

## Magisterium

It has been said of generals that they are always magnificently prepared to fight the last war. Whether or not that is true, it often seems true that seminaries do a magnificent job preparing priests to handle the pastoral problems of the past. Seminaries often seem to be the last places to become aware of new pastoral situations and the challenges they present. At least that is what you are lead to believe by observing the behavior of many products of seminaries.

Still, we might hope that when a pastoral problem has festered for more than a century, seminaries would be able to alert the future leaders of the Church to its existence. But their training did not make our current leaders adequately aware of the nature of the pastoral problem created by Vatican I's declarations on the authority of the extraordinary and ordinary magisteriums. I will demonstrate this from the behavior of our current pastoral leaders. Then I will offer some suggestions about how they should satisfy the sacred right of baptized Christians to know what has and has not been taught infallibly by the Church.

It would not be difficult to solve the problem I am presenting. In itself, it is one that could be solved easily. But no problem is easy to solve if we do not admit its existence. If we do not admit its existence, it may never be solved.

### 1.

Vatican I's definitions of infallibility created two new pastoral problems for Catholics. First, how are we to tell whether something has been taught infallibly or not? Second, what is our obligation concerning those teachings that do not possess sufficient credentials (whatever those may be) for us to know that they have been taught infallibly? I will assume that, for all practical purposes, the first problem does not arise in the case of ex cathedra definitions by the Pope. But statements the ordinary magisterium can also be infallible. Pastorally, the first problem concerns how do we know which of them are infallible and which of them are not? On the second problem, there appear to be at least three modes of obligation toward Church teachings mentioned in her official documents: the obligations to believe a teaching with divine and catholic faith, to firmly accept and hold a teaching (where

whether by the theological virtue faith or not is usually not stated), and to give religious submission of intellect and will to a teaching (as opposed to belief by the theological virtue of faith). Again, I will assume that there is no pastoral question that ex cathedra definitions of the pope call for belief by the virtue of faith. The second problem concerns which mode of adherence is due which teachings of the ordinary magisterium.

In Church documents, there appear to be two distinct sets of criteria whose satisfaction determines that a teaching of the ordinary magisterium are infallible. In one case something must be taught by the universal ordinary magisterium, that is, by all the bishops in union with the pope, and the teaching must be that something is part of the divine revelation handed down in the deposit of faith. If these conditions are met, the teaching is infallible and must be held by divine and catholic faith. In the second case, something must be taught “definitively” by the magisterium. And what is taught must be a matter of faith or morals that is connected by way of logical or historical necessity with the divinely revealed deposit of faith. If these conditions are met, the teaching is infallible and “must be firmly accepted and held,” perhaps by faith, perhaps not.

There is a third case in which the teachings of the ordinary magisterium are not infallible, but they may still obligate us to give “religious submission of intellect and will,” though not the submission of the theological virtue of faith. The conditions under which teachings obligate us to give this religious submission seem to be that the teaching is an “authentic” exercise of the magisterium on the part of the pope or the college of bishops and that the teaching concerns a matter of faith or morals.

Before examining how to tell whether a teaching of the ordinary magisterium is infallible, I need to reply to an objection. I am attempting to raise a specifically pastoral as opposed to theological problem. No doubt pastoral and theological problems can be intimately connected. But in this case it might seem that the pastoral side of the problem is a tempest in a teapot. For in each of the three cases, the adherence of Catholics is due the teachings of the ordinary magisterium. The differences between the three modes of adherence may be an interesting theological question. But how much practical difference

does it make on the level of the day-to-day life of the Catholic? That there are theological differences between these modes does not imply that Catholics must go around thinking about those differences as they live their lives in conformity with Church teaching. Likewise, the fact that our existence is the most important purpose that human sexuality can conceivably accomplish for us does not imply that procreation must be our main psychological purpose when we engage in sex.

The difference between fallible and infallible teachings, however, creates a major problem when someone disagrees in conscience with a teaching. If I disagree in conscience with a teaching taught in a way that is supposed to show that the teaching is infallible, then either I cannot in conscience believe that the Church teaches with the authority of Jesus or I cannot in conscience believe that Jesus was infallible. In fact, I should not believe either. If the Church does not teach with the authority of Jesus, then Jesus did not leave us a way of knowing what he actually taught. If Jesus was sent by God to, among other things, teach us, it would make no sense for Jesus not to give us a way of knowing what God sent him to teach. So if I do not believe that Jesus left us an infallible Church, I should not believe that Jesus spoke for God. Or at most I should believe that Jesus did not speak for God in a way that would be unique to the Savior, Messiah and natural Son of God, but only as prior prophets had spoken. The most I should believe about Jesus is that he was just another among Jewish prophets.

If a teaching is not presented in a way that shows it is infallible, on the other hand, people who disagree can in conscience believe that the Church can and does speak with Christ's authority at other times. So those people can in conscience have full theological faith that Jesus is an uncreated part of the life of God, God's perfect expression to himself of what he is, and that the Church is Jesus continuing to teach in the world. The consciences of those who disagree with a teaching not presented as infallible would not require them to give up their faith in Jesus's infallibility or their faith that Jesus continues to teach us infallibly through his visible extension, the Church. A baptized Christian, an alter Christus, a member of the royal priesthood, a member of the divine family and sharer of divine life,

certainly has the sacred right to know (CCC, 2037) whether or not disagreeing with a teaching would require him or her logically to cease believing in the infallibility of the Church and especially of Jesus.

And if the teaching they disagree with is not infallible, they could be correct and the Church incorrect. They could even have sound theological reasons for their disagreement and have reasonable certitude that their reasons are sound. In fact, this appears to have occurred historically. Think of Congar and de Lubac and many scripture scholars of the generation before them. (How they should handle their disagreement, for example, whether they should keep it to themselves and their confessor or only discuss it with experts, is a question I will not consider. My concern is only with the Church's teaching, not governing, authority.)

The problem, for them and for the Church, is, of course, exacerbated when they disagree with a teaching on morals that is not known to be infallible. The consciences of those who believe that the Church teaches with Jesus's infallibility under certain conditions logically must tell them to form their beliefs about what is moral and immoral in accord with those teachings. And when the authority of a teaching is of "the religious submission" type, their consciences must tell them that they have the religious duty to strive to form their beliefs about right and wrong in accord with those teachings. (I will discuss below why "religious submission" does not require more than this.) But they would so strive knowing that the teaching could be incorrect and therefore knowing that to believe it is incorrect would not compromise their faith in Jesus's infallibility. So when the conditions for knowing that a teaching is infallible are not present and they have fulfilled their religious duty in attempting to form their consciences, their consciences could consistently tell them, not only to disagree with the teaching, but that their behavior should sometimes be contrary to the teaching. Such is the case today with millions of Catholics who sincerely do not think the Church has given them reason to believe that the prohibition of artificial birth control has been taught infallibly.

Their inculpable conscientious failure to follow Church teaching in this matter is a

public embarrassment, at least, for the hierarchy. If as I will argue, the Church has not given them sufficient reason to believe that the prohibition of artificial contraception is infallible, the hierarchy themselves share the blame for their own embarrassment. Their embarrassment may not be caused principally by disrespect for their authority but by their own pastoral shortsightedness (which I am willing to believe they inculpably owe to seminary training). They have not understood the nature of the pastoral problem the doctrine of infallibility has created, nor adequately complied with Catholics' sacred right as children of God to know what has and has not been taught with Jesus's infallible teaching authority.

2.

In the apostolic letter Ordinatio Sacerdotalis Pope John Paul II wrote:

Wherefore, in order that all doubt may be removed regarding a matter of great importance, a matter which pertains to the church's divine constitution itself, in virtue of my ministry of confirming the faithful (Lk 22: 32) I declare that the church has no authority whatsoever to confer priestly ordination on women and that this judgment is to be definitively held by all the Church's faithful. (my emphasis)

On first reading this, I thought the problem had finally been understood and addressed. The pope clearly recognized that he had to do something that would achieve the expressed purpose "that all doubt may be removed." To achieve that end, the pope cites the authority of his ministry ("in virtue of my ministry of confirming the faithful") and describes the way his teaching is to be held as "definitively." That word appears in Vatican II's description of the infallibility that belongs to the Pope alone, not to the college of bishops in union with him, the infallibility he exercises when "by a definitive act" he proclaims a doctrine of faith and morals. (Constitution on the Church, 25) To the sentence in which that word appears, Vatican II adds a footnote referring to Vatican I's definition of the pope's infallibility when speaking ex cathedra. An ex cathedra declaration of the pope should be sufficient to remove

any believing Catholic's doubt that a teaching is infallible.

But according to a statement by the CDF (Nov. 18, 1995) the infallibility of OS belongs to the ordinary magisterium type. The ordinary magisterium is infallible when it teaches universally that something belongs to the divinely revealed deposit of faith or when it speaks definitively on a matter of faith and morals. Of course, no statement of the CDF is itself infallible; so it remains logically possible that the pope was exercising his supreme authority. The practical likelihood of that, however, is nil, not only because the CDF is privy to the pope's intentions, but also because the CDF's statement has never been contradicted.

The pope does not here, but does elsewhere as I will indicate, invoke the universality of the ordinary magisterium as the reason to believe that this declaration is infallible. Therefore, the reason to believe in its infallibility must be that in it the ordinary magisterium has spoken definitively. But does the pope alone have the authority to exercise the infallibility ordinary magisterium speaking definitively? Perhaps he does; in this declaration he seems to be claiming that authority by implication (if the CDF is correct). And I certainly have no intention of claiming that he does not have it. But no previous infallible teaching of the Church states that the pope can exercise that authority on his own; nor does any noninfallible Church document such as The Catechism or the Code of Canon Law state that, even though documents of both types attempt to spell out various ways the Church's infallibility can be exercised. Therefore, the hierarchy has not fulfilled our sacred right to know whether disagreeing with OS would require us to cease believing in the infallibility of the Church and ultimately of Jesus.

Vatican II's Constitution on the Church, The Catechism, and the Code of Canon Law all take the trouble to explicitly teach that the pope alone, not just the college of bishops in union with him, can exercise the "religious submission" type of authority. But none of those documents states that the pope alone can exercise the greater ordinary-magisterium-definitive type of authority. If three official documents deem it worth mentioning that the pope alone can exercise that lesser type of authority, why do they not deem it worth mentioning that he can alone exercise a higher type of authority, if indeed he can exercise

it? I suggest that the answer may not be that the pope cannot exercise that authority but that the authors of those documents were unconscious (inculpably? or after 125 years, invincibly?) of the pastoral problem they were exacerbating by not mentioning the pope's exercise of that authority.

3.

The problem is exacerbated further by formulas used in Evangelium Vitae.

on the other hand, the Pope does not use the word "definitively"; he only gives a footnote citing a Vatican II text in which the word is found to appear. What he does say is:

By the authority which Christ conferred upon Peter and his successors, [again, which authority?] and in communion with the bishops . . . who in the aforementioned consultation . . . have shown unanimous agreement concerning this doctrine --- I declare that . . . . This doctrine is . . . taught by the ordinary and universal magisterium.

Does the footnote imply that in the consultation the Pope asked, not only whether the bishops agree with the teaching but also whether they agreed that the teaching was definitive? Perhaps we are meant to deduce that. But at the press conference held at the release of the encyclical, Ratzinger said, according to Origins, April 13, 1995:

Pope John Paul II considered making an infallible declaration . . . . But the idea was dropped because the teachings were considered "so evident" . . . . The word "infallibly" had been considered for the formulas . . . . But . . . in the past church pronouncements on dogma had never spoken of their own infallibility. . . . A formula used in the encyclical against the murder of innocent people is the strongest. . . . The formulas used in the cases of abortion and euthanasia are more turned down.

These guys must be ex-seminarians. Who else could be so unconscious of the pastoral problems Vatican I's teaching on infallibility created. Of course, the word "infallibly" was never used before. But the word "definitive" has since been used, in Ordinatio Sacerdotalis.

Why not use it here? And if the formulas differ as between "the strongest" and the more "toned down," do they have different degrees of authoritativeness? And if so, are we still talking about "Yes/No" assent or about degrees of "religious submission"? Finally, EV also condemns birth control, but does NOT invoke the universal consensus of the bishops concerning it. Should we conclude that the condemnation of birth control is of the "religious submission," not the "definitive" kind? The bottom line: why doesn't a sincere Catholic have a right to be confused about the infallible status of these doctrines. And if we do not KNOW they are infallible, why can we not in conscience disagree with any of them while consistently continuing to believe that the Church is Jesus teaching, when it teaches infallibly. What then becomes of "religious submission of intellect"? It means that I submit to the Church's belief that it is not safe for something to be taught or a doctrine to be changed at a particular time. And don't forget; I am opposed to both birth control and the ordination of women.

Instead, the pope invokes the infallibility of the ordinary magisterium "in virtue of my (the Pope's) ministry" and the fact that he declares the teaching

But according to ATF, Vatican II and the Catechism, the Pope has no authority to make anything definitive on his own except by an ex cathedra statement. Outside of the ex cathedra, the Pope's own authority is only of the "religious submission of intellect and will" type, that is, the type that is not a matter of the virtue of faith, that can be changed, and so that does not involve one's belief that the Church is Jesus continuing to teach in the world. Is this ex cathedra? Not according to a follow up statement by the CDF (Nov. 18, 1995) which says that the infallibility belongs to the ordinary magisterium type. But then the authority of the above statement is not "in virtue of my (the Pope's) ministry." And that CDF statement is itself fallible. Does not a sincere Catholic have a right to be confused about



whether the prohibition against ordaining women is or is not infallible?

25. Among the principal duties of bishops the preaching of the Gospel occupies an eminent place.(39\*) For bishops are preachers of the faith, who lead new disciples to Christ, and 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, and by the light of the Holy Spirit illustrate that faith. They bring forth from the treasury of Revelation new things and old,(164) making it bear fruit and vigilantly warding off any errors that threaten their flock.(165) Bishops, teaching in communion with the Roman Pontiff, are to be respected by all as witnesses to divine and Catholic truth. In matters of faith and morals, the bishops speak in the name of Christ and the faithful are to accept their teaching and adhere to it with a religious assent. This religious submission of mind and will must be shown in a special way to the authentic magisterium of the Roman Pontiff, even when he is not speaking *ex cathedra*; that is, it must be shown in such a way that his supreme magisterium is acknowledged with reverence, the judgments made by him are sincerely adhered to, according to his manifest mind and will. His mind and will in the matter may be known either from the character of the documents, from his frequent repetition of the same doctrine, or from his manner of speaking.

Although the individual bishops do not enjoy the prerogative of infallibility, they nevertheless proclaim Christ's doctrine infallibly whenever, even though dispersed through the world, but still maintaining the bond of communion among themselves and with the successor of Peter, and authentically teaching matters of faith and morals, they are in agreement on one position as definitively to be held.(40\*) This is even more clearly verified when, gathered together in an ecumenical council, they are teachers and judges of faith and morals for the universal Church, whose definitions must be adhered to with the submission

of faith.(41\*)

And this infallibility with which the Divine Redeemer willed His Church to be endowed in defining doctrine of faith and morals, extends as far as the deposit of Revelation extends, which must be religiously guarded and faithfully expounded. And this is the infallibility which the Roman Pontiff, the head of the college of bishops, enjoys in virtue of his office, when, as the supreme shepherd and teacher of all the faithful, who confirms his brethren in their faith,(166) by a definitive act he proclaims a doctrine of faith or morals.(42\*) And therefore his definitions, of themselves, and not from the consent of the Church, are justly styled irreformable, since they are pronounced with the assistance of the Holy Spirit, promised to him in blessed Peter, and therefore they need no approval of others, nor do they allow an appeal to any other judgment. For then the Roman Pontiff is not pronouncing judgment as a private person, but as the supreme teacher of the universal Church, in whom the charism of infallibility of the Church itself is individually present, he is expounding or defending a doctrine of Catholic faith.(43\*) The infallibility promised to the Church resides also in the body of Bishops, when that body exercises the supreme magisterium with the successor of Peter. To these definitions the assent of the Church can never be wanting, on account of the activity of that same Holy Spirit, by which the whole flock of Christ is preserved and progresses in unity of faith.(44\*)

But when either the Roman Pontiff or the Body of Bishops together with him defines a judgment, they pronounce it in accordance with Revelation itself, which all are obliged to abide by and be in conformity with, that is, the Revelation which as written or orally handed down is transmitted in its entirety through the legitimate succession of bishops and especially in care of the Roman Pontiff himself, and which under the guiding light of the Spirit of truth is religiously preserved and faithfully expounded in the Church.(45\*) The Roman Pontiff and the bishops, in view of their office and the importance of the matter, by fitting means diligently strive to inquire properly into that revelation and to give apt expression to its contents;(46\*) but a new public revelation they do not accept as pertaining to the divine deposit of faith.(47\*)



From the apostolic letter Ordinatio Sacerdotalis:

2. Wherefore, in order that all doubt may be removed regarding a matter of great importance, a matter which pertains to the church's divine constitution itself, in virtue of my ministry of confirming the faithful (Lk 22:32) I declare that the church has no authority whatsoever to confer priestly ordination on women and that this judgment is to be definitively held by all the Church's faithful. (my emphasis)

He clearly recognizes and is trying to address my epistemological problem, "in order that all doubt may be removed." But according to ATF, Vatican II and the Catechism, the Pope has no authority to make anything definitive on his own except by an ex cathedra statement. Outside of the ex cathedra, the Pope's own authority is only of the "religious submission of intellect and will" type, that is, the type that is not a matter of the virtue of faith, that can be changed, and so that does not involve one's belief that the Church is Jesus continuing to teach in the world. Is this ex cathedra? Not according to a follow up statement by the CDF (Nov. 18, 1995) which says that the infallibility belongs to the ordinary magisterium type. But then the authority of the above statement is not "in virtue of my (the Pope's) ministry." And that CDF statement is itself fallible. Does not a sincere Catholic have a right to be confused about whether the prohibition against ordaining women is or is not infallible? In Evangelium Vitae, on the other hand, the Pope does not use the word "definitively"; he only gives a footnote citing a Vatican II text in which the word is found to appear. What he does say is:

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"Religious assent": religion is a species of justice. So the issue is that something is due God in this situation. What is due God? The recognition that divinely revealed truth is involved.

If my conscience disagrees with the ordinary magisterium, I must follow my conscience. If an expert disagrees, she is obligated to explain why to other experts, for the sake of enlightening them. But the case of keeping such disagreements the secret from non-experts is gone forever. So the magisterium must have occur each to say publicly that someone whose conscience disagrees is obligated to follow their conscience.

I am obligated to believe that Dr. if I have a family to support, etc.. So prior obligations determine the obligation to believe the doctor's statement that this is the only way to save a life.

xxx ordinary magisterium,, fallibility, religious assent, unacceptable risk, definitive teachings, March 13, 2002

The unacceptable risk argument against abortion might help us understand the obligation to assent to the fallible. Secularists like Nat Hentoff are against abortion because they realize that since they do not believe in God human life has to be their highest value. In other words they realize that the has to be some highest value; the alternative is chaos, moral chaos.

The response might be that the abortionist grant that human life is the highest value; he just thinks that human life begins at a different point. But the secularists prolifer could

respond that if human life really is the only candidate for our highest value (and of course it the only candidate if we do not admit God), then anything that potentially threatens human life is an unacceptable moral risk. Whatever our highest value is, it must be something with respect to which even the risk of violating it is morally unacceptable. If just the risk of violating it is not morally unacceptable, it is not really our highest value. Because our decision to risk it must be based on some other value.

Now consider the person who is saying, consciously saying, I am going to obligate you to assent to this with mind and heart even though I know it could be wrong, even though I am conscious that it could be wrong and therefore that I might have to change from obligating you to assent to it someday. What could such a person be thinking? How could he do something as serious as obligating our assent in a way that binds our freedom if he is not absolutely sure that what he is obligating us to assent to is true?

Well isn't that person in a very similar situation to the prolifer who would be against abortion even if he could not prove that zygotes were persons. The prolifer would be imposing, consciously imposing, a great burden on women even without certitude that abortion would actually violate the highest value. The prolifer would be doing this because the alternative would be an unacceptable risk. Isn't the person who imposes an obligation to assent without absolute certitude on his part doing the same thing by implication?

By implication, isn't he saying that even though I do not have absolute certitude, anything less than obligating you to assent to this proposition would be an unacceptable risk. In other words, given the things that the authority figure does know for certain, which in this case would include both definitively taught doctrines and scientific or historical facts about the world, and given the current state of fallible knowledge concerning the issue under consideration, the authority figure judges that believing a certain proposition or disbelieving a certain proposition would be an unacceptable risk.



An unacceptable risk from what point of view? An even more important point of view than the highest secular value. The authority figure would be judging something to be an unacceptable risk from the point of view of divinely revealed truths concerning eternal salvation. Some truth or truths concerning eternal salvation, or some value or values revealed by those truths, would be what at risk in such a way that the risk would sufficiently outweigh any advantages that accepting the risk would have, given our current state of knowledge, that he, the authority figure, and we are obligated not to take that risk.

For example, the authority figure might judge it very unlikely, given our current state of knowledge, that a particular non definitively taught doctrine would turn out not to be true. And if the content of the doctrine made it sufficiently important relative to other truths or other values, the right thing to do might be to assent to the doctrine and to obligate others to assent to the doctrine.

This approach raises a number of questions and a number of problems, but not necessarily insurmountable problems. For example, every teaching of the ordinary magisterium would involve two distinct assertions. One would be the issue in question, for example, the morality of abortion or artificial contraception. The other would be the assertion about the risk involved in the first assertion. With respect to the first assertion, we know that religious assent does not mean believe that the assertion is true. Our obligation to assent does not go that far.

But what attitude are we obligated to have toward the assertion about the risk of the first assertion? Are we obligated to believe that the authority is correct in judging the first assertion to be an unacceptable risk? In other words, with the second assertion fall under the heading of definitive teaching of the ordinary magisterium? Even though the magisterium may change its attitude toward that risk, it may still be true that at the time that was the correct judgment to make about the risk; and it may still be true that we are

obligated to believe that at the time that was the correct judgments to make about the risk.

This is an interesting and tricky theological question. But the analysis presented here is on the right track, the practical consequences of this question are not as severe as its theological subtlety might make it appear. For we know now that if it would violate someone's conscience to assent to a not definitive teaching, a person can withhold his assent without violating its active faith in the Church as teaching with Christ's voice. When the Church speaks with Christ voice, it must be speaking infallibly, because Christ is infallible. That is what the doctrine of infallibility is all about. Therefore having conscience that disagrees with some non definitive teaching does not make someone a disloyal Catholic.

But the issue of whether we must agree with the second assertion, the assertion about the risk of the first assertion, only comes up for those who do more than disagree in conscience with the first assertion. One can disagree in conscience and decide to keep her disagreement relatively to herself. She can decide not to make her disagreement a public cause. And a reason for deciding not make a public cause can be either that she believes the Church cannot be wrong in making a judgment about current acceptable risks or that she believes the Church has the authority to bind her on the basis of its judgment about acceptable risk even though its judgment may be wrong.

In other words, she can judge that the Church has the authority, the Church is the one that has the authority, to make decisions about acceptable risks even if those decisions are fallible at both levels. For the issue of acceptable risk always involves the common good of the Church, for which the magisterium is responsible; and involving the common good of the Church means involving the eternal salvation of mankind. A mistake that could make what is a sin appear not to be a sin would have serious consequences for the Church's ability to witness to the righteous life, and those consequences could last long after

magisterium attempted to correct the problem.

So the only case in which the theological question concerning the status of the second kind of assertion would necessarily have practical consequences would be the case of someone whose conscience went beyond disagreeing with the assertion of the first type to the belief that she should make her disagreement public and publicly dispute with the magisterium. She would, of course, have to follow her conscience.

But even in this case, the theological aspects, that is, the speculatively true aspects, of the problem could be more (less?) serious than the practical aspects make it appear. The person's conscience would not allow her to believe that assertions of the second type are part of the Church's exercise of Christ's teaching authority. If it were an exercise of that authority and she believed it was, her conscience would have to tell her that it was an unacceptable risk for her to go public with her disagreement.

But the problem concerning the second type of assertion may not concern Christ's in fallibility but the Church's authority to make decisions concerning the common good. Our dissenter might acknowledge that the Church does have that fallible authority but disagree in conscience with the decision that fallible authority has made. If so, the problem is not one of assent to the ordinary magisterium but of the limits of conscientious disobedience to a legitimate authority, whether the disobedience concerns assent to teaching or some other kind of issue. So this case would not add anything to the issue about the Church's teaching authority as opposed to its governing authority.

There are some analogies to this analysis of assent to the fallible and our obligation to assent to the fallible. Governments are making decisions binding us on the basis of fallible information, information they know is fallible, all the time. And they are doing it all the time on the basis of the unacceptable risk of the opposite action or lack of action. Of

course, where governmental authority is concerned, there is no question of assent of mind at heart to any of the propositions concerned. I might completely disagree with propositions on the basis of which the government made its decision, including propositions about the degree of risk involved and still assent to its right to bind me to obedience to that decision.

But in the case of dealing with a doctor of medicine, I may be obligated to assent to his judgment about risk even though we both know that judgment is fallible. She can tell me that doing something or not doing something would be an unacceptable risk even though we both know that tomorrow a medical journal might publish a new study showing that was not an unacceptable risk. Still on the basis of what we know today, his conscience would require him, correctly, to tell me what I should believe about the risk, and my conscience could tell me, correctly, that I ought to believe what he tells me about the risk.

Likewise, tomorrow a theological journal might publish an article demonstrating that a prior judgment about some unacceptable risk is incorrect, though it might have been correct given the state of knowledge at the time. The fact that such theological enlightenment could come into existence tomorrow does not mean that the Church should not make today the decisions it does make concerning what it is or is not an unacceptable risk for Catholics to assent to.

So one way or another the issue is whether the Church has the right to make those judgments about what is or is not an unacceptable risk. By "one way or another" I'm referring to whether assertions of the second kind of fall under the teaching or governing authority of the Church, and if under the teaching authority are they definitive or are they just as non definitive as assertions of the first kind. Either way we want to know why the Church would have that kind of authority.

The Church would be the seat of that authority in much the same way that a medical doctor

is the seat of authority about medical risks. But doctor's authority about risks about the unknown is a result of his expertise about the known. Likewise, since the Church is the expert about what has been definitively taught and about values generated by what has been definitively taught, the Church is the expert about the acceptability of the risk of something that might potentially undermine a value concerning what has been revealed about eternal salvation.

Importantly, in saying that the Church is the expert I mean as opposed to the theologian. The theologian is not even guaranteed in fallibility in his understanding of the Church's definitive teachings, much more so then is he fallible about non definitive teachings. And much more so is he fallible about acceptable risks, since acceptable risks are judged from the perspective of definitive teachings about which he is not the final authority.

If I choose to oppose the Church's judgment about what is or is not an acceptable risk and therefore decide to go public with my dissent, I have to consider the risk involved in my doing that. For example, I might be mistaken about the values involved. I might be mistaken about what value the Church is trying to protect and what it is not trying to protect, and in what way a particular value may be under attack. For example, consider the current discipline about not allowing Protestants who believe in the real presence to receive. I may believe that ecumenicism is so important a value that I should ignore that discipline.

But if I do, I may be doing more to harm Christian unity then to advance it. For the real reason the Church does not allow Protestants to receive may not all be the Church's worry about the Eucharist's being abused. It may be the Church's worry about the ecumenical conflict writing from our different beliefs, not about the real presence, but about the need for ordination. If we allowed them to receive, the Church could not reciprocate and allow Catholics to receive at Protestant churches that do not have valid orders. If the Church did reciprocate, Catholics would be giving scandal by clearly giving the impression that we

considered their Eucharists to be the same as ours. This is the kind of risk to we have to be willing to accept if we challenged the Church's judgment, and its authority to make judgments, about acceptable risks.

But notice that in none of this am I giving any concrete examples from the history of the Church of non definitive teachings that have changed. Only by analyzing concrete examples and these issues ever be understood. And what if there are no concrete examples? Then we can question whether this is any real issue at all. There might still be an issue, however, during a period of time in which the Church was uncertain about whether a doctrine had been taught definitively. Even those who believe that the Church's position on birth control has been taught definitively might want to allow that at some time in the past there was reasonable doubt about whether it had been taught definitively.

And non existence of past examples would still allow dissenter's today to refuse assent to things that had not been definitively taught until they are definitively taught or until the "traditional" teaching about the obligation to assent to non definitive teachings has itself been taught definitively. The reason that I have put "traditional" is that this issue really didn't exist before Vatican 1's teaching about infallibility. So the "traditional" teaching on this distinction can't go back more than 125 years or so.

This analysis explains why theologians should not go beyond discussing the issue among themselves even though the Church is fallible in this matter. The Church is making the judgment that any stronger dissent than professional theological discussion would be contrary to the common good of the Church because it would be an unacceptable risk.

Some popular explainers of magisterium give the impression that they believe that there are no changeable or fallible teachings of the magisterium. For example, one speaks so "solemn

in fallible definitions" as if there were two kinds of in fallible doctrines, the solemn and the unsolemn. So Vatican 1's doctrine of in fallibility would not imply that there are fallible teachings. Vatican 1's definition would only mean that there are solemn in fallible doctrines in addition to in fallible doctrines that are not solemn. Another way I have seen this implied is by reference to definitions that are "in fallible in form," as if there were doctrines that are in fallible but not being in fallible form.

I do not intend to enter into a dispute about whether they are actually are any changeable, reformable, or fallible teachings of the magisterium. For the sake of argument, I will here assume that there are such. My purpose is to address those who believe that there are such and to demonstrate to them that we can be obligated to submit to those teachings even though they are fallible.

In reading several sources, Vatican to on the Church, the catechism, the code of cannon law, I find a confusing variety of adjectives used to describe teachings that are not part of the extraordinary magisterium. There is the "ordinary" magisterium. The "universal" magisterium. Or perhaps it's the "ordinary and universal magisterium." The "authentic" magisterium. The "definitive" magisterium. To say the least, it is not always clear whether any of these are referring to the same thing or not.

"Ordinary" sometimes seems to refer to in fallible teachings about faith and morals to which the assent of faith is required. But some place in the catechism, its state that the ordinary magisterium requires "religious assent" as opposed to the assent of faith. See paragraph 892. But perhaps this paragraph is merely saying that there are two kinds of teachings of the "ordinary" magisterium, definitive and non definitive. But there are other places where "ordinary" seems to refer only to in fallible teachings while "authentic" refers to both fallible and in fallible. But 892 seems the contrast the ordinary teaching, which it describes as fallible, to the extraordinary teaching described in 891, which it describes as in fallible.

892 gives a footnote to the Vatican Council's document on the Church when it, 892, uses the phrase "religious assent" as opposed to divine faith. But the paragraph and the council's document to which it refers, paragraph 25, seems to use "religious assent" in way that covers both definitive and non definitive teachings.

For example, it says "in matters of faith and morals, the bishops speak in the name of Christ and the faithful are to accept their teaching and adhere to with the religious assent." But if they are speaking in the name of Christ, must they not be in fallible? But then it goes on to say "this religious submission of mind it will must be shown in a "special way" to the authentic magisterium of the Roman Pontiff, even when he is not speaking ex cathedra, and the description they give of religious submission seems to imply that they are talking about non in fallible teachings.

The document goes on to say that bishops are in fallible when "authentically teaching matters of faith and morals they are in agreement on one position as definitively to be held." In this sentence the adjectives "authentic" and "definitive "are associated. The next sentence, however, uses the adjective "universal" and associates it with "the submission of faith." Does that mean that the teachings referred to in the previous sentence cannot require the submission of faith?

The entirety of the following paragraph refers to in fallible teachings. It introduces the adjective "irreformable." It uses the adjectives "definitive" in connection with some of the pope's teachings. And it uses of the phrase "assent of the Church" with reference to these in fallible teachings, whether of the pope or the bishops. It also uses the phrase "supreme magisterium" for both of these in fallible teachings to which "assent" is due.

In the catechism, paragraph 2034, the phrase "endowed with the authority of Christ" is associated with "the ordinary and universal magisterium of pope and the bishops."



(Emphasis in original.) but the next paragraph, 2035, introduces the concept of infallibility as if in contradistinction to what was said in the preceding paragraph, and therefore as if in contradistinction to the ordinary magisterium.

Paragraph 891 associates the body of bishops with infallibility when together with the pope they exercise the "supreme magisterium." The supreme magisterium is then associated with "the obedience of faith". The next paragraph, 892, specifically refers to teachings made "without arriving at it in fallible definition and without pronouncing in a "definitive manner." And associates it with the "ordinary" magisterium to which no reference was made in the preceding paragraph that talked about the obedience of faith. Then it specifically says that "this ordinary teaching" requires religious assent which is specifically opposed to be "assent of faith," although it is an extension of it.

In paragraph 750 of the code of canon law, however, refers to teachings "proposed as divinely revealed" by the "ordinary and universal magisterium" as requiring belief "by defining and Catholic faith," where "faith" will be distinguished from "religious assent" in paragraph 752. In that paragraph, "religious assent" is associated with the "authentic magisterium," with no reference to ordinary or universal, and to teachings they do not intend to proclaim by "definitive" act.

There are other questions I am not addressing here. For example, I do not intend to give an account of what "religious submission" as opposed to divine faith is. Likewise, I do not intend to explain how one is to tell whether the exercise of the magisterium is "authentic" in the non definitive sense. Nor how one is to tell when the intention is to speak "definitively."

On the practical level however, I wish to fallibly and non definitively state that the question has been settled infallibly and definitively by Romans chapter 14.

Another reason not to go public about a theologian's disagreement in conscience is that, notoriously, there have been true positions backed by inadequate arguments.

Unacceptable risk is an entirely valid moral argument. Psychologically, it may seem second-best, but so are non-definitive teachings second-best, or at least the state that they are in his second best.

There are cases where we can know that the teaching has some connection with revealed truth even though the exact connection may not have been sufficiently articulated.

Theologians have a responsibility of looking for that articulation.

Some factors that affect the validity of unacceptable risk arguments: the importance of the value that is at risk. Here are it is the value that we can least afford to take any risk with.

Another factor: the degree of risk.

One thing we should all be able to agree on before going any further. On the hypothesis that there are cases in which unacceptable risk arguments must be made, or better, unacceptable risk decisions must be made, we should all agree as to who must make those decisions, the hierarchy. So we should all agree that in the case where an unacceptable risk decision must be made, we know in advance that we will owe religious obedience of intellect and will to whatever decision the hierarchy makes.

August 16, 2002

What follows are thoughts provoked by reading Francis Sullivan's "creative Fidelity". As a member of the body of Christ, I have a sacred and solemn right to know whether a doctrine has been taught definitively by the universal ordinary magisterium. The preceding sentence certainly follows from revelation very closely and may even be included in revelation, since

part of revelation, an important part, is a Christian's knowledge of what the hierarchy is able to obligate him to.

Since Christians have a sacred right, the hierarchy has the solemn obligation to inform us what doctrines have been infallibly taught by the universal ordinary magisterium. So the question becomes how does the hierarchy communicate to me that a doctrine has been infallibly taught by the universal ordinary magisterium? Or, how do I tell that a doctrine has been so taught? The first conclusion is that a way of doing so must exist or must be able to be brought into existence. The further conclusion that such as such is the way of doing so can be determined to be true on the basis of certain conditions.

For example, the method must be clear and indisputable to reasonable people. I submit that for all practical purposes there is only one method that will do: if the pope declares that something has been definitively taught by the universal ordinary magisterium, I must have the right to assume that his declaration is infallibly true. Even if there is no specific tradition on the truth of the preceding statement, that statement follows necessarily from other statements that are part of the tradition, as I said earlier.

The argument in favor of this position is simply that no other method will do. It is simply impractical to expect all the bishops in the world to get together whenever such a declaration is needed. It is also impractical to expect a dogma defined by the pope's own authority every kind we need to know whether a doctrine is infallible. What can be done is for the pope poll all of the bishops electronically. Then he can announce to the church that all the bishops and they are in agreement. Since that is the only practical way to do it, it follows that it must be the way it should be done.

Another question to ask, as an argument in favor of this position, is what more what I need to know that a doctrine is infallible than to have the pope certify that all the bishops and he

teach this doctrine definitively. In answer to that question some theologians might say that I can rely on their judgment that a doctrine of the ordinary magisterium has been taught infallibly. In reply that, I point out that we are now dealing with a very educated laity. They are so well educated, in fact, that they know they cannot rely solely on theologians for this judgment. They know that theologians have too often been heterodox for an intelligent layperson to trust them.

But to make this method of settling questions unequivocally clear we would need an ex cathedra statements to the effect that when the poll says that the bishops have been unanimous about a doctrine and that doctrine is infallibly taught.

Another question at least discussing is the issue raised by Grisez whether or once a doctrine has been taught universally and constantly it cannot later be changed because it has already been taught infallibly. Sullivan argues against this. He cites polygenesis as an example of a forbidden doctrine that is now allowed. But if disagreement among theologians over a doctrine that was formerly universally taught is sufficient to show that the doctrine is not definitive, then theologians would have it in their power to prove that a doctrine is not infallible just by creating controversy about it. In other words, their disagreement would be a self-fulfilling prophecy.

On the other hand, Sullivan can cite cases, as he does in the chapter on Vatican II, where something that was formerly universally taught is no longer taught.

August 9th, 2003, big

Sullivan is right. The submission that is required for non definitive teachings must not be assent in the sense of a yes or no judgment. It must be an attitude of submissiveness because it has degrees. Yes or no judgments do not have degrees. The reason we know that

it has degrees is that the documents of the office of the doctrine of the faith says that various documents of the magisterium have varying degrees of authority. If the degree of authority varies, then the degree of submissiveness due to them must vary.