

DEVELOPMENTS IN CHURCH MAGISTERIUM: THE PONTIFICATE OF JOHN PAUL II

Introduction

Two recent documents of the present Pontiff – *Ordinatio Sacerdotalis*¹ and *Ad Tuendam Fidem*² – in many ways reflect not only a number of issues I should like to address in this paper concerning the Magisterium but also highlight what could arguably be considered one of the most important contributions of this pontificate, namely the significant contribution made to our renewed understanding and appreciation of certain essential aspects of the Magisterium and its exercise. During this Pontificate we have witnessed a notable development in our perception and understanding of the Magisterium, or at least certain fundamental aspects of it, and which, if I am not mistaken, will continue to have considerable importance for the future.

This, at one level, should come as no surprise. In the first place the exercise of the Magisterium is intimately connected with our understanding of the Church itself, specifically with respect to the exercise of its teaching authority. Secondly, the content

¹ For the text, see AAS 86 (1994) 545-548.

² For the text, see AAS 90 (1998) 457-461.

of the selfsame Magisterium lies at the heart of what we are called to believe, that is, it determines our personal adherence to a truth or series of truths that are considered fundamental or even indispensable for our identity as Catholics.

Given the central role played by the Magisterium, it has and continues to be the object of reflection and discussion precisely because it touches upon fundamental issues: How does the Church exercise its Magisterium? What must we believe? Are there different levels of Magisterium? To what extent can we disagree or even dissent? What are the consequences of such dissent or disagreement?

Given this, it is natural that any Pontificate will be concerned with the Magisterium in its various expressions and forms. It is an essential part of the Pope's fundamental task of «confirming the brothers» (Lk 22,32). Indeed, the study of what we mean by the Magisterium has witnessed considerable developments throughout the centuries. The particular meaning we give to the word Magisterium itself is in fact relatively recent though of course the concepts and realities it encapsulates find their foundations at the very beginnings of the Church³.

One cannot reflect on the first centuries of the Church without being struck by the central role played by the debates over doctrinal issues and the cor-

³ For general reflections on our understanding of the word Magisterium, see Y. CONGAR, «Pour Une Histoire Sémantique Du Terme "Magisterium"», *Revue des Sciences Philosophiques et Théologiques* 60 (1976) 85-98 and Y. CONGAR, «Bref Historique des Formes du "Magistère" et de ses Relations avec les Docteurs», *Revue des Sciences Philosophiques et Théologiques* 60 (1976) 99-112.

responding reflections on how these issues were to be resolved, specifically what were the institutional means adopted to determine the truths of the faith as well as other truths linked to the faith though not considered formally as dogma: councils, both universal and particular, the understanding of *communio* and even papal decretals spring readily to mind. One cannot reflect on the middle ages without witnessing the same basic process even if more carefully refined and subject to new realities: the role of the papacy and the self understanding of its particular role in determining doctrinal questions; the critical role of the universities in fashioning and shaping the climate within which key issues were considered; the development of juridical institutions to ensure compliance with what the Church held to be essential – thus the institution of the *Sacred Roman and Universal Inquisition* by Pope Paul III in 1542, the ancestor of the present Congregation for the Doctrine of the Faith. One cannot read the documents of Vatican I without being struck by the developments in the Church's understanding of the Magisterium, particularly the Papal Magisterium and the extent to which the Church's reflection on its power to teach and the institutions which can teach authoritatively had developed considerably from the first tentative efforts at determining practice and doctrine as witnessed in both the early and medieval Church. Finally, one cannot read the documents of Vatican II without being struck by further developments in the Church's understanding of its Magisterium⁴.

⁴ For a general overview of this highly complex development, see F. ARDUSSO, *Magistero Ecclesiale. Il Servizio della*

Historians will reflect on the unique contribution of this Papacy under its many and varied parts and they will rightly attempt to illustrate the more important aspects which have affected our understanding of various key issues. Amongst the many singular elements, it does seem to me that one of the key contributions of this Pontificate lies in its attention to the Magisterium. Not so much the fact that the Pontiff has exercised his teaching role, but rather in the development of our understanding of a number of key and complex areas in the exercise of the Magisterium.

It is not possible to analyse all of the areas in which significant contributions have been made to our understanding of the Magisterium in this Pontificate and so I have therefore decided to divide this paper into two somewhat uneven parts. The first will briefly indicate two areas in which the present Pontificate has made important contributions concerning the Magisterium. I will offer a few reflections but will not develop them at length. The second part instead will analyse somewhat more attentively that which I consider to be the most important contribution concerning the Magisterium and which is still the object of ongoing understanding and discussion and which will continue to be of great importance for our future perception of the Magisterium and its exercise. I refer to the development of our understanding and application of the *ordinary universal magi-*

Parola, Cinisello Balsamo 1997 and F.A. SULLIVAN, *Magisterium. Teaching Authority in the Catholic Church*, Mahwah N.J. 1983.

sterium, particularly when it teaches a doctrine to be held definitively. I will conclude with some general conclusion and areas that demand further study.

1. General Developments in the Magisterium

I should like to briefly consider two areas in which I believe a development in our perception and appreciation of the Magisterium has changed and developed in the past twenty years and what this might mean for the future. The list is not exclusive though I think these are two areas of particular significance.

1.1 «*Apostolos Suos*» and the Magisterial Authority of Bishops' Conferences

The Apostolic Letter *Motu Proprio Apostolos Suos* (21 May 1998), concerning Bishops' Conferences, was promulgated the 1 September 1998⁵. We know that it was the result of a long, complex and intensely debated process that began formally with the Extraordinary Synod of Bishops of 1985. In the *Relatio finalis*, after having noted the particular importance of Bishops' Conferences as a concrete application of *affectus collegialis*, the Synod asked that a study be made concerning their theological status and above all that the question of their doctrinal authority be «clarius et profundius explicentur»,

⁵ See AAS 90 (1998) 641-658. For an excellent study of the document, see G. GHIRLANDA, «Il *M.p. Apostolos Suos* sulle Conferenze dei Vescovi», *Periodica* 88 (1999) 609-657.

taking into account what had been stated in *Christus Dominus* n. 38 and the CÍC cc. 447 and 753⁶.

In 1986 the Pope entrusted the examination of this question to the Congregation for Bishops in collaboration with the Congregations for the Doctrine of the Faith, Oriental Churches and the Evangelization of Peoples together with the General Secretariat of the Synod of Bishops. With the help of a number of experts and consultants a study document was produced the 1 July 1987 which the following 12 January 1988 was sent to Bishops' Conferences for observations, corrections and changes. We know that the responses of Conferences and individual bishops were rather critical and on the basis of these criticisms and suggestions a second completely new draft was composed which formed the basis, along with other significant changes, of the Apostolic Letter.

I do not wish to enter into all the many aspects that are treated of by this document though two in particular need to be mentioned as they reflect the aim of this paper. The first concerns the theological nature of Bishops' Conferences. While it is true to say that much work had been done on this question there was a great deal of discussion on what precisely is the theological nature of the Conferences especially with respect to two questions: their relationship with the *Collegium Episcoporum* and their

⁶ *Enchiridion Vaticanum* 9/1809: «Quia conferentiae episcoporum tam utiles, immo necessariae in hodierno labore pastoralis Ecclesiae sint, optatur studium earum status theologici, ut praesertim quaestio de earum auctoritate doctrinali clarius et profundius explicentur, prae oculis habitis illis quae in Concilio in decreto *Christus Dominus* n. 38 et in *Codice iuris canonici* cc. 447 et 753 habentur».

relationship with the individual Bishop to whom has been entrusted the pastoral care of a diocese. While it would be rash to say that *Apostolos Suos* has definitively determined these questions, it is nonetheless true to say that it has established a number of clear principles upon which further study might continue: viz. the theological principle of collegiality as the basis for understanding the nature of the action of the College of Bishops as such (nn. 8-9); the nature of the episcopal office and its exercise within the particular church entrusted to a Bishop (n. 10); the nature of the common pastoral action of the Bishops in a Conference and its relationship with the College of Bishops and the individual Bishop (nn. 11-13).

The second concerns the doctrinal authority of Bishops' Conferences. We know that this was warmly debated amongst theologians and canonists. We also know, that given certain conditions *Apostolos Suos* recognised that the Bishops' Conferences enjoy doctrinal authority, ie. they exercise ordinary magisterium (n. 19-24)⁷. This seems to me an important development in our understanding of the exercise of the Magisterium, in this case by Bishops' Conferences. Given the critical importance of this institution to the life of the Church such a clarification of our understanding of its doctrinal authority is

⁷ See n. 22: «Hoc quidem posito ac praesumpto: authenticum Episcoporum magisterium quod scilicet sustinent homines Christi auctoritate honestati semper in communione cum Collegii capite et membris esse debere, si ideo doctrinae declarationes Episcoporum Conferentiarum ab omnibus comprobantur, procul dubio ipsarum Conferentiarum nomine foras emitti possunt, atque fidelibus religioso animi obsequio authenticum hoc ipsorum Episcoporum magisterium est tenendum».

of some considerable importance and will remain so for the foreseeable future.

I should add one further point. The document itself does not exclude further discussion and debate on the questions considered. Rather it encourages further theological-canonical study of the issues discussed. In fact Cardinal Ratzinger in his presentation of the document stated this quite clearly.

Certainly the Apostolic Letter does not intend to begin again the entire ecclesiological problem relative to the relationship between the Universal Church and the Particular Church, which constitutes the background within which one places the question of the nature of Bishops' Conferences; nor has the document the intention of responding to all the numerous questions which theology has indicated in these years concerning the problem of establishing the theological foundation of such organisms, expressions of *affectus collegialis*. It would then be wrong to attribute to the present pontifical document the scope of excluding further theological clarifications, in accordance with fidelity to and doctrinal continuity with the teaching of the Magisterium⁸.

1.2 *The potestas magisterii of the Congregation of the Doctrine of the Faith (CDF)*

It is clear on a reading of *Pastor Bonus* that there is a particular relationship between the Pontiff and the CDF with respect to the Magisterium, a relationship that can be traced back to the very origins of the Congregation⁹. In fact it is true to say

⁸ *L'Osservatore Romano*, 24 luglio 1998, 6 for the Italian original. The translation is mine.

⁹ See art. 48: «Proprium Congregationis de Doctrina Fidei munus est doctrinam de fide et moribus in universo catholico

that the major and central task of the CDF lies in what could be termed its «magisterial» responsibilities, both for the universal Church and more specifically within the Roman Curia (cf. art. 48-55 PB). It is also true that the powers exercised by the Roman Curia in general can be understood, in light of the new Code, as either *potestas executiva* or *potestas iudiciale*. In other words in the exercise of the power of governance, the CDF as the other dicasteries enjoys executive power and in certain circumstances judicial power. Besides the power to issue single administrative acts, the dicasteries are also competent to issue general executive decrees and instructions¹⁰. On the other hand in order to place legislative acts – laws or general decrees – or to derogate from the prescriptions of the universal law, the dicasteries need a special and specific approval by the Roman Pontiff, generally known as an approbation *in forma specifica*¹¹.

Given the description of competencies and powers exercised by the Roman Curia in general and by the CDF in particular as found in *Pastor Bonus*, it comes as somewhat of a surprise to read a comment

orbe promovere atque tutari; proinde ipsi competunt ea, quae hanc materiam quoquo modo attingunt». For the history of the Roman Curia and the Congregation of the Doctrine of the Faith, see N. DEL RE, *La Curia Romana. Lineamenti storico-giuridici*, Città del Vaticano 1998; F. DE LASALA CLAVER, *Storia della curia romana*, Roma 1992; A.M. STICKLER, «Riforma della curia: aspetto storico», in *La curia romana. Aspetti ecclesiologici, pastorali, istituzionali*, Città del Vaticano 1989, 97-102.

¹⁰ See the *Regolamento generale della Curia romana*, 30 April 1999, arts. 133 and 123 §1.

¹¹ See *Regolamento generale* (cf. nt. 10), art. 123 §2.

in the Instruction *Donum Veritatis* (1990), n. 18 which reads as follows:

Romanus Pontifex missionem suam universalem adimplet auxilio institutorum curiae romanae, peculiarique modo Congregationis pro doctrina fidei quod attinet ad doctrinam fidei et morum. *Einde sequitur documenta huius congregationis, expresse a romano pontefice approbata, participare magisterium ordinarium successoris Petri*¹².

What exactly is the precise meaning of this affirmation? In what sense can we speak of a participation by the CDF in the ordinary magisterium of the successor of Peter? What consequences does this have for our understanding of the exercise of the Magisterium? How can this statement be understood in the light of our present understanding of the exercise of the *tria munera* and the respective *potestates* that enact them particularly in the person of the bishop? What does this mean for the particular and special relationship between the Roman Pontiff and the CDF within the context of the relationship between the former and the Roman Curia itself?

The answers to these questions would obviously require a conference itself. I have tried elsewhere to analyse and understand the meaning and significance of this affirmation in *Donum Veritatis* though much work still needs to be done¹³. It does nonetheless seem to me that this affirmation is of considerable relevance

¹² CONGREGATIO PRO DOCTRINA FIDEI, *Instructio Donum Veritatis*, de ecclesiali theologi vocatione, 24 May 1990, AAS 82 (1990) 1550-1570.

¹³ B. FERME, «La competenza della Congregazione per la Dottrina della Fede e il suo peculiare rapporto di vicarietà col Sommo Pontefice in ambito magisteriale», *Ius Ecclesiae* 11 (1999) 447-469.

to our understanding of the exercise of the Magisterium especially in the light of Vatican II and in the description of the *tria munera* as presented in CIC83. I would simply like to mention a number of points that seem to me to be of some relevance to this discussion.

a) It seems to me impossible to affirm that many documents issued by the Congregation find their juridical foundation in the exercise of the *potestas iurisdictionis*. It seems to me that they find their basis rather in the *potestas magisterii* which in this specific case is a participation in the ordinary magisterium of the Pontiff.

b) The description of the powers exercised by the Roman Curia as expressed in *Pastor Bonus* does not mention the *potestas magisterii* of the CDF. This lacuna is of some relevance as it is precisely the CDF's participation in the ordinary magisterium of the Pontiff that we find its utterly unique role and position within the Curia and indeed with respect to the Church as such.

c) It is generally asserted, especially with the new Code, that the *potestas magisterii* cannot be reduced to the *potestas iurisdictionis* as was often the case before Vatican II. In other words the exercise of the Magisterium was generally, though not always, seen as part of the *potestas iurisdictionis*. With Vatican II and the renewed understanding of the *tria munera* – *docendi, sanctificandi et regendi* – we simply cannot reduce the exercise of the magisterium to that of jurisdiction. It is clearly much more. Given this, it is also somewhat difficult to understand how the *potestas magisterii* can be linked «vicariously» to an office as one can verify for the *potestas iurisdictionis* and which in fact characterizes the power exercised by the Roman Curia.

In this context, it seems that the CDF has a rather singular *potestas magisterii* in its participation in the ordinary magisterium of the Pontiff. In other words, it is difficult to speak in terms of a vicar general or a parish priest participating in the magisterial authority of the bishop in the same way that *Donum Veritatis* seems to speak of the CDF participating in the magisterial authority of the Pontiff. In this sense the magisterial authority of the CDF is singular.

On the other hand it does seem to me that we can speak analogically of an ordinary and vicarious magisterial power which the CDF exercises on the basis of its unique and exclusive relationship with the Roman Pontiff. Specifically, the basic principle of this «vicarietà magisteriale» means that only and always with reference to the holder of the office, viz. the Roman Pontiff, and only in dependence on him, can the CDF exercise the magisterial mission entrusted to it.

d) In fact the CDF is made up of a group of bishops and in so far as they are members of the CDF these bishops receive from the Pontiff an office which seems to include the *potestas* necessary for the exercise of this specific exercise of the ordinary magisterium of the Pontiff but in a vicarious manner, that is in strict and essential relationship with the holder of the office, who has a unique and particular responsibility for the universal Church concerning the Magisterium. The expression of this singular relationship is the participation in the ordinary magisterium of the Roman Pontiff, that is the universal responsibility of the Pontiff for the Church. The bishop members do not act strictly in their own name, but rather in name of the Pontiff, that is in a vicarious manner. In other words the essential element of vicariousness does not concern the *potestas* but

rather the subordinate relationship to the holder of the office with whom the bishop members form a unique reality.

2. The Ordinary Universal Magisterium

2.1 *Vatican II*

Lumen Gentium n. 25 remains the fundamental starting point for an understanding of the ordinary universal magisterium.

Although the bishops, taken individually, do not enjoy the prerogative of infallibility, they do, however, proclaim infallibly the doctrine of Christ on the following conditions: namely, when, even though dispersed throughout the world but preserving the bond of communion between themselves and with the successor of Peter, in their authoritative (authentic) teaching concerning faith and morals, they are in agreement that a particular doctrine is to be held definitively. This is still more clearly the case when, assembled in an ecumenical council, they are, for the universal church, doctors of and judges in matters of faith and morals, whose decisions must be adhered to with an assent of faith¹⁴.

It is important to make a distinction here. The ordinary universal magisterium, i.e. the exercise of

¹⁴ «Licet singuli praesules infallibilitatis praerogativa non polleant, quando tamen, etiam per orbem dispersi, sed communionis nexum inter se et cum Successore Petri servantes, authentice res fidei et morum docentes in unam sententiam tamquam definitive tenendam conveniunt, doctrinam Christi infallibiliter enuntiant. Quod adhuc manifestius habetur quando, in Concilio Oecumenico coadunati, pro universa Ecclesia fidei et morum doctores et iudices sunt, quorum definitionibus fidei obsequio est adhaerendum».

the magisterium by the College of Bishops, can have as its object either infallible or non infallible teaching.

a) In the first instance (infallible teaching), the bishops, while dispersed throughout the world, could, in their authentic teaching, propose a teaching *to be held as definitive* and in so doing would have recourse to the charism of infallibility and teach an infallible truth.

b) On the other hand, the bishops dispersed throughout the world could teach authoritatively but without proposing that a teaching be held as definitive. Here we are not talking of infallible teaching or the charism of infallibility but rather of the ordinary magisterium of the bishops to which is required *obsequium religiosum*.

The particular interest of this paper is the infallible teaching by the ordinary universal magisterium, a reality that has been the object of some important developments concerning its understanding and application especially during this Pontificate.

While it is true that Vatican II did not specifically define the infallibility that pertains to the ordinary and universal magisterium, it did nevertheless determine the conditions for its exercise. These conditions, found in *Lumen Gentium*, have been taken up by c. 749 §2.

2.1.1 Subject of infallibility

The first point to make is that a *subject* of infallibility in the Church is the College of Bishops, as is clear both from a reading of *Lumen Gentium* («*Licet singuli praesules infallibilitatis praerogativa non polleant, quando tamen, etiam per orbem dispersi [...]*»), and the beginning of c. 749 §2: «*Infallibilitate in magisterio pollet quoque Collegium Episcoporum*

quando magisterium exercent Episcopi in Concilio Oecumenico [...]; aut quando per orbem dispersi [...].

Given this basic principle, how is it that the College can teach «per orbem dispersi»?

a) The response follows immediately: «sed communionis nexum inter se et cum successore Petri servantes». In effect we are talking about the bond of hierarchical communion which is the absolute requirement and essential condition, besides episcopal ordination, for belonging to the College of Bishops and exercising teaching authority as part of the self-same college. *Lumen Gentium*, n. 22 explains at length what is meant by hierarchical communion, underlining in a special way the essential link between the College and its Head, the Pontiff.

b) In addition they must be acting as «authentice res fidei et morum docentes». Here we are not concerned with what the bishops might hold as a private opinion, but rather specifically what they teach as authoritative Doctors or Teachers endowed with the authority of Christ to preach to the people entrusted to their care the faith to believe and to apply in the practice of their life. (LG n. 25: «Doctores authentici seu auctoritate Christi praediti, qui populo sibi commisso fidem credendam et moribus applicandam praedicant [...]»).

2.1.2 Object of infallibility

The *object* of this collegial act is explicit: «in unam sententiam tamquam definitive tenendam conveniunt». In this case we are talking specifically of an infallible teaching, «definitive tenendam» (cf. c. 749 §2), though as was noted the same college can also teach authoritatively but not infallibly. The idea of

«conveniunt» highlights the eminently collegial character of the teaching of the bishops «per orbem dispersi», but there having reached convergence on a teaching to be definitively held is specifically in the exercise of their function as «authentice res fidei vel morum docentes». Clearly in this context they must concur on a teaching «tamquam definitive tenendam».

2.2 *Historical background to the Ordinary and Universal Magisterium*

I simply wish to underscore a number of very brief historical points concerning the gradual development of the understanding of what is meant by the ordinary and universal magisterium¹⁵.

2.2.1 *Tuas Libenter* (1863)

We notice a reference to this type of magisterium for the first time in the documents of the Holy See in the letter *Tuas Libenter* of Pius IX written to Gregor von Scherr, archbishop of Munich in 1863 and which referred to a theological congress held in Munich. The letter praised the work of the congress participants but admonished the theologians not to limit their obligations of fidelity to solemnly defined Church teaching alone. The Pope maintained that a response of divine faith was owed as well to those teachings that had been handed on by the

¹⁵ For a very convenient study of these historical developments, see R. GAILLARDETZ, *Witness to the Faith. Community, Infallibility, and the Ordinary Magisterium of Bishops*, Mahwah N.J. 1992.

ordinary magisterium of the Church scattered throughout the world.

In fact, even if one is treating of that submission which must be given with an act of divine faith, this nevertheless must not be limited to those things which have been defined with explicit decrees of councils or by the roman pontiffs and of this apostolic see, but must be extended also to those things which, by means of the ordinary magisterium of the whole church dispersed on the earth, are transmitted as divinely revealed and thus by universal and constant consent are considered by catholic theologians as belonging to the faith¹⁶.

It should be noted in passing that the object of this infallible teaching are those teachings transmitted as divinely revealed by the ordinary magisterium of the whole Church dispersed throughout the world. As we shall see, a number of key concepts mentioned in the letter will be the object of considerable development. The concept and understanding of what is meant by truths «divinely revealed» will as we shall see undergo an important clarification in the course of the century that separates this letter from Vatican II. The concept of ordinary magisterium, as seemingly assumed in the letter, will in time come to be known as ordinary universal magisterium.

¹⁶ DS 2879: «Namque etiamsi ageretur de illa subiectione, quae fidei divinae actu est praestanda, limitanda tamen non esset ad ea, quae expressis oecumenicorum Conciliorum aut Romanorum Pontificum huiusque Apostolicae Sedis decretis definita sunt, sed ad ea quoque extendenda, quae ordinario totius Ecclesiae per orbem dispersae magisterio tamquam divinitus revelata traduntur ideoque universali et constanti consensu a catholicis theologis ad fidem pertinere retinentur».

2.2.2 Vatican I

Vatican I echoed and developed this declaration of Pius IX with a conciliar definition when it stated in its dogmatic Constitution *Dei Filius*, chapter three, *De fide*:

Wherefore, 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 judgement or in her ordinary and universal magisterium¹⁷.

This remains the basic source for c. 750 and the type of assent to be given to such truths. In addition this definition continues to talk of divinely revealed truths and added the qualifier «universal» to clearly distinguish this teaching from papal teaching. If the term «ordinary and universal teaching» was new, the concept was quite ancient. The early Church had a firm conviction that the normative expression of the Christian faith could be found in the universal teaching of bishops.

2.2.3 After Vatican I

After Vatican I, the teaching on the ordinary universal magisterium of bishops appeared occasionally in ecclesiastical documents prior to Vatican II.

¹⁷ DS 3011: «Porro fide divina et catholica ea omnia credenda sunt, quae in verbo Dei scripto vel tradito continentur et ab Ecclesia sive solemnī iudicio sive ordinario et universali magisterio tamquam divinitus revelata credenda proponuntur».

a) *CIC17*

Canon 1323 §1 explicitly refers to it and repeats verbatim the teaching of Vatican I: «Fide divina et catholica ea omnia credenda sunt quae verbo Dei scripto vel tradito continentur et ab Ecclesia sive sollemni iudicio sive ordinario et universali magisterio tanquam divinitus revelata credenda proponuntur».

b) *Mortalium animos*: Pope Pius XI (1928)

In this encyclical Pius XI makes an oblique reference to the ordinary universal magisterium in his allusion to the situation in which it must be understood with respect to an exercise of solemn teaching.

The magisterium of the church – which has been constituted on earth by divine will, so that revealed doctrines be perrenially safeguarded intact and offered to the knowledge of mankind securely and with ease – is exercised daily through the Roman Pontiff and the bishops having communion with him; it also has a particular task: that of proceeding to the definition of some point of doctrine by decree or a solemn rite, when it might be necessary to resist the errors and hostilities of heretics with greater force, or when it might be necessary to fix more precisely and clearly certain points of doctrine in the minds of the faithful¹⁸.

¹⁸ DS 3683: «Etenim Ecclesiae magisterium – quod divino consilio in terris constitutum est, ut revelatae doctrinae cum incolumes ad perpetuitatem consisterent tum ad cognitionem hominum facile tutoque traducerentur – quamquam per Romanum Pontificem et episcopos cum eo communionem habentes cotidie exercetur, id tamen complectitur muneris, ut, si quando aut haereticorum erroribus atque oppugnationibus obsisti efficacius aut clarius subtiliusque explicata sacrae doctrinae capita in fidelium mentibus imprimi oporteat, ad aliquid tum sollemnibus ritibus decretisque definiendum opportune procedat».

c) *Munificentissimus Deus*: Pius XII (1950)

Pius XII in this Apostolic Constitution pointed to the universal consensus of the ordinary universal magisterium of the church as a clear foundation for the definition of Mary's assumption.

And so from the universal consent of the ordinary universal magisterium of the church a certain and firm argument is drawn by which the bodily assumption of the blessed virgin Mary into heaven is verified ... to be a truth revealed by God and therefore to be believed by all the children of the church finally and faithfully¹⁹.

In a certain sense this understanding of Pius XII reflects the approach of theologians and canonists in the period from Vatican I until the eve of Vatican II. A frequently cited example of the infallible teaching of bishops was in fact the teaching of the Church on the immaculate conception and the assumption of Mary prior to the solemn definition of these teachings. It is also interesting to note that already in the discussions at Vatican I, a similar approach can be seen in the explanation offered by Bishop Martin concerning the proposals of the Deputation of the Faith with respect to the exercise of the Magisterium²⁰.

¹⁹ See AAS 42 (1950) 757.

²⁰ Bishop Martin argued that the proposals of the Deputation of the Faith followed what had already been indicated by *Tuas Libenter*: «Omnes vos, reverendissimi patres, scitis ante concilium Nicaenum omnes catholicos episcopos credidisse in divinitatem Domini Nostri Iesu Christi: neque tamen hoc dogma ante concilium Nicaenum erat aperte definitum et aperte declaratum. Igitur tunc temporis ante hoc concilium Nicaenum per ordinarium magisterium hoc dogma docebatur». See Mansi, 51,35A.

2.3 *Official Developments after Vatican II*

2.3.1 CDF, Declaration *Mysterium Ecclesiae* (1973)²¹

This declaration talks of the infallibility of the magisterium of the Church citing the basic text from Vatican II concerning the ordinary and universal magisterium. It does however expand on an important point that was generally referred to in *Lumen Gentium* n. 25, and which the declaration explains:

According to catholic doctrine, the infallibility of the magisterium of the Church extends not only to the deposit of faith, but also to all that which is necessary in order that it (deposit of the faith) can be preserved or explained as one must. The extension, then, of such infallibility to the deposit itself of the faith is a truth that the Church, from its origins, has retained as certainly revealed in the promises of Christ²².

This concept of «extension» without which the deposit of the faith cannot be preserved or explained is a point that will be taken up in successive documents and which will determine an important distinction in our understanding of the exercise of the ordinary universal magisterium and one of the basic differences between infallible truths.

²¹ SCDF, *Declaratio Mysterium Ecclesiae*, 24 June 1975, AAS 65 (1973) 393-408.

²² «Secundum autem catholicam doctrinam, infallibilitas Magisterii Ecclesiae non solum ad fidei depositum se extendit, sed etiam ad ea, sine quibus hoc depositum rite nequit custodiri et exponi. Extensio vero illius infallibilitatis ad ipsum fidei depositum, est veritas quam Ecclesia inde ab initiis pro comperto habuit in promissionibus Christi esse revelatam».

2.3.2 CDF, *Professio Fidei* (1989)²³

At the conclusion of the Profession of Faith we find three paragraphs which have the scope of better distinguishing various types of truth and the respective assent due to them.

a) Paragraph *one* reads: «Firma fide quoque credo ea omnia quae in verbo Dei scripto vel tradito continentur et ab Ecclesia sive solemn iudicio sive ordinario et universali Magisterio tamquam divinitus revelata credenda proponuntur». To this type of teaching it is clear, both from *Lumen Gentium* n. 25 as well as c. 750, that «Fidei assensus» or «Fide divina et catholica» is demanded.

In this case we are talking about truths that have been divinely revealed and which are proposed as such by a solemn judgement (eg. Ecumenical Council or an «ex cathedra» proclamation) or indeed by the ordinary and universal magisterium. These truths, divinely revealed, are the classic Dogmas of Faith, they are an essential part of the very faith of the Church and clearly demand a «Fidei assensus».

b) Paragraph *three* refers to those truths that require an assent of «religioso voluntatis et intellectus obsequio» which obviously refers directly to c. 752.

c) Paragraph *two* poses a number of questions and problems. It reads: «Firmiter etiam amplector ac retineo omnia et singula quae circa doctrinam de fide vel moribus ab eadem definitive proponuntur».

²³ CDF, *I fedeli chiamati*, «Professio fidei et iusiurandum fidelitatis in suscipiendo officio nomine Ecclesiae exercendo», AAS 81 (1989) 104-106. See also CDF, «Rescriptum professionis fidei et iuris iurandi fidelitatis formulas contingens», AAS 81 (1989) 1169.

Briefly I should like to list some of the issues involved in this second paragraph which were highlighted when first published.

– What is the difference between the truths referred to in the first paragraph and those proposed in the second with respect to authentic infallible teaching, given that the second paragraph talks about truths «definitive proponuntur», which in its turn reflects the language of c. 749 §2 when it talks of infallible truths «definitive tenendam declarant» (Ecumenical Council) or «definitive tenendam conveniunt» (bishops dispersed throughout the world, ie. in an exercise of the ordinary and universal magisterium). In other words what types of infallible doctrines might be included in this second paragraph?

– Is there a clear corresponding canon in the 1983 Code to the truths proposed in paragraph two of the *Professio Fidei*, as there obviously is for the first (c. 750) and the third (c. 752) paragraphs?

It is the second paragraph and the development in its understanding and application that highlights in a particular way the exercise of the ordinary universal magisterium as it has been developed especially in this Pontificate and which reflects a deepened and more profound understanding of its essential characteristics.

2.3.3 CDF, *Donum Veritatis* (1990)²⁴

A further help in our understanding of the second paragraph of the *Professio Fidei* which in its turn reflected a further development in our understanding

²⁴ CDF, *Instructio Donum Veritatis*, de ecclesiali theologia vocatione, 24 May 1990, AAS 82 (1990) 1550-1570.

of the Magisterium, and particularly the ordinary universal magisterium, comes with *Donum Veritatis*, on the ecclesial vocation of the theologian. This Instruction also devotes itself in part to specific questions concerning the exercise of the Magisterium and in this sense presents four types of teaching of the magisterium and the type of response asked for.

a) The first type of teaching is a definition of a doctrine as part of divine revelation, a doctrine of faith divinely revealed. There are two parts to this affirmation in the Instruction, at n. 23,1, that need attention. «Cum magisterium ecclesiae sententiam infallibilem pronuntiat, sollemniter declarando doctrinam contineri in revelatione, adhaesio requiritur, quae dicitur assensus fidei theologalis». Clearly we are talking of those same truths as found in paragraph one of the *Professio Fidei* and in the first part of c. 749 §2, and of their solemn pronouncement by the College of Bishops in an Ecumenical Council and obviously by the Pope, «ex cathedra» (c. 749 §1). The text talks of «assensus fidei theologalis» which is clearly another way of expressing «fidei assensus». Art. 23,1 continues: «Hic assensus ad doctrinam magisterii ordinarii et universalis extenditur, cum doctrina fidei proponitur tamquam divinitus revelata credenda». Clearly the ordinary and universal magisterium, understood in terms of the bishops dispersed throughout the world but maintaining communion amongst themselves and the successor of Peter (c. 749 §2, b), can teach a truth as divinely revealed and which therefore demands the «fidei assensus».

b) The second type of teaching concerns those definitive declarations of truths concerning faith and morals which are necessarily connected with revelation, even though they do not technically enter into

the category of truths «divinitus revelata»: «Cum idem proponit definitive veritates respicientes fidem et mores, quae etiam si non pertinent proprie ad revelationem, strictae et intime ei conectuntur, ipsae firmiter amplectendae et retinendae sunt» (n. 23,2). We have already noticed this idea of extension in *Mysterium Ecclesiae* and here it is again underlined. In addition this type of teaching corresponds to the second paragraph of the *Professio Fidei*, «firmiter etiam amplector et retineo [...]».

In a certain sense we find a response to one of the questions posed when looking at the second paragraph of the *Professio Fidei*, namely that the basic difference between truths of the first and second paragraphs is to be found in the fact as to whether or not they have been divinely revealed. If divinely revealed they are part of the first paragraph and require the assent of faith; if instead they are not divinely revealed but are strictly and intimately connected with such truths, they belong to the second paragraph and require «firmiter amplectendae et retinendae». Art. 16 of *Donum Veritatis* offers a further clarification: «The task of carefully (sancte) safeguarding and faithfully determining the deposit of divine revelation, implies, by its very nature, that the magisterium can propose definitively teachings (sententias) which, even if not contained in the truths of faith, are nevertheless intimately connected with them, so that the definitive character of such affirmations derives, in the ultimate analysis, from the revelation itself»²⁵. The same article proceeds to

²⁵ «Munus divinae revelationis depositum sancte custodiendi et fideliter exponendi suapte natura secumfert magiste-

underline the fact that such teachings involve moral questions which are also object of authentic magisterium. In fact the article states that it is a doctrine of faith that moral norms can be infallibly taught by the magisterium: «*Doctrina fidei est has leges morales infallibiliter a magisterio doceri posse*».

3. The exercise of the ordinary and universal magisterium

It should, I hope, be clear that there have been a number of quite significant developments in our understanding of the ordinary universal Magisterium since it was first tentatively referred to by Pius IX in his letter *Tuas Libenter* and defined at Vatican I. It should also, I hope, be clear that the ordinary and universal magisterium can teach infallible truths: both those that are divinely revealed and pertain to the first paragraph of the *Professio Fidei* and are referred to in c. 750 as well as those, enjoying the charism of infallibility but which technically are not divinely revealed, namely those truths included in the second paragraph of the *Professio Fidei*. I should now like to consider some practical examples of this type of teaching of the second paragraph.

rium definitive proponere posse sententias quae, etiam si non continentur in veritatibus fidei, ipsis tamen intime conectuntur, adeo ut indoles definitiva talium affirmationum a revelatione ipsa tandem derivet».

3.1 *Evangelium Vitae*

In his recent Encyclical *Evangelium Vitae*, the Pontiff seems to have *declared* a «sententiam definitiva tenendam» on three moral teachings of the ordinary and universal magisterium. These teachings condemn direct and wilful killing of an innocent person (n. 57), direct abortion (n. 62) and euthanasia (n. 65). An analysis of the language used seems to support that here we have an example of a *declaration* made by the head of the College of Bishops concerning the convergence of the bishops dispersed throughout the world and maintaining hierarchical communion, on a doctrine(s) to be held definitively. In fact the Pontiff underlines the constancy of the teaching based on the communion that exists between the bishops. Rather pointedly the final sentence to each teaching (condemnation) is couched in the language of *Lumen Gentium* n. 25, specifically underlining the teaching of the ordinary and universal magisterium.

a) N. 57: «Doctrinae haec, cuius innituntur radices illa in non scripta lege quam, praeunte rationis lumine, quivis homo suo reperit in animo (cf. Rm 2,14-15), inculcatur denuo Sacris in Litteris, Ecclesiae Traditione commendatur atque ordinario et universali Magisterio explanatur».

b) N. 62: «Haec doctrina naturali innititur lege Deique scripto Verbo, transmittitur Ecclesiae Traditione atque ab ordinario et universali Magisterio exponitur».

c) N. 65: «Haec doctrina lege naturali atque Verbo Dei scripto adnixa, Ecclesiae Traditione traducitur atque Magisterio ordinario et universali explicatur».

I should add that it is possible that we are in fact dealing with truths divinely revealed as both talk of the written word of God though it could be argued that such cannot be presumed given that the text itself does not explicitly talk of them being divinely revealed. In a sense this reflects the problem of determining which truths are divinely revealed in a technical sense and which truths are definitively taught though not technically divinely revealed.

It should also be underlined that the Pope is not as such defining a new teaching, but rather declaring a teaching already taught by the ordinary and universal magisterium. In this sense he is very much acting as Head of the College of Bishops and one of his fundamental tasks as Head is, where necessary, to confirm the faith of his brothers, or precisely to declare that common faith expressed in definitive truths.

It is interesting to note that in the 1982 Schema of the Code which was presented to the Pope on the 22 April 1982, c. 749 §2 had an additional line after the word «conveniunt» which read: «quo quidem ultimo in casu de Episcoporum in docendo consensione, authentica Romani Pontificis declaratione constare debet». Rather interestingly this final phrase requiring an authentic declaration by the Pontiff was omitted from the 1983 Code. In fact the 1982 Schema had placed two conditions on the exercise of this type of infallible teaching by the bishops dispersed throughout the world, instead of the general condition now found in the Code and indeed in *Lumen Gentium*, n. 25. In other words, to the determinative intrinsic condition that they «in unam sententiam tamquam definitive tenendam conveniunt» (based of course on hierarchical communion), the 1982 Schema added an

extrinsic condition which became equally determinative, namely an authentic declaration by the Roman Pontiff that would attest to the effective and real existence of the convergence of consent of the bishops on a doctrine to be held as definitive.

An indication as to why this extrinsic, and new, condition was omitted is given by father Umberto Betti, O.F.M., who was one of the small group of experts who helped the Pontiff in his personal examination of the 1982 Schema.

Apart from the intention of exalting to the full the role of the Bishop of Rome also in his ordinary and universal magisterium, that addition was completely out of place. Given in fact that a doctrine taught by all the bishops scattered throughout the world is covered by infallibility, evidently it must agree with the teaching of the Pope who is head of the bishops. A specific declaration on this however is not required. An eventual papal declaration could, at the most, give complete certainty that a doctrine is really taught concordantly and that it then involves the obligation of faith as found in c. 750. But it does not generate the infallibility of the doctrine; this instead is intrinsic to the doctrine itself in so far as all the bishops teach it «to be held as definitive»²⁶.

²⁶ U. BETTI, «In margine al nuovo Codice di Diritto Canonico», *Antonianum* 58 (1983) 644. The Italian text reads: «A parte l'intenzione di esaltare al massimo il ruolo del Vescovo di Roma anche nel magistero ordinario e universale, quell'aggiunta era di tutto fuori posto. Perché, infatti, una dottrina insegnata da tutti i vescovi sparsi nel mondo sia coperta dall'infallibilità, evidentemente dev'essere concorde con l'insegnamento del Papa che è il capo dei vescovi. Non si richiede per una specifica dichiarazione al riguardo. Una eventuale dichiarazione papale potrebbe, tutt'al più, dare tutta la certezza che una dottrina è davvero concordemente insegnata, e che quindi importa l'obbligo di fede, di cui nel c. 750. Ma essa non genera l'infallibilità della dottrina; la quale, invece, è intrinseca alla dottrina stessa in quanto tutti i vescovi la insegnano "da ritenersi come definitiva"».

In other words, a declaration is not essential and certainly does not generate the infallibility of the doctrine. On the other hand, there may be times in which the Head of the College is aware of the need to declare unambiguously that a doctrine is part of the ordinary and universal magisterium and is taught as such by the bishops dispersed throughout the world when as doctors of the faith they exercise the ordinary and universal magisterium. It is clearly vital to consider the statements and declarations of the Head of the College of Bishops in order to determine those situations in which the bishops dispersed throughout the world have converged on a doctrine to be held definitively.

We do have a number of further examples from this Pontificate.

3.2 *Ordinatio Sacerdotalis*²⁷

An even clearer example of this process and of the exercise of the ordinary and universal magisterium is the Apostolic Letter *Ordinatio Sacerdotalis* (22 May 1994). The essential part of the text is clear: «Ut igitur omne dubium auferatur circa rem magni momenti, quae ad ipsam Ecclesiae divinam constitutionem pertinet, virtute ministerii Nostri confirmandi fratres (cf. Lc 22,32), declaramus Ecclesiam facultatem nullatenus habere ordinationem sacerdotalem mulieribus conferendi, hancque sententiam ab omnibus Ecclesiae fidelibus esse definitive tenendam».

²⁷ First published in *L'Osservatore Romano*, 30-31 May 1994. The latin text can be found in AAS 86 (1994) 545-548.

The phrases used in this Letter should now hopefully resonate with what has been described so far: «rem magni momenti»; «Ecclesiae divinam constitutionem»; «confirmandi fratres»; «declaramus»; «definitive tenendam». There was obviously some confusion, at least juridically concerning the actual status of this teaching, such that on the 28 October 1995 the CDF published a *Responsum* to the doctrine contained in the Apostolic Letter²⁸. This *Responsum* made two basic points: a) that the doctrine that excludes the ordination of women to the priesthood belongs to the deposit of faith («ut pertinens ad fidei depositum intelligenda sit»); b) that this doctrine has been infallibly proposed by the ordinary and universal magisterium («ab ordinario et universali magisterio infallibiliter proposita sit»). Given this it demands a definitive assent on the part of the faithful («Haec enim doctrina assensum definitivum exigit»). Clearly this definitive assent is that required by paragraph two of the *Professio Fidei*. On the other hand, it was immediately obvious that such an assent had no corresponding canon in the 1983 Code, for which, as we shall see, the Pontiff published another Apostolic Letter, *Ad Tuendam Fidem* (29 May 1998).

Both *Ordinatio Sacerdotalis* and the *Responsum* (and indeed *Ad Tuendam Fidem*) highlight that the teaching is part of the ordinary and universal magisterium. It is important to underline that the definitive and infallible character of this teaching was not born specifically with the Apostolic Letter *Ordina-*

²⁸ The *Responsum* can be found in *L'Osservatore Romano*, 19 November 1995.

tio Sacerdotalis and even less so with the *Responsum*. Rather, the Head of the College has confirmed, rather «declared», this doctrine which has already been lived in the tradition of the Church and is centred on the convergence of the College on the same doctrine. The definitive and binding character of the teaching derives specifically from the truth itself of the doctrine founded in the Word of God which has been held and constantly applied in the tradition of the Church. Indeed the Commentary which accompanied the *Responsum* underscores this point: «In it (*Ordinatio Sacerdotalis*) [...] the Roman Pontiff, taking into consideration the actual circumstances, has confirmed the same doctrine by means of a formal declaration, announcing once again “quod semper, quod ubique et quod ab omnibus tenendum est, utpote fidei depositum pertinens”»²⁹. Cardinal Ratzinger in his presentation of the Apostolic Letter made the same point: «Concerning this one must respond that the Pope has not proposed a new dogmatic formula, but has conferred a certainty, which in the Church has been constantly lived and affirmed»³⁰.

²⁹ «In essa, come spiega anche la Risposta della Congregazione per la Dottrina della Fede, il Romano Pontefice, tenuto conto delle circostanze attuali, ha confermato la stessa dottrina mediante una formale dichiarazione, enunciando di nuovo “quod semper, quod ubique et quod ab omnibus tenendum est, utpote ad fidei depositum pertinens”». *L'Osservatore Romano*, 19 November 1995.

³⁰ «In questo caso si deve rispondere che il papa non propone nessuna formula dogmatica, ma conferma una certezza, che nella Chiesa è stata costantemente vissuta e affermata». *L'Osservatore Romano*, 8 June 1994.

The act of the Pope was not technically «definitory», nor solemn, but rather authoritatively declarative. Indeed the Pope himself in his address to the CDF, 24 November 1995 remarks: «In the Encyclicals *Veritatis Splendor* and *Evangelium Vitae* as well as in the apostolic letter *Ordinatio Sacerdotalis*, I wished once again to set forth the constant doctrine of the church's faith with an act confirming truths which are clearly witnessed to by Scripture, the apostolic tradition and the unanimous teaching of the pastors. These declarations, by virtue of the authority handed down to the successor of Peter to "confirm the bretheren" (Lk 22,32), thus express the common certitude present in the life and teaching of the Church»³¹.

3.3 *Ad Tuendam Fidem*³²

As mentioned above a reading of the *Professio Fidei*, *Donum Veritatis* and *Ordinatio Sacerdotalis* made it clear that the corresponding canons in the 1983 Code did not fully meet the distinctions in magisterial teaching and the response due to them that had been fleshed out since Vatican II especially

³¹ «Nelle Encicliche *Veritatis Splendor* ed *Evangelium Vitae*, così come nella Lettera Apostolica *Ordinatio Sacerdotalis*, ho voluto riproporre la dottrina costante della fede della Chiesa, con un atto di conferma di verità chiaramente attestate dalla Scrittura, dalla Tradizione apostolica e dall'insegnamento unanime dei Pastori. Tali dichiarazioni, in virtù dell'autorità trasmessa al Successore di Pietro di "confermare i fratelli" (Lc 22,32), esprimono quindi la comune certezza presente nella vita e nell'insegnamento della Chiesa». *L'Osservatore Romano*, 24 November 1995.

³² The text first appeared in *L'Osservatore Romano*, 30 June-1 July 1998 and in AAS 90 (1998) 457-461.

with respect to the clearer understanding of the exercise of the ordinary universal magisterium. To meet this lacuna *Ad Tuendam Fidem* was published, which determined that certain norms were to be inserted into both the Codes. The changes were specifically introduced in order to harmonize them with the *Professio Fidei*. Thus a second paragraph was to be added to c. 750 which would read: «Firmiter etiam amplectenda ac retinenda sunt omnia et singula quae circa doctrinam de fide vel moribus ab Ecclesiae magisterio definitive proponuntur, scilicet quae ad idem fidei depositum sancte custodiendum et fideliter exponendum requiruntur; ideoque doctrinae Ecclesiae catholicae adversatur qui easdem propositiones definitive tenendas recusat». Logically there was a change in the penal law. Canon 1371, 1° now adds a reference to what is c. 750 §2.

In the Apostolic Letter the Pope underscores the particular importance of paragraph two of the *Professio Fidei*: «This second paragraph of the Profession of Faith is of utmost importance since it refers to truths that are necessarily connected to divine revelation. These truths, in the investigation of Catholic Doctrine, illustrate the Divine Spirit's particular inspiration for the Church's deeper understanding of a truth concerning faith and morals, with which they are connected either for historical reasons or by a logical relationship»³³.

³³ «Magni momenti est hoc comma Professionis fidei, quippe quod indicet veritates necessario conexas cum divina revelatione. Hae quidem veritates, quae in doctrinae catholicae perscrutatione expriment particularem inspirationem divini Spiritus in alicuius veritatis de fide vel de moribus profundiore Ecclesiae intellectu, sive historica ratione sive logica consecutione conectuntur».

In a very real sense *Ad Tuendam Fidem* highlights in stark juridical terms the developments in our understanding and exercise of the ordinary universal magisterium.

3.4 *The Rotal Allocution of John Paul II* (21 January 2000)³⁴

In this recent Allocution to the Rota, the Pontiff has exercised his authority concerning a magisterial question which is of some importance not only for its specific content but also for a more comprehensive understanding of the exercise of the Magisterium, precisely in relationship to the new c. 750 §2.

The background to the Pontiff's confirmatory act concerning a truth to be definitively held concerns marriages *ratum et consumatum*, which cannot be dissolved by any human power and for no cause (CIC c. 1141; CCEO, c. 853). The basis for the papal intervention lies in an erroneous view that holds that the power of the Roman Pontiff, insofar as being a vicarious power of the divine power of Christ, is not one of those human powers to which the canons refer. In other words this power could in certain circumstances extend to the dissolution of marriages *ratum et consumatum*. The Pontiff is clear that the power of the Roman Pontiff does not extend to the dissolution of such marriages. In affirming this the Pontiff makes a particularly important declaration

³⁴ *L'Osservatore Romano*, 22 January 2000, 7. See also B. FERME, «The Rotal Allocution, 21 January 2000: A Note on the Exercise of the Magisterium», *Ius Ecclesiae* 12 (2000) 253-259.

that has significance not only for the truth itself (that the power of the Pope does not extend to dissolving *ratum et consumatum* marriages) but also for our ongoing understanding of the truths that belong to c. 750 §2 and the exercise of the ordinary universal Magisterium.

It clearly emerges that the non extension of the power of the Roman Pontiff to sacramental marriages *ratum et consumatum* is taught by the Magisterium of the Church as a doctrine to be held definitively, even if it has not been declared in a solemn form by means of a defining act. Such doctrine in fact has been explicitly proposed by the Roman Pontiffs in categorical terms, in a constant fashion and in a period of time sufficiently long. It has been part and been taught by all the Bishops in communion with the Holy See of Peter in the understanding that it must be always maintained and accepted by all the faithful. In this sense it has been re proposed by the Catechism of the Catholic Church. In addition it concerns a doctrine confirmed by the centuries old praxis of the Church, maintained with full fidelity and with heroism, at times also before grave pressures by the powerful of this world³⁵.

³⁵ «Emerge quindi con chiarezza che la non estensione della potestà del Romano Pontefice ai matrimoni sacramentali rati e consumati è insegnata dal Magistero della Chiesa come dottrina da tenersi definitivamente, anche se essa non è stata dichiarata in forma solenne mediante un atto definitorio. Tale dottrina infatti è stata esplicitamente proposta dai Romani Pontefici in termini categorici, in modo costante e in un arco di tempo sufficientemente lungo. Essa è stata fatta propria e insegnata da tutti i Vescovi in comunione con la Sede di Pietro nella consapevolezza che deve essere sempre mantenuta e accettata dai fedeli. In questo senso è stata riproposta dal *catechismo della Chiesa Cattolica*. Si tratta d'altronde di una dottrina confermata dalla prassi plurisecolare della Chiesa, mantenuta con piena fedeltà e con eroismo, a volte anche di fronte a gravi pressioni dei potenti di questo mondo».

This is an important affirmation for a variety of reasons. The Pope is not precisely talking of marriages *ratum et consumatum* which cannot be dissolved, a doctrine in itself constantly taught by the Church and reaffirmed both in the Allocution and in the Catechism of the Catholic Church (n. 1640), but rather of the fact that the power of the Roman Pontiff does not extend to dissolving such marriages.

He makes the critical point that the non extension of the power of the Roman Pontiff to such marriages is taught by the Church as a doctrine to be held definitively, even if it has not been declared in a solemn form by means of a definitory act. In other words we have here an example of the Pope confirming a doctrine already taught by the ordinary universal Magisterium: he declares or confirms that the doctrine belongs to the teaching of the Church and has been taught as such by its ordinary universal Magisterium³⁶.

³⁶ It is interesting to note that just over a year before this Rotal Allocution an unsigned article appeared in *L'Osservatore Romano*, 11 Novembre 1998, which considered the same question, underlined the same fundamental points though used a slightly different expression in stating the doctrinal position: «In ogni caso si può dire con certezza che non si tratta soltanto di una prassi disciplinare o di un semplice dato di fatto storico. Si è invece di fronte ad un insegnamento dottrinale della Chiesa, fondato sulla sacra Scrittura e più volte riproposto esplicitamente e formalmente dal Magistero da considerare quindi almeno come appartenente alla dottrina cattolica e come tale esso deve essere accolto, e con fermezza ritenuto».

Conclusion

It is quite clear that the importance of these critical developments in our understanding of the exercise of the ordinary universal magisterium remains fundamental also for our appreciation of the vital contribution made to this question during this Pontificate. It is also clear that much further study needs to be devoted to the many issues that an understanding of the ordinary universal magisterium involves. I should like to conclude with some more general observations and a number of questions that may help in this process.

Questions

a) What is the difference at a theological level between truths of the first and second paragraphs of the *Professio Fidei*? I have argued elsewhere that the difference lies in the classic distinction between primary and secondary objects of infallibility. On the other hand, given that doctrines belong to the deposit of faith, even if not technically divinely revealed, it is a legitimate enquiry to determine what this can actually mean.

b) How does one determine when a doctrine is divinely revealed? Are there any mechanisms for this? What is the role of theologians and canonists in this process?

c) How can we determine exactly and precisely that the bishops dispersed throughout the world converge on a doctrine to be taught definitively? What specific role have the bishops in this process? How does the successor of Peter measure or catch this sense of the bishops' teaching as authentic Doctors of the Faith?

Our understanding of the ordinary universal magisterium has developed notably, not only from its first general official appearance in the letter *Tuas Libenter*, but also during this Pontificate. Specifically, it is clear that the ordinary universal magisterium can teach truths that are to be held definitively, that are covered by the charism of infallibility, but are not as such divinely revealed and to which one does not give *fidei assensus* but rather *assensus definitivum*.

Some scholars have noted that there are no precise norms which determine the recognition of the particular act of all the bishops dispersed throughout the world when they «conveniunt» on a truth to be held definitively. In other words, what type of unanimity is required? Could it be that the College should create its own norms? There seems to me no need for this. One absolutely clear norm, based on the very nature of the College of Bishops, is that the head of the College, namely the Successor of Peter, can confirm or declare a teaching to be already part, and therefore taught, by the selfsame College. As a matter of fact one of the clear duties of the Successor of Peter is to «confirm the brothers», which necessarily includes the task of explicating that which the College teaches. There are no precise literary forms for the exercise of this declaratory act and indeed we have a number of different types from this Pontificate.

In conclusion it does appear to me that the exercise of the ordinary universal magisterium will continue for the foreseeable future to be one of the more important means of authentic magisterium. This is an added reason as to why continued study on it is required.

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