduce another way of attributing infallibility to the ordinary magisterium of the pope if, as it seems, it would mean that, without solemnly defining a doctrine, he could render it irreformable by declaring that it has been taught infallibly by the ordinary universal magisterium.<sup>64</sup>

### CONCLUSION

In looking back over the developments in teaching authority that have taken place since Vatican II, I have been struck by the fact that each of them has been the result of an intervention of the Holy See, either by the pope himself or by the CDF acting by his authority.

John Paul II in 1998 decreed that for a doctrinal statement of an episcopal conference to have teaching authority it must either be approved by all the members of the conference or obtain the *recognitio* of the Holy See if it was approved by two-thirds. The difficulty of obtaining a unanimous vote for a doctrinal statement would be likely to have the effect of limiting the choice of topics to those on which the leadership could be confident that the conference could produce statements that would receive the Holy See's *recognitio*.

Two initiatives by John Paul II, the promulgation of a new formula for the Profession of Faith and the introduction of a new paragraph into the Code of Canon Law, have had the effect of giving the status of definitive doctrine to an opinion that, at Vatican I, was judged to be only theologically certain, namely, that the magisterium can teach infallibly about doctrines that are not revealed, but that are required for the defense or explanation of some revealed truth. As a result of these initiatives, Catholics who are obliged to make the Profession of Faith must declare that they firmly accept and hold such doctrines when they are definitively taught, and a canonical penalty can now be imposed on one who obstinately rejects such a doctrine.

Finally, a new way of exercising teaching authority by the Holy See was first seen in the encyclical *Evangelium vitae*, where John Paul II declared that three moral doctrines had been taught by the ordinary universal magisterium, in each instance referring to *Lumen gentium* no. 25, where the

<sup>63</sup> The most serious of these was by Alfred Vacant, in his work *Le magistère de l'Église et ses organes* (Paris: Delhomme et Briquet, 1887).

<sup>64</sup> See, for instance, Bernard Sesboué, S.J., *Le magistère à l'épreuve: Autorité, vérité, et liberté dans l'Église* (Paris: Desclée de Brouwer, 2001) 275.

council named the conditions for its infallibility. The CDF soon followed this precedent by declaring that the doctrine that the church has no authority to ordain women to the priesthood had been infallibly taught in this way. I believe further discussion is needed of the grounds on which those making such declarations base their assurance that the conditions laid down by Vatican II for the infallibility of the ordinary universal magisterium have been fulfilled.