

AD TUENDAM FIDEM: SOME REFLECTIONS

Introduction

The publication of *Ordinatio Sacerdotalis* (22 May 1994)¹ raised a number of interconnected issues that were reflected in a variety of responses, both negative and positive to the Apostolic Letter. Discussion was centred on the theological basis of the doctrine, on its ecumenical consequences, on the role of women in the Church and whether the Apostolic Constitution definitively excluded the possibility of their priestly ordination and finally on the type of teaching and assent required. In order specifically to resolve the last of these questions the Congregation for the Doctrine of the Faith (CDF) published an important and timely «*Responsum ad dubium circa doctrinam in Epist. Ap. "Ordinatio Sacerdotalis" traditam*» on the 28 October 1995. The *Responsum* made two fundamental points: the doctrine that excludes the ordination of women to the priesthood belongs to the deposit of faith («*ut pertinens ad fidei depositum intelligenda sit*»); that this doctrine has been infallibly proposed by the ordinary and universal magisterium («*ab ordinario et universali magisterio infallibiliter proposita sit*»). Therefore the doctrine requires

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

a definitive assent («assensum definitivum») on the part of the faithful².

While the *Responsum* resolved a number of questions, some issues still remained, particularly of a theological-juridical nature, that required closer attention and further consideration. Specifically, the question of what was meant by «assensum definitivum» and how this was to be translated into the juridical structure of assent to doctrine as found in the CIC 1983 (cc. 750; 752). This remained a rather complex and nagging juridical issue. The question was further complicated by two documents which had a significant bearing on the whole question of assent to doctrinal propositions: the *Professio Fidei* (1989)³, which included three paragraphs in addition to the Nicene-Constantinopolitan Creed, and which had the scope of better distinguishing various types of doctrinal truth and the respective assent due to them; and the Instruction *Donum Veritatis* (1990)⁴ which indicated four types of teaching of the magisterium and the respective response due to each of these. It became particularly clear, on a reading of the *Professio Fidei*, *Donum Veritatis* and *Ordinatio Sacerdotalis*, that the corresponding canons in CIC 1983 did not fully meet the distinctions in magisterial

² The *Responsum*, dated the 28 October 1995, was published in *L'Osservatore Romano*, 19 November 1995, with both the latin original and an italian translation. See AAS (1995) 1114.

³ CONGREGATIO PRO DOCTRINA FIDEI, "Professio fidei et iusiurandum fidelitatis in suscipiendo officio nomine Ecclesiae exercendo", AAS (1989) 104-106. See also CONGREGATIO PRO DOCTRINA FIDEI, "Rescriptum professionis fidei et iuris iurandi fidelitatis formulas contingens", AAS 81 (1989) 1169.

⁴ CONGREGATIO PRO DOCTRINA FIDEI, *Instructio Donum Veritatis*, de ecclesiali theologi vocatione, 24 May 1990, AAS 82 (1990) 1550-1570, specifically n.23.

teaching and the response due to them as had been developed in these various magisterial documents, published after the promulgation of the Code⁵.

To meet this lacuna, on the 28 May 1998, the Supreme Pontiff promulgated an Apostolic Letter, *motu proprio*, *Ad Tuendam Fidem*, which determined that certain norms were to be inserted into both the Code of Canon Law and the Code of Canons of the Eastern Churches⁶. The changes to the two Codes were specifically introduced in order to harmonize them with the Profession of Faith published by the CDF in 1989, which was to be professed, along with an oath of fidelity, on the occasion of the assumption of an ecclesiastical office in the cases prescribed by the law (c. 833). Even a cursory reading of the *Professio Fidei* and the relevant canons of the two Codes highlighted the differences in language concerning types of doctrine and the relevant required assent. Given the fundamental and critical importance of the issue under question, viz. the exercise of the magisterium, it was clearly necessary to intervene in an authoritative manner in order to harmonize these various official documents, both from their doctrinal and disciplinary aspects.

Accompanying the published text of *Ad Tuendam Fidem*, there was also a Commentary, with the signatures of the Prefect and Secretary of the CDF, which aimed at explaining the significance and doctrinal value

⁵ For an analysis of these questions, see B. FERME, "The Response (28 October 1995) of the Congregation for the Doctrine of the Faith to the Dubium concerning the Apostolic Letter *Ordo Sacerdotalis* (22 May 1994): Authority and Significance", *Periodica* 85 (1996) 689-727.

⁶ For the text, see AAS 90 (1998) 457-461. The text first appeared in public in *L'Osservatore Romano*, 30 June-1 July 1998.

of the three final paragraphs of the *Professio Fidei*, discussed above, which referred to the theological qualifications of various types of doctrines and the consequent type of assent demanded of by the faithful⁷.

The Commentary states that «The correct explanation of these paragraphs [*Professio Fidei*] deserves a clear presentation, so that their authentic meaning, as given by the Church's Magisterium, will be well understood, received and integrally preserved» (n. 4). In many respects this statement sets the parameters of this paper which aims to offer some reflections both on the Apostolic Letter, *Ad Tuendam Fidem*, as well as the Commentary itself. The various interrelated issues are particularly complex and this has necessarily meant a certain selection in what will be discussed. Thus I will limit myself to the Latin Code as in fact the application to the Oriental Code does not present any difficulty and it is sufficient simply to refer to the corresponding canons of the CCEO, ie. cc. 598 and 1436. In addition I will not consider the third paragraph of the *Professio Fidei* which deals with «all those teachings on faith and morals presented as true or at least as sure, even if they have not been defined with a solemn judgement or proposed as definitive by the ordinary and universal Magisterium»⁸. While this third paragraph remains critically

⁷ The text of the Commentary was published in Italian in *L'Osservatore Romano*, 30 giugno-1 luglio 1998, 4-5 and in English in the weekly English edition, 15 July 1998, 3-4. The CDF has published a booklet which conveniently reproduces in Italian, *Ad Tuendam Fidem*, the Commentary and the *Professio Fidei: Testi del Magistero sull' "Professio Fidei"*, Città del Vaticano 1998.

⁸ Commentary, n. 10. The third paragraph of the *Professio Fidei* reads: "Insuper religioso voluntatis et intellectus obsequio doctrinis adhaereo quas sive Romanus Pontifex sive Collegium episcoporum enuntiant cum Magisterium authenticum exercent et-

important for a complete understanding of the exercise of the magisterium, it is clear that the thrust of *Ad Tuendam Fidem* is directed at the second paragraph of the *Professio Fidei* and by logical connection with the first, given that both treat of infallible teaching.

1. The type of document used to promulgate *Ad Tuendam Fidem*

I should immediately like to offer some brief comments on the type of document used, «*Litterae Apostolicae motu proprio datae*». This is a very clear and unambiguous legislative act issued by the Pontiff on his own initiative. We know that this type of document is concerned with highly significant and important ecclesiastical questions especially in legislative and administrative areas. Paul VI adopted this type of document after Vatican II to modify existing legislation and to put into juridical effect a number of the reforms proposed by the Council, of which a particularly important example was *Ecclesiae Sanctae*⁹.

This type of document has particular force and juridical weight given that it comes directly from the Pontiff (*motu proprio*), which means that there can be absolutely no discussion as to its legislative or general juridical import and significance. In the years 1984-1995 we find some fifteen *Litterae Apostolicae*, *motu proprio*, all dealing with legislative and administrative questions, though it must be admitted that there does seem to be a certain unevenness in terms of the significance of the topics treated. Examples of the questions

si non definitivo actu easdem proclamare intendant.” It is clear that this corresponds to CIC c. 752.

⁹ AAS 58 (1966) 757-787.

treated include: the establishment of a new pontifical commission¹⁰ and the renewal of regulations for those pre-existing¹¹; norms for the Tribunal of Appeal at the Vicariate of Rome¹²; new regulations for advocates of the Roman Curia¹³; new rules for pensions¹⁴; the establishment of a special commission to deal with the followers of Lefebvre¹⁵, etc.

Given the fact that these documents are essentially legislative-administrative in nature, it is true to say that they do not normally include a particularly marked or strong doctrinal component, though they are based on fundamental, if not explicit, doctrinal principles. One of the positive characteristics of *Ad Tuendam Fidem* is its clear doctrinal component which balances effectively with its eminently canonical-juridical character.

In summary, this type of document is an authoritative statement from the Pontiff himself, namely the universal legislator, that has unambiguous legislative and juridical consequences for the Church. Given that it comes directly from the Pontiff, *motu proprio*, there can be absolutely no equivocation concerning its juridical status or in the application of its norms. The universal legislator has decided on an issue, promulgated his decision and the norms must be put into effect.

¹⁰ *Dolentium hominum* (now Pontificium Consilium de Apostolatu pro valetudinis Administris), AAS 77 (1985) 457-461.

¹¹ *Decessores nostri* (Pontificia Commissio pro America Latina), AAS 80 (1988) 1255-1257.

¹² *Sollicita cura*, AAS 80 (1988) 121-124.

¹³ *Iusti iudicis*, AAS 80 (1988) 1258-1261.

¹⁴ *La preoccupazione*, AAS 84 (1992) 1033-1053.

¹⁵ *Ecclesia Dei*, AAS 80 (1988) 1495-1498.

2. Ad Tuendam Fidem

As one would expect from a precisely focused legislative document the Apostolic Letter is short and to the point. Its aim, as the title suggests, is to protect the faith of the Catholic Church against errors, especially from among those dedicated to the various disciplines of sacred theology («contra errores insurgentes [...] praesertim illorum qui in sacrae theologiae disciplinas studiose incumbunt»). Precisely in this vital context of protecting the faith, it was thought necessary («pernecessarium visum est Nobis») to add to the existing texts of the two Codes, new norms «quibus expresse imponatur officium servandi veritates definitive ab Ecclesiae Magisterio propositas», as well as establishing the related and consequent canonical sanctions («addita mentione in sanctionibus canonicis ad eandem materiam spectantibus»). Even on a cursory reading of this introductory paragraph, it becomes clear that the particular scope concerns those truths that are proposed in a definitive way by the authentic and authoritative magisterium. In other words it refers to the distinctions in definitive magisterium as illustrated in the *Professio Fidei* (particularly paragraph two) and *Donum Veritatis*, but which did not have a corresponding expression in the CIC 1983 or the Canons of the the Code of the Eastern Churches.

1. The first paragraph of the Apostolic Letter introduces a very brief but relevant theological-historical note by pointing to the Church's custom and tradition of professing the truths of her faith in Christ, especially through the Creed and specifically by means of the Nicene-Constantinopolitan Creed, the central part of the *Professio Fidei* issued by the CDF in 1989¹⁶.

¹⁶ The Commentary, nn.1-2 offers a succinct historical synthesis of the importance of credal statements in the life of the Church.

2. We know that this same *Professio Fidei* also contains three further paragraphs («tres propositiones aut commata»), intended to describe the truths of the Catholic Faith, which the Church, in the course of time and under the guidance of the Holy Spirit has continued to explore more profoundly, a task that is ongoing.

3. The Apostolic Letter then cites the first and third paragraphs of the *Professio Fidei*. It is clear that the first paragraph finds its expression in CIC c. 750 and CCEO c. 598. The third paragraph has its corresponding legislative expression in CIC c. 752 and CCEO c. 599.

4. The second paragraph of the *Professio Fidei* does not have a corresponding canon in the two Codes and it is precisely here that the Apostolic Letter centres its attention. The importance of this second paragraph is underscored by the Pontiff: «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»¹⁷.

This affirmation by the Pontiff, while taking up what had already been explicitly pointed out in *Donum*

¹⁷ «Magni momenti est hoc comma Professionis fidei, quippe quod indicet veritates necessario conexas cum divina revelatione. Hae quidem veritates, quae in doctrinae catholicae perscrutatione exprimunt particularem inspirationem divini Spiritus in alicuius veritatis de fide vel de moribus profundiore Ecclesiae intellectu, sive historica ratione sive logica consecutione conectuntur.»

*Veritatis*¹⁸, remains a key focal point for understanding the importance of the Apostolic Letter and its specific teaching. While it has been relatively clear, both since Vatican II and the promulgation of the Code, as to what was meant by those infallible teachings that are to be believed with «*Fide divina et catholica*» and which correspond to CIC c. 750 and to the first paragraph of the *Professio Fidei*, there has been a certain degree of confusion, debate and at times open dissent concerning those truths which are «necessarily connected to divine revelation», precisely the extent to which such truths might be definitive and enjoy the prerogative of infallibility but without necessarily entering into that category of infallible truth which is to be believed with divine and catholic faith (first paragraph).

There were many reasons for this confusion, not the least being a misunderstanding on the part of many that only those truths defined «*ex cathedra*» could be considered infallible. At times there seemed to be a deliberate misreading of *Lumen Gentium* 25, specifically concerning the role and prerogatives of the ordinary and universal magisterium of the bishops dispersed throughout the world, which could under certain conditions agree («*conveniunt*») on a doctrine to be held definitively and propose it as infallible¹⁹. Another reason

¹⁸ *Donum Veritatis*, n. 23,2: “Cum idem proponit definitive veritates respicientes fidem et mores, quae etiam si non pertinent proprie ad revelationem, stricte et intime ei conectuntur, ipsae firmiter amplectendae et retinendae sunt”.

¹⁹ *Lumen Gentium* 25: “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”.

for the confusion lies also in a subtle attempt on the part of some to undervalue, if not destroy, the teaching office of the Church by arguing that only truths declared «ex cathedra» were to be believed, while all other truths were open to discussion²⁰.

It must be admitted that a certain confusion also resulted from the Code itself. Infallible truths, as is clear from the *Professio Fidei*, *Donum Veritatis* and *Lumen Gentium* 25, are in fact of two kinds: those proposed in so far as they are part of the *depositum fidei* and have been divinely revealed (*de fide credenda*); those which are part of the *depositum fidei* but which technically have not been proposed as divinely revealed (*de fide tenenda*). Canon 750 speaks of the assent to be given to the first type of truth, ie. «Fide divina et catholica», but nothing is said of the other infallible truths, ie. those proposed with a definitive act, but which are not as such divinely revealed. In fact c. 750 speaks explicitly and uniquely of truths of divine and catholic faith²¹, while c. 752 refers only to truths which have not been proposed in an infallible way, ie. without a definitive act²². A serious lacuna clearly existed concerning those truths proposed infallibly with a

²⁰ For a survey of some of these views, see F. ARDUSSO, *Magistero Ecclesiale. Il servizio della Parola*, Cinisello Balsamo (Milano) 1997, 281-285.

²¹ Can. 750: «Fide divina et catholica ea omnia credenda sunt quae verbo Dei scripto vel tradito, uno scilicet fidei deposito Ecclesiae commisso, continentur, et insimul ut divinitus revelata proponuntur, sive ab Ecclesiae magisterio sollemni, sive ab eius magisterio ordinario et universali...».

²² Can. 752: «Non quidem fidei assensus, religiosum tamen intellectus et voluntatis obsequium praestandum est doctrinae, quam sive Summus Pontifex sive Collegium Episcoporum de fide vel de moribus enuntiant, cum magisterium authenticam exercent, etsi definitivo actu eandem proclamare non intendant...».

definitive act but which have not been proposed as divine and catholic faith.

These various reasons coalesced and became especially evident after the Apostolic Letter *Ordinatio Sacerdotalis*, when there was not only a series of unjust and frequently unfounded criticisms based on theological, ecumenical and women's rights issues etc., but also a real confusion about this document's dogmatic status. This was reflected in the *Dubium* to which the CDF responded by stating explicitly its dogmatic status and also suggesting the type of assent that was to be given («assensum definitivum»).

At the same time the experience of *Ordinatio Sacerdotalis* highlighted the particular and unfortunate lacuna in the Code of Canon Law, particularly in the description of the truths and the type of assent to be given to those truths that enter into the second paragraph of the *Professio Fidei*.

5. Given this, the Pontiff determined that this lacuna was to be met by adding a second paragraph to CIC 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». This now becomes c. 750 §2, while paragraph §1 remains what until now was simply c. 750.

A similar lacuna can also be seen in the penal law. Canon 1364 considers only the truths of divine and catholic faith in that heresy and apostasy are only verifiable with the negation of truths of divine and catholic faith (c. 751). On the other hand c. 1371, 1° punishes

only eventual delicts against the non infallible magisterium, ie. magisterium that has not been proposed with a definitive act. A change therefore was also necessary with respect to CIC c. 1371, 1° in which an explicit reference is to be made to what is now c.750 §2. Canon 1371, 1° now reads: «Iusta poena puniatur: 1°qui, praeter casum de quo in c. 1364 §1, doctrinam a Romano Pontifice vel a Concilio Oecumenico damnatam docet vel doctrinam, de qua in c. 750 §2 vel in c. 752, pertinaciter respuit, et ab Apostolica Sede vel ab Ordinario admonitus non retractat»²³.

6. The Apostolic Letter, dated the 28 May 1998, concludes by ordering that these additions to the canons be introduced into the two Codes: «[...] et inserenda praecipimus in legislatione universali Catholicae Ecclesiae, respective in Codice Iuris Canonici et in Codice Canonum Ecclesiarum Orientalium, sicuti supra demonstratum est...».

3. Related Questions and Observations

Given the intimate connection between *Ad Tuendam Fidem* and the *Professio Fidei* it is necessary to consider the latter in order to understand the practical effects and dogmatic consequences of the new second paragraph of c. 750.

The object of the first paragraph of the *Professio Fidei* is constituted by all those doctrines of divine and catholic faith which the magisterium proposes as divinely and formally revealed and as such, are ir-reformable. These truths are contained in the Word of God, written or handed down, and are defined with a

²³ The appropriate changes are also to be effected in canons 598 and 1436 of the Code of Canons of the Eastern Churches.

solemn judgement precisely as divinely revealed truths. Who are the subjects of this specific exercise of the magisterium? Both the Code (c. 749) and the Commentary are quite clear, viz. the Roman Pontiff when he speaks «ex cathedra», the College of Bishops gathered in an (Ecumenical) Council and the ordinary and universal magisterium when it infallibly proposes for belief such a divinely revealed truth («[...] atque sententia sollemni tamquam veritates divinitus revelatae sive a Romano Pontifice “ex cathedra” loquente sive a Collegio Episcoporum ad concilium congregato definiuntur, sive dein a Magisterio ordinario et universali ad credendum infallibiliter proponuntur»).

The commentary accompanying the Apostolic Letter speaks of an «assensus fidei theologalis» to be given to these truths, a phrase taken from *Donum Veritatis* (n. 23,1). The Code in fact talks of «Fide divina et catholica» (c. 750) and «Fidei Assensus» (c. 752). The *Professio Fidei* talks of «Firma fide quoque credo [...]». While the terminology differs the concept is abundantly clear. These truths demand nothing less than the assent of faith as they remain at the very core of what we must believe, they give absolute meaning to our life of faith, they in fact determine at the most profound level our act and life of faith. In this profound sense they must be believed (*credenda*) for without them our faith would be as nothing. It is for this reason that in denying such truths one falls automatically into the crime of heresy, as is explicitly clear from c. 751.

These divinely revealed truths are to be found at the heart of the Church's reflection on the teaching of Christ and the Commentary accompanying the Apostolic Letter gives a number of examples: the articles of faith of the Creed itself; the various christological dog-

mas (Denzinger-Schönmetzer [DS] 301, 302); the Marian Dogmas (DS 2803, 3902); the doctrine of the institution of the sacraments by Christ and their efficacy with regards to grace (DS 1601, 1606); the doctrine of the real and substantial presence of Christ in the Eucharist (DS 1636); the sacrificial nature of the Eucharist celebration (DS 1740, 1743); the foundation of the Church by the will of Christ (DS 3050); the doctrine on the primacy and infallibility of the Roman Pontiff (DS 3059-3075); the doctrine on the existence of original sin (DS 1510-1515); the doctrine on the immortality of the spiritual soul and on the immediate recompense after death (DS 1000-1002); the absence of error in the inspired sacred texts (DS 3293, *Dei Verbum* n.11); the doctrine on the grave immorality of direct and voluntary killing of an innocent human being (*Evangelium Vitae*, n.57)²⁴.

The second paragraph of the *Professio Fidei* speaks of firmly embracing and holding each and everything definitively proposed regarding teaching on faith and morals. The particular object of this formula, now found in c. 750 §2 includes all those teachings that belong to the dogmatic or moral area which are necessary for faithfully keeping and expounding the deposit of faith, though these selfsame truths have not as such been proposed by the magisterium as formally divinely revealed. Who are the subjects of the exercise of this type of magisterium? Again the Commentary is

²⁴ It would require a further article, outside the scope of this work, to explain at length the juridical and dogmatic foundations for these and indeed other examples, though on a reading of the references appended to the examples it is clear both from the language used and the occasion and type of document adopted that these truths belong unambiguously to that category that demand divine and catholic faith.

quite clear: the Roman Pontiff when he speaks «ex cathedra», the College of Bishops gathered in an (Ecumenical) Council and the ordinary and universal magisterium when it teaches infallibly a «sententia definitiva tenenda» («Huiusmodi doctrinae forma sollemni a Romano Pontifice “ex cathedra” loquente vel a Collegio Episcoporum ad concilium congregatorum definiri possunt, aut a Magisterio ordinario et universali Ecclesiae ut “sententia definitiva tenenda”»).

The *Professio fidei* speaks of an assent that is different to that required for truths of the first paragraph, when it talks of «Firmiter etiam amplector ac retineo [...]» which is repeated in *Donum Veritatis* – «ipsae firmiter amplectendae et retinendae sunt» as well as in the new c.750 §2, «Firmiter etiam amplectenda ac retinenda [...]» Every believer is therefore required to give firm and definitive assent («Firmiter et definitive assentiri») to these truths. Such assent is based on faith in the Holy Spirit's constant assistance to the Church's magisterium as well as on the Catholic doctrine of the infallibility of the magisterium when it treats of these matters²⁵.

The denial of such truths means the rejection of a truth of Catholic doctrine, and the Commentary speaks of such a person no longer being in full communion with the Catholic Church²⁶, though it must be pointed

²⁵ See in particular *Dei Verbum* 8,10,11 and *Mysterium Ecclesiae*, 3. The very first canon (c. 747) of Book III, *De Ecclesiae Munere Docendi*, underscores this fundamental duty of the Church under the guidance of the Holy Spirit: “Ecclesiae, cui Christus Dominus fidei depositum concredidit ut ipsa, Spiritu Sancto assistente, veritatem revelatam sancte custodiret, intimius perscrutaretur, fideliter annuntiaret atque exponeret, officium est et ius nativum...”.

²⁶ “Si quis illas negaverit, veritatem doctrinae catholicae respere videbitur eoque in communione cum Ecclesia catholica amplius non erit plena.”

out that such a person does not technically fall into heresy, at least on a reading of c. 751.

While recognising the theoretical difference between a denial of the first and second truths, and the consequent difference with respect to the penalties involved, it can be legitimately questioned as to what exactly is the difference between being a heretic and not being in full communion with the Catholic Church. It seems that the difference lies in the concept of full communion. The heretic places himself outside of the Church in an absolute and full manner, because he denies a truth, divinely revealed, that determines at the most profound level the very faith of the Church itself and indeed of the individual. On the other hand, the person who denies a truth contained in the second paragraph does not put himself out of the Church in a complete manner but certainly cannot be considered to be in full communion. He is certainly in grave error though cannot be considered a heretic.

Given this, there still remains a possible confusion as to what one means by stating that a person who denies truths appertaining to the second paragraph is no longer in full communion with the Catholic Church. The Council only speaks of full communion with the Catholic Church for those who are faithful catholics, while it affirms that other christians who do not belong to the Catholic Church do not enjoy such full communion (*Unitatis redintegratio* 3-4). The Code defines the essential elements for full communion with the Catholic Church in c. 205: «[...] vinculis nempe professionis fidei, sacramentorum et ecclesiastici regiminis». Clearly we are concerned here with the first element, namely the profession of faith. The general doctrine holds that the profession of faith concerns the truths of divine and catholic faith, such that the catholic faithful

who denies one of these truths is no longer in full communion with the Church, is no longer catholic because he is a heretic or an apostate (c. 751). *Ad Tuendam Fidem* makes it clear that the person who denies truths of the second paragraph of the *Professio Fidei* is not a heretic but certainly sins grievously against the faith and is in grave error. In fact it is a crime against the faith, but it is not condemned on the basis of c. 1364 §1, viz. with an excommunication *latae sententiae* incurred by the heretic, the apostate and the schismatic. In fact the person who denies a truth of the second paragraph is punished on the basis of c. 1371, 1°; it is a delict perpetrated by one who holds a doctrine condemned by the Roman Pontiff or by a Council or who denies a doctrine taught by these two subjects. In this case one is dealing with a less severe penalty («*iusta poena*») and *ferendae sententiae* although it is obligatory («*puniatur*»).

Given this, the sense to be attributed to the phrase that one is no longer in full communion with the Catholic Church is somewhat complex and open to further study. In fact the concept of full communion is discussed by the authors: for some an individual is outside of full communion only if a heretic, apostate or schismatic; others speak of the lack of full communion also for the catholic who does not fully live out the full significance of his belonging to the Catholic Church. The Commentary most probably reflects this ongoing discussion though it is fair to point out that those who deny a truth of the second paragraph do in a certain real sense lack full communion with the Catholic Church.

The truths that belong to this second paragraph, and now c.750 §2, are of various strands or natures, a point highlighted by the Commentary. This is a conse-

quence of their particular and individual relationship with revelation itself.

There are truths which are necessarily connected with revelation by virtue of an *historical relationship* («nexu historico»), which are to be definitively held but which are not able to be declared as divinely revealed. Examples include: the legitimacy of the election of the Supreme Pontiff; the celebration of an ecumenical council; the canonization of saints; the declaration by Pope Leo XIII in the Apostolic Letter, *Apostolicae Curae* of the invalidity of Anglican orders.

There are other truths which reveal a *logical connection* («conexionem logicam») that expresses and reflects a stage in the maturation of the understanding of revelation which is part of the central duty of the Church whose task it is constantly to unravel and deepen its understanding of the teaching of Christ. Examples of such truths include: the development in the understanding of the doctrine connected with the definition of papal infallibility prior to its dogmatic definition at Vatican I; various moral doctrines as taught by the ordinary and universal magisterium such as the condemnation of euthanasia, the illicitness of prostitution and fornication; the doctrine proposed in *Ordinatio Sacerdotalis*.

The particular characteristic of these truths that have a logical connection with revelation is highlighted by the teaching that priestly ordination is reserved only to men. The fact is that the Pontiff, while not wishing to proceed to a dogmatic definition in the sense of a teaching divinely revealed and therefore part of paragraph one of the *Professio Fidei*, nevertheless intended to reaffirm that this doctrine is to be held definitively, as it is based in the written word of God, and has been constantly held and taught and handed down in the tra-

dition of the Church. In this sense it has been set forth infallibly by the ordinary and universal magisterium of the Church and reaffirmed in *Ordinatio Sacerdotalis* by the head of the College of Bishops.

A word needs to be said about one of the differences between those truths which have an historical relationship with revelation and those that have a logical connection which is mentioned in the Commentary at n. 7: «Quamquam eae doctrinae ut rite revelatae non proponuntur quippe quae fidei *elementa non revelata vel nondum ut talia expressim agnita* addant [...]». From a reading of this paragraph it seems clear that those truths having an historical relationship «may not be proposed as formally divinely revealed, insofar as they add to the data of faith elements that are not revealed». On the other hand those with a logical connection to revelation «express a stage in the maturation of understanding of revelation which the Church is called to undertake». These truths which are not yet expressly recognized as revealed («non dum ut talia expressim agnita»), may in fact under the guidance of the Holy Spirit be recognized as such one day.

Thus it needs to be underscored with great attention that such a definitive teaching does not preclude the possibility that in the future the consciousness of the Church in its attempt at deepening and remaining constantly faithful to the teaching of Christ, might progress to the point where this teaching could be defined as a doctrine to be believed as divinely revealed. In other words, the simple fact that a truth has a logically necessary connection with revelation, as indeed is the case with *Ordinatio Sacerdotalis*, and definitively proposed to be held, does not necessarily mean that under the guidance of the Holy Spirit, such a definitive teaching might not in time be defined as divinely revealed. In

fact it seems to this author that the case for proposing that the doctrine contained in *Ordinatio Sacerdotalis* belongs to the catholic faith as divinely revealed is quite clear though it must be admitted that at the present point one cannot formally hold this.

This process, central to the Church's task of deepening its understanding of the deposit of faith entrusted to it by Christ, is clearly seen in the question of the definition of papal infallibility and primacy at Vatican I. The primacy of the successor of Peter was always believed as a revealed fact although until Vatican I the discussion remained open as to whether the conceptual elaboration of what was understood by the terms «jurisdiction» and «infallibility» was to be considered an intrinsic part of revelation or only as a logical consequence. Given this, it is true to say that although its character as a divinely revealed truth was only formally defined at Vatican I, the doctrine itself, on the infallibility and primacy of jurisdiction of the Roman Pontiff, was already recognized as definitive in the period before the Council, though it did undergo various refinements in its historical development. Specifically, history demonstrates that what was accepted by the Church in its attempts to understand the teaching of Christ concerning the Roman Primacy and his infallibility was considered a true doctrine and taught as such and in this genuine sense was held to be definitive. The definition of Vatican I then declared that such a definitive teaching was also to be understood and accepted as divinely revealed²⁷.

²⁷ For convenient accounts of the development of the primacy, see M. MACCARRONE (ed.), *Il Primato del Vescovo di Roma nel Primo Millennio. Ricerche e testimonianze, Atti del Symposium Storico-Teologico, Roma, 9-13 Ottobre 1989*, Città del Vaticano 1991, and *Il Primato del Successore di Pietro, Atti del Simposio Teologico, Roma, dicembre 1996*, Città del Vaticano 1998.

Much the same type of process can be seen in the doctrine of the Immaculate Conception (DS 2803) or the Assumption (DS 3903). It cannot be said that these doctrines were not held definitively in the Church's consciousness of marian truths logically connected with revelation before their formal definition, though it is true to say that the quality of being divinely revealed truths became definitive at the time of their specific definition.

The Commentary makes a further distinction in paragraph 9 of some practical and dogmatic significance. The magisterium can teach a doctrine to be believed as divinely revealed or to be held definitively with an act which is either defining or non defining («actu definitivo aut non definitivo»). A defining act is described as a truth which is solemnly defined by an «ex cathedra» pronouncement by the Roman Pontiff or by an ecumenical council («Si de actu definitivo agitur, veritas sollemniter definitur pronuntiatione Romani Pontificis "ex cathedra" aut interventu concilii oecumenici»); a non defining act is a doctrine taught infallibly by the universal and ordinary magisterium of the Bishops dispersed throughout the world and who are in communion with the See of Peter («Si de actu non definitivo agitur, doctrina a Magisterio ordinario et universali Episcoporum qui ubique terrarum in communione cum Successore Petri versantur, infallibiliter docetur»).

The distinction reflects the classical distinction between solemn definitions and non solemn definitions and which is also found in paragraphs five and six of the Commentary. In other words solemn definitions are pronounced by the Roman Pontiff «ex cathedra» or by an ecumenical council, while non solemn definitions are taught by the ordinary and universal magisterium. It would also appear that the ordinary and universal

magisterium cannot teach by means of a defining act in the sense of a solemn definition.

Given this distinction there may be a certain tendency to hold that to be secure of the type of truth taught by the ordinary and universal magisterium, it would be necessary to have the intervention of a solemn pronouncement to confirm what has been taught. A number of closely connected points need to be kept in mind. In the first place the ordinary and universal magisterium can teach doctrines to be held by divine and catholic faith (paragraph one) though not by a defining act, which is reserved to the Roman Pontiff «ex cathedra» and an ecumenical council. As a matter of fact there is a third type of act or declaration on the part of the Roman Pontiff which is described as a confirming or reaffirming act. This refers to the case in which a doctrine taught by the ordinary and universal magisterium can be confirmed or reaffirmed in a declaration by the Roman Pontiff (without recourse to a solemn definition), in which he declares explicitly that the doctrine belongs to the teaching of the universal and ordinary magisterium as either a truth that is divinely revealed (first paragraph) or as a truth of Catholic doctrine (second paragraph): «Huiusmodi doctrina confirmari seu iterum affirmari potest a Romano Pontifice nulla etiam definitione solemnī pronuntiata declarante eandem doctrinam ad institutionem Magisterii ordinarii et universalis tamquam veritatem divinitus revelatam (in primo commate) aut tamquam veritatem doctrinae catholicae (in secundo commate) pertinere». An example of this type of confirmatory act by the Roman Pontiff with respect to the first paragraph can be seen in the Encyclical *Evangelium Vitae*, n. 57: «Quapropter Nos auctoritate usi Petro eiusque Successoribus a Christo collata, coniuncti cum Ecclesiae catholicae Episcopis,

confirmamus directam voluntariamque hominis innocentis interfectionem graviter inhonestam esse semper. Doctrina 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». An example of a confirmatory act by the Roman Pontiff with respect to the second paragraph is to be found in the Apostolic Letter *Ordinatio Sacerdotalis*: «Ut igitur omne dubium auferatur circa rem magni momenti, quae ad ipsam Ecclesiae divinam constitutionem pertinet, virtute ministeri 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».

This distinction is clearly important for our understanding of the exercise of the teaching authority of the ordinary and universal magisterium as there has been the tendency to hold that until there had been a solemn intervention, for the most part by the Pontiff, it could not be said that the ordinary and universal magisterium had taught a doctrine infallibly²⁸. The fact is that a

²⁸ For general overviews of the idea of the ordinary and universal magisterium, see J.P. BOYLE, "The Ordinary Magisterium: Towards a History of the Concept (I)", *The Heythrop Journal* 20 (1979) 380-398; J.P. BOYLE, "The Ordinary Magisterium: Towards a History of the Concept (II)", *The Heythrop Journal* 21 (1980) 14-29; R.R. GAILLARDETZ, *Witnesses to the Faith: Community, Infallibility, and the Ordinary Magisterium of Bishops*, New York 1992; F.A. SULLIVAN, "On the Infallibility of the Episcopal College in the Ordinary Exercise of its Teaching Office", in E. DHANIS – A. SCHÖNMETZER (eds.), *Acta Congressus Internationalis de Theologia Concilii Vaticani II*, Vatican City 1968, 189-195.

solemn intervention, or a defining act, is not required to ensure that a teaching is in fact definitive and infallible when taught by the ordinary and universal magisterium because it is itself a subject of the infallible teaching charism in the Church and thus can teach definitively and infallibly. It must not be forgotten that the Pope himself is part of this same ordinary and universal magisterium and that the bishops dispersed throughout the world must be in communion with the successor of Peter and themselves («communio nexum inter se et cum Petri successore servantes») when they teach definitively. This explains one very important point made in the Commentary (n. 9) when it states: «Idcirco, cum de aliqua doctrina nullum in forma sollemni definitionis exstet iudicium, sed eadem a Magisterio ordinario et universali – in cuius numerum Papa necessarie conferitur – doceatur quippe quae ad patrimonium *depositi fidei* respiciat, intellegenda est tunc tamquam infallibiliter proposita». This infallible teaching of the ordinary and universal magisterium is expressed in the life of the Church not simply, nor in many respects normally, by explicit declarations of doctrines to be believed or held definitively, but rather the exercise of this teaching is lived out in the practice of the Church's faith, derived from revelation and attested to by the uninterrupted Tradition. The Bishops, «*fidei et morum doctores et iudices*» have both individually and specifically in this case as members of the College of Bishops the duty of preserving, handing on and constantly teaching the faith that is to be believed, by their reflection on the Word of God and the Church's Tradition. In this way they objectively set forth infallible teaching when «in unam sententiam tamquam definitive tenendam conveniunt». Because of the nature of this teaching authority, which springs from the very life of the faith of the

Church and the proper fulfillment of the office of the Bishop within the College of Bishops, the intention of the ordinary and universal magisterium to set forth a doctrine as definitive is not generally linked to technical formulations of particular solemnity. That the College of Bishops has taught in this definitive way is frequently clear from the tenor of the words used, from their context and the fact that it reflects upon and flows from the Word of God and the Tradition of the Church. It is not therefore surprising that at certain moments the Head of the College may find it necessary to declare what is already taught as definitive by the ordinary and universal magisterium. In other words, what might be required in certain moments in the Church's life, especially when serious challenges are made to specific doctrines already part of the teaching of the ordinary and universal magisterium, is that the head of the College of Bishops by means of a declaration confirms or reaffirms a doctrine already part of the *depositum fidei* and taught definitively by the ordinary and universal magisterium. Such was the case recently with the doctrine as found in *Ordinatio Sacerdotalis*, in which the Pontiff reaffirmed in a non defining act a doctrine definitively and infallibly taught by the ordinary and universal magisterium.

It needs to be emphasised that in this and other examples of the Pontiff's act of confirmation or reaffirmation of a doctrine already taught definitively, the Pontiff is not by means of the act of declaration proposing a new dogmatic definition, but rather a formal confirmation of a truth already possessed and infallibly transmitted by the Church, a point also emphasised by the Commentary: «Ergo Romani Pontificis *declaratio confirmandi seu iterum affirmandi* actus dogmatizationis novus non est, sed confirmatio for-

malis veritatis ab Ecclesia iam obtentae atque infallibiliter traditae».

Something needs to be said about the nature of these truths and the assent given. It must be admitted that much work still needs to be done on exhausting the differences between the first and second types of truth as now put forward in the *Professio Fidei* and c. 750 §1-§2. It is true that historically a difference is found in what has classically been considered the primary and secondary objects of infallibility and this certainly remains an important point from which further study must begin²⁹.

Another difference might be considered in terms of the assent to be given though it is important to understand that at one level there is no difference with respect to the full and irrevocable character of the assent which is owed to these teachings. Rather the difference concerns the supernatural virtue of faith. Truths that belong to the first paragraph involve an assent that is based directly on faith in the authority of the Word of God, ie. they are doctrines that classically and actually are *de fide credenda*. Truths that belong to the second paragraph involve an assent that is based on faith in the Holy Spirit's continued assistance to the magisterium and on the Catholic doctrine of the infallibility of the magisterium under certain conditions, ie. doctrines, *de fide tenenda*. In this second case, a dogma of catholic faith holds that the magisterium has the power and the duty to define infallibly truths, and this in its turn high-

²⁹ For the differences between the primary and secondary objects of infallible teaching, see J.M. MILLER, *The Shepherd and the Rock. Origins, Development and Mission of the Papacy*, Huntingdon (Indiana) 1995, 198-99 and the explanation of the Theological Commission of Vatican II in *Acta Synodalia Conc. Vat. II*, III/8, 89.

lights the idea of the intimate connection between the first and second paragraphs.

Conclusion

«I have said these things to you while still with you; but the Advocate, the Holy Spirit, whom the Father will send in my name, will teach you everything and remind you of all I have said to you» (John 14,25-26). These words of Christ in many respects express the task of the Church to reflect on the words of Christ and to continue under the guidance of the Advocate the duty of continually understanding the message of salvation that has been offered. It is the magisterium of the Church which is uniquely responsible for listening to the words of Christ, understanding his teaching and handing it on as definitive for the life of faith of all those saved in Christ. History demonstrates that this has been a constant challenge for the Church and its magisterium, namely penetrating more profoundly the message and teaching it without fear. This process has involved a closer understanding of various truths which at various times and under particular challenges the Church has had to reaffirm or reformulate in order that the fullness and the richness of Christ's teaching might be grasped and that salvation in the most complete sense be offered to mankind. Any number of doctrines have been the object of this vital, though at times complex, process. Indeed the Church's understanding and perception of its own magisterial authority is subject to this ongoing development, constantly deepening its perception of what it means to teach authoritatively and authentically the truths entrusted to it. Its understanding of the ordinary and universal magisterium is a case in point.

It therefore should come as no surprise that with *Ad Tuendam Fidem* this vital process continues as it meets the challenge of correctly perceiving the contours of the teaching authority of the Church, received from Christ himself. The various grades and the hierarchy of degrees of teaching as determined in the Apostolic Constitution and the *Professio Fidei* should not be considered an impediment but rather a stimulus to theological and canonical reflection³⁰. *Ad Tuendam Fidem* is a timely and very important intervention, not only because it meets an obvious lacuna in the Codes of Canon Law, but also because it reaffirms the central importance of a correct understanding of the magisterial authority of the Church. This is particularly necessary because of the fundamental obligation to constantly and better understand what the magisterium entails as well as to meet, by this process, the pressing challenges that are raised by those who would wish to deny the magisterium's unique and vital role in the life of the Church. It is a task that in the final analysis turns on faith and thereby on salvation.

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³⁰ See the address of the Pope to the CDF, 24 November 1995: "Che l'autorità includa gradi diversi di insegnamento è detto chiaramente nei due recenti documenti della Congregazione per la Dottrina della Fede: la *Professio Fidei* e l'Istruzione *Donum Veritatis*. Questa gerarchia di gradi dovrebbe essere considerata non un impedimento, ma uno stimolo per la teologia". *L'Osservatore Romano*, 24 November 1995.