

NOTES ON MORAL THEOLOGY

AUTHORITY IN THE CHURCH

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[In section one of Notes on Moral Theology the author shows how a number of writers have argued that the weight of magisterial authority varies in accordance with the strength of the link between revelation and the teachings in question. Some have also pointed to the need to see the whole Church as a community of moral discourse in which dissent (or disagreement) plays an essential role in the pursuit of truth. Without changes in the structures that inhibit proper discourse, teachings can be (and sometimes are) merely imposed, even on members of the hierarchy.]

THE TWO TYPES OF AUTHORITY that concern us here (authority to govern and ability to teach) are, of course, distinct and can be discussed separately. In the Roman Catholic Church, however, we find that they are often intermingled, and sometimes even confused with each other. Over the centuries governing power has often been used (and misused) to bolster teaching authority. Such an approach can easily amount to little more than “we are right because we are in charge” or “we give orders, not explanations.” Nicholas Lash has commented on some thoughts of Walter Burghardt about the concept of authority that was in vogue in the Church as the latter grew up. In that conception, authority did not have to appeal to human intelligence. There was no need for it to prove, explain, or convince. People who held positions of authority made the decisions. Other members of the Church submitted to those decisions and executed the orders. Two features of this account are taken up by Lash. The first is that it collapses all authority into governance, and the second is that “proclamation construed as command” is substituted for teaching. Authority, he notes, is a much wider term than governance, and this is especially the case in a Christian context. In the Roman Catholic Church, however, authority,

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even teaching authority, is understood and exercised in terms of governance “to an alarming extent.” This subordination of education to governance he sees as being at the heart of the crisis in contemporary Catholicism.¹

Lash also speaks of “our common apprenticeship in holiness and understanding.” Another writer who takes up a similar theme to that is Richard Gaillardetz, who highlights the insistence of the Second Vatican Council that the word of God has been given to the entire Christian community by the power of the Holy Spirit. Any understanding we may have of the structures and exercise of doctrinal teaching authority will be defective or distorted if it does not fully take this basic conviction into account. No matter how much Catholics may insist upon an apostolic ministry which has the responsibility of safeguarding the authentic proclamation of God’s word, that word is not the privileged possession of a privileged few members of the Church. Moreover, the requirements of an ecclesiology of communion must govern both the exercise of doctrinal teaching authority and the authoritative structures. In that ecclesiology, the Church has a relational character, and no “autonomous loci of power and authority” are to be found within it. Gaillardetz accepts and affirms the need for a doctrinal teaching office. “But the nature and exercise of this doctrinal authority must be governed by the gospel of Jesus Christ and the conceptions of authority that flow from the life of ecclesial communion.”²

Other scholars have highlighted the importance of adopting a theology or ecclesiology of communion.³ Insights gained by proponents of such a theology can be of enormous assistance to us in the authentic development of both kinds of authority. Insights from beyond the world of theology, however, also have their importance—even in the Church. Indeed, we have learned so much about the exercise of power and authority in recent decades that it seems odd and perhaps irresponsible not to apply some of that knowledge and awareness to the Church.⁴ That is clearly the case where governance is concerned. As Enda McDonagh puts it, “Fresh insight into

¹ Nicholas Lash, “Authors, Authority and Authorization,” *Authority in the Roman Catholic Church*, ed. Bernard Hoose (London: Ashgate) forthcoming.

² Richard Gaillardetz, *Teaching with Authority: A Theology of the Magisterium in the Church* (Collegeville: Liturgical, 1997) 293.

³ See, e.g., David McLoughlin, “Authority as Service in Communion,” in *Governance and Authority in the Roman Catholic Church: Beginning a Conversation*, ed. Noel Timms and Kenneth Wilson (London: SPCK, 2000) 123–36; also his “*Communio* Models of Church: Rhetoric or Reality,” in *Authority in the Roman Catholic Church*, forthcoming.

⁴ There is, of course, nothing new in a suggestion that the church should turn to the world around it for guidance about governance and organization. As Ladislav Orsy notes, “In virtually every age, the church tended to imitate to a degree the patterns of governance in the secular city. In the early centuries the church in its

and respect for the dignity of the human being with the accompanying recognition of certain inalienable human rights, including the right to participation in social governance, have yet to be realized properly and fully in our societies. Yet their development, however incomplete and even ambiguous, can be seen as *indicia regni Dei*, signs of the inbreaking reign of God. Should they not therefore play their due part in governance of the Church?"⁵

Numerous writers evidently think they should—dissatisfaction with the current church governance apparently playing no small role in their thought processes. This fact, together with the increasing interest in an ecclesiology of communion, seems to have given an impetus to debate about authority in the Church in recent years. After the publication of *Veritatis splendor*, theologians of a conservative bent might have hoped that, henceforth, there would be less controversy among theologians concerning that topic. In practice, however, much of the reaction to that encyclical was highly critical,⁶ and, if anything, its publication may have only served to encourage controversy—much of it concerning the limits of magisterial authority. From a moral theologian's point of view, most of the major fruits of recent debate can be classified under three headings: "the moral magisterium," "the issue of dissent," and "authority, power and corruption." I shall discuss each of them in turn.

THE MORAL MAGISTERIUM

Gaillardetz has provided us with a useful review of Richard McCormick's contributions to our understanding of the moral magisterium. He notes that, in the latter's famous essay "How My Mind Has Changed," all the changes listed can be linked to a shift in ecclesiology, away from the

organization copied the structures of the Roman Empire; in the Middle Ages it accepted the ways and means of the feudal order; in modern times it received procedures, customs and symbols from the absolute monarchies" ("In Dialogue: Avery Dulles and Ladislav Orsy Continue Their Conversation about the Papacy," *America* 183 [November 25, 2000] 12-15, at 15). It may be the case, of course, that some of the problems and tension that exist in the Roman Catholic Church today stem, directly or indirectly, from such imitation. Much of the present tension, however, would seem to have arisen as a result of a lack of reaction on the part of the hierarchy to modern insights acquired in "the secular city."

⁵ Enda McDonagh, "A Theology of Governance," in *Governance and Authority* 121.

⁶ Early reactions to the encyclical were discussed by Richard McCormick in "Some Early Reactions to *Veritatis splendor*," *Theological Studies* 55 (1994) 481-506. See also *The Splendor of Accuracy: An Examination of the Assertions Made by Veritatis Splendor*, ed. Joseph A. Selling and Jan Jans (Grand Rapids: Eerdmans, 1995).

pyramidal vision of the Church. Adopting a view of the Church as the People of God, with all the baptized having a role to play, McCormick saw the magisterium of the bishops having the essential task of authenticating, guarding, and proclaiming the faith. "Where the bishops teach beyond the ambit of divine revelation, they are given an assistance of the Spirit activated in the employment of the human processes at their disposal for drawing out and articulating the corporate wisdom of the church." In view of the fact that such teaching is provisional, members of the Church (and especially theologians) who are unable to assimilate them are, by virtue of their baptism, called "to bring their reservations into the respectful public conversation of the church."⁷ In a not dissimilar vein, Charles Curran points to the teaching role of the whole Church. Once this is recognized, he says, the Church is seen to be a community of moral discourse in which there is a call for the public discussion of different positions.⁸

Not surprisingly, most contributors to debate within Catholicism accept that, within this community of moral discourse, teachings emanating from members of the hierarchy, especially the pope, have a special status that calls for a bias in the direction of assent. Some recent discussion, however, has centred on the limits within which this special status applies. Toward the end of a very long article in which he examines the contributions of various theologians to debate about the moral magisterium in recent decades, Alberto Bonandi opines that it is important not to overvalue the binomial nature of the expression *fides et mores*. It is similar in all respects to such other expressions as *depositum fidei*, revealed truth, or *doctrina de fide christiana*. Rather than a formula that indicates two separate parts, we have here a way of denoting two aspects of the entire Christian mystery. Everything that belongs to the *depositum*, he says, can be the subject of authoritative pronouncement by the magisterium under some aspect or other. If we bear in mind that faith is not divorced from intelligence, intelligence is not divorced from action, and action is not divorced from feeling and sensing, the formula can be extended to include *credenda, intelligenda, agenda, sentienda (audienda, videnda)*, etc. It is incorrect, he adds, to speak of morals as a special field of inquiry for reason or philosophy, while dogmatics is a sphere for faith. Consequently, argues Bonandi, it is wrong to restrict the moral magisterium only to the authentic magisterium (thereby excluding from it the sphere of the infallible, definitive, and irreformable) on the grounds that, in neo-Scholastic theology, natural law is considered to be part of only the secondary object of infallibility.

⁷ Richard Gaillardetz, "Richard McCormick and the Moral Magisterium," *Louvain Studies* 5 (2000) 361–62.

⁸ Charles Curran, *The Catholic Moral Tradition Today: A Synthesis* (Washington: Georgetown University, 1999) 216.

Working out the connection between the primary and secondary objects cannot itself be the object of knowing that is separate from believing. Moreover, within the sphere of morals there can be valid examples of doctrines that are declared to be true. Although these declarations are not made infallibly, the doctrines concerned are held to be definitively true by the ordinary and universal magisterium. In these doctrines there is an intimate link between faith and reason (and natural law). In regard to these an assent *de fide tenenda* of intellect and will is required.⁹

Bonandi went on to produce another long article, this time on the self-understanding of the moral magisterium. Therein he examines relevant documents of the Second Vatican Council, as well as those of several modern popes, beginning with Leo XIII and ending with John Paul II.¹⁰ Taking up a very different stance to his, Frank Mobbs holds that, while there may be no limit to the area over which the pope and bishops might teach with the authority that comes from natural expertise, matters of natural law which have not been revealed cannot be part of their authoritative teachings. Such matters, he says, do not form part of what Christ has taught us. The pope and the bishops do not therefore have a divine commission to teach them. As for the claim that papal teaching authority extends beyond *revelata* to other matters which are necessary for the defense and exposition of what is contained in the deposit of faith, Mobbs accepts that the magisterium has authority to teach that anything that contradicts revealed propositions is false. One cannot conclude from this, however, that popes have divine authority to teach that non-revealed propositions that do not contradict revealed ones are true. Mobbs, it should be noted, seems to be chiefly concerned with non-revealed propositions about natural law. The bearers of teaching authority in the Roman Catholic Church, he says, have acted *ultra vires* in teaching on natural law as if they had divine authority to do so.¹¹

Discussion of the so-called “secondary object” of the charism of infalli-

⁹ Alberto Bonandi, “Il magistero ‘morale’ secondo la teologia recente,” *Scuola Cattolica* 127 (1999) 735–89. Included among the scholars whose thought is examined in this article are Rahner, David, Schüller, Schillebeeckx, Mackey, Demmer, Böckle, Sullivan, Grisez, and Connery.

¹⁰ “L’autocomprensione del magistero morale,” *Scuola Cattolica* 128 (2000) 365–415.

¹¹ Frank Mobbs, *Beyond Its Authority: the Magisterium and Matters of Natural Law* (Alexandria, NSW, Australia: E.J. Dwyer, 1997). Mobbs later reiterated his argument that moral truths which are known through our awareness of natural law lie outside the scope of Revelation. See his “Is the Whole of Morality Contained in Revelation?” *Irish Theological Quarterly* 66 (2001) 157–64. He was responding to an article by Lawrence Welch, in which the latter argued that, because *Veritatis splendor* “teaches that Christ is the decisive answer to our moral questions, it can teach

bility in a subsequent article by Mobbs called forth a response from Brian Harrison.¹² Among other things, the latter picks up a question posed by Mobbs in regard to contraception: which item in the *depositum fidei* would be threatened if it were true that contraception is not immoral? Harrison declares himself to be personally satisfied that “the revealed condemnation of homosexual acts would be seriously threatened” if we were to regard as morally acceptable “other intrinsically sterile methods of attaining a sexual climax,” contraception being one such. At this point one could, of course, point out that several scholars have raised more than a little doubt concerning any such revealed condemnation, but Harrison is not impressed and apparently regards such work as “flagrant exegetical sophistry” which has been used to “explain away the clear biblical condemnations of homosexual vice.” The connection with the “revealed truth” about homosexual activity, however, is not the crucial point, says Harrison. The crucial point is the mere fact that the teaching on contraception has been delivered consistently, solemnly, universally, and forcefully. Given the promulgation of *Humanae vitae* and *Casti connubii*, it is no longer up to theologians to decide whether or not a link with a revealed truth exists. Popes are not obliged, he says, to demonstrate or even explicitly state that a certain doctrine is closely linked to revelation. He goes on to add that the magisterium alone is the final judge of whether or not the subject matter of its teaching is doctrine of faith or morals.¹³

In saying all this, Harrison might seem to be claiming no more than is stated in the famous *ex sese* clause in the First Vatican Council’s definition of papal infallibility: “Therefore such definitions of the Roman pontiff are of themselves, and not by the consent of the Church, irreformable.”¹⁴ He

that the magisterium’s authority in moral matters is coincident with its authority to interpret revelation” (“Christ, the Moral Law, and the Teaching Authority of the Magisterium,” *Irish Theological Quarterly* 64 [1999] 16–28).

¹² The “correspondence” was, in fact begun by Mobbs criticism of a 1993 article by Harrison, as is evident from the title of Mobbs article: “Gasser’s *Relatio*: A Reply to Father Brian Harrison,” *Irish Theological Quarterly* 63 (1998) 379–92. Harrison’s original article was “The Ex Cathedra Status of the Encyclical *Humanae vitae*,” *Faith and Reason* 19 (1993) 25–78.

¹³ Brian Harrison, “The ‘Secondary Object’ of Papal Infallibility: A Reply to Frank Mobbs,” *Irish Theological Quarterly* 65 (2000) 319–34.

¹⁴ *Pastor aeternus* no. 4. trans. Norman P. Tanner, *Decrees of the Ecumenical Councils* (Washington: Georgetown University, 1990) 2.816. The equivalent statement of Vatican II might be said to make a more explicit claim: “. . . [the pope’s] definitions are rightly said to be irreformable by their very nature and not by reason of the assent of the Church, inasmuch as they were made with the assistance of the Holy Spirit promised to him in the person of blessed Peter himself; and as a consequence they are in no way in need of the approval of others, and do not admit of appeal to any other tribunal.” *Lumen gentium* no. 25 (trans. Austin Flannery,

might do well, however, to consider Robert Murray's thoughts on the subject. Some years ago, Murray pointed out that the *ex sese* clause does not rule out the need of previous consultation on the part of the pope. Subsequent approval, however, is excluded as a condition because the guarantee of infallibility is such that popes will not solemnly define what is not the faith of the Church. Even so, he added, it seems that the terms of reference of the doctrine of infallibility entail recognition by the Church at large somewhere along the line. "For a Catholic to believe that the Church is equipped with an infallible voice is also to believe that the solemn utterances of this voice will be not merely a message to instruct him in his ignorance, but also a mirror in which he 'recognizes' the faith he holds (though he may not have been able to formulate it till he looked in the mirror)."¹⁵ Murray also noted the danger of asserting that a thoroughly satisfying declaration has been produced by the Church's charism of infallibility before many in the Church "have engaged in fair and sincere dialogue and borne their witness." Indeed, he went on to say, such an assertion might be an expression of impatience and a desire for over-simple answers, and those in authority, who might perhaps not be sufficiently well equipped to make the necessary assessment of circumstances, could even be guilty of sins against charity and toleration, "if they have failed to take into account the experience and insight of those chiefly concerned."¹⁶

Writing in a vein not far removed from that of Murray, Gaillardetz has proposed a model for the dynamic relationship between the episcopal magisterium and the *sensus fidelium*. This model takes the form of a spiral which begins, not with pronouncements from authority figures, but with the people's expression of faith in devotion, liturgy, art, daily life, and so on. At the second stage the bishops receive these expressions of faith and assess their fidelity to the apostolic tradition. At a third moment, if the need arises, the insights that are manifested in these expressions of the community's faith are given doctrinal form by the bishops. Then, at the fourth stage, the faithful engage this teaching and assess its fidelity to the lived faith of the Church. When they recognize that faith of the Church, the people accept the new formulations. This appropriation on their part leads to new expressions of faith, and so the spiral continues on.¹⁷

If we apply a model such as this to what has happened in regard to

Vatican Council II: The Conciliar and Post Conciliar Documents [Northport, N.Y.: Costello, 1975] 380).

¹⁵ Robert Murray, "Who or What is Infallible?" in *Infallibility in the Church: An Anglican-Catholic Dialogue*, Austin M. Farrer et al. (London: Darton Longman & Todd, 1968) 39.

¹⁶ *Ibid.* 44.

¹⁷ Richard Gaillardetz, "The Reception of Doctrine: New Perspectives" in *Authority in the Roman Catholic Church*, forthcoming.

practice and official declarations in the field of morality in recent times, we find some ruptures here and there. Given this situation, some may argue that, for the most part, the ruptures occur because the matters in question do not fit well into this model, pertaining as they do to natural law. They may agree with Mobbs that, in pronouncing on such matters as if they had divine authority to do so, the holders of magisterial office have acted *ultra vires*. Others may simply believe that the likelihood of such ruptures occurring is in some way proportionate to the tenuity or otherwise of any link with the *depositum fidei*. Touching on the subject of natural morality, Joseph Selling says that the magisterium is on very solid ground when it teaches something that is closely connected to revelation. When, however, that same magisterium pronounces on some matter that has only a remote connection to revelation, “its ‘authority’ is proportionately relevant and may carry lesser weight, as when it may voice an opinion about something like political structures or monetary policy.”¹⁸ In two other works he suggests that some clarification could be brought to the question of the object of authoritative statements by a more precise use of terminology. Thus the term *dogma* can be used to refer to those things that can be directly traced to revelation. These will be either stated explicitly or present implicitly in Scripture and the apostolic tradition. On a second level are those things that are intimately connected to the content of revelation and that are either “necessary for the maintenance of its integrity or (negatively) to be avoided as a threat to its integrity.” At this level we can refer to *doctrina*. There is a third category for which he suggests the term “teaching” or *disciplina*. Here we encounter a sphere that has little or no connection with revelation. This sphere is so vast that it is almost impossible to predict in advance the “authoritative” value of any one teaching. Where matters of natural morality are concerned those in positions of authority should exercise extreme caution lest they make the mistake of seeing as a “vital issue” something that is little other than a cultural, social, or anthropological phenomenon. In short, the further we get from revelation, the less certain we can be about the accuracy or durability of particular moral propositions.¹⁹

Clearly there is much more to Selling’s argument than linguistic niceties. Francis Sullivan had earlier indicated a need for precise language in regard

¹⁸ Joseph A. Selling, “Magisterial Authority and the Natural Law,” *Doctrine and Life* 47 (1997) 334–42.

¹⁹ “The Authority of Church Teaching on Matters of Morality,” in *Aiming at Happiness: The Moral Teaching in the Catechism of the Catholic Church: An Analysis and Commentary*, ed. F. Vosman and K.-W. Merks (Kampen, The Netherlands: Kok Pharos, 1996) 194–221, and “Authority and Moral Teaching in a Catholic Christian Context,” in *Christian Ethics: An Introduction*, ed. Bernard Hoose (London: Cassell, 1998) 57–71.

to the kind of assent required to infallible statements concerning the so-called secondary object of infallibility. He cites a number of documents in which the magisterium has affirmed its ability to speak infallibly about truths which, although not revealed, have a necessary or strict and intimate connection with revealed truth. In none of these, he notes, is it stated that, when such truths are infallibly taught, they become dogmas of faith. "On the contrary, the evidence shows that the magisterium has consistently avoided speaking of 'faith' as the proper response to this kind of teaching." That is reserved for infallible pronouncements about revealed matter. Sullivan was thus surprised to find the *Catechism of the Catholic Church* espousing the opinion that, when non-revealed doctrine is infallibly taught by the magisterium, it becomes dogma calling for "the irrevocable assent of faith."²⁰

THE ISSUE OF DISSENT

I mentioned above the views of McCormick and Curran in regard to the public discussion of different opinions about specific moral questions. In a somewhat similar vein, David Stagaman observes that, without dissent, we find obligation dissolving into mere convention. In the final analysis, obedience can only be to what one can and ought to give agreement. If it does not unite us to our fellows in conversation, it is sterile. "And the law of conversation is not that it is an exchange among the like-minded, but that it enables us to know our own identities in simultaneity with what is other."²¹ As for the actual practice of dissent from official church teaching, Stagaman holds that anyone contemplating it should study the matter in question in an appropriate manner, pray about it, and consult other members of the Church who are leading exemplary lives and who exhibit trustworthy opinions. Having done all this, one can then begin the decision-making process. When one comes to a decision, it should initially be regarded as provisional. More study and prayer may be called for, and one may need to spend some time living the decision "under the tutelage of the Spirit." If one then discovers that this provisionary decision is life-giving and fulfilling, one may safely go where one's discernment leads, even if this involves dissent in word or deed from official teaching.²²

Curran sees compatibility between loyal dissent on the one hand and an attitude of docility toward papal teaching, a presumption in favor of hier-

²⁰ Francis A. Sullivan, "The 'Secondary Object' of Infallibility," *Theological Studies* 54 (1993) 536–50. Since no official English language version existed at that stage, Sullivan made his own translation of the paragraph in question.

²¹ David Stagaman, *Authority in the Church* (Collegeville: Liturgical, 1999) 63.

²² *Ibid.* 134–35.

archical teaching, along with a sincere effort to give intellectual assent on the other. Noting the Catholic belief that the hierarchical teaching office is assisted by the Holy Spirit, he holds that Catholics “should make every effort to accept the teachings.” However, “the fact remains that the teachings are fallible and often come from a time in which the epistemological understandings related to moral truth and certitude differ somewhat from those prevailing today as illustrated by the contemporary recognition of historical consciousness.”²³

Kevin Kelly examines the description of dissent found in the Instruction *The Ecclesial Vocation of the Theologian*, which was published in 1990 by the Congregation for the Doctrine of the Faith. He states that he knows of no moral theologian “who dissents precisely in the technical sense meant by the CDF.”²⁴ In an earlier work, he had expressed the opinion that Curran did not do justice to himself by describing the stance he was taking as one of dissent. He felt that dissent did not fit easily into a context of dialogue. Curran’s position would more aptly be described in a statement like:

Drawing on the riches of the Church’s tradition and in the light of the Church’s deeper knowledge of this aspect of human life gained through its dialogue with the human sciences today, I believe that what I and many Christians are saying is a more adequate expression of the richness of our present Christian understanding than is found in the current statement of the Church’s teaching.

Such a position, he holds, contains respect for teaching, for tradition, and for teaching authority. It expresses love of the Church, concern for truth and a shared responsibility for the Church’s mission. The term “dissent,” he notes, has no feel for any of this.²⁵ Agreeing with Kelly, Linda Hogan remarks that such an approach reminds us that, ultimately, we should be concerned with what is true and good in any given context. “The duty of conscience is not to assent to magisterial teaching but to work earnestly and courageously for the articulation of the good in each context.” We hope that normally the two will coincide, but, when they do not, our duty

²³ *The Catholic Moral Tradition Today* 218. A number of scholars, including myself, have not only highlighted this fallibility, but pointed to specific errors. In an earlier edition of these “Notes on Moral Theology,” James Keenan listed a number of works behind which “are not simply claims of inconsistency, contradiction and even incoherence, but also again the insight of both Johnstone and Merks that continuity with the tradition is not itself the guarantor of the truth of any teaching.” See “Moral Theology and History,” *Theological Studies* 62 (2001) 86–104, at 89–90.

²⁴ Kevin T. Kelly, *New Directions in Moral Theology* (Washington: Geoffrey Chapman, 1992) 150.

²⁵ Kevin T. Kelly, “Serving the Truth,” in *Readings in Moral Theology No. 6: Dissent in the Church*, ed. Charles E. Curran and Richard A. McCormick (New York: Paulist, 1988) 479–80.

is to strive to embody in our decisions what we have come to understand as good and true. There will be situations of disagreement, but when one's unambiguous intention is to seek the good, "the issue of assent or dissent remains of secondary importance."²⁶ Hogan is concerned here with the proper role of conscience. So too is Jayne Hoose. She notes that, in *Veritatis splendor*, John Paul II recognizes that it is right for one to obey one's conscience. He insists, however, that, rather than involving submission to subjective certainties, such obedience should be based on a constant endeavor to deepen the awareness of conscience in regard to truth. Most writers, she notes, would accept that much. What she sees as problematic is that, if one adopted the teaching of *Veritatis splendor* the result would be not only submission to the truth that is "the new law" of the gospel, but submission to "the particular way in which it is interpreted by the *Magisterium*."²⁷ Kelly's formulation of disagreement seems to address this concern rather well.

Not surprisingly perhaps, there is a stark contrast between much that has been noted thus far and the approach taken by Cardinal Joseph Ratzinger in his letter to the London *Tablet* in which he responded to an article on the internal forum by Theodore Davey.²⁸ In his article Davey had listed Ratzinger as one of the contributors to a list of guidelines for pastoral practice concerning the admission to the sacraments of divorced and remarried Catholics. Ratzinger states that his guidelines had formed part of what had merely been a suggestion on his part. Their implementation would depend on their corroboration by an official act of the magisterium, to whose judgment Ratzinger would submit. John Paul II had since spoken decisively on the matter in *Familiaris consortio*.²⁹ Apparently, in his opinion, that should bring an end to the matter as far as Ratzinger's suggestion is concerned. In response to this, one could of course point out that we have no guarantee that the pope's judgment on such a matter is better than Ratzinger's. After all, serious papal errors are not unknown. Leo X, for instance, condemned Martin Luther's proposition that burning heretics is against the will of the Holy Spirit.³⁰ Ratzinger, it would seem, believes that public conversation in the Church should cease when the magisterium comes to a decision on the matter in question (provided, presumably, that the document in which the decision is stated is of the required status).

²⁶ Linda Hogan, *Confronting the Truth: Conscience in the Catholic Tradition* (New York: Paulist, 2000) 178–79.

²⁷ Jayne Hoose, "Conscience in the Roman Catholic Tradition," in *Conscience in World Religions* (Notre Dame: University of Notre Dame, 1999) 75.

²⁸ Theodore Davey, "The Internal Forum," *The Tablet* [London] 245 (July 27, 1991) 905–6.

²⁹ Joseph Ratzinger, Letter to *The Tablet* [London] 245 (October 26, 1991) 1310–11.

³⁰ Denzinger-Schönmetzer, ed. 32, no. 1483.

Those who argue in favor of ongoing debate, however, might wish to point to the importance of the fact that conversation about burning heretics continued long after Pope Leo's pronouncement.

Bishop John Heaps, however, had other examples in mind when he took up a very different stance to that of Ratzinger, stating: "If we could trust the so-called ordinary magisterium of the Church, we would have more confidence in following it without the necessity of an order to obey. This ordinary magisterium, however, does not possess a great record for reliability when it enters into matters of natural or human science. Its teachings on marriage and sexual ethics have been abysmal."³¹

In a somewhat different tone, Bishop Gabriel Matagrín has written of areas in which he found it difficult to agree with Paul VI, one of these being the question of artificial contraception. He asks why differences of opinion about matters which are neither infallibly defined truths nor truths that demand an assent of faith cannot be seen as being for the good of the Church, especially when the matter under discussion concerns the interpretation of the natural law, a domain in which the magisterium is not alone in having competence.³²

It is, of course, possible that, as Ratzinger sees things, if he had continued to participate in debate about guidelines for the admission of divorced people to the sacraments after the pope had spoken, he would necessarily have been guilty of that separation between freedom and truth to which John Paul II referred in *Veritatis splendor*. It seems likely, however, that many bishops are not entirely happy with present papal teaching in regard to the reception of the sacraments by divorced and remarried Catholics.³³ Surely, if authoritative teaching is to be made by a pope, he must first be aware of the beliefs and opinions of other bishops (as at least a part of the necessary consultation process). As I have recently noted, however, ascer-

³¹ John Heaps, *A Love that Dares to Question* (Richmond, Vic., Australia: Aurora, 1998) 37–38.

³² Gabriel Matagrín, "Une expérience de dissentiment," *Lumière et vie* no. 229 (1996) 39–52, at 46.

³³ It seems unlikely that the initiative of the three German bishops of the Upper Rhine Province regarding this matter does not find wide support among their episcopal brothers. Their pastoral letter, dated July 10, 1993, and their "Principles of Pastoral Care" are reproduced as appendices, along with the Congregation for the Doctrine of the Faith's "Letter to the World's Bishops concerning the Divorced-Remarried and Holy Communion," dated September 14, 1994, the comment of the three German Bishops on the CDF letter in the form of a message to their people (October 14, 1994), an article on the German initiative by Ladislav Orsy first published in *The Tablet*, and an article by Kevin Kelly on the apparent conflict, which also first appeared in *The Tablet*, in Kevin T. Kelly, *Divorce and Second Marriage: Facing the Challenge* (New York: Geoffrey Chapman, 1996) 98–141.

taining what individual bishops *really* believe about certain matters of faith and morals can be very difficult.³⁴ One reason for this would appear to be what Gaillardetz refers to as “the subtle and sometimes not so subtle coercion of Rome.”³⁵ Many bishops seem to attribute enormous importance to keeping to the “party line,” even when their own thoughts on the matter in question point in another direction. In the article just mentioned, for instance, I referred to a conversation between a group of bishops and moral theologians during which one of the bishops said something like: “It is all very well for us to criticise a papal document in this way, but what am I supposed to say when I am interviewed on television?”³⁶ Ratzinger may well hold that he is right in submitting to the “party line” on certain subjects because he believes that free and open consultation really has taken place. Archbishop John Quinn’s critique of the international synod of bishops, however, does not inspire one with confidence in this regard. Having described the procedures followed, he writes: “Even if the synod were not given a deliberative vote, it could still play an important role if it were conducted in such a way that the bishops were honestly and seriously consulted on issues about which the Pope intended to express his judgment or which the bishops thought to be of concern in the Church.” Further on, he adds: “Synods, if they were truly open and collegial events, could serve a very positive purpose.”³⁷ It would seem that, in their present form, they are not truly open and collegial events. It seems apposite at this point to call to mind the words of Cardinal Suenens quoted by McCormick when the latter was discussing the claim that the Church’s teaching on birth regulation could not be modified because it had been unanimously proposed for a long period of time as certain by the bishops around the world together with the pope:

We have heard arguments based on “what the bishops all taught for decades.” Well, the bishops did defend the classical position. But it was one imposed on them by authority. The bishops did not study the pros and cons. They received directives, they bowed to them, and they tried to explain them to their congregations.³⁸

AUTHORITY, POWER AND CORRUPTION

References to imposition, coercion, and a lack of openness bring to mind Lord Acton’s famous aphorism concerning the corrupting tendencies of

³⁴ Bernard Hoose, “Towards the Truth about Hiding the Truth,” *Louvain Studies* 26 (2001) 63–84, at 78.

³⁵ Richard R. Gaillardetz, *Witnesses to the Faith: Infallibility and the Ordinary Magisterium of Bishops* (New York: Paulist, 1992) 133.

³⁶ Hoose, “Towards the Truth” 79.

³⁷ John R. Quinn, *The Reform of the Papacy: The Costly Call to Christian Unity* (New York: Crossroad, 1999) 113–14.

³⁸ Richard A. McCormick, “Dissent in Moral Theology and Its Implications: Some Notes on the Literature,” in *Readings in Moral Theology No. 6*, 533.

power. Given the atrocities brought about by tyrannical regimes in various parts of the world during the 20th century, it is hardly surprising that much has been made of it in recent decades in discussion about secular government. We do well to bear in mind, however, that Acton was greatly exercised by the subject of papal power and authority and that his much quoted dictum came into being in correspondence with the Anglican bishop Mandell Creighton concerning the latter's *History of the Popes*.³⁹ Acton explained in a letter to Creighton why he disagreed with some of what the latter had written in that work. Among the things that dismayed him was the fact that Creighton had not spoken of the papacy as exercising severity. He had ignored, and even implicitly denied the use of the torture chamber and the stake. Now Acton was a Catholic, but also a Liberal: "Liberals think persecution a crime of a worse order than adultery, and the acts done by Ximenes considerably worse than the entertainment of Roman courtesans by Alexander VI." He also pointed out that those who authorize acts share the guilt of those who commit them. As for Creighton's argument that popes and kings should not be judged like other people but should be favored with the presumption that they did no wrong, Acton pulled no punches: "If there is any presumption, it is the other way, against holders of power, increasing as the power increases. Historic responsibility has to make up for the want of legal responsibility. Power tends to corrupt, and absolute power corrupts absolutely. Great men are almost always bad men, even when they exercise influence and not authority: still more when you superadd the tendency or the certainty of corruption by authority. . . ."⁴⁰

We might not expect the same sort of direct attack from the pens of theologians on present-day holders of hierarchical power.⁴¹ No doubt, some would insist that personal corruption does not always result from the acquisition of a significant amount of power. While that may be so, we do well in this regard to bear in mind the observation of some feminist scholars that women will not achieve many of their aims if certain structures that

³⁹ I am not claiming that Acton concerned himself only with papal power. Hugh A. MacDougall writes: "Acton's strictures against the papacy can only be understood within the context of his protest against the abuse of power in all sectors of society down through the centuries." *Lord Acton on Papal Power* (London: Sheed and Ward, 1973) 22.

⁴⁰ Reproduced in Louise Creighton, *Life and Letters of Mandell Creighton* (London: Longmans, Green, 1904) 371–72.

⁴¹ It was not so in the 19th century. One of Acton's contemporaries and acquaintances was John Henry Newman, who was not entirely happy with all things Roman when he wrote to Lady Simeon: "We have come to a climax of tyranny. It is not good for a pope to live for twenty years. It is anomaly [*sic*] and bears no good fruit, he becomes a god, has no one to contradict him, does not know facts, and does cruel things without meaning it" (*The Letters and Diaries of John Henry Newman*, Vol. 25, ed. Dessain and T. Gornall [Oxford: Clarendon, 1973] 224).

were created as expressions of patriarchy continue to exist. It seems not too shocking to suggest that something similar can be said about the Church in that certain structures that were put in place in bygone ages are not suited to present-day requirements and may even be damaging. Those in positions of authority may thus be “corrupted” by the system which they continue to put into operation. Taking up this theme in a forthcoming work, I have pointed to the need to include organisational culture and institutionalized attitudes within this notion of structures.⁴² One obvious corrupt aspect is the Church’s institutionalized sexism. Even that, however, would seem to be simply a partial expression of a deep-seated resistance to change of structures, culture, and attitude. David Stagaman notes how Roman congregations sometimes lose respect by standing on their legal rights, creating the appearance of knowing all the answers, and giving the impression that they are not able to change what has been taught or done. These “characteristics of an insecure personality,” he notes, “believe the call of the Gospels for continued conversion.”⁴³ John Heaps speaks of a “closed fearful mentality” in Rome which is unable to listen with openness to criticism or differing views expressed by loyal and devoted church members.⁴⁴ Responding to *Veritatis splendor*, moreover, Bernard Häring commented that, while there is much that is beautiful in the encyclical, “almost all real splendor is lost when it becomes evident that the whole document is directed above all towards one goal: to endorse total assent and submission to all utterances of the Pope.” He also suggests that John Paul II is deeply distrustful of “all theologians (particularly moral theologians) who might not be in total sympathy with him.”⁴⁵ When Häring writes in such a manner, says McCormick, something is clearly wrong, but not, he suggests, with Häring.⁴⁶

Writing some years earlier, Avery Dulles referred to the temptation—ever present to church authorities—to stamp out dissent. Where suppression is successful (as is rarely the case), it may also be harmful. “It inhibits good theology from performing its critical task, and it is detrimental to the atmosphere of freedom in the Church. The acceptance of true doctrine should not be a matter of blind conformity, as though truth could be imposed by decree.”⁴⁷

⁴² Bernard Hoose, *Authority in Roman Catholicism* (London: Matthew James) forthcoming.

⁴³ Stagaman, *Authority in the Church* 130.

⁴⁴ Heaps, *A Love that Dares* 37.

⁴⁵ Bernard Häring, “A Distrust that Wounds,” in *Readings in Moral Theology No. 10: John Paul II and Moral Theology*, ed. Charles E. Curran and Richard A. McCormick (New York: Paulist, 1998) 42–43.

⁴⁶ Richard A. McCormick, “Some Early Reactions to *Veritatis splendor*” 490.

⁴⁷ Avery Dulles, “Authority and Conscience,” in *Readings in Moral Theology*

Yet another mention of imposition calls to mind Lash's comments about all authority collapsing into governance and "proclamation construed as command" being substituted for teaching.⁴⁸ We are members of a learning Church, and the hierarchical magisterium has to learn before it can teach, a point made by Curran, who adds that, "Until church structures and institutions change to reflect the church as a community of religious and moral discourse with a special role for the hierarchy, the existing tensions will persist and grow."⁴⁹

The role of certain categories of persons in the discourse has changed over time. When Newman referred to the need to consult the faithful, says Sullivan, he was concerned with what they believed, not with their opinions, judgment, or advice. Now, however, many lay people have higher degrees in theology, teach theology in universities, "and publish works that advance the science of theology." In fact, large numbers of them "are more competent to have an informed opinion on a theological question than are many bishops." Such people should therefore be consulted on matters of doctrine, not merely in regard to what they believe, but also because of their expertise.⁵⁰ This is just one sign of a changed situation to which those who exercise authority in the Church must respond if, among other things, they are to serve well the advance and development of moral theology.

No. 6, 111. Needless to say, Dulles holds that dissent should be exercised within certain bounds.

⁴⁸ See above n. 1.

⁴⁹ Curran, *The Catholic Moral Tradition Today* 227.

⁵⁰ Francis A. Sullivan, "Sense of Faith: Sense/Consensus of the Faithful" in *Authority in the Roman Catholic Church*, forthcoming.