

# THE CANONICAL SAFEGUARDING OF THE WORD OF GOD <sup>1</sup>

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Just before his Ascension to Heaven, Christ commissioned the Apostles with the words: “All power in heaven and on earth has been given to me. Go, therefore, and make disciples of all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Spirit, teaching them to observe all that I have commanded you; and behold, I am with you all days, even unto the consummation of the world.” <sup>2</sup>

From the beginning, therefore, the Church has recognized itself as the *salt of the earth* and the *light of the world*. <sup>3</sup> She feels herself called by Christ “to the work of the salvation and renewal of all creatures, so that all things may be restored in Christ and that in Him all men may form one family and one People of God.” <sup>4</sup>

Nevertheless, the full text of Christ’s declaration of this evangelizing mission of the Church reads: “You are the salt of the earth; but if the salt loses its strength, what shall it be salted with? It is no longer of any use but to be thrown out and trodden underfoot by men” (*Mt.* 5,13). In effect, Christ, the Founder of the Church, also declared his foundational will that such a teaching function not be unconditional. In fact, he even gives us an idea of how to deal with the teacher whose teaching has lost its connection with the Gospel message: it is “to be thrown out”.

The subject of this study is the positivization and formalization of this Gospel message in the juridic order of the Church. More specifically, it focuses on the canonical safeguarding of the Gospel message, through the **Code of Canon Law** and, more recently, the new formula of the *Professio Fidei* and the *Motu Proprio Ad Tuendam*, which makes the necessary adjustments in the Code to bring it into line with the *Professio Fidei*. But before we can go into that, we have to make some preliminary clarifications.

## A. PRELIMINARY CONSIDERATIONS

### 1. THE JURIDICAL CHARACTER OF THE *MUNUS DOCENDI*

Can we speak of a properly juridical dimension of the teaching function of the Church? The answer to this question is yes.

#### a. Evangelization is a Right and a Duty of the Church

Evangelization is not only a right but a duty of the Church as such, as affirmed by the Magisterium of the Church, based on the revelation in Sacred Scripture.

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<sup>1</sup> This article was originally given as a lecture in the *Canon Law Week* of the Ecclesiastical Faculties of the University of Santo Tomas (Manila), on 14.I.2000.

<sup>2</sup> *Mt.* 28,18-20.

<sup>3</sup> Cf. *Mt.* 5,13-14.

<sup>4</sup> Vatican Council II, Decree *Ad Gentes*, 7.XII.1965, n.1.

**1) From Sacred Scripture.** The previously cited text of the moment of the Ascension contains a clear statement of the juridical nature of the *munus docendi*. In effect, Christ introduces the solemn words commissioning the Apostles—to “make disciples of all nations ... teaching them”—with an allusion to “all power in heaven and on earth” that had been given to him. Therefore, the teaching office of the Church is not derived from any human power, but stems from the very power of Christ received from the Father: she has the right, which is at the same time a duty, to give the world all the doctrine of Christ, with all its human and supernatural wealth.

**2) From Vatican Council II.** “The office of educating belongs to the Church by a unique title...most of all because it has the duty of announcing the way of salvation to all people, of communicating the life of Christ to those who believe, and of assisting them with continual concern so that they may grow into the fullness of that life”.<sup>5</sup> This text of the Second Vatican Council situates the teaching function squarely among the threefold *munera* which comprise the object of the power of jurisdiction in the Church. In effect, if the Church—considered as a people, juridically structured—has a function to teach its members and those who are not yet part of it, there is a juridical projection of such a function: a set of rights and duties—formalized and positivized in a set of canons in the new *Codex*—incumbent on both the hierarchy and the rest of the faithful.

Thus, the teaching office of the Church is not an optional contribution, but a duty stemming from an imperative mandate of Christ, such that all men may believe and be saved. In fact, the Church itself exists to fulfill this end: to evangelize.<sup>6</sup> Furthermore, this right-duty is exercised by virtue of the *sacra potestas* which Christ, who has received it from the Father, gave to the Apostles—i.e., the *munus docendi* is an exercise of the power of jurisdiction.

All this is summarized in c.747, §1 of the **Code of Canon Law**: *The Church, to whom Christ the Lord entrusted the deposit of faith so that, assisted by the Holy Spirit, it might reverently safeguard revealed truth, more closely examine it and faithfully proclaim and expound it, has the innate duty and right to preach the gospel to all nations, independent of any human power whatever, using the means of social communication proper to it.*

## 2. SUBJECT OF THE *MUNUS DOCENDI*

On whom does this right and duty to teach reside in the Church? In broad terms, we can say that the word of God is in the Church in two ways:

1<sup>st</sup>: The **Magisterium** which is a manifestation of the *sacra potestas* of the Apostles and their successors who take care of the ecclesial flock.

2<sup>nd</sup>: The *sensus fidei* which is a manifestation of the power of the Spirit working in all of the Christian faithful.

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<sup>5</sup> **Gravissimum Educationis**, n.3.

<sup>6</sup> cf. Ap. Exhort. *Evangelii nuntiandi*, nn.5 & 14.

### a. The Hierarchy: *Magisterium*

The deposit of Revelation is situated in the Church, organically structuring it and giving rise to a relationship between the ordinary faithful and the hierarchy. It is to the Apostles—and to their successors the Bishops—and their collaborators the presbyters (nowadays priests) that the Lord promised his special help in this teaching mission: “Behold, I am with you all days, even unto the consummation of the world.”<sup>7</sup> Because of this, it belongs to the Hierarchy to exercise the teaching office in a public and official way—i.e., as a true exercise of the *sacra potestas* and thus giving rise to juridical relationships: the Hierarchy teaches with authority, and the common faithful have the duty to give intellectual assent. This gives rise to *authentic Magisterium*—i.e., that which comes from the Pastors, when they pronounce on matters of faith and morals. It is called authentic because it proceeds from the authentic Teacher, Christ, and is exercised by those who have been given his authority.<sup>8</sup>

Specifically, as a recent document from the Holy See declares: “on questions of faith and morals, the only subject qualified to fulfill the office of teaching with binding authority for the faithful is the Supreme Pontiff and the College of Bishops in communion with him. The Bishops are the authentic teachers of the faith, endowed with the authority of Christ, because by divine institution they are the successors of the Apostles in teaching and in pastoral governance: together with the Roman Pontiff they exercise supreme and full power over all the Church, although this power cannot be exercised without the consent of the Roman Pontiff.”<sup>9</sup>

The **Code** summarizes the foregoing subjects of the Magisterium in the following terms:

1) The subjects of **authentic Magisterium** are:

1° the Roman Pontiff

2° the College of Bishops

3° the bishops whether individually or united in Episcopal Conferences or Particular Councils (cc. 752-753).

2) The subjects of **infallible authentic Magisterium** are:

1° **The Roman Pontiff** - *when, as supreme pastor and teacher of all the faithful, whose task is to confirm his fellow believers in the faith, he proclaims with a definitive act that a doctrine of faith or morals is to be held as such* (c.749, §1).

2° **The College of Bishops** - *also possess infallible teaching authority when the bishops exercise their teaching office gathered together in an ecumenical council when, as teachers and judges of faith and morals, they declare that for the universal Church a doctrine of faith or morals must be definitively held.*

### b. The Laity: *Sensus fidei*

<sup>7</sup> Mt. 28,18-20.

<sup>8</sup> Cf. Vatican Council II, *Dogmatic Constitution Lumen Gentium*, 21.XI.1964, n.25.

<sup>9</sup> S.C. for the Doctrine of the Faith, *Commentary on the Concluding Formula of the “Professio fidei”* (29.VI.1998), n.4. In *L’Osservatore Romano*, 15.VII.1998, p.3.

Due to the principle of equality among the baptized, all the faithful—in communion with their Pastors—are competent to transmit the deposit of Revelation to the world. This deposit of the faith in the faithful, the *sensus fidei* of the People of God, has a proper value that stems from the very word of God received and the assistance of the Holy Spirit. It is manifested in the common adherence of the faithful under the guidance of the sacred Magisterium.

Can. 759 summarizes this point: *In virtue of their baptism and confirmation lay members of the Christian faithful are witnesses to the gospel message by word and by example of a Christian life.*

Nevertheless, unlike the Ecclesiastical Magisterium, the laity do not transmit the deposit of Revelation in an authoritative way. This does not suppose an opposition, but rather a hierarchically organized distinction. The fact that the hierarchy teaches authoritatively while the ordinary faithful do not does not show a dialectics of functions and much less of powers, but rather an inter-dependence of mutual services and the same truth. There is but one set of doctrines in the Church.

It is in this context that we shall proceed now to examine the juridical texts safeguarding the authenticity of the Gospel message, or—put another way—of the juridical dimension of the Ecclesiastical Magisterium.

## **B. THE JURIDICAL SAFEGUARDING OF THE AUTHENTICITY OF THE GOSPEL MESSAGE AND ITS PROPAGATION: THE *PROFESSIO FIDEI***

After a lengthy introduction, let us focus on the proper topic of this study: the juridical safeguarding of the Gospel message. Mainly five bodies of normative texts concern us:

- 1° The **Code of Canon Law** of 1983.
- 2° The *Professio Fidei* of 1989.
- 3° The *Motu Proprio Ad Tuendam Fidem* of May 1998.
- 4° The *Regulations for Doctrinal Examination* of June 1997.
- 5° The *Motu Proprio Apostolos suos* of June 1998.

### **1. PROVISIONS OF THE CODE OF CANON LAW OF 1983**

We can synthesize the canonical texts in the following terms.

#### **a. Rights and duties of the faithful in the reception, conservation and transmission of the Word**

**1) Duty to give an assent of faith to truths definitively proposed by Universal Magisterium as divinely revealed.** Can. 750 reads: *All that is contained in the written word of God or in tradition, i.e., in the one deposit of faith entrusted to the Church and also proposed as divinely revealed either by the solemn Magisterium of the Church or by its ordinary and universal Magisterium, must be believed with divine and catholic faith.... therefore, all are bound to avoid any doctrines whatever which are contrary to these truths.*

The **Code** defines two situations contrary to this norm (c.751):

- a) **Heresy**, which is the obstinate post-baptismal denial of some truth which must be believed with divine and catholic faith, or an obstinate doubt concerning the same.
- b) **Apostasy**, which is the total repudiation of the Christian faith.

Furthermore, the **Code** typifies the above situations as delicts, establishing that an apostate or a heretic incurs automatic (*latae sententiae*) excommunication and if a cleric, he can also be punished by additional expiatory penalties (cf. c.1336, §1, nn.1-3).

## **2) Duty to give religious respect of intellect and will to the Authentic Magisterium.**

This is enunciated in c.752: *A religious respect of intellect and will, even if not the assent of faith, is to be paid to the teaching which the Supreme Pontiff or the college of bishops enunciate on faith or morals when they exercise the authentic Magisterium, even if they do not intend to proclaim it with a definitive act. Therefore the Christian faithful are to take care to avoid whatever is not in harmony with that teaching.*<sup>10</sup>

Furthermore, the contrary conduct is typified as a delict in c. 1371, 1°: *The following are to be punished with a just penalty: ... a person (...) who pertinaciously rejects the doctrine mentioned in c.752 and who does not make a retraction after having been admonished by the Apostolic See or by the Ordinary.*

**3) Duty to refrain from dissent in matters of faith and morals:** *All the Christian faithful are obliged to observe the constitutions and decrees which the legitimate authority of the Church issues in order to propose doctrine and proscribe erroneous opinions; this is especially true of the constitutions and decrees issued by the Roman Pontiff or the college of bishops (c.754).*

Thus, even if the Universal Definitive Magisterium and the Authentic Magisterium can be differentiated in that an internal act of faith is required in the former while not in the latter, in the juridical order both cases require the faithful to refrain from active (external) dissent.<sup>11</sup>

## **b. General Provision for a *PROFESSIO FIDEI***

The Code limits itself to making a general provision in c.833—the sole canon of **Title V** of **Book III**—in the following terms:

*The following persons are obliged to make a profession of faith personally in accord with the formula approved by the Apostolic See (c.833):*

<sup>10</sup> This norm is echoed—and in a sense extended—in c.753: *Although they do not enjoy infallible teaching authority, the bishops in communion with the head and members of the college, whether as individuals or gathered in conferences of bishops or in particular councils, are authentic teachers and instructors of the faith for the faithful entrusted to their care; the faithful must adhere to the authentic teaching of their own bishops with a sense of religious respect.*

<sup>11</sup> This question is treated in an insightful way by C.J. Errázuriz, *Esiste un diritto di libertà religiosa del fedele all'interno della Chiesa?*, in *Fidelium Iura*, 3 (1993), 79-99.

- 1° all persons who take part with either a deliberative or consultative vote in an ecumenical or particular council, in a synod of bishops, or in a diocesan synod;
- 2° those promoted to the sacred college of cardinals;
- 3° all persons promoted to the episcopacy and those equivalent to a diocesan bishop;
- 4° the diocesan consultor;
- 5° vicars general, episcopal vicars and vicars judicial;
- 6° pastors, the rector of the seminary, the professors of theology and philosophy in seminaries, those to be promoted to the order of deacons;
- 7° the rector of an ecclesiastical or Catholic university at the beginning of his term of office, and teachers in any university who teach disciplines which deal with faith or morals;
- 8° the superiors in clerical religious institutes and societies of apostolic life, in accord with the norm of the constitutions.

The Code was of course alluding to the *Professio Fidei* extant at that time—i.e., promulgated by the S.C. for the Doctrine of the Faith in 1967.<sup>12</sup>

## 2. THE *PROFESSIO FIDEI* OF 1989

On 9 January 1989, the S.C. for the Doctrine of the Faith published new formulas for the *Professio Fidei et Iusiurandum fidelitatis in suscipiendo officio nomine Ecclesiae exercendo*, to replace the previous formulas of 1967. These formulas were approved by the Roman Pontiff in a special Rescript dated 19 September of that same year.<sup>13</sup>

### a. The New Formula

The formula can be divided into three parts:

**1) Introduction:** *I, N., with firm faith believe and profess each and everything that is contained in the Symbol of faith, namely:*

**2) The Symbol of faith:** The Nicene-Constantinopolitan Creed is used.

**3) Concluding Formula:** This is composed of three paragraphs, each containing a specific kind of proposition that the Magisterium teaches, to better distinguish the order of the truths to which the believer should adhere. As the S.C. for the Doctrine of the Faith itself declared, “the correct explanation of these paragraphs deserves a clear presentation, so that their authentic meaning, as given by the Church Magisterium, will be well understood, received and integrally preserved.”<sup>14</sup> These three paragraphs are what interests us now.

<sup>12</sup> For a brief treatment of the historical antecedents of the present *Professio Fidei*, cf. Jose A. Fuentes, *Nuevas formulas de la Profesión de Fe y del Juramento de Fidelidad*, in *Ius Canonicum*, XXX, n.60 (1990), 517-545.

<sup>13</sup> In *AAS*, 81 [1989], 1169.

<sup>14</sup> S.C. for the Doctrine of the Faith, *Commentary on the Concluding Formula of the “Professio fidei”* (29.VI.1998), n.4.

## b. Three Levels of Truths proposed by the Magisterium and Juridically Safeguarded

In each of the three aforementioned paragraphs a distinct category of truth proposed by the Magisterium is considered, even if the first two paragraphs really refer to two species of the same genus of *definitive* Magisterium.

**1<sup>st</sup> Category of truths: *De fide credenda*.** The first paragraph states: *With firm faith, I also believe everything contained in the Word of God, whether written or handed down in Tradition, which the Church either by a solemn judgment of by the ordinary and universal Magisterium sets forth to be believed as divinely revealed.*<sup>15</sup>

In short, these are truth **definitively** proposed by the **Universal Magisterium** (either **solemn** or **ordinary**) to be believed as **formally revealed**—i.e., contained in the sources of Revelation. The faithful are duty-bound to adhere to them with an act of faith in Revelation itself.

**2<sup>nd</sup> Category of truths: *De fide tenenda*.** The second paragraph states: *I also firmly accept and hold each and everything definitively proposed by the Church regarding teaching on faith and morals.*<sup>16</sup>

Thus, this refers to teachings **also definitively proposed** by the Magisterium, **but not as formally revealed**—i.e., not as specifically contained in the sources of Revelation. It is precisely to clarify this point that a posterior legislative modification would be necessary, as we shall see shortly. The faithful are obliged to give accept and hold these truths—not insofar as these belong to Revelation, but insofar as they are being definitively proposed by the Church.

**3<sup>rd</sup> Category of truths:** The third paragraph states: *Moreover I adhere with submission of will and intellect to the teachings which either the Roman Pontiff or the College of Bishops enunciate when they exercise their authentic Magisterium, even if they do not intend to proclaim these teachings by a definitive act.*<sup>17</sup>

**a) Meaning of *Not Infallible*.** Since these teachings are not proposed definitively, they do not enjoy the note of infallibility. It is this datum that has caused a number of misconceptions, which we should clarify with the following observations:

**1) *Not infallible* is not equivalent to *fallible*.** The note of infallibility is a precise phenomenon—juridically determined—which has to do with the manner in which a teaching is proposed, and not directly about the intrinsic truthfulness or certainty of the teaching.

<sup>15</sup> The original Latin reads: *Firma fide quoque credo ea omnia quae in verbo Dei scripto vel tradito continentur et ab Ecclesia sive sollemni iudicio sive ordinario et universali Magisterio tamquam divinitus revelata credenda proponuntur* (AAS, 81 [1989] 104-106).

<sup>16</sup> The original Latin reads: *Firmiter etiam amplector ac retineo omnia et singula quae circa doctrinam de fide vel moribus ab eadem definitive proponuntur* (Ibid.).

<sup>17</sup> The original Latin reads: *Insuper religioso voluntatis et intellectus obsequio doctrinis adhaereo quas sive Romanus Pontifex sive Collegium episcoporum enuntiant cum Magisterium authenticum exercem etsi non definitivo actu easdem proclamare intendunt* (Ibid.).

2) **Not infallible is not equivalent to questionable.** Faced with a teaching that does not enjoy the note of infallibility, there is no reason for a faithful to adopt a posture of doubt or criticism, but rather one of positive acceptance, with the assurance that in this way he is service the Church.

3) **The contrary behavior is typified as a delict**—as pointed out earlier (cf. c.1371, 1°). Aside from an intellectual assent to the doctrine, an assent of the will is required, manifested by an external actuation in accord with it.

4) **The distinction between infallible and simply authentic Magisterium** should not be confused with the distinction between *solemn (extraordinary)* and *ordinary* Magisterium. This is the kind of formalistic error that tends to reduce infallibility to formal solemnity without regard to the more important (substantial) note of definitiveness.<sup>18</sup>

**b) Meaning of *Obsequium religiosum*.** The faithful ought to accept these teachings with an act of submission—the Latin term is *obsequium religiosum*—of the intellect and the will. The previous observations lead us to understand this act of submission to have the following characteristics:<sup>19</sup>

1) **Acceptance, both external and internal**, of what is being proposed by the Pastors of the Church—which includes the acknowledgment of their teaching authority.

2) **Assent of the intellect, and submission of the will**—which brings with it a concordant actuation.

3) **Active dissent is inadmissible**—because these go against ecclesial communion. At the most, if a faithful were really to find it intellectually impossible to give assent, he could temporarily suspend internal assent, in a spirit of a humble search for the truth; but this cannot be shown by external dissent.

4) **The degree of assent depends on the degree of commitment of the Magisterium**—this latter being shown by the form of the teaching (e.g., an encyclical weighs more than a simple allocution) and its concordance with previous Magisterium.

### 3. THE *MOTU PROPRIO* “*AD TUENDAM FIDEM*” OF MAY 1998

Bringing the legislative *iter* of our subject matter to the present time is the Apostolic Letter *Motu Proprio*, so aptly entitled *Ad Tuendam Fidem*, which Pope John Paul II signed on 28 May 1998.

#### a. Motive for the *Motu Proprio*

The motive for this latest document for the juridical safeguarding of the Gospel message becomes obvious when we review the three categories of truths enunciated in the concluding part of the *Professio Fidei* of 1989, and their canonical safeguard in the Code of Canon Law.

<sup>18</sup> Cf. Carlos José Errázuriz, *Unità e tipologia del magistero nella Chiesa: rilevanza giuridico-canonica*, in *Ius Ecclesiae*, 1991/1.

<sup>19</sup> Cf. J.A. Fuentes, *op.cit.*, 538-539.



**1<sup>st</sup> Category (The first paragraph): *De fide credenda*** —This paragraph appropriately confirms and is provided for in the Church's legislation in c.750 of the **Code of Canon Law** and c.598 of the **Code of Canons of the Eastern Churches**.<sup>20</sup>

**3<sup>rd</sup> Category (The third paragraph): Authentic Magisterium *De fide et moribus*** — This paragraph has its corresponding legislative expression in c.752 of the **Code of Canon Law** and c.599 of the **Code of Canons of the Eastern Churches**.<sup>21</sup>

**2<sup>nd</sup> Category (The second paragraph): *De fide tenenda***--however, has no corresponding canon in the Codes of the Catholic Church. As the *Motu Proprio* points out, “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.”

## **b. Dispositive Part of the *Motu Proprio***

To overcome the aforementioned legislative lacuna, the Holy Father—the Supreme Legislator of the Church—disposed the following in n.4 of the ***Motu Proprio***:

1) Can.750 of the **Code of Canon Law** will now consist of two paragraphs; the first will present the text of the existing canon; the second will contain a new text. Thus c.750, in its complete form, will read:

**Canon 750** -- §1. *Those things are to be believed by divine and catholic faith which are contained in the word of God as it has been written or handed down by tradition, that is, in the single deposit of faith entrusted to the Church, and which are at the same time proposed as divinely revealed either by the solemn Magisterium of the Church, or by its ordinary and universal Magisterium, which in fact is manifested by the common adherence of Christ's faithful under the guidance of the sacred Magisterium. All are therefore bound to avoid any contrary doctrines.*

§2. *Furthermore, each and everything set forth definitively by the Magisterium of the Church regarding teaching on faith and morals must be firmly accepted and held, namely those things required for the holy keeping and faithful exposition of the deposit of faith; therefore, anyone who rejects propositions which are to be held definitively sets himself against the teaching of the Catholic Church.*

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<sup>20</sup> Can.750 of the **CIC** states: *All that is contained in the written word of God or in tradition, that is, in the one deposit of faith entrusted to the Church and also proposed as divinely revealed either by the solemn magisterium of the Church or by its ordinary and universal magisterium, must be believed with divine and catholic faith; it is manifested by the common adherence of the Christian faithful under the leadership of the sacred magisterium; therefore, all are bound to avoid any doctrines whatever which are contrary to these truths.*

<sup>21</sup> Can. 752 of the **CIC** states: *A religious respect of intellect and will, even if not the assent of faith, is to be paid to the teaching which the Supreme Pontiff or the college of bishops enunciate on faith or morals when they exercise the authentic Magisterium even if they do not intend to proclaim it with a definitive act; therefore the Christian faithful are to take care to avoid whatever is not in harmony with that teaching.*

2) Canon 1371, n.1 of the **Code of Canon Law**, consequently, will receive an appropriate reference to c.750, §2, so that it will now read:

**Canon 1371** -- *The following are to be punished with a just penalty:*

*1° a person who, apart from the case mentioned in c.1364, §1, teaches a doctrine condemned by the Roman Pontiff, or by an Ecumenical Council, or obstinately rejects the teachings mentioned in c.750, §2 or in c.752 and, when warned by the Apostolic See or by the Ordinary, does not retract;*

*2° a person who in any other way does not obey the lawful command or prohibition of the Apostolic See or the Ordinary or Superior and, after being warned, persists in disobedience.*

3) The corresponding modifications—which we shall not go into now—were also introduced in the **Code of Canons of the Eastern Churches (CCEC)**.

#### **4. THE REGULATIONS FOR DOCTRINAL EXAMINATION OF JUNE 1997** <sup>22</sup>

After a little more than a quarter of a century, the S.C. for the Doctrine of the Faith published new procedures for the examination of doctrines on 29 June 1997. <sup>23</sup> For lack of space, we limit ourselves to highlighting the important points of this document. <sup>24</sup>

##### **a. Re-statement of the Right-Duty of the Hierarchy to Examine Doctrinal Writings and Opinions**

The document begins by re-stating the right-duty of the Hierarchy to protect *the right of the People of God to receive the Gospel message in its purity and entirety* (Art.1). Furthermore, it specifies the nature of and the active subjects of this right-duty in the following terms:

**1) Right-duty as regards the Word of God.** It has been pointed out that the exercise of this right-duty cannot be viewed as a conflict between the freedom of opinion of the faithful (e.g., *academic freedom*) and the authority of the Magisterium, but should be situated rather in the context of the safeguarding of the identity and integrity of the Word of God. <sup>25</sup>

<sup>22</sup> In **L'Osservatore Romano** (English Edition), 3.IX.1997.

<sup>23</sup> The immediate precedent of the present *Regulations* was the *Ratio agendi in doctrinarum examine* (15.I.1971), in **AAS**, **63** (1971), 234-236.

<sup>24</sup> For a more complete discussion of this document, cf. Davide Cito, *Commentary* [on S.C.Doctrine of the Faith], *Regolamento per l'esame delle doctrine* [29.VI.1997], in **Ius Ecclesiae**, **IX**, 1/98, 341-351; José A. Fuentes, *Nuevo Reglamento de la Congregación para la Doctrina de la Fe sobre el examen de las doctrinas*, in **Ius Canonicum**, XXXVIII (1998), 301-341.

<sup>25</sup> This point is important, and failure to grasp it is—to my mind—at the bottom of the raging debate regarding the application of the norms *Ex corde Ecclesiae* in the U.S. Cf. John Paul II, **Apost. Const. Ex corde Ecclesiae** (15.VIII.1990), in **AAS**, **82** (1990), 1475-1509; English translation, **Apostolic Constitution of the Supreme Pontiff John Paul II on Catholic Universities**, Libreria editrice Vaticana (Vatican City) 1990. Cf. also K.D.Whitehead, *Averting a Collision*, in **Catholic World Report**, May 1999; *The Ex Corde Ecclesiae Debate Continued*, in **Catholic World Report**, October 1999.

In fact, this right-duty of the Pastors is premised on the absolute priority of the right of the faithful to receive the Word of God in its entirety and integrity.<sup>26</sup>

**2) Right-duty of All Pastors.** *This fundamental pastoral responsibility concerns all the pastors of the Church, who have the duty and the right to exercise vigilance, whether individually or gathered in particular Councils or Episcopal Conferences, in order that the faith and morals of the members of the faithful entrusted to their care not suffer harm.*

*To this end, they can also be served by Doctrinal Commissions, institutionalized consultative bodies which assist Episcopal Conferences and individual Bishops in their solicitude for the doctrine of the faith (Art.2).*

**3) Right-duty of the Holy See.** Even if it is incumbent upon the Bishops to safeguard the purity and integrity of Christian doctrine in their own flocks, the document states the principle that *the Holy See can always intervene and, as a rule, does so when the influence of a publication exceeds the boundaries of an individual Episcopal Conference, or when the danger to the faith is particularly grave* (Art.2). The Holy See does this through the Congregation for the Doctrine of the Faith.<sup>27</sup>

## **b. Updated Procedures for the Doctrinal Examination**

The main object of the present document, of course, to outline in detail the procedure for the examining writings and opinions which appear contrary to correct faith or dangerous. Without going into the details now, the following notes can be highlighted:

**1) Force of Law.** The *Regulations* were confirmed by the Roman Pontiff, and thus enjoy the force of law.

**2) Via Administrativa.** Again it can be pointed out that the procedure transcends the paradigm of the ordinary contentious process, being as it is an exercise more of the administrative power of government. This gives it the agility and sufficient pastoral leeway, so as to safeguard on the one hand the right of the faithful to integral and pure doctrine, while on the other hand giving the erring author the chance to rectify (something which may be undermined in the contradictory situation of an ordinary contentious judicial process).

**3) It constitutes additional Penal Law.** Two articles were approved *in forma specifica*, thus constituting true Penal Law—as follows:

**Art. 28.** If the author has not corrected the indicated errors in a satisfactory way and with adequate publicity, and the *Sessione Ordinaria* has concluded that he has committed the offence of heresy, apostasy or schism, the Congregation proceeds to declare the *latae sententiae* penalties incurred; against such a declaration no recourse is admitted.

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<sup>26</sup> D. Cito, *op.cit.*

<sup>27</sup> In this age of globalization—with the advent of the electronic internet—it is clear that almost any writing or opinion can and does indeed exceed such boundaries. In fact, it would seem that the main reason this kind of intervention by the Holy See does not happen more often is the personnel limitation of the dicastery itself.

**Art. 29.** If the *Sessione Ordinaria* ascertains the existence of doctrinal errors which do not involve *latae sententiae* penalties, the Congregation proceeds according to the norm of law, whether universal or proper to the Congregation.

## 5. THE LIMITATION OF THE DOCTRINAL TEACHINGS OF EPISCOPAL CONFERENCES

To round off this study of the juridical safeguarding of the Word of God, we now tackle the question of the incidence of supra-diocesan structures on the teaching office proper of the individual Bishops as regards their proper flocks. Specifically, we should look into the phenomenon of doctrinal declarations emanating from Episcopal Conferences or their sub-structures.

This is not the place to delve deeper into the question of the nature of the Episcopal Conference—i.e., whether it is an expression of episcopal collegiality itself or merely the so-called *affectus collegialis*. What is relevant to this study is the projection of this institution—of Vatican II vintage to be sure—on the teaching function of the Church, and more specifically on the safeguarding of the authenticity of such teaching office.<sup>28</sup> The importance of this matter comes to the fore when we note the proliferation of documents of a doctrinal nature that have been emanating from Episcopal Conferences and so-called *Episcopal Commission* or *Councils*. The question had thus been formulated: what is the binding force of such doctrinal declarations?

The competence of Episcopal Conferences as regards the authentic magisterium was neatly delimited by the **Motu Proprio *Apostolos suos*** (21.V.1998), and more practically regulated in a **Letter** (13.V.1999) prepared by the Congregation for Bishops in collaboration with the Secretariat of State, the Congregation for the Doctrine of the Faith, the Congregation for the Oriental Churches and the Pontifical Council for the Interpretation of and sent to the Presidents of the Episcopal Conferences.<sup>29</sup> After stating a general principle that “the joint exercise of the episcopal ministry [by the Episcopal Conference] also involves the teaching office” (n.21), the *Motu Proprio* lays down the following norms limiting this exercise.

### 1) A stricter norm for episcopal collegiality. The document lays down the following:

*Art. 1. – In order that the doctrinal declarations of the Conference of Bishops referred to in No. 22 of the present Letter may constitute authentic magisterium and be published in the name of the Conference itself, they must be unanimously approved by the Bishops who are members, or receive the **recognitio** of the Apostolic See if approved in plenary assembly by at least two thirds of the Bishops belonging to the Conference and having a deliberative vote.*

In effect, this norm guarantees that a certain doctrine is an expression not only of the *communio* of the episcopal college in a given territory, but of real episcopal collegiality. Otherwise, such lack of unanimity needs to be offset by an explicit *recognitio* by the Holy See.

<sup>28</sup> For a more thorough discussion of this question, cf. G. Ghirlanda, S.J., *De Episcoporum Conferentia deque exercitio potestatis magisterii*, in *Periodica*, LXXVI (1987), 573-603.

<sup>29</sup> Cf. *L'Osservatore Romano*, 30.VI.1999, 9.

**2) Exclusion of Inferior Bodies from usurping the teaching office of Bishops.** The document lays down the following two norms:

*Art. 2. – No body of the Episcopal Conference, outside of the plenary assembly, has the power to carry out acts of authentic magisterium. The Episcopal Conference cannot grant such power to its Commissions or other bodies set up by it.*

*Art. 3. – For statements of a different kind, different from those mentioned in article 2, the Doctrinal Commission of the Conference of Bishops must be authorized explicitly by the Permanent Council of the Conference.*

These norms effectively limit the tendency—unfortunately not uncommon especially in more developed countries—for standing commissions and other such bodies to usurp the teaching office of the bishops.

## CONCLUSION

It has often been said that “faith is the beginning of salvation”. If the Church is the great sacrament of salvation, it only stands to reason that it must contain within itself the antidote for whatever can undermine that faith—i.e., the purity of the Gospel message. In the foregoing discussion, it has become clear that there are more than enough juridical safeguards for that doctrinal purity, contained in the canonical norms of the Church.

There was a time when those who did not share that faith voluntarily stayed out of the ecclesial society (in the case of pagans) or left it (in the case of heretics and schismatics). Since in our times there seems to be no shortage of people who pretend to stay within the Church, while undermining ecclesial communion by holding onto and propagating doctrines that are not in keeping with the Gospel message, it has become more and more necessary that the ecclesial authority be exercised—with fortitude—in order to protect that communion. This study shows that the Pastors have the necessary legal norms to stand on for such an exercise of doctrinal purification.