

THE CATHOLIC UNIVERSITY OF AMERICA

The Promotion of Doctrine by the Congregation for the Doctrine of the Faith
In Light of *Pastor bonus* and Canon 754

A DISSERTATION

Submitted to the Faculty of the
School of Canon Law
Of The Catholic University of America
In Partial Fulfillment of the Requirements
For the Degree
Doctor in Canon Law

By
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Washington, D.C.

2010

The Promotion of Doctrine by the Congregation for the Doctrine of the Faith
In Light of *Pastor bonus* and Canon 754

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ABSTRACT

The Congregation for the Doctrine of the Faith (CDF) has safeguarded doctrine since its inception, yet the 1988 Apostolic Constitution *Pastor bonus* describes the CDF's "proper duty" as being twofold: "to promote (*promovere*) and safeguard (*tutari*) the doctrine on faith and morals in the whole Catholic world." The dissertation investigates and presents the canonical significance of the CDF's competency to promote doctrine as distinct from safeguarding it, and probes the applicability of canon 754 in determining the legally required response to doctrine promoted by the CDF on the part of the Christian faithful.

The dissertation has five chapters. Chapter one provides a general sketch of the CDF's historical competency to safeguard doctrine in order to highlight its relatively recent competency to promote it. Chapter two presents the pastoral incentives which led to the reform of the Roman Curia in *Pastor bonus* in general and of the norms for the CDF in particular. Chapter three illustrates how the CDF, the International Theological Commission (ITC), and the Pontifical Biblical Commission (PBC) have promoted

doctrine since *Pastor bonus* through the analysis of selected documents. Chapter four traces the genesis, development, and pastoral incentives to the revision of canon 754 in order to draw parallels to *Pastor bonus* and to determine the canon's applicability to the reception of doctrine promoted by the CDF. Chapter five assesses related questions to the topic and offers an assessment of the consistency with which the CDF, ITC, and PBC have employed ecclesiastical documents for the purpose of promoting doctrine.

The dissertation demonstrates that the promotion of doctrine is one modality of the CDF's bipartite proper duty such that accomplishing one task necessarily involves the other. *Pastor bonus* sought to emphasize the positive dimension of the CDF's service to the pope and college of bishops, an emphasis similarly reflected in the proposal of doctrine which the "legitimate authority of the Church" may do in canon 754. The study contributes to the ongoing discussions surrounding the nature and the juridical and/or doctrinal weight of CDF documents, and the proper response due to them.

This dissertation by Christopher J. Beaudet, J.C.L. fulfills the dissertation requirement for the doctorate degree in canon law approved by Kurt Martens, J.C.D., as Director and Phillip Brown, S.S., J.C.D., and Ronny Jenkins, J.C.D., as Readers.

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To the Sacred Heart of Jesus

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ABBREVIATIONS

1917 <i>CIC</i>	<i>Codex Iuris Canonici Pii X Pontificis Maximi Iussu Digestus Benedicti Papae XV Auctoritate Promulgatus</i> (Rome: Typis Polyglottis Vaticanis, 1917)
1977 <i>Schema</i>	Pontificia Commissio Codici Iuris Canonici Recognoscendo, <i>Schema canonum libri III de ecclesiae munere docendi</i> (Vatican City: Typis Polyglottis Vaticanis, 1977)
1980 <i>Schema</i>	Pontificia Commissio Codici Iuris Canonici Recognoscendo, <i>Schema Codicis Iuris Canonici iuxta animadversiones S. R. E. Cardinalium, Episcoporum Conferentiarum, Dicasteriorum Curiae Romanae, Universitatum Facultatumque ecclesiasticarum necnon Superiorum Institutorum vitae consecratae recognitum</i> (Vatican City: Typis Polyglottis Vaticanis, 1980)
1981 <i>Relatio</i>	Pontificia Commissio Codici Iuris Canonici Recognoscendo, <i>Relatio Complectens Synthesim Animadversionum ab Em. mis. atque Exc. mis. Patribus Commissionis ad Novissimum Schema Codicis Iuris Canonici Exhibitarum, cum Responsionibus a Secretaria et Consultoribus datis</i> (Vatican City: Typis Polyglottis Vaticanis, 1981)
1982 <i>Schema</i>	Pontificia Commissio Codici Iuris Canonici Recognoscendo, <i>Codex Iuris Canonici: Schema Novissimum iuxta placita Patrum Commissionis Emendatum atque Summo Pontifici Praesentatum</i> (Vatican City: Typis Polyglottis Vaticanis, 1982)
1983 <i>CIC</i>	<i>Codex Iuris Canonici Auctoritate Ioannis PP. II Promulgatus</i> (Vatican City: Libreria Editrice Vaticana, 1983)
1992 <i>Regolamento</i>	Secretariat of State, <i>Regolamento generale della Curia Romana</i> , 4 February 1992: AAS 84 (1992) 201-267
1999 <i>Regolamento</i>	Secretariat of State, <i>Regolamento generale della Curia Romana</i> , 1 July 1999: AAS 91 (1999) 629-699
AA	Vatican Council II, Decree <i>Apostolicam actuositatem</i> , 18 November 1965: AAS 58 (1966) 837-864

AAS	<i>Acta Apostolicae Sedis: Commentarium Officiale</i> (Rome: 1908 – 1928. Vatican City: 1929—)
AF	Congregation for the Doctrine of the Faith, Instruction <i>Ardens felicitatis</i> , 14 September 2000, in <i>EV</i> 19 (2000) 756-785
AG	Vatican Council II, Decree <i>Ad gentes</i> , 18 November 1965: AAS 58 (1966) 947-990
<i>Agendi ratio</i>	Congregation for the Doctrine of the Faith, <i>Agendi ratio in doctrinarum examine</i> , 29 June 1997: AAS 89 (1997) 830-835
<i>Alla ricerca</i>	International Theological Commission, <i>Alla ricerca di un'etica universale: nuovo sguardo sulla legge naturale</i> (Vatican City: Libreria Editrice Vaticana, 2009)
AP	Paul VI, Motu proprio <i>Ad pascendum</i> , August 15, 1972: AAS 64 (1972) 534-540
AS	Paul VI, Motu proprio <i>Apostolica Sollicitudo</i> , 27 June 1971: AAS 57 (1965) 775-780
<i>Aspects</i>	Congregation for the Doctrine of the Faith, Doctrinal Note <i>On Some Aspects of Evangelization</i> , 3 December 2007 (Vatican City: Libreria Editrice Vaticana, 2007)
<i>Bibbia e Morale</i>	Pontifical Biblical Commission, <i>Bibbia e Morale: Radici Bibliche dell'Agire Cristiano</i> (Vatican City: Libreria Editrice Vaticana, 2009)
CCEO	<i>Codex Canonum Ecclesiarum Orientalium auctoritate Ioannis Pauli PP. II promulgatus</i> (Vatican City: Libreria Editrice Vaticana, 1990)
CD	Vatican Council II, Decree <i>Christus Dominus</i> , 28 October 1965: AAS 58 (1966) 673-701
CDF	Congregation for the Doctrine of the Faith (1965-1967; 1988—)
CLD	<i>Canon Law Digest</i> , 12 vols. (1934-2002)
CLSA	Canon Law Society of America

<i>Collaboration of Men and Women</i>	Congregation for the Doctrine of the Faith, <i>Letter to the Bishops of the Catholic Church on the Collaboration of Men and Women in the Church and in the World</i> , 31 May 2003, <i>Origins</i> 34 (2004) 169-176
<i>C&S</i>	International Theological Commission, <i>Communion and Stewardship: Human Persons Created in the Image of God</i> , 23 July 2004, in <i>EV</i> 22 (2003-2004) 1642-1725
<i>De aliquibus aspectibus</i>	Congregation for the Doctrine of the Faith, <i>Litterae ad Catholicae Ecclesiae episcopos de aliquibus aspectibus Ecclesiae prout est communio</i> , 28 May 1992: AAS 85 (1993) 838-850
<i>De receptione communionis</i>	Congregation for the Doctrine of the Faith, <i>Letter De receptione communionis eucharisticae a fidelibus qui post divortium novas inierunt nuptias</i> , 14 September 1994: AAS 86 (1994) 974-979
<i>DFI</i>	International Theological Commission, <i>Commissio theologica de fide et inculturatione</i> , 3-8 October 1988, <i>Origins</i> 18 (4 May 1989) 800-807
<i>DH</i>	Vatican Council II, Declaration <i>Dignitatis Humanae</i> , 7 December 1965: AAS 58 (1966) 929-946
<i>DI</i>	Congregation for the Doctrine of the Faith, Declaration <i>Dominus Iesus</i> , 6 August 2000: AAS 92 (2000) 742-765
<i>Dov</i>	Congregation for the Doctrine of the Faith, Instruction <i>Donum veritatis</i> , 26 June 1990: AAS 82 (1990) 1550-1570
<i>DP</i>	Congregation for the Doctrine of the Faith, Instruction <i>Dignitas Personae</i> , 8 September 2008: AAS 100 (2008) 858-887
<i>DV</i>	Vatican II, Dogmatic Constitution <i>Dei verbum</i> , November 18, 1965: AAS 58 (1966) 817-830
<i>EM</i>	Congregation for the Clergy, et al., Instruction <i>Ecclesiae de mysterio</i> , 15 August 1997: AAS 89 (1997) 852-877
<i>EU</i>	Benedict XVI, <i>Motu proprio Ecclesiae Unitatem</i> , 8 July 2009 (Vatican City: Libreria Editrice Vaticana, 2009), <i>Origins</i> 39 (2009) 161-163

<i>EV</i>	<i>Enchiridion Vaticanum : documenti ufficiali della Santa Sede, testo ufficiale e versione italiana.</i> 23 vols., 3 supplements (Bologna : Edizioni Dehoniane, 1962-2006)
<i>Fontium Anotatione</i>	<i>Pontificia Commissio Codici Iuris Canonici Authentice Interpretando, Codex Iuris Canonici Auctoritate Ioannis Pauli PP. II Promulgatus, Fontium Anotatione et Indice Analytico-Alphabetico Auctus</i> (Vatican City: Libreria Editrice Vaticana, 1989)
<i>GS</i>	Vatican Council II, Dogmatic Constitution <i>Gaudium et spes</i> , 7 December 1965: AAS 58 (1966) 1025-1120
<i>HG</i>	Paul VI, Encyclical <i>Humani generis</i> , 12 August 1950: AAS 42 (1950) 561-578
<i>Hope of Salvation</i>	International Theological Commission, <i>The Hope of Salvation for Infants Who Die Without Being Baptized</i> , 19 April 2007, <i>Origins</i> 36 (2007) 725-746
<i>Il potere</i>	Congregation for the Doctrine of the Faith, Note <i>Il potere del papa e il matrimonio dei battezzati</i> , 11 November 1998, <i>L'Osservatore Romano</i> (11 November 1998) 1
<i>Il primato</i>	Congregation for the Doctrine of the Faith. <i>Il primato del Successore di Pietro nel mistero della Chiesa</i> , 31 October 1998, appendix in <i>Il primato del successore di Pietro, Atti del Simposio teologico, Roma 2-4 dicembre 1996</i> (Vatican City: Libreria Editrice Vaticana, 1998)
<i>IP</i>	International Theological Commission, <i>Interpretationis problema</i> , October 1989, in <i>EV</i> 11 (1988-1989) 1706-1779
<i>IS</i>	Paul VI, Motu proprio <i>Integrae servandae</i> , 7 December 1965: AAS 57 (1965) 952-955
<i>ITC</i>	International Theological Commission
<i>Le peuple juif</i>	Pontifical Biblical Commission, <i>Le peuple juif et ses Saintes Écritures dans la Bible chrétienne</i> , 24 May 2001 (Vatican City: Libreria Editrice Vaticana, 2001)

<i>LEF</i>	Pontificia Commissio Codici Iuris Canonici Recognoscendo, <i>Schema Legis Ecclesiae Fundamental: Textus Emendatus Cum Relatione De Ipso Schemate Deque Emendationibus Receptis</i> (Vatican City: Typis Polyglottis Vaticanis, 1971)
<i>Legal Recognition</i>	Congregation for the Doctrine of the Faith, <i>Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons</i> , 3 June 2003, <i>Origins</i> 33 (2003) 177-182
<i>LG</i>	Vatican Council II, Dogmatic Constitution <i>Lumen gentium</i> , 21 November 1964: AAS 57 (1965) 5-67
<i>L'inquisizione</i>	<i>L'Inquisizione: Atti del Simposio internazionale, Città del Vaticano, 29-31 ottobre 1998/Comitato del Grande Giubileo dell'Anno 2000</i> , ed. Agostino Borromeo (Vatican City: Biblioteca Apostolica Vaticana, 2003)
<i>Memoria</i>	International Theological Commission, <i>Memoria e Riconciliazione: la Chiesa e le Colpe del Passato</i> , December 1999, in <i>EV</i> 18 (1999) 1578-1681
<i>OF</i>	Congregation for the Doctrine of the Faith, Letter <i>Orationes formas</i> , 15 October 1989: AAS 82 (1990) 362-379
<i>Ordo</i>	Pope St. Pius X, <i>Ordo Servandus in Sacris Congregationibus Tribunalis Officiis Romanae Curiae</i> , 29 September 1908: AAS 1 (1908) 36-108
<i>Participation of Catholics</i>	Congregation for the Doctrine of the Faith, Doctrinal Note, <i>Some Questions Regarding the Participation of Catholics in Political Life</i> , 16 January 2003, <i>Origins</i> 32 (2003) 537-543
<i>PB</i>	John Paul II, Apostolic Constitution <i>Pastor bonus</i> , June 28, 1988: AAS 80 (1988) 841-923
<i>PBC</i>	Pontifical Biblical Commission
<i>PO</i>	Vatican II, Decree <i>Presbyterorum Ordinis</i> , December 7, 1965: AAS 58 (1966) 991-1024.
<i>Preliminary Report</i>	James A. Coriden, <i>Preliminary Report on the Draft of Canons on the Church's Teaching Office</i> , 4 July 1978 (Washington, D.C.: United States Catholic Conference Publications, 1978)

<i>Quaestio de Relationibus</i>	International Theological Commission, <i>Quaestio de relationibus quo de themate 'Christianismus et religiones' investigatur</i> , 30 September 1996, in <i>EV</i> 15 (1996) 582-681
<i>REU</i>	Paul VI, Apostolic Constitution <i>Regimini Ecclesiae Universae</i> , August 15, 1967: <i>AAS</i> 59 (1967) 885-928
<i>SC</i>	Pope St. Pius X, Apostolic Constitution <i>Sapienti consilio</i> , 29 June 1908: <i>AAS</i> 1 (1909) 7-19.
<i>SCDF</i>	Sacred Congregation for the Doctrine of the Faith (1967 – 1988)
<i>SDL</i>	John Paul II, Apostolic Constitution <i>Sacrae disciplinae leges</i> , 25 January 1983: <i>AAS</i> 75/2 (1983) vii-xiv
<i>Sine affirmatione</i>	International Theological Commission, <i>Sine affirmatione de quibusdam quaestionibus actualibus circa eschatologiam</i> , 16 November 1991, in <i>EV</i> 13 (1991-1993) 260-351
Tanner	Norman P. Tanner, ed., <i>Decrees of the Ecumenical Councils</i> , 2 vols. (London and Washington: Sheed & Ward and Georgetown University Press, 1990)
<i>UR</i>	Vatican Council II, decree <i>Unitatis redintegratio</i> , 21 November 1964: <i>AAS</i> 57 (1965) 90-112
<i>UDG</i>	John Paul II, <i>Universi Dominici Gregis</i> , 22 February 1996: <i>AAS</i> 88 (1996) 305-343
<i>USCCB</i>	United States Conference of Catholic Bishops, Washington DC
<i>UUS</i>	John Paul II, Encyclical letter <i>Ut Unum Sint</i> , 25 May 1995: <i>AAS</i> 87 (1995) 921-982

ACKNOWLEDGEMENTS

Thanks and praise to GOD THE FATHER “in whom we live and move and have our being” (Acts 17:28); to GOD THE SON, apart from whom we can do nothing (cf. John 15:5); and to GOD THE HOLY SPIRIT, who “reaches from end to end mightily and governs all things well” (Wisdom 8:1).

I wish to express my sincere gratitude to:

My parents, Leo and Betty Beaudet, for their constant encouragement, prayers, and for all they have done and continue to do for me;

His Excellency, The Most Reverend Harry J. Flynn, Archbishop Emeritus of Saint Paul and Minneapolis, for assigning me to the study of canon law;

His Excellency, The Most Reverend John C. Nienstedt, Archbishop of Saint Paul and Minneapolis, for seeing me through to the completion of my formal canonical studies;

His Excellency, The Most Reverend Paul S. Loverde, Bishop of Arlington, for welcoming me into his diocese during the course of my studies at The Catholic University of America and, along with him, Brother David Eddy, C.F.X., for his assistance and hospitality in so many ways;

Rev. Msgr. Brian Ferme, who assisted me in choosing the topic for this dissertation and who began as my director while serving as Dean of the School of Canon Law at The Catholic University of America;

Dr. Kurt Martens, who, upon Msgr. Brian Ferme’s departure from The Catholic University of America, agreed to serve as my new director and whose excellent guidance has brought the project to a successful conclusion;

Rev. Phillip Brown, S.S. and Rev. Msgr. Ronny Jenkins, for serving as readers for this dissertation;

His Eminence, William Cardinal Levada, Prefect of the Congregation for the Doctrine of the Faith, for receiving me in audience to discuss the merits of this dissertation while I was in Rome for research;

His Excellency, The Most Reverend J. Augustine DiNoia, O.P., Secretary for the Congregation for Divine Worship and Discipline of the Sacraments (then Under-Secretary of the Congregation for the Doctrine of the Faith) for meeting with me and providing me practical advice and scholarly direction;

Rev. Msgr. Charles Scicluna, Promoter of Justice for the Congregation for the Doctrine of the Faith, who also took some time with me to discuss the dissertation and who provided me gracious assistance and thoughtful observations;

Rev. Edward Hathaway, Rev. Franklyn McAfee, and Rev. Paul Scalia, the three priests who served as pastor of the Church of Saint John the Beloved in McLean, VA during the course of my studies, all three of whom allowed me to make the parish my home;

The staff and parishioners of the Church of Saint John the Beloved, who were a great blessing and a true parish family to me;

Cynthia DeSimone, for the helpful research assistance she provided;

The staff of The John K. Mullen of Denver Memorial Library at The Catholic University of America, the staff of The Archbishop Ireland Memorial Library at the University of Saint Thomas, the staff of the Library of the Pontifical Gregorian University, and the staff of the Library of Georgetown University, for their assistance in my research needs;

Vorrei ringraziare la Dott.ssa Claudia Nasini, Sara Braga e Anna Olivero, per avermi aiutato nell'apprendimento della lingua italiana indispensabile alla buona riuscita della mia ricerca e dei miei studi . . . grazie di cuore;

My family and friends, for having encouraged me to persevere through this project.

To all of the above, I express a heartfelt thank you and invoke the Lord's blessing.

INTRODUCTION

Article 48 of the 1988 Apostolic Constitution *Pastor bonus* indicates that it is “the proper duty” of the Congregation for the Doctrine of the Faith¹ both “to promote (*promovere*) and safeguard (*tutari*) the doctrine on faith and morals in the whole Catholic world.” Article 49 then explicitly provides a brief and general description of the manner by which the CDF exercises its competency to promote doctrine, whereas article 52 does the same for how the CDF exercises its competency to safeguard it.

While popes have ascribed the competency to *safeguard* doctrine to the CDF since its inception, it is only with *Pastor bonus* that the *promotion* of doctrine has become an equally specified dimension of the CDF’s proper duty. The novelty of this additional aspect of the CDF’s work invites further investigation.

What does *Pastor bonus* intend by placing this promotional competency alongside the competency to safeguard doctrine? How is this to be understood from a canonical point of view? Is the promotion of doctrine to be understood as a function entirely distinct from safeguarding it? Is the distinction discernable in the concrete? By what means does the CDF promote doctrine, and is its use of documents for the purposes of

¹ Hereafter the Congregation for the Doctrine of the Faith shall be cited as CDF. The first chapter will note that the name CDF was originally ascribed to this Congregation in 1965 with *Integrae servandae* but was subsequently changed to Sacred Congregation for the Doctrine of the Faith only two years later with *Regimini Ecclesiae Universae* in 1967. It was restored once again with John Paul II in 1988 with *Pastor bonus*. Thus, this dissertation shall also cite the Sacred Congregation for the Doctrine of the Faith as SCDF when appropriate.

promoting doctrine consistent? By what authority does the CDF promote doctrine and is it different from the authority by which it safeguards it? What role, if any, do the Pontifical Biblical Commission (PBC) and the International Theological Commission (ITC) play in aiding the CDF in promoting doctrine? What response is due to doctrine promoted by the CDF? This last question is especially important when considered in light of canon 754 of the 1983 Code of Canon Law.

Canon 754 permits “the legitimate authority of the Church” both “to propose (*proponere*) doctrine” and to “proscribe erroneous opinions” by means of a constitution or decree. The canon obliges the Christian faithful to “observe” such doctrinal documents, particularly when they emanate from the Roman Pontiff himself or from the college of bishops (i.e., the authentic universal magisterium). The question is whether this canon applies most fittingly to the CDF given its unique above stated doctrinal competency within the Roman Curia. Therefore, what is the relationship between the CDF’s aforementioned competency to promote doctrine (*promovere*) and the ability of “the legitimate authority of the Church” to propose doctrine (*proponere*) in canon 754? Are they equivalent such that canon 754 directs the response of the Christian faithful to doctrine promoted by the CDF? If not, to where would one look for a canonical norm on how the promotional documents of the CDF are to be received?

The problem for this dissertation to address, then, is twofold: first, to investigate and present the canonical content of the CDF’s competency to promote doctrine as distinct from safeguarding it, and second, to ascertain the canonically required response

to its doctrinal pronouncements in service to these ends. The dissertation will address the problem by proceeding in five chapters.

Chapter one will provide a general historical sketch of the CDF with a special emphasis on its historical competency to “safeguard” doctrine in order to highlight its relatively recent competency to “promote” it. The historical sketch will focus on pivotal moments in the CDF’s history; moments at which papal legislation charted the course for the CDF’s direction and competencies. Thus the chapter will take into consideration *Licet ab initio* of Paul III, *Immensa aeterni Dei* of Sixtus V, *Sapienti consilio* of Pius X, *Integrae servandae* and *Regimini Ecclesiae Universae* of Paul VI, as well as Paul VI’s legislation for the Pontifical Biblical Commission (PBC) in *Sedula cura*, and John Paul II’s legislation for the International Theological Commission (ITC) in *Tredecim anni*.

Chapter two will provide an in-depth analysis of the CDF’s competency to promote doctrine in *Pastor bonus* itself. The chapter will begin with a review of the theological and pastoral influences which prompted John Paul II to bring about the curial reform of *Pastor bonus*. It will then move to a consideration of how *Pastor bonus* conceives of the *diaconia* of the pope and college of bishops as a duty entrusted to them by Christ and as a service ordered to authentic *communio*, and how *Pastor bonus* envisions the Roman Curia in relationship to this *diaconia*. This will set the stage for examining how *Pastor bonus* speaks of the CDF as having an ecclesial, ministerial, and vicarious character enabling it to assist that same Petrine *diaconia*. Tied to this consideration will be an exploration of the *potestas* by which the CDF acts to be the assistant it is called to be in *Pastor bonus*, particularly for its promotional competency.

Lastly, the chapter will present and comment on each of the articles in *Pastor bonus* relevant to the CDF.

Chapter three, different in methodology from the other chapters, will seek to illustrate what the promotion of doctrine by the CDF looks like in the concrete. The chapter will ask whether there is a set of criteria to apply to each work of the CDF in order to determine if the text falls more properly in the category of *promovere* or that of *tutari*. In light of the fact that the CDF itself does not categorize its public documents under these rubrics, the chapter will question whether even the attempt to craft such a set of criteria would be an artificial enterprise. At the same time, however, given the legal distinction made in *Pastor bonus* between the two dimensions of the CDF's proper duty, chapter three will nonetheless attempt to present certain public documents issued by the CDF since *Pastor bonus* which demonstrate, be it explicitly or implicitly, a promotional emphasis rather than a safeguarding emphasis. Following the selected texts of the CDF, the chapter will review the studies performed by both the ITC and the PBC since *Pastor bonus* to investigate whether they have a promotional character as well and whether they can be considered as examples of the CDF's promotional competency.

Chapter four will trace the genesis and development of canon 754 of the 1983 *CIC* in order to assess its applicability to the reception of doctrine promoted by the CDF. First, the chapter will present a review of the sources of canon 754: canon 1324 of the 1917 Code of Canon Law; the encyclical *Humani generis* of Pius XII; the 1966 letter of Cardinal Ottaviani to the episcopal conferences throughout the world, *Cum oecumenicum concilium*; and the *Relatio Commissionis Synodalis* from the 1967 Synod of Bishops. The

chapter will then trace the evolution of canon 754 in six primary stages: 1) from the establishment of the *coetus De Magisterio Ecclesiastico* up to the 1977 *Schema*; 2) the 1977 *Schema, De Ecclesiae munere docendi*; 3) the period of consultation and *disceptatio in coetu* leading to the next *schema* in 1980; 4) the 1980 *Schema, De Ecclesiae Munere Docendi*; 5) the 1981 *Relatio*; and finally 6) the 1982 *Schema* and its review by John Paul II before promulgation. The chapter will conclude with an analysis of canon 754 both in its textual elements and in its broader context within Book III of the 1983 *CIC*.

Chapter five, by taking into consideration the specific texts in chapter three, will assess how consistently the CDF and its subsidiaries, the ITC and the PBC, have employed ecclesiastical documents of varying magisterial and juridic value for the purpose of promoting the doctrine of faith and morals. Next the chapter will investigate whether there are common doctrinal themes which seem to have been promoted with greater frequency in light of contemporary challenges to the faith. The chapter will ask about the Pontifical Commission *Ecclesia Dei* and whether the recent development of its being placed under the leadership of the Prefect of the CDF has any relevance to the topic at hand. The chapter will also consider whether and to what degree the CDF's exclusive competency to promote doctrine contributes to its enjoying a certain preeminence within the Roman Curia today. Finally, the chapter will arrive at the core of the dissertation and will, by a series of conclusive statements, articulate how the promotion of doctrine by the Congregation for the Doctrine of the Faith is best conceived in light of *Pastor bonus* and canon 754.

While much has been written regarding the history, competency, and activity of the CDF, and while scholarly research has already been done on canon 754, no dissertation has yet investigated the CDF's proper duty to promote and safeguard doctrine in light of *Pastor bonus* and canon 754. It is hoped that this study will contribute to the canonical field, as far as possible, by providing a new insight into the deep commonality shared between the recasting of the CDF in *Pastor bonus* to emphasize the promotional aspect of its proper duty, and the recasting of canon 754 to emphasize the ability of the legitimate authority of the Church to propose doctrine. Furthermore, it is hoped that this study will contribute to the ongoing discussions surrounding the nature and the juridical and/or doctrinal weight of CDF documents, and the proper response due to them.

CHAPTER ONE

A GENERAL HISTORY OF THE CONGREGATION FOR THE DOCTRINE OF THE FAITH

Among the dicasteries which currently comprise the Roman Curia, the Congregation for the Doctrine of the Faith is able to trace its roots deep into the pages of the Curia's history. A thorough investigation into its long and fascinating history is beyond the scope of this current study and has already been presented elsewhere.¹ It will prove sufficient for our purposes to provide a general historical sketch of the CDF, with special emphasis on its historical competency to "safeguard" doctrine in order to highlight its relatively recent competency to "promote" it.

Authentic magisterial authority in the Church emanates from the Lord Jesus Christ who commanded the apostles to teach in his name: "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 lo, I am

¹ See Andrea Del Col, "Le strutture territoriali e l'attività dell'Inquisizione romana," in *L'Inquisizione: Atti del Simposio internazionale, Città del Vaticano, 29-31 ottobre 1998/Comitato del Grande Giubileo dell'Anno 2000*, ed. Agostino Borromeo (Vatican City: Biblioteca Apostolica Vaticana, 2003) 345-380. Hereafter this text shall be cited as *L'inquisizione*. See also Fernando de Lasala Claver, *Storia della curia romana* (Rome: Pontifical Gregorian University, 1992); Niccolò Del Re, *Curia Romana: Lineamenti Storico-Giuridici* (Vatican City: Editrice Libreria Vaticana, 1998); Jérôme Hamer, "In the Service of the Magisterium: The Evolution of a Congregation," *The Jurist* 37 (1977) 340-357; Silvana Seidel Menchi, "Origine e origini del Santo Uffizio dell'Inquisizione romana," in *L'Inquisizione*, 291-321; Robert A. Miller, *The Congregation for the Doctrine of the Faith: Its Origin, Concept, and the Development of Its Competency*, Canon Law Studies 484 (Washington, DC: Catholic University of America, 1975); Urbano Navarrete, "Commentarium in Documentum Integrae servandae," *Periodica* 55 (1966) 614-652; Ireneusz Pekalski, *Evoluzione delle competenze delle Congregazioni della Curia Romana* (JCD diss. extract, Pontifical Gregorian University, 1982); Edward Peters, *Inquisition* (New York: The Free Press, 1988).

with you always, to the close of the age.”² In every age, by means of sound doctrine, the Church has fulfilled this command.

At Pentecost, the Lord Jesus breathed on the apostles and conferred upon them the Holy Spirit,³ the same divine Spirit which motivated Christ himself and led him in the ministry he fulfilled in perfect obedience to the Father. The apostles, endowed with Christ’s authority and sacred power to serve, would themselves proclaim the Father’s love as revealed through his only-begotten and incarnate Son: the risen Jesus of Nazareth. This they would do in response to the command of Jesus himself: “As the Father has sent me, even so I send you.”⁴ Christ taught with a missiological authority, unlike the religious authorities of his day,⁵ since it was the Father who sent him to speak with the Father’s own authority. Indeed, Christ’s very Person is the Word of God made flesh, making known to man all that the Father had given to him. Similarly, Christ assured the apostles that their authority would not originate with themselves but also with the Father insofar as they would share in Christ’s mission to reveal the Father’s love. He said to them: “He who hears you hears me, and he who rejects you rejects me, and he who rejects me rejects him who sent me.”⁶

² Matthew 28:19-20.

³ John 20:22.

⁴ John 20:21.

⁵ Mark 1:22.

⁶ Luke 10:16.

Unique among the apostles is Simon Peter. Sacred Scripture bears an undeniable witness to the primacy of Simon Peter's exercise of Christ's mandate to teach all peoples. It is to Peter alone that Christ bestowed the duty to "strengthen [the] brethren."⁷ To him Christ bestowed the keys of the kingdom of heaven,⁸ and to him alone did the resurrected Christ speak thrice the command to "feed [his] sheep."⁹ From this revelatory primacy of Saint Peter arose an historical primacy of doctrinal authority and governmental jurisdiction of his successors in the city of Rome, the locale of Peter's ultimate witness to Christ: his martyrdom. The popes, then, have exercised a distinct and universal responsibility to promote and safeguard that which Christ handed on to the apostles in general, and to Peter uniquely, regarding all that the Father willed to reveal to man.

Prior to the establishment of the Roman Curia and its various offices, including that of the CDF, the popes employed a variety of measures and legislated numerous decrees to address questions of doctrinal importance. Robert Miller, in his doctoral work on the origin, concept, and development of the CDF, provides a good overview of ecclesiastical governance in the sub-apostolic age, the development of the theology and praxis of papal primacy, the gradual development of papal consultative bodies, the development and increasing competency of the cardinalial office, the establishment and

⁷ Luke 22:32.

⁸ Matthew 16:19.

⁹ John 21:15-17.

work of the Inquisition in medieval Europe, and the history of papal legislation vis-à-vis the refutation of heresy.¹⁰

Specifically on the refutation of heresy, Edward Peters traces how Roman procedural norms were modified and adopted by the Church between the twelfth and sixteenth centuries to investigate heresy and to preserve the integrity of the faith.¹¹ Peters observes that the response of choice to heresy in this period of the Church's history was one of persuasion, i.e., the attempt to promote sound doctrine in the hope that it would be sufficient to correct the erroneous and bring back the straying, before resorting to coercive procedural norms; an observation which roots the subject matter for this study in the early history of the Church.¹² These procedural norms would later in the sixteenth to the nineteenth centuries become inquisitional tribunals largely in the Mediterranean basin.¹³ Along this timeline of the CDF's history, what is most relevant to this study is the point at which the pope established a separate body endowed with delegated authority to assist him in combating and correcting doctrinal error. For this event, one must look to the pontificate of Paul III.

¹⁰ Miller, 9-49.

¹¹ Peters, *Inquisition*, 1.

¹² Peters, *Inquisition*, 44ff.

¹³ Peters, *Inquisition*, 1.

A. Pope Paul III and *Licet ab initio*

Pope Paul III (Alessandro Farnese) was elected to the See of Peter in 1534 (1534-1549). Among the greatest challenges he would face in his fifteen year pontificate would be the rampant spread of the doctrinal errors characterizing the Protestant Reformation. After trying twice to convene a council to address these doctrinal problems, once in Mantua (1537) and again in Vicenza (1538), the Pope finally succeeded in calling a council in the northern Italian town of Trent on 15 March 1545. The Council of Trent would not begin its work until nine months later. Throughout this period of time in which Paul III sought to establish a council, significant cities in Italy were already becoming heavily influenced by the reformers' errors. Alarmed that the transalpine heresies of Lutheranism and Calvinism were creeping down the Italian peninsula and were finding a hearing *nelle piazze* as they had *in den Plätzen* and *dans les places*, and eager to address the hemorrhaging of Catholics falling into these heresies, Paul III decided not to wait for a conciliar solution to the problem. On his own initiative, he created an institution comprised of cardinals and their collaborators endowed with significant authority to pinpoint, refute, and punish if necessary, the proponents or sympathizers of what were deemed as menacing and schismatic theological errors. It was this doctrinal body which served as the direct curial precursor to what is known today as the Congregation for the Doctrine of the Faith. In fact, Paul III's doctrinal body served as the springboard for the later development of the congregational system for the Roman Curia in general.

On 21 July 1542, in the eighth year of his pontificate, Paul III issued the Apostolic Constitution *Licet ab initio*¹⁴ for the purpose of establishing this group of cardinals and their collaborators; what would later become known as the Congregation of the Sacred Inquisition of Heretical Error,¹⁵ the Congregation of the Holy Office, or simply the Holy Office.¹⁶ The Pope desired “that the catholic faith would flourish and grow everywhere, and that [his papal] diligence [would] thrust far away all heretical depravity from the Christian faithful.”¹⁷ The Pope’s primary concern was the unity of the Church. He was convinced that dramatic measures were necessary, as they often had been throughout the Church’s history, to take the initiative to quell any heresy which would threaten ecclesial unity and to lead the erring back to undisturbed unity of faith.

To achieve its ends, the new institution’s authority was far-reaching, enjoying a general competency of vigilance over anything covering matters of the faith (*super negotio fidei*). Furthermore the inquisition’s jurisdiction covered everyone, save the pope, including the ability to scrutinize the rest of the pope’s offices and advisors. The Pope wrote that the members of this body would exercise their authority “in each and every

¹⁴ Pope Paul III, Bull *Licet ab initio*, 21 July 1542, in *Bullarium, diplomatum et privilegiorum Sanctorum Romanorum Pontificum Taurinensis editio: locupletior facta collectione novissima plurium brevium, epistolarum, decretorum actorumque S. Sedis a S. Leone Magno usque ad praesens / cura et studio collegii adlecti Romae virorum s. theologiae et ss. canonum peritorum; quam Pius Papa IX apostolica benedictione erexit; auspicante Cardinali Francisco Gaude*, ed. Franco and Henrico Dalmazzo (Turin: Franco and Henrico Dalmazzo, 1860) 6:344-346.

¹⁵ The official title of *Congregatio Sanctae Inquisitionis Haereticae Pravitatis* (Congregation for the sacred inquisition of heretical error) would not be ascribed to this entity until the curial reforms of Pope Sixtus V.

¹⁶ Hamer, 342.

¹⁷ *Licet ab initio*, 344: “. . . ut fides catholica ubique floreret et augetur, ac omnis haeretica pravitas a christifidelibus nostra diligentia procul pelleretur,”

city of Christian kingdoms, towns, lands and places, whether this side or beyond the mountains [i.e., the Alps], anywhere they please even in Italy . . . and in the Roman Curia”¹⁸ It is important to note now this significant grant of authority since it demonstrates from the very beginning that the curial body responsible for doctrine has also been charged to exercise vigilance over matters of doctrine emanating from all the other offices of the pope’s curial staff; a certain preeminence which, more or less, the Congregation for the Doctrine of the Faith continues to enjoy today.¹⁹

The group originally consisted of six cardinals named in the bull itself (including Gian Pietro Carafa, the future Pope Paul IV)²⁰ who were responsible for the administration of the inquisition and were answerable to the pope directly. The cardinals were aided by commissioners and inquisitors-general who acted with apostolic authority and were appointed by the pope.²¹ They were assisted by others who held minor offices

¹⁸ *Licet ab initio*, 344: “. . . in omnibus et singulis reipublicae christianae civitatibus, oppidis, terris et locis, tam citra quam ultra montes, ubilibet etiam in Italia consistentibus ac in Romana Curia,”

¹⁹ The issue of whether and to what degree the CDF enjoys a certain preeminence within the Roman Curia today is one to be examined in chapter five.

²⁰ Del Re, 97.

²¹ *Licet ab initio*, 344: “Nos ne, dum dies concilii per nos novissima indicti expectatur, omnia in deterius labantur providere volentes, ac nequeuntes per nos solos, aliis etiam arduis occupatos curis, omnia exequi, dilectorumque filiorum nostrorum Ioannis Petri Sancti Clementis, Ioannis S. Sixti, Petri Paulii S. Balbinae, Bartholomaei S. Caesarei, Dionysii S. Marcelli, et Thomae S. Silvestri tituli Presbyterorum cardinalium fidem, doctrinam et virtutem perspectas habentes, ac de eis plurimum in Domino confidentes, eosdem Ioannem Petrum et Ioannem ac Petrum Paulum et Bartholomaeum, necnon Dionysium et Thomam, cardinales, nostros et apostolicae Sedis in omnibus et singulis reipublicae christianae civitatibus, oppidis, terris et locis, tam citra quam ultra montes, ubilibet etiam in Italia consistentibus ac in Romana Curia, super negotio fidei, commissarios et inquisitores generales et generalissimos, auctoritate apostolica, tenore praesentium constituimus et deputamus.”

such as financial officers, notaries, and other unspecified personnel.²² Furthermore, in order to carry out their responsibilities in such a vast jurisdiction, Paul III granted the inquisition the ability to select collaborators according to specific qualifications spelled out in section eight of the bull itself, i.e., they were to be sufficiently formed and educated in matters of theology and law, God fearing (*Deum timentes*), and known for personal holiness.²³

The bull explicitly stated that the inquisition could also call on the coercive power of secular authority to assist them in reprimanding and even extirpating at the roots (*radicitus extirpandos*) such heresies, though no explicit mention is made of capital punishment.

The inquisitors' authority included the ability to confront those who erred from the way of Christ or who were suspected of heresy. They were to determine a person's culpability of being a follower, promoter, or defender of heresy, regardless of civil or ecclesiastical status, whether the offense was public or secret, direct or indirect.²⁴ Their competency then included the ability to impose ecclesiastical penalties or to apply other

²² *Licet ab initio*, 345: "Necnon ad effectum praemissorum, procuratorem fiscalem et notarios publicos et alios officiales ad praemissa necessarios et opportunos, etiam clericos sive religiosos, cuiuscumque Ordinis fuerint, deputandi et constituendi."

²³ *Licet ab initio*, 345: "Necnon ad praemissa omnia, et singula in quibusvis civitatibus, terris, et locis, de quibus eisdem cardinalibus videbitur, et quoties ipsi cardinales opus esse cognoverint, alias personas ecclesiasticas idoneas, literatas et Deum timentes, in theologia magistros, seu in altero iurium doctores, licentiatos, baccalaureos, in aliqua Universitate Studii generalis graduatos, in trigesimo eorum aetatis anno ad minus constitutos, seu ecclesiarum cathedralium canonicos, vel alia dignitate ecclesiastica praeditos."

²⁴ *Licet ab initio*, 344: "Ac eis contra omnes et singulos a via Domini et fide catholica aberrantes, seu de eadem fide male sentientes, aut alias quomodolibet de haeresi suspectos, illorumque sequaces, fautores et defensores, ac eis auxilium, consilium vel favorem, publicae vel occulte, directe vel indirecte, praestantes, cuiuscumque status, gradus, ordinis, conditionis, praeeminentiae fuerint, etiam absque ordinariis locorum."

opportune remedies of law. In any case, Paul III required that the cardinals' judgments, or those reached by their legitimately appointed delegates, be absolutely obeyed by all.²⁵

The Pope concluded *Licet ab initio* with a strong exhortation that what he laid out in this papal bull was to be solemnly respected by everyone and that the judgments of the inquisition were to be strictly obeyed. The establishment of this powerful congregation demonstrates the desire of Paul III "to centralize in Rome all of the various inquisitional powers, which the Curia had intended to exercise, above all, against excessive state control of the various national Inquisitions, especially that of Spain" and to eliminate the lack of unity created by the various Inquisitions each operating for their own ends.²⁶

The inquisition established by Paul III in *Licet ab initio* was bolstered and slightly modified by subsequent papal legislation issued by Paul III's immediate successors: Julius III (1550-1555), Paul IV (1555-1559), Pius IV (1559-1565), and Pius V (1566-1572).

In May of 1550, Pope Julius III issued his apostolic letter *Illius qui* in which he clarified the duties of the important and powerful role of the inquisitor-general and established the procedure by which the lapsed could be restored to the full communion of

²⁵ *Licet ab initio*, 346: "Decernentes quaecumque per ipsos cardinales, seu ab eis deputatos in praemissis quomodolibet pro tempore gesta, plenam roboris firmitatem obtinere et perpetuo inviolabiliter observari debere."

²⁶ Del Re, 98: "L'istituzione dell'Inquisizione Romana e Universale rappresentò allora l'accentramento in Roma di tutti i poteri inquisitoriali con cui la Curia intendeva reagire soprattutto contro l'eccessiva statalizzazione delle varie Inquisizioni nazionali, specie di quella spagnola; accentramento reso necessario anche dal diminuito rendimento dei vari tribunali dell'Inquisizione, operanti ciascuno per proprio conto a causa della mancanza di unità direttiva."

the Church.²⁷ In March, 1551, evidently in response to complaints that the inquisition was meeting some resistance, Julius issued *Licet a diversis* in which he forbade secular powers from impeding or disturbing the work of the inquisitors.²⁸

Pope Paul IV increased the number of cardinals who worked in the inquisition in 1556 and then again in 1557. The Pope then turned his attention to heretical high ranking ecclesiastics by issuing *Cum ex Apostolatus* in March, 1559, encouraging the inquisition to impose severe punishment upon them, including loss of benefice and the release of the penalized prelate's subjects from their obedience to him.²⁹ Perhaps most significant of all of Paul IV's efforts to eradicate the pernicious effect of heresy was the establishment of an index of forbidden books. In 1557 the Pope had the inquisition compile the list which he then confirmed the following year.³⁰

In the first apostolic letter of his pontificate, *Ad Ecclesiae regimen*, promulgated in 1560,³¹ Pope Pius IV explicitly stated his intention to continue the work initiated by his predecessors of countering, refuting, and quelling heresy. On 4 October 1562, by means of the motu proprio *Pastoralis officii*,³² he established Paul III's inquisition as a formal

²⁷ Miller, 62.

²⁸ Del Re, 98: “. . . *Licet a diversis* del 15 febbraio 1551, con la quale espressamente stabiliva che di tali processi dovevano occuparsi solo i delegati dell'Inquisizione centrale, salvo comunque restando il diritto proprio dei vescovi, per cui proibiva in modo assoluto a qualsiasi potestà secolare d'impedire o di turbare lo svolgimento di tali cause, . . .”.

²⁹ Miller, 63.

³⁰ Miller, 63.

³¹ Miller, 64.

³² Miller, 67.

congregation in the papal curia. Later the same month, with the decree *Saepius inter arcana*, Pius established anew the competency of the congregation to investigate, try, and punish bishops and even cardinals.³³ In his constitution *Romanus Pontifex* of 7 April 1563, Pius IV decided to reserve the prefectorial office of the congregation to the Roman Pontiff himself thus establishing a close link between this inquisitorial congregation and the papacy, a link that would endure until the curial reform of Paul VI in *Integrae Servandae*.³⁴ Over a year later, in September 1564, Pius IV turned his attention to the list of forbidden books which his predecessor, Paul IV, had ordered compiled. In *Cum inter crimina*, the Pope granted the faculty to the cardinal members of the Congregation of the Holy Office to read those books appearing on the list for the purpose of preparing a suitable defense and refutation of their contents. Furthermore, this grant of faculty could be delegated by the cardinals to any of their collaborators who, in their judgment, would be suitable in knowledge and holiness of life to read such texts for the same purpose. Anyone else would fall under the penalty of excommunication.³⁵ On 24 March 1564, Pius IV promulgated *Dominici gregis* in which he outlined various guidelines to direct the work of those charged with the grave responsibility to read and assess texts suspected of heresy.³⁶

³³ Miller, 64.

³⁴ Miller, 67. This intimate link between the pope and the doctrinal congregation would remain even with Paul VI's establishment of a cardinal prefect to direct it. See page 41 for a treatment of *Integrae Servandae*.

³⁵ Miller, 66.

³⁶ Miller, 68.

Pius V strengthened the prominence of the Congregation of the Holy Office by three documents, all of which he issued in the first year of his pontificate (1566). In a time when travel was not an easy venture, it was often the case that cardinal members could not attend the sessions of the Congregation to discuss important matters, thereby delaying their work. Demonstrating his eagerness that the Congregation's work be carried out with some haste, Pius V provided in *Cum felicis* that even if only two cardinal members of the Congregation were able to attend a session, their decisions would bind as if the entire Congregation had decided the matter.³⁷ In his second document, the constitution *Inter multiplices*, Pius V addressed the judicial authority of the Congregation to try past cases should any procedural anomaly later be discovered, even if the accused had been acquitted.³⁸ In *Sanctissimus* one notes yet another papal affirmation of the cardinal members' authority and prominence, along with another papal exhortation to secular rulers that the cardinals were not to be impeded in their work, their judgments were binding and to be followed, and furthermore, any prisoner of the state guilty of

³⁷ Miller, 68.

³⁸ In light of *Inter multiplices* and its grant to the cardinals to reopen cases, Miller observes, "cases tried before the Congregation never became *res iudicata*, but were always susceptible of being reheard. Otherwise it was felt justice could easily be perverted by any falsifications" (Miller, 69). As an interesting side note, in addressing penal trials pertaining to the most grave delicts reserved to the CDF (See Pope John Paul II, *Motu proprio Sacramentorum sanctitatis tutela*, 30 April 2001: AAS 93 [2001] 737-739), Msgr. Charles Scicluna, Promoter of Justice for the CDF, noted to the officers of the United States Conference of Catholic Bishops (USCCB) after their 2008 visit to the dicasteries of the Holy See that since penal trials do not concern the *status personarum*, then the definitive sentence of a penal trial does, in fact, become *res iudicata* (see "Observations from Monsignor Charles Scicluna," *Canon Law Society of America Newsletter*, March 2009, 7). Specifically addressing clerical sexual abuse cases, Scicluna pointed out that a convicted priest has 30 days to appeal after which time "the matter cannot be overturned except by a judgment of *restitutio in integrum* which establishes gross injustice or corruption of the judge or witness" (Ibid.). Scicluna suggested that bishops "wait to hear from the CDF regarding whether and when the matter has become *res iudicata* before acting definitively on the provisions of the decision resulting from the trial process" (Ibid.).

heresy was to be extradited for the purpose of incarceration in a prison of the Inquisition.³⁹

Paul III's organism for combating heresy established in *Licet ab initio* and later developed in subsequent papal legislation can best be expressed negatively; that is to say, its purpose was not to propose doctrine so much as to refute errors against it; to reform, indeed save, the contrite and recanting heretic; and to punish the recalcitrant in their stubborn error, all in service to the papal responsibility to safeguard and maintain the Church's unity. Such a mission, defined by these papal texts, and the earnestness with which it was carried out, is understandable when considering the historical context and the concerns of the popes who issued them.

B. The Congregation of the Index

In the eighteenth session of the Council of Trent, held on 26 February 1562, the Council Fathers recognized that the list of prohibited books which Paul IV had approved was in need of updating.⁴⁰ To this end, they established a conciliar commission to review the list and to make any additions or corrections necessary. As shown above, the responsibility to review suspicious books and condemn those found to be heretical was under the auspices of the inquisition established by Paul III and formally established as a

³⁹ Miller, 69.

⁴⁰ See Council of Trent, Session XVIII, 26 February 1562, *Decretum de librorum delectu et omnibus ad concilium fede publica invitandis*, in *Decrees of the Ecumenical Councils*, ed. Norman P. Tanner (London and Washington: Sheed & Ward and Georgetown University Press, 1990) 2: 723. Hereafter this text will be cited as "Tanner."

congregation by Pius IV. The Council Fathers here organized the commission as a help to the inquisition's efforts to eliminate heresy in print. While the conciliar commission was intended to be *ad hoc*, it nonetheless took on a permanent character when Pius V established it as the Congregation of the Index in 1571.⁴¹ Its primary purpose was to review books suspected of heresy and, if the suspicion were substantiated, to ban them from the Christian faithful. In essence, the establishment of the newly formed Congregation of the Index created some overlap in the doctrinal vigilance required of it and of the Congregation of the Holy Office, the very same institution which had originally drawn up the list of prohibited books in the first place.⁴²

C. Pope Sixtus V and *Immensa aeterni Dei*

On 22 January 1588, Pope Sixtus V (1585-1590) promulgated his Apostolic Constitution *Immensa aeterni Dei*.⁴³ It was the first papal document to address the overall

⁴¹ Benedetto Ojetto, ed., "S. Congregatio Indicis," in *Synopsis rerum moralium et iuris pontificii alphabetico ordine digesta et novissimis SS. RR. congregationum decretis aucta in subsidium praesertim sacerdotum*, vol. 2, 3rd ed. (Rome: Polygrafica, 1909) 2297-2298: "Interim vero Pius V peculiarem instituit cardinalem congregationem, quae huic operi damnandi libros praevidendos eorumque indicem curandi praesesset. Eam ipse instituit veluti Congregationem de reformando indice et corrigendis libris mense martio 1571, postquam anno 1570 Motu proprio diei 15 novembris Magistro S. Palatii iam fecisset plenissimam potestatem libros editos corrigenda. Hanc Congregationem postea Gregorius XIV constitutione 'Ut pestiferarum' (13 sept. 1572) in meliorem redegit formam, eamque Sixtus V in constitutione sua 'Immensa' (22 ian. 1588) confirmavit et ratam habuit."

⁴² Miller, 146-147. Miller notes that Pope Benedict XIV later accorded to the Holy Office exactly the same jurisdiction over the review and censorship of printed materials as the Congregation of the Index had (see Pope Benedict XIV, Decree *Sollicita ac provida*, 9 July 1753, in *Magnum Bullarium Romanum* [Luxembourg: Henrici-Alberti Gosse, 1758] 19:59-63).

⁴³ Pope Sixtus V, Apostolic Constitution *Immensa aeterni Dei*, 22 January 1588, in *Bullarium, diplomatum et privilegiorum Sanctorum Romanorum Pontificum Taurinensis editio : locupletior facta collectione novissima plurium brevium, epistolarum, decretorum actorumque S. Sedis a S. Leone Magno usque ad praesens / cura et studio collegii adlecti Romae virorum s. theologiae et ss. canonum peritorum;*

administrative structure, activity, and nature of the Roman Curia vis-à-vis its service to the pope in his exercise of the Petrine ministry. It is therefore a pivotal text, not only for the history of the Roman Curia in general, but also for the Congregation for the Doctrine of the Faith. The congregational structure of the Roman Curia introduced by *Immensa aeterni Dei* would serve as the foundational model for curial structure even to the present. A more in-depth analysis of this text is crucial to understanding the significance of the Congregation for the Doctrine of the Faith's current doctrinal authority in relationship to the pope and to the Roman Curia.

Sixtus V sought to provide order and organizational structure to the various functions and duties of the papal curia. Indeed, *Immensa aeterni Dei* itself is a well-ordered document. The Pope began the text by gratefully acknowledging the immense wisdom of God which created the world in harmonious concord, assigning to each creature its proper end. He then recognized the place of the Church militant within creation which serves as a sign on earth of the Church triumphant in heaven. This Church, comprised of many members, the Pope stated, is united in charity and is the means for salvation.⁴⁴

quam Pius Papa IX apostolica benedictione erexit ; auspicante Cardinali Francisco Gaude, ed. Franco and Henrico Dalmazzo (Turin: Franco and Henrico Dalmazzo, 1860) 8, pt. 2:985-1004.

⁴⁴ *Immensa aeterni Dei*, 985: "Immensa aeterni Dei omnium opifex sapientia a fine usque ad finem fortiter attingens, sic cuncta inter se admirabili concordiae nexu copulavit suaviterque disposuit, ut vicissim ad suorum se munerum functiones exercendas mutuis auxiliis sublevarent; ipsa in coelesti Ierusalem varios beatorum spiritum ordines distinxit, quorum superiores de divinae providentiae rebus inferiores illuminarent. Ipsa militantes Ecclesiae, quae triumphantis illius imago est, corpus variis membris discrevit quae, capiti suo glutino caritatis compacta et connexa, mutuo se adiuvent, ex quo totius corporis salus et conservatio existeret."

By the will of Christ, Sixtus V went on to explain, the Roman Pontiff constitutes the visible head of the Church and therefore has a pastoral solicitude for all the churches, carrying the onerous burden of uniting them in faith and charity. To exercise this Petrine ministry, the Roman Pontiff seeks the assistance of his brother bishops, and in a special way, the cardinals who, according to Sixtus, relate to the pope as did the apostles to Christ. Therefore, the pope rightly turns to the cardinals, as well as other members of the Roman Curia, to help him exercise the power of the keys.⁴⁵ In describing the cardinals as the pope's advisors and assistants, Sixtus likened them to the seventy wise men Jethro advised Moses to select in order that they share the burden of his God-given solitary ministry and so that his tasks (of judging and administration) might be more manageable.⁴⁶

In essence, then, Sixtus V began his curial organization by providing a theological and scriptural foundation for such administrative ordering: as God brought order out of chaos in creating the world, so Sixtus would bring order out of chaos by establishing fifteen congregations of the Roman Curia, each with its own delineated competencies.⁴⁷

⁴⁵ *Immensa aeterni Dei*, 986: "Quare iure optimo Romanus Pontifex, quem Christus Dominus corporis sui, quod est Ecclesia, visibile caput constituit, omniumque ecclesiarum sollicitudinem gerere voluit, multos sibi tam immensi oneris adiutores advocat atque adsciscit, cum venerabiles episcopos fratres suos, quos toto terrarium orbe ad singulos greges pascendos mittit, tum amplissimum ordinem S.R.E. cardinalium, qui tamquam nobilissima membra capiti proprius cohaerentia, eidem summo Pontifici, sicut Christo Domino apostoli, semper assistant, quique primi laborum et consiliorum socii sunt et participes, ut partita inter eos aliosque Romanae Curiae magistratus ingenti curarum negotiorumque mole, ipse tantae potestatis clavum tenens, divina gratia adiutrice, non succumbat."

⁴⁶ See Exodus 18:13-23.

⁴⁷ See Pietro Palazzini, "Le Congregazioni Romane," in *La Curia Romana nella Cost. Ap. 'Pastor Bonus'*, ed. Piero Antonio Bonnet and Carlo Gullo (Vatican City: Libreria Editrice Vaticana, 1990) 191-192. Palazzini notes that Sixtus created nine ecclesiastical and six civil dicasteries: 1) the Congregation for the Inquisition (*Congregatio pro sanctae inquisitionis haereticae pravitatis*; 2) the Congregation of the

Such ordering is especially clear when one considers the various congregations he organized, covering everything from consultation with bishops and prelates to the maintenance of Rome's university, bridges, streets, running water supply, and defense. The papal office was endowed with significant temporal as well as spiritual authority and therefore it was imperative that he organize matters in such a way that both the Church and the State would flourish. As scholars rightly point out, however, Sixtus, unlike God, did not create *ex nihilo* but borrowed from his predecessor's various legislation concerning the offices and counselors to the pope.

The congregation given pride of place, not only in order of presentation in *Immensa aeterni Dei* but also explicitly by the document itself, is that of the *Congregatio sanctae inquisitionis haereticae pravitatis* (Congregation for the sacred inquisition of heretical error). The other names by which this congregation had come to be known continued to be used, namely "Congregation of the Roman Inquisition," "Congregation of the Holy Office," or simply the "Holy Office." The Pope positioned the Holy Office

signatura of grace (*Congregatio pro signatura gratiae*); 3) the Congregation for the erection of churches and for consistorial provisions (*Congregatio pro erectione ecclesiarum et provisionibus consistorialibus*); 4) the Congregation for the abundance of the ecclesiastical State (*Congregatio pro ubertate annonae Status ecclesiastici*); 5) the Congregation for rites and ceremonies (*Congregatio pro ritibus et caeremoniis*); 6) the Congregation of the naval armada (*Congregatio pro classe paranda et servanda ad Status ecclesiastici defensionem*); 7) the Congregation of the index (*Congregatio pro indice librorum prohibitorum*); 8) the Congregation of the Council of Trent (*Congregatio pro executione et interpretatione Concilii Tridentini*); 9) the Congregation for the support of the ecclesiastical state [i.e., taxation] (*Congregatio pro Status ecclesiastici gravaminibus sublevandis*); 10) the Congregation for the University of Rome [i.e., La Sapienza] (*Congregatio pro Universitate Studii Romani*); 11) the Congregation for Regulars [i.e. Religious] (*Congregatio pro consultationibus regularium*); 12) the Congregation for Bishops (*Congregatio pro consultationibus episcoporum et aliorum praelatorum*); 13) the Congregation for streets, bridges, and running water (*Congregatio pro viis, pontibus, et aquis curandis*); 14) the Congregation for the Vatican printing office (*Congregatio pro Typographia Vaticana*); and 15) the Congregation for the Consult of State [i.e., final court of appeal] (*Congregatio pro consultationibus negotiorum Status ecclesiastici*).

in the first place because “faith, without which it is impossible to please God, is the foundation of the whole spiritual edifice.”⁴⁸

Sixtus V conferred upon the Holy Office the greatest powers not only in the city of Rome and over the temporal affairs of the State, both subject to the Roman Pontiff, but also to the entire world, wherever the Christian religion is to be found, and over all ecclesiastics.⁴⁹ Under the authority of the Holy Office was assigned:

...1) everything relating to matters of faith so that the entire Catholic world, both West and East alike, would come to depend on this Congregation; 2) absolute jurisdiction over delicts against the faith: whether heresy, schism, apostasy, magic, sorcery, divination, etc...; 3) the faculty to dispense from the impediments of mixed religion and disparity of cult, and the special competence regarding the so-called Pauline privilege; 4) all that which, even if not referring directly to the faith, has nevertheless an intimate relationship to it, that is to say, the delict of soliciting *ad turpia* religious votes, the observance of feasts, fasting and abstinence; and 5) the censuring and prohibition of books.⁵⁰

The Congregation of the Index, also now established as one of the fifteen congregations, holds seventh place. It was a continuation of the organism previously

⁴⁸ *Immensa aeterni Dei*, 986: “In primis igitur, quoniam fides, sine qua impossibile est placere Deo, totius spiritualis aedificationis fundamentum est . . .”

⁴⁹ Del Re, 100; *Immensa aeterni Dei*, 987: “non solum in Urbe et Statu temporali, nobis et huic Sanctae Sedi subiecto, sed etiam in universo terrarum orbe, ubi Christiana viget religio, super omnes patriarchas, primates, archiepiscopos et alios inferiores ac inquisitores, quocumque privilegio illi suffulti sint . . .”

⁵⁰ Del Re, 100: “. . . le assegnò propriamente: 1) tutto quanto poteva aver comunque riferimento alla fede, con estensione dei suoi poteri su tutto il mondo cattolico, cosicché venivano a dipendere da questa Congregazione, insieme con i latini, anche gli orientali; 2) giurisdizione assoluta su tutti i delitti concernenti la fede, quali eresia, scisma, apostasia, magia, sortilegi, profezie, ecc.; 3) facoltà di dispensare dagli impedimenti di mista religione e di disparità di culto, e speciale competenza circa il cosiddetto privilegio Paolino; 4) tutto quel che, pu non riferendosi propriamente alla fede, ha tuttavia con essa un'intima relazione, ossia il delitto di sollecitazione *ad turpia*, i voti religiosi, la santificazione delle feste, il digiuno e l'astinenza; 5) censura e proibizione dei libri.”

established by Pius V. But while the competencies of the Holy Office and of the Index were well-defined in the text, it was difficult nonetheless to delineate one from the other clearly. The Holy Office was charged with vigilance over the crime of heresy but the Index was charged with vigilance over heretical books. Thus the administrative overlap which began after Pius V established the Congregation of the Index became even more concretized as a result of *Immensa aeterni Dei*. This overlap, with its resultant bureaucratic conflicts, would not be resolved until the pontificate of Benedict XV (1914-1922) who, on 25 March 1917, promulgated the motu proprio *Alloquentes*,⁵¹ abolishing the Congregation of the Index and transferring all of its responsibilities to the Congregation of the Holy Office.

At the conclusion of *Immensa aeterni Dei*, Sixtus made it clear that the cardinals of these fifteen congregations had the broad faculty to call collaborators to help them carry out their proper duties. Only those matters deemed most grave were to be brought to the attention of the pope for his consideration and decision. Finally, like previous papal legislation, there was an exhortation to all authorities, ecclesiastical and civil (especially emperors and kings), to assist the reform instituted by this document in keeping with the *mens legislatoris*. In his review of the history of Roman curial reforms, Alphonse Cardinal Sticker provided the following synthesis of the principal characteristics of this Sistine reform:

First: [the reform was] not integral or general but partial, since all the other institutions and organisms of the Curia which were not a part of *Immensa aeterni Dei* remained in play. Second: the Sistine Reform

⁵¹ Pope Benedict XV, Motu proprio *Alloquentes*, 25 March 1917: AAS 9 (1917) 167.

pertained to organisms already existing which were adapted; but it also created new organisms while not all those already created before, even by Sixtus V himself, were accepted. Third: Regarding the procedure and objective of the fifteen Congregations, there does not yet appear the distinction which would later be developed more clearly between organisms of an exclusively judicial or administrative nature and the classification of these organisms into Congregations, Tribunals, and Offices. Fourth: Delegated or vicarious authority is only retained by those Cardinals appointed by the pope. All the other assistants who are necessarily required, are freely appointed by the Cardinals.⁵²

The significance of *Immensa aeterni Dei* in emphasizing the primary importance of the Congregation of the Holy Office at the forefront of the Roman Curia cannot be underestimated. While it is true that the organism designed to advise the pope on doctrinal matters enjoyed a certain preeminence from its inception, the fact is that Sixtus, by means of this constitution, gave the Holy Office not only its official name for the first time, but more importantly, gave it a clearly delineated canonical identity as the paramount Congregation within the newly structured Roman Curia. Its relationship with the pope, i.e., direct papal governance, and with the other Congregations, now had papal and constitutional definition. And this definition had lasting effect. While popes would go

⁵² Alphonse M. Stickler, S.D.B., "Le riforme della curia nella storia della Chiesa," in *La Curia Romana nella Cost. Ap. 'Pastor Bonus'*, ed. Piero Antonio Bonnet and Carlo Gullo (Vatican City: Libreria Editrice Vaticana, 1990) 9: "Sintetizzando le caratteristiche principali di questa prima Riforma Sistina possiamo dire che essa è: *Primo*: Non integrale o generale ma solo parziale, poiché rimangono in vita tutte le altre istituzioni ed organismi della Curia che non sono compresi nella 'Immensa aeterni Dei.' *Secondo*: La Riforma Sistina riguarda organismi già esistenti che vengono però adattati; ma essa crea anche organismi nuovi mentre non tutti quelli creati già prima, anche da Sisto V stesso, sono qui recepiti. *Terzo*: Per quello che riguarda la procedura ed in parte l'oggetto delle 15 Congregazioni non appare ancora la distinzione che si svilupperà più chiaramente nel tempo successivo cioè in organismi di indole esclusivamente giudiziaria o amministrativa e la classificazione in Congregazioni, Tribunali ed Uffici. *Quarto*: L'autorità delegata o vicaria è detenuta solo dai Cardinali nominati dal Papa. Tutti gli aiutanti che occorrono necessariamente, sono nominati liberamente dai Cardinali."

on to make various other curial adjustments and alterations,⁵³ it would be more than three hundred years before another wide sweeping curial reform would take place. For this next significant step, one must look to the pontificate of Pius X.

D. Pope Pius X and *Sapienti consilio*

When Giuseppe Sarto became pope on 4 August 1903 (1903-1914), he inherited a Roman Curia which had grown burdened under its own bureaucratic complexity and inefficiency. The Curia had increased to thirty seven offices, seventeen of which were congregations.⁵⁴ There was no clear delineation among the offices as to their respective scope or objective, competency, jurisdiction, territoriality, or forum. As a result, redundancy became commonplace and only contributed to further problems.⁵⁵ The Congregation for the sacred inquisition of heretical error had remained much the same as it had since its beginning in *Immensa aeterni Dei*.⁵⁶

While the Roman Curia had grown and changed in some aspects in the three hundred years since *Immensa aeterni Dei*, it had not done so in keeping with many other changes which had occurred in wider social and ecclesial circles. The increasing sense of nationalism, not only among civil authorities, but also among the particular churches of a given region or country, led to a change in the relationship between the Apostolic See and

⁵³ For a succinct review of such reforms, see Palazzini, 192, footnote 8; Stickler, "Le riforme delle curia . . .," 10-12.

⁵⁴ Francesco Roberti, "De Curia Romana Ante Pianam Reformationem," *Apollinaris* 25 (1952) 16.

⁵⁵ Roberti, 29.

⁵⁶ Miller, 166.

the Curia.⁵⁷ The temporal goods of such churches were becoming less and less available for the support of the Apostolic See, leaving the Curia with significantly less cash flow to carry on its bureaucratic work.⁵⁸

The loss of the Papal States in 1870 also significantly affected the work of the Roman Curia and led to the immediate superfluity of those dicasteries dedicated exclusively to the temporal concerns of the papal government.⁵⁹ It also had an impact on those dicasteries dedicated to ecclesiastical or spiritual functions. The tribunals of the Roman Curia saw a dramatic decrease in their work as a result of the Apostolic See's newly formed agreements with temporal authorities and their own judicial systems. Furthermore all those dicasteries dedicated to the temporal goods of the Church which proved necessary for the support of the spiritual activities of the Church faced a profound and sudden need for reorganization.⁶⁰

After some minor alterations to the Roman Curia by Leo XIII,⁶¹ Pius X realized that a restructuring of the congregations alone would not suffice to address the new demands placed upon his Petrine ministry. Rather, a major paradigm shift needed to take

⁵⁷ Roberti, 30.

⁵⁸ Ibid.

⁵⁹ Stickler, 11.

⁶⁰ Ibid.

⁶¹ E.g., Pope Leo XIII had instituted the Pontifical Biblical Commission (see chapter 1, footnote 159 *infra*), restored the Congregation for the Election of Bishops in Italy (see Joël-Benoît d'Onorio, *Le Pape et le Gouvernement de L'Église* [Éditions Fleurus-Tardy, 1992] 295) which Pius X later united with the Holy Office by means of the *motu proprio Romanis Pontificibus*, 17 December 1903 (see Del Re, 49), and most relevant to this study, issued an Apostolic Constitution by which he updated the procedures for the examination of books for doctrinal errors (see Leo XIII, Apostolic Constitution *Officiorum ac munerum*, 8 February 1897, *Acta Sanctae Sedis* 29 [1896-1897] 388-400).

place. The Pope sought to cast the Roman Curia into greater clarity by drawing a distinction between administrative and judicial power and then to assign tasks within the gambit of each jurisdiction to distinct curial entities.⁶² Pius X therefore provided a “neat separation of the jurisdiction of the internal forum from that of the external forum” as well as the distinction between “the contentious jurisdiction from that of voluntary jurisdiction, assigning the former to the Sacred Congregations and the latter, save for a few exceptions, to the tribunals of the Sacred Roman Rota and of the Apostolic Signatura.”⁶³

Pius X carried out this major curial reform in promulgating the Apostolic Constitution *Sapienti consilio* on 29 June 1908⁶⁴ in which, “. . . taking into consideration the great changes having occurred within society both on the civil plane as well that of the religious, the Pope changed the name of the ‘Sacred Congregation of the Roman and Universal Inquisition’ to that of the ‘Sacred Congregation of the Holy Office.’”⁶⁵ The subsequent 1917 Code of Canon Law referred to the Congregation by this name insofar

⁶² Miller, 170.

⁶³ Palazzini, 192-193.

⁶⁴ Pope St. Pius X, Apostolic Constitution *Sapienti consilio*, 29 June 1908: AAS 1 (1909) 7-19. Hereafter this document shall be cited as SC.

⁶⁵ Antonio Silvestrelli, “La Congregazione della Dottrina della Fede,” in *La Curia Romana nella Cost. Ap. Pastor bonus*, ed. Piero Antonio Bonnet and Carlo Gullo (Vatican City: Libreria Editrice Vaticana, 1990) 225-226.

as Pope Benedict XV incorporated *Sapienti consilio* into the canons relevant to the Roman Curia.⁶⁶

Once again, as in previous papal texts, the Sacred Congregation of the Holy Office was given pride of place as the first of the curial offices to be addressed. In some earlier schema of *Sapienti consilio*, the Sacred Congregation of the Holy Office was referred to as “Supreme” but this was dropped from the final draft.⁶⁷ Yet what remained consistent in every draft, as well as in the final text, was that the Holy Office was presented first among all the dicasteries.

The text provided five norms which pertained directly to the Holy Office. The first norm indicated that the pope himself was the head of the Congregation and that the dicastery was to safeguard matters of doctrine of the faith and morals.⁶⁸ Two observations are important to make about this first norm. By maintaining the Roman Pontiff as head of the Sacred Congregation for the Holy Office, Pius X continued what had already been in place and thereby highlighted the dicastery’s importance.⁶⁹ The second observation to make is that the chief responsibility for the Sacred Congregation of the Holy Office was to safeguard (*tutatur*) the doctrine on faith and morals and not necessarily to promote it.

⁶⁶ See canons 247, 249, 251, and 257 for direct references to the Congregation of the Holy Office in *Corpus Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus* (Rome: Typis Polyglottis Vaticanis, 1917). Hereafter this text shall be cited as 1917 *CIC*.

⁶⁷ Giuseppe Ferretto, “La Riforma del B. Pio X,” *Apollinaris* 25 (1952) 53.

⁶⁸ *SC*, I, 1^o, n. 1; AAS 1 (1909) 9: “Haec sacra Congregatio, cui Summus Pontifex praeest, doctrinam fidei et morum tutatur.”

⁶⁹ The *Index Praepositorum et Officialum in SS. Congregationibus, Tribunalis, Officiis Romanae Curiae* indicates “His Holiness of Our Lord, Prefect”: AAS 1 (1909) 109. The only other dicastery to have the Roman Pontiff as its prefect was the Sacred Congregation of the Consistory (111).

Again, in keeping with both the rationale for the Holy Office's original founding and its subsequent work through the centuries, the duty of the Holy Office was to safeguard doctrine by pointing out which doctrines were *not* sound as opposed to a positive articulation of which doctrines were.

The second norm indicated that the judgment of heresy, and of other crimes which lead to the suspicion of heresy, remained with this Congregation alone.⁷⁰ Here Pius X kept the traditional object of the Holy Office's concern, i.e., heresy and its proper punishment, squarely within its exclusive competency. The procedures by which the Holy Office would carry out this important work remained secret after *Sapienti consilio* as they had been before.⁷¹

The third norm stated that to the Sacred Congregation of the Holy Office fell everything pertaining to the doctrine of indulgences or their use.⁷² Pius X abolished the Congregation for Indulgences and transferred all of its responsibility to the Holy Office within which was created a new section to address such matters.

The fourth norm assigned to other dicasteries some ancillary responsibilities which previously had fallen under the purview of the Holy Office, thereby focusing the work of the Holy Office more specifically on doctrine on faith and morals. The norm stated:

⁷⁰ SC, I, 1^o, n. 2; AAS 1 (1909) 9: "Eidem proinde soli manet iudicium de haeresi aliisque criminibus, quae suspicionem haeresis inducunt."

⁷¹ For more on the secrecy of the CDF, see Lucien Choupin, *Valeur des Décisions Doctrinales et Disciplinaires du Saint-Siège*, 2nd ed. (Paris: Beauchesne, 1928) 65-67.

⁷² SC, I, 1^o, n. 3; AAS 1 (1909) 9: "Ad ipsam quoque devoluta est universa res de indulgentiis, sive quae doctrinam spectet, sive quae usum respiciat."

Whatever is referred to the precepts of the Church, such as abstinences, fasts, holy days of obligation, etc..., and is subject to this sacred Council, is given to the Congregation of the Council; whatever pertains to the election of bishops, the Consistorial Congregation claims for itself; the relaxation of vows in religion and in religious institutes is given to the Congregation for the Affairs of religious members.⁷³

If anything, this reassignment of tasks indicates just how expansive the responsibilities of the Sacred Congregation of the Holy Office had been prior to the 1908 reform.

After indicating what responsibilities were assigned elsewhere, the fifth and final norm delineated which responsibilities would remain with the Holy Office. While Pius X constituted a proper Congregation for the discipline of the Sacraments, nevertheless the Holy Office maintained the faculty of examining those things which pertained to the Pauline privilege, the impediments of disparity of cult and of mixed religion, and those things which pertained to the doctrine concerning matrimony as well as the other Sacraments.⁷⁴

On 29 September 1908, three months following the promulgation of *Sapienti consilio*, Pius X followed up his Apostolic Constitution by approving the *Ordo Servandus*

⁷³ SC, I, 1°, n. 4; AAS 1 (1909) 9: “Quidquid ad Ecclesiae praecepta refertur, uti abstinentiae, ieiunia, festa servanda, id omne, huic sacro Consilio sublatum, Congregationi Concilii tribuitur; quidquid ad Episcoporum electionem spectat, sibi vindicat Congregatio Consistorialis; relaxationem vero votorum in religione seu in religiosis institutis emissorum, Congregatio Negotiis sodalium religiosorum praeposita.”

⁷⁴ SC, I, 1°, n. 5; AAS 1 (1909) 9: “Etsi peculiaris Congregatio sit constituta de disciplina Sacramentorum, nihilominus integra manet Sancti Officii facultas ea cognoscendi quae circa privilegium, uti aiunt, Paulinum, et impedimenta disparitatis cultus et mixtae religionis versantur, praeter ea quae attingunt dogmaticam de matrimonio, sicut etiam de aliis Sacramentis doctrinam.”

*in Sacris Congregationibus Tribunalis Officiis Romanae Curiae*⁷⁵ in which he provided more specific norms as to the actual structure and competence of each dicastery. Directly relevant to this study is the very first article of Chapter VII (*De Singulis Sacris Congregationibus*) in which fifteen norms were specifically provided for the *Congregatio Sancti Officii*.⁷⁶ The norms addressed the internal structuring of the Congregation, created new positions and assigned to them the various tasks for which the Congregation was responsible. Not all of the norms were directly applicable to the primary duty of the protection of doctrine (the latter half are exclusively dedicated to indulgences) yet a few are worth noting in light of the focus of this study.

The norms for the Holy Office began by identifying the key office holders within the Congregation's structure: the Cardinal Secretary, the *Assessor* and the *Commissioner*.⁷⁷ One should note that while there was a Cardinal Secretary appointed to the Congregation, the Roman Pontiff remained as its head. Indeed, as norm 7 below pointed out, even the details of the day to day administration of the Congregation were subject to the pope's approval.

⁷⁵ Pope St. Pius X, *Ordo Servandus in Sacris Congregationibus Tribunalis Officiis Romanae Curiae*, 29 September 1908: AAS 1 (1908) 36-108. Hereafter this document shall be cited as *Ordo*.

⁷⁶ Though the Congregations in this text are referred to as "Sacred Congregations," the specific norms relevant to the Sacred Congregation of the Holy Office are introduced simply by the title *Congregatio Sancti Officii*.

⁷⁷ *Ordo*, VII, I, n. 1; AAS 1 (1909) 78: "Huius Congregationis administri maiores, post Cardinalem a secretis, sunt *Assessor* et *Commissarius*."

The second norm provided for Consultors to assist the Holy Office in its work, all of whom were appointed by the Roman Pontiff. Beyond the Consultors, the document also spoke of a few *Qualificatori*, or experts qualified to provide particular counsel.⁷⁸

The next immediately relevant norm is norm six which indicated:

In handling the affairs which pertain to catholic dogma and morals, and in judging cases of the delicts of heresy, or other crimes which lead to the suspicion of heresy, and for everything which pertains to the dispensation from the impediments of disparity of cult and of mixed religion, the Congregation of the Holy Office proceeds according to its own method and practice, and it keeps its own proper customs, while observing the norms established in this law as far as they can be arranged with the essential discipline of the Holy Office. And in conformity with this, this Congregation will determine for itself the doubts which might arise concerning its competency, always observing the limits established by this Constitution *Sapienti consilio*.⁷⁹

This norm stressed the independence which the Holy Office enjoyed to proceed according to its own norms and procedures and even to settle for itself any controversy of competency in which it may have been involved. The very next norm required that this procedure, unique to the Holy Office, be put in writing as soon as possible, and that, after

⁷⁸ *Ordo*, VII, I, n. 2; AAS 1 (1909) 78: “Consilium constabit, ut ante, Consultoribus a Summo Pontifice nominandis. Praeter Consultores, pergant esse nonnulli Censores, vulgo *Qualificatori*.”

⁷⁹ *Ordo*, VII, I, n. 6; AAS 1 (1909) 78-79: “In tractandis negotiis, quae ad catholicam doctrinam moreque pertineant, et in iudicio ferendo de criminibus haeresis aliisve suspicionem haeresis inducentibus, atque in iis omnibus quae ad dispensationes ab impedimentis disparitatis cultus et mixtae religionis referuntur, Congregatio Sancti Officii suo more institutoque procedit, sibiue propriam consuetudinem retinet, servatis normis in hac lege constitutis, quantum cum necessaria S. Officii disciplina componi possint. Congruenter ad haec, dubia quae circa competentiam Sancti Officii in aliqua re oriri possunt, ipsamet haec Congregatio per se diriment, servatis semper terminis a Constitutione Sapienti consilio praefinitis.”

having been reviewed by the members of the Holy Office, it would be submitted by the Cardinal Secretary to the Roman Pontiff for his approval.”⁸⁰

The 1908 reform of the Curia differed in several respects from the curial organizational reform of Sixtus V. First of all, as noted above, when Sixtus V promulgated *Immensa aeterni Dei*, the only portions of the Roman Curia reformed were those offices specifically addressed in the document; all the entities of the Roman Curia not addressed remained in place as they were. Pius X, however, “differing from that of Sixtus V, . . . wanted [the reform] to be an integral restructuring of the Curia, abolishing all that which was not explicitly treated in the Constitution *Sapienti consilio*. . . .”⁸¹

Second, every curial office which was not explicitly ecclesial in its purpose, i.e., those congregations exclusively pertaining to temporal matters, were abolished.

The third significant characteristic of the Pian reform was its more specific articulation of what “responsibilities were attributed, confirmed, reorganized, or new to each single dicastery.”⁸² The Pope sought to do away with redundancy and overlapping jurisdiction. To that end, the fourth significant element of the Pian reform was the creation of three fundamental categories into which each curial entity would fall depending on the character or nature of the dicastery’s work itself: Congregations,

⁸⁰ *Ordo*, VII, I, n. 7; AAS 1 (1909) 79: “Mos procedendi S. Officii, de quo in superiore num. 6.º, itemque temporalis suae administratoris gerendae ratio, quamprimum erunt scripto redigenda, et postquam a Patribus Cardinalibus revisa fuerint, per Cardinalem a secretis Summo Pontifici erunt subiicienda ut approbentur.”

⁸¹ Stickler, 12: “La prima caratteristica della Riforma Piana del 1908 è che, diversamente da quella di Sisto V, voleva essere una ristrutturazione integrale della Curia, abolendo tutto ciò che non era esplicitamente entrato nella Costituzione ‘Sapienti consilio’ e non era neanche in essa esplicitamente riservato.”

⁸² Ibid.

Tribunals, and Offices. It is these same categories in which all of the dicasteries of the Roman Curia would subsequently be framed for a significant time to come. To each of these was given their respective doctrinal, disciplinary, judicial, and administrative responsibilities.⁸³

Fifth, even though *Sapienti consilio* did not explicitly express it, the pope was now the only one who determined the inferior offices by which the cardinals were assisted in carrying out their dicasterial work. However, the choice of who filled those offices was left to the director of the dicastery.⁸⁴

Sapienti consilio and its subsequent *Regolamento* provided the Roman Curia with an organized structure heretofore unseen. Though the specifics of how the Holy Office was to carry out its work came into sharper focus, still the main thrust of the dicastery's primary concern, even after the Pian reform, remained largely the same, i.e., to protect the integrity of doctrine on faith and morals from the corruption of theological error and heresy. Though *Sapienti consilio* was the first curial reform to have taken place in three hundred years, it would only be another sixty years before the Roman Curia in general, and the Holy Office specifically, would undergo yet another major reform.

⁸³ Ibid.

⁸⁴ Ibid.

E. The Pontificate of Pope Paul VI

The twentieth century was witness to extraordinary civil, technological, geopolitical, and cultural changes which occurred at an exponential rate. Thus, already by 1963 when Giovanni Battista Montini assumed the chair of Peter taking the name Paul VI (1963-1978), the Church was engaged in the task of achieving ecclesial *aggiornamento* by means of the Second Vatican Council in an effort to stay relevant in a world marked by rapid global developments. The broad sweep of this *aggiornamento* included the updating of ecclesial administrative structures. The Council Fathers had expressed in the conciliar decree *Christus Dominus* that the dicasteries of the Roman Curia should be:

. . . reorganized in a way more appropriate to the needs of our own times and of different regions and rites. What needs particular attention is the number of these departments, their titles, the extent of their authority, the procedures proper to each, and the interdepartmental coordination of their activities.⁸⁵

The Council Fathers also indicated in the same document:

Further, since these departments have been established for the wellbeing of the universal church, it is desirable that their members, officials and consultors . . . should as far as possible be drawn more regularly from different regions of the church, so that the offices or central agencies of the catholic church may manifest their truly universal character.

It is also desirable that there should be co-opted into the membership of these departments some additional bishops, especially diocesan bishops,

⁸⁵ Vatican II, Decree *Christus Dominus*, n. 9: AAS 58 (1966) 676-677: “Exoptant autem sacrosancti Concilii patres ut haec dicasteria, quae quidem Romano pontifici atque ecclesiae pastoribus eximium praebuerunt auxilium, novae ordinationi, necessitatibus temporum, regionum ac rituum magis aptatae, subiciantur, praesertim quod spectat eorumdem numerum, nomen, competentiam propriamque procedendi rationem atque inter se laborum coordinationem.” Hereafter this document shall be cited as *CD*. English translation from Tanner, 2:923. All subsequent English translations of Vatican II texts will be taken from this source.

who are able to represent more fully to the supreme pontiff the mind, the aspirations and the needs of all the churches.

Finally, the fathers of the council judge that it would be of great service for these departments to hear more often the views of lay people distinguished for virtue, knowledge and experience in order that they too may play an appropriate part in the affairs of the church.⁸⁶

Three months after assuming office, Paul VI offered a stirring allocution to the Roman Curia in which he spoke of his desire to see the Curia as “a true community of faith, charity, prayer, and action” and not as “a pretentious and apathetic bureaucracy” nor as “a gymnasium of hidden ambitions and of sordid antagonisms” as some had regarded it.⁸⁷ His vision for the nature and mission of the Roman Curia was undoubtedly informed by his own experience of working in the Curia for more than thirty years (1920 to 1955), and his eagerness to address the Curia so quickly in his pontificate proved that its restructuring and development was a priority. Taking into consideration the

⁸⁶ CD, n. 10; AAS 58 (1966) 677: “Praeterea cum eadem dicasteria ad universalis ecclesiae bonum sint constituta, optatur ut eorum membra, officiales et consultores . . . quantum fieri potest, ex diversis ecclesiae regionibus magis assumantur, ita ut catholicae ecclesiae officia seu organa centralia indolem vere universalem prae se ferant. In votis quoque est ut inter dicasteriorum membra cooptentur etiam aliqui episcopi praesertim dioecesani, qui mentem, optata ac necessitates omnium ecclesiarum summo pontifici plenius referre valeant. Denique perutile esse censent concilii patres si eadem dicasteria laicos, virtute, scientia et experientia praestantes, magis audiant, ita ut et ipsi in rebus ecclesiae partes sibi congruentes habeant.”

⁸⁷ Pope Paul VI, *Allocutio ad E.mos Patres Cardinales, Exc.mos Praesules, Rev.mos Praelatos ceterosque Romanae Curiae Officiales*, 21 September 1963: AAS 55 (1963) 800: “La Curia Romana non è un corpo anonimo, insensibile ai grandi problemi spirituali, che detta leggi automaticamente; ma un vivo organo fedele e docile del Capo della Chiesa; un organo compreso delle gravi responsabilità delle sue funzioni, e pieno di riverenza e di sollecitudine verso quei Presuli che *Spiritus Sanctus posuit episcopos regere Ecclesiam Dei* (Act 20:28). Non sia pertanto la Curia Romana una burocrazia, come a torto qualcuno la giudica, pretenziosa ed apatica, solo canonista e ritualista, una palestra di nascoste ambizioni e di sordi antagonismi, come altri la accusano; ma sia una vera comunità di fede e di carità, di preghiera e di azione; di fratelli e di figli del Papa, che tutto fanno, ciascuno con rispetto all’altrui competenza e con senso di collaborazione, per servirlo nel suo servizio ai fratelli e di figli della Chiesa universale e della terra intera.”

perspective of the Conciliar Fathers, Paul VI responded to their call for a curial reform; a reform he carried out shortly after the close of the Second Vatican Council by means of the Apostolic Constitution *Regimini Ecclesiae Universae*.⁸⁸ But prior to issuing this text, on the eve of the close of the Council, Paul VI first issued two significant documents for the history of the CDF: first, a *motu proprio* entitled *Integrae servandae*, and then an apostolic letter *motu proprio* entitled *Pro comperto sane*.

In *Pro comperto sane*,⁸⁹ Paul VI permitted diocesan bishops to serve as members of the various dicasteries with the same status as cardinal members. Such a move was to the great satisfaction of those who, in the course of the conciliar sessions, had called for greater representation and subsidiarity in the central governance of the Church.⁹⁰

The *motu proprio* *Integrae servandae*⁹¹ was dedicated exclusively to the restructuring and renaming of the Sacred Congregation of the Holy Office. The Pope had originally intended to accomplish a curial reform by issuing a separate *motu proprio* for each of the dicasteries aimed at the specific reforms he sought for the individual dicastery

⁸⁸ Pope Paul VI, Apostolic Constitution *Regimini Ecclesiae Universae*, 15 August 1967: AAS 59 (1967) 885-928. Hereafter this document shall be cited as *REU*. For a brief but helpful overview of the state of the Roman Curia upon the election of Pope Paul VI, see Juan Sanchez y Sanchez, "Pablo VI y la Reforma de la Curia Romana," *Revista Española de Derecho Canónico* 3 (1966) 464-476. See also Antonio Vitale, "The Roman Curia as an International Centre of Collaboration and Charity," *Concilium* 127 (1979) 115-120. For a helpful study *REU*'s reform of the congregations, see Eugene Fitzsimmons, "Competence of the Sacred Congregations in the Reform of Pope Paul VI" (JCD diss., Pontifical Lateran University, 1971).

⁸⁹ Pope Paul VI, *Motu proprio Pro comperto sane*, 4 August 1967: AAS 59 (1967) 881-884.

⁹⁰ Gregorio Delgado, *La Curia Romana: El gobierno central de la Iglesia* (Pamplona: Ediciones Universidad de Navarra, S.A., 1973) 30-31.

⁹¹ Pope Paul VI, *Motu proprio Integrae servandae*, 7 December 1965: AAS 57 (1965) 952-955. Hereafter this document shall be cited as *IS*.

in question. *Integrae servandae* was the first, and as it turns out, the only such “tailor-made” document since, after having promulgated it, Paul VI decided to tend to the reform of the Roman Curia in one fell swoop as had his predecessor Pius X in *Sapienti consilio*.⁹² Preferring this route to a dicastery-by-dicastery approach, Paul VI executed the reform by promulgating the Apostolic Constitution *Regimini Ecclesiae Universae*.

With this background in mind, it becomes easy to understand why the norms for what *Regimini Ecclesiae Universae* would call the Sacred Congregation for the Doctrine of the Faith, for the most part, reiterated what *Integrae servandae* had set out, i.e., the norms were transferred from the *motu proprio* and incorporated into the Apostolic Constitution. Thus both texts stated that the CDF’s primary task was to safeguard doctrine regarding faith and morals throughout the Catholic world, “even if by a more moderate juridical rigor and with systems at the same time more positive and more pastoral.”⁹³ A closer examination of *Integrae servandae* is necessary, then, as a preparation for the reforms of *Regimini Ecclesiae Universae*.

⁹² d’Onorio, 300-301: “De nombreuses réunions hebdomadaires s’imposèrent, le Pape [Paul VI] étant informé de l’évolution des travaux et indiquant, au besoin, directement ou indirectement la ligne à suivre. Après un avant-projet, trois projets furent élaborés. Il fut alors convenu de procéder par étapes en publiant les nouvelles normes par document distinct pour chaque Congrégation. C’est ainsi que le Pape appose sa signature au bas du M.P. ‘*Integrae servandae*’ du 7 août 1965 [sic] venant rénover de fond en comble le Saint-Office désormais dénommé Sacrée Congrégation pour la Doctrine de la Foi. Puis on se ravisa car il parut plus opportun de réunir ces différentes mesures en un seul et même document, à l’instar des Constitutions ‘*Immensa aeterni Dei*’ de Sixte V et ‘*Sapienti consilio*’ de Pie X.”

⁹³ Del Re, 101: “. . . sia pure con un rigore giuridico più moderato e con sistemi ad un tempo più positivi e più pastorali.”

1. *Integrae servandae*

Integrae servandae was a short text comprised of an introduction followed by twelve norms by which the Sacred Congregation of the Holy Office was restructured and renamed. In the introductory part of the document, Paul VI stated that the Roman Pontiffs, along with the body of bishops, had faithfully maintained the deposit of revealed religion through the course of centuries. This they had done by the power and guidance of the Holy Spirit who is “the Soul of the Mystical Body of Christ.”⁹⁴ Yet while the Church “is a divine institution and is concerned about divine things, she is composed of men and lives among men”⁹⁵ and is therefore always in need of modification and development to carry out ever more faithfully her mission to preserve that revelation entrusted to her by the Lord. Such was Paul VI’s justification for the curial reform he inaugurated by reforming the Sacred Congregation of the Holy Office. He wrote “[t]here is no doubt that one must properly begin with the Congregation of the Holy Office, due to the fact that to it are entrusted the most important affairs of the Roman Curia, as are the truth in the doctrine of faith and morals and the cases strictly connected to such doctrine.”⁹⁶ With these words, Paul VI provided an explicit acknowledgment of the singular importance of

⁹⁴ *IS*; AAS 57 (1965) 952: “*Integrae servandae* revelatae Religionis depositum sibi divino consilio commissum ita per saeculorum decursum humanasque vicissitudines Romani Pontifices et cum iis coniunctus Episcoporum coetus custodierunt, ut ad nostra usque tempora, non sine superni adiutorii significatione, intactum transmiserint, nimirum per eos operante Spiritu Sancto, qui Mystici Corporis Christi est veluti anima.”

⁹⁵ *Ibid.*

⁹⁶ *IS*; AAS 57 (1965) 953: “*Et initium esse ducendum a Congregatione Sancti Officii non est dubium, quippe cui potissima tributa sint inter Romanae Curiae negotia; qualia profecto sunt de fide moribusque doctrina et causae cum hac doctrina artius conexas.*”

the Sacred Congregation of the Holy Office historically held among the dicasteries of the papal curia.

Paul VI introduced a noteworthy development, however, in outlining the competency of the Holy Office. While maintaining the Holy Office's traditional duty of safeguarding sound doctrine in faith and morals, he also referred to its positive duty to *promote* doctrine as a means to safeguarding it. Citing the first Epistle of Saint John, the Pope pointed out "[b]ecause love drives out fear (1 John 4:18), the protection of the faith will be better assured by an office responsible for promoting doctrine, which will give strength to the heralds of the Gospel, both by correcting errors about it and by gently calling back to the right path those who have gone astray."⁹⁷ This marks the first time that the Holy Office's doctrinal vigilance was set in service, not only to papal magisterium, but also to that of the bishops, as the "heralds of the Gospel." It was also the first time that the task of defending doctrine by the Holy Office included not only the condemnation of error, but also the additional explicit and positive task of *promoting* sound doctrine. Jérôme Hamer saw *Integrae servandae* as a watershed moment in the history of the CDF and observed that the document "put the emphasis henceforth on the positive side of the Congregation's role."⁹⁸ He went on to state:

Let us take into account the precise import of these words. To promote doctrine: that is, to assist its successful advance, to uphold it, to encourage its spread. . . . Certainly, this mission of 'promotion' which henceforth

⁹⁷ *IS*; AAS 57 (1965) 953: "Quoniam vero caritas *foras mittit timorem* (1 Io. 4,18), tuendae fidei nunc melius consulitur per officium promovendae doctrinae: quo dum corriguntur errores, et errantes ad bonam frugem suaviter revocantur, Evangelii praecones novas vires accipiunt." English translation from Hamer, 343.

⁹⁸ Hamer, 343.

receives the position of prominence does not suppress the need for vigilance. One cannot preach the truth of the Gospel and remain indifferent to and passive before the diffusion of error. But the support given to the forces of truth will also condition the way of exercising vigilance.⁹⁹

As another indication of what he called “the [CDF’s] new orientation toward the promotion of doctrine”¹⁰⁰ and as a sign of the overall more positive thrust of the CDF’s focus, Hamer pointed to the fact that the secrecy which before *Integrae servandae* had covered all the affairs of the CDF now only pertained to those matters which, by their nature, necessitated secrecy:

The secret of the Holy Office has caused much ink to flow. Here too we are in a new situation. Before the reform of the Congregation the secret was global: it covered all the activities of the Holy Office. Besides, it was extremely rigorous, any violation caused the imposition *ipso facto* of a major excommunication whose absolution was reserved to the Holy Father. . . . Now there is no secret *proper* to the Holy Office, but rather a general rule for the whole Roman Curia, which distinguishes the “common secret,” whose moral obligation is determined by the order of

⁹⁹ Hamer, 343-344. Hamer indicated that even the new name of “Congregation for the Doctrine of the Faith” to replace “Sacred Congregation of the Holy Office” was indicative of the new emphasis on the positive side of the Congregation’s work. In an article published in the year following the promulgation of *Integrae servandae*, Guillermo Aparicio called this new emphasis on the positive dimension of the Holy Office’s work “the most positive and fruitful of the recent reform”: see Guillermo Aparicio “La reforma del Santo Oficio,” *Sal Terrae* 1(1966) 31: “Creemos que esta nueva dimensión directamente constructiva del Santo Oficio es el elemento más positivo y fecundo de la reciente reforma.” Aparicio regarded the positive work of the Holy Office as a positive step to the creation of a more robust, dynamic, and valiant theology: “El Santo Oficio ha encarnado tradicionalmente una función preventiva y curativa terapéutico-quirúrgica. Sólo tomaba sobre sí una de las funciones necesarias para el sano desarrollo de la Iglesia. Ahora le vemos complementarse con la otra función, la de fomentar directa y positivamente el desarrollo de la vida de fe, la de contribuir directamente al crecimiento de una teología robusta, dinámica y valiente. Esperamos que esta función pase poco a poco a ser primaria en este organismo central. El desarrollo de esta su nueva dimensión será quizás lento, pues la historia deja su huella. Esa huella son en parte hábitos arraigados en una dirección determinada. Tardará más o menos en desarrollarse plenamente esta nueva dimensión. Pero el paso está definitivamente dado” (Aparicio, 30). Other commentaries regarding the reform of the Holy Office inaugurated by *Integrae servandae* include: Eduardo Regatillo, “Reforma de la Sacra Congregación del S. Oficio,” *Sal Terrae* 11 (1966) 741-752; Juan Sanchez y Sanchez, “Pablo VI y la Reforma de la Curia Romana,” *Revista Española de Derecho Canónico* 3 (1966) 461-478.

¹⁰⁰ Hamer, 349.

the superiors or by the nature and importance of the question, and the “special secret”—also called the “pontifical secret”—imposed for certain particularly important affairs. One always has a grave obligation to keep it, but its violation is no longer subject ipso facto to ecclesiastical censure.¹⁰¹

The newly placed emphasis on the positive work entrusted to the Holy Office may be considered a harbinger of the curial reform yet to come in the pontificate of John Paul II when the duty to promote doctrine would be expressed as an equivalent and complimentary task to the Congregation’s task of safeguarding it.¹⁰² Indeed, Paul VI stated that the twelve norms established in *Integrae servandae* were ordered to assist the Congregation in fulfilling its duty to promote sound doctrine. He introduced the twelve norms with these words:

In order that the Sacred Congregation might fulfill more perfectly its duty that is, the promotion of sound doctrine and the Church’s accomplishment of its most important apostolic tasks, we have decided as follows with a view to changing its name and rule.¹⁰³

Yet despite this, the very first norm maintained the traditional articulation of the Congregation’s duty to safeguard (*tutari*) doctrine on faith and morals while remaining silent as to the promotion of doctrine until norm 4. The twelve norms provided in *Integrae servandae* were as follows:

¹⁰¹ Hamer, 348.

¹⁰² See chapter two, at footnote 92, on page 118.

¹⁰³ *IS*; AAS 57 (1965) 953: “Itaque, ut munus suum promovendae sanae doctrinae navitatisque Ecclesiae circa summa apostolatus officia aptius deinceps haec Sacra Congregatio sustineat, suprema Apostolica Nostra Auctoritate ad eius nomen ordinemque immutandum sequentia statuimus: . . .”

“1° That which up to now has been called the *Sacred Congregation of the Holy Office* from now on will have the title of *Congregation for the doctrine of the faith*, whose duty it is to safeguard doctrine regarding faith and morals in the entire Catholic world.”¹⁰⁴ The current name for the Congregation for the Doctrine of the Faith derives from this point in the history of the Congregation, though the descriptor “Sacred” would be added shortly to its name in *Regimini Ecclesiae Universae*. Again, note that the duty ascribed to the dicastery was that of safeguarding, not promoting, doctrine.

“2° The Supreme Pontiff presides over it and the Cardinal Secretary directs it with the help of the Assessor, the “Sostituto” and the Promoter of Justice.”¹⁰⁵ The newly named Congregation for the Doctrine of the Faith now had a Cardinal Secretary who “directed” (*dirigit*) the Congregation even though Paul VI, at one level, preserved the unique relationship between the Congregation and the papacy by indicating here that the pope “presided” (*praeest*) over it. Such presiding, however, would no longer involve the immediate involvement of the pope in the daily administration of the Congregation.

“3° It is the competency of the Congregation to address all questions which pertain to the doctrine of faith and of morals or which are connected to the same faith.”¹⁰⁶

¹⁰⁴ *IS*, n. 1; AAS 57 (1965) 954: “Quae hactenus appellata est Sacra Congregatio Sancti Officii, in posterum appellabitur Congregatio pro doctrina fidei, cuius munus est doctrinam de fide et moribus in universo catholico orbe tutari.”

¹⁰⁵ *IS*, n. 2; AAS 57 (1965) 954: “Ei praeest Summus Pontifex, eamque dirigit Cardinalis Secretarius, iuvantibus Adessore, Substituto et Promotore Iustitiae.”

¹⁰⁶ *IS*, n. 3; AAS 57 (1965) 954: “Ad eam proinde spectant quaestiones omnes, quae fidei morumque doctrinam attingunt, vel cum ipsa fide conectuntur.”

“4° It examines new doctrines and new opinions in whatever way they are spread, promotes studies in this matter, and encourages Congresses of scholars; it condemns those doctrines which prove to be contrary to the principles of the faith, after having above all heard the opinion of the Bishops of those regions, if they have particular attention to the questions.”¹⁰⁷ Though this is the fourth norm, it is the first time the promotion of doctrine was presented as a task of the CDF in this document, despite Paul VI’s introduction of the norms as being in service to the CDF’s responsibility to do just that. The promotion of doctrine was presented as the promotion of efforts in support of the study of doctrine with the aim of equipping those whose task it was to teach the faith and to do so more effectively.

“5° It examines with diligence books which have been pointed out to it and, if necessary, condemns them, after having heard above all the author, to whom must be given the right to defend himself, even a written [defense], and not without having first alerted the ordinary, as has already been established in the Constitution *Sollicita ac provida* of Our Predecessor of happy memory Benedict XIV.”¹⁰⁸

¹⁰⁷ *IS*, n. 4; *AAS* 57 (1965) 954: “Examinat novas doctrinas novasque opiniones, quavis ratione evulgatas, atque studia de hac re promovet, Congressusque virorum doctorum fovet; illas vero reprobate de quibus constat fidei principiis esse oppositas, auditis tamen Episcopis regionum, si eorundem intersit.”

¹⁰⁸ *IS*, n. 5; *AAS* 57 (1965) 954: “Delatos sibi libros diligenter excutit, et eos, si oportuerit, reprobate, audito tamen auctore, eique facta facultates sese, etiam scripto, defendendi, et nonnisi praemonito Ordinario, uti iam cautum est in Constitutione *Sollicita ac provida* Decessoris Nostri f. r. Benedicti XIV.”

“6° Similarly, it is its duty to treat juridically or to address those questions regarding the privilege of the faith.”¹⁰⁹

“7° It is its competency to judge those things concerning delicts against faith, according to the norms of the ordinary procedure.”¹¹⁰

“8° It is to provide for the defense of the dignity of the sacrament of Penance, proceeding according to its amended and approved norms which will be communicated to the Ordinaries, giving to the offender the right to defend himself or of choosing a defense advocate from among those who are authorized by the Congregation.”¹¹¹

“9° It is to maintain fitting relations with the Pontifical Commission for biblical studies.”¹¹² Akin to norm 4 above, here the Congregation was to serve in an auxiliary manner to biblical studies. Given that sound doctrine will always have a footing in sound scriptural exegesis, it is no wonder that the Pope desired the CDF and the Pontifical Commission for biblical studies to foster their mutual relationship.

“10. The Congregation is to avail itself of a group of Consultors which the Supreme Pontiff chooses throughout the world from among men who are distinguished for their doctrine, prudence and specialization. If the matter to be treated requires it, the

¹⁰⁹ *IS*, n. 6; *AAS* 57 (1965) 954: “Eiusdem partier est cognoscere in iure aut in facto quae circa privilegium fidei versantur.”

¹¹⁰ *IS*, n. 7; *AAS* 57 (1965) 954: “Eidem competit iudicare de delictis contra fidem, iuxta processus ordinarii normas.”

¹¹¹ *IS*, n. 8; *AAS* 57 (1965) 954: “Agit ad sacramenti Poenitentiae dignitatem tutandam, secundum suas emendatas et probates normas procedens; quae quidem Ordinariis locorum significabuntur, facta reo sese defendendi facultates, eligendive patronum ex iis qui apud Congregationem adprobati sunt.”

¹¹² *IS*, n. 9; *AAS* 57 (1965) 954: “Rationes opportunas fovet cum Pontificia Commissione de re biblica.”

Consultors may also have the assistance of experts, chosen particularly from among professors of universities.”¹¹³

“11° The Congregation proceeds in a two-fold manner: either administratively or judicially, according to the nature of the various things to be treated.”¹¹⁴

“12° The internal regulation of the Congregation will be made public by means of a particular Instruction.”¹¹⁵ As will be seen below, the CDF responded to this norm in issuing *Libri aliaque*; the text in which the CDF provided its new procedures for conducting its doctrinal examinations.

As stated above, these twelve norms by which the newly named Congregation for the Doctrine of the Faith was restructured were reiterated, by and large, in the subsequent Apostolic Constitution *Regimini Ecclesiae Universae*.

2. *Index librorum prohibitorum supprimitur*

Prior to the promulgation of *Regimini Ecclesiae Universae*, however, one must take note of another significant change in the competency of the CDF. As was noted above, with the promulgation of *Alloquentes* in March of 1917, Benedict XV had

¹¹³ *IS*, n. 10; *AAS* 57 (1965) 954-955: “Eidem Congregationi coetus Consultorum adest, qui a Summo Pontifice ex viris doctrina, prudentia, usu praestantibus ex universo terrarum orbe eliguntur. Consultoribus adiungi possunt, si materia tractanda id exigat, viri periti, praecipue ex magistris Studiorum Universitatum electi.”

¹¹⁴ *IS*, n. 11; *AAS* 57 (1965) 955: “Congregatio duplici modo procedit: vel administrativo vel iudiciali, pro diversa rerum tractandarum natura.”

¹¹⁵ *IS*, n. 12; *AAS* 57 (1965) 955: “Regulae ad ordinem internum Congregationis spectantes, peculiari data Instructione, publici iuris fient.”

abolished the Congregation of the Index and had transferred all of its responsibilities to the then Sacred Congregation of the Holy Office. On 14 June 1966, however, the SCDF issued a notification following *Integrae servandae* declaring that the index of forbidden books no longer enjoyed the full strength of ecclesiastical law and that it was thereby suppressed.¹¹⁶ Signed by Alfredo Cardinal Ottaviani, then Pro-Prefect of the SCDF, the one page notification indicated that the avoidance of any book potentially harmful to one's faith or moral life remained a moral, if not canonical, imperative for the Christian faithful. Such an imperative, the notification stated, emanated from the natural law even if ecclesiastical law no longer binds or penalizes in this matter. "The Church has confidence in the mature conscience of the faithful, and above all of Catholic authors and editors, and of those who are occupied with the education of the young" the notification states.¹¹⁷

Furthermore, applying the principle of subsidiarity, the CDF sought to rely more heavily on the vigilance of individual bishops and episcopal conferences to examine and prevent the publication of noxious books. Still, the notification indicated, if authors were resistant to the correction of their respective bishops, the CDF would exercise its right and fulfill its obligation to reprove, even publicly, such texts "in order to protect with proportional firmness the good of souls."¹¹⁸ This notification, then, ended the exclusive

¹¹⁶ Sacred Congregation for the Doctrine of the Faith, *Notificatio post litteras apostolicas qua Index librorum prohibitorum vim legis ecclesiasticae amplius non habet*, 14 June 1966: AAS 58 (1966) 445.

¹¹⁷ Ibid.: "Quam ob rem Ecclesia fidelium maturae conscientiae confidit, praesertim auctorum et editorum catholicorum atque eorum qui invenibus instituendis operam navant."

¹¹⁸ Ibid.: "Si autem doctrinae et opiniones quovis modo evulgatae prodierint, quae fidei ac morum principiis adversentur, et eorum auctores ad errores corrigendos humaniter invitati id facere noluerint, S.

competency of the CDF to maintain oversight of an index of forbidden books, a responsibility it had discharged for centuries. That the Church needed to continue to exercise vigilance over potentially harmful influences on the doctrinal and moral wellbeing of the faithful was a given. This notification simply acknowledged the import of *Integrae servandae* and placed the responsibility for such vigilance primarily with bishops and, indeed, with all the Christian faithful. The CDF would remain ready to continue its task of vigilance as a help to bishops in examining the doctrinal implications of books or any other medium. The manner by which the CDF would proceed in conducting such examinations was also recast in light of *Integrae servandae*.

3. *Regimini Ecclesiae Universae*

The structure of *Regimini Ecclesiae Universae* was straightforward. Paul VI began the document recognizing that though the Roman Pontiffs, as successors of Saint Peter, had been entrusted with the governance of the Church according to the circumstances and necessities of the times, they had always called upon experts and advisors to assist them in carrying out this mission. Among such collaborators, the Pope specifically mentioned the presbyterate of Rome as well as the College of Cardinals. He then briefly acknowledged the significant advancements made by his predecessors in establishing and adapting the Roman Curia to provide more efficacious service to the papacy and to the universal Church. Acknowledging the significant and rapid

Sedes iure et officio suo utetur ad talia scripta etiam publicae reprobanda, ut animarum bono ea qua par est firmitate consulat.”

advancements made in his own day both in the secular sphere and in the growth of the Church throughout the world, Paul VI based his rationale for yet another curial change on such developments.

Following the opening remarks as to the purpose and scope of the reform, the text was then divided into seven titles. Directly relevant to this study are titles one (*Normae Generales*) and three (*Sacrae Congregationes*). The first title, General Norms, had eighteen norms (nn. 1-18) pertaining to all the dicasteries of the Roman Curia, the CDF included, while the third title (*Sacrae Congregationes*) had twelve norms (nn. 29-40) for the CDF specifically, just as *Integrae servandae* had. Of particular note is the fact that, unlike *Integrae servandae*, which had dropped the adjective “Sacred” from the name for the CDF, *Regimini Ecclesiae Universae* would ascribe it once again.

While not all of the General Norms are terribly significant for the purposes of this study, it is helpful to have at least a sense of the organization Paul VI sought to provide the Roman Curia. The General Norms articulated that the Roman Curia would be comprised of Congregations (all of which were considered juridically equal),¹¹⁹ Tribunals, Offices, and Secretariats,¹²⁰ and all of which were the means through which the Roman Pontiff ordered the affairs of the universal Church. If there were conflicts of

¹¹⁹ *REU*, n. 1 §2; AAS 59 (1967) 890: “Congregationes sunt inter se iuridice pares.”

¹²⁰ *REU*, n. 1 §1; AAS 59 (1967) 890: “Curia Romana, qua Summus Pontifex negotia Ecclesiae universae expedire solet, constat Congregationibus, Tribunalibus, Officiis et Secretariatus.”

competency among the dicasteries, however, it fell to the Apostolic Signatura to resolve the issues.¹²¹

Membership in the Congregations was made up of those cardinals chosen by the Roman Pontiff¹²² as well as diocesan bishops in accord with the abovementioned *Pro comperto sane*.¹²³ The Congregations were presided over by a Cardinal Prefect.¹²⁴ Assisting the Cardinal Prefect was a Secretary and a Sub-secretary, both of whom were chosen by the Roman Pontiff.¹²⁵ All of these figures were to be chosen from an international pool of well-prepared people gifted with pastoral experience¹²⁶ and

¹²¹ *REU*, n. 1 §3; *AAS* 59 (1967) 890: “Conflictus competentiae, si qui oriantur, Signaturae Apostolicae subiciuntur.” Fitzsimmons treats of the Apostolic Signatura’s competency to settle interdicasterial disputes over competency in his last chapter: “Conflicts of Competence,” 231-238, in which he writes: “Given the legislator’s statement in *REU*, n.1, Para. 1 [sic] (it is actually n.1 §2; see footnote 119 *supra*), that the Congregations are juridically equal one with another, it seems necessary to observe that the right formerly acknowledged for the Holy Office to settle doubts of its own competence has ceased. Had it not ceased, there would be juridic inequality among the Sacred Congregations” (238). The “right” of which Fitzsimmons writes was explicitly established for the Sacred Congregation of the Holy Office in the *Ordo* of Pius X (see *supra* at footnote 79).

¹²² *REU*, n. 2 §1; *AAS* 59 (1967) 890: “Congregationes coalescunt ex Cardinalibus, quos Summus Pontifex ascribendos censuerit.”

¹²³ *REU*, n. 2 §2; *AAS* 59 (1967) 890: “Firmis ordinariis coetibus Patrum Cardinalium, ad pertractandas res maioris et naturam principii generalis habentes, Congregationibus Plenariis intersunt, tamquam earumdem Membra, Episcopi dioecesani nominati a Summo Pontifice. Convocatio Episcoporum fieri debet ad normam Litterum Apostolicarum Pro comperto sane Motu Proprio datum die 6 augusti 1967.”

¹²⁴ *REU*, n. 2 §3; *AAS* 59 (1967) 891: “Congregationibus praeest et eas dirigit Cardinalis Praefectus.”

¹²⁵ *REU*, n. 2 §4; *AAS* 59 (1967) 891: “Cardinali Praefecto adiutricem operam praestant Secretarius, electus a Summo Pontifice, necnon Subsecretarius, etiam a Summo Pontifice nominatus, alique Officiales.”

¹²⁶ *REU*, n. 3; *AAS* 59 (1967) 891: “Officiales seliguntur ex variis gentibus inter eos qui vere periti sint et experientia pastoralis praediti.”

appointed for a five year term.¹²⁷ In addition to these figures, each Congregation was to have Consultors, also chosen by the Roman Pontiff from all over the world for a five year term. The Consultors, however, were able to serve for a second five year term.¹²⁸ The remaining norms addressed other matters ranging from when consultation was to be sought and how it was to be provided to the fact that the operative languages of the Roman Curia were to be Latin and other commonly used languages of the day.

Regarding the specific norms for the CDF, they largely reiterated those norms described above from *Integrae servandae*. The very first norm (n. 29) restated the first norm of *Integrae servandae*, namely, that the CDF had the competency to safeguard doctrine regarding faith and morals in the entire Catholic world.¹²⁹ The most significant variance, however, was that the Congregation was now named the Sacred Congregation for the Doctrine of the Faith. The SCDF's duty to safeguard doctrine was reiterated in n. 31 of *Integrae servandae* just as it was reiterated in *Regimini Ecclesiae Universae* in norm 3.

¹²⁷ *REU*, n. 5 §5; *AAS* 59 (1967) 891: "Cardinales, qua Membra Congregationis, itemque Congregationum Secretarii nominantur ad quinquennium et possunt confirmari. Indigent autem confirmatione advenientis novi Summi Pontificis, exactis ab electione tribus mensibus. Ii vero omnes de quibus in superiore §2 ad quinquennium nominatur, iuxta praescriptum editum in comm. Motu Proprio diei 6 augusti 1967 sub n. VI."

¹²⁸ *REU*, n. 5; *AAS* 59 (1967) 891: "In omnibus Dicasteriis adsunt Consultores, a Summo Pontifice ad quinquennium electi ex universo orbe terrarum, tum inter Episcopos residentiales vel titulares, tum inter clericos dioecesanos vel religioso vere peritos, prudentia et usu rerum comprobatos, necnon, si materia alicui Dicasterio subiecta id suadeat, inter laicos virtute, scientia, experientia praestantes, praesertim ex magistris studiorum Universitatum. §2. Consultores possunt confirmari ad aliud quinquennium."

¹²⁹ *REU*, n. 29; *AAS* 59 (1967) 897: "Sacra Congregatio pro Doctrina Fidei munus obtinet doctrinam de fide et moribus in universo catholico orbe tutari."

Norm 32 repeated norm 4 of *Integrae servandae* in requiring the SCDF to examine new doctrines and opinions in whatever way they were presented; it was to promote studies on these matters, and to organize and sponsor meetings of scholars, condemning those doctrines which proved contrary to the principles of the faith, after having heard at least the bishops of the regions from which such new doctrines and opinions originated.

Norm 33 substantially repeated norm 5 of *Integrae servandae* in requiring the SCDF to examine diligently books which had been brought to its attention and to condemn them if necessary but only after having heard the author, after having given him the opportunity to defend himself, and after having consulted with the bishop(s) of the region(s) involved. Unlike *Integrae servandae*, there was no explicit mention here that the author may defend himself in writing.

Norm 34 repeated norm 6 of *Integrae servandae*, namely that it was the duty of the SCDF to handle privilege of the faith cases.

Norm 36 restated norm 8 of *Integrae servandae* in charging the SCDF with the solemn duty of safeguarding the dignity of the Sacrament of Penance, and of giving accused offenders against such dignity the right to self defense.

Norm 37 repeated *Integrae servandae* (n. 9) regarding the relationship between the SCDF and the Pontifical Biblical Commission.

Norm 38 was taken verbatim from *Integrae servandae* n. 10 stressing again the importance of Consultors, chosen by the Supreme Pontiff from throughout the world, who, due to their distinguished doctrine, prudence, and specialized knowledge, were able

to assist the SCDF in treating those matters in which the SCDF needed the help of experts, and especially of university professors.

Finally, the last two norms (nn. 39 and 40) restated the last two norms from *Integrae servandae*. The Congregation was to proceed either administratively or judicially, depending on the nature of the question brought to its attention (n. 39). The internal ordering of the Congregation was to be treated in a separate Instruction, Paul VI indicated, which was to follow this Apostolic Constitution (n. 40). The SCDF would later respond to this requirement in 1971 with the issuance of *Libri aliaque*, by which the SCDF defined the procedures for its doctrinal investigations (see below).

In addition to adding “Sacred” to the name for the Congregation, it is important here to note some other variances between the specific norms for the CDF as presented first in *Integrae servandae* but then later for the SCDF in *Regimini Ecclesiae Universae*. This will prove helpful before considering the *Regolamento*. Unlike *Integrae servandae* n. 2 which described the pope as “presiding” over the Congregation while the Cardinal Secretary “directed” it, here in n. 30 the Cardinal Prefect was said to “preside” over the Congregation, assisted by the Secretary, the Sub-Secretary, and the Promoter of Justice.¹³⁰ While this arrangement was in keeping with general norm n. 2 §3 of *Regimini Ecclesiae Universae*, it did present a significant shift in the relationship between the SCDF and the papacy. Prior to this shift, texts emanating from the Congregation were papal in character insofar as the Roman Pontiff was head of the Holy Office and his name

¹³⁰ *REU*, n. 30; *AAS* 59 (1967) 897: “Ei praeest Cardinalis Praefectus, iuvantibus Secretario, Subsecretario et Promotore Iustitiae.”

on the its documents endowed them with papal authority. After this shift, while it was true that the SCDF texts were in service to papal governance of the Church, they were not *ipso facto* papal documents in character.¹³¹

A second variance in the norms between *Integrae servandae* and *Regimini Ecclesiae Universae* relevant to the Congregation's history pertained to the cases for which the SCDF had judicial competency. *Integrae servandae* (n. 7) granted to the CDF the competency to judge delicts against the faith (*delictis contra fidem*) according to the Congregation's ordinary norms for procedure, whereas *Regimini Ecclesiae Universae* (n. 35) granted the SCDF the competency to judge errors regarding the faith (*erroribus circa fidem*) but still according to the Congregation's ordinary norms for procedure.¹³² It is not entirely clear as to why the terminology was altered in this way. It may have been simply a stylistic consideration since both documents still required the Congregation to follow its

¹³¹ What this shift signifies in terms of the CDF's current place within the Roman Curia is a consideration for chapter five.

¹³² *REU*, n. 35; *AAS* 59 (1967) 898: "Eidem competit iudicare de erroribus circa fidem, iuxta processus ordinarii normas." As will be shown in chapter two, *Pastor bonus* gives the CDF both the competency to address errors (*Pastor bonus*, art. 51) and offences (*delicta*) harmful to the faith (*Pastor bonus*, art. 52), the latter of which serves as a foundation for the 2001 motu proprio of John Paul II, *Sacramentorum sanctitatis tutela*. For a brief overview of the history of the judicial competency of the CDF up to the motu proprio *Sacramentorum Sanctitatis Tutela*, see Giraud Pindi Mwanza, "La competenza giudiziale della Congregazione per la Dottrina della Fede: dagli inizi al M.p. *Sacramentorum Sanctitatis Tutela*" (JUD diss., Pontifical Lateran University, 2007) 10-27.

ordinary procedural norms for conducting the trials.¹³³ On the other hand, it may have been an attempt to aggrandize the competency of the Congregation.¹³⁴

Paul VI put into practice the suggestion of the Second Vatican Council in a skillful manner, “preserving all that of value which the good tradition had conserved and introducing the necessary and appropriate novelties.”¹³⁵ In addition to the introduction of bishops as members of the congregations, the Pauline reforms included

the internationalization of the Roman Curia, the introduction of a time limit (five years) in the duration of functions in the heads of each congregation, as well as of their members, whether cardinal or bishop, of prelate secretaries and of consultors, as well as the introduction of the principle of their automatic cessation in the case of the death of the Supreme Pontiff; a more intimate collaboration between the Roman Curia and diocesan bishops, as well as Episcopal Conferences; the introduction of administrative recourse and of mixed meetings at various levels in order to address questions of competence of the dicasteries.¹³⁶

¹³³ See Fitzsimmons, 38: “Clearly the idea behind the change is to use a terminology more moderate and in keeping with the age. Yet the reality to be conveyed cannot be compromised. The Congregation will have to make a choice when such cases of errors against the faith arrive to be adjudicated if the ordinary norms to be followed will be those for contentious or for criminal cases.”

¹³⁴ Giraud Pindi Mwanza finds Fitzsimmons’ conclusion (see footnote 133 *supra*) non convincing. Rather he argues that the change from delicts to errors reflects a broadening of the CDF’s competency: “Sarebbe più opportuno riflettere nel senso che la parola ‘error’ ha un contenuto più ampio, che possa anche essere applicato agli errori per così dire morale; ma è delitto solo quello che la norma penale stabilisce tale. Comunque l’espressione delicta contra fidem tornerà nei documenti seguenti di Giovanni Paolo II” (see Giraud Pindi Mwanza, “La competenza . . .,” 23).

¹³⁵ Stickler, 13: “Il Pontefice accoglie questo suggerimento [of the Council Fathers] mettendolo in pratica sia conservando tutto ciò che di valido la buona tradizione ha conservato sia introducendo le necessarie ed opportune novità.”

¹³⁶ Palazzini, 193-194: “con la riforma si ebbe una maggiore internazionalizzazione della Curia Romana; l’introduzione di un limite di tempo (cinque anni) nella durata delle funzioni dei capi delle singole congregazioni, nonché dei loro membri componenti, sia cardinali che vescovi, dei prelati segretari e dei consultori, nonché l’introduzione del principio della loro automatica cessazione in case di morte del Sommo Pontefice; un più intimo collegamento della Curia Romana con gli Ordinari diocesani e di questi con la Curia, mercé le Conferenze episcopali; l’introduzione del ricorso amministrativo e delle riunioni miste a vari livelli per la trattazione delle questioni di competenza di più dicasteri.”

Another significant development was the formalization of Councils and Secretariats, especially the establishment of the Secretary of State as that authority responsible for coordinating the Roman Curia.¹³⁷ In fact, in *Regimini Ecclesiae Universae*, after the general norms, the Secretariat of State was treated first before all the other dicasteries, a position heretofore reserved only for the CDF in any systematic presentation of the structure and work of the Roman Curia. It is only after the Secretariat of State is treated that the document goes on to address the Congregations, the first of which is the Sacred Congregation for the Doctrine of the Faith.

4. *Regolamento generale della Curia Romana*

Just as Pius X had laid out his grand reform of the curia in *Sapienti consilio* and subsequently followed it up with a document providing the minutiae of how the newly structured curia would operate on a day to day basis, so too did Paul VI follow up *Regimini Ecclesiae Universae* with a series of rules on the operation of his newly reformed curia. In an audience granted to the Secretary of State on 22 February 1968, Paul VI approved and ordered the promulgation of the *Regolamento generale della Curia Romana*.¹³⁸ This text was divided into two primary parts: the first pertaining to the personnel policies of the curia; and the second pertaining to the administrative procedures

¹³⁷ d'Onorio, 302: "La Constitution vint aussi apporter une nouvelle définition de la Curie, dans la mesure où, à côté des Congrégations, des Tribunaux et des Offices, furent ajoutés trois nouveaux éléments: les Secrétaires, le Conseil '*de Laicis*' et la Commission '*Iustitia et Pax*.'"

¹³⁸ Pope Paul VI, Instruction *Regolamento generale della Curia Romana*, 22 February 1968, *Acta Apostolicae Sedis* 60 (1968) 129-176. Hereafter the *Acta Apostolicae Sedis* shall be cited as AAS.

to be followed by the various entities of the curia in fulfilling the tasks assigned to them. The document concluded with three appendices: the first pertaining to the appointment and role of advocates; the second treated of the profession of faith and various promises made by those who worked in the curia; and the third addressed the curial archive, curial protocol, and the curial library.

5. International Theological Commission and Pontifical Biblical Commission

Short of explicitly establishing it as a co-equal competency, Paul VI stressed both in *Integrae servandae* and *Regimini Ecclesiae Universae* that the work of the Congregation was just as much to promote sound doctrine as it was to safeguard it from doctrinal error. In addition to the curial reforms brought about by the two Pauline documents reviewed above, Paul VI also brought about two very significant developments within the Congregation to assist it, and the Holy See, in fulfilling the Congregation's newly emphasized positive duty: 1) the establishment of the International Theological Commission, and 2) the restructuring of the Pontifical Biblical Commission.

The first of these developments occurred on 11 April 1969 when, in an audience granted to Franjo Cardinal Šeper, then Prefect of the SCDF, Paul VI approved *ad experimentum* the statutes for the newly created International Theological Commission. The statutes were subsequently promulgated on 12 July 1969.¹³⁹ The 1967 Synod of

¹³⁹ Sacred Congregation for the Doctrine of the Faith, *Statuta "ad experimentum" commissionis theologiae*, 12 July 1969: AAS 61 (1969) 540-541. Interesting to note is that Franjo Cardinal Šeper, in addition to receiving the Holy Father's approval to establish the International Theological Commission, also received a letter from the Secretary of State on 24 April 1969 to the same effect (Secretariat of State

Bishops had requested such an entity in their October meeting and Paul VI was eager to respond. A review of these eleven statutes will serve to demonstrate the growing responsibility of the SCDF, not only to refute doctrinal error, but to support actively and to engage the development and articulation of sound doctrine.¹⁴⁰ Indeed, this is a noteworthy development in the history of the Congregation insofar as it was a direct precursor to the significant reform the Congregation would undergo in the pontificate of John Paul II.

The first norm explicitly identified the International Theological Commission as an entity existing within and entirely dependent upon the SCDF; a relationship which the rest of the statutes further demonstrate. Its purpose was to lend assistance to the Holy See and the SCDF in assessing doctrinal questions of “greater importance.”¹⁴¹ Norm nine stipulated that any potential topic for study could be proposed by the SCDF or by members of the Commission itself but determining which questions were of “greater importance” and thus worthy of the Commission’s study was ultimately the decision of

protocol number 134829). Cardinal Šeper makes reference to both the papal audience and the letter from the Secretariat of State in the promulgation of the statutes itself. If nothing else, this is indicative of the curial shift introduced by *Regimini Ecclesiae Universae*, i.e., the relatively novel preeminence of the Secretariat of State over all matters curial, a pride of place historically occupied by the CDF. Here the Prefect of the CDF seeks the Secretariat of State’s approval to establish a commission within his own dicasterial structure.

¹⁴⁰ Joseph Cardinal Ratzinger, as Prefect of the CDF, would later describe the International Theological Commission as providing “a rapprochement of scholarly reflection and pastoral responsibility” in response to the call of bishops in a time “when intellectual problems were becoming ever more complex, and scholarship was leaving its impress on the lives of men in modern society....” See Ratzinger’s foreword in *International Theological Commission: Texts and Documents 1969-1985*, ed. Michael Sharkey (San Francisco: Ignatius Press, 1989) vii.

¹⁴¹ *Statuta*, n. 1; AAS 61 (1969) 540.

the SCDF.¹⁴² If questions arose which required even greater expertise, norm seven permitted the President of the International Theological Commission to establish special *ad hoc* sub-commissions to address them; such commissions ceased upon completion of their assigned study.¹⁴³

The second norm established the Cardinal Prefect of the SCDF as president of the International Theological Commission, though he was able to appoint a Cardinal member of the SCDF to represent him at particular meetings of the Commission,¹⁴⁴ which were to take place at least once a year.¹⁴⁵ He was also to appoint a Secretary of the Commission to handle day to day affairs.¹⁴⁶

The fourth, fifth, and eleventh norms provided regulations for the members of the International Theological Commission. Norm four indicated that the Commission was to be comprised of theologians from various schools and nations, all of whom were to be chosen for their renowned theological knowledge and fidelity to the magisterium of the Church.¹⁴⁷ Norm five stipulated two regulations regarding membership: 1) they were appointed by the Supreme Pontiff for a renewable term of five years upon the recommendation of the Cardinal Prefect of the SCDF, who was to have consulted

¹⁴² *Statuta*, n. 9; AAS 61 (1969) 540.

¹⁴³ *Statuta*, n. 7; AAS 61 (1969) 540.

¹⁴⁴ *Statuta*, n. 2; AAS 61 (1969) 540.

¹⁴⁵ *Statuta*, n. 6; AAS 61 (1969) 540.

¹⁴⁶ *Statuta*, n. 3; AAS 61 (1969) 540.

¹⁴⁷ *Statuta*, n. 4; AAS 61 (1969) 540.

previously the relevant episcopal conferences; and 2) there were not to be more than 30 members in total.¹⁴⁸ Norm eleven required all the members of the International Theological Commission to maintain the pontifical secret regarding the topics studied according to the *Regolamento* of the Roman Curia.¹⁴⁹

Norms eight and ten provided the remaining regulations for proper procedure. Norm eight stipulated that the consultation of the theologian members could be garnered in writing.¹⁵⁰ Norm ten required that all the conclusions reached by the International Theological Commission had to be brought by the SCDF to the Supreme Pontiff for his approval.¹⁵¹ As part of the SCDF, the International Theological Commission existed in service to papal magisterium and thus did the statutes require that the fruit of the Commission's labor be placed before the Supreme Pontiff to be used as he saw fit.

On 6 August 1982, approximately thirteen years after Paul VI had approved the statutes of the International Theological Commission *ad experimentum*, John Paul II

¹⁴⁸ *Statuta*, n. 5; AAS 61 (1969) 540. Joseph Cardinal Ratzinger comments that the role of episcopal conferences in the selection of members for the International Theological Commission helps ensure that the Commission “would not just represent different theological disciplines, diverse language groups with their attendant cultural specificities and varying approaches to theological method. In addition, this procedure [of selecting members] would also entail collaboration between the universal primate and the world episcopate as well as a *commercium* between pastors and teachers. For, although admittedly an individual theologian could only represent his own scholarly competence, yet he would be aware that he brought with him the confidence of his own bishop and that his labors were serving bonds that should hold between bishops and theologians” (Sharkey, vii).

¹⁴⁹ *Statuta*, n. 11; AAS 61 (1969) 541.

¹⁵⁰ *Statuta*, n. 8; AAS 61 (1969) 540.

¹⁵¹ *Statuta*, n. 10; AAS 61 (1969) 540-541.

found it opportune to approve new statutes in a stable and definitive manner.¹⁵² By and large, the statutes approved in 1982 are a reiteration of those legislated by Paul VI in 1969. There are some noteworthy variances, however, which highlight the International Theological Commission's service, not just to the Supreme Pontiff, but to the college of bishops as well. For example, whereas in the 1969 statutes, only the SCDF or individual members of the Commission could propose matters to be studied and addressed, norm nine now permits the topics for consideration to be suggested by other dicasteries of the Roman Curia, by Synods of Bishops, and also by episcopal conferences.¹⁵³

What the International Theological Commission demonstrated was the increasing ability of the SCDF to contribute positively to, and actively engage in, theological questions of the day by its collaboration with and oversight of the ITC. This function, quite distinct from its traditional duty to safeguard theological purity, is nonetheless inherently related to such safeguarding. To this end, the International Theological Commission has issued documents aimed at addressing a wide variety of topics ranging from priestly ministry (1970), theological pluralism and the unity of faith (1972), apostolic succession (1973), marriage (12 June 1977), to a variety of christological questions (1979).¹⁵⁴ More recent examples would include the christological text addressing the degree to which Christ was consciously aware of his identity and mission

¹⁵² John Paul II, *Motu proprio Tredecim anni*, 6 August 1982: AAS 74 (1982) 1201-1205. An English translation is available in *Canon Law Digest* 10:31-34. Hereafter the *Canon Law Digest* shall be cited as *CLD*.

¹⁵³ *Tredecim anni*, n. 9; AAS 74 (1982) 1203.

¹⁵⁴ See the above-cited Sharkey text for an English presentation of all of the texts emanating from the International Theological Commission from its inception through 1985.

(1986),¹⁵⁵ the subject of eschatology (1991),¹⁵⁶ and the evolution and theological import of the diaconate (2002).¹⁵⁷

The second major development within the Congregation came as a result of the call of the Second Vatican Council expressed in the dogmatic constitution *Dei Verbum* when the Council Fathers stated:

Catholic exegetes and other theologians should work together, under the eye of the Church's teaching authority, taking all suitable means to study and expound the Bible, so that ministers of the word may be able, as widely as possible, to nourish God's people with the food of the scriptures."¹⁵⁸

In order to respond to the conciliar call for a renewal in biblical studies, Paul VI turned his attention to the Pontifical Biblical Commission, an entity that had been instituted in 1902 during the pontificate of Pope Leo XIII (1878-1903).¹⁵⁹ On 27 June 1971, Paul VI promulgated the apostolic letter *Sedula cura* in which he outlined 15 norms by which the Biblical Commission would be reformed and set in service to the advancement of biblical scholarship in addition to its traditional role of protecting the

¹⁵⁵ International Theological Commission, *De Iesu Autoconscientia quam scilicet ipse de se ipso et de sua missione habuit: Quattuor propositiones explanatur* (Rome: Libreria Editrice Vaticana, 1986).

¹⁵⁶ See a summary of this text in chapter three, page 211.

¹⁵⁷ See a summary of this text in chapter three, page 220.

¹⁵⁸ Vatican II, Dogmatic Constitution *Dei Verbum*, 18 November 1965: AAS 58 (1966) 828, n. 23; Tanner, 2:979: "Exegetae autem catholici, aliaque sacrae theologiae cultores, collatis sedulo viribus, operam dent oportet, ut sub vigilantia sacri magisterii, aptis subsidiis divinas litteras ita investigent atque proponent, ut quam plurimi divini verbi administri possint plebi Dei Scripturarum pabulum fructuose suppeditare." Hereafter this document shall be cited as *DV*.

¹⁵⁹ Pope Leo XIII, Apostolic letter *Vigilantiae studii*que, 30 October 1902: AAS 35 (1902-1903) 234-238.

Christian faithful from scriptural misinterpretation.¹⁶⁰ The Pope's motivation, as expressed in *Sedula cura*, was "to further in a more efficacious manner the sound progress of biblical studies," "[to keep] the interpretation of Scripture immune from any reckless opinions whatsoever, and furthermore to coordinate in a more consonant manner the collaboration of exegetes and theologians with the Holy See and among themselves."¹⁶¹

Many of the norms established in *Sedula cura* for the Biblical Commission are identical to those outlined above for the Theological Commission. For example, the Biblical Commission is linked to, and completely under the direction of, the SCDF;¹⁶² the president of the Biblical Commission is the Cardinal Prefect of the SCDF who is assisted by a Secretary;¹⁶³ its mission, like that of the Theological Commission, is expressed in positive terms, namely to promote sound biblical studies and to offer a valid contribution to the magisterium of the Church in the interpretation of sacred scripture;¹⁶⁴ plenary meetings of the Biblical Commission are to take place at least once a year;¹⁶⁵ the input of members can be obtained in writing;¹⁶⁶ conclusions reached by the Biblical Commission

¹⁶⁰ Pope Paul VI, Motu proprio *Sedula cura*, 27 June 1971: AAS 63 (1971) 665-669.

¹⁶¹ *Sedula cura*, n. 1; AAS 63 (1971) 666: "Consilio igitur permoti efficaciori ratione sanae doctrinae progressum in re biblica iuvandi et Scripturarum integram, necnon exegetarum et theologorum collaborationem cum Sancta Sede et ad invicem aptius coordinandi . . ."

¹⁶² *Sedula cura*, n. 1; AAS 63 (1971) 666.

¹⁶³ *Sedula cura*, n. 2; AAS 63 (1971) 667.

¹⁶⁴ *Sedula cura*, n. 1; AAS 63 (1971) 666.

¹⁶⁵ *Sedula cura*, n. 6; AAS 63 (1971) 667.

¹⁶⁶ *Sedula cura*, n. 8; AAS 63 (1971) 667.

are submitted to the Supreme Pontiff for his judgment as to how to use them, again emphasizing that this entity is fundamentally in service to papal magisterium;¹⁶⁷ members of the Biblical Commission are appointed for a five year term (renewable) by the Supreme Pontiff, and are proposed to his judgment by the cardinal president, after he has consulted with the respective episcopal conferences;¹⁶⁸ the Biblical Commission membership is to represent respected scholars of the biblical science, coming from various schools and nations, who are distinguished by their knowledge, wisdom, prudence, and who are known for their fidelity to the magisterium of the Church;¹⁶⁹ and all of the members of the Biblical Commission, like those of the Theological Commission, are to maintain the pontifical secret regarding the matters they study.¹⁷⁰ The faculty is also granted to the Cardinal President of the Biblical Commission, as it is to the President of the Theological Commission, to organize sub-commissions of members who have a particular expertise in the matter to be addressed. Unlike the Theological Commission, however, the sub-commissions of the Biblical Commission are able to seek the opinion of other experts, including that of non-Catholics.¹⁷¹

¹⁶⁷ *Sedula cura*, n. 10; AAS 63 (1971) 668.

¹⁶⁸ *Sedula cura*, n. 4; AAS 63 (1971) 667.

¹⁶⁹ *Sedula cura*, n. 3; AAS 63 (1971) 667.

¹⁷⁰ *Sedula cura*, n. 15; AAS 63 (1971) 668.

¹⁷¹ *Sedula cura*, n. 7; AAS 63 (1971) 667.

Other differences between the Theological Commission and the Biblical Commission include the following: membership in the latter is limited to 20;¹⁷² the norms for the Biblical Commission explicitly present a much broader base from which topics to be addressed may be proposed. Biblical questions for study are welcome from the Congregation, from the Biblical Commission itself, from synods of bishops, episcopal conferences, Catholic universities or biblical societies.¹⁷³ Making the determination of which proposed questions will actually be addressed, however, is a prerogative reserved to either the Supreme Pontiff personally or to the President of the Biblical Commission and not additionally to the Congregation as is the case with the Theological Commission.¹⁷⁴

Also included in the norms for the Biblical Commission not found in those for the Theological Commission is the explicit bestowal of the responsibility to complete studies and to prepare instructions and decrees, all of which the Congregation, with the permission of the Supreme Pontiff, may publish with special reference to the Biblical Commission itself.¹⁷⁵ It also had the task of maintaining relations with other institutes of biblical studies, be they Catholic or not, an expectation not explicitly made of the Theological Commission.¹⁷⁶

¹⁷² *Sedula cura*, n. 4; AAS 63 (1971) 667.

¹⁷³ *Sedula cura*, n. 9; AAS 63 (1971) 668.

¹⁷⁴ *Sedula cura*, n. 9; AAS 63 (1971) 668.

¹⁷⁵ *Sedula cura*, n. 11; AAS 63 (1971) 668.

¹⁷⁶ *Sedula cura*, n. 12; AAS 63 (1971) 668.

Since its inception, the Biblical Commission has treated a variety of topics relevant to biblical scholarship and ecclesial life. In a particular way, the documents of the Biblical Commission, though fewer in number than those emanating from the Theological Commission, provide a great service to bishops throughout the world in their mission to proclaim the word of God. Some key examples of this are the Biblical Commission's 1984 document on the scriptural foundations of sound Christology;¹⁷⁷ its 1988 treatment of the scriptural foundations for ecclesial unity borne from a diversity among particular Churches;¹⁷⁸ and its text on the interpretation of Sacred Scripture within the life of the Church.¹⁷⁹

The attention which Paul VI gave to the SCDF in creating the Theological Commission and in reforming the Biblical Commission provided an entirely new emphasis for the SCDF itself; an emphasis which would not detract from its traditional duties but only add to them in a complementary and positive manner.

6. *Libri aliaque*

In response to *Integrae servandae* n. 12 and *Regimini Ecclesiae Universae* n. 40, the SCDF issued *Libri aliaque* on 15 January 1971, thereby establishing its internal

¹⁷⁷ For an English translation of this document and a helpful commentary, see Joseph A. Fitzmyer, SJ, *Scripture and Christology: A Statement of the Biblical Commission with a Commentary* (Mahwah, NJ: Paulist Press, 1986).

¹⁷⁸ Pontifical Biblical Commission, *Unité et diversité dans l'Église* (Vatican City: Libreria Editrice Vaticana, 1988).

¹⁷⁹ See a summary of this text in chapter three, page 229.

procedures for the way in which it would examine doctrinal teachings.¹⁸⁰ Unlike the Theological Commission, and to a lesser extent the Pontifical Biblical Commission, both of which could engage in the development and articulation of sound doctrine, these procedures were in keeping with the SCDF's traditional role of safeguarding doctrine by probing and examining various theological opinions deemed, at least potentially, to be suspect. At the same time the procedural norms demonstrated that these doctrinal investigations had a pastoral aim.

In general, the procedures were meant to protect the faithful from an author's erroneous theological opinions which, if not corrected, could cause great confusion regarding divine revelation and the teaching of the authentic magisterium. The examination of such opinions was also envisioned as a help to the author of the text in question insofar as it engaged his thought and sought to probe it more fully, thus providing him an opportunity to discover what he may have misunderstood or to take into consideration a new insight which may have led him to a differing conclusion. Furthermore, the procedures' concern for ecclesial unity was evident in their requirement that the interested ordinary or ordinaries be kept informed of the process and the resultant conclusions so that they would be better equipped to maintain vigilance and to respond pastorally to the author whose writing was in question.

¹⁸⁰ Sacred Congregation for the Doctrine of the Faith, *Nova agendi ratio in doctrinarum examine Libri aliaque*, 15 January 1971: AAS 63 (1971) 234-236. In light of *Pastor bonus*, art. 51, the CDF issued updated norms in 1997 which are reviewed in chapter two.

The procedures called for an assembly of superiors and major officials of the SCDF to meet every Saturday in order to determine the best way to proceed with the examination of a particular text brought to their attention; i.e., either by the extraordinary or ordinary process.¹⁸¹ If the text exhibited erroneous theology such that its dissemination would cause, or had already caused, a real injury to the Christian faithful, the SCDF followed its extraordinary procedure. In this scenario, the interested ordinary or ordinaries were notified immediately so as to address the problem with the author and to correct the error quickly.¹⁸² The manner of examination would then follow the ordinary procedure of inviting the participation of the author.

The ordinary procedure would commence when a particular theological opinion warranted a more extensive and closer examination. Two experts were charged to do a preliminary review of the text.¹⁸³ In addition to these experts, a spokesman or advocate “in favor of the author” was also appointed.¹⁸⁴ If after this initial review of the text no erroneous or dangerous opinions were noticed, the interested ordinary was to be notified

¹⁸¹ *Libri aliaque*, n. 1; AAS 63 (1971) 234: “Libri aliaque scripta typis edita vel sermons habiti, quorum argumentum ad Sacram Congregationem pro Doctrina Fidei spectat, ad Congressum referuntur, qui Superioribus et Officialibus constat et singulis sabbatis coadunatur.”

¹⁸² *Libri aliaque*, n. 1; AAS 63 (1971) 234.

¹⁸³ *Libri aliaque*, n. 3; AAS 63 (1971) 234. The experts were charged to prepare the material in question, to examine it carefully to see if it was in conformity with revelation and the teaching of the church, to express a judgment on the teaching contained therein, and to suggest any disciplinary measures which might be necessary.

¹⁸⁴ *Libri aliaque*, n. 6; AAS 63 (1971) 235. The author’s advocate was to highlight the positive aspects of the opinion in question in a spirit of truth and to address the merits of the author; to cooperate in the genuine interpretation of the author’s thought in its general and theological context; and to express a judgment regarding the influence that the author’s thought may have on the Christian faithful and the life of the Church.

of this fact. If, on the other hand, some false or dangerous opinions were discovered, the SCDF would alert the ordinary or interested ordinaries about it¹⁸⁵ and would stipulate which propositions deemed erroneous or dangerous were to be communicated to the author so that he could present his response in writing.¹⁸⁶

The “opinions” of the above parties, i.e., of the experts, the advocate “in favor of the author,” and the author’s written response, if provided, along with the notes of the proceedings were bound together and were established as a report to be considered in a formal discussion by the commissioned group of SCDF officials.¹⁸⁷

All of the above material, along with a summary of the commission’s discussion, was then to be distributed to the ordinary congregation of cardinals at least a week before the members of the SCDF came to discuss it.¹⁸⁸ This ordinary congregation was presided over by the Cardinal Prefect, who presented the question and expressed his opinion; the

¹⁸⁵ *Libri aliaque*, n. 12; AAS 63 (1971) 236.

¹⁸⁶ The author had one month of useful time to respond in writing (see *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* [Vatican City: Libreria Editrice Vaticana, 1983] cc. 200-203 for the computation of useful time). Hereafter the 1983 Code of Canon Law shall be cited as 1983 *CIC*. If the author did not respond, the CDF commission was to determine what the next proper steps would be (*Libri aliaque*, n. 16; AAS 63 [1971] 236). If he did respond, and a meeting was deemed necessary, the author was invited to a personal meeting with the commissioned members of the CDF (*Libri aliaque*, n. 13; AAS 63 [1971] 236) and a summary of that meeting, signed by the author and those conducting the meeting, was to be maintained (*Libri aliaque*, n. 14; AAS 63 [1971] 236). The author’s written response as well as the summary of the meeting were later presented to the ordinary congregation of the cardinals for the decision (*Libri aliaque*, n. 15; AAS 63 [1971] 236).

¹⁸⁷ The discussion began with the exposition of the spokesman “in favor of the author.” After him, every consultor expressed, verbally or in writing, his own opinion on the content of the examined text; then the spokesman “in favor of the author” was able to respond to the consultors’ observations or to provide any needed clarifications. When the consultors formulated their “opinions,” the spokesman exited the room. Such “opinions” finally, at the end of the discussion, were read and approved by the same consultors. (*Libri aliaque*, n. 8; AAS 63 [1971] 235).

¹⁸⁸ *Libri aliaque*, n. 9; AAS 63 (1971) 235.

others followed in order. The opinions of everyone were gathered and recorded by the undersecretary, in order to be read and approved at the end of the discussion.¹⁸⁹ The ordinary congregation decided whether and how the outcome of the examination needed to be published.¹⁹⁰

Then, the Cardinal Prefect or the Secretary, in the weekly papal audience which one of the two of them had, placed the decisions before the Supreme Pontiff for approval.¹⁹¹ The decisions were to be subsequently communicated to the ordinary or interested ordinaries.

F. Conclusion

Libri aliaque was the direct response to Paul VI's request for a newly defined set of norms governing the activity of the SCDF which he required in *Integrae servandae* and *Regimini Ecclesiae Universae*. These norms regulated the SCDF in safeguarding doctrine from error. The newly approved Theological Commission and the newly reformed Biblical Commission gave the SCDF the opportunity to engage in the positive task of promoting doctrine as well as its scriptural foundation. As this brief history of the Congregation for the Doctrine of the Faith has shown, the former task has been its principle duty since the congregation's inception in the 16th century, whereas the latter task has been taken up only recently. From Paul III's post-Tridentine group of six

¹⁸⁹ *Libri aliaque*, n. 10; AAS 63 (1971) 235.

¹⁹⁰ *Libri aliaque*, n. 17; AAS 63 (1971) 236.

¹⁹¹ *Libri aliaque*, n. 11; AAS 63 (1971) 235.

cardinals endowed with doctrinal authority, its formal establishment as the Holy Office and as first among the congregations in *Immensa aeterni Dei*, the streamlining of the Holy Office and the maintenance of the pope as its head in *Sapienti consilio*, to the developing dual competency of promoting doctrine during the pontificate of Paul VI, the CDF has undergone significant changes in order to continue its service to safeguarding the Church's doctrinal heritage. The development of the CDF's duty to promote doctrine, and not only to refute error, initiated in the pontificate of Paul VI, would become more concretely expressed in the next major curial reform to occur during the pontificate of Pope John Paul II. For this significant step, one must look to the Apostolic Constitution *Pastor bonus*.

CHAPTER TWO

THE CONGREGATION FOR THE DOCTRINE OF THE FAITH IN THE CURIAL REFORM OF *PASTOR BONUS*

The 1983 Code of Canon Law provides sparse legislation for the Roman Curia. In fact, after the two most directly relevant canons (cc. 360 and 361), there are just a few others which make provisions related to the functioning of the Roman Curia (see cc. 19, 64, 354, 356, 1445 §2, and 1709 §1). The Code itself provides the reason for this paucity of legislation in explicitly stating that the “constitution and competence” of the curial dicasteries are defined elsewhere in “special law.”¹

John Paul II promulgated the Apostolic Constitution *Pastor bonus* on 28 June 1988² which, as proper law, provides the more focused and detailed norms for the competencies proper to each dicastery and the manner of interaction between them. Though *Pastor bonus* is proper law, the constitution has at the same time a universal scope in that the norms for the Roman Curia have obvious ramifications for the universal

¹ 1983 *CIC*, c. 360: “Curia Romana, qua negotia Ecclesiae universae Summus Pontifex expedire solet et quae nomine et auctoritate ipsius munus explet in bonum et in servitium Ecclesiarum, constat Secretaria Status seu Papali, Consilio pro publicis Ecclesiae negotiis, Congregationibus, Tribunalibus, aliisque Institutis, quorum omnium constitutio et competentiae lege peculiari definiuntur.”

² Pope John Paul II, Apostolic Constitution *Pastor bonus*, 28 June 1988: AAS 80 (1988) 841-923. Hereafter this document shall be cited as *PB*. Subsequent legislation has slightly modified *Pastor bonus*, e.g., the placement of the Pontifical Commission *Ecclesia Dei* under the leadership of the Prefect of the CDF (see Pope Benedict XVI, Motu proprio *Ecclesiae Unitatem*, 8 July 2009 [Vatican City: Libreria Editrice Vaticana, 2009]; English translation available in *Origins* 39 [2009] 161-163; the AAS for this text has not yet been published; hereafter this document shall be cited as *EU*). See chapter five for further treatment of this development.

Church, e.g., it determines to which dicastery matters should be addressed when recourse or appeal is taken to the Apostolic See from throughout the Catholic world.

Far from being “a suffocating law, abundant in miniscule prescriptions”³ however, *Pastor bonus* establishes the general legal framework in which the Roman Curia can be the best servant possible to the Roman Pontiff, from whom it derives its existence, and in serving him, to serve also the college of bishops and the Church at large. In fact, *Pastor bonus* called for regulatory documents to be published subsequently, both for the Roman Curia in general (art. 37) and for each dicastery in particular (art. 38) to provide even further specifications for day to day operations. The former requirement was met in 1992 with the publication of the *Regolamento generale della Curia Romana*⁴ and later updated in 1999.⁵ The latter requirement for what *Pastor bonus* calls simply the Congregation for the Doctrine of the Faith was met in 1997 with the publication of the *Regolamento proprio della Congregazione per la Dottrina della Fede*.⁶

The fact that *Pastor bonus* is a legal text does not mean that it has no pastoral purpose.⁷ In fact, quite the opposite is true. John Paul II personally chose the Apostolic

³ Rosalio José Castillo Lara, “La Costituzione Apostolica *Pastor Bonus* in prospettiva giuridica,” *L'Osservatore Romano* (16 July 1988) 1: “Va tuttavia osservato che non si tratta di una legge soffocante, abbondante in minuziose prescrizioni.”

⁴ Secretariat of State, *Regolamento generale della Curia Romana*, 4 February 1992: AAS 84 (1992) 201-267. Hereafter this document shall be cited as 1992 *Regolamento*.

⁵ Secretariat of State, *Regolamento generale della Curia Romana*, 1 July 1999: AAS 91 (1999) 629-699. Hereafter this document shall be cited as 1999 *Regolamento*.

⁶ The author of this study sought the *Regolamento proprio* for the Congregation for the Doctrine of the Faith but it is considered by the dicastery not to be a public document..

⁷ One must recall that all law within the Church is ultimately ordered to the eminently pastoral end of the salvation of souls (c. 1752).

Constitution's title from John 10:11,14 for very intentional reasons; it sets the pastoral tone for the document and stresses the fact that Christ is the unique and supreme pastor of the Church and the only model for all ecclesial pastoral activity.⁸ The Pope's choice of title for the legal document governing the Roman Curia sends the clear message that the work of the Roman Curia is included in the ambit of pastoral activity. This is precisely John Paul II's point: the Roman Curia is not simply a governmental bureaucracy but is a close aid to the Roman Pontiff enabling him to fulfill his office as shepherd of the universal flock of Christ. The very first article of the document expresses this pastoral dimension in ascribing the following definition to the Roman Curia:

The Roman Curia is the complex of dicasteries and institutes which help the Roman Pontiff in the exercise of his supreme pastoral office for the good and service of the whole Church and of the particular Churches. It thus strengthens the unity of faith and the communion of the people of God and promotes the mission proper to the Church in the world.⁹

The need to recast the mission of the Roman Curia into pastoral terms was one which John Paul II evidently perceived early in his pontificate. By the time he

⁸ Jean Beyer, S.J., "Le linee fondamentali della Costituzione Apostolica *Pastor bonus*," in *La Curia Romana nella Cost. Ap. 'Pastor Bonus'*, ed. Piero Antonio Bonnet and Carlo Gullo (Vatican City: Libreria Editrice Vaticana, 1990) 17.

⁹ *PB*, art. 1; AAS 80 (1988) 859: "Curia Romana complexus est Dicasteriorum et Institutorum, quae Romano Pontifici adiutricem operam navant in exercitio eius supremi pastoralis muneris ad Ecclesiae Universae Ecclesiarumque particularium bonum ac servitium, quo quidem unitas fidei et communio populi Dei roboratur atque missio Ecclesiae propria in mundo promovetur." English translation by Francis C.C.F. Kelly, James Provost, and Michel Thériault provided in the *Code of Canon Law, Latin-English Edition* (Washington, DC: Canon Law Society of America, 1998) 699-700. All subsequent English translations of *Pastor bonus* will be taken from this source. Hereafter "Canon Law Society of America" shall be cited as CLSA. Provost observes that there is a modification of the language used in this first article from that used in *Christus Dominus* n. 9. The latter refers to the Roman Pontiff's power as "supreme, full, and immediate" whereas here, in *Pastor bonus*, the office is referred to as the pope's "supreme pastoral office." See James Provost, "*Pastor bonus*: Reflections on the Reorganization of the Roman Curia," *The Jurist* 48 (1988) 510.

promulgated *Pastor bonus*, it had been just short of twenty-one years since Paul VI's major reform with *Regimini Ecclesiae Universae*. What were the motivating factors which led John Paul II to bring about yet another curial reform? What did he hope to achieve? In what ways is *Pastor bonus* similar to and distinct from the curial reforms which predate it? With regard to the CDF, what place does *Pastor bonus* provide it within the Roman Curia? How does the CDF exist in service to the Petrine ministry and to the universal Church? What innovations does *Pastor bonus* provide for the CDF? These questions point to the subject matter for this present chapter, namely the identity and mission of the Congregation for the Doctrine of the Faith in the curial reform instituted by *Pastor bonus* with a special emphasis on its responsibility to promote doctrine as a part of its "proper duty."

A. The Necessity for Another Curial Reform: the Genesis of *Pastor bonus*

1. 1969 Extraordinary Synod of Bishops

As stated in the first chapter, Paul VI's efforts at reforming the Roman Curia were undertaken in part due to the call for such reforms by the Fathers of the Second Vatican Council, articulated especially in the conciliar text *Christus Dominus*, and in part due to his own personal desire for a reformed Curia to assist him in his office. The haste with which he addressed the issue so early in his pontificate is indicative of where on the Pope's list of priorities such a curial reform fell. Yet in issuing *Regimini Ecclesiae Universae*, Paul VI did not provide every reform sought by the bishops, and from among

those initiated, not all were sufficiently implemented. For example, though *Regimini Ecclesiae Universae* called for greater internationalization among curial personnel, no central personnel office was ever established to ensure that this reform actually took place. As a result, the hiring of staff continued as it had before, namely, those already in the employ of the Holy See looked to their contacts and acquaintances to make trustworthy recommendations for potential hires.¹⁰ Another example involves the role of diocesan bishops in the work of the Roman Curia. Though *Regimini Ecclesiae Universae*, based on *Pro comperto sane*, had allowed bishops to be members of the various dicasteries of the Holy See, still their involvement was limited to plenary sessions only. Even then, the plenary sessions did not always meet on an annual basis or with any regularity.¹¹

Due to lingering frustrations born from these incomplete reforms, some bishops saw an opportunity to raise their concerns about further curial reforms when, in 1969, the first Extraordinary Synod of Bishops was called to address the relationship between the Apostolic See and episcopal conferences. In preparation for the synod, episcopal

¹⁰ Juan Sanchez y Sanchez observed in 1966: “No queríamos generalizar, por si acaso hubiera excepciones, que no conociéramos. Pero se puede afirmar que esta regla, en un buen número de casos, por no decir en la mayoría, no se ha cumplido. En la provision de estos oficios [those offices other than the major officials of the congregation] ha intervenido frecuentemente hasta ahora factores de todo género, de los que no han estado excluidos, v. gr., el paisanaje, la amistad personal de los candidates con los encargados de proveerlos, el favoritismo, etcetera, sin que ello quiera decir que los elegidos estuvieran desprovistos de las cualidades requeridas. Eran, sencillamente, preferidos” (Juan Sanchez y Sanchez, “Pablo VI . . .,” 471).

¹¹ Sanchez y Sanchez, “Pablo VI . . .,” 467: “Desde hace años—así se nos informa en Roma—muchas congregaciones no han tenido ninguna plenaria. Ni siquiera una sola vez se han reunido los cardenales para tartar colegialmente asuntos relativos a esas congregaciones. El hecho es ése, aunque ignoremos las causas. Si ellos son los que realmente constituyen (y además *essentialiter*) las congregaciones, resulta difícil explicar cómo éstas han podido subsistir durante los años en los que no ha habido ni una sola reunion.”

conferences submitted *inter alia* the following concerns vis-à-vis the Roman Curia: 1) bishops should have a greater role in the various dicasteries and should be involved more frequently; 2) curial communication of information to diocesan bishops should be done more frequently and more expeditiously; 3) the bishops or representatives of dioceses or regions concerned should be consulted before the curia issues decrees directly addressing or regulating an issue arising from the internal life of those areas;¹² 4) curial documents ought to be released to the episcopal conferences prior to general release; and 5) commissions ought to be established in episcopal conferences which would correspond to the dicasteries of the Roman Curia thereby facilitating communication between the two.¹³ When the 1969 Extraordinary Synod met, many of these issues were addressed and voted on by the bishops.¹⁴ Of the resulting resolutions, however, Paul VI went on to approve only one: the prior communication of documents through papal legates whenever possible.

What this information about the 1969 Extraordinary Synod reveals is that many bishops throughout the world were anticipating further curial modification, at least when

¹² This eventually found its way into *Pastor bonus*, article 26 §2.

¹³ The SCDF had already taken the initiative by this time to require episcopal conferences to establish doctrinal commissions so as to collaborate more fruitfully with the bishops of the world in their duty to promote and safeguard doctrine. See Sacred Congregation for the Doctrine of the Faith, *Istruzione sulla necessità di istituire le Commissioni dottrinali presso le Conferenze episcopali* (23 February 1967), in *Enchiridion Vaticanum 2* (1963-1967) 824-827. Hereafter the *Enchiridion Vaticanum* shall be cited as *EV*. Two other significant texts from the Congregation regarding the doctrinal commissions of episcopal conferences are: *Suggerimenti ai Presidenti delle Conferenze episcopali per migliorare il servizio dei comitati dottrinali* (10 July 1968) in *EV*, *SI(Omissa 1962-1987)* 234-239, and *Lettera della Congregazione per la Dottrina della Fede a tutti i presidenti delle Conferenze Episcopali*, 23 November 1990, USCCB Prot. N. 3317/69.

¹⁴ Edmund Farhat, “De Primo Extraordinario Synodi Coetu (1969),” *Monitor Ecclesiasticus* 97 (1972) 13-15.

it came to issues of communication. They were also seeking greater involvement and representation in the Roman Curia so that it, as a result, would be a better assistant to them in carrying out their apostolic ministry in the varied pastoral dynamics of the particular Churches throughout the world. In essence, the bishops were eager for the Roman Curia to be less a Roman bureaucracy and more an internationally minded agency of pastoral service. As it turns out, this desire would be a chief motivating factor in the curial reforms undertaken by Pope John Paul II and would have a direct effect on the pastoral nature of all the dicasteries of the Roman Curia, the SCDF included.¹⁵

2. Revisiting *Regimini Ecclesiae Universae*

In 1972, five years after promulgating *Regimini Ecclesiae Universae*, and three years after the 1969 Extraordinary Synod of Bishops, Paul VI requested the heads of the various curial offices to review and to appraise honestly the curial reforms initiated by *Regimini Ecclesiae Universae*. Two years later in 1974, based on the feedback he was receiving from the dicasterial heads of the Roman Curia, Paul VI established a commission to revise *Regimini Ecclesiae Universae* accordingly. Among the specific concerns still lingering were the following: 1) the meetings of the cardinal prefects still proceeded largely in secret; 2) the internationalization of the curia had not yet been

¹⁵ Beyer, 18: “La Costituzione *Pastor Bonus*, considerato un certo complesso anti-romano, vuol chiaramente evitare un pericolo di isolamento e una possibile tendenza centrifuga. Chi esamina attentamente il testo sotto il suo aspetto dottrinali vede come centrale, in quest’esposto dottrinali introduttivo il ministero di Pietro, ministero che, da anni, il Papa Giovanni Paolo II si vede costretto a mettere in evidenza, a ricordare e spiegare meglio. Si può dire che è stata una necessità post-conciliare.”

adequately achieved;¹⁶ and 3) a greater representation of bishops was still needed in the membership of the dicasteries.¹⁷

The commission had nearly completed its work by the time Paul VI died. After the extremely short pontificate of Pope John Paul I (26 August 1978 – 28 September 1978), the responsibility to carry out the needed reforms of the Roman Curia was left to the next Pope whose entrepreneurial creativity and vigorous pastoral outreach would characterize his lengthy pontificate and would result in a renewed perspective, not only for the Roman Curia, but for every sector of ecclesial life.¹⁸ Upon his election on 16

¹⁶ Even the above cited 1992 *Regolamento* (see chapter two, footnote 4 *supra*) required in article 12 §3 that the Curia reflect the universality of the Church by choosing officials from various nations but, at the same time, seemed to have softened this requirement with the qualifier that this is to be done “as much as possible”: “Gli Officiali saranno scelti, per quanto è possibile, dalle diverse regioni del mondo, così che la Curia rispecchi il carattere universale della Chiesa” (1992 *Regolamento*, 207). This was repeated verbatim in the subsequent update of the *Regolamento* in article 13 §3 (1999 *Regolamento*, 636) (see chapter two, footnote 5 *supra*). Both of these reflect the wording of *Pastor bonus*, article 9.

¹⁷ See Juan Sanchez y Sanchez, “La constitution apostolique ‘Regimini ecclesiae universae’ six ans après,” *Année Canonique* 20 (1976) 63-64. Sanchez y Sanchez categorized his observations regarding the efficacy of the reforms of *REU* six years after its promulgation into “solutions réelles,” i.e. those reforms inaugurated by *REU* which had a positive impact on the life of the Roman Curia, e.g., a challenge to careerism, addressing mixed competency, and the establishment of administrative recourse to the Apostolic Signatura for the resolution of jurisdiction controversies; “demi-solutions,” i.e., those reforms needing to be carried further, e.g., greater transparency to cardinalatial meetings, greater internationalization of the curia (“Les Italiens continuent d’être en majorité.”), greater participation of bishops in dicasteries; and “solutions contestées,” i.e., those solutions yet to be realized, e.g., the fact that the cardinals continue to control the implementation of the curial reforms (“En pratique ils [the cardinals] continuent d’être TOUT.”), the political affairs of the Church, the disappearance of certain dicasteries, and the reservation of certain power and jurisdiction to the Apostolic See.

¹⁸ Giovanni Battista Cardinal Re provided a fitting reflection and tribute to Pope John Paul II as the author of *Pastor bonus* during the XIV Curso de Actualización en Derecho Canónico organized by the Canon Law Faculty of the University of Navarre (18 to 22 September 1989). See Giovanni Battista Re, “El Autor de la ‘Pastor Bonus’: Perfil de un Pontificado,” *Ius Canonicum* 30, no. 59 (1990) 25-38. Regarding Pope John Paul II’s noteworthy pastoral outreach, Cardinal Re reflected: “Juan Pablo es ‘desde luego Aquel que, en nuestros tiempos, se ha encontrado personalmente con el mayor número de seres humanos. Son innumerables las personas a quienes ha estrechado la mano, a quienes ha hablado, con quienes ha rezado, a quienes ha bendecido’ (Card. Ratzinger ‘Giovanni Paolo II’ Peregrino por el Evangelio – ‘Ediz. Paoline’, pág. 17). Nadie se ha encontrado nunca, directamente, con tantas personas, como este Papa. Y para El toda persona es preciosa. Además, en estos años, no ha habido en el mundo ninguna otra personalidad capaz de interesar a la opinión pública en la media en que lo ha hecho Juan Pablo II. De

October 1978, Karol Wojtyła chose the name John Paul II (1978-2005) and shortly thereafter set himself in earnest to carry on the reform of the Roman Curia.

3. Pope John Paul II and the College of Cardinals

Early in his pontificate, John Paul II turned to the dicasteries of the Roman Curia for advice on its reform. In addition, while seeking counsel from the College of Cardinals on what to do about the financial straights in which the Apostolic See found itself, he took the opportunity to get their input regarding a more sweeping reform of the Roman Curia in general. The Pope addressed the convened cardinals on 5 November 1979 and again four days later on 9 November 1979 and expressed his aspiration that the Roman Curia be of great use to bishops and conferences of bishops throughout the world.¹⁹ It

ningún otro Papa, en once años de pontificado, se han ocupado tanto la prensa, la radio y la televisión. Todos los Papas de la historia, juntos, no reúnen, en sus desplazamientos, los kilómetros recorridos por Juan Pablo II en sus viajes. Contando todos los kilómetros recorridos por este Papa, hallamos que son tantos cuantos suma la distancia entre la tierra y la luna, más la mitad del camino de regreso de la luna a la tierra. En ningún Pontífice se ha revelado el ‘carisma de las masas’ como en este Papa de las multitudes. Posee una gran ‘carga humana.’ Su persona, su presencia, suscitan entusiasmo, suscitan fuertes emociones. Las multitudes le escuchan con simpatía y le aclaman: todos quieren tocarle y besarle la mano. Hay más. No se puede negar que este Papa ha ejercido durante los últimos once años una profunda incidencia en la realidad mundial” (26). These words only serve to demonstrate that if his pontificate was marked with such accessibility and such an extraordinary outward looking and missionary perspective, it comes as no surprise that the reforms he would require of the Roman Curia would lead it to adopt a very similar perspective.

¹⁹ Pope John Paul II, *Allocution*, 5 November 1979: AAS 71 (1979) 1447-1457; *Allocution*, 9 November 1979: AAS 71 (1979) 1457-1461. In the second of the two November 1979 allocutions to the cardinals, the Holy Father stated: “Non est Nobis propositum iterum tractare de argumentis, quae ad perpendendum, etiam per venturos menses, vobis sunt exhibita. Satis est dicere, quod attinet ad ordinationem Curiae Romanae, fore ut attente excipiantur suggestiones, consilia, propositiones, quae, sincero amore erga Ecclesiae universalis bonum ducti, vos significastis et significabitis, ea mente, ut institutum illud, tam multiplex et varium, Curiae Romanae habile reddatur ad praestandum servitium in dies magis peritia commendatum, praestans, utile Episcopis et Conferentiis episcopalibus totius orbis terrarum” (1459).

was clear that he intended to carry on his predecessor's work of revisiting *Regimini Ecclesiae Universae* to achieve greater curial efficiency, utility, and pastoral sensitivity.²⁰

He spoke with the cardinals again on 26 November 1982, telling them that he had two primary goals for a reformed Roman Curia. First, the Curia was to have a pastoral aim in accord with the vision of the Second Vatican Council as well as with the expressed expectations of the post-conciliar 1983 Synod of Bishops.²¹ Second, the Roman Curia should have greater structural parallels between it and episcopal conferences, itself a request that had been made at the 1969 Synod of Bishops.²² The cardinals responded by seeking even greater reforms than those proposed by the original Pauline commission. John Paul II decided to provide the project of reforming the Curia a fresh start and established an entirely new commission in 1983.²³ The newly constituted commission

²⁰ Pope John Paul II would later write in *Pastor bonus* that his reform of the curia and that of *Regimini Ecclesiae Universae* were “closely linked, since both in some way derive from the Second Vatican Council and both originate from the same inspiration and intent.” See *PB*, n. 6; AAS 80 (1988) 849: “. . . quacum [*Regimini Ecclesiae Universae*] haec Nostra arcte coniungitur [*Pastor bonus*], quippe quod utraque a Concilio Vaticano II, eadem ducente cogitatione et mente, originem quodammodo ducat.”

²¹ AAS 75 (1983) 141-146.

²² See AAS 75 (1983) 140: “Hoc propositum mentis, quod suscipimus, dum opus nostrum incipimus, permittit nobis ut constituamus aliquas rerum dignitates vel, ut aiunt, ‘prioritates fundamentales.’ Ita quidem—servatis translaticiis rationibus iuridicis—necesse esse videtur pro structures Curiae Romanae quaerere magis semper *directionem pastorem*, quae tum luculenter eminet ex tota Concilii Vaticani Secundi doctrina. Ad eundem finem directa sunt opera Synodi Episcoporum post Concilium. Tam incepta ipsa quam coniuncto et adiutrix opera inter singular Dicasteria Curiae debent *multo plus etiam ostendere hanc pastorem directionem*. His diebus unaquaeque dioecesis per orbem operatur ex sua primaria sede pastoralis. Ministerium igitur pro unitate Ecclesiae, quod proprium est Apostolicae Sedis, conformandum est *necessitatibus ac muneribus illis pastoralibus*.” Regarding the 1969 synodal request for commissions in each episcopal conference to parallel the structure of the Roman Curia, see Farhat, 10.

²³ Pope John Paul II assigned Aurelio Cardinal Sabattani, Prefect of the Apostolic Signatura, as the commission's president. The commission members were Bishops Giovanni Coppa (Secretariat of State), Eduard Gagnon (Council for the Family), Zenon Grocholewski (Apostolic Signatura), Rosario José Castillo Lara (Code Commission), and Monsignors A. Ranaudo and G. Marra, both from the Administration of the Patrimony of the Apostolic See (see Provost, “*Pastor bonus*: Reflections . . .,” 507).

met for fifty-three sessions, the first of which took place in February 1984, in order to prepare the *Schema Legis Peculiaribus de Curia Romana*, or the *Schema* for the Special Law of the Roman Curia. This draft document was distributed *sub secreto* to the cardinals, patriarchs of the Oriental Churches, and presidents of episcopal conferences for their review and comment in anticipation of the cardinals' plenary meeting with John Paul II scheduled for November, 1985.

The *Schema Legis Peculiaribus de Curia Romana* attempted in 160 articles to craft a pastoral and “user-friendly” Roman Curia based on the two guiding principles which John Paul II had stated at the 1983 plenary meeting of cardinals. The commission also sought to present a *schema* which would adequately reflect other ancillary goals established by the commission itself, namely, to bring about a true reform and not simply a recasting of pre-existing norms; to demonstrate manifestly the utility, necessity, and efficiency of each entity of the Roman Curia; to provide pared down norms which would leave room for future specification and development; and to structure the Curia based on the principles of subsidiarity and decentralization just as the Code Commission had sought to do in its *schema* drafting for the Code of Canon Law.

How well the *schema* met these goals is debatable. James Provost offered a contemporaneous critique of the *schema*, finding it to be lacking in many regards, not the

The author of this study sought access to the preparatory documents to *Pastor bonus* but was informed by the Secretariat of State that they were not, as of yet, available for scholarly research and remained private documents.

least of which was its failure to meet the two primary expectations of the Pope.²⁴ The *schema* was rejected at the 1985 meeting of cardinals and John Paul II established yet another commission to try again.²⁵ Eventually the *schemata* would serve as the precursors to *Pastor bonus* which, though borrowing heavily from the preparatory documents, went beyond them to provide a more developed ecclesiological and pastoral foundation for the need and purpose of the Roman Curia. What did not find its way into *Pastor bonus*, however, was the second of John Paul II's hopes, namely, a curial structure that coincided with the structures typically found in episcopal conferences and diocesan curiae.

With this background in mind, it is easy to see why John Paul II desired that the Roman Curia be not simply a collection of administrative and judicial offices, but even more importantly, an agent of pastoral assistance to the bishop of Rome and to the college of bishops throughout the world. To that end, three articles of the constitution's

²⁴ See James Provost, "Reform of the Roman Curia," *Concilium* 188 (1986) 26-36. Despite Pope John Paul II's two expressed hopes for a reformed Curia, Provost regarded the *schema* to have fallen short on both counts: "the revision seems to have been so concerned about technical details that it not only ignores the ecclesiological issues but even fails to breathe the *pastoral sensitivity anticipated by the pope* [sic]" (32) and "the pope wanted an organization which would more readily relate to typical diocesan structures, yet the proposed reform continues the division of responsibilities traditional in the curia rather than corresponding to usual diocesan activities" (33). Provost also noted that the principle of subsidiarity was ignored, the conflict of dicasterial competency was not sufficiently addressed, the internationalization of curial personnel was mentioned but no specific norms were established beyond what *Regimini* had indicated to bring about a true reform, the involvement of bishops in the work of the various dicasteries was not improved since the *schema* did not require even an annual plenary session, and while the *schema* made a distinction between those offices exercising the power of governance and those that did not, still it failed to address the nature of curial power in general.

²⁵ The new commission, unlike the previous one, was comprised exclusively of cardinals: Sebastiano Cardinal Baggio (Commission for Vatican City)—President, Francis Cardinal Arinze (Secretariat for Non-Christians), Rosalio José Cardinal Castillo Lara (Code Commission), Eduardo Cardinal Gagnon (Council for the Family), Opilio Cardinal Rossi (Commission for Pontifical Sanctuaries), and Alphonse Maria Cardinal Stickler (Librarian and Archivist of the Apostolic See) (see Provost, "*Pastor bonus*: Reflections..." 507).

general norms (nn. 33-35) seek to combat bureaucratization. Article 33 identifies the activity of the Roman Curia as a “true ecclesial service, marked with a pastoral character” since “it is a sharing in the world-wide mission of the bishop of Rome.”²⁶ Article 34 requires each dicastery to cooperate readily with all the others so that their work may “be forged into one.”²⁷ Article 35 addresses priests who work as curial staff and exhorts them to engage in pastoral activity directly aimed at the care of souls in addition to, but not to the neglect of, their curial responsibilities. While the article acknowledges the apostolic character of their curial duties, it serves as a reminder that priests who work in the Roman Curia ought not to regard themselves as bureaucrats with a sacerdotal character. Rather, they would do well to engage in pastoral activity and thereby recall that they are first priests who, by their appointment to the Roman Curia, help serve the pastoral objectives of the Holy See in service to the Petrine ministry.²⁸

John Paul II assumed the Chair of Peter at a moment when the relatively recent reform of his inherited Curia was itself under review. The general sense that the Curia was not yet the servant it could be was a concern demanding the Pope’s attention. The pastoral scope of the Curia’s labors is very much at the heart of *Pastor bonus* and is the

²⁶ *PB*, n. 33; AAS 80 (1988) 868: “Eorum omnium actuositas, qui apud Romanam Curiam ceteraque Sanctae Sedis instituta operantur, verum ecclesiale est servitium, indole pastorali signatum, prouti in universali Romani Pontificis missione participatio, summa cum officii conscientiae atque cum animo serviendi ab omnibus praestandum.”

²⁷ *PB*, n. 34; AAS 80 (1988) 869: “Singula Dicasteria proprios fines persequuntur, ea tamen se conspirant; quare omnes in Romana Curia operantes id efficere debent, ut eorum operositas in unum confluat et temperetur. Omnes igitur parati semper sint ad propriam operam praestandam ubicumque necesse fuerit.”

²⁸ *PB*, n. 35; AAS 80 (1988) 869: “Etsi quaevis opera in Sanctae Sedis Institutis praestita cooperatio est in actione apostolica, sacerdotes pro viribus in curam animarum, sine praeiudicio tamen proprii officii, actuose incumbant.”

hermeneutic by which to understand the articles which treat of the CDF, and in particular, it is the key to understanding the CDF's competency to promote doctrine. A deeper exploration of the pastoral tenor of this document is warranted.

Pastor bonus is comprised of two major parts: an introduction in fourteen sections followed by 193 articles providing the specific norms for the various entities of the Roman Curia. The introductory portion of the document provides John Paul II's thinking on the ecclesiological and pastoral context for the Roman Curia and thereby supplies a rich theological backdrop for the articles which follow in the second portion of the document.²⁹ A review of that introduction will set the stage for a closer examination of the norms.

B. The Pastoral Tone of *Pastor bonus*

1. *Diaconia* In Service To *Communio*

The two major themes presented from the very beginning of the introduction are those of *diaconia* (n.1) and *communio* (n.2). The Pope states at the outset of *Pastor bonus*, borrowing heavily from *Lumen gentium*, n. 24, that Christ, the Good Shepherd, bestowed upon the apostles, "and in a singular way on the bishop of Rome," the task of serving the people of God as promoters and custodians of ecclesial communion (*communio*) such that the task of the shepherd can only be understood fundamentally in

²⁹ For a brief but helpful commentary on the introductory part of *PB* see Umberto Betti, "La collocazione ecclesiologica della Curia Romana," *L'Osservatore Romano* (9 July 1988) 1.

terms of service which, in Scripture, is called a *diaconia*.³⁰ In entrusting this *diaconia* to all of the apostles, and to Peter uniquely, and through them to their successors, the Lord Jesus endowed the hierarchical constitution of the Church with both “a primatial and collegial nature at the same time”³¹ whereby all “the pastors of the Church share in the threefold office of Christ—to teach [*munus docendi*], to govern [*munus gubernandi*], and to sanctify [*munus sanctificandi*].”³² The Pope roots these three *munera* in the Second Vatican Council by making a direct reference to *Lumen gentium*:

In that way, then, with priests and deacons as helpers, the bishops received the charge of the community, presiding in God’s stead over the flock of which they are the shepherds in that they are teachers of doctrine, ministers of sacred worship and holders of office in government. Moreover, just as the office which the Lord confided to Peter alone, as first of the apostles, destined to be transmitted to his successors, is a permanent one, so also endures the office, which the apostles received, of

³⁰ See *PB*, n. 1; AAS 80 (1988) 841: “PASTOR BONUS Dominus Christus Iesus (cf. Io 10, 11.14) missionem discipulos faciendi in omnibus gentibus atque praedicandi Evangelium omni creaturae Apostolorum successoribus Episcopis, et singulari ratione Romano Episcopo, Petri successori, ita contulit, ut Ecclesia, Dei Populus, constitueretur atque eiusmodi Populi sui Pastorum munus esset revera servitutum, quod ‘in Sacris Litteris ‘diaconia’ seu ministerium significantur nuncupatur’ (*LG*, 24).” See Beyer, 19: “Fondamentale nella *Pastor Bonus* è la comunione ecclesiale. Il ministero di Pietro e della Curia sono servizio di comunione, comunione allo stesso tempo ecclesiale e gerarchica. Questo aspetto è rilevante nella Costituzione, e fin dall’inizio. Il Cristo Buon Pastore ha voluto che ogni funzione pastorale sia ‘diaconia’, cioè ‘ministero.’ Questo ministero è servizio. Servizio che tende prima di tutto ad instaurare la ‘communio’ nel Corpo della Chiesa tutta, comunione dalla quale si possono prevedere, come dice la ‘Lumen Gentium,’ i frutti più abbondanti (Cfr. *Lumen gentium*., n. 24). Così è definito lo spirito che anima la Costituzione Apostolica, spirito del quale deve vivere la Curia al servizio dei Vescovi, essendo la Curia stessa servizio del successore di Pietro.” For Beyer’s reference to *Lumen gentium*, see Vatican Council II, Dogmatic Constitution *Lumen gentium*, 21 November 1964: AAS 57 [1965] 5-71; hereafter this document shall be cited as *LG*.

³¹ *PB*, n. 2; AAS 80 (1988) 842.

³² *PB*, n. 2; AAS 80 (1988) 843. Damizia notes “[c]ertamente l’attività del Signore non può essere limitata a questi tre uffici, ma essi sono gli unici, che possono essere assunti dagli uomini” (see Giuseppe Damizia, “La Funzione di Insegnare nella Chiesa,” in *Il Nuovo Codice di Diritto Canonico: Novità, Motivazione e Significato: Atti della Settimana di Studio*, 26 – 30 aprile 1983 [Rome: Libreria Editrice della Pontificia Università Lateranense, 1983] 267).

shepherding the Church, a charge destined to be exercised without interruption by the sacred order of bishops.³³

Also influenced by the Second Vatican Council, the 1983 Code of Canon Law is itself structured in a way reflecting the triple *munera*, e.g., the *munus docendi* is now a book unto itself as opposed to a part of book III, *De Rebus*, in the 1917 Code of Canon Law.³⁴ The triple *munera*, then, present both a theological and juridical way to describe

³³ *PB*, n. 2; AAS 80 (1988) 843. The quote is from *LG*, n. 20; AAS 57 (1965) 23-24: “Episcopi igitur communitatis ministerium cum adiutoribus presbyteris et diaconis susceperunt, loco Dei praesidentes gregi, cuius sunt pastores, ut doctrinae magistri, sacri cultus sacerdotes, gubernationis ministri. Sicut autem permanet munus a Domino singulariter Petro, primo Apostolorum, concessum et successoribus eius transmittendum, ita permanet munus Apostolorum pascendi Ecclesiam, ab ordine sacro Episcoporum iugiter exercendum.” The Council Fathers spoke of the triple *munera* of Christ and thus of the pastors of the Church elsewhere as well: e.g., *LG*, n. 21; AAS 57 (1965) 24: “. . . Episcopalis autem consecratio, cum munere sanctificandi, munera quoque confert docendi et regendi . . .”; *CD*, n. 30; AAS 58 (1966) 688: “In hac autem cura gerenda parochi, cum suis adiutoribus ita munus docendi, sanctificandi et regendi adimpleant, ut fideles atque communitates paroeciales, tum dioecesis tum totius Ecclesiae universalis membra revera se sentiant”; Vatican Council II, decree *Unitatis redintegratio*, 21 November 1964, n. 2; AAS 57 (1965) 92: “Ad hanc autem sanctam suam Ecclesiam ubique terrarum usque ad consummationem saeculi stabiliendam, Christus munus docendi, regendi et sanctificandi Collegio Duodecim concredidit.” Hereafter this document shall be cited as *UR*. See also Vatican Council II, Decree *Presbyterorum Ordinis*, 7 December 1965, n. 7; AAS 58 (1966) 1001: “Episcopi igitur, propter donum Spiritus Sancti quod Presbyteris in sacra Ordinatione datum est, illos habent ut necessarios adiutores et consiliarios in ministerio et munere docendi, sanctificandi et pascendi plebem Dei.” Hereafter this document shall be cited as *PO*. See also Vatican Council II, Decree *Apostolicam actuositatem*, 18 November 1965, n. 2; AAS 58 (1966) 838: “Apostolis eorumque successoribus a Christo collatum est munus in ipsius nomine et potestate docendi, sanctificandi et regendi.”

³⁴ Carlos J. Errázuriz, “La Dimensión Jurídica del ‘Munus Docendi’ Nella Chiesa,” *Ius Ecclesiae* 1 (1989) 177: “L’assegnazione di un intero libro del Codice di Diritto Canonico alle norme riguardanti il *munus docendi*, costituisce indubbiamente una delle novità sistematiche più rilevanti del nuovo Codice. In effetti, si è passati dalla parte IV *De Magisterio ecclesiastico* del libro III *De rebus* del Codice del 1917, ad un autonomo libro III *De Ecclesiae munere docendi*, con l’ampliamento di prospettive evidenziato dal nuovo titolo, in sintonia con la dottrina dei *tria munera* quale rinveniamo nel Concilio Vaticano II.” See also Luigi Chiappetta, “Munus Docendi,” in *Prontuario di Diritto Canonico e Concordatario* (Rome: Edizioni Dehoniane, 1994) 789-790: “Attesa l’importanza della materia, il nuovo Codice ha dedicato alla funzione magisteriale della Chiesa un libro a sé, mentre nel Codice anteriore questa si presentava come quarta parte del libro II *De rebus*, col titolo ‘De Magisterio ecclesiastico.’ Nell’attuale Codice, l’esposizione è più ordinata e più logica, e la terminologia più moderna, conforme al linguaggio del Concilio Vaticano II. . . . È stato giustamente osservato che la nuova normativa sul ‘munus docendi’ della Chiesa si contraddistingue soprattutto per lo spirito che la anima: uno spirito di continuità e di rinnovamento, di fedeltà alla tradizione e di apertura alla nuova situazione storico-culturale, in cui il messaggio evangelico dev’essere trasmesso e attuato. Il libro III dell’attuale Codice, sia sotto l’aspetto sistematico che sotto quello contenutistico, come per il suo deciso orientamento pastorale, merita una

the *diaconia* of Christ handed on to Peter and the apostles and to their successors.³⁵ As Damizia notes, however, the distinction made between the three *munera* of teaching (*docendi*), governing (*gubernandi*), and sanctifying (*sanctificandi*) ought not to be made too sharply such that the distinction is misperceived to be a separation, as if Christ's ministry could be parsed into three neat categories. Rather there is permeability between them; the three are interrelated and together comprise in an integrated manner the *diaconia* of the pastoral office.³⁶

The primatial and collegial character of the hierarchical constitution of the Church, then, means that every bishop of the Church is charged with this *diaconia*, i.e., he is charged to teach, govern, and sanctify the portion of the people of God entrusted to his care in such a way that the *communio* proper to the Lord's flock flourishes.³⁷ But this is all the more true for the bishop of Rome, "whose Petrine ministry works for the good and benefit of the universal Church."³⁸

particolare apprezzamento. I canoni più importanti da un punto di vista dottrinale sono stati tratti dal progetto della *Lex Fundamentalis*, che si aveva in animo di promulgare a parte."

³⁵ For a thorough study of the triple *munera* in Scripture and in the Tradition, see Aurelio Fernandez, *Munera Christi et Munera Ecclesiae: Historia de Una Teoría* (Pamplona: Ediciones Universidad de Navarra, 1982).

³⁶ Damizia, 268: "Il concilio non ha . . . descritto il rapporto che esiste tra i *tria munera*, ma fa comprendere che la loro delimitazione non può essere assoluta, perché tra i *tria munera* esiste una permeabilità. Non sono tre uffici distinti e separate, ma la sfera d'influenza di uno si estende anche sugli altri."

³⁷ *CD*, n. 11; AAS 58 (1966) 677: "Singuli Episcopi, quibus Ecclesiae particularis cura commissa est, sub auctoritate Summi Pontificis, tamquam proprii, ordinarii et immediati earum pastores, oves suas in nomine Domini pascunt, munus docendi, sanctificandi et regendi in eas exercentes."

³⁸ *PB*, n. 2; AAS 80 (1988) 843: "Id vero ad singulos Episcopos in proprio cuiusque particulari Ecclesia spectat; attamen tanto magis ad Romanum Episcopum pertinet, cuius ministerium Petrianum in universalis Ecclesiae bonum utilitatemque procurandam incumbit: Romana enim Ecclesia praesidet

The Roman Church has charge over the “whole body of charity” [St. Ignatius of Antioch] and so it is the servant of love. It is largely from this principle that those great words of old have come—“The servant of the servants of God”—, by which Peter’s successor is known and defined.³⁹

This study therefore understands the pastoral ministry of the pope and college of bishops as it is presented in *Pastor bonus*, i.e. as a *diaconia* given by Christ to Peter and the apostles, and from them to their successors in perpetuity, which is ordered to fostering and preserving the unity of the Church (*communio*) and which is itself distinguished by three distinct but always interrelated *munera*: the *munus docendi*, the *munus gubernandi*, and the *munus sanctificandi* (see Fig. 1).

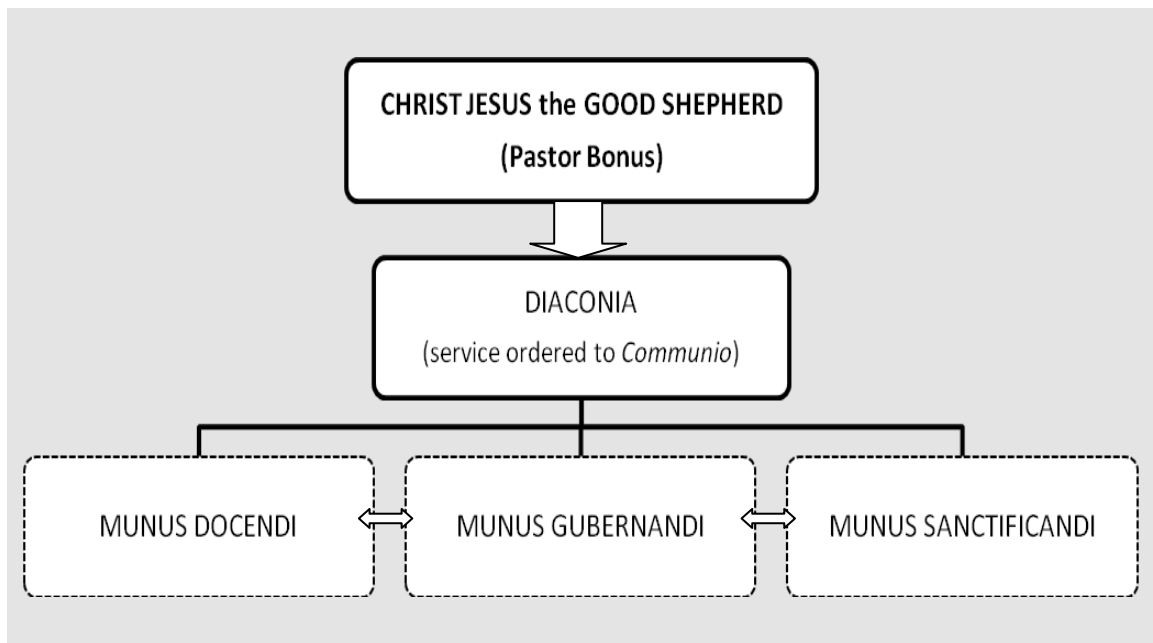


Figure 1.

‘universo caritatis coetui’ ideoque caritati inservit. Ex hoc potissimum principio processerunt vetusta illa verba ‘Servus Servorum Dei,’ quibus Petri Successor denominatur atque definitur.”

³⁹ Ibid.

In carrying out the Petrine *diaconia* for the universal Church, the Roman Pontiff looks to the Person of Jesus Christ, whose vicar he is, as the model for being a good shepherd. Indeed, it is Christ who provides not only the standard for pastoral *diaconia*, but even more, it is he who provides the power (*potestas*) to fulfill the mission to teach, govern, and sanctify in his name. The Pope speaks of this power in *Pastor bonus* as an authority of service: “before anything else [the power to be found in the Church] is the authority of a shepherd.”⁴⁰

The Second Vatican Council spoke of this power as Christ’s own sacred power (*sacra potestas*) which he entrusted to the Church, and to Peter and the apostles in a unique manner as its pastors.⁴¹ Yet, as scholars observe, while the Second Vatican Council developed the theology of Christ’s *sacra potestas* and adopted the conceptual category of *munus*, it did not define clearly the relationship between *munus* and *potestas*, i.e., by what *potestas* the pastors of the Church act when fulfilling the *munus docendi*,

⁴⁰ *PB*, n. 2; *AAS* 80 (1988) 843: “Potestas ergo, quae in Ecclesia datur, potissimum secundum serviendi normam et intellegenda et exercenda est, ita ut huiusmodi auctoritas pastoralis nota in primis polleat.”

⁴¹ Damizia, 265: “Secondo il Concilio Vaticano II tutti poteri ecclesiastici derivano da una unica fonte: la *sacra potestas*.” Damizia makes reference to the following in order to illustrate this point: *LG*, n. 10; *AAS* 57 (1965) 14: “Sacerdos quidem ministerialis, potestate sacra qua gaudet, populum sacerdotalem efformat ac regit . . .”; *LG*, n. 18; *AAS* 57 (1965) 21-22: “Christus Dominus, ad Populum Dei pascendum semperque augendum, in Ecclesia sua varia ministeria instituit, quae ad bonum totius Corporis tendunt. Ministri enim, qui sacra potestate pollent, fratribus suis inserviunt, ut omnes qui de Populo Dei sunt, ideoque vera dignitate christiana gaudent, ad eundem finem libere et ordinatim conspirantes, ad salutem perveniant”; *LG*, n. 27; *AAS* 57 (1965) 32: “Episcopi Ecclesias particulares sibi commissas ut vicarii et legati Christi regunt, consiliis, suasionibus, exemplis, verum etiam auctoritate et sacra potestate”; *PO*, n. 2; *AAS* 58 (1966) 992: “Idem vero Dominus, inter fideles, ut in unum coalescerent corpus, in quo ‘omnia membra non eundem actum habent’ (*Rom.* 12, 4), quosdam instituit ministros, qui, in societate fidelium, sacra Ordinis potestate pollerent Sacrificium offerendi et peccata remittendi, atque sacerdotali officio publice pro hominibus nomine Christi fungerentur.”

gubernandi, or *sanctificandi*.⁴² This is not to say that the Council did not differentiate the *sacra potestas* at all. For example, *Christus Dominus* describes a certain teaching power (*potestas docendi*) conferred upon the pope and college of bishops, i.e., the magisterium of the Church (thus it is also referred to as a *potestas magisterii*), in order to equip them to be authentic doctors of the Gospel in fulfillment of the *munus docendi*:

Christ gave the Apostles and their successors the command *and the power* to teach all nations, to hallow men in the truth, and to feed them. Bishops, therefore, have been made true and authentic teachers of the faith, pontiffs, and pastors through the Holy Spirit, who has been given to them.⁴³

This is reiterated in *Apostolicam Actuositatem* when the Council Fathers stated that “Christ conferred on the Apostles and their successors the duty of teaching, sanctifying, and ruling in His name *and power*.”⁴⁴ To differentiate the *sacra potestas* to coincide with the differentiated *munera*, then, is not without foundation in the Second

⁴² See Urbano Navarrete, “Unità della ‘Potestas Sacra’ e Molteplicità dei ‘Munera Christi et Ecclesiae,’” in *Winfried Schulz in Memoriam: Schriften aus Kanonistik und Staatskirchenrecht*, ed. Cesare Mirabelli, Giorgio Feliciani, Carl Gerold Fürst, and Helmuth Pree, vol. 2 (Frankfurt am Main: Peter Lang, 1999) 569: “Il Concilio Vat. II ha messo in più chiara luce l’unità della *potestas sacra* di cui Cristo ha dotato la Chiesa. Invece forse non ha contribuito nella stessa misura ad offrire elementi per una sistematizzazione scientifica delle potestà in cui quella potestas sacra va divisa specificamente a seconda del soggetto che la esercita o dell’oggetto su cui viene applicata ed esercitata. La difficoltà si fa più sensibile per il fatto che il Concilio ha voluto evitare al riguardo ogni tecnicismo che potesse dare adito al sospetto di giuridismo, mentre ha adoperato con frequenza la categoria concettuale dei *munera*, senza precisare però forse sufficientemente la natura della *potestas* e il rapporto fra *munus* e *potestas*.” See also Damizia, 267-268: “Nel proporre i *tria munera* dei vescovi il concilio non ha voluto presentarci una struttura completa della *sacra potestas*: non ha indicato quali componenti essenziali vengano racchiuse nella *sacra potestas*; cioè non ha accettato l’opinione di coloro che dividono la potestà della Chiesa, nel suo contenuto completo, in potestà di magistero, di ordine e di giurisdizione. Per evitare qualsiasi malinteso ha usato il termine *munus* e non ha enumerato la gerarchia delle tre potestà.”

⁴³ *CD*, n. 2; *AAS* 58 (1966) 674: “Christus enim Apostolis eorumque successoribus dedit mandatum atque potestatem ut docerent omnes gentes, hominesque sanctificarent in veritate atque pascerent. Episcopi itaque, per Spiritum Sanctum qui datus est eis, veri et authentici effecti sunt fidei Magistri, Pontifices ac Pastores” (emphasis added).

⁴⁴ See footnote 33 on page 89 *supra* (emphasis added).

Vatican Council, but it is not something the Council desired to do in any explicit manner.⁴⁵ The same is true for *Pastor bonus*; it speaks of the power of governance (*potestas regiminis*) necessary to fulfill certain responsibilities under the rubric of the *munus gubernandi*,⁴⁶ but it does not speak of a distinct *potestas magisterii* or any other *potestas* which is necessary to fulfill certain responsibilities under the rubric of the *munus docendi*.

⁴⁵ Though the Council did not do so, others have attempted to articulate how the *potestas sacra* and the triple *munera* relate. See, for example, Velasio De Paolis, “La funzione di insegnamento nel Codice di Diritto Canonico,” *Seminarium* 41 (1989) 448 when he writes of the *potestas sacra*: “Tale potestà è detta sacra, perché trae origine da Dio stesso ed ha un fine soprannaturale. La potestà della Chiesa è la potestà che le viene da Cristo, o, meglio, è la potestà che Cristo risorto esercita in essa mediante i legittimi pastori, conformati a Cristo Capo, con il sacramento dell’ordine sacro, che li costituisce pastori e li abilita ad esercitare la triplice Funzione di Cristo a nome suo in quanto Capo del suo Corpo, cioè la Chiesa. La potestà della Chiesa, proprio perché sacra, ha il compito di condurre gli uomini alla salvezza; anzi può assolvere il suo compito, proprio perché è sacra. Si esplica in tre direzioni: la funzione eminentemente santificatrice, che viene adempiuta con la potestà di ordine; la funzione di governo, nei triplici aspetti legislative, giudiziale ed esecutivo; la potestà di insegnamento, con il suo compito di proporre in modo autentico e autoritativo la verità rivelata da Dio, così che l’uomo non possa smarrire la strada che Dio stesso gli ha indicato nel suo cammino verso di Lui. Questa triplice potestà ha una sua profonda unità; un aspetto richiama necessariamente l’altro; l’uno non può sussistere senza l’altro. Tutti e tre gli aspetti sono al Servizio dell’unica missione della Chiesa di Cristo.” José Antonio Fuentes Alonso speaks of the *potestas sacra* as the power by which the Church’s hierarchy maintains the presence of the Word of God in the ecclesial community; see José Antonio Fuentes Alonso, “La Funcion de Enseñar,” in *Manual de Derecho Canónico: Obra a Cargo del Instituto Martin de Azpilcueta* (Pamplona: Ediciones Universidad de Navarra, 1988) 377: “La palabra está en la Iglesia de dos maneras: a través de la potencia del Espíritu en todos los fieles, y a través de la sacra potestas de los Apóstoles y sus sucesores, que apacientan la Iglesia. El punto central del munus docendi desde el punto de vista jurídico será el de las relaciones que el vínculo de la palabra establece en el Pueblo de Dios, y en especial el de las relaciones fieles-Jerarquía.”

⁴⁶ *Pastor bonus* allows for having qualified laity as members of some dicasteries, but “with this proviso that matters requiring the exercise of the power of governance (*potestas regiminis*) be reserved to those in holy orders” (see *PB*, art. 7; *AAS* 80 (1988) 861: “Membra cœtus sumuntur, ex Cardinalibus sive in Urbe sive extra Urbem commorantibus, quibus accedunt, quatenus peculiari peritia in rebus, de quibus agitur, pollent, nonnulli Episcopi, præsertim diœcesani, necnon, iuxta Dicasterii naturam, quidam clerici et alii Christifideles, hac tamen lege, ut ea, quæ exercitium potestatis regiminis requirunt, reserventur iis qui ordine sacro insigniti sunt.” The constitution also refers to judicial competencies, e.g., for the Supreme Tribunal of the Apostolic Signatura (see *PB*, articles 121-125) and the Tribunal of the Roman Rota (see *PB*, articles 126-130) thus necessitating an exercise of the judicial power of governance. See 1983 *CIC*, c. 135 for the differentiation of the *potestas regiminis* into legislative, executive, and judicial power of governance.

This is an important issue for discerning how *Pastor bonus* understands the Roman Curia's service to the Petrine *diaconia* in ways beyond simply what is proper to the *munus gubernandi*. Specific to this study, the question becomes by what *potestas* or *potestates* does the CDF, in promoting the doctrine of faith and morals, act in service to Petrine *diaconia*? What is meant by the *potestas magisterii* as a distinct *potestas* and how it relates to the *munus docendi*, therefore, merits further consideration.⁴⁷

2. The *Munus Docendi* and the *Potestas Magisterii*

Scholars have differed on how best to understand the *potestas magisterii*. It has either been associated with the *potestas regiminis* in distinction from the *potestas ordinis*, i.e., the power of orders received at ordination required for sacred ministry in the Church as part of the *munus sanctificandi*,⁴⁸ or the *potestas magisterii* has been understood as a

⁴⁷ Brian Ferme stresses that this is a complex question in need of further study: "Ci referiamo alla comprensione chiara di ciò che significhi la *potestas magisterii*, e in che modo si possa dire che la CDF goda ed esercita tale *potestas*; come essa sia collegata alla *potestas magisterii* del Sommo Pontefice; come sia collegata alla *munus docendi* che esercita tutti i battezzati; e finalmente come sia collegata a quel aspetto particolare ed unico della *munus docendi*, cioè il magistero, che appartiene esclusivamente ai vescovi, sia singolarmente, sia dispersi nel mondo, sia radunati in un concilio Ecumenico oppure sotto certe condizioni ben determinate, nella Conferenza episcopale. Una parte di questa complessità deriva dal fatto che ulteriori studi dovrebbero essere portati avanti, specialmente dopo il Vaticano II, dedicati alla comprensione del concetto della *potestas magisterii*. Probabilmente la necessità di questo approfondimento rispecchia la difficoltà di comprendere con chiarezza il rapporto fra il *munus docendi* e la *potestas magisterii*." (See Brian Ferme, "La Competenza della Congregazione per la Dottrina della Fede," *Ius Ecclesiae* 11 [1999] 449).

⁴⁸ Navarrete notes that the *potestas regiminis* and the *potestas magisterii* have not always been considered as two separate powers. On this same issue, see Hans Kothuis, "The Response of the Christian Faithful to the Non-Infallible Magisterium: A Canonical Investigation From The Times of Pius IX Until The Revised Code of Canon Law" (JCD diss., The Pontifical Gregorian University, 1988) 1-23. This is an important question, especially when considering the response the Christian faithful are to give to doctrine promoted by the CDF. Kothuis notes "[i]mportant here is the investigation into the question of how the concept of a non-infallible Magisterium entered into canonical doctrine, as well as the inquiry into the canonical conception of the power of teaching and its relationship to the power of jurisdiction" (xviii).

third and distinct power to teach the faith in distinction from the *potestates ordinis* and *regiminis*:

Certainly the [*potestas magisterii*] is not able to be classified as a power of orders. In fact it was classified simply as a power of jurisdiction, in a bipartite division of *potestas sacra*, or it came to be seen as a third species of power in a tripartite division: the *potestas ordinis*, *potestas regiminis*, *potestas magisterii*. There has never been full accord between these two opinions.⁴⁹

As noted above, neither the Second Vatican Council nor *Pastor bonus* settle the debate as to whether the *potestas magisterii* is best understood as a distinct power associated exclusively with the duty of teaching or if it is a species of the *potestas regiminis*. In an attempt to provide some clarity to the issue, Navarrete presents the *munus docendi* as a duty fulfilled at two different levels, each requiring its own *potestas*: the first level reflecting a more properly magisterial power to teach and to preach the gospel with the charism of infallibility and the second level reflecting a more properly governmental power to regulate the preaching of the word of God.⁵⁰ He explains that the first level of the *munus docendi* cannot be a manifestation of the *potestas regiminis*

⁴⁹ Navarrete, “Unità . . .,” 582: “La difficoltà si manifestò sempre per prima riguardo alla cosiddetta *potestas magisterii*. Certamente essa non può essere classificata come potestà di ordine. Infatti essa veniva classificata semplicemente come potestà di giurisdizione, in una divisione bipartita della potestà sacra, oppure essa veniva vista come una terza specie di potestà in una divisione tripartite: potestà di ordine, potestà di giurisdizione, potestà di magistero. Non ci fu mai perfetto accordo fra queste due opinioni.”

⁵⁰ Navarrete, “Unità . . .,” 582: “. . . nella *potestas magisterii* bisogna distinguere due livelli fondamentali: l’uno comprende la missione di predicare il Vangelo a tutte le genti e il carisma che ha la Chiesa di proporre in modo infallibile o autentico tramite i suoi organi competenti—Concilio Ecumenico, Papa, Vescovi—le verità da credere o da tenere; l’altro è la potestà della Chiesa di governare pastoralmente i fedeli per quanto riguardo la predicazione della Parola di Dio, l’insegnamento della fede e la morale, i mezzi di comunicazione sociale, le scuole, le Università, ecc.”

because the preaching of the gospel is ordered to eliciting the assent of the intellect; a grasp of the veracity of what is taught. Navarrete writes:

. . . the obligation of every man to accept the truth and [the obligation] of the faithful to adhere to the truths proposed by the Church in an infallible or authentic way is not of the same nature as the obligation to abide by the legitimate commands of authority, but belongs to another order of obligation much more profound, i.e., to those obligations founded directly on the conscience of man to adhere to the truth and of the faithful to adhere to the truths of faith or to those authentically proposed by the Magisterium of the Church.⁵¹

Since this first level of the *munus docendi* is ordered to the assent of the mind, it does not carry with it the power to command acceptance of the message but only the power to announce it.⁵² The second level, however, i.e., the governmental power to regulate the preaching of the word of God, Navarrete classifies properly as a manifestation of the *potestas regiminis* but still in service to the *munus docendi* which requires its own manner of response on the part of the Christian faithful:

. . . the second level belongs fully to the power of pastoral governance of the Church, with which it guides the faithful in all things concerning, even indirectly, faith and morals. The faithful, at this level, are bound to obey their legitimate superiors, according to the gravity of the laws or of the norms emanating from the competent authority. At this level, one speaks

⁵¹ Navarrete, “Unità . . .,” 582: “Il primo livello certamente non appartiene al campo della potestà di governo. L’obbligo infatti di ogni uomo di accettare la verità e quello dei fedeli di aderire alle verità proposte dalla Chiesa in modo infallibile o in modo autentico non è della stessa natura che l’obbligo di ottemperare ai legittimi comandamenti dell’autorità, ma appartiene ad un altro ordine di obblighi molto più profondo, cioè a quegli obblighi fondati direttamente sulla coscienza dell’uomo di aderire alla verità e dei fedeli di aderire alle verità di fede oppure a quelle proposte autenticamente dal Magistero della Chiesa.”

⁵² Navarrete, “Unità . . .,” 598. Navarrete makes reference to canon 748 §2 with its prohibition against coercing persons to embrace the Catholic faith against their conscience.

simply of ecclesial obedience to a positive precept of the power of governance of the Church.⁵³

Introducing the *potestates* to our schematic presentation of the triple *munera* above (see Fig. 1), we can perceive the relationship between the *munus docendi* and the *potestates* required for exercising it as follows:

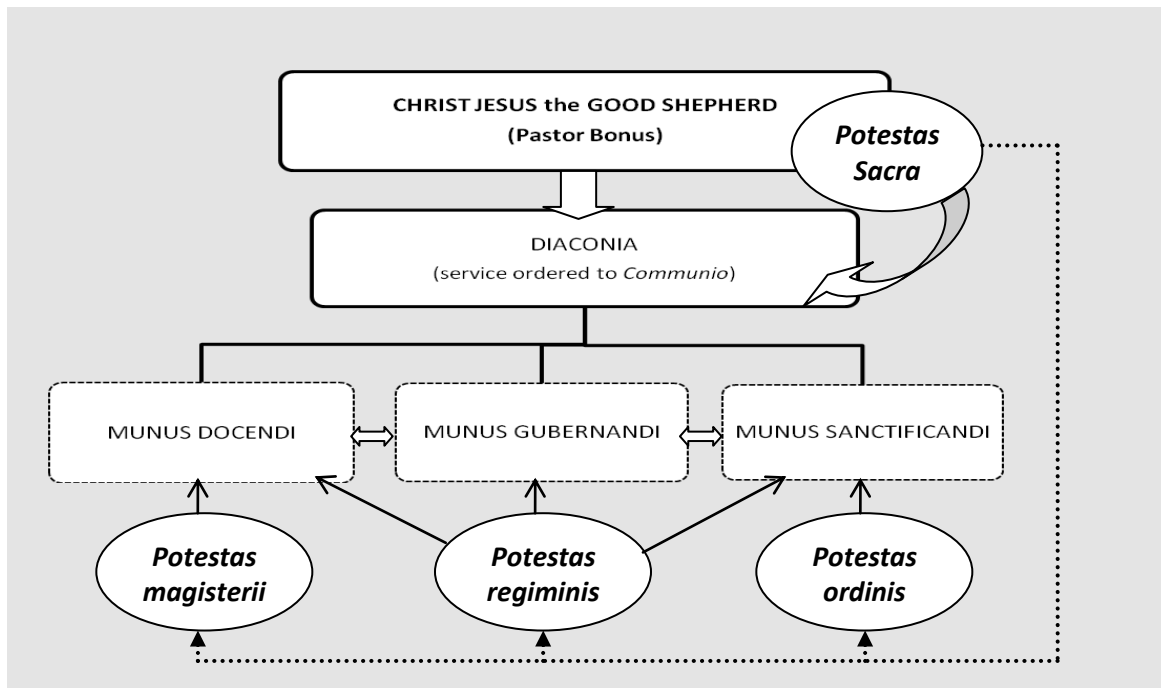


Figure 2.

This two-fold understanding of the *munus docendi* is helpful in considering the magisterial authority of the Roman Pontiff and any participation therein on the part of the CDF. When the pope teaches the doctrine of faith and morals, e.g., by means of an encyclical letter, he acts at the first level in fulfilling the *munus docendi*, i.e., his act of

⁵³ Navarrete, "Unità...", 583: "... il secondo livello appartiene pienamente alla potestà di governo pastorale della Chiesa, con la quale essa guida i fedeli in tutto quello che concerne, anche indirettamente, la fede e la morale. I fedeli, in questo livello, sono tenuti all'ubbidienza ai legittimi superiori, a seconda della gravità delle leggi o delle norme emanate dall'autorità competente. In questo livello, si tratta semplicemente di ubbidienza ecclesiale ad un precetto positivo dell'autorità di governo della Chiesa."

teaching is better understood not as an act of governance but as an act of magisterial power which is a part of his Petrine *diaconia*.⁵⁴ And when the pope legislates norms relevant to the teaching office of the Church, e.g., Book III of the Code of Canon Law, he fulfills the *munus docendi* but in a governmental capacity. In this instance, his magisterial authority is more properly associated with the *potestas regiminis*.

When one reviews the specific tasks entrusted to the CDF in *Pastor bonus*, it appears as though the CDF's vicarious participation in the *potestas magisterii* of the pope likewise occurs in a nuanced bipartite manner: the promotion of doctrine seems to involve the teaching of the faith by means of the *potestas magisterii* whereas the safeguarding of doctrine is more often than not an exercise of the *potestas regiminis*. In both ways the CDF assists the pope in the *munus docendi*. An exploration of how the CDF assists the pope in his pastoral *diaconia* will bear this out.

3. The Roman Curia's Assistance in the Petrine *Diaconia*

Throughout history, John Paul II notes, the Roman Pontiff has relied upon the assistance of various entities to carry out his unique Petrine *diaconia*,⁵⁵ e.g., the college of cardinals, papal legates, and the Roman Curia. Since the Petrine *diaconia* is in service to the *diaconia* of the college of bishops throughout the world, so too must the activity of

⁵⁴ See Ferme, 462: "Che tipo o genere di documento è un'enciclica? Una lettera apostolica? Un'esortazione post sinodale? L'udienza di mercoledì? Essi non sono documenti esecutivi e certamente non documenti legislativi o giudiziali. Piuttosto sono documenti che rispecchiano la responsabilità petrina fondamentali di insegnare, il suo speciale ed unico *munus docendi*, e in vari momenti, precisamente il suo *munus magisterii*."

⁵⁵ *PB*, n. 2; *AAS* 80 (1988) 842.

the Roman Curia be conducted with a universal scope, so much so that *Pastor bonus* likens the Petrine *diaconia* with the Curial *diaconia*:

. . . the Petrine function of the Roman Pontiff by its very nature relates to the office of the college of his brother bishops and aims at building up and making firm and expanding the whole Church as well as each and every particular Church, this same *diaconia* of the Curia, which he uses in carrying out his own personal office, necessarily relates in the same way to the personal office of the bishops, whether as members of the college of bishops or as pastors of the particular Churches.⁵⁶

Pastor bonus offers several descriptors for the Roman Curia which serve to highlight the distinction and uniqueness it enjoys: it is ecclesial, ministerial, collegial, and vicarious. These descriptors apply to the Roman Curia as a whole but also to each of its dicasteries. That the CDF possesses an ecclesial, ministerial, collegial, and vicarious quality is clear, but what presses for greater clarification is *how* the CDF possesses each of these characteristics in a manner unique to itself. Understanding this will bear directly on how best to understand the specific focus of this study: the promotion of doctrine by the CDF as an essential part of its proper duty.

a. Ecclesial Character of the CDF

Though the Roman Curia is not a component of the Church's divinely willed constitution, it is nonetheless an ecclesial entity simply because it exists by the will of,

⁵⁶ *PB*, n.8; AAS 80 (1988) 851: "Quoniam autem Romani Pontificis munus Petrianum, sicut diximus, ad fratrum Episcoporum Collegii munus suapte natura refertur, ad id simul spectans ut universa Ecclesia singulaeque particulares Ecclesiae aedificentur, constabulantur atque dilatentur, eadem Curiae *diaconia*, qua Ipse in suo personali munere exercendo utetur, necessario partiter referetur ad personale Episcoporum munus, sive utpote Episcopalis Collegii membrorum, sive utpote particularium Ecclesiarum Pastorum."

and in service to, the Church's supreme pastor.⁵⁷ This provides the Curia with an ecclesial character insofar as, in serving the universal Church's pastor, it serves the universal Church. As such, each dicastery of the Roman Curia has the universal Church as its scope.

This universal scope is abundantly clear in the norms which *Pastor bonus* legislates for the CDF. For example, the CDF is to promote and safeguard faith and morals "in the whole Catholic world" (art. 48); it is to foster studies to address scientific and cultural questions which, by their nature, are of universal import (art. 49); it is to be of assistance to bishops individually or collectively throughout the Church, e.g., *ad limina* visits, episcopal conferences, particular synods (art. 50); it has the competency to safeguard the doctrine of the faith from theological error regardless from where or by whom that error may have originated (art. 50); and it is competent to process "privilege of the faith" cases no matter from where the case has originated (art. 52).

b. Ministerial Character of the CDF

The ecclesial character of the Roman Curia in general, and of the CDF in particular, points to what John Paul II calls the "principal characteristic" of the dicasteries of the Roman Curia, i.e., their ministerial character. Referring to the request made in

⁵⁷ See Joseph Lécuyer, "The Place of the Roman Curia in Theology," *Concilium* 127 (1979) 8: "Theologically there is no way of maintaining that the Roman Congregations are part of the constitution of the Church because this 'constitution' has fundamentally been laid down by Christ, its founder. All the same Christ certainly gave Peter the task of 'shepherding' the whole flock and 'to support his brethren', and so, by implication, he bestowed upon him the right and the duty to use the instrumental body which the Roman Pontiff uses to exercise the supreme power over the whole Church which he possesses because of Christ's own institution."

Christus Dominus regarding the work of the Roman Curia, John Paul II states that “the principal *characteristic* of each and every dicastery of the Roman Curia is that of being *ministerial*” since “it draws its existence and competence from the pastor of the universal Church;” it “exists and operates only insofar as it has a relation to the Petrine ministry and is based on it;” and since “the Roman Curia, as the servant of Peter’s successor, looks only to help the whole Church and its bishops.”⁵⁸

The work of the CDF is principally ministerial because the promotion and safeguarding of doctrine and morals is aimed at keeping intact the faith which Christ deposited to his Church, but to Blessed Peter and the apostles in particular, to teach and protect, so that the Church of Christ may be one (*communio*). When it carries out its proper duty, the CDF shares in the *diaconia* of the pope and is therefore ministerial.

c. Collegial Character of the CDF

The Roman Curia possesses the characteristic of collegiality in its makeup, in the focus of its work, and in the manner by which it conducts its activity. It possesses a collegial character (n. 10) insofar as its personnel is comprised of cardinals, bishops, priests, religious, and laity from all over the world who, working in concert, offer their services to the Holy See. It also is collegial in that it is in service to the college of bishops, especially during their *ad limina* visits.⁵⁹

⁵⁸ *PB*, n. 7; *AAS* 80 (1988) 849-850.

⁵⁹ See *PB*, n. 10; *AAS* 80 (1988) 853-854.

The CDF is collegial in that it acts as a college and not as a sum total of individual actors. Its members meet regularly according to established norms to carry out the Congregation's proper duty, i.e., it is *the Congregation* which promotes and safeguards the doctrine of faith and morals. While the membership of the CDF is exclusively bishops each in possession of the *diaconia* and the *potestas sacra* to be teachers and doctors of the faith, neither they nor the prefect exercises that *diaconia* when acting individually *qua* members of the CDF. Decisions are made, studies are fostered, assistance is rendered to individual bishops, documents are published, etc. . . by the CDF as a congregation of the Roman Curia, not as a collection of individual bishops.

To illustrate the collegial character of the CDF, an analogy may be helpful. A loose parallel could be drawn between the collegial nature of the dicasteries of the Roman Curia and that of a collegiate court constituted to adjudicate a case. Canon 1609 provides the legislation for how a collegiate court convenes to judge the case before it. The judges must each arrive at moral certitude individually concerning the issue to be judged. At their meeting each judge contributes his findings to the other judges. The result of the adjudication is written in a sentence which must then meet the approval of the judges of the collegiate court (c. 1610 §2). The sentence, signed by all the judges of the collegiate court (c. 1612 §4), decides the controversy deliberated before it (c. 1611, 1°) and provides the single judgment of the court, not the judgment of each individual judge in the college. The sentence is rendered by "it" (i.e., the court), not by "them" (i.e., the members of the college). Similarly, and only similarly, the CDF acts as a congregation

and not as a collective of individuals when it renders the assistance the Congregation is competent to render to the Petrine ministry of the pope.

A necessary caveat must be made, however, in that “collegiality” is used to describe the Curia and the dicasteries therein only analogously and not as a parallel structure to the college of bishops, the collegiality of which is established by divine will and is constitutive of the Church.⁶⁰ Neither does the CDF enjoy juridic personality as an *universitas personarum*⁶¹ nor does the juridical status of the individual members of the CDF change by membership. As Umberto Betti commented:

Effectively the relationship between the Bishop of Rome, vicar of Christ for the universal Church, and the bishops, vicars of Christ in their particular Churches, is inscribed in the foundation of the Church by Christ and is a constitutive component of apostolic succession, on the strength of which the successors of the Apostles, together with the successor of Peter and dependent upon him, rule the house of the living God (LG, n. 18). The relationship therefore between the bishop of Rome and the other bishops cannot be surrogated by any other person or intermediary organism.⁶²

⁶⁰ See 1983 *CIC*, cc. 336-337 for the college of bishops.

⁶¹ See 1983 *CIC*, cc. 113-123 regarding juridic personality. The CDF is *not* a collegial juridic person (c. 115 §2) and therefore is not a subject in canon law of obligations and rights as a juridic person would be (c. 113 §2). For example, the CDF is not able to acquire, retain, administer, and alienate its own temporal goods (c. 1255). Rather, the CDF, as a dicastery of the Roman Curia, is a part of the Apostolic See (c. 361) which is itself a moral person in the law (c. 113 §1) and is itself administrator of its own ecclesiastical goods (c. 1257). Furthermore, neither the CDF nor any other dicastery of the Roman Curia can claim the right to perpetual existence (c. 120 §1) because it exists not in its own right but at the will of the Roman Pontiff. Nor does the Cardinal Prefect act in the name of the CDF as would the representative of a juridic person (c. 118); rather it is the CDF itself which acts under the direction of the Cardinal Prefect.

⁶² Betti, 1: “Effettivamente la relazione tra il Vescovo di Roma, vicario di Cristo per la Chiesa universale, e i vescovi, vicari di Cristo nelle loro Chiese particolari, è inscritta nella fondazione della Chiesa da parte di Cristo ed è componente costitutiva della successione apostolica, in forza della quale i successori degli Apostoli, insieme al successore di Pietro e in dipendenza da lui, reggono la casa del Dio vivente (cf. *Lumen gentium*, n. 18 e *passim*). La relazione quindi tra il vescovo di Roma e gli altri vescovi non può essere surrogata da nessuna persona od organismo intermedio.”

The collegiality of the Roman Curia in general, and of the CDF in particular, is a sign of the pope's pastoral solicitude for the universal Church as head of the college of bishops.

d. Vicarious Character of the CDF Strictly Conceived

In addition to having an ecclesial, ministerial and collegial character, the Roman Curia is also marked with a vicarious character (n. 8). *Pastor bonus* uses this descriptor in accord with canons 129 to 144 of the Code of Canon Law on the power of governance (*potestas regiminis*). Canon 131 §2 stipulates that the power of governance may be had vicariously:

Can. 131 §1. The ordinary power of governance is that which is joined to a certain office by the law itself; delegated, that which is granted to a person but not by means of an office.

§2. The ordinary power of governance can be either proper or vicarious.

§3. The burden of proving delegation rests on the one who claims to have been delegated.⁶³

The use of the term “vicarious” in *Pastor bonus*, then, simply indicates that when dicasteries of the Roman Curia exercise the power of governance, they do so vicariously, i.e., they share in the Roman Pontiff's *potestas regiminis* according to the norm of law in

⁶³ 1983 *CIC*, c. 131: “§1. Potestas regiminis ordinaria ea est, quae ipso iure alicui officio adnectitur; delegata, quae ipsi personae non mediante officio conceditur. §2. Potestas regiminis ordinaria potest esse sive propria sive vicaria. §3. Ei qui delegatum se asserit, onus probandae delegationis incumbit.”

order to fulfill that part of his Petrine ministry which entails the power of governance.⁶⁴ It is important that the legal parameters of the power of governance be clearly delineated for each dicastery and, as an Apostolic Constitution, *Pastor bonus* provides that clarification, establishing that the action of the Roman Curia takes place within the ambit of law so as to assure justice, order, and the respect of laws in general.⁶⁵

Castillo Lara observes that the Petrine *diaconia* does not imply in every manifestation a direct exercise in the power of governance or jurisdiction (*potestas regiminis*) because not every dicastery or entity of the Curia has need to participate in it. Some, for example, are competent only to conduct studies, e.g., International Theological Commission. Among those dicasteries that do exercise the power of governance, they do so in varying ways and to varying degrees depending on their respective competencies. None of them exercises legislative power of governance, for example, whereas others have judicial and/or executive power. The focus of this study is not to determine or evaluate the extent to which the dicasteries of the Roman Curia share in the pope's *munus gubernandi* and therefore participate vicariously in the Petrine *potestas regiminis*. Of note for our consideration is the fact that the vicarious exercise of the pope's *potestas regiminis* by the CDF at times involves the executive and, in some cases, the judicial power of governance.⁶⁶

⁶⁴ For a discussion of the vicarious ordinary power of governance enjoyed by the dicasteries of the Roman Curia, see Antonio Viana, "La Potestad de los Dicasterios de la Curia Romana," *Ius Canonicum* 30 (1990) 83-114.

⁶⁵ Castillo Lara, "La Costituzione Apostolica . . .," 4: "L'azione della Curia Romana si muove dunque nell'ambito del diritto."

⁶⁶ See page 134 for a brief treatment of *PB*, art. 52 and the CDF's judicial power of the CDF.

A difficulty arises, however, when one tries to conceive of the promotion of doctrine, an essential task of the CDF's proper duty,⁶⁷ as being exclusively a manifestation of the *munus gubernandi* necessitating solely a vicarious exercise of the *potestas regiminis*. For example, when the pope legislates norms regulating the publication, dissemination, or teaching of doctrine as in Book III of the Code of Canon Law, or when he issues norms establishing judicial procedures for the adjudication of delicts against sound faith and morals as in articles 51-53 of *Pastor bonus*, such tasks in fulfillment of his *munus docendi* are more easily understood as matters of governance. Of note, however, is that these same types of “governmental” activities are associated with the CDF's responsibility to safeguard doctrine in articles 51-53 of *Pastor bonus*. To articulate the doctrine of the faith and morals in a positive manner and to present it in order that the assent of faith may more readily be given—is this not a service to the Church involving much more than simply the power of governance? Is it not more akin to the *teaching* of the faith and thus a manifestation of the *munus docendi*?

It must be borne in mind what John Paul II indicated in n. 2 of *Pastor bonus* and what was considered above,⁶⁸ namely that Christ's bestowal of his own *diaconia* upon Peter and the apostles, and from them to their successors, involves more than just the duty to govern the faithful, i.e., the *diaconia* of the Church's pastors and their *munus gubernandi* are not equivocal. Rather, the latter is but one part of the former; *diaconia* involves the *munus gubernandi* to be certain, but it also involves the *munus sanctificandi*

⁶⁷ See page 117 for a presentation of *PB*, art. 48 and the CDF's “proper duty.”

⁶⁸ See page 88 *supra*.

and the *munus docendi* as well.⁶⁹ This is an important point in light of the pastoral and not simply administrative thrust of the document. *Pastor bonus* is clear that the work of the Roman Curia is not to assist the Roman Pontiff in his *munus gubernandi* only but to assist him in his overarching *diaconia*. Put another way, the Petrine ministry does not require the Roman Pontiff only to govern the people of God; he must also sanctify and teach them. Therefore if the Roman Curia is an aid to the full scope of Petrine pastoral solicitude for the universal Church and the particular churches, then it must be able to assist him in all of the ways in which he fulfills that *diaconia* and not just in his governmental capacity.

While a strict use of the term “vicarious” is sufficient to describe the *munus gubernandi* of the Roman Curia and the dicasteries’ manner of possessing the *potestas regiminis* necessary to complete their work, it appears to be insufficient to describe what kind of participation, if at all, the dicasteries of the Roman Curia have in the pope’s *potestates ordinis* or *magisterii* since these aspects of the Petrine *diaconia* do not fit neatly into the legal constructs of the canonical system as does the *potestas regiminis*. Applied directly to the CDF, the strict use of the term “vicarious” is sufficient to describe the tasks which fall under the rubric of the *munus gubernandi*, i.e., the administrative and judicial procedures by which the CDF safeguards the doctrine of faith and morals as part of the *munus docendi*. In light of the CDF’s duty to promote doctrine, however, a strict understanding of “vicarious” seems insufficient to describe what kind of participation the CDF has in the pope’s *potestas magisterii* in service to the *munus docendi* where such

⁶⁹ See Fig. 1 on page 91.

promotional activity would find a more comfortable fit.⁷⁰ A strict use of “vicarious” is also inadequate to assess whether the power of governance alone is sufficient for the CDF to carry out its assistance to the pope’s responsibility to teach the faith, a duty he fulfills by means of his magisterial authority (*potestas magisterii*).

This opens us up to the possibility that by use of the term “vicarious” *Pastor bonus* may intend something broader than just its strict use as in canon 131. But is it even possible for the CDF to share vicariously in a non-governmental power, in this case the *potestas magisterii*, to assist the pope in this aspect of the *munus docendi* as part of his *diaconia*? If by “vicarious” we limit ourselves to the strict understanding of it as referring exclusively to the *potestas regiminis*, the answer would have to be no. If, however, by “vicarious” *Pastor bonus* admits of a broader assistance which the dicasteries of the Roman Curia are able to provide the pope in his *diaconia*, then an argument can be made to support a vicarious participation in Petrine magisterial authority.

⁷⁰ The question of whether the dicasteries share in the Petrine *munus sanctificandi* and in the *potestas ordinis* is not germane to this study. As a case in point: when the pope exercises the *munus sanctificandi* and celebrates the Chrism Mass on the morning of Holy Thursday, he acts not out of a *potestas regiminis* but by a *potestas ordinis* which he possesses from sacred ordination. The *potestas ordinis*, insofar as it is a sacramental power, is not subject to the question of delegation or vicarious participation as it is a power granted a person and not an office. The fact is that no dicastery of the Roman Curia does, or even can, possess the *potestas ordinis* as no dicastery is charged with the competency to exercise the *munus sanctificandi*. Even the Congregation for Divine Worship and the Discipline of the Sacraments, which most closely touches upon the proper task of the *munus sanctificandi*, is given the competency “to regulate and promote the sacred liturgy, primarily the sacraments” (see *PB*, n. 62; *AAS* 80 [1988] 876: “Congregatio ea agit quae, salva competentia Congregationis de Doctrina Fidei, ad Sedem Apostolicam pertinent quoad moderationem ac promotionem sacrae liturgiae, in primis Sacramentorum.”) All of its outlined responsibilities require the *potestas regiminis*. Therefore, a curial exercise of the *potestas ordinis* can be set aside for this present consideration.

e. Vicarious Character of the CDF Broadly Conceived

One notes that *Pastor bonus* describes the Curia *itself* as having a vicarious character, not just its power. Here the term is used to identify the Roman Curia with the Roman Pontiff in a broader sense of the term “vicarious.”⁷¹ The emphasis is on the close relationship between the Roman Pontiff and his Curia; so close that there is, in a certain sense, a oneness between them.⁷² For this reason, the dicasteries of the Curia “must display a faithful and harmonious interpretation of [the pope’s] will and manifest, as it were, an identity with that will.”⁷³ The dicasteries’ vicarious representation of the Roman

⁷¹ The *Dictionnaire de droit canonique* makes a distinction between the term “vicarious” as it is used to describe an exercise in the power of governance (see Raoul Naz, *Dictionnaire de droit canonique: contenant tous les termes du droit canonique, avec un sommaire de l’histoire et des institutions et de l’état actuel de la discipline*, vol. 7 [Paris: Letouzey et Ané, 1949] 1434-1478) and as it is used by one who represents another (Naz, 1434). Of the latter use it states: “En latin *vicarius*; ce mot résume la périphrase: *qui vices gerit*, qui tient la place d’un autre. C’est ainsi qu’on trouve: le vicaire du Christ, qui n’est autre que le pape; le vicaire du Siège apostolique ou légat pontifical; le vicaire d’Empire, qui représente l’empereur; le vicaire général, qui représente l’évêque; le vicaire du curé qui représente ce dernier . . . Le terme de vicaire a été employé avec le même sens de représentant ou lieutenant dans les cas les plus divers.”

⁷² See Ferme, 455-456: “Un ufficio vicario è strettamente legato in modo subordinato ad un altro, con il quale tuttavia costituisce, da un punto di vista giuridico, come un unica realtà, al punto che non si dà propriamente ricorso dal vicario al titolare principale, perché è come fosse la stessa persona che agisce – anche se c’è una distinzione fra le due persone. Questa realtà della natura della vicarietà, anzi il suo carattere essenziale ci aiuta a comprendere il significato della partecipazione della CDF nel magistero ordinario del Sommo Pontefice” (466).

⁷³ *PB*, n.8; AAS 80 (1988) 850-851: “Praeter hanc indolem ministerialem, a Concilio Vaticano II *character*, ut ita dicamus, *vicarius* Romanae Curiae in luce ulterius ponitur, quandoquidem ipsa, ut iam diximus, non proprio iure neque proprio marte operator: potestatem enim a Romano Pontifice acceptam exercet essentiali quadam et nativa cum Ipso necessitudine, quia huiusmodi potestatis proprium est ut agendi studium cum voluntate illius, a quo oritur, semper coniungat, ea quidem ratione ut eiusdem voluntatis fidelem interpretationem, consonantiam, immo quasi aequalitatem prae se ferat atque manifestet, in Ecclesiis bonum atque in Episcoporum servitium.”

Pontiff signifies, then, that there is a unity of purpose, mission, and power in such a way that when the vicar speaks and acts, it is *as if* the superior speaks and acts.⁷⁴

The vicarious nature of the dicasteries is also seen in the fact that it is the Roman Pontiff who chooses the prefect or president of each dicastery, the members, the secretary, senior administrators, and consultors for a five year term.⁷⁵ Furthermore, according to article 6 of *Pastor bonus*, these figures cease in their office at the death of the Supreme Pontiff; a provision to which John Paul II later made reference in the third chapter of his Apostolic Constitution *Universi Dominici Gregis*⁷⁶ treating of the vacancy of the Apostolic See and the election of the Roman Pontiff. He legislated that

. . . at the death of the Pope all the heads of the Dicasteries of the Roman Curia — the Cardinal Secretary of State and the Cardinal Prefects, the Archbishop Presidents, together with the members of those Dicasteries — cease to exercise their office. An exception is made for the Camerlengo of Holy Roman Church and the Major Penitentiary, who continue to exercise

⁷⁴ An indication of this unity of purpose, mission, and power is the requirement in *PB*, art. 18 that dicasteries submit “decisions of major importance” to the Supreme Pontiff for his approval *in forma communi* or *in forma specifica*. This requirement would apply to the documents of the CDF by which the doctrine on faith and morals is promoted and safeguarded. For a helpful distinction between *in forma communi* and *in forma specifica* regarding the papal approval of curial documents, see Ignazio Schinella, “La Congregazione Per La Dottrina Della Fede: Magistero Vicario E Norma Morale” in *Ecclesiologia e Cultura Moderna: Saggi Teologici*, ed. Giandomenico Mucci (Rome: Herder, 1979) 87-88: “L’approvazione ordinaria rende il decreto o la dichiarazione un atto Pontificio, ma non strettamente e direttamente papale, come per esempio è un’enciclica. In tal caso infatti i cardinali membra della Congregazione hanno potere deliberativo ordinario, ma vicario [sic]. L’approvazione pontificia garantisce e salvaguarda l’intervento magisteriale dal punto di vista dottrinale e giuridico. . . . L’approvazione specifica trasforma la decisione della Congregazione in un atto personale del pontefice, in senso stretto: la Congregazione svolge un ruolo meramente consultivo [sic]. Il papa fa sua la decisione, la vuole e obbliga per la sua autorità immediata. L’intenzione dell’autorità impiegata nel documento in ogni caso deve essere resa manifesta, altrimenti si presume semper per il grado di autorità inferiore.” See also Francisco J. Urrutia, “Quandonam habeatur approbatio ‘in forma specifica,’” *Periodica* 80 (1991) 3-17.

⁷⁵ *PB*, art. 5 §1.

⁷⁶ Pope John Paul II, *Universi Dominici Gregis*, 22 February 1996: AAS 88 (1996) 305-343. Hereafter this document shall be cited as *UDG*.

their ordinary functions, submitting to the College of Cardinals matters that would have had to be referred to the Supreme Pontiff.⁷⁷

A broad use of the term “vicarious” is employed even when speaking of the Supreme Pontiff as “Vicar of Christ,”⁷⁸ i.e., there is an explicit identification with the papal office and the Lord Jesus Christ such that the pope, as an *alter ego* of Christ, makes the Lord Jesus present to his Church and speaks with his voice. Once again, however, a caveat is needed since the Roman Curia is not to the Roman Pontiff what the Roman Pontiff is to Jesus Christ; the latter is a relationship established *ex divina institutione* whereas the former is not. The parallel is drawn only to stress that “vicarious” can, and in the case of *Pastor bonus*, is used in more than one sense of the word.

This broader interpretation of “vicarious” makes it possible for the dicasteries of the Roman Curia to share vicariously in the Petrine *diaconia* in a manner not limited to the *munus gubernandi* but certainly limited by the specific competencies entrusted to each of them in *Pastor bonus*.

Pastor bonus seems to point to one dicastery which is charged with the responsibility of rendering direct assistance to the pope in fulfilling the *munus docendi*: the CDF. It is at this point that the unique character of the CDF comes into focus since it alone in the entire Roman Curia possesses a competency which exceeds the classification

⁷⁷ *UDG*, n. 14; *AAS* 88 (1996) 316: “. . . omnes Dicasteriis Romanae Curiae Praepositi, sive Cardinalis Secretarius Status sive Cardinales Praefecti sive Archiepiscopi Praesides sicut etiam eorumdem Dicasteriorum Membra occurrente morte Pontificis, a munere suo cessant, exceptis Sanctae Romanae Ecclesiae Camerario et Paenitentiario Maiore, qui ordinaria negotia pergent expedire, ea Cardinalium Collegio proponentes quae ad Summum Pontificem essent referenda.”

⁷⁸ *Annuario Pontificio* (Vatican City: Libreria Editrice Vaticana, 2006) 26.

as a *munus gubernandi*.⁷⁹ The CDF is competent, indeed exclusively so, over all matters which touch on the doctrine of faith and morals. In other words, whereas the CDF is similar to the other dicasteries of the Roman Curia in that it exercises its power of governance (both executive and judicial) vicariously, it is dissimilar in that it alone exercises alongside that power of jurisdiction a vicarious magisterial power unique to itself.⁸⁰ The CDF Instruction on the Ecclesial Vocation of the Theologian, *Donum veritatis*, expressed it simply:

The Roman Pontiff fulfills his universal mission with the help of the various bodies of the Roman Curia and in particular with that of the Congregation for the Doctrine of the Faith in matters of doctrine and morals. Consequently, the documents issued by this Congregation expressly approved by the Pope participate in the ordinary magisterium of the successor of Peter.⁸¹

⁷⁹ Gianfranco Girotti, “Congregazione per la Dottrina della Fede,” in *Commento alla Pastor bonus e alle norme sussidiarie della Curia Romana/Studium Romanae Rotae: Corpus Iuris canonici*, ed. Pio Vito Pinto, vol. 3 (Vatican City: Libreria Editrice Vaticana, 2003) 74: “La peculiare dignità della Congregazione per la Dottrina della Fede deriva dal suo specifico rapporto con il Pontefice. Infatti, come suo organo ordinario vicariale, la Congregazione per la Dottrina della Fede partecipa al *munus docendi* pontificio – che di per sé appartiene, nella sua pienezza, al Papa da solo o al Papa come Capo del Collegio dei Vescovi, e come tale, cioè nella sua pienezza, non è delegabile, perché di diritto divino – in quanto nomine Papae, promuovere e vigilia sul deposito della fede, attraverso l’emanazione di Documenti, quali l’Istruzione, la Lettera, la Dichiarazione ecc.... Tale rapporto contribuisce a manifestare l’operare della Congregazione per la Dottrina della Fede, come organo ausiliare al duopolio costituzionale della Chiesa, in quanto al Papa e ai Vescovi è conferito, per diritto divino, il *munus docendi*.”

⁸⁰ See Ferme, 465: “Il fatto chiaro è che la CDF esercita, a fianco della sua *potestas iurisdictionis* (esecutiva o giudiziale) anche una *potestas magisterii*, che è l’attuale *potestas* che determina le sue essenziali e determinanti caratteristiche. In altre parole la *potestas magisterii* è l’elemento costitutivo che determina la qualità centrale ed essenziale della CDF nel compito affidato ad essa dalla PB e che nello stesso tempo questa *potestas* determina il suo rapporto col Romano Pontefice.” The CDF’s vicarious participation in the Supreme Pontiff’s magisterial authority is not only unique among the dicasteries of the Roman Curia, Ferme observes, but is without comparison in the juridical structures of the Church in general. “È piuttosto difficile parlare in questi precisi termini di partecipazione nella autorità magisteriale quando parliamo di un vicario generale oppure di un parroco che ricoprono uffici ecclesiastici. Cioè, né il vicario generale né il parroco partecipano nell’autorità magisteriale del vescovo nella maniera nella quale la CDF partecipa all’autorità magisteriale del Romano Pontefice. In questo senso la *potestas magisterii* della CDF è singolare.”

⁸¹ Congregation for the Doctrine of the Faith, Instruction *Donum veritatis*, 24 May 1990: AAS 82 (1990) 1550-1570, n. 18: “Romanus Pontifex missionem suam universalem adimplet auxilio institutorum

Understanding the vicarious character of the CDF from a broad perspective admits of the CDF's "participation" (as *Donum veritatis* puts it) in the Petrine *potestas magisterii* in addition to, and in a manner distinct from, the vicarious exercise of the *potestas regiminis*.⁸² In accord with *Pastor bonus*, one speaks of the CDF itself as possessing a vicarious character in that it acts as an *alter ego* of the Roman Pontiff in service to his ordinary magisterium.⁸³ The fact that a particular act of the CDF is not a papal act *per se* does not mean that it lacks magisterial authority.⁸⁴ This is so because of the CDF's classification in *Pastor bonus* as possessing an ecclesial, ministerial, collegial, and vicarious quality coupled with its explicit and exclusive doctrinal competency.

Curiae Romanae, peculiarique modo Congregationis pro Doctrina Fidei quod attinet ad doctrinam fidei et morum. Exinde sequitur documenta huius Congregationis, expresse a Romano Pontifice approbata, participare Magisterium ordinarium successoris Petri." Hereafter this document shall be cited as *Dov*. English translation in *Origins* 20 (1990-1991) 117-126.

⁸² In 1977, long before *PB*, Jérôme Hamer defined the CDF in light of *Integrae servandae* as "the auxiliary of the ordinary magisterium of the Holy Father, with the mission of taking care that the profession of faith be the guide of all the activity of the Church. . . ." (see Hamer, 350).

⁸³ Velasio De Paolis, "Canonical Observations on the New Regulations of the Congregation for the Doctrine of the Faith," *Canon Law Society of Great Britain and Ireland Newsletter* 112 (1997) 25-35. De Paolis points out that "the Congregation's particular responsibility for faith and morals gives it a unique status within the Roman Curia. Precisely because it has the function of promoting and safeguarding the doctrine of faith and morals it does not only exercise the power of jurisdiction, like the other Congregations, but also shares in the magisterial authority of the Pope" (28).

⁸⁴ Ignazio Schinella pointed out that vicarious magisterial authority is possible only by a grant from the one who possess that authority proper to himself. Such is the case with the CDF in its relationship to the Roman Pontiff, precisely the point John Paul II makes in *PB*. See Schinella, 38: "La capacità magisteriale degli organi vicari, infatti, non deriva né da una potestà propria e indipendente, che possono esercitare personalmente, né per il particolare carattere della *potestas ordinis*, né per particolari capacità individuali di preparazione tecnica o di qualità morali, ma in forza della missione conferita loro dal titolare di ufficio, nel cui nome e per autorità del quale compiono la funzione magisteriale. In quanto organi vicari, la loro potestà è ordinaria, ma vicaria. Ne consegue che ogni atto dell'organo vicario è atto del titolare di ufficio. Questi infatti non ha abdicato al suo munus di insegnamento. A lui resta sempre l'incombenza di vigilare sugli atti vicari, i quali hanno valore e qualità magisteriali in quanto vengono emanati mediatamente ma sempre in nome e per conto del titolare di ufficio, a cui inevitabilmente rimandano come a sorgente e a fondamento di autorità e di obbligazione magisteriale"

4. The Pope's Rationale for *Pastor bonus*

Before treating of the specific articles relevant to the CDF, it is important to note that near the end of the introduction, the Pope identifies the five chief motivating factors which caused him to initiate this curial reform (n. 13). These five goals are largely a statement of the reform initiatives described above but also address some of the more practical considerations which led him to bring about this reform. First, building upon the curial reform of *Regimini Ecclesiae Universae*, John Paul II sought to make the Roman Curia more adept in responding to the needs of the modern day.⁸⁵ Second, given that the new Code of Canon Law had been promulgated just five years earlier in 1983, and given that the new Code of Canons for the Eastern Churches would be promulgated only two years later in 1990, John Paul II wanted “to fulfill and complete that renewal of the laws of the Church” inaugurated by these two codes by legislating norms governing the proper law for the Roman Curia.⁸⁶ Third, the Pope desired that the various dicasteries of the Roman Curia be made more suitable for their proper ends and therefore he required “their areas of competence [to be] distributed more aptly among them and more distinctly delineated.”⁸⁷ Fourth, the Pope wanted to restructure those entities within the Roman

⁸⁵ *PB*, n. 13; AAS 80 (1988) 857: “Voluimus in primis ut eiusdem Curiae imago et facies novis responderet nostri temporis postulatis, ratione mutationum habita, quae post editam Constitutionem apostolicam ‘Regimini Ecclesiae universae’ sive a Decessore Nostro Paulo VI sive a Nobis factae sunt.”

⁸⁶ *PB*, n. 13; AAS 80 (1988) 857: “Deinde Nostrum fuit ut Ecclesiae legum renovatio, quae per evulgatum novum Codicem Iuris Canonici inducta est, vel quae in eo est posita ut ad effectum deducatur in recognoscendo Codice Iuris Canonici Orientalis, aliquo modo expleretur atque conficeretur.”

⁸⁷ *PB*, n. 13; AAS 80 (1988) 857: “Tum in animo habuimus ut antiquitus recepta Romanae Curiae Dicasteria et Instituta magis idonea redderentur ad ipsorum fines consequendos, ad quos institute sunt,

Curia which had been created after the Second Vatican Council, e.g. the International Theological Commission and the newly reconstituted Pontifical Biblical Commission, in order to set them in greater service to the pastors of the Church in addressing specific questions or pastoral needs in a timely manner.⁸⁸ This goal, perhaps more than any of the others, bears significantly on the competency of the CDF to promote doctrine since, as noted previously, the studies of both the International Theological Commission and the Pontifical Biblical Commission are under the direction of the CDF (see art. 55 below).⁸⁹ Fifth, the Pope required new measures to increase cooperation between the various dicasteries so that the overall work of the Roman Curia “may bear the stamp of unity.”⁹⁰

The introductory portion of *Pastor bonus* concludes with one final articulation of the Pope’s pastoral vision for the Curia (n. 14), namely that this “venerable institution . . . may respond to that new pastoral impulse by which all the faithful are moved, laity, priests and particularly bishops, especially now after the Second Vatican Council, to listen ever more deeply and follow what the Spirit is saying to the Churches (Rev.

scilicet ad participanda regiminis, iurisdictionis atque negotiorum executionis munera; qua de re factum est ut horum Dicasteriorum agendi provinciae inter ipsa aptius distribuerentur ac distinctius designarentur.”

⁸⁸ *PB*, n. 13; *AAS* 80 (1988) 857: “Deinde prae oculis habentes quae rerum usus hisce annis docuit quaeque semper novis ecclesialis societatis postulatis requiruntur, cogitavimus iuridicam figuram rationemque iterum considerare illorum institutorum, quae merito ‘post-conciliaria’ appellantur, eorum forte conformationem ordinationemque mutando. Quod eo consilio fecimus, ut magis magisque utile fructuosumque ipsorum institutorum munus redderetur, scilicet in Ecclesia promovendi peculiaria pastoralia opera atque rerum studium, quae augescere in dies celeritate Pastorum sollicitudinem occupant eademque tempestivas securasque responsiones postulant.”

⁸⁹ See page 141 for a treatment of *PB*, article 55 regarding the ITC and the PBC.

⁹⁰ *PB*, n. 13; *AAS* 80 (1988) 857: “Denique nova et etiam stabilia incepta ad mutuam operam inter Dicasteria consociandam excogitate sunt, quorum ope quaedam agendi ratio habeatur unitatis notam suapte natura prae se ferens.”

2:7).”⁹¹ With this final aspiration, the document then moves to the 193 specific articles by which the Roman Curia is to be governed. It is only after the Secretariat of State that the Congregations are presented, the first of which is the Congregation for the Doctrine of the Faith.

C. Norms for the Congregation for the Doctrine of the Faith

The introductory portion of *Pastor bonus* is followed by 193 articles, the first section of which is comprised of the general norms (arts. 1-38) applicable to the entire Roman Curia. The next set of articles is dedicated to the structure and mission of the Secretariat of State (arts. 39-47). Immediately following the norms for the Secretariat of State are the norms governing the Congregations, the first of which is the CDF in articles 48 through 55. All eight articles are presented here simply for the sake of thoroughness, but it is the promotion of doctrine, the most significant contribution to the CDF’s competency in *Pastor bonus*, which will serve as the focus for the considerations that follow.

1. Article 48: Proper Duty

The very first article presents the Congregation for the Doctrine of the Faith without the descriptor “Sacred” as part of its name, just as Paul VI had originally

⁹¹ *PB*, n. 14; AAS 80 (1988) 858: “. . . hanc Apostolicam Constitutionem exarari iussimus, spe ducti ut veneranda haec et regimini Ecclesiae necessaria institutio, novo illi pastorali instinctui respondeat, quo praesertim post celebratum Concilium Vaticanum II fideles omnes, laici, prebyteri et praesertim Episcopi aguntur, quo penitus usque audiant atque sequantur ea quae Spiritus dicat Ecclesiis (cf. Ap 2,7).”

presented it in *Integrae servandae* prior to the addition of “Sacred” to the Congregation’s name in *Regimini Ecclesiae Universae*. The CDF is presented as having one “proper duty” (*proprium munus*) comprised of two corresponding dimensions:

The proper duty of the Congregation for the Doctrine of the Faith is to promote and safeguard the doctrine on faith and morals in the whole Catholic world; so it has competence in things that touch this matter in any way.⁹²

Article 48 indicates that in service to the Petrine *munus docendi* which, by its nature is universal, the CDF’s historical competency to safeguard (*tutari*) doctrine is maintained. Yet at the same time a new emphasis is placed on the positive side of the CDF’s work, i.e., to promote doctrine (*promovere*). Indeed, of the two dimensions to the CDF’s proper duty described here in article 48, that of promoting doctrine is indicated first followed by the more traditional task of safeguarding it. While the promotion and safeguarding of doctrine can be understood as two sides of the same coin, i.e., the CDF really cannot refute error without promoting sound doctrine nor promote sound doctrine without the repudiation of common errors regarding faith and morals, nonetheless there is a shift here from the historical emphasis exclusively on the competency to safeguard doctrine. In the previous chapter we saw that the limitation of the CDF’s proper duty to safeguarding doctrine held true until Paul VI began to speak of the CDF’s duty to promote doctrine in the introductory portion of *Integrae servandae*.⁹³ But even in Paul

⁹² *PB*, art. 48; *AAS* 80 (1988) 873: “Proprium Congregationis de Doctrina Fidei munus est doctrinam de fide et moribus in universo catholico orbe promovere atque tutari; proinde ipsi competunt ea, quæ hanc materiam quoquo modo attingunt.”

⁹³ See pp. 42-43 *supra*.

VI's document, the first norm still presented the CDF's proper duty as solely the responsibility to safeguard doctrine. It was not until the fourth norm that one found the verb *promovere* and only then it was used in terms of the CDF's duty to promote theological studies.⁹⁴ Here in article 48 of *Pastor bonus*, for the first time, the singular proper duty of the CDF is presented in a dual fashion, i.e., the promotion of doctrine is situated alongside and in harmony with the age-old task of safeguarding it.⁹⁵

The emphasis which *Pastor bonus* places on the dual character of the CDF's proper duty presents a fuller vision of how the Congregation assists the teaching authority of the Church. That teaching authority is described generally in canon 747, the initial canon of Book III, *De Ecclesiae Munere Docendi*:

Canon 747 §1. The Church, to which Christ the Lord has entrusted the deposit of faith so that with the assistance of the Holy Spirit it might protect the revealed truth reverently, examine it more closely, and proclaim and expound it faithfully, has the duty and innate right, independent of any human power whatsoever, to preach the gospel to all peoples, also using the means of social communication proper to it.

§2. It belongs to the Church always and everywhere to announce moral principles, even about the social order, and to render judgment concerning any human affairs insofar as the fundamental rights of the human person or the salvation of souls requires it.⁹⁶

⁹⁴ The first norm of *Integrae servandae* read: "Quae hactenus appellata est Sacra Congregatio Sancti Officii, in posterum appellabitur Congregatio pro doctrina fidei, cuius munus est doctrinam de fide et moribus in universo catholico orbe tutari" (see *IS*, n. 1; AAS 57 [1965] 954). The fourth norm read: "Examinat novas doctrinas novasque opiniones, quavis ratione evulgatas, atque studia de hac re promovet, Congresusque virorum doctorum fovet; illas vero reprobate de quibus constat fidei principiis esse oppositas, auditis tamen Episcopis regionum, si eorumdem intersit" (see *IS*, n. 4; AAS 57 [1965] 954).

⁹⁵ Antonio Silvestrelli, "La Congregazione della Dottrina della Fede," in *La Curia Romana nella Cost. Ap. 'Pastor Bonus'*, ed. Piero Antonio Bonnet and Carlo Gullo (Vatican City: Libreria Editrice Vaticana, 1990) 227: "... per la prima volta viene attribuito esplicitamente al [CDF] un compito non tanto di difesa e di tutela, quanto di promozione nei riguardi della fede."

⁹⁶ 1983 *CIC*, c. 747: "§1. 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, etiam mediis communicationis socialis sibi propriis adhibitis,

The canon reflects both the requirement of the teaching authority of the Church to “protect the revealed truth reverently” but also to “proclaim and expound it faithfully.” The dual modality of the CDF’s proper duty better allows the Congregation to assist the teaching authority of the Church.

Furthermore, the competency is a broad and far-reaching one. *Pastor bonus* uses a sweeping expression in stating that the CDF has exclusive competence over anything touching faith and morals “in any way.” This reflects the historical broad reach enjoyed by the CDF in its efforts to safeguard the doctrine on faith and morals. Indeed, now with the new emphasis on the promotion of doctrine, the expanse of its competency is even wider. As will be seen below, the CDF’s doctrinal oversight applies also to the other dicasteries of the Roman Curia.

Given this broad competency over matters touching upon faith and morals, the responsibility to approve the formula for the profession of faith also falls to the CDF. Canon 833 lists various persons who are obliged personally to make the profession of faith upon assuming an ecclesiastical office exercised in the name of the Church. The canon indicates that the formula used to make such a profession of faith is one that has been “approved by the Apostolic See.” Article 48 of *Pastor bonus* makes it clear that within the Apostolic See, the CDF is the competent dicastery to grant such approval. The

a qualibet humana potestate independens, omnibus gentibus Evangelium praedicandi. §2. Ecclesiae competit semper et ubique principia moralia etiam de ordine sociali annuntiare, necnon iudicium ferre de quibuslibet rebus humanis, quatenus personae humanae iura fundamentalia aut animarum salus id exigat.” This canon has an equivalent in canon 595 of the *Codex Canonum Ecclesiarum Orientalium auctoritate Ioannis Pauli PP. II promulgatus* (Vatican City: Libreria Editrice Vaticana, 1990). Hereafter the Code of Canons of the Eastern Churches shall be cited as *CCEO*.

CDF published the formula for the profession of faith on 1 July 1988⁹⁷ and later completed it with a rescript of 19 September 1989.⁹⁸

The novelty of this emphasis merits further consideration especially in light of the overall pastoral aim of *Pastor bonus*. The vast breadth of the CDF's ability to promote doctrine is also noteworthy. Insofar as the CDF's competency to promote doctrine is in direct service to the Roman Pontiff, then that competency must enjoy the same broad parameters of the pope's own ordinary magisterium. Further inquiry is needed, therefore, as to *how* the CDF promotes doctrine; i.e. by what means? What are the goals to be achieved in the promotion of doctrine? The only other article in *Pastor bonus* which explicitly addresses the competency of the CDF to promote doctrine is the very next one, article 49. Similarly, article 51 does the same for the safeguarding of doctrine. It could be argued, then, that article 49 defines what the promotion of doctrine means and is the sum total of that competency. It is the contention of this study, however, that whereas article 49 explicitly refers to the promotional competency of the CDF, other articles implicitly contribute to an articulation of what the promotion of doctrine by the CDF entails, specifically articles 50, 54, and 55. A treatment of each of the articles pertaining to the CDF will explain why we have reached this conclusion.

⁹⁷ AAS 81 (1989) 104-106. The profession of faith formula of 1 July 1988 lacked a date, signature, and notice of the necessary pontifical approval for publication. This was later addressed in the rescript of 19 September 1989 (see next footnote).

⁹⁸ AAS 81 (1989) 1169.

2. Article 49: Fostering Studies

Just as article 48 places *promovere* before *tutari* in describing the two aspects of the CDF's proper duty, so the rest of the articles treating of the CDF are arranged in the same order. One of the chief ways by which the CDF is to promote doctrine is provided in article 49, which reads:

Fulfilling its duty of promoting doctrine, the Congregation fosters studies so that the understanding of the faith may grow and a response in the light of the faith may be given to new questions arising from the progress of the sciences or human culture.⁹⁹

The article begins to unfold what is meant by “promote” in article 48. Note the positive tone of this norm: the CDF fosters (*fovet*) studies in order that faith may grow (*crescere*), and an enlightened response of faith (*responsio sub luce fidei*) can be made to new questions (*novis quaestionibus*) arising from the progress of the secular order. This article places the CDF in a proactive posture and not solely in a reactive posture. The article expresses the pastoral objective for why the CDF is involved in the promotion of doctrine—it assists the pope in expressing existing doctrine in such a way that it can be more readily understood, developed, expressed, accepted, and lived. This is a completely different tone from those articulations of the past regarding the role of the CDF. Gone from this article is the worrisome concern of lurking heresy and its insidious effects on right faith and morals. This is not to say that the CDF can no longer concern itself with

⁹⁹ *PB*, art. 49; *AAS* 80 (1988) 873: “Munus promovendae doctrinae adimplens, ipsa studia fovet ut fidei intellectus crescat ac novis quaestionibus ex scientiarum humanive cultus progressu enatis responsio sub luce fidei praëberi possit.”

disciplinary measures (article 51 maintains its competency to do that) but only that the CDF must assist the pope and bishops to teach the faith with clarity and precision in such a way that errors are less likely to arise in the first place.

Pastor bonus requires the involvement of the CDF much earlier in the doctrinal enterprise than its traditional competency had allowed it; i.e., now instead of simply pointing out what doctrine is *not* sound after it has been disseminated to some degree, and employing corrective measures to mitigate the damage caused as a result of that dissemination, the CDF is to be actively engaged preemptively in helping the pastors of the Church to teach sound doctrine. This is ordered to achieving the goal of a deeper understanding of the faith and to provide a more theologically based response to questions of the day. Thus, the CDF's promotion of doctrine occurs with a different focus; in a more catechetical or instructional lexicon; a more positive style. Documents which promote sound doctrine may respond to questions of the day and seek to nuance or even correct widespread theological errors, again keeping in mind that to promote sound doctrine will necessarily entail the other aspect of the CDF's proper duty, to safeguard from error. But the teleology of promoting doctrine has a different trajectory. Promotional efforts on the part of the CDF are in service to the ordinary magisterium of the pope and college of bishops in such a way that their *munus docendi* is facilitated, not necessarily their *munus gubernandi* in bringing corrective measures to errant theologians or schools of thought.

The article refers to studies which the CDF is to foster as a means to promoting doctrine. But article 55 establishes "within" (*apud*) the CDF two entities, the Pontifical

Biblical Commission and the International Theological Commission, charged, according to their proper norms, with the duty of fostering such studies.¹⁰⁰ By means of these studies, the CDF is able to explore to a greater depth the currents of contemporary thought and the Church's biblical and theological reflections on them. In this way, the CDF provides a rich service both to the Roman Pontiff and to the college of bishops who then directly benefit from the fruit of these studies and who may then apply the studies accordingly to the pastoral exigencies of the universal Church in the case of the Roman Pontiff, or to a particular Church or region in the case of bishops.

3. Article 50: Auxiliary to Bishops

While not explicitly addressing the promotion of doctrine like the previous article, article 50 is more easily associated with the promotion of doctrine than the safeguarding of doctrine since the article describes the CDF's auxiliary services to bishops *qua* teachers of the faith and since the article comes before the next article which explicitly addresses the safeguarding of doctrine. The article reads:

[The CDF] helps the bishops, individually or in groups, in carrying out their office as authentic teachers and doctors of the faith, an office that carries with it the duty of promoting and guarding the integrity of that faith.¹⁰¹

¹⁰⁰ See footnote 139 on page 59 for a treatment of the special norms for the International Theological Commission and footnote 160 on page 65 for a treatment of the special norms for the Pontifical Biblical Commission.

¹⁰¹ *PB*, art. 50; *AAS* 80 (1988) 873: "Episcopis, sive singulis sive in cœtibus adunatis, auxilio est in exercitio muneris, quo ipsi authentici fidei magistri atque doctores constituuntur, quoque officio integritatem eiusdem fidei custodiendi ac promovendi tenentur."

The duty of promoting and guarding the integrity of the faith is ascribed to individual bishops as well as to the college of bishops “as authentic teachers and doctors” of the faith. The *munus docendi* for individual bishops finds canonical expression in canon 386; the first paragraph addresses the promotion of doctrine (the canon uses the verb *proponere*, or “propose”),¹⁰² and the second addresses its being safeguarded (the canon uses *tutari* but is translated as “protect”):

Canon 386 §1. A diocesan bishop frequently preaching in person, is bound to propose and explain to the faithful the truths of the faith which are to be believed and applied to morals. He is also to take care that the precepts of the canons on the ministry of the word, especially those on the homily and catechetical instruction, are carefully observed so that the whole Christian doctrine is handed on to all.

§2. Through more suitable means, he is firmly to protect the integrity and unity of the faith to be believed, while nonetheless acknowledging a just freedom in further investigating its truths.¹⁰³

The *munus docendi* of the college of bishops as a whole finds canonical expression in canon 753:

Canon 753. Although the bishops who are in communion with the head and members of the college, whether individually or joined together in conferences of bishops or in particular councils, do not possess infallibility in teaching, they are authentic teachers and instructors [*doctores*] of the faith for the Christian faithful entrusted to their care; the Christian faithful

¹⁰² The verb *proponere* is also used in canon 754 in requiring the Christian faithful to observe doctrine “proposed” by competent ecclesiastical authority. See chapter four for an investigation into canon 754 and its applicability to doctrine “promoted” by the CDF. See also chapter five for a treatment of the consistency of vocabulary by which this is treated.

¹⁰³ 1983 *CIC*, c. 386: “§1. Veritates fidei credendas et moribus applicandas Episcopus dioecesanus fidelibus proponere et illustrare tenetur, per se ipse frequenter praedicans; curet etiam ut praescripta canonum de ministerio verbi, de homilia praesertim et catechetica institutione sedulo servantur, ita ut universa doctrina Christiana omnibus tradatur. §2. Integritatem et unitatem fidei credendae mediis, quae aptiora videantur, firmiter tuetur, iustam tamen libertatem agnoscens in veritatibus ulterius perscrutandis.”

are bound to adhere with religious submission of mind to the authentic magisterium of their bishops.¹⁰⁴

Article 50 is a good example of the theological perspective presented by John Paul II in the introductory portion of *Pastor bonus*, namely, that the dicasteries of the Roman Curia, in virtue of being in service to the Roman Pontiff, are by that same fact in service to the college of bishops of which he is the head. The bishops, whose office as “authentic teachers and doctors” of the faith includes the *munus docendi*, share in the responsibility to both promote and safeguard doctrine with the head of the college, the pope, and therefore the curial assistance the pope receives from the CDF to fulfill this responsibility must also extend to those to whom the pope is a servant, i.e., the college of bishops.¹⁰⁵

Pastor bonus is not specific as to the methodologies the CDF is to employ to be the doctrinal auxiliary to bishops it is here required to be perhaps because there are so many different ways this promotion can be done and perhaps because the promotion of doctrine may require creativity and flexibility to meet the demands of the times. To be

¹⁰⁴ 1983 *CIC*, c. 753: “Episcopi, qui sunt in communione cum Collegii capite et membris, sive singuli sive in conferentiis Episcoporum aut in conciliis particularibus congregati, licet infallibilitate in docendo non polleant, christifidelium suae curae commissorum authentici sunt fidei doctores et magistri; cui authentico magisterio suorum Episcoporum christifideles religioso animi obsequio adhaerere tenentur.”

¹⁰⁵ “Servant of the Servants of God” is one of the titles used by the *Annuario Pontificio* for the Roman Pontiff (see *Annuario Pontificio*, 26). Silvestrelli speaks of the CDF’s service to the college of bishops in the promotion of doctrine as an expansion of the CDF’s competency. See Silvestrelli, 227: “. . . n.50 [of *Pastor bonus*] allarga anche in termini operative la competenza della Congregazione per la Dottrina della Fede, stabilendo che ‘essa è di aiuto ai Vescovi, sia singoli che riuniti nei loro organismi, nell’esercizio del compito . . . di custodire e promuovere l’integrità della medesima fede.’ Con questo articolo si attribuisce al Dicastero romano un’azione di promozione anche nell’ambito delle Chiese locali, seppure nella forma di aiuto da offrire ai Pastori ‘sia singoli, sia riuniti nei loro organismi.’ Anche questo è totalmente nuovo rispetta ai precedent documenti pontifici, anche quelli di Papa Montini.”

sure, providing doctrinal consultation and support to an individual bishop through correspondence would serve as an example of fulfilling article 50 of *Pastor bonus*.

In addition to serving individual bishops, the CDF regularly serves groups of them together. The CDF promotes doctrine in meeting with bishops during their *ad limina* visits, either individually or by ecclesiastical region. The CDF promotes doctrine through organized symposia, the topic of which may be of significant concern for a particular group of bishops. Another chief way the CDF supports bishops is by conducting joint conferences with the doctrinal committees of episcopal conferences throughout the world. As indicated above, the CDF had instructed episcopal conferences to establish doctrinal committees on 23 February 1967 just after the reform of the Roman Curia instigated by Paul VI. Such meetings with the doctrinal commissions were begun at the initiative of the CDF itself. In fact, instead of summoning representatives of the doctrinal commissions of various episcopal conferences to Rome, the CDF took the initiative in organizing and conducting such conferences in various global locales. The meetings were organized so that key representatives of the CDF, including Cardinal Ratzinger, were available to meet with the president and a few bishop members of the doctrinal committees of the episcopal conferences involved. Such meetings began in 1984 in Bogotá, and were subsequently conducted in Kinshasa in 1987, Vienna in 1989, Hong Kong in 1993, Guadalajara in 1996, and Vallombrosa in 1999. Augustine DiNoia comments that these voyages of the Prefect and senior officials of the CDF to various regions of the world represent a “remarkable initiative” and an “unprecedented step” such that “the profile of the Congregation for the Doctrine of the Faith was transformed, and

its role in fostering Episcopal collegiality through collaboration in the teaching ministry of the Church came to be seen with greater clarity than possibly at any time in the past.”¹⁰⁶

Doctrinal commissions of episcopal conferences are parallel entities to the CDF in that they exist to assist the bishops of that conference in their solemn duty to promote and safeguard the doctrine on faith and morals. Such commissions are to have bishops as members who may call to their assistance theologians or other experts to serve as

¹⁰⁶ At a 2006 conference anticipating Pope Benedict XVI’s apostolic visit to Poland, Fr. Augustine DiNoia, Under-Secretary for the CDF, provided a presentation in Radom on 21 May entitled “Meetings of Doctrinal Commissions Under the Guidance of Cardinal Joseph Ratzinger” (Forthcoming, Diocese of Radom, Poland) in which he provided a brief synopsis of each of these significant meetings. The focus of each meeting was to discuss whatever unique doctrinal concerns the bishops of the respective regions faced. In preparation for each meeting, the CDF sought input from the doctrinal commissions by means of a questionnaire how it might be of best service to them. Gradually the doctrinal commissions themselves began to take on greater and greater initiative in setting the agenda and in the presentation of papers. DiNoia summarizes the following themes for each of the six meetings as follows: Bogotá addressed “(a) the relation between the pastoral governance of the bishops and the pastoral activity of religious communities; (b) theological method in the theology of liberation; (c) the erosion of moral conscience in society, the problem of abortion, and the dissolution of the family; (d) the activity of Protestant sects and ecumenical centers; (e) the new ecclesial movements (especially the Neocatechumenate and the charismatic groups; (f) the content of catechetical texts, particularly their incorporation of the radical themes of the theology of liberation; and (g) the difference between the Eucharist and the celebration of the Word presided over by a lay person.” Kinshasa addressed (a) the inculturation of the Christian faith specifically into African cultural contexts; (b) how inter-religious ecumenical efforts interface with the Church’s mission to evangelize; and (c) the “nature and finality of doctrinal commissions.” In Vienna the focus was on (a) the host of moral dilemmas which the Church must confront (e.g., birth control, abortion, euthanasia, divorce); (b) the consequences of the Enlightenment; (c) the relationship between conscience and authentic freedom; (d) New Age movements and the occult; (e) and the role of women in the Church. In Hong Kong the major theme was presented by an address of Cardinal Ratzinger who spoke of Christianity’s right and ability to make itself understood in any cultural milieu as well as the relationship between Christianity and non-Christian religions in the contemporary context. The meeting in Guadalajara addressed (a) liberation theology; (b) relativism and the obstacles it presents in philosophical thought; (c) how orthodoxy and orthopraxis coexist; (d) New Age movements; and (e) current duties for Catholic theology today. Finally at Vallombrosa, located within the Archdiocese of San Francisco and hosted by then Archbishop William Levada and now Cardinal Prefect of the CDF, the major themes were (a) relativism; (b) an increasing anthropocentrism in theological thought and work; (c) the salvific unity of Christ and the Church; (d) an interpretation of the formula *subsistit in* from Vatican II; (e) the doctrinal articulation of ecclesial communion both at the level of the particular Church as well as the universal Church; (f) the authority of the Magisterium; (g) the importance of the Profession of Faith; (h) the vocation of the theologian within the Church, especially vis-à-vis in relation to the bishops; (i) feminism; and (j) the pastoral care of persons with a same-sex attraction.

consultants. The doctrinal commission is consultative in nature and cannot, therefore, issue statements or documents of its own accord but only when allowed to do so by the episcopal conference. Doctrinal commissions “assist in the reception and promulgation of [papal and Roman curial teaching documents], and in this way meet one of their primary responsibilities which, like the CDF itself, is to promote the doctrine of the faith.”¹⁰⁷

4. Article 51: Safeguarding Doctrine and Morals

After addressing the promotion of doctrine, the lengthiest of the CDF articles, article 51, outlines the concomitant task of safeguarding “the truth of faith and the integrity of morals.” The article reads:

To safeguard the truth of faith and the integrity of morals, the Congregation takes care lest faith or morals suffer harm through errors that have been spread in any way whatever.

Wherefore:

1° it has the duty of requiring that books and other writings touching faith or morals, being published by the Christian faithful, be subjected to prior examination by the competent authority;

2° it examines carefully writings and opinions that seem to be contrary or dangerous to true faith, and, if it is established that they are opposed to the teaching of the Church, reproves them in due time, having given authors full opportunity to explain their minds, and having forewarned the Ordinary concerned; it brings suitable remedies to bear, if this be opportune;

¹⁰⁷ On the very next day after his address in Radom (see previous footnote), DiNoia provided a presentation in Warsaw on 22 May entitled “In Service To The Truth: The Doctrinal Commissions of the Episcopal Conferences” in which he sketched some of the fundamental responsibilities of the doctrinal commissions of episcopal conferences, drawing parallels between their competencies and those of the CDF. (6) [Forthcoming, Diocese of Radom, Poland].

3° finally, it takes good care lest errors or dangerous doctrines, which may have been spread among the Christian people, do not go without apt rebuttal.¹⁰⁸

The traditional responsibility of the CDF to safeguard the integrity of sound doctrine on faith and morals throughout the Catholic world remains properly its own and is clearly the focus of this article. The goal to be achieved in all three tasks outlined in article 51 is the prevention of harm. To exercise this prevention, the CDF is charged with the competency to examine manuscripts to determine if, in fact, they may be published (1°), to examine and potentially remedy “writings and opinions” (presumably the latter are also expressed in writings) which have already been published (2°), and to rebut erroneous or dangerous doctrines which have gained a hearing among the Christian faithful.

The tripartite responsibilities provided in article 51 hearken back to the responsibilities assigned to the CDF in *Integrae servandae* nn. 4 and 5, and in *Regimini Ecclesiae Universae* nn. 32 and 33, though *Pastor bonus* sets this safeguarding clearly in service to the positive pastoral aim of the Congregation. Whereas the explicit goal is to protect faith and morals from suffering harm, the real motivation is to protect the fervency of faith among believers and their moral life from suffering harm. The Christian

¹⁰⁸ *PB*, art. 51; *AAS* 80 (1988) 873-874: “Ad veritatem fidei morumque integritatem tuendam, curam impendit, ne fides aut mores per errores quomodocumque vulgatos detrimentum patiantur. Quapropter: 1° ipsi officium est exigendi, ut libri aliaque scripta a Christifidelibus edenda, quæ fidem moresque respiciant, prævio competentis auctoritatis examini subiciantur; 2° scripta atque sententias, quæ rectæ fidei contraria atque insidiosa videantur, excutit, atque, si constiterit ea Ecclesiæ doctrinæ esse opposita, eadem, data auctori facultate suam mentem plene explicandi, tempestive reprobant, præmonito Ordinario, cuius interest, atque congrua remedia, si opportunum fuerit, adhibet; 3° curat denique, ne erroneis ac periculosis doctrinis, forte in populum christianum diffusis, apta confutatio desit.”

faithful are helped in their faith and moral discipleship when they are not deceived and led into error by unsound doctrine, whether spread culpably or inculpably. The CDF's safeguarding of doctrine, then, is eminently pastoral.

Subsequent to the promulgation of *Pastor bonus*, the CDF issued its new procedural norms for doctrinal examination in 1997 so that it could carry out the tasks entrusted to it by the Pope in article 51.¹⁰⁹ The new *Agendi ratio* abrogated the old norms reviewed in the previous chapter, *Libri aliaque*, which had been issued in 1971 following *Integrae servandae* and *Regimini Ecclesiae Universae*. As article 51 presents the traditional competency of the CDF in a pastoral light, so too do the procedural norms for the *Agendi ratio*. In fact, the norms begin by placing the doctrinal examination process in the context of the CDF's bipartite task of promoting and safeguarding the doctrine on faith and morals throughout the Catholic world. Indeed, the CDF desires that the faithful receive the gospel in genuineness and integrity.¹¹⁰

De Paolis notes that one of the goals of the new *Agendi ratio* was to enable local bishops to play a more active role in engaging the theologians whose texts or opinions were in question. When a particular writing has been examined and has been found contrary to the teaching of the Church, the "Ordinary concerned" is to be "forewarned" before the CDF proceeds to reprove the text. Such a consideration is a manifestation of

¹⁰⁹ Congregation for the Doctrine of the Faith, *Agendi ratio in doctrinarum examine*, 29 June 1997: AAS 89 (1997) 830-835. Hereafter this document shall be cited as *Agendi ratio*. It was approved by Pope John Paul II *in forma communi* except for articles 28 and 29 which he approved *in forma specifica*.

¹¹⁰ *Agendi ratio*, art. 1; AAS 89 (1997) 830: "Congregatio pro Doctrina Fidei munus habet doctrinam de fide ac moribus in universo catholico orbe promovendi atque tutandi (cf. *PB*, art. 48). Quo is fine prosequendo, ipsa servitium praebet veritatis, cum ius defendat Populi Dei recipiendi nuntium Evangelii in sua genuinitate et integritate."

the principle of subsidiarity and an important indicator of the pastoral style with which the CDF is to operate. Reproving a doctrinal text does not happen without pastoral consequences either for the author of the reprovved text or for the Christian faithful who may have already been adversely influenced by the text. These pastoral consequences are often what the local diocesan bishop or religious superior is left to address. *Pastor bonus* here requires the CDF to give the Ordinary concerned a prior indication; though nothing is stated about the CDF needing to consult with the Ordinary in determining *whether* a text ought to be reprovved. It is the CDF reprovving, not the Ordinary concerned.

Of the role of subsidiarity in the process, De Paolis notes:

. . . the Congregation's experience over the last 25 or so years [since *Libri aliaque*] suggested that some changes be made particularly in a desire to engage to a greater extent the responsibility of Ordinaries in the task of safeguarding doctrine, especially the author's Ordinary, and to ensure with greater breadth and effectiveness both the defence of the patrimony of the faith and the possibility for the author to defend himself.¹¹¹

While reiterating the prerogative of the Holy See to intervene in doctrinal questions at the local stage, the *Agendi ratio* first highlights the fact that it would do so only in service to the bishops in their own territories, or as an auxiliary collaborator with the doctrinal commissions of episcopal conferences.¹¹² In making this statement, the

¹¹¹ De Paolis, "Canonical Observations . . .," 27.

¹¹² *Agendi ratio*, art. 2; AAS 89 (1997) 830: "Ceterum haec primaria sollicitudo pastoralis ad omnes Ecclesiae Pastores pertinent, quibus, sive singulis, sive in Conciliis particularibus vel in Conferentiis episcopalibus adunatis, ius et officium est vigilandi, ne detrimentum afferatur rectae fidei aut moribus fidelium, qui ipsorum curae sunt commissi. Quam ad rem, ipsi uti possunt etiam Commissionibus Doctrinalibus, quae ut instrumentum consultivum institutae sunt, ut iisdem Conferentiis episcopalibus et singulis Episcopis auxilium afferant in eorum pro doctrina fidei sollicitudine. Restat utcumque firmum principium, quod Sancta Sedes semper intervenire potest, atque de more intervenit, cum influxus cuiusdam

norms refer to canon 823 §§1-2 which sets the universal legislative context for this relationship:

Can. 823 §1. In order to preserve the integrity of the truths of faith and morals, the pastors of the Church have the duty and right to be watchful so that no harm is done to the faith or morals of the Christian faithful through writings or the use of instruments of social communication. They also have the duty and right to demand that writings to be published by the Christian faithful which touch upon faith or morals be submitted to their judgment and have the duty and right to condemn writings which harm correct faith or good morals.

§2. Bishops, individually or gathered in particular councils or conferences of bishops, have the duty and right mentioned in §1 with regard to the Christian faithful entrusted to their care; the supreme authority of the Church, however, has this duty and right with regard to the entire people of God.¹¹³

In addition to an increased involvement of the bishops, episcopal conferences, and the author's ordinary in the doctrinal examination process, De Paolis notes two other significant developments in the new procedures. The first is that there is greater protection of the author's right of defense. The goal of these examinations is not only to protect the faithful from harmful theological errors but to engage the theologians who themselves may need assistance in situating their thought more squarely within the parameters of sound doctrine, or at least to allow them ample time to present their

scripti fines alicuius Conferentiae episcopalis egreditur, aut etiam periculum fidei peculiarem induit gravitatem."

¹¹³ 1983 *CIC*, c. 823: "§1. Ut veritatem fidei morumque integritas servetur, officium et ius est Ecclesiae pastoribus invigilandi, ne scriptis aut usu instrumentorum communicationis socialis christifidelium fidei aut moribus detrimentum afferatur; item exigendi, ut quae scripta fidem moresve tangant a christifidelibus edenda suo iudicio subiciantur; necnon reprobandi scripta quae rectae fidei aut bonis moribus noceant. §2. Officium et ius, de quibus in §1, competunt Episcopis, tum singulis tum in conciliis particularibus vel Episcoporum conferentiis adunatis quoad christifideles suae curae commissos, supremæ autem Ecclesiae auctoritate quoad universam Dei populum."

thought in a clear manner for an honest engagement with the Congregation.¹¹⁴ The other significant development is the procedure's respect for both universal and proper law. The process outlined in the *Agendi ratio* for the CDF to examine the doctrine on faith and morals in texts submitted to its judgment is not a replacement for procedural norms in the Code of Canon Law but an addition to it, "provided precisely because of the delicacy of questions regarding the faith and to protect the author whose writings are being examined."¹¹⁵ This latter development is especially important in considering article 52 of *Pastor bonus* and the CDF's competency to conduct trials for the imposition of a penalty.

5. Article 52: Judicial Competency

Continuing the explanation of the CDF's responsibility to safeguard the doctrine on faith and morals as one dimension of its proper duty, *Pastor bonus* provides it with the ability to conduct judicial examinations into offences against the faith or the sacraments and, if necessary, impose canonical sanctions.

The Congregation examines offences against the faith and more serious ones both in behavior or in the celebration of the sacraments which have been reported to it and, if need be, proceeds to the declaration or

¹¹⁴ De Paolis, "Canonical Observations . . .," 33: "the mechanism set in motion has so many important steps requiring long periods of time (the case is closed only years later) and the involvement of so many people that it is impossible to accuse it of hastiness or superficiality. Provision is made for interventions, even repeated interventions, by scholars, experts, the *Consulta*, the Ordinaries, the *Sessione Ordinaria* of the Congregation and the Holy Father himself, which appear to express a truly consummate prudence, as befits so important a question as the defence of the faith and of the author's personal rights."

¹¹⁵ De Paolis, "Canonical Observations . . .," 34.

imposition of canonical sanctions in accordance with the norms of common or proper law.¹¹⁶

The offenses against faith and more serious moral offenses or sacramental abuses may be investigated by way of an administrative or judicial process according to the CDF's own proper procedures. The CDF is also able to declare or impose penalties if it determines that such a measure is necessary.¹¹⁷ Cases such as these described in article 52 can be handled in first instance either by the CDF or by some other tribunal designated by the CDF. These cases on appeal, however, can only be brought before the CDF.

6. Article 53: Privilege of the Faith

Article 53 maintains the CDF's traditional exclusive competency over "privilege of the faith" cases. The short article simply states:

It is to examine whatever concerns the privilege of the faith, both in law and in fact.¹¹⁸

¹¹⁶ *PB*, art. 52 ; AAS 80 (1988) 874: "Delicta contra fidem necnon graviora delicta tum contra mores tum in sacramentorum celebratione commissa, quæ ipsi delata fuerint, cognoscit atque, ubi opus fuerit, ad canonicas sanctiones declarandas aut irrogandas ad normam iuris, sive communis sive proprii, procedit."

¹¹⁷ See *Agendi ratio*. See also John Paul II, Apostolic letter *Sacramentorum sanctitatis tutela*, 30 April 2001: AAS 93 (2001) 737-739; Congregation for the Doctrine of the Faith, *Epistola ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas interesse habentes: de delictis gravioribus eidem Congregationi pro Doctrina Fidei reservatis*, 18 May 2001: AAS 93 (2001) 785-788.

¹¹⁸ *PB*, art. 53; AAS 80 (1988) 874: "Eiusdem pariter est cognoscere, tum in iure tum in facto, quæ privilegium fidei respiciunt."

The CDF instruction *Potestas ecclesiae*, issued on 30 April 2001, provides the substantive and procedural norms for how the CDF proceeds in exercising this competency over “privilege of the faith” cases.¹¹⁹

7. Article 54: Doctrinal Supervision of the Curia

Article 54 of *Pastor bonus* describes the CDF’s doctrinal supervisory authority by which the CDF safeguards the doctrine on faith and morals even as that doctrine is articulated in curial texts emanating from the other dicasteries of the Roman Curia:

Documents being published by other dicasteries of the Roman Curia, insofar as they touch on the doctrine of faith or morals, are to be subjected to its prior judgment.¹²⁰

Of note is the ability of the CDF not only to review but specifically *to judge*; i.e., to evaluate the doctrinal content of documents emanating from other dicasteries in a way that is determinative of when they may be published. In a sense, the CDF vicariously represents the Supreme Pontiff to all the other dicasteries of the Roman Curia, themselves vicarious entities of the same Supreme Pontiff. As chapter one pointed out, this curial

¹¹⁹ Congregation for the Doctrine of the Faith, *De conficiendo processu pro solutione vinculi matrimonialis in favorem fidei*, 30 April 2001 (Vatican City: Editrice Libreria Vaticana, 2001). This document was intentionally not published in the *Acta Apostolicae Sedis* in order to avoid the danger that the mass-media would have presented the Church as favoring divorce. For an historical synopsis, an outline of the essential conditions for the dissolution of a marriage in favor of the faith, a brief description of the process, and a contextualization of this process within the canons on the separation of spouses, see John P. Beal, “The Separation of Spouses (cc. 1141-1155),” in *New Commentary on the Code of Canon Law*, ed. John P. Beal et al. (New York/Mahwah, NJ: Paulist Press, 2000) 1359-1378, especially 1372-1375. See also Frederick C. Easton, “Favor of the Faith Cases and the 2001 Norms of the Congregation for the Doctrine of the Faith,” *CLSA: Proceedings* 64 (2002) 97-119.

¹²⁰ *PB*, art. 54; AAS 80 (1988) 874: “Prævio eius iudicio subiciuntur documenta, ab aliis Curiae Romanæ Dicasteriis edenda, quatenus doctrinam de fide vel moribus attingunt.”

oversight on matters of doctrine is not something new; Paul III had established a similar norm at the CDF's inception in his Apostolic Constitution *Licet ab initio*.¹²¹ This could be considered as a vestige of the CDF's historical curial preeminence despite the fact that with *Pastor bonus* all the dicasteries are juridically equal.¹²²

De Paolis links this unique competency to the unique vicarious relationship the Congregation has with the pope in his *diaconia*. The CDF alone shares vicariously in the magisterial authority of the Roman Pontiff, De Paolis argues, and article 54 of *Pastor bonus* is indicative of this unique relationship. He writes:

. . . it should also be recalled that, while respecting the principle established by the Constitution *Pastor bonus* that the dicasteries “are juridically equal among themselves,” the Congregation’s particular responsibility for faith and morals gives it a unique status with the Roman Curia. Precisely because it has the function of promoting and safeguarding the doctrine of the faith and morals it does not only exercise the power of jurisdiction, like the other Congregations, but also shares in the magisterial authority of the Pope. . . . The reason is that, if it is true that “in exercising his supreme, full, and immediate authority over the universal Church, the Roman Pontiff employs the various dicasteries of the Roman Curia,” and therefore they “act in his name and by his authority for the good of the Churches and in service to the sacred Pastors” (Apostolic Constitution *Pastor bonus*, n.7), it must be granted that this also applies to the exercise of his magisterial authority through the Congregation for the Doctrine of the Faith. Therefore the doctrinal pronouncements or judgments of this dicastery in fulfilling its task are made “in the name and by the authority of the Roman Pontiff” and are thus the expression of a participation in his ordinary Magisterium, although to varying degrees, particularly when they are expressly approved by the Supreme Pontiff.

This particular feature, unique among the dicasteries of the Roman Curia puts the Congregation for the Doctrine of the Faith in a particular relationship with all the dicasteries in so far as the latter touch on

¹²¹ See pages 12-13 *supra*.

¹²² See *PB*, Art. 2, §2.

questions of faith. Competence in these matters belongs properly and exclusively to the Congregation for the Doctrine of the Faith.

As a result of this particular feature, the Congregation for the Doctrine of the Faith acts through both magisterial and jurisdictional interventions. The distinction between the two types of intervention is important since they are subject to the same regulations. In fact, although doctrinal and disciplinary interventions are often easy to distinguish and separate; sometimes it is difficult to do so, other times it can be unhelpful. As a result, it is necessary or at least opportune for the Congregation to have its own regulations. It is a rather delicate problem, which requires a balanced solution and is the focus of particular attention in the [*Agendi ratio*].¹²³

Instances of deference to this unique authority appear in various articles throughout *Pastor bonus*. The first such reference is found in article 58 §2 under the norms for the Congregation for the Oriental Churches. Whereas this Congregation has jurisdiction over “all matters which are proper to the Oriental Churches and which are to be referred to the Apostolic See, whether concerning the structure and organization of the Churches, the exercise of the office of teaching, sanctifying and governing, or the status, rights, and obligations of persons”¹²⁴ (art. 58 §1), still *Pastor bonus* indicates that this broad competency “does not infringe on the proper and exclusive competence” of the CDF in matters relevant to the doctrine of faith and morals (art. 58 §2).

The second reference to the CDF’s exclusive doctrinal competency is found in article 62 which serves as the very first of the norms for the Congregation for Divine Worship and the Discipline of the Sacraments. The article indicates that this

¹²³ De Paolis, “Canonical Observations . . .,” 28-29.

¹²⁴ *PB*, art. 58 §1; *AAS* 80 (1988) 875: “Huius Congregationis competentia ad omnia extenditur negotia, quæ Ecclesiis Orientalibus sunt propria, quæque ad Sedem Apostolicam deferenda sunt, sive quoad Ecclesiarum structuram et ordinationem, sive quoad munera docendi, sanctificandi et regendi exercitium, sive quoad personas, earundem statum, iura ac obligationes.”

Congregation has competency over “the regulation and promotion of the sacred liturgy, primarily of the sacraments” but that this competency is “without prejudice to the competence of the Congregation for the Doctrine of the Faith.”¹²⁵

A third instance pertains to the Congregation for the Causes of Saints and its competency to bestow the title “doctor.” Article 73 requires the Congregation first to receive the recommendation of the CDF regarding any outstanding teaching by the saint under consideration before the title may be granted.¹²⁶

The fourth reference appears in article 94 regarding the Congregation for the Clergy and its competency to grant the approval of the Holy See “for catechisms and other writings pertaining to catechetical instruction” but only with the assent of the CDF.¹²⁷

A fifth notation of the CDF in the work of other dicasteries is found in the norms pertaining to the Apostolic Penitentiary. Article 120 indicates that the dicastery is charged with the granting and use of indulgences but “without prejudice to the right of

¹²⁵ *PB*, art. 62; AAS 80 (1988) 876: “Congregatio ea agit quæ, salva competentia Congregationis de Doctrina Fidei, ad Sedem Apostolicam pertinent quoad moderationem ac promotionem sacræ liturgiæ, in primis Sacramentorum.”

¹²⁶ *PB*, art. 73; AAS 80 (1988) 878: “Ad Congregationem præterea spectat cognoscere de Doctoris titulo Sanctis decernendo, præhabito voto Congregationis de Doctrina Fidei ad eminentem doctrinam quod attinet.”

¹²⁷ *PB*, art. 94; AAS 80 (1988) 883-884: “Institutionem religiosam Christifidelium cuiuscumque ætatis et condicionis pro suo munere promovendam curat; opportunas normas præbet, ut lectiones catecheseos recta ratione tradantur; catecheticæ institutioni rite impertiendæ invigilat; præscriptam Sanctæ Sedis approbationem pro catechismis aliisque scriptis ad institutionem catechetica pertinentibus, de assensu Congregationis de Doctrina Fidei, concedit; officiis catecheticis atque inceptis ad religiosam institutionem spectantibus et indolem internationalem præ se ferentibus adest, eorum navitatem coordinat iisque auxilia, si opus fuerit præstat.”

the Congregation for the Doctrine of the Faith to review what concerns dogmatic teaching about them.”¹²⁸

The Pontifical Council for Promoting Christian Unity, due to the nature of its work, will frequently address questions of faith and therefore article 137 §1 requires it to proceed “in close connection with the Congregation for the Doctrine of the Faith, especially if declarations and public documents have to be issued.”¹²⁹ This article, the sixth reference to the CDF’s doctrinal supervision, in many ways is a re-articulation of article 54 but tailored to the Pontifical Council for Promoting Christian Unity.

Pastor bonus provides a seventh and final explicit reference to the CDF’s doctrinal supervision within the Roman Curia in article 161 regarding the Pontifical Council for Inter-Religious Dialogue. Similar to the requirement placed upon the Pontifical Council for Promoting Christian Unity, this Pontifical Council must also proceed “in consultation with the Congregation for the Doctrine of the Faith” whenever “the subject matter so requires” it.¹³⁰

¹²⁸ *PB*, art. 120; *AAS* 80 (1988) 890: “Eidem Dicasterio committuntur ea, quæ spectant ad concessionem et usum indulgentiarum, salvo iure Congregationis de Doctrina Fidei ea videndi, quæ doctrinam dogmaticam circa easdem respiciunt.”

¹²⁹ *PB*, art. 137 §1; *AAS* 80 (1988) 896: “Cum materia ab hoc Dicasterio tractanda suapte natura sæpe quæstiones fidei tangat, ipsum oportet procedat arcta coniunctione cum Congregatione de Doctrina Fidei, præsertim cum agitur de publicis documentis aut declarationibus edendis.”

¹³⁰ *PB*, art. 161; *AAS* 80 (1988) 902: “Cum subiecta materia id requirit, in proprio munere exercendo collatis consiliis procedat oportet cum Congregatione de Doctrina Fidei, et, si opus fuerit, cum Congregationibus pro Ecclesiis Orientalibus et pro Gentium Evangelizatione.”

8. Article 55: Pontifical Biblical Commission and International Theological Commission

The final article of those dedicated to the CDF addresses the two commissions under its direction.

Established within the Congregation for the Doctrine of the Faith are the Pontifical Biblical Commission and the International Theological Commission, which act according to their own approved norms and are presided over by the cardinal prefect of this Congregation.¹³¹

Here *Pastor bonus* simply acknowledges that these two commissions exist “within” the CDF and are subject to the Congregation’s prefect.¹³² The article points to proper law for more details about the structure, purpose, and operation of the commissions.¹³³ The close connection between the Pontifical Biblical Commission and the CDF stresses the importance of sound biblical exegesis in providing the foundation for the Church’s faith and the promotion and safeguarding thereof. The International Theological Commission, as described in the previous chapter, is to function for the CDF as a theological think tank by which theological questions of the day are explored and studied. It is the work of these two commissions to which article 49 refers, namely, to

¹³¹ *PB*, art. 55; AAS 80 (1988) 874: “Apud Congregationem de Doctrina Fidei constitutæ sunt Pontifica Commissio Biblica et Commissio Theologica Internationalis, quæ iuxta proprias probatas normas agunt quibusque præest Cardinalis eiusdem Congregationis Præfectus.”

¹³² The Latin *apud*, “in the presence of; before” is used to describe how these two commissions exist in relationship to the CDF. The CLSA translates it as “within.” This is not to be understood as if the two commissions were only departments of the CDF. They are not and, as the article goes on to state, they operate according to their own norms. It is to say, however, that neither commission exists on its own apart from the CDF.

¹³³ See Pope Paul VI, Motu proprio *Sedula cura*, 27 June 1971: AAS 63 (1971) 665-669 for the norms by which the Pontifical Biblical Commission operates. See Pope John Paul II, Motu proprio *Tredecim anni*, 6 August 1982: AAS 74 (1982) 1201-1205 for the norms by which the International Theological Commission operates. Both of these texts are treated in chapter one.

foster studies which will result in a greater understanding of the faith and will enable the Church to bring to the questions and issues of the day a response commensurate with that same faith.

D. Conclusion: Determining the Promotion of Doctrine by the CDF

The coupling of *promovere* with *tutari* to define the proper duty of the CDF is not to be interpreted as the establishment of a hierarchy of duties, as if the promotion of doctrine were more important than the safeguarding of it; there is no indication in *Pastor bonus* that this is the case. Rather, they are to be seen as working in tandem such that every act of the CDF is in some way both promoting and safeguarding the doctrine of faith and morals. Put another way, *promovere* and *tutari* are equal components of the CDF's singular proper duty and as such each contribute to the service of the other.

The novelty of adding *promovere* to the description of the CDF's proper duty is more a matter of emphasis so that the pastoral objective of the CDF is more clearly highlighted; an emphasis which is in accord with the aim of *Pastor bonus* as a whole. The emphasis stresses that the CDF is to be seen as an agent of support and assistance to the pope and bishops throughout the world in their responsibility to teach the faith and not just as the office to which offenses and errors against that faith are brought for an authoritative response.

Acknowledging the mutual interdependence of both aspects of the CDF's proper duty, however, does not mean that there is no distinction between the two. As this chapter

has attempted to demonstrate, *Pastor bonus* itself relegates either explicitly or implicitly certain tasks to the CDF's responsibility to promote doctrine (arts. 49, 50, and 55) and to its responsibility to safeguard doctrine (arts. 51-54). In light of the distinctions made in these articles, and in light of the considerations presented in this chapter, we have reached the point of articulating in summary fashion what is meant by the CDF's promotion of doctrine according to *Pastor bonus*.

As with the entire Roman Curia, the Congregation for the Doctrine of the Faith possesses an ecclesial, ministerial, collegial, and vicarious character making it suitable to assist the Roman Pontiff in his governance of the universal Church (*munus gubernandi*) as part of his overall pastoral duty (*diaconia*) which he has received by the will of the Lord as a successor to Saint Peter. Also like the rest of the Roman Curia, the CDF renders its assistance in accord with the pope's express wishes and the norm of universal and proper law. Unlike the rest of the Roman Curia, however, the CDF is endowed with the competency to assist the Roman Pontiff in a second aspect of his Petrine *diaconia*, namely in his teaching office (*munus docendi*) insofar as the CDF's proper duty is to promote and safeguard the doctrine on faith and morals throughout the whole Catholic world.

Due to the fact that the pope's *munus docendi* is universal in scope and united with the same *munus docendi* of the college of bishops and each individual bishop, the CDF is set in service to the *munus docendi* of the bishops, collectively or individually, as well. As noted above, John Paul II stated that as the Curia assists him in his personal office so it must also assist the bishops in their personal office "whether as members of

the college of bishops or as pastors of the particular Churches.”¹³⁴ The CDF’s service to the college of bishops, in fact, is exactly in accord with the kind of assistance the bishops sought from the Roman Curia as expressed in *Christus Dominus*.

The *munus docendi* of the pope and of each bishop united with him and each other involves the exercise of both the *potestas magisterii* in the promotion of doctrine and the *potestas regiminis* in safeguarding it. Since the CDF assists the pope and bishops in this *munus docendi*, it must also do so by a vicarious exercise of the *potestas magisterii* and the *potestas regiminis*.¹³⁵

To say that the CDF promotes the doctrine of faith and morals by a vicarious exercise of papal ordinary magisterial authority is not tantamount to saying that the CDF articulates new doctrine. Rather, it assists the Roman Pontiff, and the college of bishops united with him, in presenting their authentic teaching in a manner most helpful to the Church.

Perhaps it would be better simply to state that at times the CDF acts with a certain emphasis or motivating objective to promote doctrine when, borrowing from article 49 of *Pastor bonus*, it seeks to cultivate a deeper understanding of the faith which would enable “a response in the light of the faith to be given to new questions arising from the progress of the sciences or human culture.” Considered from this perspective, *Pastor bonus*

¹³⁴ See *PB*, n. 8; AAS 80 (1988) 851.

¹³⁵ De Paolis describes the teaching function of the Church as not just a proposition of a truth but an authoritative proposal of the faith which then requires a response of assent. See De Paolis, “La Funzione di Insegnamento . . .,” 449: “La funzione di insegnamento nella Chiesa non si reduce semplicemente alla proposizione di una verità, ma si tratta di una proposta autoritativo, che richiede una risposta di assenso. In questo senso la funzione di insegnamento è una potestas docendi, quando essa viene esercitata dai legittimi pastori.”

requires the CDF to assume a proactive posture by promoting sound doctrine while maintaining its traditional reactive posture of safeguarding it. In other words, while it is still the exclusive competency of the CDF to safeguard the integrity of the Church's teaching on faith and morals by examining doctrinal errors, its equally exclusive duty to promote doctrine will hopefully stymie doctrinal errors from developing in the first place.

More specifically, the CDF promotes doctrine in fostering studies or symposia aimed at the abovementioned objective provided in article 49. The fruit of these studies and symposia are then subsequently presented in a formal document after the approval of the Roman Pontiff. The vehicle by which the CDF promotes the doctrine of the faith and morals is not limited to one type of ecclesiastical document, however, as the next chapter will demonstrate. Some texts emanating from the CDF appear to have as their primary objective the CDF's newly emphasized competency to promote doctrine whereas other texts are more readily perceived as tools used by the CDF to exercise its more traditional task of safeguarding doctrine.¹³⁶ The distinction between *promovere* and *tutari* is not always easily discerned in practice.

The CDF may conduct the studies or symposia itself or may oversee the studies and symposia conducted by the Pontifical Biblical Commission and the International Theological Commission, both of which operate under the direction of the CDF in accord with proper law (art. 55). These studies and symposia would also aim at clearly

¹³⁶ For example, several documents from the CDF are Notifications, Notes, Doctrinal Notes, or Declarations, *inter alia*, by which the Congregation corrects common theological errors (cf. *PB*, art. 51, 3°) or explicitly critiques the work of a particular author after conducting its examination as provided in *PB*, art. 51, 2°. For an example of the latter, see Congregation for the Doctrine of the Faith, *Notificatio de operibus P. Jon Sobrino S.I.: Jesucristo liberador. Lectura histórico-teológica de Jesús de Nazaret and La fe en Jesucristo. Ensayo desde las víctimas*, 26 November 2006: AAS 99 (2007) 181-194.

presenting the doctrine of faith and morals in such a way that “a response in the light of the faith may be given to new questions arising from the progress of the sciences or human culture.” The fruit of these studies presented in a document also require the approval of the Roman Pontiff prior to issuance in any formal manner.

Furthermore, the CDF aims at promoting doctrine when it assists bishops, either individually or in groups, in carrying out their office as authentic teachers and doctors of the faith (art. 50) in such a way that the bishop(s) are better equipped to present the authentic teaching of the Church to those entrusted to their pastoral care. This service to the bishops may take the form of studies or symposia conducted in conjunction with the theological/doctrinal commissions of episcopal conferences whether initiated by the CDF or by the commissions themselves. As presented above,¹³⁷ these studies may discuss whatever unique doctrinal concerns the bishops of the respective regions face but the goal would be the same positive hoped-for outcome, that the specific questions and challenges may meet with a faith-filled response.

Keeping in mind this vision of what *Pastor bonus* intends by the CDF’s promotion of doctrine, the next chapter will serve to demonstrate how the CDF has practically fulfilled this mission in direct service to the *diaconia* of the Roman Pontiff and, in virtue of his universal pastoral solicitude, in service to the college of bishops. The CDF classifies its own documents according to their subject matter into the categories of doctrinal, disciplinary, or sacramental questions. Others have addressed the

¹³⁷ See page 128, footnote 106.

categorization of curial texts in terms of their title and purpose.¹³⁸ It is hoped that by applying the criteria above to the documents emanating from the CDF, the International Theological Commission, and the Pontifical Biblical Commission since the promulgation of *Pastor bonus*, some clear conclusions can be drawn regarding what characteristics these documents have in common, i.e., their content, stated purpose, targeted audience, and type of document used. Such a presentation and subsequent exposition of the resultant observations is the task for the next chapter. This will then set the stage for a canonical investigation as to how these documents, varied as they are yet ordered to promoting the doctrine of faith and morals, are to be received on the part of the Christian faithful.

¹³⁸ See Francis Morrissey, *Papal and Curial Pronouncements: Their Canonical Significance in Light of the Code of Canon Law*, 2nd ed. (Ottawa: Saint Paul University, 1995) 23-39. Morrissey addresses the various types of documents emanating from the Roman Curia in terms of their legislative import.

CHAPTER THREE
THE PROMOTION OF DOCTRINE
BY THE CONGREGATION FOR THE DOCTRINE OF THE FAITH
SINCE *PASTOR BONUS*:
CONCRETE ILLUSTRATIONS

A. Introduction

As presented in chapter two, the singular proper duty ascribed to the CDF in *Pastor bonus* is expressed in a bipartite manner: *promovere atque tutari*. The distinction between these two aspects of the CDF's work is not a division marked by a radical dichotomy as if there were two proper duties each with its own distinct *modus operandi*. Rather the distinction is one of complementarity such that in explaining the faith of the Church, the CDF at the same time safeguards that faith from potential error. Conversely, when correcting a theological error relevant to faith and morals, the CDF does so by recalling the theological truth in question with accuracy and precision. In this way, whenever the CDF acts, it is in some way fulfilling its proper duty both to promote and to safeguard the doctrine of faith and morals. From this perspective, if one were to attempt an exhaustive catalogue of everything emanating from the CDF which achieved the promotion of sound doctrine, one would have no choice but to include in the list the entire corpus of the CDF's work.

While seeking to avoid too sharp a division between *promovere* and *tutari*, however, we ought not to fail to make any distinction at all. *Pastor bonus* itself renders

such a distinction in providing legislation explicitly pertaining to each dimension of the CDF's proper duty (articles 49 and 50 for *promovere* and article 51 for *tutari*). Making a legal distinction between a promotional effort on the part of the CDF from a safeguarding effort is one thing; discerning this distinction in the concrete is quite another and may prove much more difficult a task. By way of example, one need only consider the 1992 CDF instruction on social communications which is meant both to promote and safeguard the doctrine of faith and morals, particularly in regard to the transmission of the faith via social communications.¹ The document sets forth "the pertinent legislation of the Church [regarding social communications] in an organic fashion" so as "to give encouragement and help to the Bishops in the fulfillment of their obligations (cf. can. 34) by calling to mind the norms of canon law, explaining their various provisions, and defining and making explicit the processes by which they are implemented."² The purpose of the document, then, is to assist bishops in the proclamation of the faith through contemporary communications media, i.e., their promotion of doctrine. Yet the instruction is also issued

¹ Congregation for the Doctrine of the Faith, *Instructio quoad aliquos adspectus usus instrumentorum communicationis socialis in doctrina fidei tradenda*, *Communicationes* 24 [1992] 18-27). The instruction builds upon previous documents regarding the use of social communications (see Vatican Council II, Decree *Inter Mirifica*, 4 December 1963: AAS 56 [1964] 145-157; Pontifical Council for Social Communications, Pastoral Instruction *Communio et Progressio*, 23 May 1971: AAS 63 [1971] 593-656; and Pontifical Council for Social Communications, Pastoral Instruction *Aetatis Novae*, 22 February 1992: AAS 84 [1992] 447-468). While the document sets the CDF in service to the bishop's duty to promote doctrine by means of social communication, its overall purpose is to assist the bishop in his duty to exercise vigilance so as to safeguard the integrity of the doctrine of faith and morals from misuse of social communications.

² *Instructio quoad aliquos adspectus usus instrumentorum communicationis socialis in doctrina fidei tradenda*, n. 19. This "encouragement and help to the Bishops" which the document seeks to render is achieved by emphasizing 1) the bishops' responsibility in general regarding the teaching of the faith; 2) the approval or permission which the bishops are to give for various kinds of written works; 3) the canonical norms regulating the apostolate of the Christian faithful in the publishing field and in particular Catholic publishing houses; and 4) the responsibility of religious superiors to exercise vigilance over the use of social communications.

in order that the bishops may safeguard doctrine from errors which are just as quickly disseminated through the same communications media.

Devising a formula with a precise set of criteria to apply to each work of the CDF in order to determine if the text falls more properly in the category of *promovere* or that of *tutari* would be an artificial exercise; the documents of the CDF do not lend themselves to such a neat categorization since, as stated above, every text emanating from the CDF is to some degree fulfilling both aspects of its singular proper duty. Yet there is a distinction in law which must therefore be observable to some degree in practice.

1. Methodology

The methodology employed for this chapter is one of illustration; i.e., the chapter seeks to illustrate what *Pastor bonus* intends by the CDF's promotion of doctrine (articles 49, 50, and 55) in light of the conclusions reached in chapter two by reviewing certain CDF texts selected for this purpose. The goal in presenting these CDF texts is not simply to convey a plodding summary of their content but to discern and highlight their purpose through the substance of the text and their stated purpose. Indeed, the principle criterion for selecting these texts from among the many documents and works of the CDF is that they more apparently demonstrate, not by their title but by their substance, that they were written so that "the understanding of the faith may grow and a response in the light of the

faith may be given to new questions arising from the progress of the sciences or human culture” (*PB*, art. 49).

Thus the seventeen CDF texts below were culled from the Congregation’s public documents issued since *Pastor bonus* because, it will be shown, they all share in common either an explicit reference to *Pastor bonus*, article 49 or, at a minimum, a stated goal that implicitly reflects article 49. All of the texts share a posture of engagement on the plane of doctrinal dialogue as opposed to other texts of the CDF which are more proscriptive in aim. In addition to article 49, many of the texts also directly showcase the CDF’s competency presented in article 50 insofar as they are written to be of direct assistance to the bishops, “individually or in groups, in carrying out their office as authentic teachers and doctors of the faith.”

In addition to the texts of the CDF, the documents emanating from the International Theological Commission (ITC) and the Pontifical Biblical Commission (PBC) which seek this same end will also be presented. *Pastor bonus* does not endow the ITC nor the PBC with the proper duty to promote and safeguard the doctrine of faith and morals as it does the CDF. In fact, article 55 of *Pastor bonus* indicates that the ITC and the PBC operate according to their own proper law and issue their own documents respectively. Still, their work can properly be regarded as examples of the CDF’s indirect promotion of doctrine. This study reaches this conclusion for two primary reasons.

First, as chapter two noted, John Paul II stated in the introductory portion of *Pastor bonus* that he desired to reexamine certain “post-conciliar” organs of the Roman Curia:

. . . in order to make the work of those institutions more and more useful and beneficial, that is, supporting special pastoral activity and research in the Church which, at an ever accelerating pace, are filling pastors with concern and which with the same urgency demand timely and well thought out answers.³

The ITC, established in 1969, and the PBC, reconstituted in 1971, are two such post-conciliar entities of the Roman Curia whose purpose fits perfectly with the Pope's description of the post-conciliar organs he sought to reexamine. Both the ITC and the PBC are set in service to the pastoral activity of the Church, be it Petrine or that of the bishops, by providing them the fruit of study and research and thereby equipping them for a more suited pastoral response to questions of the day from an informed perspective illumined by faith. This is a task in full accord with the CDF's responsibility to foster studies for the promotion of the doctrine of faith and morals ascribed to it in article 48 of *Pastor bonus*.

The second reason why the ITC and PBC ought to be considered as sharing in the CDF's mission to promote doctrine derives from the fact that they are structurally linked to the CDF within the Roman Curia. *Pastor bonus* does not set the work of these two commissions alongside the CDF's work as that would have created three curial offices conducting similar work in a redundant parallel structure. Rather, *Pastor bonus* in article 55 places both commissions entirely within and under the supervision of the CDF. This is

³ *PB*, n. 13; *AAS* 80 (1988) 857: "Deinde prae oculis habentes quae rerum usus hisce annis docuit quaeque semper novis ecclesialis societatis postulatis requiruntur, cogitavimus iuridicam figuram rationemque iterum considerare illorum institutorum, quae merito 'post-conciliaria' appellantur, eorum forte conformationem ordinationemque mutando. Quod eo consilio fecimus, ut magis magisque utile fructuosumque ipsorum institutorum munus redderetur, scilicet in Ecclesia promovendi peculiaria pastoralia opera atque rerum studium, quae augescente in dies celeritate Pastorum sollicitudinem occupant eademque tempestivas securasque responsiones postulant."

significant. The ITC and the PBC conduct their work in conjunction with the CDF as a whole and under the direct leadership of the Prefect of the CDF. Thus, despite the fact that neither the ITC nor the PBC can be said to promote doctrine, nor do they vicariously participate in the magisterial authority of the Church, still the studies they conduct, it can be said, manifest in an indirect manner the promotional aspect of the CDF's overall proper duty.⁴

The chapter will proceed, then, in three major sections by reviewing texts emanating first from the CDF, then from the ITC, and finally from the PBC. The aim in presenting these summaries is modest, i.e., the chapter does not seek to provide a complete synopsis of the documents' contents, nor does it seek to evaluate or engage the documents from a theological perspective. Rather, the chapter seeks to highlight how each document lends itself to being considered as having a promotional *teleos* again, because the text explicitly indicates this aim, or because the contents of the document suggest it. The documents in each section will be presented in chronological order beginning from that moment when the CDF explicitly acquired the competency to promote doctrine as an essential element of its proper duty, i.e., with the promulgation of *Pastor bonus*. Thus any CDF, ITC, or PBC document issued prior to 28 June 1988, even

⁴ There is canonical precedent for treating the texts of the PBC as one would treat doctrinal texts emanating directly from the CDF; see Pontifical Biblical Commission, Decree *De opere R. D. Friderici Schmidke, cuius titulus 'Die Einwanderung Israelis in Kanaan,'* 27 February 1934: AAS 26 (1934) 131: "Praeterea in mentem omnium christifidelium revocat quae de decretorum Pontificiae Commissionis Biblicae auctoritate Pius X, s. m., Motu proprio 'Praestantia Scripturae Sacrae,' d. d. 18 Novembris 1907, edixit: 'universos obstringi officio sententiis Pontificalis Consilii de Re Biblica, sive quae adhuc sunt emissae, sive quae posthac edentur, perinde ac decretis Sacrarum Congregationum pertinentibus ad doctrinam probatisque a Pontifice, se subiciendi; nec posse notam tum detrectatae obedientiae, tum temeritatis devitare aut culpa propterea vacare gravi, quotquot verbis scriptisve sententias has tales impugnent idque praeter scandalum, quo offendant, ceteraque, quibus in causa esse coram Deo possint, aliis ut plurimum, temere in his errateque pronuntiatibus.'"

if it possesses a “promotional” character envisioned by *Pastor bonus*, is not included in the subject matter of this chapter.

The chapter will conclude with some observations regarding commonalities in theme, audience, and purpose among the selected texts. We hope that such a presentation of texts will serve to show how the promotional effort on the part of the CDF is in service to the ordinary magisterium of the pope and, united with him, the college of bishops in such a way that their *munus docendi* is aided.

2. Parameters

This chapter does not seek to present an exhaustive compendium of everything the CDF or its subsidiaries, the ITC and the PBC, have done which could be identified as serving the promotional emphasis of the Congregation’s proper duty. Such a compendium would need to take into account a vast amount of daily correspondence, *responsa*, and other documentation, some of which is public and much of which is not.

One need only consider the multiplicity of ways the CDF serves the promotion of doctrine of faith and morals in its service to the college of bishops throughout the world. As the previous chapter pointed out, article 50 of *Pastor bonus* sets the CDF squarely in service to the college of bishops, either individually or in groups, since they share the *munus docendi* for the portion of the people of God entrusted to their care. The CDF assists them as it assists the pope to express existing doctrine in such a way that it can be more readily understood, developed, expressed, accepted, and lived. Insofar as *Pastor*

bonus does not stipulate exactly how the CDF provides this assistance to bishops, the possibilities are numerous. Indeed, the CDF could effectively promote the doctrine of faith and morals by means of a private letter to a bishop who has sought counsel or guidance on a particular doctrinal matter in his diocese. Or, as noted previously in chapter two, the CDF may aid the *munus docendi* of bishops during their *ad limina* visits to the Apostolic See or through studies conducted jointly with the doctrinal commissions of episcopal conferences.

In light of the fact that there is a host of ways by which the CDF may promote doctrine as envisioned in *Pastor bonus*, this chapter will direct its focus specifically on the promotional quality of certain public documents selected for this illustrative purpose. The selection process for the documents which appear in this chapter begins with a process of elimination. Any text which is corrective of a particular theologian's writings, serves as a warning to the faithful, is judicial in nature, or is otherwise associated with *Pastor bonus* articles 51 through 54 is not included since it represents the CDF's task to safeguard doctrine. Conversely, any text which reflects *Pastor bonus* articles 49, 50, and 55 in the task of promoting doctrine is presented here.

Finally, while the chapter will note what type of document each text is (e.g., whether the text is labeled as a Doctrinal Note, an Instruction, a Letter, etc. . . , or lacking a label altogether), it will not attempt to address the value of each document in terms of its juridical or magisterial authority. Making an evaluative assessment on the nature, usage, and consistency of curial documents is something scholars have attempted to do from a variety of vantage points, recognizing that bringing systematic order to such

documents is not an easy task.⁵ This study will enter into that conversation in the fifth and final chapter but with a specific consideration of the CDF, ITC, and PBC documents presented below which have the promotion of doctrine as their common aim.

B. Texts of the CDF

1. Letter, *Orationes formas*, 15 October 1989⁶

By means of this letter, the CDF noted an urgency to assist bishops in their effort to teach the faithful how to pray according to doctrinal and pastoral criteria in light of the revelation of Christ, safeguarded by the tradition of the Church.⁷ The CDF states that

These indications are directed above all to the Bishops in order that they may be taught in that spirit of pastoral solicitude towards the Churches

⁵ In a seminar presented at the 2007 CLSA annual conference, Kurt Martens summarized, schematized, and offered commentary on the theories of Francis Morrissey, Joël-Benoît d’Onorio, and John Huels in their attempt to bring some order and systematization to the documents used by the Roman Pontiff and the Roman Curia (see Kurt Martens, “Nature of Authority of Roman Documents,” *CLSA Proceedings* 69 [2007] 131-164). Martens observes that all three theories “focus more on the juridical nature of [Roman documents], and leave aside the documents of the magisterium and their respective value” (137) but that Huels, at least, “admits that the form of the document will not be sufficient to determine whether one deals with a magisterial document or a juridical document” but that “one has to ask whether the document is a product of the teaching office of the Church - *the munus docendi* – or a product of the governance function of the Church – *the munus regendi*” (148). A consideration of these theories as well as Martens’ observations will be given in chapter five of this study. In addition to reviewing the attempts of Morrissey, d’Onorio, and Huels, Martens also notes other efforts to systematize Roman documents: see Mario Medina Balam, *Para una Valoración Doctrinal y Jurídica de los Documentos Eclesiásticos* (México: Universidad Pontificia de México, 2007); and José M. González del Valle, “Los actos pontificios como fuente del Derecho Canónico,” *Ius Canonicum* 16, no. 32 (1976) 245-292.

⁶ Congregation for the Doctrine of the Faith, Letter *Orationes formas*, 15 October 1989: AAS 82 (1990) 362-379. Hereafter this document shall be cited as *OF*. The letter is signed by Joseph Cardinal Ratzinger as Prefect, Alberto Bovone as Secretary, and approved *in forma communi* by John Paul II for publication.

⁷ See *OF*, nn. 17-22; AAS 82 (1990) 371-374: The CDF explains that the Christian tradition presents three stages of prayer, all of which can be easily misunderstood: 1) the way of moral purification; 2) the way of illumination through baptism; and 3) the way of union with God through a sacramental life.

entrusted to them, so that the entire people of God--priests, religious and laity--may again be called to pray, with renewed vigor, to the Father through the Spirit of Christ our Lord.⁸

Given this aim, the letter is a good example of the CDF meeting its duty to assist the bishops, whether individually or in groups, in carrying out their office as authentic teachers and doctors of the faith in such a way that the integrity of the faith is not only guarded but actively promoted (cf. *PB*, art. 50). At the crux of this letter is the task of promoting the integrity and distinctiveness of Christian prayer in the face of potentially syncretistic contemporary tendencies.

The letter opens with the observation that many Christians experience a desire to learn how to pray with greater authenticity and profundity and, at the same time, are in increasingly frequent contact with other cultures such that they have begun to wonder about the value of non-Christian prayer forms and about whether incorporating them into their Christian heritage would enrich their experience of prayer. Recognizing that many Christians are turning to Eastern spiritualities for a more profound contact with the divine motivated by therapeutic reasons or simply to achieve interior calm and psychological equilibrium, the CDF sought by means of this letter to probe the theological and spiritual implications of this phenomenon and to formulate a decisive premise about Christian prayer, namely, that it is always determined by the structure of the Christian faith. To assist the bishops in leading the Christian faithful into a rediscovery of the distinctive

⁸ *OF*, n. 1; AAS 82 (1990) 362: "Imprimis ergo ad Episcopos dirigitur, ut pastorali cum cura Ecclesias suas de indicationibus quae sequuntur doceant, ita ut universus Dei populus — sacerdotes, religiosi et laici — ad orationem Patri solvendam renovato quodam vigore revocentur per Spiritum Iesu Christi Domini nostri."

character and excellence of Christian prayer is the central thrust of the letter, even though to help achieve this promotional end, the CDF necessarily needed to address erroneous methods of prayer as a foil.⁹ While the letter seeks to safeguard the integrity of Christian prayer from these errors, it does so primarily by promoting an authentically Christian way of union with God, namely, to do his will as Christ fulfilled his Father's will and was one with him.

Put positively, the CDF letter indicates that prayer in the Christian context is a personal dialogue, intimate and profound, between man and God. It expresses the communion of the creature with the intimate life of the Trinitarian Persons; a communion founded on baptism and the Eucharist, fount and summit of the life of the Church. Prayer is an exodus from the "I" of the self towards the "you" of God. Christian prayer, therefore, is always at the same time authentically personal and communitarian.

The CDF roots this personal and communitarian understanding of prayer as a journey from the self to God in Sacred Scripture, culminating in the ultimate communion of prayer in the Person of Jesus Christ.¹⁰ Christian prayer, the CDF explains, must be essentially patterned after the dual direction of the Son becoming flesh to reconcile the world to the Father through his works and suffering in the Spirit, and that movement of

⁹ See *OF*, nn. 8-12; AAS 82 (1990) 366-369: The letter likens the contemporary erroneous methods of prayer to errors in the early Church. For example, the CDF notes that the illumination provided by the Holy Spirit (*gnosis*) does not render the Christian faith superfluous. For the Fathers of the Church, the authentic sign of a heightened consciousness, the fruit of prayer, was always Christian love. Neither can Christian prayer be evaluated based on whether one has a psychological experience of the presence of the Holy Spirit. Conversely, experiences of desolation or affliction cannot be construed as an absence of the Holy Spirit. The CDF stated that these errors of the early Church seem to be resurfacing, urging Christians to regard prayer as either "heightened consciousness" or as an "experience."

¹⁰ See *OF*, nn. 4-6; AAS 82 (1990) 364-366.

the Son back to the Father through the same Spirit, completing the will of the Father through his death and resurrection; a dual movement clearly indicated in the *Our Father*.

The love of God, then, is the only object of Christian contemplation and is a reality which no one is able to “possess” with any particular method or technique. When finding one’s personal prayer, the CDF informs the bishops, one cannot rely solely on one’s personal tastes but must be open to revelation and must rely on the Holy Spirit who guides all through Christ to the Father, i.e., it is left to God to decide the manner by which he makes each person a participant in his love.

The CDF concludes the letter by stressing the simple point that all Christian prayer forms ultimately converge in Christ who is “the Way.” By highlighting the unique character of Christian prayer in terms of a personal relationship with Christ and a communal relationship with the Church, and by tracing the roots of this unique character in Scripture and in the Tradition, the letter from the CDF enables the bishops to provide a response in the light of faith precisely to this question arising in the hearts of so many of the Christian faithful, i.e., to discover anew how to pray in an authentically, profoundly, and distinctly Christian manner especially as that distinctiveness is sought in light of the intercourse of human cultures (cf. *PB*, art. 49).

2. Instruction, *Donum veritatis*, 24 May 1990¹¹

“In times of great spiritual and cultural change, theology is all the more important. Yet it also is exposed to risks since it must strive to ‘abide’ in the truth (cf. *Jn* 8:31), while at the same time taking into account the new problems which confront the human spirit.”¹² With these words from the introductory portion of its instruction on the ecclesial vocation of the theologian, the CDF describes the dynamic and sometimes risky setting in which the Church does her theological reflection, i.e., theology must always be anchored in natural and revealed truth and, at the same time, be responsive to the questions of the day. This description of theology reflects the character of the CDF’s mission to promote doctrine in so far as it too must be ordered to meeting the “new questions arising from the progress of the sciences or human culture” (*PB*, art. 48).

Theologians are key contributors in the enterprise of promoting the doctrine of faith and morals but they do so in collaboration with the Church’s pastors thus ensuring that their theological discipline is ultimately an ecclesial service.¹³ The work of

¹¹ *Dov*; AAS 82 (1990) 1550-1570. It is signed by Joseph Cardinal Ratzinger as Prefect, Alberto Bovone as Secretary, and approved *in forma communi* by John Paul II for publication. This document and several others are identified as an instruction, however, as Martens points out, “[t]he most difficult form of curial documents – at least with regard to interpretation – is the instruction” (Martens, 141-142). Whether or not this text and the other instructions reviewed in this chapter are properly instructions as the canonical institute is envisioned in canon 34 of the 1983 *CIC* is another matter and one which will be taken up in chapter five.

¹² *Dov*, n. 1; AAS 82 (1990) 1551: “Cum tempora autem volvuntur, quae magnis animorum et culturae mutationibus obnoxia sunt, tunc theologia multo gravius habet momentum; sed etiam peculiaribus periculis premitur, quia ipsi enitendum est in veritate permanere (cf. *Io* 8, 31), licet eodem tempore rationem habere debeat novarum quaestionum, quae hominum animos vexant.”

¹³ See section two of *Dov* entitled “The Vocation of the Theologian,” nn. 6-12; AAS 82 (1990) 1552-1555.

theologians also necessitates a personal commitment to a life of holiness, the CDF notes.¹⁴ The following passage emphasizes this collaboration and particularly how it advances the promotion of doctrine:

The living Magisterium of the Church and theology, while having different gifts and functions, ultimately have the same goal: preserving the People of God in the truth which sets free and thereby making them "a light to the nations." This service to the ecclesial community brings the theologian and the Magisterium into a reciprocal relationship. The latter authentically teaches the doctrine of the Apostles. And, benefiting from the work of theologians, it refutes objections to and distortions of the faith and promotes, with the authority received from Jesus Christ, new and deeper comprehension, clarification, and application of revealed doctrine. Theology, for its part, gains, by way of reflection, an ever deeper understanding of the Word of God found in the Scripture and handed on faithfully by the Church's living Tradition under the guidance of the Magisterium. Theology strives to clarify the teaching of Revelation with regard to reason and gives it finally an organic and systematic form (n. 21).¹⁵

This passage highlights the exclusive responsibility of the magisterium to safeguard the faith, i.e., to refute "objections to and distortions of the faith," as well as to

¹⁴ While meeting "the epistemological requirements of his discipline" and "the demands of rigorous critical standards" in order to establish "a rational verification of each stage of his research" (n. 9), the theologian is to unite his work with prayer. "The commitment to theology requires a spiritual effort to grow in virtue and holiness" (n.9). In fulfilling his vocation, the theologian will obviously need to take into account the natural sciences and philosophy but, the CDF notes, the suitability of these for the theological science is evaluated in the light of divine revelation, not vice versa.

¹⁵ *Dov*, n. 21; AAS 82 (1990) 1559: "Vivum Ecclesiae Magisterium et theologia, quamvis propriis officiis et donis inter se differant, tamen eundem demum finem spectant: sustinere scilicet Populum Dei in veritate, quae liberat, eumque ita 'lucem nationum' reddere. Hoc servitium ecclesiali communitati praestitum efficit, ut theologus cum Magisterio rationes habeat. Magisterium authentice docet Apostolorum doctrinam et, utilitatem percipiens ex opere theologico, respuit difficultates fideique deformationes, et praeterea, auctoritate a Iesu Christo accepta, altiores perscrutationes, explicationes applicationesque doctrinae revelatae proponit. Theologia vero modo reflexo acquirit cognitionem usque altiorem Verbi Dei, quod in Scripturis Sacris continetur et fideliter transmittitur per vivam Ecclesiae Traditionem sub Magisterii ductu, Revelationis doctrinam illustrare nititur erga rationis postulationes, ac tandem eam in formam organicam et systematicam redigit." The last phrase of this text is taken from an address of Pope Paul VI to a 1966 international congress: see Paul VI, Address *Exc.mis Praesulibus ceterisque S. Theologiae cultoribus, qui interfuerunt Conventui ex omnibus nationibus Romae habito de Theologia Concilii Vaticani Secundi*, October 1, 1966: AAS 58 (1966) 892.

promote it, i.e., to foster “new and deeper comprehension, clarification, and application of revealed doctrine.” It is precisely in service to this magisterial responsibility that *Pastor bonus* sets the CDF by granting it the competency to promote and safeguard the doctrine of faith and morals throughout the Catholic world (*PB*, art. 48). In fact, as noted in chapter two, *Donum veritatis* explicitly indicates that the assistance rendered the Roman Pontiff in this work is done by a participation in Petrine ordinary magisterial authority:

The Roman Pontiff fulfills his universal mission with the help of the various bodies of the Roman Curia and in particular with that of the Congregation for the Doctrine of the Faith in matters of doctrine and morals. Consequently, the documents issued by this Congregation expressly approved by the Pope participate in the ordinary magisterium of the successor of Peter.¹⁶

Theologians, on the other hand, best serve the Church when their work is done with the aim of assisting the magisterium in its twofold task.¹⁷ This instruction, then, is addressed primarily to the bishops as an aid to helping them guide the work of theologians within their local Churches so that this collaborative effort may be more readily executed. The introductory portion of the instruction concludes with a summing

¹⁶ *Dov*, n. 18; AAS 82 (1990) 1550-1570: “Romanus Pontifex missionem suam universalem adimplet auxilio institutorum Curiae Romanae, peculiarique modo Congregationis pro Doctrina Fidei quod attinet ad doctrinam fidei et morum. Exinde sequitur documenta huius Congregationis, expresse a Romano Pontifice approbata, participare Magisterium ordinarium successoris Petri.”

¹⁷ This collaboration happens especially when bishops grant the mandate to theologians to carry out their work, the CDF explains, thereby creating a juridic bond between the bishop and the theologian which reinforces the latter’s code of conduct by means of the profession of faith and oath of fidelity. The instruction explains that theologians, as a rule, must be willing “to submit loyally” in a patient, collaborative, and docile manner to the prudential judgments and interventions of the magisterium “on matters not *per se* irreformable” (n. 24). For related reading, see Giuseppe Mattai, *Magisterio e Teologia: alle radici di un dissenso* (Palermo: Edizioni “Augustinus,” 1989).

up of the rationale for having published it, with a brief outline of its contents, and with an articulation of the document's overall aim:

The Congregation for the Doctrine of the Faith deems it opportune then to address to the Bishops of the Catholic Church, and through them her theologians, the present Instruction which seeks to shed light on the mission of theology in the Church. After having considered truth as God's gift to His people (I), the instruction will describe the role of theologians (II), ponder the particular mission of the Church's Pastors (III), and finally, propose some points on the proper relationship between theologians and pastors (IV). In this way, it aims to serve the growth in understanding of the truth (cf. *Col* 1:10) which ushers us into that freedom which Christ died and rose to win for us (cf. *Gal* 5:1).¹⁸

The instruction explicitly aims at “the growth in understanding of the truth which ushers us into that freedom which Christ died and rose to win for us.” These words parallel the aim of the CDF's work to promote doctrine “so that the understanding of the faith may grow” (*PB*, art. 49). In light of this objective, the instruction cannot be reduced to a technical description of the parameters beyond which theologians may not conduct their work, nor a litany of theological misconceptions which adversely affect their cooperation with the magisterium, though the CDF does address these matters in the instruction.¹⁹ Rather, the document desires to set the theological enterprise in service to

¹⁸ *Dov*, n. 1; AAS 82 (1990) 1551: “Congregatio igitur pro Doctrina Fidei opportunum ducit Ecclesiae Catholicae Episcopis, ac per eos theologis, hanc dirigere Instructionem, cuius est propositum theologiae munus in Ecclesia explicare. Post considerationem de veritate ut dono Dei pro populo suo (I), ipsa munus theologorum describet (II), in peculiari Pastorum munere immorabitur (III), ac tandem nonnulla proponet de debitis rationibus, quae inter utrosque intercedant oportet (IV). Ipsa hoc modo servire intendit progressui in cognitione veritatis (cf. *Col* I, 10), quae nos introducit in libertatem, ad quam assequendam Christus mortuus est et resurrexit (cf. *Gal* 5, 1).”

¹⁹ The CDF addresses the nature of dissent and elucidates its remote and proximate causes in nn. 32-41 (see AAS 82 [1990] 1563-1569). Among the causes of dissent is the “ideology of philosophical liberalism” (n. 32) which *a priori* regards all authoritative teaching as suspect. Another potential cause for dissent is the cultural and religious plurality in the contemporary age which, while a good in itself, can result in syncretistic or relativistic tendencies which adversely affect “the independence of judgment which

the truth, which the CDF describes as a gift from God to his people which possesses a unifying force. Thus it is by drawing man to the truth that God draws him out of the traps of the “father of lies” and into the intimacy of divine life where “full truth and authentic freedom” is found.²⁰ The instruction also seeks to encourage bishops, “as authentic teachers and doctors of the faith” (*PB*, art. 50), to maintain a trusting relationship with theologians and vice versa so as to help the community of believers seek that truth which is God.

3. Letter, *On Some Aspects of the Church Understood As Communion*, 28 May 1992²¹

Eager for a “renewal of Catholic ecclesiology” characterized by “a deeper appreciation of the fact that the Church is a Communion,” the CDF issued this letter to the bishops of the Church with the hope that what it outlines would spur such renewal. The bipartite proper duty of the CDF is evident in this letter: not only does the CDF desire to promote a sound ecclesiology, but it also seeks to safeguard it by pinpointing for correction

. . . some approaches to ecclesiology [which] suffer from a clearly inadequate awareness of the Church as a mystery of communion,

should be that of the disciples of Christ” and which the instruction states is proper to the theologian (n. 32). After treating of the causality of dissent, the instruction addresses some of its various aspects, e.g., “theological positivism” (n. 33), “theological pluralism” (n. 34), and the notion of a “parallel magisterium” (n. 34).

²⁰ *Dov*, nn. 2-5; AAS 82 (1990) 1551-1552.

²¹ Congregation for the Doctrine of the Faith, *Litterae ad Catholicam Ecclesiam episcopos de aliquibus aspectibus Ecclesiae prout est communio*, 28 May 1992: AAS 85 (1993) 838-850. Hereafter this document shall be cited as *De aliquibus aspectibus*. The letter is signed by Joseph Cardinal Ratzinger as Prefect, Alberto Bovone as Secretary, and approved *in forma communi* by John Paul II for publication.

especially insofar as they have not sufficiently integrated the concept of communion with the concepts of People of God and of the Body of Christ, and have not given due importance to the relationship between the Church as communion and the Church as sacrament.²²

Taking into consideration the fact that the letter corrects “inadequate” approaches to ecclesiology and thus demonstrates the CDF’s responsibility to safeguard, it at the same time promotes what a sound ecclesiology is to involve. In fact, this task is the overarching purpose of the letter. The opening section of the text states it this way:

Bearing in mind the doctrinal, pastoral and ecumenical importance of the different aspects regarding the Church understood as Communion, the Congregation for the Doctrine of the Faith has considered it opportune, by means of this Letter, to recall briefly and to clarify, where necessary, some of the fundamental elements that are to be considered already settled also by those who undertake the hoped-for theological investigation.²³

By recalling and clarifying the “fundamental elements that are to be considered already settled” regarding Catholic ecclesiology, the CDF promotes that doctrine of the faith regarding the Church’s nature and mission which the magisterium has taught as normative. Any renewal in ecclesiology, then, would necessarily need to take as a given what the CDF sets out in this letter under its five primary headings: 1) The Church, A

²² *De aliquibus aspectibus*, n.2; AAS 85 (1993) 838: “Verumtamen nonnulli sunt prospectus ecclesiologici qui prae se ferunt haud sufficientem comprehensionem Ecclesiae prout est mysterium communionis, praesertim quia iisdem deest apta compositio notionis communionis cum illis Populi Dei atque Corporis Christi, et quia non satis in luce ponunt congruam relationem intercedentem inter Ecclesiam communionem atque Ecclesiam sacramentum.” Vatican English translation available in *Origins* 22 (1992) 108-114. All other English translations of this text shall come from this source.

²³ *De aliquibus aspectibus*, n.2; AAS 85 (1993) 838: “Cum diversi aspectus Ecclesiae prout est Communio magni sunt momenti doctrinalis, pastoralis et oecumenici, Congregatio de Doctrina Fidei opportunum existimavit hisce Litteris breviter recolere atque, ubi necesse sit, clarificare aliqua elementa fundamentalia quae habenda sunt ut capita firma, etiam in auspiciata theologica pervestigatione altius promovenda.”

Mystery of Communion,²⁴ 2) Universal Church and Particular Churches,²⁵ 3) Communion of the Churches, Eucharist and Episcopate,²⁶ 4) Unity and Diversity in Ecclesial Communion,²⁷ and 5) Ecclesial Communion and Ecumenism.²⁸

The goal of this letter from the CDF is to reiterate very basic principles of a *communio* ecclesiology. While a couple of ecclesiological errors are addressed in passing, the overall focus of this text is positive and is to be understood as normative for any ecclesiological endeavors on the part of theologians, exegetes, and scholars. The CDF here promotes a sound ecclesiology so that the ecclesiological renewal initiated by the Second Vatican Council will result in a deeper appreciation of the mystery of the Church in all its dimensions, e.g., as a vertical, horizontal, invisible, and visible communion.

²⁴ See *De aliquibus aspectibus*, n. 3-6; AAS 85 (1993) 839-841. The *communio* of the Church, according to scripture and tradition (especially of the patristic era), the CDF explains, is a reality sprung from God's own initiative and is both vertical (communion with God) and horizontal (communion among men) (n. 3). It is also invisible and visible (n. 4); the correspondence between the visible communion of the Church on earth and the invisible communion of the Church with the divine life of the Trinity is what constitutes the Church as the "Sacrament of salvation" (n. 4).

²⁵ *De aliquibus aspectibus*, n.7-10; AAS 85 (1993) 841-844. The letter expresses the universal Church as a communion of particular Churches and that the universal Church is "a reality *ontologically and temporally* prior to every *individual* particular Church" (n. 9). Expressed in patristic terminology, the universal Church is the mother of particular Churches (n. 10).

²⁶ *De aliquibus aspectibus*, n.11-14; AAS 85 (1993) 844-847. The letter treats of the communion of the Church as manifested in sacramental communion, especially that of the Eucharist, and in hierarchic communion rooted in the episcopate (n. 11).

²⁷ *De aliquibus aspectibus*, n.15-16; AAS 85 (1993) 847-848. Maintaining the right balance between unity and diversity, the CDF notes, is the responsibility of all the faithful, but is a fundamental task of the Roman Pontiff and of each bishop.

²⁸ *De aliquibus aspectibus*, n.17-18; AAS 85 (1993) 848-849. The letter concludes with a brief treatment of the ecumenical ramifications of this ecclesiology of communion and that the Church regards any lack of full hierarchic communion as a "wound" (n. 17) which needs healing through prayer.

4. Letter, *The Reception of Holy Communion by the Divorced and Remarried Members of the Faithful*, 14 September 1994²⁹

Addressed to the bishops, the CDF acknowledges by means of this letter the pastoral difficulty of caring for members of the Christian faithful who are in an irregular marriage concerning their admissibility to Holy Communion. The overall thrust of the document is to promote the doctrine which must be taken into consideration regarding the nature of marriage, the meaning of Holy Communion, and the relationship between the two, when determining the best course of pastoral action for the divorced and remarried.

The CDF letter states that

Pastors are called to help [those in irregular marital situations] experience the charity of Christ and the maternal closeness of the Church, receiving them with love, exhorting them to trust in God's mercy and suggesting, with prudence and respect, concrete ways of conversion and sharing in the life of the community of the Church.³⁰

Of note, then, is the overall pastoral tenor of the document even if it recognizes and corrects attempts to solve the pastoral difficulty by illegitimate or misguided initiatives.³¹ The area between promoting doctrine and safeguarding it is gray. Still, were

²⁹ Congregation for the Doctrine of the Faith, Letter *De receptione communionis eucharisticae a fidelibus qui post divortium novas inierunt nuptias*, 14 September 1994: AAS 86 (1994) 974-979. Hereafter this document shall be cited as *De receptione communionis*. The official Vatican translation is available in *Origins* 24 (1994) 337-341. The letter is signed by Joseph Cardinal Ratzinger, Prefect, and Alberto Bovone, Secretary, was approved *in forma communi* for publication by John Paul II. For further reading, see Gerald D. Coleman, *Divorce and Remarriage in the Catholic Church* (Mahwah, N.J.: Paulist Press, 1988).

³⁰ *De receptione communionis*, n.2; AAS 86 (1994) 974: "Pastores efficere debent, ut Christi caritas et proxima ecclesiae maternitas animadvertantur; illos ergo cum amore excipiant atque hortentur ut in Dei misericordia fiduciam reponant, prudenterque et cum respectu eis suggerentes concreta itinera conversionis et participationis vitae in communitate ecclesiali."

³¹ The CDF notes various impermissible attempts to help such people in need, e.g., permitting them to receive Holy Communion in specific cases when the members of the faithful perceive in

the letter simply a syllabus of errors regarding various flawed pastoral efforts to address this difficulty and a charge to bishops to be more corrective of them, it would more clearly serve as an example of the CDF's mission to safeguard the doctrine of marriage and Holy Communion. But given that the CDF seeks to reiterate the doctrine by which sound pastoral judgments are made, i.e., "to discover anew the many signs of the Church's love and concern for the family and, at the same time, to present once more the priceless riches of Christian marriage,"³² the letter seems to lean heavily in the direction of the promotional emphasis of the CDF's proper duty. Indeed, the letter indicates that the CDF "deems itself obliged therefore to recall the doctrine and discipline of the Church in this matter."³³

The truth, as the magisterium is solemnly bound to enunciate it, is that "if the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God's law. Consequently, they cannot receive Holy Communion as long as

conscience that they are able, or when they have first sought the expert opinion of a priest. But the letter nonetheless stresses that "understanding and genuine mercy are never separated from the truth" (n. 3). It cannot be left to conscience to determine whether a person in an irregular marriage may receive Holy Communion, the CDF explains, since marriage is a public reality (n. 7). That fact alone must be taken into consideration when a person examines his conscience. One may not "prescind from the Church's mediation, [which] also includes canonical laws binding in conscience" (n. 8). Furthermore, the reception of Holy Communion is also a public act expressing communion with Christ the Head but just as much with Christ the Body, the Church. "Receiving Eucharistic Communion contrary to ecclesial communion is therefore in itself a contradiction" (n. 9).

³² *De receptione communionis*, n.1; AAS 86 (1994) 974: "Annus internationalis Familiae peculiaris momenti occasionem praebet, ut testimonio denuo retentantur caritatis curaeque ecclesiae in familiam, et simul rursus proponantur inestimabiles divitiae matrimonii christiani, quod familiae fundamentum constituit."

³³ *De receptione communionis*, n.4; AAS 86 (1994) 975.

this situation persists.”³⁴ Neither a punishment nor discrimination, the CDF sees this simply as a recognition of an objective situation and the avoidance of scandal (n. 4).

“United with [the bishops] in dedication to the collegial task of making the truth of Jesus Christ shine in the life and activity of the Church”³⁵ the CDF wrote this letter to clarify the doctrinal questions involved so that bishops may act as “authentic teachers and doctors of the faith” (*Pastor bonus*, art. 50) for their people. It is truly a service to bishops, and through them, to parish priests, for it ultimately falls to them to articulate this truth of marriage to those whom they have been called to serve. As the document concludes, the CDF realizes that the question of Holy Communion for those in irregular marital situations, considered in light of sound doctrine, is a burden for some of the Christian faithful, and a heavy one at that, but nonetheless, one which the Lord is able to make “light” when it is carried in union with Christ and his Church (n. 10).

³⁴ *De receptione communionis*, n. 4; AAS 86 (1994) 975: “Divortio digressi, si ad alias nuptias civiliter transierunt, in condicione versantur obiective legi Dei contraria. Idcirco, quoad haec durat condicio, ad Eucharisticam communionem accedere iis non licet.” Harkening to *Familiaris consortio*, n. 84 (see Pope John Paul II, Apostolic Letter *Familiaris consortio*, 22 November 1981: AAS 74 [1982] 81-191), the CDF reminds the bishops that members of the Christian faithful in this situation may receive Holy Communion provided that 1) they have been absolved of their past sin in the Sacrament of Reconciliation; 2) they are ready to “undertake a way of life that is no longer in contradiction to the indissolubility of marriage;” 3) barring a separation due to circumstances beyond their control, they at least determine to go without conjugal relations; and 4) scandal is completely avoided (n. 4).

³⁵ Cardinal Ratzinger concluded the letter to his brother bishops with these words reflecting his mission as Prefect of the CDF as one of promoting doctrine in collegial unity with the bishops (see *De receptione communionis*, n.4; AAS 86 (1994) 979: “Tecum coniunctus in munere collegiali ut Iesu Christi veritas in ecclesiae vitae et consuetudine splendescat, me profiteri gaudeo Excellentiae Tuae Reverendissimae in Domino, Iosephus card. Ratzinger, Praefectus”). As part of this promotion of sound doctrine to face the pastoral difficulty addressed in this letter, the bishops are encouraged to admonish those living as husband and wife with persons other than their legitimate spouses but to do so in light of the Church’s doctrine regarding the indissolubility of marriage. They are also pastorally to encourage full participation in the life of the Church, short of the reception of Holy Communion, since such people are not excluded from ecclesial communion (e.g., spiritual sharing in the sacrifice of the Mass, prayer, mediation on the Word of God, works of charity and justice) (n. 6).

5. Instruction, *Ecclesiae de mysterio*, 15 August 1997³⁶

This text is ordered to assist bishops in their responsibility to encourage the full actualization of the charisms with which the People of God are endowed by baptism while, at the same time, to differentiate among the People of God those tasks which are properly the responsibility of sacred ministers. Unique among the texts reviewed in this chapter is the fact that this instruction is an interdicasterial text signed by eight dicasteries, the CDF included. One must keep in mind that the promotion of doctrine is not a competency mutually shared by all the signatories of this instruction but, according to *Pastor bonus*, remains exclusively proper to the CDF. The instruction is included as an example of the promotional competency of the CDF, however, in virtue of the CDF being a signatory and in virtue of article 54 of *Pastor bonus* and the CDF's supervisory position on doctrinal matters for the other dicasteries of the Roman Curia. The second unique character of this text is that it was approved *in forma specifica* by John Paul II for publication.³⁷ These two qualities together make this text one of significant authority.

³⁶ Congregation for the Clergy, et. al., Instruction *Ecclesiae de mysterio*, 15 August 1997: AAS 89 (1997) 852-877. Hereafter this document shall be cited as *EM*. The Vatican English translation is available in *Origins* 27 (1997) 397-409. For further reading, see Adolfo Longhitano, et al., *Il fedele cristiano. La condizione giuridica dei battezzati* (Bologna: Edizioni Dehoniane, 1989); Agostino Favale, *Il ministero presbiterale. Aspetti dottrinali, pastorali, spirituali* (Rome: Libreria Ateneo Salesiano, 1989).

³⁷ The signatories were 1) The Congregation for the Clergy: Archbishop Dario Castrillon Hoyos, Pro-Prefect, and Archbishop Crescenzo Sepe, Secretary; 2) Pontifical Council for the Laity: Archbishop Francis Stafford, President, and Bishop Stanislaw Rylko, Secretary; 3) Congregation for the Doctrine of the Faith: Cardinal Joseph Ratzinger, Prefect, and Archbishop Tarcisio Bertone, Secretary; 4) Congregation for Divine Worship and the Discipline of the Sacraments: Archbishop Jorge Arturo Medina Estevez, Pro-Prefect, and Archbishop Geraldo Majella Agnelo, Secretary; 5) Congregation for Bishops: Cardinal Bernadin Gantin, Prefect, and Archbishop Jorge Maria Mejia, Secretary; 6) Congregation for the Evangelization of Peoples: Cardinal Jozef Tomko, Prefect, and Archbishop Giuseppe Uhac, Secretary; 7) Congregation for Institutes of Consecrated Life and Societies of Apostolic Life: Cardinal Eduardo Martinez Somalo, Prefect, and Archbishop Piergiorgio Silvano Nesti, Secretary; and 8) Pontifical Council for the

The foreword sets the stage for the instruction by highlighting the “necessity and importance of apostolic action on the part of the lay faithful in present and future evangelization,”³⁸ an apostolic action which the Second Vatican Council stressed and was reaffirmed during the 1987 and 1994 Synods of Bishops. This apostolic action of the lay Christian faithful is to take place in concordance with the apostolic mission entrusted to the clergy such that the Church’s mission might be more readily carried out both in the spiritual order and the temporal order. Emphasizing the task of evangelization, the instruction notes that the recent past has seen a tremendous development in various initiatives: “the [lay] faithful can be active in this particular moment of history in areas of culture, in the arts and theatre, scientific research, labor, means of communication, politics and the economy, etc.”³⁹ At the same time, the instruction points out “a more restricted area” of apostolic activity which is reserved for the ordained and which requires the assistance of the non-ordained.

The instruction makes a clear distinction between “collaboration with” and “substitution for” with the intention of fostering the former and eliminating the latter when it comes to describing the role of the lay Christian faithful in carrying out their proper mission in relationship to the sacred ministry of priests. The proper collaborative

Interpretation of Legislative Texts: Archbishop Julian Herranz, President, and Bishop Bruno Bertagna, Secretary.

³⁸ See *EM, Prooemium*; AAS 89 (1997) 852: “Prae oculis habenda sunt necessitas et momentum apostolicae industriae fidelium laicorum de praesenti ac futuro evangelizationis tempore.”

³⁹ See *EM, Prooemium*; AAS 89 (1997) 853: “Inceptum hoc immensos fidelibus laicis recludit prospectus, quorum nonnulli sunt etiam vestigandi, qui complectuntur saeculare officium in provincia culturae, artis spectaculique, scientificae inquisitionis, operis, instrumentorum communicationis, rei politicae, oeconomiae, aliorumque, . . .”

relationship has not always been maintained, the instruction points out, causing harm to ecclesial communion. Thus, in keeping with the proper duty of the CDF to aid the bishop's promotion of doctrine (*PB*, art. 50), the instruction intends to encourage bishops in their task "to promote and ensure observance of the universal discipline of the church founded on certain doctrinal principles already clearly enunciated by the Second Vatican Ecumenical Council⁴⁰ and by the pontifical magisterium⁴¹ thereafter."⁴²

To achieve this end, the document proceeds in two primary sections. First, the instruction presents "the essential theological elements underlying the significance of holy orders in the organic makeup of the church."⁴³ These doctrinal principles stem from "the solid foundation of the ordinary and extraordinary magisterium of the church and

⁴⁰ The instruction makes reference specifically to the following conciliar documents: *LG*; *Sacrosanctum concilium* (see Vatican Council II, Dogmatic Constitution *Sacrosanctum concilium*, 4 December 1963: AAS 56 [1964] 97-138); *Presbyterorum Ordinis* (see Vatican Council II, Decree *Presbyterorum Ordinis*, 7 December 1965: AAS 58 [1966] 991-1024; hereafter this document shall be cited as *PO*); and *Apostolicam actuositatem* (see Vatican Council II, Decree *Apostolicam actuositatem*, 18 November 1965: AAS 58 [1966] 837-864; hereafter this document shall be cited as *AA*).

⁴¹ The instruction makes reference specifically to *Christifideles laici* (see Pope John Paul II, Post-Synodal Apostolic Exhortation *Christifideles laici*, 30 December 1988: AAS 81 [1989] 393-521), and *Pastores dabo vobis* (see Pope John Paul II, Post-Synodal Apostolic Exhortation *Pastores dabo vobis*, 25 March 1992: AAS 84 [1992] 657-804).

⁴² See *EM*, *Prooemium*; AAS 89 (1997) 855: "Hi tamen gravem compellant pastorem responsabilitatem eorum qui, potissimum Episcopi, promotioni ac tutelae disciplinae universalis Ecclesiae destinantur, nonnullis substantibus doctrinae principiis, quae iam Concilium Oecumenicum Vaticanum II et subsequens Magisterium enuntiaverunt."

⁴³ These "theological elements" are presented as four principles: 1) "Common Priesthood of the Faithful and the Ministerial Priesthood;" 2) "Unity and Diversity of Ministerial Functions;" 3) "Indispensability of the Ordained Ministry;" and 4) "Collaboration of the Nonordained Faithful in Pastoral Ministry."

[the document] is entrusted for its faithful application, first of all, to bishops most affected by the issues raised.”⁴⁴

The instruction’s second and larger of the two primary sections presents thirteen practical provisions pinpointing many areas of theological confusion and unhelpful tendencies in the collaboration between the sacred ministry of priests and the laity.⁴⁵

This important interdicasterial text concludes with an explicit statement that it is directed to bishops and other ordinaries for them to implement zealously its requirements. It exhorts them to approach the shortage of priests as a regional and transitory problem and that a fervent effort to increase vocations is the chief way to address any shortage among the clergy. The norms of this document are provided, not “to defend clerical privileges,” but for the encouragement of a doctrinally sound cooperation and collaboration between the laity and the Church’s sacred ministers. The “encouragement of sound doctrine” as the document’s principle aim is what casts it with a promotional character.

⁴⁴ See *EM, Prooemium*; AAS 89 (1997) 855: “Scriptum hoc, contextum ob oculos habito Magisterio Ecclesiae ordinario et extraordinario, committitur Episcopis, ut fideliter adhibeatur, sed in notitiam quoque perfertur Praesulum illarum circumscriptionum ecclesiasticarum, quae, tametsi adhuc non enumerant illegitimas consuetudines, brevi illis affici poterunt, spectata hodierna celeritate evulgationis eventuum.”

⁴⁵ The thirteen practical provisions are presented under the following headings: 1) “Need for an appropriate terminology;” 2) “The ministry of the word;” 3) “The homily;” 4) “The parish priest and the parish;” 5) “The structures of collaboration in the particular church;” 6) “Liturgical Celebrations;” 7) “Sunday Celebrations in the Absence of a Priest;” 8) “The Extraordinary Minister of Holy Communion;” 9) “The Apostolate to the Sick;” 10) “Assistance at Marriages;” 11) “The Minister of Baptism;” 12) “Leading the Celebration at Funerals;” and 13) “Necessary Selection and Adequate Formation.”

6. *The Primacy of the Successor of Peter: Acts of the Theological Symposium, Rome, 2-4 December 1996*⁴⁶

In the encyclical *Ut Unum Sint*,⁴⁷ John Paul II invited pastors and theologians to help him consider a manner of “exercising the [Petrine] primacy which, while in no way renouncing what is essential to its mission, is nonetheless open to a new situation.”⁴⁸ In response to this invitation, and in keeping with its responsibility to foster studies so that the understanding of the faith may grow” (*PB*, art. 49), the CDF sponsored a theological symposium to address the question of the primacy of the successor of Peter in the mystery of the Church. The symposium took place in Rome from the second to the fourth of December, 1996. The interventions of various scholars on the topic were collated into this published text so that the theological reflections offered at the symposium could be more broadly disseminated.

Joseph Cardinal Ratzinger, Prefect of the CDF, provided the opening remarks to the gathered body of experts and scholars at the start of the symposium. In so doing, he borrowed heavily from *Pastor bonus*, article 49, and explained that the CDF sought to sponsor this symposium in accord with its competency to promote the doctrine of the faith and morals throughout the Catholic world, and specifically in virtue of its

⁴⁶ Congregation for the Doctrine of the Faith, *Il primato del successore di Pietro, Atti del Simposio teologico, Roma 2-4 dicembre 1996* (Vatican City: Libreria Editrice Vaticana, 1998). For related reading, see Alfonso Carrasco Rouco, *Le Primat de L'évêque de Rome: Étude sur la Cohérence Ecclésiologique et Canonique du Primat de Jurisdiction* (Fribourg: Editions universitaires, 1990).

⁴⁷ Pope John Paul II, Encyclical letter *Ut Unum Sint*, 25 May 1995: AAS 87 (1995) 921-982. Hereafter this document shall be cited as *UUS*.

⁴⁸ *UUS*, n. 95; AAS 87 (1995) 977-978.

competency to promote studies for the purposes of increased knowledge of the faith, and to provide the Church with a response, illumined by the light of faith, to the problems of the age. He indicated that the purpose of the symposium was to enunciate and explain the essential elements of doctrine on the primacy of the Successor of Peter, keeping in mind the distinction between the substance of the institution itself and the various historical modalities by which papal primacy has been exercised. To this end, a “steering committee” had worked to establish the parameters for the exploration of the topic to be engaged under three primary headings: 1) the dogmatic aspect of the primacy of the successor of Peter and its transmission; 2) the relationship between primacy and the episcopate; and 3) the nature and scope of the primatial interventions of the bishop of Rome. CDF Secretary Tarcisio Bertone offers a helpful summary, not only of the substantive content of the symposium, but also of its manner of proceeding. To each *relazione* offered at the symposium, a prepared *reazione* followed to highlight certain elements of the presentation as starting points for discussion. The full text of the *relazioni* and *reazioni* are compiled as the acts of the symposium.⁴⁹

⁴⁹ Regarding the first theme of the symposium, i.e., the dogmatic aspect of the primacy of the successor of Peter and its transmission, the following *relazioni* and accompanying *reazioni* were offered: *Was an Petrus sichtbar war, ist in den Primat eingegangen* by Rudolf Pesch—*reazione* by Albert Vanhoye; *Synthèse de la Tradition doctrinale sur la primauté du Successeur de Pierre durant le premier millénaire* by Roland Minnerath—*reazione* by Nello Cipriani; *Synthèse de la Tradition doctrinale sur la primauté du Successeur de Pierre durant le second millénaire* by Gilles Langevin—*reazione* by Karl Becker; *Sintesi dottrinale, Il Primato petrino tra Parola di Dio e storicità umana* by Giuseppe Colombo—*reazione* by Adolfo González Montes. Regarding the second theme of the symposium, i.e., the relationship between primacy and the episcopate, the following *relazioni* and accompanying *reazioni* were offered: *Geschichtlich-theologische Synthese des Verhältnisses von Primat und Episkopat im ersten Jahrtausend* by Stephan Horn—*reazione* by Emmanuel Lanne; *Historical-Theological Synthesis of the Relation between Primacy and Episcopacy during the Second Millenium* by William Henn—*reazione* by Cándido Pozo; *‘Perpetuum Utriusque Unitatis Principium ac Visibile Fundamentum’: The Primacy and the Episcopate. Towards a Doctrinal Synthesis* by Michael Buckley—*reazione* by Fernando Ocariz. Regarding the third theme of the symposium, i.e., the nature and scope of the primatial interventions of the bishop of Rome, the

The methodology employed by the scholars of the symposium was that of an historical-dogmatic review of the essential elements of papal primacy as determined in sacred scripture, and as manifested in its practical development in the two Christian millennia.

7. “The Primacy of the Successor of Peter in the Ministry of the Church,” 31 October 1998⁵⁰

The question of papal primacy is a relevant one, especially for ecumenical efforts, as John Paul II pointed out in *Ut Unum Sint*. The CDF took up the Pope’s invitation to help him consider anew the institute of papal primacy by convoking a theological symposium to address the question from a variety of perspectives (*supra*). The document seeks to highlight the key doctrinal points of papal primacy understood as a gift from Christ to his Church under two general headings: 1) the “Origin, End, and Nature of

following *relazioni* and accompanying *reazioni* were offered: *Geschichtlich-theologische Synthese der Periode des 1. Jahrtausends* by Rudolf Schieffer—*reazione* by Carmelo Capizzi; *Natur und Zielsetzung primatialer Interventionen im 2. Jahrtausend* by Walter Brandmueller—*reazione* by Donato Valentini; ‘Ministerio petrino’ y/o ‘Papado’ en el diálogo con las otras Iglesias cristianas: algunos puntos de convergencia y divergencia by Angel Antón—*reazione* by Pedro Rodríguez.

⁵⁰ Congregation for the Doctrine of the Faith, *Il primato del Successore di Pietro nel mistero della Chiesa*, 31 October 1998, appendix in *Il primato del successore di Pietro, Atti del Simposio teologico, Roma 2-4 dicembre 1996* (Vatican City: Libreria Editrice Vaticana, 1998). Hereafter this text shall be cited as *Il primato*. This text, a presentation of theological considerations signed by Joseph Cardinal Ratzinger, Prefect, and Tarcisio Bertone, SDB, Secretary, is to be understood “in the margins” of the symposium.

Primacy”⁵¹ and 2) “The Exercise of Primacy and Its Forms.”⁵²

These essential foundations established, the CDF notes that the modes by which this primacy is exercised will be influenced by the circumstances and needs of the day. The Holy Spirit assists the Church in knowing the needs of the historical era in which it serves so as to respond in a manner fitting to the times, and simultaneously faithful to the essentials of the faith, the primacy of Peter included. The CDF also notes that it is the Roman Pontiff alone, or with an ecumenical council, who ultimately is competent to determine the modality by which papal primacy is rightly exercised.⁵³ Concluding the text, the CDF stresses that papal primacy is a gift to the Church. “The Lord wanted to carry his own treasure through the ages in fragile vessels: thus has human frailty become a sign of the truth of the divine promises.”⁵⁴

⁵¹ The CDF here notes that sacred scripture, in presenting the list of the apostles, mentions Simon Peter first, “showing with clarity and simplicity that the new testament canon acknowledged the words of Christ relative to Peter and his role in the group of the Twelve” (n. 3). The early Church communities expressly acknowledge Peter’s primacy as well. Basing itself on the New Testament, the Catholic Church teaches as a doctrine of the faith that the pope is the Successor of St. Peter in his primatial service to the universal Church and while all bishops are to have a pastoral solicitude for all the Churches and not just their own, the pope’s universal pastoral solicitude takes on a particular force because of the full, immediate, ordinary, and supreme power he possesses in the Church.

⁵² The CDF notes that papal primacy is not the equivalent of a monarchy, however benevolent (n. 7). The pope is subject to the word of God, to the Catholic Faith, and is “a rock which, contrary to arbitrariness and conformity, guarantees a rigorous fidelity to the word of God” (n. 7). Thus primacy is truly a service to the servants of God.

⁵³ *Il primato*, nn. 14-15.

⁵⁴ *Il primato*, n. 15.

8. Note, *The Power of the Pope and Matrimony*, 11 November 1998⁵⁵

By means of this brief note, the CDF sought to articulate anew the consistent “evangelical and apostolic teaching” that sacramental marriages are absolutely indissoluble and that even papal power to dissolve marriages, despite some arguments to the contrary,⁵⁶ does not extend to *ratum et consummatum* marriages between the baptized. The CDF stated that

. . . this teaching has been proposed repeatedly through the ages whether in various Ecumenical Councils (e.g., the Council of Florence, Trent, and Vatican II), or through the ordinary magisterium of the Roman Pontiff and of the Bishops, or finally whether through the Church’s constant and universal catechetical and missionary activity.⁵⁷

Article 53 of *Pastor bonus* endows the CDF with the competency to examine whatever concerns privilege of the faith cases whether in law or in fact. This text,

⁵⁵ Congregation for the Doctrine of the Faith, Note *Il potere del papa e il matrimonio dei battezzati*, 11 November 1998, *L’Osservatore Romano* (11 November 1998) 1. It is not signed by any official of the Congregation. Hereafter this text shall be cited as *Il potere*.

⁵⁶ The CDF noted that the increase in irregular marriages among the faithful has created many pastoral difficulties which, in turn, has led many pastors and theologians to suggest the potentiality of the Successor of Peter to dissolve marriages between the baptized (i.e., *ratum et consummatum*) in certain circumstances when a grave cause or the good of the faithful might suggest such a solution. Without naming specific proponents, the CDF noted one argument which held that the exercise of papal power over such marriages was really an extension of the power he already enjoyed in situations of the Pauline privilege (cc. 1143-1147) and the so-called Petrine privilege (cc. 1148-1149). According to another argument, such an application of papal power to new cases was really the judicial exercise of a power which the Church has always enjoyed, e.g., when it has admitted widows and widowers to new marriages. The CDF stated, however, that there is no historically employed generic power of the Church to dissolve marriages which could now be specifically applied to consummated marriages between the baptized.

⁵⁷ *Il potere*, 1: “Seguendo fedelmente l’insegnamento evangelico ed apostolico (cfr Mt 5, 31; Mc 10, 11-12; Lc 16, 8; 1 Cor 7, 10-11), che ripristina e porta a perfezione l’originario disegno di Dio Creatore (cfr Gn 1, 27; 2, 24; Mt 19, 3-9; Mc 10, 2-9), la Chiesa Cattolica ha sempre proclamato l’assoluta indissolubilità del sacramento del matrimonio. Essa ha riproposto lungo i secoli la stessa dottrina sia in diversi Concili Ecumenici (per esempio nei Concili di Firenze, di Trento e nel Vaticano II), sia attraverso il Magistero ordinario dei Romani Pontefici e dei Vescovi, sia infine per mezzo della sua costante e universale attività catechistica e missionaria.”

however, while addressing the extent and limits of Petrine power to dissolve marriage, is nonetheless considering the matter from its doctrinal implications more so than from its legal or factual dimensions.⁵⁸ In other words, the text is directly aimed at presenting the consistent teaching of the Church on the sacrament of marriage, on Petrine power, and on the relationship between the two so as to present a doctrinally sound response to the pastoral concern raised by so many pastors and theologians, namely the increase in irregular marriages due to the introduction of divorce into traditionally Catholic societies. Given this objective, the text is a good example of the CDF's competency presented in *Pastor bonus*, article 48, i.e., to promote the doctrine of faith and morals.

The CDF cites the Catechism of the Catholic Church in which the teaching of the Church is clearly presented (n. 1604):

Thus the marriage bond has been established by God himself in such a way that a marriage concluded and consummated between baptized persons can never be dissolved. This bond, which results from the free human act of the spouses and their consummation of the marriage, is a reality, henceforth irrevocable, and gives rise to a covenant guaranteed by God's fidelity. The Church does not have the power to contravene this disposition of divine wisdom (cf. 1983 *CIC*, c. 1141).⁵⁹

⁵⁸ *Il potere*, 1: "Non è questa la sede per affrontare la questione specialistica della qualifica teologica di tale affermazione [that a sacramental marriage *ratum et consummatum* enjoys extrinsic, i.e., absolute, indissolubility]. In ogni caso si può dire con certezza che non si tratta soltanto di una prassi disciplinare o di un semplice dato di fatto storico. Si è invece di fronte ad un insegnamento dottrinale della Chiesa, fondato sulla Sacra Scrittura e più volte riproposto esplicitamente e formalmente dal Magistero da considerare quindi almeno come appartenente alla dottrina Cattolica e come tale esso deve essere accolto, e con fermezza ritenuto."

⁵⁹ Pope John Paul II, *Catechism of the Catholic Church*, 2nd ed. (Vatican City: Libreria Editrice Vaticana, 1997), n. 1640. English translation for the United States provided by United States Catholic Conference—Libreria Editrice Vaticana (Libreria Editrice Vaticana, 1997).

The CDF concludes that the intrinsic and extrinsic indissolubility of marriages between the baptized *ratum et consummatum* is a doctrinal teaching of the Church based on Sacred Scripture (cf. Eph 5) and explicitly taught many times over by the magisterium such that it must be received and firmly held.⁶⁰ While the Church must pastorally respond to so many who now find themselves in the difficulty of irregular marriages, her pastoral response must still be in fidelity to the Word of God and must stem from a true charity. Consequently, the Church is not able to appropriate to herself the proposals of some who would “inappropriately invoke the vicarious power of the Roman Pontiff” to dissolve Christian marriages *ratum et consummatum*.⁶¹ The limit of the Roman Pontiff’s power in

⁶⁰ The CDF first notes Pope Pius XI’s statement that the exceptions to the indissolubility of marriage, i.e., natural marriages between unbelievers or non-consummated marriages between the faithful, are based on divine law and not ecclesiastical authority. The norm expressed in canon 1141 (1983 *CIC*, c. 1141: “Matrimonium ratum et consummatum nulla humana potestate nullaue causa, praeterquam morte, dissolvi potest”) “represents a doctrinal principle many times rearticulated by the magisterium of the Church” (*Il potere*, 1: “Quanto espresso oggi nel *CIC* can. 1141—‘Il matrimonio rato e consumato non può essere sciolto da nessuna potestà umana e per nessuna causa, eccetto la morte’— non è soltanto un principio canonistico con il quale la Chiesa è stata sempre coerente lungo i secoli, anche di fronte a fortissime pressioni da parte dei potenti, ma rappresenta un principio dottrinale più volte ribadito dal Magistero della Chiesa.”). Pius XI in *Casti connubii* (Pope Pius XI, Encyclical Letter *Casti connubii*, 31 December 1930: *AAS* 22 [1930] 539-592) expressed that “no human power” could dissolve Christian marriages “*ratum et consummatum*.” The inclusion of the pope as one such human power, the CDF pointed out, is implicitly clear from the context, but it is also explicitly clear in papal teaching both prior to and following the pontificate of Pius XI. For example, Pius IX, in a letter to Romanian bishops in 1859, had explicitly included the Supreme Pontiff among those human powers who were unable to dissolve such marital bonds (Pope Pius IX, Letter *Verbis exprimere*, 15 August 1859, in *Insegnamenti Pontifici*, vol. I, [Edizioni Paoline, Rome 1962-1968], n. 103). In a 1942 address to newly married spouses, Pius XII did the same as a way of stressing the divine foundation for the indissolubility of marriage (Pope Pius XII, *Il nodo divino che nessuna mano umana può sciogliere: La dignità inviolabile del matrimonio uno e indissolubile*, 22 April 1942, in *Discorsi e Radiomessaggi di Sua Santità*, vol. 4, [Rome: Tipografia Poliglotta Vaticana, 1955-1959] 47: “Il vincolo del matrimonio cristiano è così forte, che, se esso ha raggiunto la sua piena stabilità con l’uso dei diritti coniugali, nessuna potestà al mondo, nemmeno la Nostra, quella cioè del Vicario di Cristo, vale a rescindarlo”).

⁶¹ *Il potere*, 1: “La Chiesa deve venire incontro ai fedeli che versano in tali difficoltà, ma per fedeltà alla Parola di Dio e per amore delle persone interessate non può fare proprie quelle proposte, pur ben intenzionate, che, invocando impropriamente la potestà vicaria del Romano Pontefice, non farebbero altro che aggirare l’indissolubilità intrinseca che il matrimonio cristiano possiede per diritto divino.”

this regard, the CDF concluded, serves ultimately as an expression of the mystery of matrimony.⁶²

9. Documents regarding “The Message of Fatima,” 26 June 2000⁶³

This compilation of documents accompanied the publication of the third “secret” of Fatima.⁶⁴ The documents are comprised of 1) an introductory document;⁶⁵ 2) the re-publication of the first two parts as well as the publication of the third part of the “secret” of Fatima each in the original text and then in translation;⁶⁶ 3) the interpretation of the “secret” presented in three parts: a) the original text of the letter which John Paul II sent to Sister Lucia, followed by a translation, b) a report on the conversation between

⁶² *Il potere*, 1: “Il limite così posto nel disegno divino anche alla potestà del Sommo Pontefice è di fatto espressione della grandezza del mistero del matrimonio.”

⁶³ Congregation for the Doctrine of the Faith, Documents “*The Message of Fatima*,” 27 June 2000, *L'Osservatore Romano* 26 (28 June 2000) Insert.

⁶⁴ The word “secret” is enclosed within quotations throughout the CDF text and likewise here. This may have been done in order to ensure that the “secrets” of Fatima, as private revelation, are appreciated in a reverent manner and that the word “secret” is not interpreted with a glib or frivolous connotation. In the theological commentary which accompanied these documents, Ratzinger sought to dispel any sensationalism by commenting that “no great mystery is revealed; nor is the future unveiled” by the third “secret” of Fatima.

⁶⁵ The introductory document by Archbishop Tarcisio Bertone, then Secretary of the CDF, acknowledges mysterious apparitions and signs as something of regular occurrence throughout the tradition but that, in all cases, such supernatural events “can never contradict the content of faith” (1). The introduction also provides the chronological series of events which led to the publication of the third “secret.”

⁶⁶ The second set of documents are photostatic reproductions of Sister Lucia’s handwritten memoirs in which are contained the three “secrets” of Fatima, each with their own translation. The third “secret” is Sister Lucia’s description of the apparition, i.e., her vision of a “Bishop dressed in White” leading a large body of bishops, priests, men and women religious up a steep mountain and through a city half in ruins only to be slain at the summit. Those following him to the top were likewise killed and two angels, who had been beneath the cross, gathered the blood of the martyrs and then sprinkled it upon those making their way to God (3).

Archbishop Tarcisio Bertone and Sister Maria Lucia of Jesus and the Immaculate Heart, and c) the text for the announcement made by Cardinal Angelo Sodano, Secretary of State, at the end of the Papal Mass celebrated at Fatima; and finally, 4) a theological commentary signed by Joseph Cardinal Ratzinger, Prefect.

The CDF here promotes sound doctrine of faith and morals by ensuring that the “secret” is understood in its right theological context. The theological commentary by Cardinal Ratzinger is the primary text where this promotion occurs and is therefore the focus of this study.

Ratzinger contextualized the message of Fatima by first distinguishing the doctrinal meaning of public versus private revelation, noting that the difference between them is one not only of degree but also of essence. The former refers to God’s self-disclosure to man as a whole and is found textually contained in Sacred Scripture. Ratzinger wrote:

It is called “Revelation” because in it God gradually made himself known to men, to the point of becoming man himself, in order to draw to himself the whole world and unite it with himself through his Incarnate Son, Jesus Christ. It is not a matter therefore of intellectual communication, but of a life-giving process in which God comes to meet man. At the same time this process naturally produces data pertaining to the mind and to the understanding of the mystery of God.⁶⁷

Public Revelation finds its completion in the Person of Jesus Christ yet the Church continues to grow in her appreciation for, and understanding of, this revelation. Private revelation, on the other hand, includes all the revelations and visions which have taken place since the definitive formulation of sacred scripture, those of Fatima included.

⁶⁷ *Message of Fatima*, 7.

The authority of public revelation is God himself since it is he who reveals. The authority of private revelation is the degree to which it leads the believer back to what is known by public revelation; i.e., the degree to which it is oriented to Christ himself, the fullness of God's revelation. Whereas public revelation requires the assent of faith, private revelation does not. Private revelation, Ratzinger notes, does not exclude the possibility of new devotional forms of piety, or even its ability to affect the Church's liturgical prayer, e.g., Corpus Christi, Sacred Heart devotions. Such pious manifestations in the Church's life are signs of the deepening of faith; they are not substitutes for it.

Citing St. Paul's admonition to the Thessalonians to test the spirits to determine what is good (cf. 1 Thess. 5:19-21), Ratzinger points out that the Church has always received prophecies which "must be scrutinized but not scorned,"⁶⁸ prophecies understood biblically, i.e., not "to predict the future but to explain the will of God for the present, and therefore show the right path to take for the future."⁶⁹ Therein lies private revelations' greatest value, they help the faithful to interpret the signs of the times.

Ratzinger placed the private revelation of Fatima as an example of "interior perception" (*visio imaginativa*), i.e., that "the soul is touched by something real, even if beyond the senses."⁷⁰ Children, whose "interior powers of perception are still not impaired" are often the recipients of such visions.⁷¹ But there is always a subjective element in any perception since the object is always perceived from the vantage point of

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

the beholder. This is all the more true, Ratzinger points out, with interior perception since “it involves realities which in themselves transcend our horizon” causing the visionary to be “more powerfully involved.”⁷² The images which Sister Lucia recorded are indeed images she saw but they are to be understood symbolically, i.e., “not every element of the vision has to have a specific historical sense.”⁷³ The overall point of an authentic vision is when it becomes “a summons and a guide to the will of God.”⁷⁴

Finally, after “attempting” an interpretation of the “secret” of Fatima,⁷⁵ Ratzinger concluded the theological commentary by making some final observations. First, the events of which the vision speaks are now in the past and thus the “secret” cannot be regarded as some kind of prediction of the future. Second, Mary’s comment that her Immaculate Heart would triumph is an invitation to trust in Christ who has overcome the world (cf. Jn 16:33).⁷⁶

The publication of the third “secret” of Fatima touches directly upon the doctrine of the faith insofar as it is a private revelation bearing on central themes of the Church’s life. As such, it is properly the duty of the CDF to address it in such a way that the integrity of public revelation is safeguarded (cf. *Pastor bonus*, art. 48). Couched in the theological interpretative documents, the CDF provided a great service in clarifying what

⁷² *Message of Fatima*, 8.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Ratzinger noted that while the vision was given to Sister Lucia, its interpretation belonged to the Church (8).

⁷⁶ *Message of Fatima*, 8.

the precise theological nature of the “secret” of Fatima is. In so doing, the CDF has given the bishops of the world the terminology by which to speak of the visions of Fatima, by which to promote devotion to Our Lady of Fatima, and by which to appropriate the content of the visions so that the Christian faithful may understand the “secrets” rightly.

10. Declaration, *Dominus Iesus*, 6 August 2000⁷⁷

Using almost the same language as that found in article 49 of *Pastor bonus*, the CDF articulates the rationale for the document as being “to recall to Bishops, theologians, and all the Catholic faithful, certain indispensable elements of Christian doctrine, which may help theological reflection in developing solutions consistent with the contents of the faith and responsive to the pressing needs of contemporary culture.”⁷⁸ In what the CDF calls “expository language,”⁷⁹ the document seeks to reiterate prior magisterial teaching on the mystery of the incarnation and the unicity of Christ as universal savior. In this way, the document promotes the doctrine of the faith as the magisterium has taught it relevant to the issue at hand. In keeping with the dual nature of the CDF’s proper duty, the introduction also notes that this positive presentation of doctrine is, at the same time,

⁷⁷ Congregation for the Doctrine of the Faith, Declaration *Dominus Iesus*, 6 August 2000: AAS 92 (2000) 742-765. Hereafter this document shall be cited as *DI*. The Vatican English translation is available in *Origins* 30 (2000) 209-219. The document was signed by Joseph Cardinal Ratzinger, Prefect, and Tarcisio Bertone, Secretary, and was approved *in forma communi* by John Paul II for publication.

⁷⁸ *DI*, n. 3; AAS 92 (2000) 744: “Hac in expositione praesens Declaratio eo respiciat, ut Episcopis, theologis universisque catholicis fidelibus quaedam doctrinae capita in memoriam reducantur, quae necessaria sunt omnino quaeque theologicam ratiocinationem iuvare possunt ad solutiones inveniendas quae et veritatibus fidei sint conformes et culturalibus exigentiis nostri temporis apte accommodentur.”

⁷⁹ *DI*, n. 3.

an attempt to address a relativistic milieu which threatens such doctrine, resulting in a religious pluralism that has “superseded” the following:

. . . the definitive and complete character of the revelation of Jesus Christ, the nature of Christian faith as compared with that of belief in other religions, the inspired nature of the books of Sacred Scripture, the personal unity between the Eternal Word and Jesus of Nazareth, the unity of the economy of the Incarnate Word and the Holy Spirit, the unicity and salvific universality of the mystery of Jesus Christ, the universal salvific mediation of the Church, the inseparability—while recognizing the distinction—of the kingdom of God, the kingdom of Christ, and the Church, and the subsistence of the one Church of Christ in the Catholic Church.⁸⁰

The CDF clarifies these doctrines under six headings: 1) “The fullness and definitiveness of the revelation of Jesus Christ;”⁸¹ 2) “The incarnate Logos and the Holy Spirit in the work of salvation;”⁸² 3) “Unicity and universality of the salvific mystery of

⁸⁰ *DI*, n. 4; AAS 92 (2000) 744: “Ideo superatae a quibusdam censentur veritates cuiusmodi sunt indoles definitiva et completa revelationis Iesu Christi, natura fidei christianae per respectum ad adhaesionem aliis religionibus, inspiratio librorum Sacrae Scripturae, unitas personalis inter Verbum aeternum et Iesum Nazarenum, unitas oeconomiae Verbi incarnate et Spiritus Sancti, unicitas et universalitas salvifica mysterii Iesu Christi, mediatio salvifica universalis Ecclesiae, inscindibilitas, quamvis in distinctione, inter Regnum Dei, Regnum Christi et Ecclesiam, subsistentia unicae Christi Ecclesiae in catholica Ecclesia.”

⁸¹ The first section of the document stresses that in the Person of Jesus Christ, the incarnate Son of God, the fullness of divine truth is revealed such that further revelation is neither needed nor expected, and that the proper response to this revelation in Jesus Christ is the “obedience of faith,” itself a gift of grace to true revelation.

⁸² The CDF states that the Spirit “actualizes the salvific efficacy of the Son made man in the lives of all people, called by God to a single goal, both those who historically preceded the Word made man, and those who live after his coming in history: the Spirit of the Father, bestowed abundantly by the Son, is the animator of all (cf. Jn 3:34). Thus the Holy Spirit’s work in other religions is itself the work of Christ, leading all to the fullness of God’s revelation found in Christ alone.

Jesus Christ;”⁸³ 4) “Unicity and Unity of the Church;”⁸⁴ 5) “The Church: kingdom of God and kingdom of Christ;”⁸⁵ and 6) “The Church and the Other Religions in Relation to Salvation.”⁸⁶

The CDF concluded its declaration by stating again its rationale for having made this declaration:

The intention of the present declaration in reiterating and clarifying certain truths of the faith has been to follow the example of the apostle Paul, who wrote to the faithful of Corinth: “I handed on to you as of first importance what I myself received” (1 Cor. 15:3). Faced with certain problematic and even erroneous propositions, theological reflection is called to reconfirm the church’s faith and to give reasons for her hope in a way that is convincing and effective.⁸⁷

⁸³ Here the CDF juxtaposes this doctrine in contrast to any theory which would relativize Christ as sole savior of the world. Sacred Scripture, the CDF points out, unambiguously points to Christ’s universal salvific identity (cf. Jn 1:29; Jn 3:16-17; Acts 4:12; Acts 10:36, 42-43; 1 Cor. 8:5-6; 1 Tim. 2:4-6; 1 Jn 4:14).

⁸⁴ The CDF makes reference to the Second Vatican Council’s use of *subsistit in* as the expression to speak of the fact that while “elements of sanctification and truth” are found in Churches and ecclesial communities not in full communion with the Catholic Church, still the fullness of the Church of Christ is identified with the Catholic Church alone.

⁸⁵ Section five of the document stresses the fact that while the Church is a sign of the eschatological kingdom of God yet to come, she is at the same time the “seed and beginning of that kingdom” already established in history.

⁸⁶ In the sixth and final section of the text, the CDF addresses several ecumenical issues which stem from the doctrine promoted in the declaration, e.g. *inter alia*, the Church is necessary for salvation yet God bestows his grace and his salvation to those of other faiths by mysterious ways known to him alone; the Church’s mission *ad gentes* is truly a universal mission and that the Church cannot be regarded as just another world religion insofar as she possesses in its fullness what is meant for all.

⁸⁷ *DI*, n. 23; AAS 92 (2000) 764-765: “Declaratio haec, quae veritates quasdam fidei in memoriam revocat atque explanat, vestigia premere conatur Pauli Apostoli, qui ad Corinthios scribens asseruit: ‘Tradidi enim vobis in primis, quod et accepi, quoniam Christus mortuus est pro peccatis nostris secundum Scripturas’ (1 Cor 15,3). Attentis enim quibusdam propositionibus incertis vel erroneis, theologica pervestigatio incitatur ad fidem Ecclesiae iterum confirmandam atque ad rationem suae spei reddendam modo persuasive atque efficaci.”

Given the content of *Dominus Iesus*, the “reiterating and clarifying certain truths of the faith” of which the document speaks can easily be understood as the tasks of promoting and safeguarding those same truths of the faith, a duty properly the CDF’s own to fulfill. The fact that the CDF likens itself to Saint Paul, who was not the author of the message he delivered but rather its faithful steward and transmitter, bespeaks the lens through which the CDF understands the purpose and character of the declaration. The doctrine of the faith is presented here not as something which the CDF has determined but rather as that which must be faithfully handed on, promoted, and preserved.

11. Instruction, *Ardens felicitatis*, 14 September 2000⁸⁸

This instruction was issued in acknowledgment of the fact that “the proliferation of prayer meetings, at times combined with liturgical celebrations, for the purpose of obtaining healing from God” has required bishops to articulate a theologically sound context for such prayer. In keeping with its competency to assist bishops in their office “as authentic teachers and doctors of the faith” which “carries with it the duty of promoting and guarding the integrity of that faith” (*PB*, art. 50), the CDF here highlights the doctrinal aspects of Christian prayer for healing in order to preserve its integrity. But this promotion of the doctrine of faith relevant to prayer, the CDF notes, also necessitates

⁸⁸ Congregation for the Doctrine of the Faith, Instruction *Ardens felicitatis*, 14 September 2000, in *EV* 19 (2000) 756-785. Hereafter the document shall be cited as *AF*. The Vatican English translation is available in *Origins* 30 (2000) 441-447. The instruction is signed by Joseph Cardinal Ratzinger as Prefect, Tarcisio Bertone as Secretary, and approved *in forma communi* by John Paul II for publication.

the pointing out of some trends which do not adequately reflect scripture and the tradition. As the instruction puts it:

It has seemed opportune, therefore, to publish an instruction, in accordance with Canon 34 of the Code of Canon Law, above all as a help to local ordinaries so that the faithful may be better guided in this area through the promotion of what is good and the correction of what must be avoided. It was necessary, however, that these disciplinary determinations be given their point of reference within a well-founded doctrinal framework to ensure a correct approach and to make clear the reasoning behind the norms. For this reason, the disciplinary section is preceded by a doctrinal presentation on the graces of healing and prayers for healing.⁸⁹

Both the promotion and safeguarding of doctrine constitutive of the CDF's proper duty are evident, then, in this text. But, as the document states, the correction of error is possible only after the clear doctrine of the Church relevant to prayer has been presented, i.e., the document first addresses the meaning of sickness and healing in terms of the economy of salvation; it describes the "charism of healing" in scripture; and finally it traces the manner by which Christians have prayed for healing in the tradition of the Church. By presenting anew the doctrine of the Church to the attention of the bishops, the CDF assists them in their ability to address precisely these same concerns within their local Churches.

⁸⁹ *AF, Introductio*: "Opportunum igitur visum est edere Instructionem, ad normam can. 34 Juris Canonici, quae praesertim auxilium praebeat Ordinariis locorum in hac materia, fovendo quidquid boni sit et corrigendo quid sit vitandum. Opus tamen erat, ut normae disciplinares in solido fundamento doctrinali niterentur, quo in tuto poneretur earum recta directio earumque rationes explicarentur. Quem ad finem, parti disciplinari praemissa est pars doctrinalis, quae de gratiis sanationis agitur et de precibus ad eas obtinendas."

12. Doctrinal Note, *Some Questions Regarding the Participation of Catholics in Political Life*, 16 January 2003⁹⁰

The CDF, after consulting with the Pontifical Council for the Laity, thought it opportune to prepare this text which has as its aim the presentation of key doctrinal principles to “shed light on one of the most important aspects of the unity of Christian life: coherence between faith and life, Gospel and culture, as recalled by the Second Vatican Council.”⁹¹ In a particular way, the CDF perceived the need to articulate basic principles regarding the Christian conscience, especially as it inspires the political activity of some members of the Christian faithful. The Doctrinal Note is directed first to bishops, “in a particular way” to Catholic politicians, and lastly to all the laity involved in the politics of their societies.

The Doctrinal Note begins by reaffirming what the CDF calls “a constant teaching,” namely that the Christian, like every other citizen, is free and possesses the duty to participate in the political and social life of his community for the purpose of reaching the common good, e.g., “the promotion and defense of goods such as public order and peace, freedom and equality, respect for human life and for the environment,

⁹⁰ Congregation for the Doctrine of the Faith, Doctrinal Note, *Some Questions Regarding the Participation of Catholics in Political Life*, 16 January 2003, *Origins* 32 (2003) 537-543. Hereafter this document shall be cited as *Participation of Catholics*. The Note was signed by Joseph Cardinal Ratzinger, Prefect, and Tarcisio Bertone, Secretary, and approved for publication *in forma communi* by John Paul II. What the nature and value of a “Doctrinal Note” is will be taken up in chapter five.

⁹¹ *Participation of Catholics*, Intro. Specifically, the document references *Gaudium et spes*, 31, 75,76; *Apostolicam Actuositatem*, 7; *Lumen Gentium*, 36.

justice and solidarity.”⁹² The Christian is called to permeate the temporal order with Christian values while at the same time respecting that order’s proper autonomy.

The CDF proceeds to address certain noteworthy points in current cultural and political debate. First, cultural relativism, often presented in the form of ethical pluralism, despite the fact that it is regarded as constitutive of democracy, is corrosive to sound reason and the principles of the natural moral law. Under the guise of “tolerance” Christians are not allowed to base their political contributions in the public square on their unique anthropology or their vision of the common good.⁹³ The CDF stresses that such popular notions of relativism and plurality are not the equivalent of political freedom. Rather, political freedom implies an honest and open exchange, based on non-negotiable moral norms, of how best to achieve the common good. Christians, who must respect the diversity of political views, are at the same time bound to shun the “conception of pluralism that reflects moral relativism.”⁹⁴ While political parties demonstrate a legitimate plurality on political action, and as such are open to Catholics’ participation, still Catholics must “assess their participation in political life so as to be sure that it is marked by a coherent responsibility for temporal reality.”⁹⁵ Such coherent responsibility is had when political structures exist in service to a correct understanding of the human person.

⁹² *Participation of Catholics*, n. 1.

⁹³ *Participation of Catholics*, n. 2.

⁹⁴ *Participation of Catholics*, n. 3.

⁹⁵ *Ibid.*

The dignity of the human person is the non-negotiable principle which gives value and meaning to the entire democratic system and structures. Thus political participation in any endeavor that would attack human life, or fail to acknowledge this fundamental principle, is an inescapable inconsistency with the Catholic faith. The Doctrinal Note articulates that Catholics have a duty to oppose any law which would disregard human dignity or, when such laws are already in place, to curtail its ill effects. The Doctrinal Note makes specific mention of the need to defend embryonic life from abortion, to support the family, “based on monogamous marriage between a man and a woman,” to protect the right of parents to educate their children, to protect children from exploitation, to advance religious freedom, and to work for peace by vigilantly defending justice.⁹⁶

The CDF makes a clear and helpful distinction in stating that the Church’s articulation of “ethical precepts rooted in human nature” does not make such precepts “confessional values” thereby requiring religious faith.⁹⁷ If this were the case, then a pluralistic political system could never make reference to absolute, binding norms. Thus, to promote the common good in accord with one’s conscience is not the equivalent of “religious intolerance.” The distinction between the political society and the Church is not a distinction between the political sphere and morality. Thus, a Catholic politician who supports a moral truth in the political sphere is not doing violence to the political sphere’s rightful autonomy by an intrusion of confessionalism; rather he is being “morally coherent” in his conscience and is pointing out what is morally binding upon all

⁹⁶ *Participation of Catholics*, n. 4.

⁹⁷ *Participation of Catholics*, n. 5.

by nature. For the Christian, no activity is beyond the ken of discipleship. Thus the Catholic politician who acts in conformity with his well-formed conscience is contributing to the political order in the manner democracy envisions, and is, at the same time, fulfilling his vocation in Christ. A democracy which would not allow the expression of a natural ethics would be guilty of an “intolerant secularism” and would open the way to “moral anarchy.” Truth would no longer be the map to reach the common good; rather, the strong would oppress the weak and Christianity would be marginalized.

Before concluding the Note, the CDF turns to specific aspects of the question of the faithful’s participation in political life. Specifically, the Note addresses the impropriety of Catholic organizations and periodicals taking political positions which contradict the moral and social teachings of the Church. Secondly, the CDF reminds Catholics that it is their duty to build a culture commensurate with the gospel of Jesus Christ and to demonstrate proudly the current and past contributions of Catholicism to the development of culture, avoiding an “inferiority complex.”⁹⁸ Christians are also called upon to disavow any political position based on a utopian understanding of the social order and are rather to be servants of the truth as the means to authentic freedom. Highlighting the frequent misappropriation of *Dignitatis Humanae* regarding the call to freedom of conscience, the CDF indicates that such a freedom stems from man’s dignity, not from an indifference regarding religions or a moral relativism.⁹⁹ The conscience is free to obtain to the truth, not to determine it for the self. When the Christian faithful act

⁹⁸ *Participation of Catholics*, n. 7.

⁹⁹ *Participation of Catholics*, n. 8.

in accord with their conscience, understood rightly as articulated in this Note, then they are free to participate fully in the political sphere, making a valuable contribution towards the common good.

The clarifications offered by the CDF in this Doctrinal Note promote the doctrine of the faith regarding the conscience, the natural law and its moral precepts, and the requirement of man to live in accord with the truth knowable by right reason in the midst of the political community. Not addressed to any one specific country or political system, the CDF sought to lay out those norms common to all and to address the letter to the bishops throughout the world to assist them in engaging those members of the flock who exercise political responsibilities in the public forum to do so in a manner commensurate with their vocation.

13. Letter, *Considerations Regarding Proposals To Give Legal Recognition To Unions Between Homosexual Persons*, 3 June 2003¹⁰⁰

The letter does not seek to present “new doctrinal elements” but rather

. . . to reiterate the essential points on [the question of homosexual unions] and provide arguments drawn from reason which could be used by bishops in preparing more specific interventions appropriate to the different situations throughout the world aimed at protecting and promoting the dignity of marriage, the foundation of the family and the stability of society, of which this institution is a constitutive element.¹⁰¹

¹⁰⁰ Congregation for the Doctrine of the Faith, *Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons*, 3 June 2003, *Origins* 33 (2003) 177-182. Hereafter this document shall be cited as *Legal Recognition*. This letter was signed by Joseph Cardinal Ratzinger as Prefect, Angelo Amato as Secretary, and approved *in forma communi* by John Paul II for publication.

¹⁰¹ *Legal Recognition*, Intro.

These words present this letter as an example of the CDF fulfilling its proper duty to both promote and safeguard the doctrine of faith and morals (*Pastor bonus*, article 48). The doctrine which it promotes relative to marriage and human sexuality is not new or innovative but simply a reiteration of the magisterial articulation of principles knowable by right reason. In presenting the sound doctrine anew, the CDF desires to be of service to the bishops throughout the world who, as “authentic teachers and doctors of the faith,” must promote and guard the integrity of marriage, human sexuality, and the intrinsic relationship between the two. This text is in service to precisely that *diaconia*.

The “natural truth” of marriage, as being an institution between a man and a woman, is known by right reason and was established by the Creator with its own nature, essential properties, and purpose. The document states that divine revelation has confirmed this natural truth, making reference to Genesis whereby men and women are presented as “complementary,” whereby marriage is established by God as a “communion of persons” by means of a sexual faculty; and whereby this communion between a man and a woman is rendered fertile, allowing them to share a creative role through procreation.¹⁰² Homosexual unions, on the contrary, fail to manifest any of these characteristics. Furthermore Sacred Scripture explicitly condemns it, confirming that homosexual acts are, by their very nature, disordered.¹⁰³ While the person with a homosexual orientation maintains his human dignity and therefore must be respected with compassion and without unjust discrimination, still the objective disordered reality

¹⁰² *Legal Recognition*, n. 3.

¹⁰³ See *Rom* 1:24-27; *1 Cor* 6:10; *1 Tim* 1:10.

of homosexual acts, and their gravely sinful character, is clearly established in both Sacred Scripture and the living Tradition of the Church.

The CDF then presents arguments from reason against the legal recognition of homosexual unions first, from the order of right reason; second, from the biological and anthropological order; third, from the social order; and finally, from the legal order. The document then concludes with a special exhortation to Catholic politicians to exercise the duty they share with all Christians, but in a manner unique to their position of influence and responsibility for the common good.¹⁰⁴

That the CDF, by means of this document, desires to safeguard the doctrine of faith and morals pertaining to human sexuality and marriage by arguing against legal acknowledgement of homosexual unions is clear. Of interest to this study, however, is that the CDF's manner of offering this defense is a positive rearticulation of the doctrine itself for the benefit of the bishops who must then engage in the promotion and guarding of marriage in their local Churches. In this way is this document in service to the *diaconia* of the college of bishops.

¹⁰⁴ The CDF unambiguously states: "To vote in favor of a law so harmful to the common good is gravely immoral" (Intro). In short, the Catholic politician is to vote against and work against the establishment of legal recognition of homosexual unions, or to work diligently to mitigate the spread or increased influence of such unions where they already exist (n. 10).

14. Letter, *On the Collaboration of Men and Women in the Church and in the World*, 31 May 2003¹⁰⁵

The letter addresses the Church's concern for the "authentic advancement of women" in the contemporary context of women's rights and duties.¹⁰⁶ Specifically, the CDF addresses modern modes of thinking that are "at variance" with true feminine advancement.¹⁰⁷ It is organized as follows:

After a brief presentation and critical evaluation of some current conceptions of human nature, this document will offer reflections – inspired by the doctrinal elements of the biblical vision of the human person that are indispensable for safeguarding his or her identity – on some of the essentials of a correct understanding of active collaboration in recognition of the difference between men and women in the church and in the world.¹⁰⁸

The first part (nn. 2-4) might be classified as the CDF's attempt to safeguard the doctrine of faith and morals from ill-conceived anthropological notions which fail to take into account what is known of man by the light of natural reason and revelation,¹⁰⁹ whereas the second and lengthier part (nn. 5-16) might be classified as more properly the

¹⁰⁵ Congregation for the Doctrine of the Faith, *Letter to the Bishops of the Catholic Church on the Collaboration of Men and Women in the Church and in the World*, 31 May 2003, *Origins* 34 (2004) 169-176. Hereafter this document shall be cited as *Collaboration of Men and Women*. The letter was signed by Joseph Cardinal Ratzinger as Prefect, Angelo Amato as Secretary, and approved *in forma communi* by John Paul II for publication.

¹⁰⁶ *Collaboration of Men and Women*, n. 1.

¹⁰⁷ The document makes few specific references to modern modes of thinking that are "at variance" to true feminine advancement (n. 1). The entire discussion was presented in much more general terms, i.e., the overall societal trend to place women in opposition to men, etc.

¹⁰⁸ *Collaboration of Men and Women*, n. 1.

¹⁰⁹ The Letter presents modern society's denial of differences between the sexes (physical, spiritual, and psychological) as the main problem in the current understanding of the relationship between the sexes.

CDF's attempt to promote the doctrine of faith and morals so that "[t]hese reflections [may serve] as a starting point for further examination in the church as well as an impetus for dialogue with all men and women of good will in a sincere search for the truth and in a common commitment to the development of ever more authentic relationships."¹¹⁰ It is thus this main portion of the text which is the focus of this study.

To support its position that man and woman differ, and differ for a purpose, the document relies on Scripture and the "biblical vision of the person" (nn. 5-12) making frequent reference to the accounts of Creation in Genesis. In particular, the letter emphasizes: the human as a person created in the "image and likeness" of God (n. 5); Adam's reliance on Eve for partnership and procreation as determined by the reality of sexual differences (n. 6); and humanity's characterization as a "relational reality" (n. 6). Likewise, the letter points out the "spousal" relationship between man and woman paralleled with the covenant between God and the Church/his People. The document also draws from the New Testament, and suggests that Mary's femininity ultimately led to man's salvation through her son, Jesus Christ (n. 10). It is through Christ's Paschal mystery that men and women are freed from their sin and are enabled to see their differences "as a possibility for collaboration," to be cultivated through mutual respect (n. 12).

Finally, the letter indicates that feminine values are critical to the life of society and the life of the Church. Most significantly, woman has a "capacity for the other" (n. 13) which is linked to her ability to give life, and which shapes her personality in a

¹¹⁰ *Collaboration of Men and Women*, n. 1.

distinct, profound way. Regardless of whether or not women actually have children, they have the personality and potential to nurture growth, persevere through adversity, and love unconditionally (n. 13). While motherhood is one of the fundamental gifts of womanhood, women's worth is not limited to procreation; rather it is accentuated in her ability to care for others and develop human relationships. Women should be present and active in the family, and society must organize working conditions respectful of her other duties and responsibilities. Men and women should not be in opposition to one another, but should live in peace and shared love. Above all, society must avoid unjust sexual discrimination (n. 14). Within the Church, Mary provides an example for the woman's role: to show humility, love, and praise toward God by focusing on Mary's listening, waiting, patience, and faithfulness. The letter concludes that the woman's role is not one of passivity, but one that focuses on a "love that is victorious" (n. 16).

By presenting the scriptural foundation for understanding the human person as created male and female in complementarity, the CDF is able to promote what it terms the indispensable doctrinal elements for how femininity is a gift to the Church and the world.

15. *The Dignity and Rights of Mentally Handicapped Persons: Acts of the Symposium Promoted by the Congregation for the Doctrine of the Faith, Rome, 7-9 January 2004*¹¹¹

The primary focus of the study was to reflect on the challenges which mental disability presents to society and contemporary culture and to address the dignity and rights of the mentally handicapped. Angelo Amato, Secretary of the CDF, provided the opening remarks to the gathered body of interdisciplinary experts and scholars, including sociologists, doctors, psychologists, students of moral and pastoral theology, and experts in legal studies. Amato indicated that the CDF undertook this study in light of its competence to understand and promote, by the light of faith and with the help of human sciences, the correct understanding of the existence of faith in the mentally handicapped, recognizing that they are made in the image and likeness of God, and that their intelligence is impeded from being fully manifested. Of special concern for the symposium was to address the affective issues of the mentally handicapped, their sexual life, the legitimate defense of women with mental disability, and also the very grave problem of sterilization.

While mental disability often presents an “impassible barrier” to presenting the good news of Jesus, Amato noted, still very often the mentally handicapped demonstrate a great appreciation for, and an ability to learn and embrace the faith, prayer, and the

¹¹¹ Congregation for the Doctrine of the Faith, *Dignità e Diritti delle persone con handicap mentale, Atti del Simposio promosso dalla Congregazione per la Dottrina della Fede, Roma 7-9 gennaio 2004* (Vatican City: Libreria Editrice Vaticana, 2007). This symposium, desired by John Paul II and followed closely by him from its beginning, took place in Rome from the seventh to the ninth of January 2004. The acts of the symposium were only published by the CDF in 2007.

import of significant contemporary problems. The mentally handicapped are brothers and sisters who call forth from those around them “a special attention and love.” John Paul II stressed this same message in a letter delivered to the participants of the symposium at its conclusion by Joseph Cardinal Ratzinger, Prefect of the CDF. The Pope wrote that the mentally handicapped person is “a fully human subject, with sacred and inalienable rights proper to every human creature.” He went on to challenge the participants: “The handicapped person, with all the limitations and sufferings by which he is signed, requires us to probe within ourselves, with wisdom and profundity, the mystery of man.” Indeed, the mentally disabled, while disturbing to a hedonistic culture in love with ephemeral and passing beauty, are “living icons of the Son crucified, they reveal the mysterious beauty of He who emptied himself for us and who became obedient unto death; they show us that the ultimate ground for being human, beyond appearances, is found in Jesus Christ.”

The members of the ITC *ad hoc* committee¹¹² present a helpful summary of the substantive content of the symposium which took place in five sessions with a “round table” discussion occurring at the end of the third session. In addition, Jean Vanier, founder of the L’Arche Community, offered a testimony to the gathered body of experts. Archbishop Angelo Amato’s introduction, the full text of the *relazioni* together with the

¹¹² The *ad hoc* committee to organize this study was comprised of Angel Rodríguez Luño, Ignacio Carrasco de Paula, Maria Luisa di Pietro, and Maurizio Faggioni.

comments of the round table, Vanier's testimony, and the concluding letter from the Pope, were all subsequently compiled and printed as the acts of the symposium.¹¹³

16. Doctrinal Note, *On Some Aspects of Evangelization*, 3 December 2007¹¹⁴

"There is today, however, a growing confusion which leads many to leave the missionary command of the Lord unheard and ineffective (cf. *Mt* 28:19)."¹¹⁵ This "growing confusion," the CDF notes, is what prompted it to act by issuing this doctrinal note:

In the face of these problems, the Congregation for the Doctrine of the Faith has judged it necessary to publish the present *Note*. This document, which presupposes the entirety of Catholic doctrine on evangelization, as extensively treated in the teaching of Paul VI and John Paul II, is intended to clarify certain aspects of the relationship between the missionary command of the Lord and respect for the conscience and religious

¹¹³ Regarding the first theme of the symposium, i.e., the sociological aspects of mental disability, the following *relazioni* were offered: *Handicap Mentale: Condizioni e Cultura* by Sergio Belardinelli, and *I Diritti della Persona con Handicap nella Normativa Internazionale e Comunitaria* by Luca Marini. Regarding the second theme of the symposium, i.e., the medical and psycho-pedagogical aspects of mental disability, the following *relazioni* were offered: *Handicap Mentale tra Ricerca di Normalità e Ricerca di Salute* by Giovanni Lanzi; *Affectivité et Sexualité: Croître et Aimer Malgré Tout* by Tony Anatrella; *L'Educazione sessuale della Persona con Handicap Mentale* by Vittore Mariani. Regarding the third theme of the symposium, i.e., the ethical and theological aspects of mental disability, the following *relazioni* were offered: *Disagio della Mente e Disagio del Corpo* by Maurizio Faggioni; *Marriage, Mental Handicap, and Sexuality* by Kevin Flannery; *Handicap Mentale e Sterilizzazione: Alcune Osservazioni in Chiave Bioetica* by Maria Luisa di Pietro. Regarding the fourth theme of the symposium, i.e., the pastoral aspects of mental disability, the following *relazioni* were offered: *Assistenza Pastorale e Spiritualità della Persona con Handicap Mentale* by Luciano Sandrin; *Il Counselling a Genitori di Figli con Problemi di Handicap Mentale* by Lorenzo Macario. Jean Vanier's presentation, from the L'Arche Community, is presented next. Regarding the fifth and final theme of the symposium, i.e., the juridical aspects of mental disability, the following *relazioni* were offered: *Il Diritto di Fronte alla Disabilità Mentale* by Francesco D'Agostino; *Protección Judicial de la Persona Discapacitada* by Ignacio Sancho Gargallo.

¹¹⁴ Congregation for the Doctrine of the Faith, Doctrinal Note *On Some Aspects of Evangelization*, 3 December 2007 (Vatican City: Libreria Editrice Vaticana, 2007). Hereafter this document shall be cited as *Aspects*. The Vatican English translation is available in *Origins* 37 (2007-2008) 457-464.

¹¹⁵ *Aspects*, n. 3.

freedom of all people. It is an issue with important anthropological, ecclesiological and ecumenical implications.¹¹⁶

Here again one notes the dual nature of the CDF's proper duty in *Pastor bonus*, article 48. Ostensibly, the document is aimed at safeguarding an authentic meaning of Christian evangelization by addressing several contemporary anthropological, ecclesiological, and ecumenical misconceptions. To the extent that the document addresses the obstacles to evangelization stemming from these misconceptions, the CDF is engaged in the defense of authentic doctrine. At the same time, however, the manner by which the CDF clarifies "certain aspects of the relationship between the missionary command of the Lord and respect for the conscience and religious freedom of all people" based on the "entirety of Catholic doctrine on evangelization, as extensively treated in the teaching of Paul VI and John Paul II," is representative of the CDF's mission to promote the authentic doctrine of the faith. In each of the three major portions of the text in which the anthropological (nn. 4-8), ecclesiological (nn. 9-11), and ecumenical (n. 12) challenges to evangelization are presented, the CDF addresses them by reiterating the established magisterial teaching and sound doctrine of the Church with the goal of imparting a deeper appreciation for what is involved in true evangelization:

The term *evangelization* has a very rich meaning.¹¹⁷ In the broad sense, it sums up the Church's entire mission: her whole life consists in accomplishing the *traditio Evangelii*, the proclamation and handing on of the Gospel, which is "the power of God for the salvation of everyone who

¹¹⁶ *Aspects*, n. 3.

¹¹⁷ See Paul VI, Apostolic Exhortation *Evangelii nuntiandi*, 8 December 1975, n. 24: AAS 68 (1976), 22.

believes” (*Rom* 1:16) and which, in the final essence, is identified with Jesus Christ himself (cf. *1 Cor* 1:24). Understood in this way, evangelization is aimed at all of humanity. In any case, *to evangelize* does not mean simply to teach a doctrine, but to proclaim Jesus Christ by one’s words and actions, that is, to make oneself an instrument of his presence and action in the world.¹¹⁸

17. Instruction, *Dignitas Personae*, 8 September 2008¹¹⁹

Pastor bonus, article 49 charges the CDF to conduct studies so that “a response in the light of faith may be given to new questions arising from the progress of the sciences or human culture.” By means of this instruction, the CDF seeks to do precisely that by updating its earlier instruction, *Donum Vitae*,¹²⁰ in light of the rapid advancements made in biomedical technology and research. Using the criteria established in *Donum Vitae*, and with reference to recent magisterial pronouncements, especially *Veritatis Splendor*¹²¹ and *Evangelium Vitae*,¹²² the CDF examines the doctrinal and moral concerns in more recent biomedical practices in order to provide a doctrinally and morally consistent approach to the dilemmas they often raise. The CDF states:

¹¹⁸ *Aspects*, n. 2.

¹¹⁹ Congregation for the Doctrine of the Faith, Instruction *Dignitas Personae*, 8 September 2008: AAS 100 (2008) 858-887. Hereafter this document shall be cited as *DP*. The Vatican English translation is available in *Origins* 38 (2008) 437-449.

¹²⁰ Congregation for the Doctrine of the Faith, Instruction *Donum Vitae*, 22 February 1987: AAS 80 (1988) 70-102. The Vatican English translation is available in *Origins* 16 (1986) 697-711.

¹²¹ Pope John Paul II, Encyclical letter *Veritatis Splendor*, 6 August 1993: AAS 85 (1993) 1133-1228.

¹²² Pope John Paul II, Encyclical letter *Evangelium Vitae*, 25 March 1995: AAS 87 (1995) 401-522.

The Church, by expressing an ethical judgment on some developments of recent medical research concerning man and his beginnings, does not intervene in the area proper to medical science itself, but rather calls everyone to ethical and social responsibility for their actions. She reminds them that the ethical value of biomedical science is gauged in reference to both the *unconditional respect owed to every human being* at every moment of his or her existence, and the *defense of the specific character of the personal act which transmits life*. The intervention of the Magisterium falls within its mission of *contributing to the formation of conscience*, by authentically teaching the truth which is Christ and at the same time by declaring and confirming authoritatively the principles of the moral order which spring from human nature itself.¹²³

The CDF here notes that it is the competence and mission of the magisterium to “contribute” to the formation of conscience, but in the *editio typica* of the text the verb used is *promovere*, i.e., the magisterium is to “promote” the formation of conscience. This text of the CDF, as an example of its competency to promote the doctrine of faith and morals, is in direct service to this promotion of conscience in confronting the issues addressed in the text, namely those issues pertaining to the procreation of children: fertility treatment techniques (nn. 12-13), *in vitro* fertilization and the destruction of human embryos (nn. 14-16), intracytoplasmic sperm injection (ICSI) (n. 17); and those issues pertaining to the manipulation of embryos once conceived: freezing embryos (nn. 18-19) and oocytes (n. 20), preimplantation diagnosis (n. 22), new forms of interception

¹²³ *DP*, n. 10; AAS 100 (2008) 864-865: “Ecclesia, de ethica valentia iudicium ferens, circa quosdam exitus recentiorum inquisitionum medicinae artis hominem spectantium eiusque originem, minime irrumpit in ambitum scientiae medicae qua talis, sed enixe hortatur eos quibus spectat ne parvipendant suarum actionum ethicam scientiarum biomedicarum valor aestimatur ex facta mentione tum *observantiae absolutae humanae cuique creaturae debitae*, omnibus momentis eius existentiae, tum *tutelaе peculiaritatis actuum personalium vitam procreationum*. Interventus Ecclesiae Magisterii non evadit fines suae missionis *promovendi formationem conscientiarum*, authentice veritatem enuntians, quae Christus ipse est, et insimul declarans atque authentice, auctoritate qua pollet, ordinis moralis principia confirmans, ex ipsa humana natura profluentia.”

and contragestation (n. 23), gene therapy (nn. 25-27), human cloning (nn. 28-30), the therapeutic use of stem cells (nn. 31-32), attempts at hybridization (n. 33), and the use of human “biological material” of illicit origin (nn. 34-35).

In a way which expresses well the dual nature of the CDF’s proper duty to both promote and safeguard doctrine, the CDF indicates in this text:

Precisely in the name of promoting human dignity, therefore, practices and forms of behavior harmful to that dignity have been prohibited. Thus, for example, there are legal and political – and not just ethical – prohibitions of racism, slavery, unjust discrimination and marginalization of women, children, and ill and disabled people. Such prohibitions bear witness to the inalienable value and intrinsic dignity of every human being and are a sign of genuine progress in human history. In other words, the legitimacy of every prohibition is based on the need to protect an authentic moral good.¹²⁴

By means of this instruction, the CDF not only protects the good of human life and the sexual act by which it is naturally generated, but it promotes them both as gift. Aware that the Church’s response to the questions of the day can often appear as restrictive and narrow, the CDF argues that the opposite is true and that “her teaching is based on the recognition and promotion of all the gifts which the Creator has bestowed

¹²⁴ *DP*, n. 36; *AAS* 100 (2008) 886: “Et hac ipsa igitur urgente promovendae humanae dignitatis ratione vetitum est ad actum deducere quoslibet mores et cunctas vitae rationes tali dignitati laesionem secumferentes. Inde, exempli causa, cum vetantur rationibus quoque iuridicis et politicis et non tantum ethicis, varia genera discriminationum stirpis et servitutis, iniustae discriminationes et emarginationes mulierum, puerorum, infirmorum vel graviter inhabilium, elucet apertum testimonium de agnoscendo inalienabili valore, cum intrinseca dignitate, cuiuslibet humanae creaturae atque signatur documentum authentici progressus per humanam historiam evolventis. Aliis verbis, proclamatur quod iuridica prohibitionum legitimas necessitate inniti tutandi authenticum bonum ethicum.”

on man: such as life, knowledge, freedom and love.”¹²⁵ In promoting the sound doctrine of faith and morals, the CDF here promotes these gifts which are expressed in doctrinal terms for the benefit of all. The instruction is addressed to all the Catholic faithful and also to any and all who honestly seek the truth, but the obligation to receive it “with the religious assent of their spirit” binds the Christian faithful.¹²⁶

C. Texts of the ITC

1. *Faith and Inculturation*, 8 October 1988¹²⁷

This document was prepared in December 1987, and approved by the ITC in October 1988. It was motivated by frequent magisterial references to the inculturation of the faith during and since Vatican II.¹²⁸ In particular, the ITC notes that

Pope John Paul II himself has taken to heart in a special manner the evangelization of cultures: In his view, the dialogue of the church and of

¹²⁵ *DP*, n. 36; *AAS* 100 (2008) 884-885: “Ecclesia doctrina de moribus interdum arguitur quod innumeris denegationibus fulciatur. Verum eadem innititur agnitione et promotione donorum omnium quibus Creator ditavit hominem, in quibus est vita, intellectus, libertas et amor.”

¹²⁶ *DP*, n. 37; *AAS* 100 (2008) 887: “Christifideles firmiter operam dabunt ad novam de vita culturam promovendam, doctrinae huius Instructionis adhaerentes religioso sui spiritus assensu, . . .”

¹²⁷ International Theological Commission, *Commissio theologica de fide et inculturatione*, 3-8 October 1988, *Origins* 18 (1989) 800-807. Hereafter this document shall be cited as *DFI*.

¹²⁸ The document makes special reference to n.44 of *Gaudium et spes* and its treatment of the early Church’s task of inculturating the faith in the Greco-Roman world, as well as to nn. 53-62 and its treatment of the Church’s promotion of culture. Other texts in which the Council Fathers addressed inculturation include the Decree on the Church’s Missionary Activity, and the Declaration on Non-Christian Religions especially.

cultures assumes a vital importance for the future of the church and of the world.¹²⁹

As indicative of this special interest of the Holy Father, the ITC notes that John Paul II created the Pontifical Council for Culture on 20 May 1982,¹³⁰ and charged the ITC to work in collaboration with it to conduct this study.¹³¹ The engagement of culture from the perspective of faith in such a way that both the faith and authentic culture are mutually enriched is very much at the heart of the CDF's promotional competency. According to *Pastor bonus*, article 49, the studies which the CDF are to foster in service to the promotion of doctrine are aimed at enabling a response "in the light of faith" to be given to "new questions arising from . . . human culture." This study, conducted by the ITC and under the auspices of the CDF, has as its principle aim this same end.

The study first proposes a Christian anthropology based on a particular understanding of nature, culture, and grace. Secondly, the study traces the process of inculturation in ancient Israel, in the life and work of Jesus, and then in the experience of the early Church. Finally, the study addresses problems which the process of

¹²⁹ *DFI*, Intro., n. 4.

¹³⁰ Pope John Paul II, Letter *Pontificium Consilium pro hominum Cultura instituitur, cui Em.mus P.D. Augustinus S. R. E. Presbyter Cardinalis Casaroli, a publicis Ecclesiae negotiis, praeficitur*, 20 May 1982: AAS 74 (1982) 683-688.

¹³¹ By means of the *motu proprio* *Inde a Pontificatus*, John Paul II would later derogate from the norms established in *Pastor bonus* and merge the Pontifical Council for Dialogue with Non-Believers into the Pontifical Council for Culture (see Pope John Paul II, *Motu proprio Inde a Pontificatus*, 25 March 1993: AAS 85 [1993] 549-552). The Pontifical Council for Dialogue with Non-Believers had been created in 1965 by Pope Paul VI.

inculturation faces in encountering popular piety, non-Christian religions, cultural traditions, and modernity.

It is in this final portion of the text that the ITC offers its greatest contribution to the bishops' *munus docendi* as envisioned in *Pastor bonus*, i.e., to assist them in promoting the faith in a way that preserves its integrity. This study of the ITC is especially helpful to those bishops who minister in areas of the world where the predominant culture is not yet Christian and where the cultural dialogue proper to inculturation may have harmful influence on the integrity of the Christian faith rather than the Christian faith informing and perfecting the non-Christian culture. Inculturation of the faith into modernity requires the capacity to analyze the culture and to probe the manner by which man is served or damaged by it and thereby to praise or challenge it accordingly. This study is a great resource, then, for bishops to use in their assessment of the culture in which the faithful entrusted to their care are living and to determine the extent to which that culture is building up or wounding not only the faith but their own human dignity.

2. *Interpretation of Dogma*, October 1989¹³²

This text of the ITC has obvious ramifications for the promotion of doctrine insofar as it treats of how doctrine is to be expressed in such a way that it is conveyable to new cultures and the circumstances of history. The ITC presents the problem of

¹³² International Theological Commission, Document *Interpretationis problema*, October 1989, in EV 11 (1988-1989) 1706-1779. Hereafter this document shall be cited as *IP*.

interpretation as one of the fundamental difficulties man encounters in his attempt to understand reality and himself with objectivity since in the process of understanding, man never begins from zero but always from his subjective perspective.¹³³ Man always operates and perceives with a particular hermeneutic.

The ITC considered this an especially important theme to study when applied to how the dogmas of the faith are to be interpreted. The problem lies with the fact that since man relies on language, and since language relies on symbols of a particular culture and time, then the expression of dogmatic truths will always take on the surrounding cultural context of that language. Yet, at the same time, one must not fall into the problem of relativism that can arise when crossing cultural boundaries. Thus, the document emphasized a significant challenge to interpreting dogma today due to the necessity of assimilating the past to the present but also the need to navigate among so many cultural differences. The document suggests that a “transcultural hermeneutic” must be employed to meet this challenge.¹³⁴

In terms of contemporary theology, the ITC stated that this ability to convey the faith across cultural boundaries has a direct affect on evangelization. Since the beginning

¹³³ *IP*, A, I, n. 2; *EV* 11 (1988-1989) 1705-1708: “Interpretationis problema est problema pro homine inde ab initio, nam nostra, in quantum homines sumus, interest, mundum intelligere in quo invenimur atque adeo etiam intelligere nosmetipsos. In hac circa realitatis Veritatem quaestiones nunquam ex nihilo procedimus.”

¹³⁴ *IP*, A, I, n. 2; *EV* 11 (1988-1989) 1710: “...interpretationis problema hodie nobis proponitur non solum tamquam problema connexionis inter tempus praeteritum et praesens, sed tamquam conatus diversas traditiones connectendi culturales. Talis hermeneutica quae culturas transcendit, hodie etiam pro humanitatis in pace et libertate superviventia effecta est condicio.” The Commission then outlines four types of hermeneutics (positivist, anthropocentric, cultural, and metaphysical) and suggests that only through a metaphysical hermeneutic can we achieve the ultimate goal of renewing an inquiry into the truth of reality.

of the 20th century, the ITC lamented, there have been inadequate attempts to renew evangelization by hermeneutical theology because of the tendency to reduce the truth content of revelation to the categories of time and place. Overall, unsatisfactory attempts to renew evangelization fail because “they shift the hermeneutical center from the truth of being (or the truth of revelation) to an element which is legitimate in itself, but which is also specific and which is then made the center and criterion of the whole.”¹³⁵

Contemporary interpretation of dogma, the ITC concludes, provides a particular challenge to the Church and her pastors, as they must pass on the living tradition into the future. The interpretation must take into account the “positive, truth-revealing sense” of dogma, and not only its “negative, limit-setting sense.” It can be neither purely intellectual nor purely sociological in its process, and must take place “*in and through* the whole life of the church.”

3. *Current Problems of Eschatology*, 16 November 1991¹³⁶

This document of the ITC is presented in two major sections. The Commission observes in the first portion that the frequent perplexity which people experience today concerning death and existence after death is largely due to an enfeebled sense of hope.

¹³⁵ *IP*, A, II, n. 1.

¹³⁶ International Theological Commission, *Sine affirmatione de quibusdam quaestionibus actualibus circa eschatologiam*, 16 November 1991, in *EV* 13 (1991-1993) 260-351. Hereafter this text shall be cited as *Sine affirmatione*.

The document roots this hopelessness in a variety of contemporary factors.¹³⁷ One significant cause the CDF notes is an “intramondial eschatology,” i.e., the identification of the Christian faith with the establishment of the kingdom of God within history such that the *eschaton* is defined as the establishment of a world order liberated of social class struggle or structural injustice. This perspective makes of Christ a temporal messiah and results in a “radical secularization of the kingdom of God and its absorption into the immanence of human history” causing “theological hope [to lose] its full force when it is substituted by a political dynamism.”¹³⁸ To address these anxieties, the ITC sought to provide an exposition of Christian eschatology, confident that sound theology would serve as a sure foundation for a strong hope. Such a sound theology must be rooted in the person of Christ since without the affirmation of the resurrection of Christ, Christian faith is in vain (1 Cor. 15:14); Christ’s resurrection is the model and cause of man’s resurrection.¹³⁹

¹³⁷ See *Sine affirmatione*, Intro, nn. 1-3. Included in the causes for a lack of hope are secularism, with its characteristic negation of mystery; a popular anthropology which regards man as nothing more than material which, upon death, completely disappears; a pessimism about the goodness of human nature; and an idolatry of material goods.

¹³⁸ *Sine affirmatione*, Intro, n. 3.

¹³⁹ *Sine affirmatione*, Intro., n. 1: “*Sine affirmatione resurrectionis Christi fides Christiana inanis evadit (cf. 1Cor 15, 14). Cum vero inter factum resurrectionis Christi et spem future nostrae resurrectionis intima habeatur connexio (cf. 1Cor 15, 12), Christus resuscitates etiam nostrae constituit fundamentum spei, quae ultra huius terrestres vitae aperitur limites. Etenim ‘si in hac vita tantum in Christo sperantes sumus, miserabiliores sumus omnibus hominibus’ (1Cor 15, 19). Sine tali autem spe impossibile esset vitam christianam ducere.*”

The ITC then proceeded to address the foundation and doctrinal content of authentic Christian hope.¹⁴⁰ It concludes that the resurrection of the dead will occur in a manner like that of Christ himself and will constitute an ecclesial event in connection with the *parousia* of the Lord. In the meantime, immediately after death, one experiences a communion with the blessed and with the risen Christ, and the deceased undergoes, if necessary, an eschatological purification. The Christian waits for Christ, not for another terrestrial life like this one, and Christ alone will be the fulfillment of all desires.

This theologically rich document of the ITC is intended to serve bishops and, indeed, all the faithful. The ITC study sought to promote sound doctrine regarding the Church's eschatological faith by presenting anew the scriptural, historical, liturgical, and magisterial teachings which serve as its basis and, as a result, to shore up the virtue of hope that all those who die in Christ will be brought to the resurrection in the *parousia* of the last day.

¹⁴⁰ The ITC addresses Christian hope under the following eleven headings: 1) "The resurrection of Christ and our resurrection;" 2) "The *parousia* of Christ, our resurrection;" 3) "The communion with Christ immediately after death according to the New Testament;" 4) "The reality of the resurrection in the current theological context;" 5) "Man called to the resurrection;" 6) "Christian death;" 7) "The 'consortium of life' of all the members of the Church in Christ;" 8) "Purification of the soul through the encounter with the glorious Christ;" 9) "The irrepeatability and unicity of human life: the problems of reincarnation;" 10) "The grandeur of the divine project and the gravity of human life;" and 11) "*Lex orandi—lex credendi*."

4. *A Few Questions Regarding the Theology of Redemption*, 29 November 1994¹⁴¹

Pastor bonus article 50 establishes the ITC as an entity within (*apud*) the CDF insofar as it shares in the mission of the CDF at large. Furthermore, *Pastor bonus* article 55 directs the ITC to conduct its work for the ends and in the manner established by its own proper law. The proper law for the ITC requires it to study certain theological questions of “greater importance”¹⁴² presented to it by the Roman Pontiff, *inter alia*. At the request of John Paul II in 1992, the ITC formulated a sub-commission to study various questions relevant to the theology of redemption.¹⁴³ The preliminary note to the text indicates that “the International Theological Commission does not seek to offer new theological elements, but rather . . . to offer a sure point of reference for the discussion and future appreciation of this theme.”¹⁴⁴ In this way, the document can be said to promote the doctrine of the faith regarding the mystery of redemption for man in Christ. The document itself addresses this topic in four parts entitled: 1) The Human Condition

¹⁴¹ International Theological Commission, *Quaestiones selectae de Deo Redemptore Investigatio de theologia redemptionis*, 29 November 1994, in *EV* 14 (1994) 1020-1139.

¹⁴² See *Tredecim anni*, n. 1; AAS 74 (1982) 1202: “Commissionis Theologicae Internationalis munus est quaestionibus doctrinalibus magni momenti, illis praesertim, quae novum aspectum ostendunt, studere, atque sic auxiliatricem operam Magisterio Ecclesiae praebere, peculiarique modo Sacrae Congregationi pro Doctrina Fidei, penes quam instituta est.”

¹⁴³ The members of that sub-commission, under the presidency of Míceál Ledwith, were as follows: Jan Ambaum, Joseph Doré, Avery Dulles, Joachim Gnikla, Sebastian Karotempel, Francis Moloney, Max Thurian, and Ladislaus Vanyo.

¹⁴⁴ International Theological Commission, *Quaestiones de theologia redemptionis*, preliminary note: “Commissio Theologica Internationalis nova elementa theologica offerre non intendit, sed potius, tendentiarum theologiarum hodiernarum hic praebens synthesim, punctum offerre tutum ad quod possibile sit referri ad discussionem et investigationem de hac quaestione proseguendam.”

and the Reality of Redemption; 2) Biblical Redemption: the Possibility of Liberty; 3) Historical Perspective; and 4) Systematic Perspectives.

The document's presentation of the scriptural, traditional, and magisterial foundations for a sound theology of redemption represents the ITC's mission to study certain doctrinal matters for which such an exposition is needed. Not seeking to articulate doctrine in a new lexicon, the promotion of doctrine here is understood as the faithful presentation of the doctrine of the faith already taught authoritatively in a systematic manner.

5. *The Relationship between Christianity and Other Religions*, 30 September 1996¹⁴⁵

The theme for this study originally arose from a large majority of the members of the ITC itself¹⁴⁶ despite the fact that the proper norms for the ITC do not indicate that the ITC can choose its own topics presumably because the ITC does not exist for itself but as an aid to the *munus docendi* of the pope and college of bishops.¹⁴⁷ Nonetheless, because of the great interest in pursuing this topic and given the increasing interdependence of the world, e.g., increased access to information, migration of peoples, new technologies and

¹⁴⁵ International Theological Commission, *Quaestio de relationibus quo de themate 'Christianismus et religiones' investigatur*, 30 September 1996, in *EV* 15 (1996) 582-681. Hereafter the text shall be cited as *Questio de relationibus*.

¹⁴⁶ *EV* 15 (1996) 583.

¹⁴⁷ For this reason, the ITC may receive topic proposals from the Roman Pontiff, from a Cardinal designated to preside over a study, from the CDF, from other dicasteries of the Roman Curia, from Synods of Bishops, or from episcopal conferences. See *Tredecim anni*, n. 9; AAS 74 (1982) 1202: "Quaestiones et argumenta studio expendenda a Summo Pontifice vel a Cardinali Praeside designantur. Proponi etiam possunt a Sacra Congregatione pro Doctrina Fidei, ab aliis Dicasteriis Curiae Romanae, a Synodo Episcoporum, a Conferentiis Episcopalibus. Servetur tamen praescriptum n. 136 Constitutionis Apostolicae *Regimini Ecclesiae Universae*."

modern industry, and improvements in communication *inter alia*,¹⁴⁸ the ITC formulated a subcommission and, after a period of discussion and study (1993-1995), presented this text in September of 1996.¹⁴⁹ The document seeks to elaborate a few theological principles which may help in evaluating the relationship between Christianity, and specifically the Catholic Church, and other religions, and to help guide the nature of the inter-religious dialogue that is to occur.

The study begins by describing the current *status quaestionis* of inter-religious dialogue and highlights certain contemporary hindrances to making such dialogue fruitful, including what the ITC describes as *ecclesiocentrism*, *christocentrism*, *theocentrism*, and *soteriocentrism*, none of which considers religion from the perspective of truth.¹⁵⁰ The study then proceeds to provide four fundamental theological presuppositions for an authentic and doctrinally sound Christian approach to inter-religious relations and dialogue. The first presupposition is that the work of salvation occurs at the initiative of the Father since he sent the Son for the salvation of the world.

¹⁴⁸ *Quaestio de relationibus*, n. 1.

¹⁴⁹ The subcommission was presided over by Luis F. Ladaria, and was comprised of the following members: Norberto Strotmann, Barthélemy Adoukonou, Jean Corbon, Mário de França Miranda, Ivan Golub, Tadahiko Iwashima, Hermann Pottmeyer, and Andrzej Szostek.

¹⁵⁰ The theory of *ecclesiocentrism* interprets in an exclusive manner the maxim “there is no salvation outside the Church” (n. 10); the theory of *christocentrism* accepts that man may be saved by various religions while denying those religions a salvific autonomy, based on the unicity and universality of the salvation of Jesus Christ (n. 11); the theory of *theocentrism* concentrates on the richness of various religious traditions, the moral rectitude to which they call their adherents, and ultimately the unified effort that religious people can make for the purpose of common action towards peace and justice in the world (n. 12); and the perspective of *soteriocentrism* (n. 12) stresses *orthopraxis* over *orthodoxis*, pragmatically evaluating a religion based on the degree to which it promotes the Kingdom, salvation, or the ultimate well-being of man.

God the Father is also the terminus towards which all things move.¹⁵¹ The second presupposition is that salvation is achieved exclusively and uniquely in the person of Jesus Christ which therefore means that the Christian message is directed to all.¹⁵² The third presupposition holds that just as the Spirit brought about the friendship with God characteristic of original justice, so that same Spirit restores it in Christ after the fall, making the Church the “privileged place” for the Holy Spirit’s action insofar as it is in the body of Christ where the manifold gifts are sustained by the Spirit.¹⁵³ The fourth presupposition is that the Church is the “universal sacrament of salvation” (n. 62) as articulated by the Second Vatican Council.¹⁵⁴

After these fundamental theological presuppositions, the study then delineates a few consequences stemming from them to formulate a Christian theology of religions. Here the study returns to address the points articulated in the *status quaestionis*.

The study concludes that religious dialogue is “connatural” with Christianity¹⁵⁵ since the faith is fundamentally about making Christ known that he may make his Father

¹⁵¹ *Quaestio de relationibus*, n. 28-31.

¹⁵² *Quaestio de relationibus*, n. 49.

¹⁵³ *Quaestio de relationibus*, nn. 51-56.

¹⁵⁴ *Quaestio de relationibus*, n. 62.

¹⁵⁵ *Quaestio de relationibus*, n. 114.

known in the power of the Spirit. The Father's bestowal of the Son and Spirit is the paradigmatic "divine dialogue"¹⁵⁶ which sets the standard for authentic Christian engagement with the religions of the world.

6. *Memory and Reconciliation: The Church and the Faults of the Past*, December 1999¹⁵⁷

This text of the ITC is the product of a study conducted by a sub-committee of the Commission at the request of Joseph Cardinal Ratzinger, Prefect of the CDF, in 1998.¹⁵⁸ The impending Jubilee Year 2000 was the impetus for this reflection since John Paul II had called for an ecclesial "purification of memory" by the honest recognition of past wrongs committed by Christians.¹⁵⁹ The Commission undertook this study to clarify what "purification of memory" entails, i.e., "Why should it be done? Who should do it? What is the goal and how should this be determined, by correctly combining historical and theological judgment? Who will be addressed? What are the moral implications? And what are the possible effects on the life of the Church and on society?"¹⁶⁰ What is more, the Commission reminds the reader that the purification of memory has the glorification

¹⁵⁶ *Quaestio de relationibus*, n. 117.

¹⁵⁷ International Theological Commission, *Memoria e Riconciliazione: la Chiesa e le Colpe del Passato*, December 1999, in *EV* 18 (1999) 1578-1681. Hereafter this text shall be cited as *Memoria*. The Vatican English translation is provided in *Origins* 29 (2000) 625-644.

¹⁵⁸ The members of the sub-committee were Bruno Forte, President, Christopher Begg, Sebastian Karotempel, Roland Minnerath, Thomas Norris, Rafael Salazar Cardenas, and Anton Strukej.

¹⁵⁹ See Pope John Paul II, Apostolic Letter *Incarnationis mysterium*, 29 November 1998: AAS 91 (1999) 129-143.

¹⁶⁰ *Memoria*, Intro.

of God as its proper focus, and thus did this serve as the Commission's goal in preparing this text.

The Pope's call for purification met with a variety of reactions. Some regarded the gesture as a sign of the Church's authenticity while others were concerned that such an ecclesial *mea culpa* may be interpreted as a capitulation to accusations levied by those "prejudicially hostile" to the Church.¹⁶¹ Realizing that this ecclesial recognition of past faults could be easily misinterpreted, the Commission provided a great service to the Church in articulating "the reasons, conditions, and the exact form of the requests for forgiveness" for these historical faults.¹⁶² The document proceeded to present this topic in six major sections entitled: 1) The Problem: Yesterday and Today; 2) Biblical Approach; 3) Theological Foundations; 4) Historical Judgment and Theological Judgment; 5) Ethical Discernment; and 6) Pastoral and Missionary Perspectives.

Such an ecclesial request for pardon touches upon ecclesiological doctrinal themes regarding the Church's indefectibility and holiness and thus by reiterating and promoting the doctrine of the faith relevant to the Church's nature, life, and mission, the ITC contextualized the Church's request for forgiveness within the ambit of sound doctrine.

¹⁶¹ *Memoria*, Intro.

¹⁶² *Memoria*, Intro.

7. *The Diaconate: Evolution and Perspectives*, 30 September 2002¹⁶³

The ITC had previously established a sub-commission¹⁶⁴ to undertake a study of the diaconate but it did not result in a document. Thus a new sub-commission was established¹⁶⁵ to resume the work already begun and to bring about this document as the fruit of the sub-commission's dialogues held at Rome from 1998 through 2002. In its introduction, the ITC notes that with the reinstitution of the permanent diaconate at the Second Vatican Council, there continues to be many variables according to which various countries and local Churches are reintroducing it into their particular ecclesial life. Beginning from the Christological reality of Christ's *diakonia*, i.e., his own obedient fulfillment of his Father's will, the study proceeds to provide a theologically rich foundation for appreciating the ministry of *diakonia* in general, and the specific ministry of the diaconate in particular, in the life of the Church.

The study is presented in seven chapters: 1) From the *Diakonia* of Christ to the *Diakonia* of the Apostles; 2) The diaconate in the New Testament and in the Patristic Era; 3) The Disappearance of the Permanent Diaconate; 4) The Sacramentality of the Diaconate from the Twelfth to the Twentieth centuries; 5) The Restoration of the

¹⁶³ International Theological Commission, *Le diaconat: Évolution et perspectives*, 30 September 2002, in *EV* 21 (2002) 616-821. For an (unofficial) English translation of this text see International Theological Commission, *From the Diakonia of Christ to the Diakonia of the Apostles* (Chicago: Hillenbrand Books, 2003).

¹⁶⁴ The previous sub-commission was comprised of the following members: Christoph Schönborn, O.P., Joseph Osei-Bonsu, Charles Acton, Giuseppe Colombo, Joseph Doré, P.S.S., Gösta Hallonsten, Père Stanislaw Nagy, S.C.I., and Henrique de Noronha Galvão.

¹⁶⁵ Henrique de Noronha Galvão presided over the new sub-commission to conduct the study of the diaconate. The members were: Santiago Del Cura Elena, Pierre Gaudette, Roland Minnerath, Gehrard Ludwig Müller, Luis Antonio G. Tagle, Ladislaus Vanyo.

Permanent Diaconate at the Second Vatican Council; 6) The Reality of the Permanent Diaconate Today; and 7) The Theological Approach of the Diaconate in the Wake of Vatican II.

In probing the historical and theological foundations for the ministry of the diaconate so as to establish it more securely in the contemporary life of the Church, the ITC fulfills its mission to study questions of “greater importance” in the life of the Church for which serious theological reflection is needed.¹⁶⁶ The document promotes the doctrine of the faith, particularly in its theological conclusions in chapter seven, and in reaching this goal, the ITC provides bishops a great service as they seek to establish the diaconate in their dioceses and to guide the proper exercise thereof.

8. *Communion and Stewardship: The Human Person Created in the Image of God*, 23 July 2004¹⁶⁷

Prepared by the ITC,¹⁶⁸ this document presents as its main concept that man, by understanding himself as created in the *imago Dei*, can more readily orient himself and understand his existence in his ever-expanding knowledge of the universe and science. In the words of the Commission, this document seeks to “reaffirm the truth that human persons are created in the image of God in order to enjoy personal communion with the

¹⁶⁶ See *Tredecim anni*, n. 1; AAS 74 (1982) 1202.

¹⁶⁷ International Theological Commission, *Communion and Stewardship: Human Persons Created in the Image of God*, 23 July 2004, in EV 22 (2003-2004) 1642-1725. Hereafter this text shall be cited as *C&S*.

¹⁶⁸ The subcommission consisted of (then) Very Rev. Augustine DiNoia, Most Rev. Jean-Louis Bruguès, Msgr. Anton Strukelj, Rev. Tanios Bou Mansour, Rev. Adolphe Gesché, Most Rev. Willem Jacobus Eijk, Rev. Fadel Sidarouss, and Rev. Shun ichi Takayanagi.

Father, Son and Holy Spirit and with one another in them, and in order to exercise in God's name responsible stewardship of the created world."¹⁶⁹ By recognizing this truth, man can see the created world not as something big, bleak and meaningless, but as a meaningful place created "for the sake of personal communion."¹⁷⁰

Part One of this document summarizes the Scriptural basis behind the belief that man was created in the image of God. It emphasizes that *imago Dei* is central to biblical revelation and suggests that *imago Dei* unites the mystery of God with the mystery of man. By identifying the roots of *imago Dei* in the creation account in Genesis, and extending the completion of the mystery to *imago Christi* in the New Testament, the document stresses the importance of the "biblical vision" of the image of God as fundamental to Christian anthropology.

Next, the document addresses modernity's critique of the theology of the *imago Dei* pointing out that man, conceived as an autonomous being with no connection to God, has no room for the theology of *imago Dei* at all. It was not until the Second Vatican Council that the theology of *imago Dei* received new life.¹⁷¹ Contemporary theologians have once again embraced the theology of *imago Dei*, and especially emphasize its ability to clarify the connection between Christian anthropology and moral theology.

¹⁶⁹ C&S, n. 4.

¹⁷⁰ Ibid.

¹⁷¹ C&S, n. 22. The Commission notes the theology of *imago Dei* primarily in *Gaudium et spes* 10, 12, 22, 24, 34, and 41. The Council made clear that man's social existence, relational nature, sovereignty within the cosmos, and knowledge and love of God all stemmed from the fact that man was created by God, in the image of God.

Specifically, because man participates in the divine law by nature, he is oriented to the Good as well as the divine plan for the universe.

The document then presents two sections that explain how our creation in the image of God: 1) enables a special communion among men; and 2) demands a unique stewardship.

Finally, and along the same line of reasoning, the document addresses man's responsibility for the biological integrity of human beings. When facing the quickly advancing fields of diagnostic and therapeutic possibilities in modern science, man has a duty to follow the principle of "totality and integrity."¹⁷² This principle presents a hierarchy of values which aims to preserve life and the fundamental faculties essential to the human being. The document briefly addresses modern techniques such as cloning, genetic engineering, contraception, and euthanasia. It emphasizes that each of these procedures requires man to take responsibility and act as a steward of God by refusing to sacrifice the principle of totality and integrity.¹⁷³

In sum, the ITC's promotion of doctrine is here represented in its recollecting the biblical and theological foundation for man to understand himself as a steward of humanity and of the physical universe; a stewardship he exercises out of love and respect for his Creator. As the only creature made in God's image, man has a special communion with God and with his fellow man, but he also has a special responsibility to preserve this place created for human communion.

¹⁷² *C&S*, n. 83.

¹⁷³ See *C&S*, nn. 87-94.

9. *The Hope of Salvation for Infants Who Die Without Being Baptized*, 19 April 2007 ¹⁷⁴

This theological study conducted by the ITC in accord with *Pastor bonus* article 55, promotes the doctrine of faith regarding soteriology and specifically how it relates to children who have died without the benefit of baptism. The document itself indicates that the study was spurred with some urgency for pastoral reasons since the number of infants who die without baptism has been steadily increasing,¹⁷⁵ The study concludes that there is theological and liturgical hope for the salvation of these infants even if revelation is silent on the issue. The document begins with a caveat, however, that the findings of this study cannot be interpreted as relativizing baptism as normative for salvation. Rather, this study ought to be understood as a step in the ongoing development of the faith, providing deeper insights into the Church's ongoing prayer, reflection, and thought. This fact, along with a clear understanding of the hierarchy of truths, will rightly contextualize the findings of this study.

It is true that infants lack the use of reason, conscience, and freedom and cannot therefore decide for themselves their eternal destiny. It is also true, the study notes, that people today find "inadequate" the idea that God is just and merciful but excludes infants

¹⁷⁴ International Theological Commission, *The Hope of Salvation for Infants Who Die Without Being Baptized*, 19 April 2007, *Origins* 36 (2007) 725-746. Hereafter this text shall be cited as *Hope of Salvation*. The text is the result of a study conducted by a specific committee of the ITC comprising Rev. Dominic Veliath as President, Msgr. Ignazio Sanna, Rev. Basil Kyu-Man Cho, Rev. Peter Damien Akpunonu, Rev. Adelbert Denaux, Rev. Gilles Emery, OP, Msgr. Ricardo Ferrara, Msgr. Istvan Ivancso, Msgr. Paul McPartlan, and Sister Sarah Butler, MSTB. Rev. Luis Ladaria, SJ, the secretary general of the ITC, and Msgr. Guido Pozzo, the assistant to the ITC, also provided assistance. The study was approved by Benedict XVI for publication on 19 January 2007.

¹⁷⁵ The study notes that among the causes of an increase in the mortality rate of unbaptized infants are the following: negligent parents who fail to have their infants baptized due to cultural relativism and religious pluralism, non-practicing parents, *in vitro* fertilization, and abortion (n. 2).

without personal sin from the joy of his kingdom. A “theology of hope” and “an ecclesiology of communion” along with a “recognition of the greatness of divine mercy” all seem to undo a “restrictive view of salvation.”¹⁷⁶ At the same time, the “tragic consequences” of original sin cannot be ignored and must somehow be taken into account.¹⁷⁷ In short, the issue at hand in this study is to reconcile two facts of revelation: God’s universal salvific will (cf. 1 Tim. 2:4) and the necessity of baptism as the normative manner of being conformed to Christ (cf. Mk 16:16; Mt 28:18-19).¹⁷⁸

“Grace is totally free, because it is always a pure gift of God. Damnation, however, is deserved, because it is the consequence of free human choice.”¹⁷⁹ So while infants may not merit salvation, neither do they place an obstacle to the grace of God which unites them to himself in a mysterious manner. The primacy of Christ and his grace has “priority” over Adam and sin. This is seen as one looks to the Christian tradition as the study then proceeds to do.

The document then concludes with both general and specific reasons for hoping in the salvation of unbaptized infants who die. The ITC indicates in this study that “the solution in terms of Limbo can be surpassed in view of a greater theological hope;” a theological hope rooted in the ecclesiological category of *communio*. The ITC’s conclusion is that the Church may have a prayerful hope, based on theological and liturgical grounds, but not a sure knowledge, that infants who die without baptism will be

¹⁷⁶ *Hope of Salvation*, n. 2.

¹⁷⁷ *Hope of Salvation*, n. 3.

¹⁷⁸ *Hope of Salvation*, n. 4-5

¹⁷⁹ *Hope of Salvation*, n. 7.

saved and will enjoy the beatific vision. Such a conclusion is a great help to the magisterium of the Church to respond in a pastoral manner, but just as much in a manner which is doctrinally sound, to the pressing concern of so many infants who die without having been baptized.

10. *The Search for Universal Ethics: A New Look at Natural Law*, December 2008.¹⁸⁰

The ITC begins this study with some fundamental questions: “Do objective moral values exist which unite mankind and procure for him peace and happiness? What are they? How can we come to know them? How do we actualize them in the life of persons and communities?”¹⁸¹ These perennial questions surrounding good and evil and their commonality among all peoples, the ITC points out, have taken on a new urgency in light of the rapidly developing global community, in part fueled by the advancements made in communication technology. The undertaking of this study to trace the fundamental commonality all cultures and peoples have in a natural moral ethic based on an immutable natural law is not only timely but of significant importance. Thus the ITC

¹⁸⁰ International Theological Commission, *Alla ricerca di un'etica universale: nuovo sguardo sulla legge naturale* (Vatican City: Libreria Editrice Vaticana, 2009). Hereafter this text shall be cited as *Alla ricerca*. The subcommission formed to study and present this theme was comprised of Serge-Thomas Bonino as President, Archbishop Roland Minnerath, Geraldo Luis Borges Hackmann, Pierre Gaudette, Tony Kelly, Jean Liesen, John Michael McDermott, Johannes Reiter, and Barbara Hallensleben, with the assistance of Luis Ladaria, General Secretary of the ITC.

¹⁸¹ *Alla ricerca*, n. 1: “Esistono valori morali oggettivi in grado di unire gli uomini e di procurare ad essi pace e felicità? Quali sono? Come riconoscerli? Come attuarli nella vita delle persone e delle comunità?”

fulfills its mission to undertake questions of “greater importance”¹⁸² and to probe and present them for the benefit of the life of the Church.

The study proceeds in five chapters beginning with the observation that all great religions and philosophies share what the ITC terms “a common moral patrimony which forms the foundation of all dialogue on moral questions”¹⁸³ (nn. 12-35). In the second chapter (nn. 36-59), entitled “The Perception of Common Moral Values,” the ITC demonstrates how man, beginning from the simplest data of experience, gathers a few fundamental moral goods and formulates, as a consequence, the rudimentary precepts of a natural law which, far from being a complete code of intangible prescriptions, serve more as a permanent and normative principle of inspiration at the service of the concrete moral life of the person.¹⁸⁴ The third chapter (nn. 60-82) explores the philosophical, metaphysical, and religious foundations of the natural law. In the fourth chapter (nn. 83-100), the ITC takes up the role of the natural law in the political ordering of society whereas, in the fifth and final chapter (nn. 101-112), the ITC studies how the Person of Jesus Christ is the fulfillment and completion, not only of the natural law, but of all laws.

This study of the ITC, while in many ways theoretical, is nonetheless ordered to the pastoral aim of enabling the cultures and peoples of the world to find a commonality

¹⁸² See *Tredecim anni*, n. 1; AAS 74 (1982) 1202

¹⁸³ *Alla ricerca*, n. 11: “. . . queste grandi sapienze religiose e filosofiche sono testimoni dell’esistenza di un patrimonio morale largamente comune, che forma la base di ogni dialogo sulle questioni morali.”

¹⁸⁴ *Alla ricerca*, n. 11: “. . . describe come, a partire dai dati più semplici dell’esperienza morale, la persona umana coglie immediatamente alcuni beni morali fondamentali e formula di conseguenza i precetti della legge naturale. Questi non costituiscono un codice completo di prescrizioni intangibili, ma un principio permanente e normativo di ispirazione al servizio della vita morale concreta della persona.”

of moral norms, decipherable by right reason, upon which true justice and peace can be built. Finding such a common basis in the natural law enables men “to promote understanding, reciprocal acknowledgment and peaceful cooperation among all those who make up the human family.”¹⁸⁵ To this end, the ITC concluded its study with an invitation to “the experts and the spokesmen of the great religious traditions, wisdoms and philosophies of humanity to conduct a similar study commencing from their own starting points in order to reach a common acknowledgment of universal moral norms founded on a rational approach to reality.”¹⁸⁶ This work, the ITC stressed, is both necessary and urgent.

¹⁸⁵ *Alla ricerca*, n. 116: “Dobbiamo arrivare a dirci, al di là delle nostre convinzioni religiose e della diversità dei nostri presupposti culturali, quali sono i valori fondamentali per la nostra comune umanità, in modo da lavorare insieme a promuovere comprensione, riconoscimento reciproco e cooperazione pacifica fra tutte le componenti della famiglia umana.”

¹⁸⁶ *Alla ricerca*, n. 116: “. . . desideriamo invitare gli esperti e i portavoce delle grandi tradizioni religiose, sapienziali e filosofiche dell’umanità a procedere a un lavoro analogo a partire dalle loro fonti, per giungere a un riconoscimento comune di norme morali universali fondate su un approccio razionale alla realtà.

D. Texts of the PBC

1. *The Interpretation of the Bible in the Church*, 15 April 1993¹⁸⁷

Cardinal Ratzinger's preface to this lengthy document of the PBC reiterates that "the study of the Bible is the soul of theology" (*Dei Verbum*, 24)¹⁸⁸ and is one that is never finished. The historical-critical method has opened up new understandings of the sacred texts in their original sense yet is not without critique since the same method can relegate scripture to its historical context, detracting from its applicability and contemporary relevance. This study, conducted 100 years after *Providentissimus Deus*¹⁸⁹ and 50 years after *Divino afflante Spiritu*,¹⁹⁰ is meant to situate a Catholic exegetical approach to Scripture. The text itself alludes to the manner by which this document promotes doctrine:

The Pontifical Biblical Commission is not an organ of the teaching office, but rather a commission of scholars who, in their scientific and ecclesial

¹⁸⁷ Pontifical Biblical Commission, *L'Interprétation de la Bible dans l'Église* (Vatican City: Libreria Editrice Vaticana, 1993). For an English translation see *Origins* 23, no. 29 (6 January 1994) 497-524. For the English text with an accompanying commentary, see Joseph A. Fitzmyer, SJ, *The Biblical Commission's Document "The Interpretation of the Bible in the Church": Text and Commentary* (Rome: Editrice Pontificio Istituto Biblico, 1995).

¹⁸⁸ *Dei verbum* referred to this phrase taken from Pope Leo XIII's encyclical *Providentissimus Deus* (see Pope Leo XIII, Encyclical letter *Providentissimus Deus*, 18 November 1893, *Acta Sanctae Sedis* 26 [1893-1894] 269-292).

¹⁸⁹ *Ibid.*

¹⁹⁰ Pope Pius XII, Encyclical letter *Divino afflante Spiritu*, 30 September 1943: AAS 35 (1943) 297-325.

responsibility as believing exegetes, take positions on important problems of Scriptural interpretation and know that for this task they enjoy the confidence of the teaching office.¹⁹¹

This document “contains a well-grounded overview of the panorama of present-day methods [of Scriptural exegesis] and in this way offers to the inquirer an orientation to the possibilities and limits of these approaches.”¹⁹² Insofar as sound scriptural exegesis is essential to sound doctrine, this text of the ITC is a great service to the promotion of that doctrine.

At the outset, the document states that its purpose is fourfold: 1) to give a brief description of the various methods and approaches of interpreting Scripture and to indicate their strengths and limitations; 2) to examine certain questions of a hermeneutical nature; 3) to reflect upon what constitutes a “Catholic interpretation” of the Bible and how such an interpretation relates to other theological disciplines; and 4) to consider the place such an interpretation has within the life of the Church. These four tasks are undertaken to reach the overarching aim the PBC claims for this study, namely, “that the word of God may become more and more the spiritual nourishment of the members of the People of God, the source for them of a life of faith, of hope and of love—and indeed a light for all humanity (*Dei Verbum*, 21).”¹⁹³

To provide the *status quaestionis*, the PBC considers the following contemporary methods and approaches for Scriptural exegesis: 1) the historical-critical method; 2) new

¹⁹¹ *Origins* 23 (1994) 499.

¹⁹² *Ibid.*

¹⁹³ *Origins* 23 (1994) 500.

methods of literary analysis; 3) approaches based on tradition; 4) approaches based on human sciences; 5) contextual approaches; and 6) the fundamentalist approach.

The PBC study addresses the interpretation of the Bible in the life of the Church as a task not only for the scriptural exegete but for the entire believing community. Scripture must be actualized and inculturated in every age, and rightly employed in liturgy, *lectio divina*, pastoral ministry, and ecumenical efforts. In this way the word of God remains relevant and fruitful in various cultures and places.

2. *The Jewish People and their Sacred Scripture in the Christian Bible*, 24 May 2001¹⁹⁴

The PBC, after years of study, issued its document *The Jewish People and Their Sacred Scriptures in the Christian Bible* in December 2001. The preface was prepared by Joseph Cardinal Ratzinger, Prefect of the CDF, who set the stage for the findings of the study to follow. Specifically, the preface highlights the error of Marcion, Luther, Bultmann, and Harnack who each, to varying degrees, had introduced a radical division between the two testaments of the Bible. Cardinal Ratzinger, in quoting the study, points out that apart from the Old Testament, the New Testament is “devoid of meaning.” The study probes the relationship between the Old and New Testaments, taking into

¹⁹⁴ Pontifical Biblical Commission, *Le peuple juif et ses Saintes Écritures dans la Bible chrétienne*, 24 May 2001 (Vatican City: Libreria Editrice Vaticana, 2001). Hereafter this text shall be cited as *Le peuple juif*. An official English translation was published in April of 2002; see Pontifical Biblical Commission, Document *The Jewish People and their Sacred Scripture in the Christian Bible* (Vatican City: Libreria Editrice Vaticana, 2002). For related reading, see Guillemo Villegas, *The Old Testament As A Christian Book: A Study of Three Catholic Biblical Scholars: Pierre Grelot, John L. McKenzie, Luis Alonso Schökel* (Manila: Divine Word Publications, 1988); Benjamin Uffenheimer and Henning Graf Reventlow, eds., *Creative Biblical Exegesis: Christian and Jewish Hermeneutics Through The Centuries* (Sheffield, England: Journal for the Study of the Old Testament Press, 1988).

consideration the Shoah, to determine what legitimate claim Christianity can make on interpreting the Old Testament in light of Christ, and secondly to study those texts of the New Testament which are seemingly hostile to Jews in such a way that their interpretation is conducive to ongoing Jewish-Christian dialogue.

The study begins with an acknowledgment of the suffering endured by the Jewish people during the Second World War at the hands of Christians and the devastating effect that has had on Jewish-Christian relations. The PBC, therefore, in keeping with *Pastor bonus* article 55, prepared and presented this study according to its proper norms, motivated ultimately by a pastoral and ecumenical aim. In this way does the PBC serve to promote the doctrine of the faith in regards to sound biblical exegesis such that a fruitful dialogue may exist between Christians and Jews, both of whom share so much in common in sharing sacred scripture.

The document explores the current state of research in biblical exegesis regarding the intimate relationship between the Old and New Testaments. It “reveals that this is not a straightforward relationship, but a very complex one that ranges from perfect accord on some points to one of great tension on others. A careful study is therefore necessary.”¹⁹⁵ The study is presented in a tripartite manner. The first part of the document “lays the foundations by demonstrating that the New Testament recognizes the authority of the Old

¹⁹⁵ *Le peuple juif*, Intro.

Testament as divine revelation and that the New Testament cannot be properly understood apart from the Old Testament and the Jewish tradition which transmits it.¹⁹⁶

The second chapter then examines analytically how the writings of the New Testament appropriate the rich content of the Old Testament by developing its basic themes in the light of Jesus Christ.¹⁹⁷ Finally, the third part reviews the various attitudes which the New Testament writings express regarding the Jews, following, in this respect, the example of the Old Testament itself. The Commission's hope is to advance the dialogue between Christians and Jews.

Overall, the PBC concludes that the Jewish Scriptures and people play a very important role in the Christian Bible. Without the Old Testament, the New Testament would be incomprehensible. The New Testament relies on the divine authority of Jewish Scriptures, and explains how they were fulfilled through the life of Christ. This fulfillment by Christ is what, obviously, brings the discontinuity with Judaism. But, the PBC asserts that it was wrong to ignore the fundamental continuity in the past. The continuity runs deep and is present at several levels: the link between Scripture and Tradition; similar methods of exegesis; and overlapping modes of knowledge (to understand the New Testament, one must understand the Old Testament). Most importantly, however, there are spiritual ties that unite Christians and Jews. There should

¹⁹⁶ The first chapter is subdivided into the following headings: 1) "The New Testament recognizes the authority of the Sacred Scripture of the Jewish people;" 2) "The New Testament attests conformity to the Jewish Scriptures;" 3) "Scripture and Oral Tradition in Judaism and Christianity;" 4) "Jewish Exegetical Methods employed in the New Testament;" and 5) "The Extension of the Canon of Scripture."

¹⁹⁷ Chapter two of the document is presented under the following two primary headings: 1) "Christian Understanding of the relationships between the Old and New Testaments;" and 2) "Shared Fundamental Themes."

never be a complete break between the Church and Synagogue, because a complete break violates Sacred Scripture. It must be borne in mind that

. . . [i]n both Testaments, it is the same God who enters into relationship with human beings and invites them to live in communion with him; the one God and the source of unity; God the Creator who continues to provide for the needs of his creatures, in particular those who are intelligent and free, and who are called to recognize the truth and to love; God especially is the Liberator and Savior of human beings, because, although created in his image, they have fallen through sin into a pitiful slavery.¹⁹⁸

3. *The Bible and Morality: Biblical Roots of Christian Conduct*, 11 May 2008¹⁹⁹

Prompted in 2002 by Joseph Cardinal Ratzinger, then Prefect of the CDF, to probe the relationship between Sacred Scripture and the moral life, the PBC undertook this study to consider man's innate desire for happiness and the biblical norms which enable him to live a life of right conduct, especially in the face of contemporary challenges, to reach the happiness he seeks. The document begins with two central premises: first, "God is, for every believer and for every person, the ultimate response to the search for happiness and meaning" and second, "Sacred Scripture, comprising both Testaments, is a valid and useful locus of dialogue with contemporary man on questions concerning morality."²⁰⁰

¹⁹⁸ *Le peuple juif*, n. 85.

¹⁹⁹ Pontifical Biblical Commission, *Bibbia e Morale: Radici Bibliche dell'Agire Cristiano* (Vatican City: Libreria Editrice Vaticana, 2009). Hereafter this text shall be cited as *Bibbia e Morale*.

²⁰⁰ *Bibbia e Morale*, n. 1: Proponendo una riflessione, la più articolata possibile, sul soggetto delicato dei rapporti che intercorrono fra Bibbia e morale, la Commissione Biblica parte intenzionalmente

Because the document is aimed at assisting man to arrive at his desired goal, i.e., the happiness for which he was made, it is an eminently pastoral text. Given the attention the document gives to current philosophical difficulties regarding morality, the text is a great help to bishops and all the faithful to understand the scriptural norms which clear the path to a truly happy life in the present day and age. At the same time, given that the search for meaning and happiness is proper to all men and not just believers, as the first premise of the document indicates, the specified target audience for this text is equally broad: it is addressed to all “men and women of good will, from diverse cultures and religions.”²⁰¹

The document is presented in two primary parts. The first part is entitled “A Revealed Morality: Divine Gift and Human Response”²⁰² and seeks to “situate Christian morality within the larger sphere of anthropology and of biblical theologies”²⁰³ while the

da due presupposti determinanti: 1- Dio è, per ogni credente e per ogni uomo, la risposta ultima a questa ricerca di felicità e di senso, 2- la Sacra Scrittura, una, cioè comprendente ambedue i Testamenti, è un luogo valido e utile di dialogo con l'uomo contemporaneo sulle questioni che toccano la morale.”

²⁰¹ *Bibbia e Morale*, n. 6: “Siamo consapevoli che il nostro discorso è recepibile in primo luogo dal credente, a cui è primariamente destinato. Tuttavia ci auguriamo di suscitare un dialogo più ampio tra uomini e donne di buona volontà, di diverse culture e religioni, che cercano, al di là delle vicissitudini del quotidiano, un cammino autentico di felicità e di senso.”

²⁰² Part one is subdivided into the following headings: “The Gift of Creation and its Implications for Morality;” “The Moral Responsibility of Human Beings;” “The Gift of the Covenant in the Old Testament and the Norms of Human Conduct;” “The New Covenant in Jesus Christ as God’s Final Gift, and Its Moral Implications;” “From Gift to Forgiveness;” and “The Final Goal as the Inspiration for Moral Conduct.”

²⁰³ *Bibbia e Morale*, n. 3: “Esso consiste anzitutto nel situare la morale cristiana nell’orizzonte più vasto dell’antropologia e delle teologie bibliche. Ciò aiuterà fin dall’inizio a fare emergere più chiaramente la sua specificità e la sua originalità in rapporto sia alle etiche e alle morali naturali, fondate sull’esperienza umana e sulla ragione, sia alle morali proposte da altre religioni.”

second part, entitled “Biblical Criteria for Moral Reflection,”²⁰⁴ is more practical in orientation and seeks to present the Bible as a guide to providing “a positive answer to delicate problems or situations” in the moral sphere. This latter portion of the text, in particular, reflects once again the duty of the CDF to foster “studies so that the understanding of the faith may grow and a response in the light of the faith may be given to new questions arising from the progress of the sciences or human culture” (*PB*, article 49). The human culture in the contemporary context involves moral presuppositions which, to varying degrees, are not always conducive to living a moral life and to finding the happiness for which man longs.

The PBC concludes its text by articulating three remaining tasks for which it hopes this text will serve as a springboard. These three hoped for outcomes, at the same time, reflect the overarching goals of the PBC in conducting the study in the first place. The three taken together, demonstrate the PBC’s desire to promote the doctrine of faith and morals on a larger and wider scale. The first and foremost remaining task, according to the PBC, is the furtherance of an ongoing dialogue about the moral life and its challenges in the modern day; a dialogue intended not only for the moral theological “specialists of the Catholic Church” but also to involve those of other Christian confessions and non-Christian religions, especially “our older brothers” in Judaism. This dialogue is to take place based on a mutually shared conviction that a biblically founded

²⁰⁴ In the second portion of the document, the PBC presents what it calls two “Fundamental Criteria,” namely 1) “Conformity with the Biblical Concept of Human Nature” and 2) “Conformity with the Example of Jesus,” followed by six “Specific Criteria.” For each criterion, fundamental and specific, the PBC very helpfully and systematically provides the biblical data for the criterion and then explicates the implications of this data for the contemporary moral context.

moral life is not something which must be imposed from without but is concomitant to man's deepest natural longings.²⁰⁵

Secondly, the PBC hopes that this study will reignite an interest on the part of pastors and theologians to find a "renewed pedagogy," i.e., a new and creative way to transmit the moral teachings of the Church in a positive and attractive manner. Doing so, the PBC study shows, will break down the unfortunate reception of the Church's vision of the moral life as comprising simply a list of negative prohibitions. Far from being a cumbersome and arbitrarily imposed series of "no's," a biblically rooted perspective on the moral life is ample and fruitful.²⁰⁶

Thirdly, aware that the findings of this study would be of great assistance to Christian parents, pastors, catechists, and many others, the PBC hopes that the exegetical and philosophical language by which the document presents the fruit of its study may be "translated" into common parlance, enabling the richness of the biblical vision of the

²⁰⁵ *Bibbia e Morale*, n. 160: "Anzitutto il *dialogo*. È augurabile che non impegni solo gli specialisti nella Chiesa cattolica, come teologi moralisti ed esegeti, ma che trovi un'eco presso i credenti di altre confessioni cristiane, che partecipano del medesimo tesoro delle Scritture, e anche presso credenti di altre religioni, che perseguono pure esse standard elevati di vita morale. Più in particolare un dialogo fecondo con gli ebrei, nostri 'fratelli maggiori,' può aiutarci reciprocamente a situare le molteplici leggi, talora relative, nell'asse fondamentale della Legge teologica, considerata come un 'cammino' di salvezza dato gratuitamente all'umanità. La morale biblica non può essere imposta su altri che non hanno la medesima fede, però, poiché essa è mirata a migliorare la natura e la condizione dell'uomo e della società, è una proposta valida che si spera sia presa in seria considerazione anche da quelli che sono impegnati in un procedimento spirituale, di altro tipo."

²⁰⁶ *Bibbia e Morale*, n. 161: "Pensiamo anche che una riflessione come la nostra, se suscita qualche interesse, potrebbe aiutare i pastori e i teologi a trovare *strategie mediatriche* appropriate affinché l'insegnamento morale della Chiesa sia percepito sotto un aspetto positivo e in tutta la sua ricchezza. Certo, per essere fedele a Cristo e al servizio degli uomini, la Chiesa non può astenersi dal presentare con chiarezza i diritti e i doveri del credente e di ogni uomo, e perciò non può prescindere da certe regole e proibizioni. Ma la contrapposizione, soprattutto quando prende lo stile di una lotta giudicata necessaria, non è che uno degli otto criteri che abbiamo enunciato. Presentare la 'morale rivelata' in tutta la sua ampiezza e fecondità, nell'asse della Scrittura, potrebbe tracciare i contorni di una pedagogia rinnovata."

moral life to be more readily accessible by a wider audience who would benefit from it.²⁰⁷

E. Observations

A few preliminary observations can be made regarding these illustrative texts while a more extensive treatment of the value of the documents will be done in the final chapter. Among the seventeen CDF texts considered above, five are classified as “letters;” four are classified as “instructions;” two are presented as “acts” of symposia conducted by the CDF with one other document related to a symposium; two are described as “doctrinal notes;” one is referenced solely as a “note;” one is described as a “declaration;” and finally, in the singular instance regarding the message of Fatima, the CDF’s promotion of doctrine takes the shape of a collection of generically described “documents.” The seventeen documents address a wide variety of subject matters, which in itself is reflective of *Pastor bonus* article 48 and its grant of competence to the CDF regarding anything touching the doctrine of faith and morals “in any way.” The CDF is not limited to one particular aspect of the Church’s life or ministry but, in its broad

²⁰⁷ *Bibbia e Morale*, n. 162: “In fine, per avere seguito, il presente documento avrà bisogno, ne siamo convinti, di uno sforzo di *volgarizzazione*. Solo così potrà portare aiuto ai pastori, agli animatori pastorali, ai catechisti, agli insegnanti, senza dimenticare i genitori cristiani, che hanno la missione bella e insostituibile di educare i loro giovani alla vita, alla fede, all’uso di una libertà responsabile, e di guidarli sulla via della vera felicità, che termina oltre il mondo presente.”

competency, is engaged in encouraging “original aspects and innovative theological tendencies in harmony with the faith of the Church.”²⁰⁸

1. Letters

The letters of the CDF, addressed primarily to the bishops of the Church throughout the world, represent the vehicle most often employed for the promotion of doctrine. This is in direct fulfillment of *Pastor bonus* article 50, with its requirement that the CDF support bishops in fulfilling their duty to promote and guard the integrity of the faith since the letters have such a goal as their principle aim.

In the introductory portion of each of the five letters, the CDF indicates its goal of rendering assistance to the bishops as they lead and teach the faithful entrusted to their care to rediscover the rich patrimony of prayer in the Church,²⁰⁹ to appreciate at a deeper level the mystery of the Church as a communion,²¹⁰ to assist the divorced and remarried to maintain integrity between their profession and practice of the faith,²¹¹ to protect and promote the dignity of marriage,²¹² and to appreciate as gift the complementarity of the

²⁰⁸ Congregation for the Doctrine of the Faith, *Documenta: Inde A Concilio Vaticano Secundo Expleto Edita (1966-2005)* (Vatican City: Editrice Libreria Vaticana, 2006) 3-4.

²⁰⁹ See *Orationes formas* on page 156 *supra*.

²¹⁰ See *On Some Aspects of the Church Understood As Communion* on page 164 *supra*.

²¹¹ See *De receptione communionis eucharisticae a fidelibus qui post divortium novas inierunt nuptias* on page 167 *supra*.

²¹² See *Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons* on page 194 *supra*.

sexes and the mutual collaboration between men and women.²¹³ While the letters aim to elucidate the doctrinal elements of each of the themes addressed in light of contemporary errors, they do so with the aim of assisting the bishops in their *diaconia* to preserve and promote the integrity of the faith. The fact that the CDF is in service to the college of bishops is a natural consequence of its being in service to the head of the college, the Roman Pontiff. As *Pastor bonus* indicates, all the dicasteries possess a collegial character with regard to their specific competency. The letters from the CDF to bishops throughout the world are examples of this character actualized in the concrete.

2. Instructions

After letters, the CDF's most frequently used method to promote the doctrine of faith and morals since *Pastor bonus* has been by use of the "instruction." To what extent the nature of these instructions is in harmony with the definition and purpose of instructions envisioned by the Code of Canon Law is a question to be addressed in the final chapter of this study. For now, suffice it to say that the instructions, like letters, are primarily addressed to the bishops of the Church but are also addressed to others who, by the nature of the topic, are directly affected by the matter addressed in the instruction, e.g., to theologians in the case of *Donum veritatis* or biomedical researchers in *Dignitas Personae*.

²¹³ See *On the Collaboration of Men and Women in the Church and in the World* on page 197 *supra*.

But whereas letters engage in this promotion of sound doctrine for the purpose of assisting the bishops to determine a course of some pastoral action, the instructions appear to be more directed to bishops' responsibility for the good ordering of ecclesial life. In this sense, they have a more disciplinary character than an explicitly pastoral one, e.g., they address the proper role of theologians in the Church,²¹⁴ the character and purpose of priestly ministry and the degree to which the laity may collaborate with it,²¹⁵ the manner by which prayer, and especially the forms of public prayer, are to be conducted when seeking healing from God,²¹⁶ and the proper manner by which biomedical research is to be carried out in light of the inherent dignity of the human person.²¹⁷

These instructions, though possessing a disciplinary bent, are still properly theological documents because they treat of the underlying confusion regarding the doctrine of faith and morals which generates the popular misconstrual of specific disciplines or practices. In enunciating sound theological principles commensurate with scripture, the tradition, and the authentic magisterium, the CDF seeks to clarify the theological confusion so that, as a result, the practical issues will be remedied.

²¹⁴ See *Donum veritatis* on page 160 *supra*.

²¹⁵ See *Ecclesiae de mysterio* on page 170 *supra*.

²¹⁶ See *Ardens felicitatis* on page 188 *supra*. The CDF indicated that it hoped to provide “disciplinary determinations” within a “well-founded doctrinal framework” in order “to ensure a correct approach and to make clear the reasoning behind the norms” which the instruction provided.

²¹⁷ See *Dignitas Personae* on page 204 *supra*.

3. Symposia Acts

The acts of the 1996 symposium on Petrine primacy along with the acts of the 2004 symposium on the dignity and rights of the handicapped both demonstrate what *Pastor bonus* article 49 requires of the CDF, namely to foster studies “so that the understanding of the faith may grow and a response in the light of the faith may be given to new questions arising from the progress of the sciences or human culture.” Fostering studies may not always mean that the CDF must organize, structure, and execute the study but in the two symposia presented in this chapter, the CDF took the initiative and gathered experts of various fields in Rome for the common purpose of reflecting on a doctrinal theme submitted to the CDF for consideration.

4. Notes and Doctrinal Notes

Of the three notes reviewed in this chapter, two of them have the added descriptor “doctrinal” attached,²¹⁸ whereas the text pertaining to Petrine power as it relates to the sacrament of matrimony is referred to only as a “Note.”²¹⁹ Given that the Note does not appear any substantially different in its doctrinal character regarding its purpose, approach, or methodology, it is not entirely clear as to why it lacks the label “Doctrinal Note.” Furthermore, the Notes do not appear to be substantially different from the

²¹⁸ See *Some Questions Regarding the Participation of Catholics in Political Life* on page 190 *supra*, and *On Some Aspects of Evangelization* on page 202 *supra*.

²¹⁹ See *The Power of the Pope and Matrimony* on page 178 *supra*.

Instructions reviewed in this chapter. Whether there is a real difference between them at the level of their canonical value is a consideration for chapter five.

5. Declarations

In the only Declaration presented as having a promotional emphasis, i.e., *Dominus Iesus*, the CDF sought to present the teaching of the Church regarding the unicity of Jesus Christ as universal Savior and the role of the Catholic Church in salvation. Once again, like the other texts, the CDF used this document to address christological and soteriological errors but, also like the other texts in this chapter, it did so by providing the broader framework of the truths of the faith.

6. Documents of the ITC and PBC

At the outset of the chapter, we noted that *Pastor bonus* article 55 establishes both the International Theological Commission and the Pontifical Biblical Commission within the Congregation for the Doctrine of the Faith. Though they operate according to their own proper law and are not departments or subdivisions of the CDF, they exist nonetheless within the CDF and come under the Prefect of the CDF's supervision. Article 49 requires the CDF to foster studies, not necessarily to conduct them, though as we have seen it has conducted its own studies as well. The CDF's task to foster studies is met, in part, by directing the studies of these two entities. Both commissions, therefore, contribute to the CDF's work to promote and safeguard the doctrine of faith and morals.

The ten documents of the ITC and the three documents of the PBC presented in this chapter offer the magisterium and all the faithful a tremendous amount of scholarship and research to provide for a growing understanding of the faith and for a well-founded response in the light of faith to a variety of questions arising from the progress of the sciences or human culture (*Pastor bonus*, article 49).

F. Conclusion

This chapter has attempted to present some of the major public texts of the CDF and its subsidiaries, the ITC and the PBC, issued since *Pastor bonus* which illustrate in *practice* the responsibility assigned to the CDF in *law*, namely to promote the doctrine of faith and morals as part of its proper duty. Of course, everything the CDF does is ultimately ordered to fulfilling its proper duty of both promoting and safeguarding doctrine. This is true, then, for all of the texts presented in this chapter. They all, to one degree or another, safeguard sound doctrine by unmasking particular theological misconceptions and doctrinal errors in order to correct them and thus mitigate their harmful effect on the faith. Nonetheless, as Cardinal William Levada, the current Prefect of the CDF, pointed out: “[i]t is not enough to denounce error; it is necessary to recall the data of the tradition and the other elements of the Christian faith which can illuminate the way.”²²⁰ The documents presented in this chapter are demonstrative of the CDF’s mission

²²⁰ William Cardinal Levada, Preface from *Documenta: Inde A Concilio Vaticano Secundo Expleto Edita (1966-2005)*, 1: “Non basta denunciare l’errore; occorre richiamare i dati della tradizione e gli altri elementi della fede cristiana che possono illuminare il cammino.”

to “illuminate the way” by presenting the authentic teaching of the Church in an engaging and promotional, not defensive, posture.

These documents, representative of what *Pastor bonus* (articles 48-50, and 55) envisions for the promotional work of the CDF and its subsidiaries, the ITC and the PBC, is in direct service to the Roman Pontiff’s *diaconia* and, consequently, to the same *diaconia* of his brother bishops throughout the world. These texts, then, remain properly *curial* and not *papal*; they are products of a dicastery of the Roman Curia, not of the pope’s pen. It can be asked, and often is, how are the Christian faithful to respond to documents such as the ones presented in this chapter? Is there a canonical norm by which the proper level of response is articulated? The search for an answer to this question is precisely the focus of the next chapter.

CHAPTER FOUR

CANON 754: GENESIS, DEVELOPMENT, AND APPLICABILITY TO THE RECEPTION OF DOCTRINE PROMOTED BY THE CDF

In the previous chapter, we reviewed public documents of the CDF, ITC, and PBC issued since *Pastor bonus* which serve as examples of the CDF's competency to promote the doctrine of faith and morals for the whole Catholic world. The types of documents used to accomplish this task are manifold, leading one to speculate about their canonical and doctrinal weight and, in light of this, how the Christian faithful are to respond to them. In other words, the Christian faithful cannot properly respond to doctrine that is not properly promoted. The search for a canonical norm by probing the canons of Book III to provide some definition in answering this question is now the task before us.

The primary consideration for this present chapter is canon 754 of the 1983 Code of Canon Law. It states:

Can. 754 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 to proscribe erroneous opinions, particularly those which the Roman Pontiff or the college of bishops puts forth.¹

By examining its sources and tracing its development, and by considering the text and context of the canon itself, the chapter will attempt to demonstrate that canon 754,

¹ 1983 *CIC*, c. 754: "Omnes christifideles obligatione tenentur servandi constitutiones et decreta, quae ad doctrinam proponendam et erroneas opiniones proscribendas fert legitima Ecclesiae auctoritas, speciali vero ratione, quae edit Romanus Pontifex vel Collegium Episcoporum."

among the initial canons in Book III (*De Ecclesiae Munere Docendi*) pertaining to the teaching function of the Church, is the most directly applicable legislation to the central theme of this study; i.e., canon 754 comes closest to legislating the response the Christian faithful are to give to the texts issued by the CDF by which it clarifies, reiterates, and promotes the doctrine of faith and morals.

This study has presented what the promotion of doctrine entails from the perspective of *Pastor bonus* and has provided illustrations of what the promotion of doctrine has meant in practice. In both theory and practice, the promotion of doctrine on the part of the CDF completes and facilitates the CDF's ability to be an aide to the pope's *diaconia* in the contemporary pastoral context; i.e., it not only corrects those in error but, in an attempt to prevent error in the first place, guides all to a fuller appreciation of right faith and morals. This chapter will demonstrate that the *ratio legis* underlying canon 754 with its proposing of doctrine and the proscription of error, shares much in common with the *ratio legis* of *Pastor bonus* vis-à-vis the CDF with its promotion of doctrine and the safeguarding of that same doctrine from error.

While the reception of doctrine may be a fundamentally theological question, this study supports those who claim that it is not exclusively so.² The varying levels of reception appropriate to the varying levels of teaching lead to a host of theological

² Francisco Urrutia classifies the question of the response of the Christian faithful to doctrine as "fundamentally theological" but one which, nonetheless, touches profoundly on the life of the Church thereby making it just as much a canonical one. See Francisco Urrutia, "La réponse aux textes du magistère pontifical non infaillible," *L'Année Canonique* 31 (1988) 95: "La question est certainement complexe, et si elle est fondamentalement théologique, néanmoins, touchant profondément à la vie de l'Église, elle est aussi canonique."

considerations, none of which will explicitly be addressed here. Rather our focus will be strictly on the canonical implications regarding what kind of response is due to the promotion of doctrine by the CDF.

A. Legislating A Response of Faith?

A foundational issue which has great import at the outset of this chapter is the question of whether it is even proper to look for legislation governing a response of faith? If the overarching purpose of promoting the doctrine of faith and morals is to enable the Christian faithful to grow in their understanding of the faith and to equip them to make a response in the light of faith to contemporary questions arising from the progress of science and human culture (*Pastor bonus*, article 49), one might inquire as to the propriety or even possibility of legislating how this growth is to take place or to mandate the response to be formulated. In other words, whereas the Church's legal system is ordered to the direction of action, i.e., acts of the will, is it appropriate for the same legal system to legislate norms which require an internal act of assent, i.e., an act of the intellect?

As considered in chapter two, the *potestas regiminis* and the *potestas magisterii* have not always been considered as two separate powers.³ A direct consequence of this is the ability of the magisterium not only to teach the doctrine of faith and morals but to

³ See page 95.

command a response of faith to it. This was the understanding of several canonists in their commentaries on the 1917 Code of Canon Law.⁴

As will be seen below in considering the developmental stages of canon 754 in the Code revision process, however, some argued that such canons ought not to be included in the Code insofar as the internal act of assent is more properly a response of faith to hearing the word of God proclaimed; the assent of faith is freely given when the truth of doctrine is grasped, it is argued; it cannot be coerced or required by law.⁵ Since the promulgation of the Code, commentators have questioned the obligatory tenor of these canons along the same lines.⁶ Navarette's nuanced understanding of the *munus docendi* as involving at times an exercise of the *potestas regiminis* and at other times the *potestas magisterii* seems to place in a more pastoral manner the governmental aspect of

⁴ See Mario M. Balam, "The obligation to observe the constitutions and decrees of church authorities: an analysis of canon 754" (JCD diss., Saint Paul University, 1996) 47: "The fourth part of the third book of the 17/CIC [sic] is entitled *De magisterio ecclesiastico*. According to some commentators, this part of the Code belonged to the divinely constituted power of jurisdiction of the Church, whereby the ecclesiastical magisterium was to guard, spread and defend the catholic faith with the assistance of the Holy Spirit. Therefore the Church could impose authoritatively on its members those truths of the catholic faith which were to be believed, and those doctrinal errors which were forbidden." Balam cites the following commentators on the 1917 *CIC inter alia* who held this perspective: Guido Cocchi, *Pars IV: De Magisterio Ecclesiastico*, *Pars V: De Beneficiis Aliisque Institutis Ecclesiasticis Non Collegialibus*, *Pars VI: De Bonis Temporalibus*, vol. 6 of *Commentarium in Codicem Iuris Canonici Ad Usum Scholarum*, 3rd ed. (Turin: Libreria Marietti, 1933) 3-4; Eduardo Regatillo, *De Rebus, De Processibus, De Delictis et Poenis*, vol. 2 of *Institutiones iuris canonici* (Santander: Aldus, S.A., 1951) 84; Arthur Vermeersch and Joseph Creusen, eds., *Libri III Codicis iuris canonici*, tome 2 of *Epitome Iuris Canonici Cum Commentariis Ad Scholas et Ad Usum Privatum*, 7th ed. (Brussels: H. Dessain, 1954) 460-461; and Franz Xaver Wernz and Pietro Vidal, eds., *Magisterium ecclesiasticum, Bona temporalia eorumque administratio*, vol. 2 of *De Rebus*, tome 4 of *Ius Canonium* (Rome: Pontifical Gregorian University, 1935) 4-5.

⁵ This was articulated by the Second Vatican Council fathers in 1965 when they wrote: "truth imposes itself solely by the force of its own truth, as it enters the mind at once gently and with power" (see Declaration *Dignitatis humanae*, n.1; AAS 58 [1966] 930; Tanner, 2:1002).

⁶ For example, see Knut Walf, "L'infailibilité, comme la voit le Code de droit canonique (canons 749-750)," *Studia canonica* 23 (1989) 257-266.

the *munus docendi* requiring the *potestas regiminis* to be in service to the teaching aspect requiring the *potestas magisterii*.

While acknowledging the significance of the question whether there *ought* to be canonical norms governing the assent of faith, the fact of the matter is that the Supreme Pontiff, in Book III of the 1983 *CIC*, has legislated norms governing what response of faith is to be given to the various levels of authentic magisterial teaching. For our purposes, we take this fact as a given and leave the debate of its propriety to others. Instead, we turn to canon 754 as one of the canons addressing what kind of response is to be given to the authentic teaching of the Church. To appreciate the canon appropriately, its sources and development must first be considered.

B. The Sources for Canon 754

Of the 86 canons legislating for the *munus docendi* in Book III of the 1983 *CIC*, 37 of them, or 42%, are entirely new and have no precedent in the 1917 *CIC*.⁷ Canon 754, however, is one of the canons rooted in the 1917 *CIC* but the canon was not

⁷ Gruppo Italiano Docenti di Diritto Canonico, ed., *Il Popolo di Dio, Stati e Funzioni del Popolo di Dio, Chiesa Particolare e Universale, La Funzione di Insegnare (Libri II e III del Codice)*, vol. 2 of *Il Diritto nel Mistero della Chiesa*, 3rd ed. (Rome: Pontifical Lateran University, 2001) 563. This text notes that the relative novelty of Book III is an example of the tenth principle for the revision of the Code approved by the Synod of Bishops on 7 October 1967 (see *Communicationes* 1 [1969] 77-85), namely that it should have a new structure and be in accord with the spirit of the Second Vatican Council. The following observations bear this out even further. “L’ufficio di insegnare è compito di tutta la Chiesa e non soltanto dell gerarchia, come invece poteva suggerire il titolo contenuto nel codice del 1917 *De magisterio*. In questa comune responsabilità dell’insegnamento della Chiesa restano rispettati i ruoli e i ministeri vari e diversificati. Tutto questo è in conformità alla lettera e allo spirito del Concilio Vaticano II, che ha fortemente sottolineato l’importanza di tale compito della Chiesa collocando sullo stesso livello degli altri due, di governare e di santificare” (562). “Relativamente al codice del 1917, molte cose cambiate, come si è già visto, ed altre abolite. Resta abolita, per es., tutta la questione sulla proibizione dei libri; il trattato sull’attività missionaria è stato ampliato; sono stati chiariti ed allargati i ruoli dei laici nella predicazione, nella catechesi, nell’evangelizzazione e nell’uso dei mezzi della comunicazione sociale; . . .” (563).

transferred verbatim; other *fontes* were taken into consideration. The Pontifical Commission for the Authentic Interpretation of the Code of Canon Law listed the sources which contributed to the crafting of canon 754.⁸ A study of these *fontes* will lay the foundation for a subsequent investigation of the revision process for the canon itself. It will be shown that its development accompanied the development of a more and more positive approach to addressing doctrinal challenges facing the Church. Outlining the stages of this development will prove helpful in appreciating the *ratio legis* of canon 754 and to find points of similarity with the *ratio legis* of *Pastor bonus* relevant to the CDF's proper duty as an aid to the pope's overall *diaconia*.

Our consideration for the sources of canon 754, then, will commence with the first *fons* determined by the Pontifical Council for the Authentic Interpretation of the Code of Canon Law, namely canon 1324 of the 1917 *CIC*.⁹

1. 1917 *CIC*, c. 1324

Canon 1324 stated the following:

Can. 1324. It is not enough to avoid heretical depravity; but also those errors should be diligently fled that more or less approach [heresy]; therefore, all must observe the constitutions and decrees by which these

⁸ *Pontificia Commissio Codici Iuris Canonici Authentice Interpretando, Codex Iuris Canonici Auctoritate Ioannis Pauli PP. II Promulgatus, Fontium Annotatione et Indice Analytico-Alphabetico Auctus* (Vatican City: Libreria Editrice Vaticana, 1989) 211. Hereafter this text shall be cited as *Fontium Annotatione*.

⁹ Canon 1324, of course, had its own sources but a full investigation into its development is beyond the scope of this study. See Balam, 34-50, for a treatment of the sources and development of canon 1324 in the 1917 *CIC*, beginning with *Dei Filius* (see Vatican Council I, Dogmatic Constitution *Dei Filius*, 24 April 1870, *Acta Sanctae Sedis* [1869-1870] 481-493; Tanner, 2:804-811).

sorts of depraved opinions are proscribed and prohibited by the Holy See.¹⁰

The canon had two independent but interrelated portions separated by a semicolon. The first part of the canon established the norm of action, i.e. to avoid outright “heretical depravity” and “to flee” anything approximating it. The second part of the canon provided an obligation which would assist in accomplishing successfully the requirement of the first part, namely, to “observe” those constitutions and decrees issued for the purpose of proscribing and prohibiting precisely those errors to be avoided and fled.

Several elements of this canon are worthy of note, especially when taking it into comparative consideration with its subsequent manifestation as canon 754 in the 1983 *CIC*. First and foremost, the overall tone of the canon was one of cautious vigilance. Whereas canon 754 would later add the positive obligation to observe the sound doctrine *proposed* by competent ecclesiastical authority in addition to the traditional obligation to avoid proscribed errors, here the solitary obligation was to observe the *proscription* or *prohibition* of error.

An example of this canon in action is the decree issued by the Sacred Congregation of the Holy Office in 1920 to bishops warning them to exercise vigilance over any youth organization which seemed noble in its goals but was nonetheless

¹⁰ 1917 *CIC*, c. 1324: “Satis non est haereticam pravitatem devitare, sed oportet illos quoque errores diligenter fugere, qui ad illam plus minusve accedunt; quare omnes debent etiam constitutiones et decreta servare quibus pravae huiusmodi opiniones a Sancta Sede proscriptae et prohibitaе sunt.” English translation from Edward Peters, ed., *The 1917 Pio-Benedictine Code of Canon Law in English Translation with Extensive Scholarly Apparatus* (San Francisco: Ignatius Press, 2001) 446. All other translations of the 1917 *CIC* will be from this source.

dangerous to the moral and Catholic development of youth. In particular, the Holy Office singled out the Young Men's Christian Association (Y.M.C.A.) as illustrative of this kind of organization in that it sought to lead the young into so-called "free thought" unhinged from any church or religion. The decree stated in a cautious and circumspect tone in keeping with the timbre of canon 1324:

Hence, this Sacred Congregation asks all Ordinaries of places, who have received from God in a special way the charge of governing His flock, to guard young people carefully from the contagion of these societies, through whose so-called beneficence administered in the name of Christ, the most precious treasure they have, Christ's grace, is imperiled. Therefore warn the unwary and confirm those who are faltering in the faith; build up strongly in the spirit of Christ such societies of young people of both sexes as you have among you; cultivate others of the same kind; call upon the wealthy of our faith to help, so that they may have the means with which to combat the enemy. At the same time exhort pastors and those who have charge of organizations of youth to do their duty vigorously, and especially by the publication of books and pamphlets to check the errors that are being broadcast, to expose the wiles and deceits of the enemy, and to come to the assistance of those who are looking for the truth.¹¹

¹¹ Sacred Congregation of the Holy Office, Letter to the Ordinaries of places *Qua Eorum Vigilantia excitatur circa nova quaedam acatholicorum molimina contra fidem*, 5 November 1920: AAS 12 (1920) 597: "Quare Vos, quotquot estis, quibus peculiarem in modum dominici gregis gubernandi cura divinitus mandata est, haec Sacra Congregatio rogat, ut vestros adolescentes studiose intactos ab harum societatum contagion praestetis, quarum ex beneficentia, Christi administrata nomine, illud periclitatur, quod ipsi habent, Christi gratia, pretiosissimum. Ergo admonete incautos et confirmate vacillantes in fide; quae autem sunt apud Vos iuvenum ex utroque sexu sodalitates, eas Vos christiano spiritu ac robore instruite, aliasque excitate generis eiusdem; quibus quidem ut suppetat unde possint adversariis obsistere, locupletiores e nostris appellate ad opitulandum. Simul etiam parochos et iuvenum consociatorum moderatores hortamini ut strenue officium suum faciant, maximeque, libris et opusculis evulgandis, diffuentes late errores coerceant, artes fraudesque inimicorum aperiant, studiosis veritatis apte succurrant." English translation available in *CLD* 1: 608. The Holy Office sent a private letter on 30 January 1954, signed by its Secretary, Joseph Cardinal Pizzardo, to Archbishop Józef Gawlina (Military Archdiocese of Poland) reiterating that the Y.M.C.A. is not a Catholic organization and that cooperation with it ought not to occur (*CLD* 5: 618-619).

Other texts of the Holy Office warning against errors in theological writings¹² or flaws in certain systems of thought,¹³ share the same purpose as the 1920 letter regarding the Y.M.C.A. and, as such, also serve as examples of canon 1324 in action. What is interesting to note is that the CDF continues to function in this capacity and is given the competency to do so in *Pastor bonus* article 51. Yet article 51 describes the CDF's duty "to *safeguard* the truth of faith and the integrity of morals" (emphasis added) in distinction from its duty to promote it. In other words, canon 1324 of the 1917 Code seems to have applied well to the proper duty of the Congregation *ante Pastorem bonum* but, as we will see, canon 754 of the 1983 Code, with its positive aspect of proposing doctrine, applies just as well to the full complement of the CDF's proper duty *post Pastorem bonum*.

Secondly, the canon bound "all" to avoid the errors proscribed or prohibited by constitutions or decrees. Unlike the 1983 *CIC* which limits those who are bound by merely ecclesiastical law to "those who have been baptized in the Catholic Church or received into it, [who] possess a sufficient use of reason, and unless the law expressly

¹² E.g., the *CLD* locates the warning issued by the Holy Office regarding the writings of Teilhard de Chardin as an example of canon 1324: see SCDF, *Monitum*, 30 June 1962: AAS 54 (1962) 526. English translation available in *CLD* 5: 621-622. It did the same with two writings of Professor Hans Küng; see SCDF, Declaration *De duobus operibus Professoris Ioannis Küng*, 15 February 1975: AAS 67 (1975) 203-204; English translation *CLD* 8: 933-936.

¹³ E.g., The SCDF issued an instruction to bishops "interdicting and prohibiting" the dissemination of the flawed "Ethics of the Situation" in any university, school, seminary, house of formation, book, dissertation, lecture, conference, or in any other way (see SCDF, Instruction *Ad Ordinarios omnes Necnon ad magistros in seminariis, in athenaeis, vel in studiorum universitatibus docents et ad lectores in studiorum domibus religiosorum: de 'ethica situationis'*, 2 February 1956: AAS 48 (1956) 144-145. English translation available in *CLD* 4: 375-376.

provides otherwise, [who] have completed seven years of age,”¹⁴ here the canon directed everyone to avoid the errors delineated in the pertinent constitutions and decrees.¹⁵

Third, the canon bound all to avoid the errors proscribed or prohibited not by any document but specifically when that act was rendered by means of a “constitution” or “decree.” The canon did not define what was specifically meant by use of these terms in this context. Mario Balam notes that “constitution” was understood in the 1917 *CIC* both in a strict sense and a broad sense.¹⁶ Strictly interpreted, a constitution was a legislative text issued by the Roman Pontiff alone and not by any other legislative figure in ecclesiastical law, e.g., a diocesan bishop. Broadly interpreted, a constitution could have included other pontifical acts which may have been doctrinal or disciplinary in nature, depending on the intention of the Roman Pontiff issuing it¹⁷

¹⁴ 1983 *CIC*, c. 11: “Legibus mere ecclesiasticis tenentur baptizati in Ecclesia catholica vel in eandem recepti, quique sufficient rationis usu gaudent et, nisi aliud iure expresse caveatur, septimum aetatis annum expleverunt.”

¹⁵ Canon 12 of the 1917 Code of Canon Law stipulated that merely ecclesiastical law did not bind the unbaptized, nor the baptized who did not enjoy the use of reason, nor the baptized who had not yet completed seven years of age, unless expressly provided otherwise. See 1917 *CIC*, c. 12: “Legibus mere ecclesiasticis non tenentur qui baptismum non receperunt, nec baptizati qui sufficient rationis usu non gaudent, nec qui, licet rationis usum assecuti, septimum aetatis annum nondum expleverunt, nisi aliud iure expresse caveatur.” Thus the obligation legislated in canon 1324 applied even to non-Catholic Christians.

¹⁶ Balam bases his observations on Lucien Choupin, *Valeur...*, 56-107. In chapter three of that text, *Décisions Doctrinales du Saint-Office ou de L'Inquisition*, Choupin indicates that the decisions rendered by the Holy Office are either doctrinal decrees or disciplinary decrees. Doctrinal decrees are “les décisions par lesquelles la sacrée Congrégation définit un point de doctrine catholique, une question théorique relative à la foi ou à la morale, ou condamne un livre comme contenant des propositions qu’elle qualifie spécialement d’erronées, de téméraires, d’hérétiques, etc.” (57). Disciplinary decrees are “les autres décisions de la sacrée Congrégation; ils règlent des questions pratiques, de discipline. À ce genre appartiennent par exemple les décrets par lesquels le Saint-Office condamne et prohibe un livre, sans qualifier la doctrine, ni aucune proposition” (57).

¹⁷ Stephanus Sipos, *Enchiridion Iuris Canonici: Ad Usus Scholarum et Privatorum* (Rome: Herder, 1960) §9: “De constitutionibus Sedis Apostolicae,” p. 26: “Romani Pontifices in condendis suis legibus nulli formae sunt adstricti. Etiam viva voce dare possunt leges. . . . Hodie omnia acta pontificia (ab

Also considered broadly, a constitution might have been distinguished by whether it was general or particular; whether it was given *motu proprio* for a specific occasion or event, or whether it was a response to a *dubium* or petition to the Roman Pontiff; by reason of its subject matter, e.g., whether it legislated, established a new diocese, approved a concordat; or by its form, e.g., whether it was a papal bull, or decree, or apostolic letter.¹⁸ Given that papal constitutions were also called decrees, the distinction made between the two in canon 1324 relevant to papal acts was not one to be made too narrowly. In other words, whether the pope proscribed or prohibited error by means of a constitution, decree, or under some other heading, the canon was nonetheless to be applied and the requisite observance bound the Christian faithful.

Another very important observation to make, particularly for this study, is the fact that the competent authority in law to issue these constitutions and decrees was not limited to the Roman Pontiff but more broadly included the “Holy See” which the 1917 *CIC* defined in canon 7:

Under the name Apostolic See or Holy See in this Code come not just the Roman Pontiff, but also, unless by the nature of the thing or from the context of the words something else appears, the Congregations, Tribunals, and Offices through which the same Roman Pontiff is wont to expedite the affairs of the universal Church.¹⁹

ipso R. Pontifice promanantia vel nomine eius edita) vocantur *constitutiones* in sensu lato; quid constitutio significet sensu stricto, mox dicetur.”

¹⁸ Sipos, 26-28.

¹⁹ 1917 *CIC*, c. 7: “Nomine Sedis Apostolicae vel Sanctae Sedis in hoc Codice veniunt non solum Romanus Pontifex, sed etiam, nisi ex rei natura vel sermonis contextu aliud appareat, Congregationis, Tribunalia, Officia, per quae idem Romanus Pontifex negotia Ecclesiae universae expedire solet.” The 1983 Code of Canon Law provides a definition for the term “Holy See” in canon 361: “Nomine Sedis Apostolicae vel Sanctae Sedis in hoc Codice veniunt non solum Romanus Pontifex, sed etiam, nisi ex rei

Interpreting canon 1324 in light of canon 7 leads one to conclude that in addition to the Roman Pontiff, any of the Congregations, Tribunals, and Offices to whom he granted competence to help him “expedite the affairs of the universal Church” were able to proscribe or prohibit the erroneous opinions which would have a deleterious effect on the faith.²⁰ But the provision “unless by the nature of the thing or from the context of the words something else appears” in canon 7 indicates that whereas the competency to issue constitutions rested with the Roman Pontiff, the dicasterial prohibition or proscription of doctrinal error would have come in the form of a decree. This is especially true of what was then the Holy Office.²¹

Canon 754 reflects other influences than simply canon 1324. A consideration of the other sources of the canon will shed light on how canon 754 came to incorporate a positive aspect of proposing doctrine in addition to the negative aspect of proscribing erroneous opinions.

natura vel sermonis contextu aliud appareat, Secretaria Status, Consilium pro publicis Ecclesiae negotiis, aliaque Romanae Curiae Instituta.”

²⁰ Pope St. Pius X had granted to the Pontifical Biblical Commission the same authority as the Congregations to proscribe errors (particularly Modernist errors) regarding the interpretation of Sacred Scripture and, as a result, it would have to be included in canon 1324’s use of the term “Holy See” (see Pope Pius X, *Motu proprio Praesentia Scripturae*, 18 November 1907: AAS 40 [1907] 723-726). Furthermore, one must keep in mind Pope Paul VI’s inclusion of the Secretariat of State as a dicastery of the Roman Curia in *Regimini Ecclesiae Universae*.

²¹ E.g., Sipos, §162, p. 607: “Opiniones pravae contra fidem et mores a Romano Pontifice vel ex mandato eius a S. Congregationibus, praesertim a SC. Officii post sedulam inquisitionem reiiciuntur, et quidem ita, ut vel simpliciter damnentur, vel simul qualificentur. . . . Damnatio errorum fieri potest *infallibiliter* [sic], si fiat sollemni iudicio, vel *non infallibiliter* [sic], si fiat a R. Pontifice non ex cathedra, vel a S. Congregatione.” Sipos indicates that such dicasterial decrees could be doctrinal or disciplinary in nature and could be issued as instructions, rescripts, decisions, declarations, or other specific documents (28-29).

2. Pope Pius XII, Encyclical *Humani generis*, 12 August 1950²²

The encyclical *Humani generis* of Pope Pius XII sought to draw attention to certain errors of the day which posed a significant threat to sound Catholic doctrine. His audience was primarily those Catholic theologians and philosophers who, despite their grave duty “to defend natural and supernatural truth and instill it in the hearts of men” were nonetheless “desirous of novelty,” who feared “to be considered ignorant of recent scientific findings” and who, as a result, “[tried] to withdraw themselves from the sacred Teaching Authority and [were] accordingly in danger of gradually departing from revealed truth and of drawing others along with them into error.”²³

The Pope named several of these errors specifically. Included among them was the estimation of evolution as a decided fact rather than a theory deserving greater study and testing; the philosophy of existentialism which “concerns itself only with the existence of individual things and neglects all consideration of their immutable essences;”²⁴ and several errors relevant to the interpretation of Sacred Scripture which were foreign “to the principles and norms of interpretation rightly fixed by . . . Leo XIII in his Encyclical *Providentissimus Deus*, and Benedict XV in the Encyclical *Spiritus*

²² Pope Pius XII, Encyclical *Humani generis*, 12 August 1950: AAS 42 (1950) 561-578. Hereafter this document shall be cited as *HG*. For an English translation see Anthony C. Cotter, SJ, *The Encyclical “Humani Generis” with A Commentary* (Weston, Mass: Weston College Press, 1951).

²³ *HG*, n.10; AAS 42 (1950) 564.

²⁴ *HG*, n.6; AAS 42 (1950) 563.

Paraclitus, as also by [Pius XII himself] in the Encyclical *Divino Afflante Spiritu*.²⁵

Other errors of concern included the notion that reason, unaided by revelation, could not come to a certain knowledge of the existence of God and the foundation of the Christian Faith; that the Church was not necessary for salvation; that the Mystical Body of Christ was not one and the same with the Roman Catholic Church; and even that the doctrine of transubstantiation was based on “an antiquated philosophic notion of substance.”²⁶

This last concern was symptomatic of a much larger error to which the Pope attributed a considerable amount of attention; an error which he observed to arise frequently in ecumenical efforts. He noted the desire on the part of some theologians to loose dogma from “terminology long established in the Church and from philosophical concepts held by Catholic teachers”²⁷ in order that it may speak more clearly to the modern age by using a lexicon more adapted to contemporary philosophical categories. What worried the Pope, however, was that no matter how well-intentioned this desire to “satisfy modern needs” may have been, the end result was a dogmatic relativism.

Dogmatic relativism held that since dogma is always hindered by the language in which it is expressed, therefore necessitating an ongoing reformation of dogmatic expressions, then it must be concluded that the terminology by which the truths of faith are expressed must always be suspect and never trustworthy. The Pope also noted that

²⁵ *HG*, n.24; AAS 42 (1950) 570. See page 229, footnote 188 for a reference to Pope Leo XIII’s Encyclical, *Providentissimus Deus*; see Benedict XV, Encyclical letter *Spiritus Paraclitus*, 15 September 1920: AAS 12 (1920) 209-218; and Pius XII, Encyclical letter *Divino Afflante Spiritu*, 30 September 1943: AAS 35 (1943) 297-325.

²⁶ *HG*, n.26; AAS 42 (1950) 571.

²⁷ *HG*, n.14; AAS 42 (1950) 565.

this dogmatic relativism led to contempt for the magisterium of the Church, casting its insistence on dogmatic formulations as “a hindrance to progress and an obstacle in the way of science.”²⁸ Commenting on this desire for a relativistic understanding of dogmatic expressions common among many theologians and philosophers of the time, and eager to stress the theological dangers of this perspective, the Pope wrote:

It would be wrong to neglect or cast aside or rob of their meaning those precious concepts which have been coined and polished in order to express, with ever-increasing accuracy, the truths of faith—a process that has often cost centuries of labor and was carried out by men of uncommon intelligence and sanctity, under the watchful eye of the Magisterium, with light and guidance, too, from the Holy Spirit. To substitute for them conjectural notions and the vague and fluid diction of a new philosophy, which thrive today like the flowers of the field and wilt tomorrow, would indeed be the height of impudence; dogma itself would become not better than a reed shaken by the wind. Disrespect for the terms and concepts current among scholastic theologians would take all the force out of what is called speculative theology, which has no real validity, they say, inasmuch as it rests on theological reasoning.²⁹

Later in the document, the Pope continued:

²⁸ *HG*, n.18; *AAS* 42 (1950) 567. Pius XII was concerned that theologians considered every theological question open for discussion until such time as the Pope settled it with a solemn definition. Thus encyclical letters or curial texts lacked full authority. See Cotter, 76: “In reply, the Pope reminds them that encyclicals, besides often containing matters of dogma, may intend to settle points hitherto disputed, and that such decisions demand of themselves a positive assent on the part of the faithful, theologians included. In issuing them the Popes exercise what is technically known as the ordinary or authentic magisterium, of which it is true to say: ‘He who heareth you, heareth me. The reason for all this is that to the living Magisterium alone has God entrusted the official interpretation of the deposit of faith. According to theologians, the doctrinal decrees of the Holy Office and the responses of the Biblical Commission belong in the same category because of the close connection of these two Roman congregations with the Pope.’”

²⁹ *HG*, n.17; *AAS* 42 (1950) 567: “Quapropter neglegere vel reicere vel suo valore privare tot ac tanta quae pluries saeculari labore a viris non communis ingenii ac sanctitatis, invigilante sacro Magisterio nec sine Sancti Spiritus lumine et ductu, ad accuratius in dies fidei veritates exprimendas mente concepta, expressa ac perpolita sunt, ut eorumdem in locum coniecturales notiones sufficiantur ac quaedam fluxae ac vagae novae philosophiae dictiones, quae ut flos agri hodie sunt et cras decident, non modo summa est imprudentia, verum etiam ipsum dogma facit quasi arundinem vento agitatam. Despectus autem vocabulorum ac notionum quibus theologi scholastici uti solent, sponte ducit ad enervandam theologiam, ut aiunt speculativam, quam, cum ratione theologica innitatur, vera certitudine carere existimant.”

For truth and its philosophical expression cannot change from day to day, least of all where there is question of self-evident principles of the human mind or of those assertions which are supported by the wisdom of the ages and agree with divine revelation. Surely, whatever new truth the human mind is able to discover by honest research, cannot contradict truth already acquired; for God, the sovereign Truth, has created the human intellect and guides it, not that it may daily oppose novelties to rightly established truth, but rather that, eliminating errors which may have crept in, it may build truth upon truth in the same order and structure that we perceive to exist in nature, the source of truth. Let no Catholic then, whether philosopher or theologian, be too hasty in embracing whatever novelty happens to be thought up from day to day, but rather let him weigh it carefully and with a balanced judgment, lest he lose or contaminate the truth he already has, with grave danger and damage to his faith.³⁰

Citing canon 1324 of the 1917 *CIC* explicitly, the Pope encouraged the Christian faithful to flee any and all such errors that approached heresy and “to keep” (*servare*) the “constitutions and decrees” issued by the Holy See by which these errors were proscribed and prohibited. He reiterated the infallibility of Petrine ordinary magisterium and noted that when the pope rendered a conclusive judgment on a matter in dispute, that that matter “cannot be any longer considered a question open to discussion among theologians.”³¹ Christ the Lord bestowed the responsibility to interpret authentically the deposit of faith not to each individual member of the Church, nor to theologians, the Pope

³⁰ *HG*, n.31; *AAS* 42 (1950) 572: “Non enim veritas omnisque eius philosophica declaratio in dies mutari possunt, cum potissimum agatur de principiis humanae menti per se notis, vel de sentiis illis quae tum saeculorum sapientia, tum etiam divinae ‘revelationis’ consensus ac fulmine innituntur. Quidquid veri mens humana, sincere quaerens, invenire poterit, iam acquisitae veritati profecto adversari nequit; siquidem Deus, summa Veritas, humanum intellectum condidit atque regit, non ut rite acquisitis cotidie nova opponat, sed ut, remotis erroribus qui forte irrepserint, verum superstruat eodem ordine ac compagine quibus ipsa rerum natura, ex qua verum hauritur, constituta cernitur. Quapropter christianus, sive philosophus sive theologus, non festinanter ac leviter amplectatur quidquid novi in dies excogitatum fuerit, sed summa sedulitate id perpendat ac iusta in trutina ponat, ne adeptam Veritatem amittat vel corrumpat, gravi profecto cum ipsius fidei discrimine ac detrimentum.”

³¹ *HG*, n.20; *AAS* 42 (1950) 568.

stressed, but to the magisterium exclusively. Thus the constitutions and decrees emanating from the Holy See by which errors are condemned could and ought to be deemed trustworthy.

Pius XII reiterated and championed the primacy of place which St. Thomas Aquinas enjoys in the Christian tradition and in its philosophical underpinning. He found “deplorable” the scorn which some theologians and philosophers showed toward traditional philosophy “with its clear exposition and solution of questions, its accurate definition of terms, [and] its clear-cut distinctions.”³²

The Pope concluded his letter with an urgent appeal to bishops and superiors general to ensure that the aforesaid errors, with their faulty foundation in a misplaced understanding of philosophy and a skepticism regarding man’s ability to know what is true, be avoided all together in seminaries and institutes of formation. The Pope made this appeal because he was aware “that such new opinions can entice the incautious; and therefore [he] prefer[ed] to withstand the very beginnings rather than to administer the medicine after the disease has grown inveterate.”³³

At first glance it may appear that this encyclical letter of Pius XII serves best as a font for that portion of canon 754 which binds the Christian faithful to observe constitutions and decrees which “proscribe erroneous opinions” since proscribing erroneous opinions appears to be the encyclical’s main thrust and was certainly 1917 *CIC* canon 1324’s focus; a canon to which the Pope made reference. At the same time, as

³² *HG*, n.32; *AAS* 42 (1950) 573.

³³ *HG*, n.30; *AAS* 40 (1950) 577.

Cotter points out, the Pope wrote the letter for a positive purpose, i.e., to preserve the necessary philosophical underpinnings which lead to and provide the foundation for that sound Catholic doctrine taught authoritatively by the magisterium:

. . . though a superficial reading may leave the impression that the Encyclical is mainly negative, condemning modern errors and erroneous tendencies, a more attentive study should correct that impression. All through its pages the Pope appears far more concerned with putting before the reader the positive norms which should guide Catholic scholars in their work. I should say that the modern trends were only the occasion for him to inculcate the positive doctrine of the Church, in particular on the *teaching authority of the living Magisterium*, which some Catholics had flouted in their writings and lectures. It is for this positive doctrine that “*Humani generis*” will be remembered long after the glittering theories condemned in it are buried and forgotten.³⁴

3. Sacred Congregation for the Doctrine of the Faith, Letter *Cum oecumenicum concilium*³⁵

Dated 24 July 1966, this letter was sent by Alfredo Cardinal Ottaviani to all the episcopal conferences of the world with the approval of Pope Paul VI. While the purpose of the letter was to alert the episcopal conferences to certain doctrinal errors in the wake of the Second Vatican Council, the opening began on a very positive note. The responsibility to implement the proposals and decrees of the Council is one shared by all the faithful, the Cardinal explained, “in order more effectively to promote the life of the Church.”³⁶ But such a fruitful implementation is impossible unless it happens under the

³⁴ Cotter, 55.

³⁵ Sacred Congregation for the Doctrine of the Faith, Letter *Cum oecumenicum concilium*, 24 July 1966: AAS 58 (1966) 659-661. An English translation is available in *CLD* 6: 260-264.

³⁶ *CLD* 6: 261.

vigilance of the bishops who have “the right and duty to supervise, direct, and promote the renewal which the Council set in motion” and to guard the interpretation of the Council so that the “Documents and Decrees of the Council may be . . . put into effect with precise fidelity to their proper sense and intention.”³⁷ This charge is placed upon the bishops not arbitrarily, but in virtue of the fact that they are vested “with the office of teaching authoritatively under the leadership of Peter.”³⁸

At this point, however, Cardinal Ottaviani expressed concern that such a careful implementation and appropriation of the Second Vatican Council was not occurring everywhere. Indeed, the letter revealed his perceptive observation that many foundational elements of Catholic doctrine and morals were seemingly beginning to unravel. The letter conveyed his shock and grave concern over liberalities which seemed to have been taken with increasing frequency in the interpretation of the Second Vatican Council’s documents. Cardinal Ottaviani listed ten specific examples of the “growing abuses” and of the “strange and bold opinions” which had been reported to him and the SCDF; included among them were abuses pertaining to the interpretation of dogma and divine revelation, the authority of the ordinary magisterium of the Church, abuses in the celebration of the Eucharist and penance, and issues in ecumenical efforts. In the letter, Cardinal Ottaviani explained that this list of abuses would be “useful,” presumably to the members of the episcopal conferences, to discharge faithfully their duty of maintaining vigilance against these errors and any others approximating them. The letter included an

³⁷ Ibid.

³⁸ Ibid.

action step: it sought a response from the bishops as to the status of such abuses in their respective episcopal conferences and a report on their plans to address them.

The letter was not universally well-received due to its inquisitorial and condemnatory tone. Many bishops shared Cardinal Ottaviani's concerns but considered the style of his response to the challenges he outlined to be out of sorts with the vision of the Second Vatican Council. As the French episcopal conference noted at the conclusion of its response to Cardinal Ottaviani's letter, "The shadows must not cause us to forget the light cast by the Council on the life of our dioceses. The symptoms of vitality are multiple and consoling, both among the clergy as well as the laity."³⁹ The Dutch episcopal conference also submitted a lengthier and more critical response to Cardinal Ottaviani's letter.⁴⁰ In fact, Cardinal Ottaviani's request of the episcopal conferences for

³⁹ See Conférence Épiscopale Française, "Réponse de la conférence épiscopale française à la lettre circulaire de la Congrégation pour la Doctrine de la foi," 17 December 1966, *La Documentation catholique* 64 (1967), 327-338: "Mais ces ombres ne doivent pas faire oublier la lumière projetée par le Concile sur la vie de nos diocèses. Les symptômes de vitalité sont multiples et réconfortants, tant parmi les clercs que parmi les laïcs" (337-338). The French bishops confirmed that some of the doctrinal errors noted by Cardinal Ottaviani were present in France to varying degrees yet they regarded their responsibility to address them as "an essentially positive mission" (335). They indicated that the emergence of these doctrinal errors was the result of "a certain drifting of thought" (331) and that "there [was] not a coherent system" (331) to them. For this reason, the bishops wrote, "[i]t cannot be said that there is a resurgence of modernism in the historical sense of the term. Thus, a majority of the French bishops think that the simple enumeration of errors in the Roman letter will only serve to paralyze theological research and will do nothing to correct error" (331). Rather, the bishops stressed, the issues were the result of the exigencies of contemporary life; exigencies already addressed by the Second Vatican Council. Therefore, engaging these problems was primarily a pastoral task and had to be done in a hopeful and open manner akin to the posture of the Council. Thus it would be "fidelity to this [conciliar] teaching that the action of the bishops, teachers of their people, [would] situate them along the lines of the thinking of the Church" (331).

⁴⁰ See "Réponse des évêques hollandais au questionnaire du cardinal Ottaviani," *La Documentation catholique* 65 (1968) 1096-1112. The Dutch bishops indicated that seven of the ten errors denounced by Cardinal Ottaviani had already been previously denounced by popes and thus, a reiteration of the condemnation was unhelpful. This was why, the Dutch bishops pointed out, the Second Vatican Council did not issue denunciations based on the argument of authority. Cardinal Ottaviani's letter, with its condemnatory tone, struck the Dutch episcopate as a return to a style of the past; a repeat of past condemnations which by then the Church had softened. They pointed to the recent rapprochement between the Latin and Orthodox Churches as an example. In short the Dutch bishops preferred that theologians be

information about which of the errors he listed were most rampant in their territories caused many of the episcopal conferences to provide responses similar to those provided by the French and Dutch bishops.⁴¹

Cardinal Ottaviani's letter with its outline of grave doctrinal concerns under ten headings served in effect as the *instrumentum laboris* for the first post-conciliar Ordinary Synod of Bishops which took place the following year in 1967. The subsequent doctrinal declaration which the Synod Fathers would go on to make serves as the fourth font for canon 754.

given the necessary latitude, without fear of ecclesiastical censure, to develop new ways of addressing the doctrinal errors of the day. From their perspective, the bishops concluded, a syllabus of new "semi-heresies" would cause more harm than good" (1112).

⁴¹ Francis X. Murphy and Gary MacEoin, *Synod '67: A New Sound in Rome* (Milwaukee: The Bruce Publishing Co., 1968) 75-76: "The bishops of Switzerland, Belgium, Germany, and Austria gave even more optimistic answers than those of France. The Latin Americans said they were concerned about disciplinary problems of the clergy but had no serious worries in the doctrinal area. Spain was mainly serene and positive, saying there was no cause for concern in practices and attitudes. Most of the bishops of Asia and Africa made it clear that they did not share Cardinal Ottaviani's preoccupations. Their serious problems, they said, dealt with how to relate the Church to a world in rapid change. . . . A spokesman for the Irish bishops said they had not bothered to reply, on the ground that none of the errors was significant in their country. The bishops of the United States gave an answer which added up to about the same thing. The total result was a worldwide consensus that, even to the extent that dangers existed, only harm could be done by cataloguing and anathematizing them. Whatever value such procedures might have had in earlier times, they did not fit the needs and realities of the twentieth century."

4. Synod of Bishops, *Relatio Commissionis Synodalis*, 28 October 1967⁴²

With his apostolic letter *Apostolica Sollicitudo*, issued *motu proprio* on 15 September 1965 near the end of the Second Vatican Council,⁴³ Paul VI established the Synod of Bishops with these words:

... after mature deliberation, because of our esteem and respect for all the Catholic bishops, and that they may have a more manifest and effective share in our solicitude for the universal Church, of our own motion and in virtue of our apostolic authority, we erect and establish in this city of Rome a permanent consultative body of bishops for the universal Church subject directly and immediately to our authority, and to be known as the Synod of Bishops.⁴⁴

The Pope went on in the apostolic letter to provide regulations for the structure, operation, and future adaptability of the Synod of Bishops so that it would serve well as the consultative body it was established to be. Implementing it shortly thereafter in calling the 1967 Synod of Bishops, Paul VI convened 138 bishops elected by their respective episcopal conferences, the patriarchs and major archbishops of Eastern Catholic Churches, heads of religious communities, the heads of the congregations comprising the Roman Curia, and 20 other prelates personally selected by the Pope to

⁴² Synodus episcoporum (1967), *Relatio Commissionis Synodalis constitutae ad examen ulterius peragendum circa 'Opiniones periculosas hodiernas Necnon atheismum'* (Vatican City: Typis Polyglottis Vaticanis, 1967). An English translation is provided as an appendix in Hebblethwaite, 148-160.

⁴³ Pope Paul VI, *Motu proprio Apostolica Sollicitudo*, 27 June 1971: AAS 57 (1965) 775-780. Hereafter this document shall be cited as AS. An English translation is available in CLD 6: 388-393.

⁴⁴ AS, Intro.; AAS 57 (1965) 776: "Itaque, omnibus mature perpensis, pro Nostra existimatione atque observantia erga universos catholicos Episcopos, atque ut iisdem copia detur manifestiore efficacioreque ratione participandi sollicitudinem Nostram erga Ecclesiam universam, motu proprio ac Nostra apostolica auctoritate erigimus ac constituimus hac in alma Urbe stabile Episcoporum consilium pro Ecclesia universa, Nostrae potestati directe atque immediate subiectum, quod nomine proprio SYNODUM EPISCOPORUM appellamus." English translation available in Francis X. Murphy and Gary MacEoin, *Synod '67: A New Sound in Rome* (Milwaukee: The Bruce Publishing Co., 1968) 189-192.

reach a total of almost 200 members.⁴⁵ The Synod commenced with a papal Mass celebrated on 29 September 1967 and concluded one month later on 29 October 1967.⁴⁶

The Synod Fathers had a series of topics to discuss in their month long convocation beginning with the revision of the Code of Canon Law; a conversation initiated by the *relatio* of Pericles Cardinal Felici on 30 September 1967. On 4 October 1967, the Synod Fathers turned their attention to the second matter for discussion, the question of contemporary threats to sound doctrine. They had not received the *instrumentum laboris* for this topic until June of that previous summer, later than the *instrumenta laboris* for the other matters to be addressed, only because the SCDF was late in submitting it to the Secretary of the Synod for distribution.⁴⁷ Michael Cardinal Browne, OP⁴⁸ provided the *relatio* by which the *instrumentum laboris*, “On Dangerous

⁴⁵ Murphy, 6. In addition to this text, there are several others on the events and documents of the 1967 Synod of Bishops which together provide a helpful snapshot of what actually transpired, e.g., Peter Hebblethwaite, “*Inside*” *The Synod: Rome, 1967* (New York: Paulist Press Deus Books, 1968); Gino Concetti, *Bilancio E Documenti del Sinodo dei Vescovi: Documenti Ufficiali, Commenti, Dichiarazioni, Echi della Stampa sulla Prima Assemblea Generale (29 settembre – 29 ottobre 1967)* (Milan: Massimo, 1968); Giancarlo Zizola, *Il Sinodo dei Vescovi: Cronaca-Bilancio-Documentazione* (Turin: Borla editore Torino, 1968); Giovanni Caprile, *Il Sinodo dei Vescovi: Prima Assemblea Generale (29 settembre – 29 ottobre 1967)* (Rome: Società Grafica Romana, 1968).

⁴⁶ For Paul VI’s words at the invocation of the 1967 Synod of Bishops, see Paul VI, *Habita in patriarchali Basilica Vaticana, Eucharistico Sacrificio a Beatissimo Patre concelebrate, ut Episcoporum Synodi coetus inaugurarentur*, 29 September 1967: AAS 59 (1967) 963-969. An English translation of the Pope’s address is provided in Hebblethwaite, 106-113.

⁴⁷ Caprile, 145.

⁴⁸ Michael Cardinal Browne, OP (1887-1971), an Irish Dominican, had served as Master General of the Dominicans and, at the time of the 1967 Synod of Bishops, was a member of the SCDF and a close collaborator with the Prefect, Cardinal Ottaviani.

Modern Opinions and Also on Atheism,” was introduced.⁴⁹ The *instrumentum laboris* was based directly on Cardinal Ottaviani’s unpopular letter to the episcopal conferences and shared its vexed tone regarding dangers to the faith which, from the perspective of Cardinal Ottaviani, were ubiquitous in the post-Vatican II Church. It was crafted in two major parts: 1) an articulation of certain contemporary threats to the faith, and 2) a very brief treatment of atheism and its contemporary pluraformity.

The first portion of the text began by pointing out “a crisis of civilization” which had perverse effects on both the secular culture and the Church; a crisis which suggested a dual response: a renewed proclamation of the faith in a manner tailored to contemporary man, along with an exploration of “the new spiritual culture of the world . . . under the dictates of faith.”⁵⁰ The document then proceeded to address this civilizational crisis and its deleterious effects on sound doctrine under eight headings.⁵¹

The document concluded its first portion with an acknowledgement that the list of dangers enumerated in the document was not exhaustive and that “[t]here [were] many other things being produced in Catholic life and thought” considered problematic.⁵² The result, the working document proposed to the Synod Fathers, was clear:

⁴⁹ Synodus episcoporum (1967), *Argumenta de quibus disceptabitur in primo generali coetu Synodi episcoporum. Pars altera* (Vatican City: Typis Polyglottis Vaticanis, 1967) 5-26. An English translation is available as an appendix in Hebblethwaite, 123-144.

⁵⁰ Hebblethwaite, 124.

⁵¹ The document presented dangers in the following categories: 1) Fundamental Theology; 2) Christology; 3) Ecclesiology; 4) Anthropology; 5) Principles of Morality; 6) Specific Moral Issues regarding Social Morality and Sexual Morality; 7) Sacraments; and 8) the doctrinal principles regarding The Present World and the World to Come.

⁵² Hebblethwaite, 144.

The task of the Church is therefore to see that the dangers and errors which threaten to corrupt the deposit of faith should be eradicated, and at the same time to promote deeper theological reflection and pastoral care in the way which Vatican Council II opened up.⁵³

The second portion of the document was brief. It addressed atheism in its historical form but especially in its newer contemporary forms which, the document suggested, required the Church to discuss anew its methodology to meet its claims.

Because the working document's enumeration of hazards did not differ substantially from Cardinal Ottaviani's letter to the episcopal conferences, it comes as no surprise that when the Synod Fathers began their conversation on it after Cardinal Browne's *relatio*, it met with a similar less-than favorable reaction. For example, the first to speak was Léon-Etienne Cardinal Duval (Alger) who thought the schema appeared "too analytical, negative, superficial, and perhaps inefficacious"⁵⁴ On the next day, 5 October, in the presence of Paul VI who presided over the morning session in person,⁵⁵ many responses were critical while other Synod Fathers indicated that the highlighted doctrinal errors were not really of great concern in their local Churches.⁵⁶ Generally critical responses followed in the subsequent days of discussion.

⁵³ Ibid.

⁵⁴ Caprile, 159: "In generale, lo schema appare troppo analitico, negativo, superficiale, e forse inefficace...."

⁵⁵ Paul VI remained until the morning coffee break at 10:30am (Hebblethwaite, 39-40). His mid-morning departure caused many in the press to speculate that it was due to frustration regarding the critical tenor of the interventions pertaining to the issue of doctrinal challenges.

⁵⁶ For a thorough description of the course of events and a day-by-day summary of the Synodal Fathers' interventions, see Caprile, "Capitolo Settimo: Circa Le Opinioni Pericolose E L'Ateismo (4-10; 26-27 ottobre 1967)," 141-236.

Eventually the Synod Fathers judged the *instrumentum laboris* prepared by the SCDF to be inadequate and called for a new text which would more accurately reflect what they desired to say vis-à-vis contemporary doctrinal challenges the Church needed to face. To prepare such a text, the Synod Fathers elected members to a newly established doctrinal commission on 12 October 1967.⁵⁷ The commission met for the first time the very next day and, over the course of the next ten days, authored a new and conclusive *relatio* which received the approval of the Synod Fathers in their last week.⁵⁸ It is this document which served as the synodal font for canon 754 and must therefore be examined more closely.

Hebblethwaite commented that the Synod Fathers could not possibly address each point of the text in the amount of time they had been given. Rather, “[t]hey had to confine themselves to the general approach. And they found it gravely wanting, not so much because they disagreed with what was said, but because of its pastoral and theological inadequacy” (39). The document faced sharp critique when Leo Jozef Cardinal Suenens (Mechelen-Brussels) and John Carmel Cardinal Heenan (Westminster) made interventions on the first day of discussion (5 October). The next day (6 October) Paul-Émile Cardinal Léger (Montréal) and Pierre Marie Joseph Cardinal Veillot (Paris) both suggested the establishment of a Theological Commission to engage the difficulties presented in the working document rather than to adopt the alarmist style which the document engendered. Augustin Cardinal Bea (Pontifical Council for Promoting Christian Unity) agreed with the proposal as did Bishop Hermann Volk (Mainz, later made Cardinal in 1973).

Archbishop Hyacinthe Thiandoum (Dakar, later made Cardinal in 1976) reported that the errors delineated in the working text were not of great concern: “I territori africani, grazie a Dio, sono in genere ancora preservati da quelle infiltrazioni dottrinali erronee di cui si parla e che vengono largamente propagandate da libri e giornali, anche perché in quei paesi non vi sono filosofi e teologi di gran nome che possono dedicarsi a studi speciali in materie esegetiche e religiose” (Caprile, 165).

⁵⁷ The eight elected members of the commission were: Franjo Cardinal Šeper, President (Zagreb, later made Prefect of the SCDF in 1968), Bishop Carlo Colombo (Auxiliary, Milan), Bishop John Wright (Pittsburgh, later made Cardinal and Prefect of the Sacred Congregation for Clergy in 1969), Julius August Cardinal Döpfner (München and Freising), Pierre Marie Joseph Cardinal Veillot (Paris), Archbishop Marcos Gregorio McGrath (Panamá), Leo Jozef Cardinal Suenens (Mechelen-Brussels), and Archbishop Néophytos Edelby (Melkite Auxiliary of Antioch). To these were added four more members by the appointment of Pope Paul VI: Paul Cardinal Zoungara (Ouagadougou), Archbishop Pablo Muñoz-Vega (Quito, later made Cardinal in 1968), Archbishop Joseph Marie Anthony Cordeiro (Karachi, later made Cardinal in 1973), and Bishop Paul Yoshigoro Taguchi (Osaka, later made Cardinal in 1973).

⁵⁸ The text was approved with 143 voting *placet*, 4 *non placet*, 31 *placet iuxta modum*, and 2 abstentions (Zizola, 54).

The document took into consideration the original *instrumentum laboris*, keeping in mind that the Synod Fathers did not have difficulty with the problems it articulated *per se* but more with the style of the document. It also took into consideration Cardinal Browne's *relatio* and the fruitful discussion of the Synod Fathers. It proceeded in three main sections: 1) it sought to address "the crisis in which the People of God finds itself today in what pertains to preserving unimpaired and setting forth its faith;" 2) it sought to provide pastoral principles "which in this crisis should inspire the manner of acting, especially of pastors of the Church and of theologians;" and 3) to make concrete "proposals . . . which seem[ed] to [them], in accord with the thinking of the fathers, more likely to meet the present difficulties."⁵⁹ Even the titles of these sections and the way they emphasize the people of God over doctrinal error convey that this text, more so than the *instrumentum laboris* coming into the Synod, "[was] essentially a pastoral document and should be read as such."⁶⁰

Part one of the commission report, "The Current Crisis Concerning Catholic Faith and Doctrine" recognized that the Second Vatican Council, in *Gaudium et spes*, had already acknowledged the existence of certain difficulties which could "disturb the faith of the People of God."⁶¹ The commission report stated, however, that these difficulties

⁵⁹ Hebblethwaite, 148-149.

⁶⁰ Hebblethwaite, 54.

⁶¹ Hebblethwaite, 149. The Doctrinal Commission provides examples of these disturbing circumstances: the rapid pace of scientific and secular civilization, an "ever increasing awareness of the evolution of the universe and of man's own life and history," an anthropology which neglects a sense of verticality and relationality with God.

needed to be met with a renewed positive articulation of the faith and not just with a condemnation of aberration:

Therefore, some fathers, citing the words of John XXIII, stated that the Church cannot remain silent in these circumstances and must express in new formulations the revealed truth which she has always handed down—formulations adapted to a new view of conditions, keeping, of course, the same meaning and the same thought. This work is altogether necessary, although it is difficult and brings with it dangers which are not to be minimized.⁶²

The reference in this passage to John XXIII is to his allocution at the opening of the Second Vatican Council; an allocution which set the Church in a positive posture of honest engagement with the world and not one of condemnation.⁶³ John XXIII articulated that the Council's chief purpose was "that the sacred deposit of Christian doctrine be safeguarded *and promoted* in a most efficacious manner."⁶⁴ Furthermore, in describing the best way to combat error in the contemporary context, the Pope stated:

There is no time in which the Church may not be opposed to [theological] errors; often she even condemned them, and at times with the greatest of severity. Regarding the present time, the Spouse of Christ prefers to use the medicine of mercy instead of taking up the arms of rigor; she thinks that she must go out to meet modern needs, espousing more clearly the value of her teaching rather than condemning.⁶⁵

⁶² Hebblethwaite, 150.

⁶³ Pope John XXIII, *Allocution at the Opening of the Second Vatican Council*, 11 October 1962: AAS 54 (1962) 786-795.

⁶⁴ *Allocution at the Opening . . .*; AAS 54 (1962) 790: "*Praecipuum Concilii munus: doctrina tuenda ac promovenda: Quod Concilii Oecumenici maxime interest, hoc est, ut sacrum christianae doctrinae depositum efficaciore ratione custodiatur atque proponatur*" (emphasis added).

⁶⁵ *Allocution at the Opening . . .*; AAS 54 (1962) 792: "Quibus erroribus Ecclesia nullo non tempore obstitit, eos saepe etiam damnavit, et quidem severitate firmissima. Ad praesens tempus quod attinet, Christi Sponsae placet misericordiae medicinam adhibere, potius quam severitatis arma suscipere; magis quam damnando, suae doctrinae vim uberius explicando putat hodiernis necessitatibus esse consulendum."

This promotional posture regarding the doctrine of the faith which John XXIII sought for the Second Vatican Council is what carried over to the doctrinal deliberations of the 1967 Synod of Bishops as can be seen from the Synodal Fathers' reaction to the SCDF's working document and the resultant *Relatio* taking into account their own interventions. Furthermore, John XXIII's vision influenced the revision of the Code of Canon Law, and the subsequent reform of the Roman Curia in *Pastor bonus*, and even the conception of the CDF's proper duty as involving both the promotion of doctrine in addition to and alongside the task of safeguarding it.

In a positive tone not found in the original *instrumentum laboris*, the commission report acknowledged with gratitude the work of theologians and the laity who together plumbed the depths of the richness of the faith. The Synod Fathers acknowledged the circumstances which posed significant challenges to the faith but, at the same time, desired not to dwell on them. Instead, the commission report moved quickly to the second and largest portion of the report: a presentation of the six "pastoral principles to be observed in these circumstances."⁶⁶

The first principle simply reiterated the duty to proclaim the faith in the contemporary context as the Church had been missioned by Christ to do in every age. The Synod Fathers highlighted the fact that the faith is a gift meant to be shared by all who possess it. The necessity of making this proclamation is incumbent first upon the bishops and their collaborators, but ultimately upon all the baptized.⁶⁷

⁶⁶ Hebblethwaite, 153.

⁶⁷ Hebblethwaite, 154.

The second principle has direct application to how canon 754 would eventually come to be crafted. The Synod Fathers reiterated that the authority to teach the faith authentically resides with the successors of the apostles as a college in union with the Roman Pontiff. The Synod Fathers conclude the second principle with the words:

All the faithful, in any case, are to be taught clearly, and in ways adapted to the contemporary mentality, about the filial obedience and sincere adherence owed to the declarations of the teaching authority in the Church, all according to the different nature of different pronouncements, as is taught by Vatican Council II.⁶⁸

The third principle went to the heart of the Synod Fathers' concern regarding Cardinal Ottaviani's letter and it directly reflects John XXIII's desire for a new *modus operandi*. The document states:

In fulfilling their office of teaching, the bishops must be concerned both with faithfully preserving the deposit of faith and with protecting their flocks from the dangers that threaten them. But a positive way of setting forth the truth will usually be more fitting than a mere negative condemnation of error Above all, pastors should be aware of how legitimate and even necessary it is for preserving the deposit of faith that there be progress of the sciences and culture and the ever new questions that face mankind.⁶⁹

Immediately certain phrases of this text present themselves as precursors to what would appear as canon 754 and to what John Paul II would envision for the CDF in *Pastor bonus*. The Synodal Fathers here indicated that the task of condemning, while still necessary, may not always be the best way to proceed in preserving doctrinal and moral

⁶⁸ Hebblethwaite, 155. The reference to Vatican II is specifically to *Lumen gentium*, n. 25; AAS 57 (1965) 29-31.

⁶⁹ Hebblethwaite, 156.

integrity, especially in the contemporary context. Rather, a positive engagement with the world, an appreciation for scientific and cultural advances, and a probing of the questions arising from such advances must be taken into consideration. *Pastor bonus* article 49 has similar language in requiring the CDF to foster studies that meet this goal of responding to questions “arising from the progress of the sciences or human culture.”

The fourth principle attempted to mitigate against the suspicion cast on theologians in the *instrumentum laboris* and acknowledged the benefit of their ecclesial service, especially in light of the previous principle. The Synodal Fathers exhorted bishops “to encourage the cooperation of theologians among themselves” and with the magisterium, “especially by means of episcopal commissions on doctrine.”⁷⁰

The fifth principle sought to harness the diffusion of doctrine such that it occurs in a manageable and prudential fashion. The Synod Fathers took into account the increasingly rapid forms of social communication and the benefits and challenges they posed to sound teaching. They called for clarity in teaching regarding what was fundamental to the Christian faith and what could be classified as authentic development. “Let all those, then, who teach, write or preach be aware of the duty which obliges them to act in communion with the magisterium and according to its directions.”⁷¹

⁷⁰ Hebblethwaite, 157. Balam notes “the important role of theologians and exegetes in deepening and proclaiming the revealed truth was diminished. The ecclesiastical magisterium proclaimed itself as the proximate and universal norm of faith to any theologian. The latter, in turn, became auxiliaries of the magisterium of the Church and were limited to providing arguments to support what the magisterium taught. Understandably, this nourished a certain prejudice toward the authority of the Church, by qualifying it as being an obstacle for the progress of science and technology” (75).

⁷¹ Hebblethwaite, 158.

The sixth and final principle expressed the inextricable connection between the witness of teaching and the witness of the manner of one's life. All the Christian faithful in private and public circumstances, the Synod Fathers thought, must have constancy of witness in addressing the social dilemmas of the day.

The *Relatio* concluded with two concrete proposals: 1) that a Theological Commission ought to be established, and 2) that the Holy See publish a “positive pastoral declaration concerning questions involved in the doctrinal crisis of today.”⁷²

5. Summary Observations on the Sources for Canon 754

Canon 1324 is identified as the only *fons* from the 1917 *CIC* for canon 754. Had canon 1324 been carried into the 1983 Code of Canon Law directly with little or no alteration, the tenor of canon 754 would have been much different from what it is now and it would have been ill suited to address the dual nature of the CDF's proper duty as it would be defined five years later in *Pastor bonus* article 48. Canon 1324 said nothing at all about the promotion of doctrine nor did it encourage the faithful to cling or adhere to sound faith when presented as such by the Holy See. Instead, it appeared exclusively concerned with protecting the faithful from anything that “more or less approach[ed] [heresy].” The focus of the canon, then, was on those texts issued by the Holy See in order to “proscribe” and “prohibit” the “depraved opinions” which ought to be “diligently fled.” To use simile, we might say that if canon 1324 was a light cast upon the path of faith for the benefit of the Christian faithful called to walk it, it would seem that it only

⁷² Hebblethwaite, 55.

spotlighted the potholes, bumps, and ravines on either side of the path rather than illuminating the full breadth, direction, and extent of the path ahead.

Pius XII's encyclical, *Humani generis*, made explicit reference to canon 1324 and understandably so given the purpose for which the Pope issued the encyclical, i.e., to pinpoint philosophical and theological errors and to advise the faithful to stay clear of them. Both canon 1324 and *Humani generis* give the impression that the Church was suspicious of what the latter called "novelties" and their ability, or lack thereof, to express the truths of faith which had withstood the test of time in a precise dogmatic lexicon. While Pius XII's pastoral impetus in *Humani generis* is evident in that, more than once, he makes clear his desire to set forth in an inviting and engaging way, the truths of the faith, still the magisterium of the Church was wary of new expressions of old truths, often purported by theologians, and was eager to ensure that the content of the doctrine of the faith and morals did not suffer harm as a result of their new articulation.

This wary perspective shifted with the advent of the Second Vatican Council.⁷³ Yet fresh in its wake, the 1966 circular letter of Cardinal Ottaviani to the episcopal conferences reflected the same condemnatory perspective of canon 1324 and the vigilant

⁷³ E.g., Castillo Lara noted how pre-conciliar legislation regarding the censorship of books was passé and that the new legislation needed to reflect the perspective of the Second Vatican Council: "De toute façon, c'était sur plusieurs points, une législation dépassée. L'après-Concile Vatican II et le climat culturel exigeaient une attitude différente et de nouvelles procédures pour la protection de la foi. On devait compter d'avantage sur la maturité des personnes et sur leur responsabilité et montrer un plus grand respect envers les droits de la personne dans le cas d'une éventuelle prohibition des livres" (Rosalio José Castillo Lara, "Le Livre III du CIC de 1983: Histoire et principes," *L'Année canonique* 31 [1988] 28). See also *Communicationes* 29 (1997) 47 for the observation during the revision process that the maturity of the faithful was not adequately taken into consideration: "Il ruolo di supervisione e vigilanza dell'autorità della Chiesa nell'esercizio del 'munus docendi,' da alcuni viene lodato, ma dai più viene criticato, perché troppo paternalistico e non rispetta la libertà e maturità dei fedeli, e appare preoccupato soprattutto di evitare gli abusi. Specialmente criticati: cann. 72-84 [of the 1977 *Schema*] (censura libri)"

posture of *Humani generis*. The strikingly unfavorable response to both the letter's style as being antiquated and outmoded, and to the *instrumentum laboris* for the 1967 Synod of Bishops which had borrowed heavily from the letter, pointed to the sea change which had occurred regarding the Church's pastoral approach to the world and to her own theological reflection. Now, rather than defensively safeguarding doctrinal purity from the corrosive effects of rampant contemporary errors, there was a growing interest in proactively promoting the doctrine of the faith in an engaging manner and with a renewed confidence that the Church could be a partner with the temporal order for advancing what was truly human and noble; the faith, in other words, was not just something to be preserved as if in a museum, but was something that could contribute to the development of culture and the advancement of science.⁷⁴ John XXIII had expressed this when he often repeated a similar sentiment: "The Catholic Church is not an archaeological museum. It is the ancient village fountain which gives water to the generations of today, just as she has done to those of the past."⁷⁵

This shift in the pastoral approach to questions of doctrine—a shift desired by John XXIII at the outset of the Second Vatican Council—is manifest in *Pastor bonus* and the competency entrusted to the CDF over everything relating to the doctrine of faith and morals. It is equally reflected in the wording of canon 754. How the canon developed

⁷⁴ The author intentionally leaves out of this study any assessment of whether or to what degree this shift in pastoral approach has borne the fruit envisioned by those who advocated it, and whether or to what extent Cardinal Ottaviani was prescient in his concerns.

⁷⁵ AAS 52 (1960) 963: "La Chiesa Cattolica non è un museo di archeologia. Essa è l'antica fontana del villaggio che dà l'acqua alle generazioni di oggi, come la diede a quelle del passato."

through the revision process to its current wording, and what that informs us of the canon's intent and scope, is the next matter for our consideration.

C. The Development of the Text of Canon 754

Any consideration of the development of the 1983 Code of Canon Law must take into account the profound influence of the Second Vatican Council.⁷⁶ Though John XXIII had established the Commission for the Revision of the Code on 28 March 1963,⁷⁷ the Commission quickly decided to delay its work until the completion of the Council in recognition of the fact that the Council would have a deep impact on the structure and content the new Code ought to have.⁷⁸ It was not until 20 November 1965 when Paul VI solemnly opened the work of the Commission for the Revision of the Code at which time he encouraged the Commission to allow the documents of the Second Vatican Council to guide their work.⁷⁹ Years later, when John Paul II promulgated the new Code, he stated:

The instrument which the Code is fully corresponds to the nature of the Church, especially as it is proposed by the teaching of the Second Vatican Council in general and in a particular way by its ecclesiological teaching. Indeed, in a certain sense this new Code could be understood as a great

⁷⁶ For a succinct review of the central importance of the Second Vatican Council on the Code revision process, see John A. Alesandro, "The Revision of the Code of Canon Law: A Background Study," *Studia canonica* 24 (1990) 92-101.

⁷⁷ AAS 55 (1963) 363-364.

⁷⁸ See *Prima Sessio Em.morum Cardinalem, Communicationes* 1 (1969) 36: "Sodales, post aliquam discussionem, convenerunt cum Praeside, Card. Ciriaci, formales labores recognitionis Codicis differendos esse post conclusionem Concilii Vaticani II, attamen initium dari posse modo private laboribus praeparatoriis."

⁷⁹ AAS 57 (1965) 985-989.

effort to translate this same conciliar doctrine and ecclesiology into canonical language.⁸⁰

What John Paul II articulated for the entire Code very much applies to Book III in particular, canon 754 included, especially when one considers the *fontes* for the canon and how heavily influenced they were by the same current of the Second Vatican Council. The conciliar influence on canon 754 is perceived, however, not just in its *fontes*, but also time and again in its textual evolution from the 1917 *CIC* before the Council, to the 1983 *CIC* after the Council.

We will trace the evolution of canon 754 in six primary stages: 1) from the establishment of the *coetus De Magisterio Ecclesiastico* up to the 1977 *Schema*; 2) the 1977 *Schema, De Ecclesiae munere docendi*; 3) the period of consultation and *disceptatio in coetu* leading to the next *schema* in 1980; 4) the 1980 *Schema, De Ecclesiae Munere Docendi*; 5) the 1981 *Relatio*; and finally 6) the 1982 *Schema* and its review by Pope John Paul II before promulgation.

For obvious reasons, we will limit our focus exclusively to what transpired at each stage directly or incidentally pertaining to canon 754. The goal in proceeding this way is to examine the form of the canon at each stage and to review the deliberations by the consultants of the *coetus* in particular, and of the Commission for the Revision of the Code

⁸⁰ John Paul II, Apostolic Constitution *Sacrae disciplinae leges*, 25 January 1983: AAS 75/2 (1983) x: “Instrumentum, quod Codex est, plane congruit cum natura Ecclesiae, qualis praesertim proponatur per magisterium Concilii Vaticani II in universum spectatum, peculiarique ratione per eius ecclesiologicam doctrinam. Immo, certo quodam modo, novus hic Codex concipi potest veluti magnus nusus transferendi in sermonem canonicum hanc ipsam doctrinam, ecclesiologicam scilicet conciliarem.” Hereafter this document shall be cited as *SDL*. English translation from the text provided in the *Code of Canon Law, Latin-English Edition* (Washington, DC: CLSA, 1983) xxx.

in general, which brought about the variations. This will enable us to glean the *ratio legis* and perceive more readily the *mens legislatoris* (cf. c. 17) of the canon.⁸¹

1. From the Establishment of the *Coetus De Magisterio Ecclesiastico* to the 1977 *Schema*

On 24 March 1966, the *coetus De Magisterio Ecclesiastico* was established to revise the canons pertaining to the teaching office of the Church.⁸² The *coetus* would complete its work in a total of twelve sessions,⁸³ the first nine of which were dedicated to preparing the first version of a working draft of canons (*schema*) which could be sent out

⁸¹ See the above cited article by Castillo Lara (page 278, footnote 73 *supra*) for a helpful summary of the development process for Book III. Castillo Lara articulated the importance of understanding the history of canonical legislation and the key it provides to unlocking a deeper understanding of the law: "L'histoire a, en droit canonique, une certaine importance, non seulement pour des raisons d'érudition mais surtout parce qu'elle aide à comprendre un texte ou une institution juridique en montrant son évolution . . . le droit canonique n'a pas l'habitude de procéder par voie de révolution mais d'évolution, c'est-à-dire par une espèce de croissance naturelle laquelle les semences ou les racines laissent entrevoir, pour ainsi dire, le futur développement. Une norme dépend donc beaucoup de la précédente, laquelle sert souvent à éclairer son contenu, à clarifier sa force et à préciser l'étendue de sa portée" (18).

⁸² *Communicationes* 1 (1969) 33. It was directed by Msgr. Willy Onclin, and included Archbishop Pietro Palazzini (Secretary of the Sacred Congregation of the Council, later named Cardinal in 1973), Bishop Joseph Schröffer (Secretary of the Sacred Congregation for Seminaries and Universities, later made Cardinal in 1976), Archbishop Ildefonso Sansierra (San Juan de Cuyo, Argentina), Bishop Petru Plesca (titular bishop of Voli, Romania), Giuseppe Graneris, Albino Galletto (Secretary to the Pontifical Commission for Social Communications), Joseph Ratzinger (who later withdrew for reasons of health and other responsibilities), Vincenzo Che, Cristoforo Berutti, Antonio Domínguez de Sousa, and Otto Semmelroth.

Membership in the *coetus* shifted throughout the process. For example, after a period of five years into the revision process, the following members were added: Archbishop Duraismy Simon Lourdasamy (later made Cardinal in 1985), Bishop Maximino Romero de Lema (titular bishop of Horta), Bishop Luigi M. Carli (Segni, Italy), Alfons Maria Stickler (later made Cardinal in 1985), Willibald Plöchl (see Castillo Lara, 18-19).

⁸³ The twelve sessions totaled 144 meetings, involving a total of 22 consultants, over 360 hours of work (see *Communicationes* 12 [1980] 223).

for consultation and feedback.⁸⁴ The remaining three sessions concentrated on incorporating the feedback the *coetus* group received on the various *schemata* it gradually developed. Because the *coetus* needed to draft legislation for a variety of topics falling under the heading of the teaching function of the Church, e.g., schools, seminaries, missions, preaching, *inter alia*, not all of the sessions are relevant to this study. The text which would eventually become canon 754 was addressed only at the first, second, third, and seventh sessions at this preliminary phase leading up to the 1977 *schema*.

During the first session (23-28 January 1967), Msgr. Willy Onclin proposed certain principles to serve as the “theological foundation for the disciplinary regulations” the *coetus* would prepare, arguing that such principles were necessary if the legal norms were to be reasonable, acceptable, and congruent with doctrine.⁸⁵ This was to be done while keeping in mind that the task entrusted to the *coetus* was properly canonical and not theological, i.e., they were not to prepare a theological treatise but legislation.⁸⁶ Directly relevant to this study is the consultants’ desire to define with precision and clarity

⁸⁴ See *Communicationes* 19 (1987) 281-284 for an outline of the nine sessions and the particular canonical institutes the consultants addressed at each in drafting the 1977 *schema*.

⁸⁵ *Communicationes* 19 (1987) 222-223: “1. Necesse videtur ut praecipua principia doctrinalia enuntientur in novo Codice: haec principia sunt fundamentum theologicum regularium disciplinarium et rationes praebent ipsius disciplinae; iam autem hodie praesertim breviter saltem indicare debent rationes ob quas regulae disciplinares statuuntur; quae rationes sunt necessario tradendae ut normae disciplinares rationabiles et acceptabiles appareant et insimul ut normae disciplinares debite declarari valeant. 2. Sola principia doctrinalia enuntianda sunt ea quae ad intelligentiam normarum disciplinarium requiruntur et quae efficient ut legislatio appareat ut aliquid unum sibi cohaerens. 3. Principia haec doctrinalia enuntiare debent quae sunt inconcussa, praesertim attenta doctrina in Concilio Vaticano II proposita; sed Commissionis C.I.C. Recognoscendo non est quaestiones theologicas, quibus Concilium non tradidit certam doctrinam vel noluit certas tradere normas, dirimere.”

⁸⁶ *Communicationes* 19 (1987) 224: “Attamen, dicit Rev.mus Secretarius Ad. nulla in Codice quaestio theologica dirimi potest. Legislatoris non est quaestiones theologicas dirimere – non debet facere opus theologi, sed praesertim legislatoris, supposita doctrina theologica certa et ab Ecclesia declarata.”

what organs in the Church participated in magisterial authority *ex natura rei* (by the nature of the matter) or *ex ordinatione Ecclesiae* (by the determination of the Church). In particular, the consultors desired that magisterial competency be defined regarding those things considered *revealed* and those things understood to be *precepts of natural law* and the binding force of each, in addition to providing clarity on what teaching authority is of divine law and of ecclesiastical origin.⁸⁷

The principles having been established, the *coetus* set about its work. Starting with the canons of the 1917 *CIC*, the *coetus* first considered the initial canons providing the general norms of the teaching office of the Church, as well as the norms for preaching the divine word.⁸⁸ Included among the general norms was canon 1324. The consultors decided to address the canon in its two portions: one before the semicolon and the other after. Regarding the first portion, whereas two consultors suggested maintaining the wording of the canon as it was in the 1917 *CIC*, two other consultors thought it would be better to make the canon milder and more ecumenically sensitive in accord with the Second Vatican Council decree on ecumenism *Unitatis redintegratio*.⁸⁹ Already at this early stage of the canon's development, the guiding force of conciliar texts can be seen. Thus, the consultors thought it unnecessary to speak of "heretical depravity" (1917 *CIC*:

⁸⁷ *Communicationes* 19 (1987) 224: "Requiritur, iuxta eundem, praecisa determinatio organorum qui in Ecclesia participant 'ex natura rei' aut 'ex ordinatione Ecclesiae' functionem Magisterii et in specie requiritur: a) ut ambitus Magisterii ecclesiastici definiatur, eius competentia circa 'revelata' et circa 'praecepta iuris naturalis;' item vis obligandi; b) ut subiecta Magisterii active determinentur, scil. quinam illud exerceant 'iure divino' (Hierarchia) et 'iure ecclesiastico' (organa S. Sedis, Conferentiarum Episcopatum, Curiae dioecesanarum, etc.)."

⁸⁸ *Communicationes* 19 (1987) 221-260.

⁸⁹ *Communicationes* 19 (1987) 230-231; see *UR*; *AAS* 57 (1965) 90-112.

haereticam pravitatem devitare). Instead, all the consultors agreed upon a new formula which simply required all to avoid any doctrines contrary to or incongruent with that which was proposed as requiring a response of divine and catholic faith.⁹⁰

In addressing the next part of the canon, i.e., the obligation to adhere to the constitutions and decrees emanating from the Holy See, the consultors considered broadening the canon to specify that the Christian faithful would still be bound to adhere to decrees even when they emanate from one's proper bishop as well as from the episcopal conference.⁹¹ Another consultor then suggested adding a positive phrase to the obligation noting that the constitutions and decrees to be observed may very well "declare true doctrine" in addition to "denouncing errors."⁹² This initiated a conversation about whether a positive aspect of the canon should be expressed in its own paragraph obliging the observation of constitutions and decrees by which the faith is declared, apart from another for the negative obligation of avoiding errors contrary to the faith. The decisions were made, however, not to incorporate a positive aspect to the purpose of the constitutions and decrees, and to eliminate any reference to the episcopal conference since it did not have power in all matters but only in those things for which it was

⁹⁰ See *Communicationes* 19 (1987) 230: "Cum eis quae ab Ecclesia tamquam de fide divina et catholica credendis fidei obsequio adhaerendum sit, tenentur omnes quascumque devitare doctrinas iisdem contrarias, immo et eas que cum doctrina catholica non congruunt."

⁹¹ *Communicationes* 19 (1987) 230: "Est Rev.mus Consultor qui proponit ut pars secunda canonis affirmet etiam necessitate religiose adhaerendi decretis proprii Episcopi et textum proponit ut sequitur: 'In rebus fidei et morum non solum evitanda est haeresis sed etiam errores ad illam plus minusve accedentes: quare fideles suo Episcopo docenti religioso animi obsequio adhaerere debent, singulari vero ratione Constitutionibus, decretis aliisque actis Sedis Apostolicae.'"

⁹² The suggested text read "Quare omnes religioso animi obsequio obsecundare tenentur constitutionibus et decretis quos ad veram doctrinam declarandam erroresque contra eas serpentes denunciandos dederint Apostolica Sedes aut proprius Episcopus" (See *Communicationes* 19 [1987] 230).

granted.⁹³ Thus, the consultors agreed upon a text for the second portion of the canon requiring all to observe the constitutions and decrees issued by one's proper bishop, or especially those issued by the Apostolic See, by which erroneous opinions were proscribed or prohibited.⁹⁴

At the second session (13-17 February 1968) the main focus was on developing the canons pertaining to schools but at a meeting prior to the session, the consultors reconsidered their earlier decision not to include episcopal conferences in their revised canon 1324 when one of the consultors pointed out that doctrinal texts can and do emanate from episcopal conferences.⁹⁵ Onclin observed that episcopal conferences were addressed in canon 1326 yet the consultors agreed that it should be included in canon 1324. Thus the text became:

Since one must adhere with an assent of faith to all that the Church proposes as of divine and catholic faith, everyone is held to avoid any contrary teaching or even teaching not in harmony with it. Hence, all must also observe those constitutions and decrees which their own bishop or the bishops of the region or ecclesiastical province enact in particular councils or in episcopal conferences proscribing or prohibiting erroneous opinions, and in a special way those that the Apostolic See published.⁹⁶

⁹³ *Communicationes* 19 (1987) 231: "[Onclin] aestimat melius esse ut canon tantum de 'Episcopo proprio' et non de 'Conferentiis Episcoporum' statuatur, quia Conferentiae Episcoporum potestatem non habent in omnibus materiis, sed in certis tantum."

⁹⁴ Thus with the revised second portion added to the revised first portion, the *coetus* agreed upon the following new text for canon 1324: "Cum eis quae ab Ecclesia tamquam de fide divina et catholica credendis fidei obsequio adhaerendum sit, tenentur omnes quascumque devitare doctrinas iisdem contrarias, immo et eas quae cum doctrina catholica non congruunt. Quare omnes debent etiam constitutiones et decreta servare quibus erroneae opiniones proscribit aut prohibet proprius Episcopus speciali vero ratione quae edit Apostolica Sedes" (*Communicationes* 19 [1987] 252).

⁹⁵ *Communicationes* 20 (1988) 123: "Ad can. 1324. Ad mentem Rev.mi cuiusdam Consultoris, mentio etiam fieri debet de litteris doctrinalibus, quas edunt Episcoporum Conferentiae."

⁹⁶ *Communicationes* 20 (1988) 123-124: "Cum eis quae ab Ecclesia tanquam de fide divina et catholica credendis fidei obsequio adhaerendum sit, tenentur omnes quascumque devitare doctrinas iisdem

The *coetus* met again a third time (21-26 October 1968)⁹⁷ and concentrated on the topic of schools and seminaries. At this session, however, the consultants approved the draft canons they had previously prepared, including canon 1324, without alteration.⁹⁸ In order to complete the first draft of canons for the teaching function of the Church, the *coetus* would go on to meet a fourth time (21-24 April 1969) to continue work on seminaries and universities, and to consider norms for the censoring of books;⁹⁹ a fifth time (7-10 April 1970)¹⁰⁰ to continue its work on seminaries, and a sixth time (15-18 March 1971)¹⁰¹ to complete the revisions on seminaries, the censoring of books, missions, and on the profession of faith. At none of these sessions did the *coetus* take up again the revision of canon 1324.

At its seventh session (17-19 January 1972), the *coetus* made syntax alterations to the canon but no substantive changes.¹⁰² By this time, the *coetus* had devised a substantially complete *schema* for all of the canons relevant to the teaching office of the

contrarias, immo et eas quae cum doctrina catholica non congruunt. Quare omnes debent etiam constitutiones et decreta servare quae ad proscribendas prohibendasque erroneas opiniones ferunt proprius Episcopus, Episcopi regionis et provinciae ecclesiasticae in Conciliis particularibus aut Episcoporum Conferentiis, speciali vero ratione quae edit Apostolica Sedes.” English translation in Balam, 93.

⁹⁷ *Communicationes* 8 (1976) 108-122; 20 (1988) 123-124.

⁹⁸ *Communicationes* 20 (1988) 170.

⁹⁹ *Communicationes* 19 (1987) 282.

¹⁰⁰ *Communicationes* 8 (1976) 133-153.

¹⁰¹ *Communicationes* 8 (1976) 153-157.

¹⁰² The *coetus* changed the verbs *ferre* and *edere* from the indicative to the subjunctive tense and reunited the canon into one statement separated by a semicolon instead of having it read as two separate sentences.

Church.¹⁰³ The canons were renumbered sequentially and canon 1324 became canon 3 under the heading *Canones Generales*. At this point, however, the *schema* remained with the secretary for the Commission until 1975 in large part due to a period of consultation and joint study between the Commission for the Revision of the Code and the Sacred Congregations for the Doctrine of the Faith (SCDF), Clergy, and Catholic Education.¹⁰⁴

Thus it was not until the eighth (13-17 October 1975) and ninth (3-7 May 1976) sessions¹⁰⁵ that the *coetus* incorporated the observations of the three above-mentioned congregations and, giving approval to its work, prepared the *schema* in 1977 for its first round of broad consultation.¹⁰⁶

2. The 1977 *Schema, De Ecclesiae Munere Docendi*¹⁰⁷

The 1977 *Schema* contained introductory *praenotanda* outlining the various titles by which Book III was organized, followed by eighty-five canons providing the proposed

¹⁰³ Castillo Lara, 20.

¹⁰⁴ Castillo Lara, 31. At its plenary session on 20-22 November 1973, the SCDF had studied its process of censoring books as well as the canonical institute of the *Imprimatur*. Knowing that the canons legislating for these topics were being revised by the *coetus De Magisterio Ecclesiastico*, the Sacred Congregation for the Doctrine of the Faith wanted a voice in how the new canons were drafted. Pope Paul VI subsequently required Pericle Cardinal Felici, President of the Commission for the Revision of the Code, to establish a joint commission with representatives from the Commission, from the SCDF, and from the Sacred Congregation for Clergy to ensure adequate consultation. The fruit of the mixed commission's work was later published as a decree which provided new norms derogating from the Code of Canon Law regarding the censorship of books (see Sacred Congregation for the Doctrine of the Faith, Decree *De Ecclesiae pastorum vigilantia circa libros*, 19 March 1975: AAS 67 [1975] 281-284).

¹⁰⁵ *Communicationes* 19 (1987) 283.

¹⁰⁶ Castillo Lara, 32.

¹⁰⁷ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema canonum libri III de ecclesiae munere docendi* (Vatican City: Typis Polyglottis Vaticanis, 1977). Hereafter this document shall be cited as 1977 *Schema*.

legislation regarding the teaching function of the Church. The third of these canons, based on canon 1324 of the 1917 *CIC* was worded as follows:

Can. 3. Since one must cling with the homage of faith to all that the Church proposes as of divine and Catholic faith, everyone is held to avoid any contrary teaching or even teaching not in harmony with it; hence all must hold fast to those constitutions and decrees which their own Bishop or the Bishops of the region or ecclesiastical province have enacted in particular Councils or Conferences proscribing or prohibiting erroneous opinions, and in a special way those that have been enacted by the Apostolic See.¹⁰⁸

One notes some significant changes from canon 1324 of the 1917 *CIC* to canon 3 in the 1977 *Schema*. As the deliberations of the *coetus* during its initial nine sessions indicate, the consultors, bearing in mind the decrees and spirit of the Second Vatican Council, were eager to make the canon more ecumenically sensitive and less condemnatory in tone. Thus, the newly revised canon lacks references to heretical depravity and any kind of fleeing. Rather the new text provides the rationale for *why* certain errors must be avoided, i.e., because “one must cling (*adhaerere*) with the homage of faith to that which the Church proposes as being of divine and Catholic faith.” The entertaining of anything contrary or inharmonious to the faith weakened one’s ability to cling to what is true and that, the canon connoted, was the real danger.

¹⁰⁸ 1977 *Schema*, c. 3: “Cum eis quae ab Ecclesia proponuntur tamquam de fide divina et catholica credenda, fidei obsequio adhaerendum sit, tenentur omnes quascumque devitare doctrinas iisdem contrarias, immo et eas quae cum doctrina catholica non congruunt; quare omnes debent etiam constitutiones et decreta servare quae ad proscribendas prohibendasque erroneas opiniones ferant proprius Episcopus, Episcopi regionis vel provinciae ecclesiasticae in Conciliis particularibus aut Episcoporum Conferentiis, speciali vero ratione quae edat Apostolica Sedes.” English translation by Rev. Msgr. Porter White, *Draft of the Canons of Book Three: The Church’s Teaching Mission* (National Conference of Catholic Bishops, Unpublished Translation, 1977).

Another observation can be made about the authority competent to issue the constitutions and decrees of which both canon 1324 and the revised canon 3 speak. In the former, the Holy See is indicated as the only subject of such documents whereas in the latter the Apostolic See is emphasized among an elaborated list of competent authorities. The fact that the consultors desired to expand the subject competent to proscribe and prohibit doctrinal error reflects not so much an aggrandizement of authority, i.e., the granting of competency to authorities who did not have it before, but more an explicit acknowledgment of specific entities in possession of the power to issue such decrees and constitutions. Still, canon 3 opens by noting that it is “the Church” which proposes that which is to be believed with divine and Catholic faith. Seemingly then, even within the newly revised canon an association is made between “the Church” in the first part and the list of authorities in the second. This was perhaps an oversight on the part of the *coetus* given that at their first session on 23 January 1967, in discussing the proper title for their portion of the Code, the consultors had acknowledged, again in keeping with the Second Vatican Council (specifically *Lumen gentium*, n. 12), that the term “Church” ought not to be equated exclusively with the magisterium or the hierarchy of the Church.¹⁰⁹ As will be seen, this was corrected in later redactions of the text.

¹⁰⁹ See *Communicationes* 19 (1987) 223-224: “[Onclin] sequentia explanat et proponit: Notat Rev.mus Consultor in hoc canone et in aliis sequentibus quaestionem esse de Magisterio Ecclesiae, i.e. de hierarchia magisterii ut ita dicam. Ex altera parte, ait, quae dicuntur in can. 1322 §1, valent etiam de tota Ecclesia, ut apparet ex Const. dogmatica *Lumen gentium*, n. 12, in quo affirmatur: ‘Universitas fidelium, qui unctionem habeat a Sancto, in credendo falli nequit, atque hanc suam peculiarem proprietatem mediante supernaturali sensu fidei totius populi manifestat, cum ‘ab Episcopos usque ad extremos laicos fideles’ [sic] universalem suum consensum de rebus fidei et morum exhibit. . . .’ Videtur tamen titulum conservari posse, imo et canonis 1322 §1 principium recte intelligi, si postea de magisterio quod etiam a tota Ecclesia exercetur distincta quaestio fit. Proponit igitur ut titulus maneat, et ut transitus fiat ad textum canonis 1322 §1.”

With the completion of the 1977 *Schema*, the first stage of the revision process reached a conclusion as the *coetus* waited to receive helpful feedback in order to continue the process of developing the new canons on the teaching office of the Church.

3. Period of Consultation and *Disceptatio in Coetu*

The *schema* was sent to the Secretariat of State on 11 January 1977 in order to receive Paul VI's approval for it to be sent out for consultation; an approval he gave a few months later on 15 June 1977.¹¹⁰ It was sent five months later on 15 November 1977, along with the *schemata* for *De normis generalibus*, *De Populo Dei*, *De locis et Temporalibus sacris deque Cultu divino*, and *De iure Ecclesiae patrimoniali*, to cardinals, bishops, episcopal conferences, dicasteries of the Roman Curia, universities and ecclesiastical faculties, and the Union of Religious Superiors with the request that responses be returned no later than 30 October 1978.¹¹¹

In the cover letter which accompanied the *schemata*, Pericles Cardinal Felici stressed that the canons were drafted in keeping with the decrees and spirit of the Second Vatican Council as well as in accord with the principles for the revision of the Code established at the 1967 Synod of Bishops.¹¹² The *Schema* garnered a total of 154

¹¹⁰ Castillo Lara, 32.

¹¹¹ *Communicationes* 9 (1977) 227-228.

¹¹² *Communicationes* 9 (1977) 227: "Cum elaboratione horum postremorum schematum universa disciplina hodierni Codicis recognita est iuxta Decreta et spiritum Concilii Oecumenici Vaticani II, necnon iuxta 'Principia quae Codicis Iuris Canonici recognitionem dirigant' a Synodo Episcoporum anno 1967 approbata."

responses¹¹³ which the *coetus* secretary then synthesized and compiled into a 117 page report for the benefit of the *coetus* members.¹¹⁴

While the responses made note of some generally positive improvements and expressed appreciation for the *coetus* group's attempt to inculcate the documents of the Second Vatican Council,¹¹⁵ overall the responses were rather critical. Included among them were the observations that the text was too diffuse or too exhortative; that the canons seemed simply a mix of material pulled from the 1917 *CIC* and from the Council rather than a true integration of the two; that the canons read more like a directory than law; and that the *Schema* was more doctrinal than juridical.¹¹⁶ Others found the proposed canons to be "too detailed" and that "space should be left for particular Churches: the law is too centralized: one cannot imprison the churches of Asia and Africa with such legislation."¹¹⁷ Directly applicable to this study was the observation that the entire *schema* "was presented in a rather negative form with the major preoccupation being on

¹¹³ The 154 responses were from 41 episcopal conferences, 56 bishops, 15 dicasteries of the Roman Curia, 7 cardinal members, 22 universities, 3 superiors general, and 10 private responses (Castillo Lara, 33).

¹¹⁴ A general summary of the responses to the *schema* is presented in *Communicationes* 29 (1997) 44-48. This summary was presented at the start of the *coetus*' session in February, 1980 to begin the deliberation on how to incorporate them into the text.

¹¹⁵ Castillo Lara, 33.

¹¹⁶ Castillo Lara, 33: "Quelques-uns, au contraire, trouvèrent le texte trop diffuse (CE Italia), de style trop exhortatif, avec un mélange de normes tirées du CIC et d'autres empruntées aux affirmations du Concile (USA et Suisse), plus adapté pour un directoire (université Salamanque). Elles contenaient trop d'affirmations doctrinales, impropres à un Code juridique, elles étaient trop envahies par une rhétorique diffuse moralisante (faculté théologique italienne septentrionale). On ne le considérait pas comme une vraie réflexion du CIC (CD Afrique du Nord)."

¹¹⁷ *Communicationes* 29 (1997) 44: "*Non Placet*: (una Conferenza episcopale; un Vescovo) perché troppo dettagliato: lasciare spazio alle Chiese particolari: legge troppo centralizzata: non si può imprigionare le chiese di Asia e di Africa con tale Legislazione."

error more so than the positive diffusion of the truth.”¹¹⁸ Other consultation suggested that “the mentality of the schema is always on the defense: a siege mentality that does not correspond to the Second Vatican Council, neither to the actual situation of the Church. The Church to which [the *schema*] is addressed no longer exists: it presupposes that all Catholics have a profound faith and demonstrate a complete submission to the bishops.”¹¹⁹

The Canon Law Society of America had established a task force to review and to offer a critique of the initial *schemata* issued by the various *coetus* groups.¹²⁰ Regarding the *schema* on the magisterium, the task force stated that, “despite its many significant improvements over the present law,¹²¹ [it] must be judged uneven, inadequate, and not

¹¹⁸ *Communicationes* 29 (1997) 44: “*Ad ea quae in schemata continenter haec adnotantur; Tutto lo schema è presentato in forma piuttosto negative con maggiori preoccupazione per l’errore che per la positive diffusion della verità (una Conferenza episcopale).*”

¹¹⁹ *Communicationes* 29 (1997) 48: “La mentalità dello schema è sempre sulla difensiva: mentalità da stato d’assedio che non corrisponde più al Vat. II, nè all’attuale situazione della Chiesa. La Chiesa alla quale è indirizzato non esiste più: presuppone che tutti i cattolici abbiano una fede profonda e pratichino una completa sottomissione ai Vescovi.”

¹²⁰ CLSA, *Task Force Critiques of the Initial Schemata for the Revision of the Code of Canon Law*, CLSA: 1970-1977. This text is a compilation of the various critiques prepared by canonists which were originally published in other places. For example, the report on Book III was prepared by James Coriden: see James A. Coriden, *Preliminary Report on the Draft of Canons on the Church’s Teaching Office*, 4 July 1978 (Washington, D.C.: United States Catholic Conference Publications, 1978). Hereafter this document shall be cited as *Preliminary Report*. According to the text, *Task Force Critiques*, the CLSA task force was chaired by Thomas Green and included the following members: William LaDue, John Calhoun, Avery Dulles, James Griffin, Ladislav Örsy, John Mansfield, Robert Stern, James Provost, Francis Morrissey, Robert Kennedy, Richard Ryan, William Bassett, Alcuin Coyle, Paul Golden, Richard Hill, John Hotchkin, Frederick McManus, Kevin Seasoltz, Robert Kress, Adam Maida (later made Cardinal in 1994), Thomas Swift, Cornelius Van der Poel, Rita Mae Bissonnette, Dennis Burns, John Dolcimore, Bertram Griffin, Anthony McDevitt, and Lawrence Wrenn.

¹²¹ Coriden noted the following improvements: “the responsibility of the college of bishops for the teaching office of the church is acknowledged (e.g., cc. 7, 33); a healthy sense of subsidiarity has been introduced especially manifested in the many matters to be determined by Episcopal Conferences (the Conferences are referred to at least thirty-three times) or by the diocesan bishop or religious superior; the primacy of individual conscience is recognized (e.g., in cc. 2, 4, and 36) and the concepts of personal

ready for promulgation. It is simply not good enough for the People of God.”¹²² Coriden, who prepared the report, grouped the perceived problems under two principal headings: 1) “the lack of recognition of the laity” and 2) what he called “excessive attempts at ‘thought control’ in the church.”¹²³

Regarding the first concern, the task force observed the *schema* as presenting a “twofold church: *docens* and *discens*—the clergy and religious (but especially the bishops, priests and deacons) do the teaching (with the occasional assistance of selected laity) and the faithful are the hearers only.”¹²⁴ This is an observation shared by Francisco Urrutia who noted that with the exception of the first canon, the *schema* identified “the Church” solely with the hierarchy and that this did not adequately reflect the Second Vatican Council’s teaching that all the Christian faithful participate to varying degrees in the prophetic office of Christ.¹²⁵

rights, freedom of choice, human development, and social responsibility (e.g., cc. 21, 42, 43, 45, 47, 49, 58, 60, 62, 71) find mention; cultural and social differences among peoples are explicitly recognized (e.g., cc. 22, 24, 31, 36, 43); lay men and women are acknowledged to have official place in the preaching, teaching, catechizing, and missionary activity of the church (e.g., cc. 8, 18, 28, 35, 39, 54, 72); the need for adequate and specialized preparation for these roles is recognized (e.g., cc. 32, 39-41); the ecumenical movement is positively fostered (e.g., cc. 5, 38).” Of note is that canon 3 is nowhere presented as an example of an advancement from the canons in the 1917 *CIC*.

¹²² *Preliminary Report*, 1.

¹²³ *Preliminary Report*, 2.

¹²⁴ *Preliminary Report*, 3.

¹²⁵ Francisco Urrutia, “De magisterio ecclesiastico: observationes quaedam ad propositam Reformationem pars IV, Libri III, CIC,” *Periodica* 68 (1979) 328: “Videtur mihi, ex propositis mutationibus pars De Magisterio ecclesiastico manere, sicut in CIC, fere exclusive de munere Hierarchiae Ecclesiae, ita scilicet ut nihil contineatur in his canonibus generalibus de responsabilitate prophetica Presbyterorum, quatenus suo modo participes sunt sacerdotii Christi; immo omnium fidelium, iuxta mensuram et modum eorum participationis in munere prophetico Christi et Ecclesiae, a Concilio Vaticano inaequivoce affirmate (Potissimum *Lumen gentium* 12; 21a; 35a. Vide etiam *Apostolicam actuositatem* 2; 6d; 10a; 17a; 19a; 20a; 24d; 31a; 33).”

With regard to the task force's second concern, what it called "a paternalistic preoccupation with the control of Catholic teaching and discourse at every level,"

Coriden concluded that the canons were

. . . objectionable, not because of their concern for the integrity of the faith and the protection of the Christian faithful, but because they are sweepingly excessive, smotheringly repressive, and anachronistically inapplicable. They are drastic and inappropriate means to achieve the desired ends.¹²⁶

In light of the overarching negative assessment of the *schema*, in large part due to the "sharp and dramatic" differences "in spirit and terminology between [the initial canons] and those derived from *Christus Dominus*, *Ad gentes*, and *Gravissimum educationis*," Coriden concluded on behalf of the task force that the *schema* ought to be rejected and that a thorough, ongoing *recognitio* be pursued.¹²⁷

The *coetus* met for three more sessions in 1980 (4-9 February, 24-28 March, and 21-26 April) to incorporate the observations it had received, tending to the revision of canon 3 only at its first meeting.¹²⁸ After spending some time evaluating the title of this portion of the Code, the consultors moved to a consideration of the *canones generales*. The consultors acknowledged the concern that the *schema* too narrowly identified the hierarchy with the *munus docendi*. In response to one observation that the mission to teach given to the Apostles, while distinct, was nonetheless a part of the mission

¹²⁶ *Preliminary Report*, 3

¹²⁷ *Preliminary Report*, 7. See Vatican Council II, Decree *Christus Dominus*, 28 October 1965: AAS 58 (1966) 673-701; Vatican Council II, Decree *Ad gentes*, 18 November 1965: AAS 58 (1966) 947-990; Pope Paul VI, Declaration *Gravissimum educationis*, 28 October 1965: AAS 58 (1966) 728-739.

¹²⁸ *Communicationes* 19 (1987) 284.

entrusted to all the faithful,¹²⁹ one consultor argued that the distinction between official and non-official teaching in the Church needed to be preserved and adequately reflected in the legislation.¹³⁰

Specifically regarding canon 3, there were several concerns which the consultors took into consideration. One concern was of redundancy; i.e., the doctrinal principle behind the homage of faith owed to that which is presented as of divine and Catholic faith in canon 3 was already proposed in canons 58 and 59 of the *Lex Ecclesiae Fundamental*is and thus may not have been necessary here.¹³¹ Another concern was that the canon needed to differentiate better the obligatory force between decrees issued by the Holy See and those issued by bishops.¹³² Other concerns were that the canon lacked a distinction between ordinary and extraordinary magisterium; and one episcopal conference noted

¹²⁹ *Communicationes* 29 (1997) 49.

¹³⁰ *Communicationes* 29 (1997) 23: “[Il] Segretario Aggiunto . . . contesta che l’ordine dato ai Dodici di predicare valga per tutti i fedeli; mentre il primo Consultore insiste nella distinzione tra insegnamento Ufficiale ed insegnamento non Ufficiale.” Castillo Lara noted that this was more in keeping with the response of the Italian Episcopal Conference which thought “le Schéma n’aurait pas suffisamment distingué le témoignage et l’annonce de l’Évangile qui est proper à chaque chrétien, et au contraire, ce qui regarde le Magistère d’autorité, proper à la Hiérarchie” (34).

¹³¹ *Communicationes* 29 (1997) 55. The canons in the *schema* were to be read in conjunction with the *Lex Ecclesiae Fundamental*is (hereafter *LEF*), an attempt at presenting what was considered to be constitutional law for the Church. Canon 58 and 59 were both taken from *Lumen gentium*, n. 25. See Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Legis Ecclesiae Fundamental*is: *Textus Emendatus Cum Relatione De Ipso Schemate Deque Emendationibus Receptis* (Vatican City: Typis Polyglottis Vaticanis, 1971). They stated:

Canon 58. Non quidem fidei, religiosum tamen voluntatis et intellectus obsequium praestandum est doctrinae quam sive Summus Pontifex, sive Collegium Episcoporum, de fide vel de moribus enuntiant, cum magisterium authenticum exercent, etsi definitive actu eandem proclamare non intendunt.

Canon 59. Religioso animi obsequi adhaerendum est doctrinae quam Episcopi in communione hierarchica qui sunt cum Collegii Capite et membris, sive singuli, sive in Synodus aut in Conferentiis congregatae, enuntiant; hi enim licet infallibilitate in docendi non polleant, fidelium suae curae commissorum authentici sunt fidei doctors et magistri. Cui authentico magisterio suorum Episcoporum fideles religioso animi obsequio adhaerere tenentur.”

¹³² *Communicationes* 29 (1997) 55.

that the canon seemed to confound the distinction between what was *de fide* and what was *proxima fidei*.¹³³ Some feedback suggested changing “constitutions and decrees” to simply “decrees” or, even better, “ordinances” noting that the obligation to observe proposed doctrine or proscribed error was not limited to these two forms of documents.¹³⁴

To help bring clarity to the various levels of teaching and their respective levels of response, some of the consultation suggested restructuring the canon and creating individual paragraphs to demonstrate the interrelatedness of the Church’s teaching but, at the same time, to emphasize that not everything enunciated by ecclesiastical authority possesses the same weight either because of the content of what is enunciated or by the authority pronouncing it. Thus a suggestion was offered to the *coetus* to split the canon into two paragraphs to distinguish between decrees properly doctrinal and those of a prudential or disciplinary nature.¹³⁵

In light of the concerns raised by the consultation, one consultor suggested that it would be better to use the positive form as in the previous canons and to divide canon 3 into two paragraphs while adding a third paragraph to address the decrees of the Roman

¹³³ *Communicationes* 29 (1997) 55.

¹³⁴ *Communicationes* 29 (1997) 55: “Obligatio non restringatur tantum ‘constitutionibus’ et ‘decretis’ sed utatur verbum latius (*Lumen gentium* 27). Loco ‘constitutionibus et decreta’ dicatur tantum ‘decreta’ vel melius ‘ordinationes’ (quaedam Conferentiae ep.).”

¹³⁵ *Communicationes* 29 (1997) 55: “Sia diviso in 2 §§ et venga soppresso ‘quare.’ Si distingua accuratamente tra i decreti propriamente dottrinali e quelli di prudenza o disciplinari.”

Pontiff and the College of Bishops.¹³⁶ After further conversation, the following text was approved and would become canon 708 in the subsequent 1980 *Schema*:

§1. One must adhere with an assent of faith to those things which have been proposed by the Church as having to be believed with a divine and catholic faith; therefore all are held to avoid whatever teaching is contrary to them.

§2. The Christian faithful should give a religious obsequium to a doctrine which the legitimate authority of the Church proposes about faith and morals and they should take care to avoid those teachings which do not agree with it.

§3. 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 to proscribe erroneous opinions; this holds especially for those that the Roman Pontiff or the Episcopal College may publish.¹³⁷

The canon contained within itself the legislation governing the spectrum of responses expected of the Christian faithful to the varying degrees of magisterial authority in teaching the doctrine of faith and morals. Paragraph one spoke of the “assent of faith” owed to what “the Church” taught to be believed with divine and catholic faith. Paragraph two required an *obsequium religiosum* to that which the “legitimate authority of the Church” proposes about faith and morals. The third paragraph, what would eventually become canon 754, obliges the Christian faithful “to observe” that which the “legitimate authority of the Church” proposes about doctrine or proscribes about error.

¹³⁶ *Communicationes* 29 (1997) 25-26.

¹³⁷ *Communicationes* 29 (1997) 26: “§1. Eis quae ab Ecclesia proponuntur tanquam de fide divina et catholica credenda, fidei obsequio adhaerendum est; tenentur igitur omnes quascumque devitare doctrinas iisdem contrarias. §2. Religiosum obsequium praestent christifideles doctrinae quam de fide et moribus proponit legitima Ecclesiae auctoritas et devitare curent quae cum eadem non congruunt. §3. Omnes Christifideles obligatione tenentur servandi constitutiones et decreta quae ad doctrinam proponendam et erroneas opiniones proscribendas fert legitima Ecclesiae auctoritas, speciali vero ratione quae edat Romanus Pontifex vel Collegium Episcoporum.” English translation in Balam, 97.

As the canon moved from the highest level of magisterial teaching to the lowest, so the third paragraph presented the least weighty of the required responses (*obligatione tenentur servandi*) to proposed doctrine and proscribed errors. Yet, the third paragraph was added to satisfy the desire of a consultor who expressed the necessity for Catholics to avoid error and to manifest appropriate adherence not only to that which required belief of divine and catholic faith.¹³⁸ This incarnation of the canon, i.e., as the third paragraph of a larger canon addressing the various levels of response, is indicative of the fact that the eventual canon 754 cannot be read in isolation from the other initial canons of Book III. This will be developed further when we consider the canon in its text and context.

Of particular importance for this study is the observation made by another consultor regarding the above formulation of the canon. The consultor raised a concern about speaking exclusively of the Roman Pontiff and the Episcopal College in paragraph three, preferring instead that the canon use “Apostolic See” or “Holy See” as had canon 1324 previously. He argued that this was important since the decrees of the Roman Curia were not always exclusively of a disciplinary nature but often times involved matters of doctrine.¹³⁹ Despite the recommendation, however, the consultors decided not to reference explicitly the “Holy See” or “Apostolic See” but to refer only to “legitimate authority of the Church.” Given the canon’s history, however, i.e., that its previous incarnation in the 1917 CIC explicitly cites the Apostolic See, coupled with this consultor’s intervention leads one safely to conclude that the Holy See is intended among

¹³⁸ *Communicationes* 29 (1997) 26.

¹³⁹ *Communicationes* 29 (1997) 26.

those organs described as the “legitimate authority of the Church” by the eventual canon 754.

On 19 June 1980, the individual *schemata* from all of the various *coetus* groups were gathered together into a one volume draft of the entire Code for use by the Cardinal members of the Commission.¹⁴⁰ All of the canons were sequentially numbered and thus canon 3, with its three paragraphs, now became canon 708.

4. The 1980 *Schema, De Ecclesiae Munere Docendi*¹⁴¹

As a result of the work done by the *coetus* in its three sessions in 1980 of incorporating the observations of so many consultants, one notes three significant changes from canon 3 of the 1977 *Schema* to its appearance as canon 708 §3 in the 1980 *Schema*. First, the canon’s overall tone underwent a significant alteration from one of negativity to one of positivity. Two points bear this out. First, the addition of the phrase *ad doctrinam proponendam* rendered a whole new purpose to why the decrees and constitutions of which the canon spoke could be issued. Second, the elimination of the verb “to prohibit” (*prohibendas*) while maintaining the verb “to proscribe” (*proscribendas*) rendered a softer tone to the canon; now the constitutions and decrees would warn about error but not prohibit them. This, one could argue, reflects the greater sensitivity and respect to the

¹⁴⁰ Alesandro, 114.

¹⁴¹ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici iuxta animadversiones S.R.E. Cardinalem, Episcoporum Conferentiarum, Dicasteriorum Curiae Romanae, Universitatum Facultatumque ecclesiasticarum necnon Superiorum Institutum vitae consecratae recognitum* (Vatican City: Libreria Editrice Vaticana, 1980).

maturity of the Christian faithful sought by some of the suggestions during the consultation on the text.

A final observation regarding canon 708 §3, as Balam and Kothuis also observe,¹⁴² is that the more cumbersome phrase “one’s proper bishop or the bishops of the region or ecclesiastical province, whether in particular councils or episcopal conferences” was now reduced to a much cleaner “legitimate authority of the Church.” Though the phrase is not as specific, it nonetheless must be understood to encompass all those authorities which the canon, throughout its history and various stages, has acknowledged as competent to issue the constitutions and decrees in question.¹⁴³ This would have included, therefore, those dicasteries of the Holy See competent to render such documents relevant to doctrine and, *a fortiori* given its exclusive competence in matters of doctrine, the CDF.

5. 1981 *Relatio*

The original plan was to allow the members of the Commission for the Revision of the Code to review, study, and emend the 1980 *Schema* as necessary to make final preparations for its promulgation. The suggestion for another worldwide consultation arose at the 1980 Synod of Bishops, however, and the request was put to John Paul II to

¹⁴² Balam, 99; Kothuis, 365-366.

¹⁴³ Kothuis, 365-366: “Canon 708 §3 introduces the phrase ‘the legitimate authority of the Church,’ to denote the organ which issues these constitutions and decrees. This legitimate authority includes not only the Roman Pontiff and the College of Bishops, as specified in the canon itself, but might also be said to refer to one’s proper Bishop and the Bishops of an ecclesiastical region or province in a particular Council or even in conferences of Bishops, as had been mentioned in canon 3 of the 1977 Schema, as well as the Congregation of the Holy Office.”

authorize such a review. The Commission argued that such a process of worldwide consultation would be “cumbersome, unnecessary and even counter-productive.”¹⁴⁴ As a compromise, John Paul II decided to appoint fifteen new members to the Commission representing their respective episcopal conferences. These new members were charged with the task to consult with their conferences and then to provide written reports (*modi*) to the Commission detailing what their constituencies thought about the 1980 *Schema*.¹⁴⁵ Gathering all of the *modi* from the various episcopal conferences,¹⁴⁶ the Commission staff produced the *Relatio* on 16 July 1981 in preparation for the Commission’s *plenaria* meeting scheduled for October.¹⁴⁷

During 20-29 October 1981, the Commission for the Revision of the Code assembled in plenary session to discuss the 1980 *Schema* and to make further changes. In discussing canon 708, the intervention of Joseph Cardinal Parecattil¹⁴⁸ led the consultors

¹⁴⁴ Alesandro, 115.

¹⁴⁵ Alesandro, 116. Archbishop Joseph Bernadin was the one chosen to represent the bishops of the United States of America.

¹⁴⁶ Alesandro notes that of the Commission’s now 75 members, only 45 of them submitted a *modus* and that the *modi* from Great Britain, Ireland, Canada, the United States, and Australia were the most substantial (118-119).

¹⁴⁷ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Relatio: complectens synthesim animadversiones ab Em. mis atque Exc. mis patribus commissionis ad novissimum schema codis iuris canonici exhibitarum, cum responsionibus a secretaria et consultoribus datis* (Vatican City: Typis Polyglottis Vaticanis, 1981). Hereafter this document shall be cited as 1981 *Relatio*. See pages 298-301 for the brief discussion of c. 708 §3.

¹⁴⁸ Joseph Cardinal Parecattil (1912-1987) was the Syro-Malabar Archbishop of Ernakalum, India. Parecattil made the following two observations: “1. Id quod canon adiungit LEF cann. 59-60 pretii minimi est, id quod omittitur grave est. Etenim can. 708 §2 omittit ‘etsi definitivo actu eandem proclamare non intendat’ can. 60 LEF. Unde religiosum obsequium sufficeret ‘doctrinae quam de fide et moribus proponit legitima Ecclesiae auctoritas,’ ergo etiam definitioni dogmaticae (est enim doctrina de fide vel moribus a legitima auctoritate proposita). . . . 2. Prae oculis habeatur quod dum in §1 et §3 eiusdem can. 708 obligatio stricte dicta imponitur (‘adhaerendum est,’ ‘tenentur’), in §2 idem non fit (‘religiosum obsequium

to invert paragraphs one and two and to separate the paragraphs into their own respective canons. In addition, John Paul II had decided not to promulgate the *Lex Ecclesiae Fundamental* after all, which necessitated the incorporation of its canons (cc. 57-61) into the draft of canons for Book III.¹⁴⁹

Thus was canon 708 divided with its first paragraph becoming canon 750 in the subsequent 1982 *Schema* (c. 750 in the 1983 *CIC*), its second paragraph becoming canon 751 in the 1982 *Schema* (c. 752 in the 1983 *CIC*), and its third paragraph becoming canon 753 in the 1982 *Schema* (c. 754 in the 1983 *CIC*). Other than becoming its own individual canon, the text of canon 708 §3, now canon 753 in the 1982 *Schema*, did not change.

At the conclusion of the plenary session, the Commission members unanimously decided to submit the new *schema* to John Paul II for his approval and promulgation.¹⁵⁰

praestent'). E contra in LEF can. 60 invenitur 'praestandum est.' Haec mutatio non iustificatur" (1981 *Relatio*, 168-169).

¹⁴⁹ *Communicationes* 16 (1984) 97-98.

¹⁵⁰ *Communicationes* 13 (1981) 268-269: "Die 28 octobris 1981 Plenaria conclusa est. Dubio a Cardinali Praeside proposito: Placetne Patribus ut post examinata in Plenaria Schema C.I.C. et emendationes iam inductas, idem Schema, introductis quae in Plenaria maioritatem obtinuerint, prae oculis quoque habitis aliis, quae datae fuerint, animadversionibus, atque perpolitioe facta quoad stilum et latinitatem (quae omnia Praesidi et Secretariae committuntur) dignum habeatur quod Summo Pontifici, qui tempore et modo, quae sibi videantur, codicem edat, quam primum praesentatur. Patres unanimi consensu responderunt: Placet."

6. 1982 *Schema* (c. 753) and Papal Review

Upon receiving the 1982 *Schema*¹⁵¹ on 22 April 1982¹⁵² the Pope appointed two entities, a small committee of Cardinals and a handful of consultants, both to review the entire proposed Code with him personally in a series of meetings from 4-10 September 1982.¹⁵³ This did not result in any alterations to canon 753. Much to the surprise of many who anticipated a lengthier process, the Pope announced in December 1982 that he planned on promulgating the new Code of Canon Law the following month.¹⁵⁴ On 25 January 1983, the twenty-fourth anniversary of John XXIII's initial announcement of his desire to revise the Code of Canon Law, John Paul II issued the Apostolic Constitution *Sacrae disciplinae leges* and promulgated the new Code of Canon Law.¹⁵⁵

7. Summary Observations on the Development of Canon 754

The process by which the 1983 Code of Canon Law came into being involved a staggering amount of work, consultation, prayer, and time as the above summary demonstrates. But perhaps the greatest event in the process was the decision on the part

¹⁵¹ Pontificia Commissio Codici Iuris Canonici Recognoscendo. *Codex iuris canonici: Schema novissimum iuxta placita partum commissionis emendatum atque summo pontifici praesentatum* (Vatican City: Typis Polyglottis Vaticanis, 1982).

¹⁵² *Communicationes* 15 (1983) 56.

¹⁵³ Balam, 104. The consultants were I. Mester, Z. Grochowski, Msgr. Edward Egan, and Fathers Umberto Betti, Eugenio Correo, J. Ochoa, L. Diez. The committee was comprised of the following Cardinals: Agostino Casaroli, Joseph Ratzinger, Narciso Jubany Arnau, and Bishop Vincenzo Fagiolo (later made Cardinal in 1994).

¹⁵⁴ Alesandro, 129.

¹⁵⁵ *SDL* (see page 281, footnote 80 *supra*).

of the Commission for the Revision of the Code to postpone its work until after the Second Vatican Council came to a conclusion. Embarking upon the development of the Church's law only after a fresh conciliar development of her doctrine and liturgy was the first good step of many to bring about an adequate legal system. The members of the *coetus De Magisterio Ecclesiastico* knew already in 1966 at the outset that their work, while properly juridical in nature, nonetheless needed a theological foundation if the legal drafting they were to do would have any bearing on the life of the Church.

The revisions to Book III of the Code, and to canon 754 in particular, reflect the influence of the Second Vatican Council and its *novus habitus mentis*.¹⁵⁶ By bearing in mind the ecumenical consequences of the canon's wording, the *coetus* members eliminated any mention of "heretical depravity." By bearing in mind the maturity of the Christian faithful and their freedom in Christ, the *coetus* eliminated any mention of prohibiting (*prohibendas*) errors but maintained the pastoral task of proscription (*proscribendas*). By assuming the ecclesiological *novus habitus mentis* of the Council, with its emphasis on the particular Church, the *coetus* thought in terms of diocesan bishops, bishops of a region or ecclesiastical province, particular councils, and episcopal conferences when attempting to define the authority competent to issue the decrees and constitutions in question. While direct mention of these authorities was not carried into the final version, the term "legitimate authority of the Church" in canon 754 is broader

¹⁵⁶ "For the Church of the Western Rite the revised code is an attempt to translate the *novus habitus mentis* of the council into practice" (see Michael Place, "A Theologian Looks At The Revised Code of Canon Law," *The Jurist* 45 [1985] 264). Ladislav Örsy wrote that the phrase *novus habitus mentis* was one Pope Paul VI used repeatedly (see Ladislav Örsy, "*Novus Habitus Mentis*: New Attitude of Mind," *The Jurist* 45 [1985] 251-258).

and more encompassing than the term “Holy See” as was used previously in canon 1324. By bearing in mind the conciliar understanding of the Church in terms of the People of God in *Lumen gentium* and how that People of God lives in the midst of the world in *Gaudium et spes*, the *coetus* was attentive to the observations made by consultants when pointing out any equivocation between the terms “Church” and “Magisterium” or “Hierarchy.”

James Coriden’s observations in the 2000 CLSA Commentary regarding canon 754 provide a limited commentary. This study, however, has attempted to demonstrate that the canon is far more than “an illustration of the juridicization of the teaching office” or simply “a refurbished relic from the 1917 code (*CIC* 1324).”¹⁵⁷ Rather, by bearing in mind the posture of engagement and less so of defensiveness, the *coetus* altered the protective tone of canon 1324 in the 1917 *CIC* to a more engaging one in canon 754 of the 1983 *CIC*. In this, a parallel can be drawn to the articulation of the CDF’s proper duty in *Pastor bonus* to promote doctrine in addition to safeguarding it. Drawing that parallel further necessitates a closer examination of canon 754 in both its text and context.

D. Canon 754 in the 1983 Code of Canon Law

The development process for canon 754 points to the fact that the canon cannot be read in isolation. In the 1980 *Schema*, what would become canon 754 was the third

¹⁵⁷ See James A. Coriden, “Introductory Canons [cc. 747-755]” in *New Commentary on the Code of Canon Law*, ed. John P. Beal et al. (New York/Mahwah, NJ: Paulist Press, 2000) 918-919. The author of this study notes the negative assessment of the canon in the CLSA Commentary perhaps as a vestige of Coriden’s severely critical assessment of the 1977 *Schema* for Book III in general (see footnote 120 on page 293 *supra*).

paragraph of canon 708, the other two canons of which, after the incorporation of the canons from the *LEF*, went on to become some of the other initial canons now legislated in the 1983 *CIC*. There is an inherent theological connection, then, between all of the introductory canons at the outset of Book III since they present varying degrees of magisterial teaching and their accompanying varying degrees of response. This must be borne in mind when understanding each canon's application, canon 754 included.

Canon 754 is the last of the canons obliging a specified response to doctrine on the part of the Christian faithful. It states:

Can. 754 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 to proscribe erroneous opinions, particularly those which the Roman Pontiff or the college of bishops puts forth.¹⁵⁸

Applying the interpretative canon 17,¹⁵⁹ we now turn to a brief textual analysis of canon 754 as the *ius vigen*s followed by a consideration of the canon's context within the initial canons of Book III in order to complete its evaluation as the most apt canon to address how the documents by which the CDF promotes the doctrine of faith and morals are to be received.

¹⁵⁸ 1983 *CIC*, c. 754: "Omnes christifideles obligatione tenentur servandi constitutiones et decreta, quae ad doctrinam proponendam et erroneas opiniones proscribendas fert legitima Ecclesiae auctoritas, speciali vero ratione, quae edit Romanus Pontifex vel Collegium Episcoporum."

¹⁵⁹ 1983 *CIC*, c. 17: "Leges ecclesiasticae intellegendae sunt secundum propriam verborum significationem in textu et contextu consideratam; quae si dubia et obscura manserit, ad locos parallelos, si qui sint, ad legis finem ac circumstantias et ad mentem legislatoris est recurrendum."

1. Textual Analysis of the Canon

The text of canon 754 is the product of serious deliberation as the above review of the revision process demonstrates. The deliberate choice of terminology, then, must be considered properly if the overall meaning and intention of the canon is to be understood accurately.

a. *Omnes christifideles . . .*

Canon 754 is directed to “all the Christian faithful,” a term which immediately directs one’s attention to the beginning of Book II, *De Populo Dei*, and specifically to canon 204 where the term “Christian faithful” is defined:

Can. 204 §1. The Christian faithful are those who, inasmuch as they have been incorporated in Christ through baptism, have been constituted as the people of God. For this reason, made sharers in their own way in Christ’s priestly, prophetic, and royal function, they are called to exercise the mission which God has entrusted to the Church to fulfill in the world, in accord with the condition proper to each.

§2. This Church, constituted and organized in this world as a society, subsists in the Catholic Church governed by the successor of Peter and the bishops in communion with him.¹⁶⁰

¹⁶⁰ 1983 *CIC*, c. 204 §1: “Christifideles sunt qui, utpote per baptismum Christo incorporati, in populum Dei sunt constituti, atque hac ratione muneris Christi sacerdotalis, prophetici et regalis suo modo participes facti, secundum propriam cuiusque condicionem, ad missionem exercendam vocantur, quam Deus Ecclesiae in mundo adimplendam concredidit. § 2. Haec Ecclesia, in hoc mundo ut societas constituta et ordinata, subsistit in Ecclesia catholica, a successore Petri et Episcopis in eius communione gubernata.”

This understanding of the Christian faithful as a people who share a common bond through baptism, a *communio* ecclesiology emphasized by the Second Vatican Council,¹⁶¹ provides a theological framework in which to understand the purpose of canon 754; i.e., it explains why the legitimate authority of the Church would propose doctrine or proscribe error, namely, to foster the communion proper to the Christian faithful in the former and to protect that communion from being wounded in the latter. The same can be said for why the CDF would promote doctrine or safeguard it in the face of errors. The aim is not to achieve a kind of doctrinal uniformity among all believers for its own sake, but more to cultivate the bond of love effected by baptism into Christ and to enable all the baptized to live their baptismal dignity to the full, each sharing in the mission of the Church in his own way.¹⁶²

Furthermore, baptismal communion is not simply an individualistic bond with Christ which happens to be mutually shared by other individuals who are baptized. Rather, the vertical communion with Christ through baptism necessarily creates a horizontal communion with all the other baptized. Put another way, when one is baptized

¹⁶¹ The *fontes* for canon 204 are all from the Second Vatican Council: *LG*, nn. 9-17, and *AA*, nn. 2, 6, 7, 9, 10 for the first paragraph; and *LG* 8, 9, 14, 22, 38, and *GS* 40 for the second paragraph (see *Fontium Annotatione*, 55). Kaslyn points out that canon 204, “following the conciliar texts, does not refer to membership but rather to incorporation; . . . Incorporation is a more dynamic term than membership, reflecting the ongoing and hopefully deepening relationship between the individual and God and between the individual and the community of faith” (See Robert J. Kaslyn, “The Christian Faithful,” in *New Commentary on the Code of Canon Law*, ed. John P. Beal et al. [New York/Mahwah, NJ: Paulist Press, 2000] 246).

¹⁶² Kaslyn, 245-246: “From [baptism] flow two consequences: first, the person, in virtue of baptism, participates in the threefold functions (*munera*) of Christ as priest, prophet, and ruler. Second, the person receives a call (*vocatio*) to exercise the mission of the Church in the world, a mission derived from God and from the person’s active response to God’s initiative. Both consequences require specific determination: individuals participate in the triple functions (*munera*) each ‘in their own way,’ and they exercise this mission in distinct manners, determined in reference to each person’s ‘condition.’”

into Christ, one is baptized into the whole Christ, both head and body.¹⁶³ Consequently when canon 754 calls the Christian faithful to observe the efforts of those legitimately competent in the Church to propose doctrine or proscribe errors, the operative theological reality is that they are called to be cognizant of the bond they have with all the baptized and to hold the faith which reciprocally holds them together. The observance of any proposal of sound doctrine or proscription of error, then, becomes a vehicle for the Christian faithful to be just that: faithful to their baptismal dignity and to exercise their share of the priestly, prophetic, and kingly office of Christ made theirs through the waters of baptism.¹⁶⁴

From this perspective, the proposal of doctrine and the proscription of error in canon 754, as well as the promotion and safeguarding of doctrine on the part of the CDF in *Pastor bonus*, are indicators that “legitimate authority” is not something extraneous

¹⁶³ Kaslyn, 245: “Like the other sacraments, baptism has both social and individual effects inasmuch as the sacraments influence not only the relationship between God and a particular individual but necessarily involve a specific community of faith. As the canon describes the ramifications of this sacrament, baptism has a personal, individual effect: incorporation into Christ. This personal relationship with Jesus Christ is presupposed in other consequences of baptism as elaborated by canon 204, §1. But baptism also has a social effect: a person enters into the people of God; more particularly, the person enters into a specific community of faith.” Kaslyn also states (246) that “the effects and consequences of baptism expressed in §1 apply to all the baptized, whether Catholic or not. This application to all the baptized forms one of the constitutive principles of a *communio* ecclesiology: by the fact of baptism, each of the baptized enters into a relationship with all other baptized; all the baptized are equal in dignity and all are called to exercise the Church’s mission (c. 208).”

¹⁶⁴ The late Swiss canonist Eugenio Corredo summed up the main thrust of the conciliar perspective on *communio* ecclesiology when he wrote that by baptism, “[t]he Christian is a new man. He is one who, having encountered Christ, possesses in fact a new structure that is not only moral, but ontological. . . . The new man is the person who knows that he belongs to Christ, and knows also that he belongs to Christ with all the others, who are a constitutive part of himself because they also belong to Christ, as Christ belongs to the Father” (see Eugenio Corredo, *Canon Law and Communio, Writings on the Constitutional Law of the Church* [Vatican City: Libreria Editrice Vaticana, 1999] 90-91). He went on to state that baptism provides the faithful with “a new method of life” by which “the fact of communion dominates the entire Christian personality and informs all of its expressions,” meaning that living in communion “is not something that can be done among other things; it is the way to do everything” (255).

and overbearing to one's discipleship and communion with Christ, somehow imposing a matter to be believed or a perspective to be avoided for arbitrary reasons. Rather the proposal of doctrine and the proscription of error are indicators of something intrinsic and of service; indicators of a true *diaconia*.

b. . . *obligatione tenentur servandi*

To the Christian faithful described in canon 204, the obligation is placed "to observe" the "constitutions and decrees" described in canon 754. In this portion of the canon, then, three significant clarifications must be made: 1) what does the canon mean by the obligation "to observe" (*obligatione tenentur servandi*); 2) what is meant by "constitutions" (*constitutiones*); and 3) what is meant by "decrees" (*decreta*)? We begin with a treatment of the obligation "to observe" of which canon 754 speaks.

The obligation placed upon the Christian faithful in canon 754 relates to other obligations and rights legislated for all the Christian faithful in other canons of the Code, e.g., canons 209 and 212 §1. Living in accord with one's baptismal dignity and maintaining the communion of the Church is just as much an obligation as it is a right. According to canon 209, the Christian faithful are to take care that in the conduct of their lives they safeguard and foster the communion with Christ and the Church into which they have been brought:

Can. 209 §1. The Christian faithful, even in their own manner of acting, are always obliged to maintain communion with the Church.

§2. With great diligence they are to fulfill the duties which they owe to the universal Church and the particular church to which they belong according to the prescripts of the law.¹⁶⁵

This canon also finds its *fontes* in the Second Vatican Council and is rooted in the *communio* ecclesiology described above in speaking of the Christian faithful. The dogmatic constitution on the Church, *Lumen gentium*, articulates that among the obligations for the baptized is the call “to profess publicly the faith they have received from God through the Church.”¹⁶⁶ The sacrament of confirmation only confirms that baptismal character, bolsters their communion with the Church, and places the baptized “under [a] more pressing obligation to spread the faith by word and deed as true witnesses of Christ.”¹⁶⁷ The pastoral constitution, *Gaudium et spes*, reiterated this theme of unity of faith and mission when the fathers taught that “disciples of Christ are a community composed of those who have been united in Christ who are directed by the holy Spirit in their pilgrimage towards the Father’s kingdom and who have received the message of salvation to be communicated to everyone.”¹⁶⁸

¹⁶⁵ 1983 *CIC*, c. 209: “Christifideles obligatione adstringuntur, sua quoque ipsorum agendi ratione, ad communionem semper servandam cum Ecclesia. §2. Magna cum diligentia officia adimpleant, quibus tenentur erga Ecclesiam tum universam, tum particularem ad quam, secundum iuris praescripta, pertinent.”

¹⁶⁶ *LG*, n. 11; *AAS* 57 (1965) 15: “Fideles per baptismum in ecclesia incorporate, ad cultum religionis christianae caractere deputantur et, in filios Dei regenerati, fidem quam a Deo per ecclesiam acceperunt coram hominibus profiteri tenentur.”

¹⁶⁷ *LG*, n. 11; *AAS* 57 (1965) 15: “Sacramento confirmationis perfectius ecclesiae vinculantur, speciali Spiritus sancti robore ditantur, sicque ad fidem tamquam veri testes Christi verbo et opere simul diffundendam et defendendam arctius obligantur.”

¹⁶⁸ *GS*, n. 1; *AAS* 58 (1966) 1026: “[Communitas discipulorum Christi] ex hominibus coalescit, qui, in Christo coadunati, a Spiritu sancto diriguntur in sua ad regnum Patris peregrinatione et nuntium salutis omnibus proponendam acceperunt.”

The Holy Spirit effects a unity that is both interior and exterior. Ecclesiastical communion must have a visible expression insofar as Christ established the apostles as pastors of the Church, and they their successors, to present authentically that which the Lord revealed to be the principle of unity and to which the Spirit continuously points in every age. As *Lumen gentium* taught, “The Church’s pastors, following the Lord’s example, are to minister to each other and to the rest of the faithful, and the faithful are to cooperate gladly with the pastors and teachers. So, in their variety, all bear witness to the wonderful unity in the body of Christ”¹⁶⁹ Canon 754 presents a significant way by which the Christian faithful “cooperate gladly” with the bishops and other legitimate authorities of the Church working in union with them: to observe their proposal of doctrine and proscription of error.

Another obligation articulated for all the Christian faithful directly applicable to canon 754 is that legislated in canon 212:

Can. 212 §1. Conscious of their own responsibility, the Christian faithful are bound to follow with Christian obedience those things which the sacred pastors, inasmuch as they represent Christ, declare as teachers of the faith or establish as rulers of the Church.”¹⁷⁰

The distinction canon 212 makes between bishops “[declaring] as teachers of the faith” and “[establishing] as rulers of the Church” describes the bishops’ *munus docendi* and *munus regendi* respectively. Applying this distinction to canon 754, one notes that

¹⁶⁹ *LG*, n. 32; *AAS* 57 (1965) 38: “[E]cclesiae pastores, exemplum Domini secuti, sibi invicem aliisque fidelibus ministrant, hi autem alacriter pastoribus et doctoribus sociam operam praestent. Sic in varietate omnes testimonium perhibent de mirabilis unitate in corpore Christi....”

¹⁷⁰ 1983 *CIC*, c. 212 §1: “Quae sacri Pastores, utpote Christum repraesentantes, tamquam fidei magistri declarant aut tamquam Ecclesiae rectores statuunt, christifideles, propriae responsabilitatis conscii, christiana oboedientia prosequi tenentur.”

the constitutions and decrees may be doctrinal in nature, i.e., as an exercise of the *munus docendi* the legitimate authority of the Church proposes doctrine, or they may be disciplinary in nature, i.e., as an exercise of the *munus regendi* the legitimate authority of the Church proscribes erroneous opinions. In either case, the Christian faithful are bound to observe them. But the specific observance required is determined by the nature of the proposed doctrine or the proscribed opinion. As Balam notes:

When the doctrine involved is infallible; “to observe” shall mean to receive the doctrine with an assent of faith, or firmly to accept and hold it. If it is a non-infallible teaching, “to observe” shall mean to receive it with a religious *obsequium*. However, when the object of such documents are norms set up to propose or to protect divine revelation, “to observe” shall mean to put these norms into practice.¹⁷¹

For example, though it predates the 1983 Code of Canon Law, Pope Pius XII’s Apostolic Constitution *Munificentissimus Deus*¹⁷² by which he defined *ex cathedra* the dogma of the Assumption of Mary serves as an example of what canon 749 §1 describes as an infallible papal act when the pope, “as the supreme pastor and teacher of all the Christian faithful . . . proclaims by definitive act that a doctrine of faith or morals is to be held.”¹⁷³ The response to such an infallible doctrine is the assent of divine and Catholic

¹⁷¹ Balam, 146.

¹⁷² Pope Pius XII, Apostolic Constitution *Munificentissimus Deus*, 1 November 1950: AAS 42 (1950) 753-773.

¹⁷³ 1983 *CIC*, c. 749: “§1. Infallibilitate in magisterio, vi muneris sui gaudet Summus Pontifex Quando ut supremus omnium christifidelium Pastor et Doctor, cuius est fratres suos in fide confirmare, doctrinam de fide vel de moribus tenendam definitivo actu proclamat.”

faith as described in canon 750 §1.¹⁷⁴ Thus, in any constitution or decree in which the dogma of the Assumption of Mary were to be proposed anew, the observance required of the Christian faithful would be the assent of divine and Catholic faith.

This is different from when the pope or the college of bishops declares a doctrine concerning faith and morals, perhaps by means of a constitution or decree as in canon 754, by a non-definitive act. In this instance, the observance called for in canon 754 would be a “religious submission of the intellect and will” as required of such magisterial teaching in canon 752.¹⁷⁵ In other words, while canon 754 requires observance, the precise nature of that observance will be directly dependent upon the magisterial weight of the doctrine proposed or error proscribed.

It is helpful, therefore, to remember that canon 754 is the penultimate in a series of initial canons on the teaching function of the Church and that the canons preceding canon 754 present a hierarchy of magisterial teaching and the appropriate response to each. A summary of each of these canons is presented below when considering the context of canon 754 but a full investigation into the theological ramifications of these levels of magisterial teaching is beyond the scope of this study.

¹⁷⁴ 1983 *CIC*, c. 750: “§1. Fide divina et catholica ea omnia credenda sunt quae verbo Dei scripto vel traditio, 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, quod quidem communi adhaesione christifidelium sub ductu sacri magisterii manifestatur; tenentur igitur omnes quascumque devitare doctrinas iisdem contrarias.”

¹⁷⁵ 1983 *CIC*, c. 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 authenticum exercent, etsi definitivo actu eandem proclamare non intendunt; christifideles ergo devitare curent quae cum eadem non congruant.”

c. . . . *constitutiones et decreta*, . . .

Next for our consideration is what the canon means by use of the terms “constitutions” and “decrees” since, like its predecessor in the 1917 *CIC*, the canon uses the terms without offering a specific definition for how they are to be interpreted in this context. As noted above, the terms in the previous code were interpreted to include other documents not canonically categorized as a constitution or decree but which, nonetheless, were issued for the purposes described in the canon.¹⁷⁶ This interpretation is still applicable to the *ius vicens*, i.e., canon 754 is binding upon the Christian faithful whenever the legitimate authority of the Church proposes doctrine or proscribes erroneous opinion, whether or not the vehicle by which this is done is properly a constitution or a decree. The following considerations point to this conclusion.

The 1983 *CIC* does not provide a definition for “constitutions” though others have attempted to do so based on its common use and its canonical tradition.¹⁷⁷ In addition to its usage here, the Code refers to constitutions of religious institutes and societies of apostolic life but its usage in that context is entirely different than what is intended in

¹⁷⁶ See page 255-256 *supra*.

¹⁷⁷ See Francis G. Morrissey, *Papal and Curial Pronouncements: Their Canonical Significance in Light of the Code of Canon Law*, 2nd ed. (Ottawa: Saint Paul University, 1995) 14-17. Morrissey states that an Apostolic Constitution, the only kind of constitution he describes, is “essentially a legislative text” (17). He states that such constitutions “may be considered the most solemn form of legal document issued by the Pope in his own name. They deal with doctrinal or disciplinary matters, but are issued only in relation to very weighty questions. They are now generally reserved for acts of the Pope related to important matters regarding the Church universal or a particular Church, such as the erection of dioceses” (14-15). Morrissey does note a trend since Paul VI, however, for constitutions “to have a strong doctrinal component; they are not limited to the recital of norms” (17).

canon 754.¹⁷⁸ Ecumenical Councils have also labeled some of their decrees as Constitutions, e.g., the dogmatic constitution on the Church, *Lumen gentium*, the pastoral constitution, *Gaudium et spes*, or the constitution on the sacred liturgy, *Sacrosanctum concilium* all from the Second Vatican Council.

The term “constitution” derived its canonical usage originally from Roman usage to describe law emanating from the Emperor directly.¹⁷⁹ As a result, the term has traditionally been used to apply to general or particular law issued by the Roman Pontiff himself regarding matters of faith and morals, and more generally, papal acts regulating the important affairs which concern the universal Church or particular Churches.¹⁸⁰

In light of the broader application of the term “constitution” in how the canon has been traditionally applied to include even encyclicals of the popes,¹⁸¹ and in light of the revision process at which the consultors discussed the fact that the tasks described in canon 754 could be achieved via other documents, it seems entirely plausible that the proposal of doctrine and the proscription of error is not limited to Apostolic Constitutions. Rather, what is more determinative of whether canon 754 would be applicable to a particular document emanating from a “legitimate authority of the

¹⁷⁸ E.g., 1983 *CIC*, c. 587 §1 relevant to religious institutes, and c. 732 relevant to societies of apostolic life.

¹⁷⁹ Raoul Naz, *Dictionnaire de droit canonique : contenant tous les termes du droit canonique, avec un sommaire de l'histoire et des institutions et de l'état actuel de la discipline*, vol. 4 (Paris : Letouzey et Ané, 1949) 428: “Ce mot reçoit en droit canonique une signification qui lui vient du droit romain où il servait à désigner les prescriptions émanant de l'empereur.”

¹⁸⁰ *Ibid.*, 428-429: “L'usage est donc bien fixé d'appeler constitutions les décisions du souverain pontife qui, sous forme de lois générales ou particulières, intéressent la foi ou les mœurs, et plus généralement, les actes du pape réglant les affaires importantes qui concernent l'Église universelle ou une Église particulière”

¹⁸¹ See Choupin, 52-53.

Church” would be not so much its label but rather its content. As the previous chapter demonstrated, none of the documents issued by the CDF, the ITC, or the PBC were constitutions. Nonetheless, their content reveals their direct purpose to promote doctrine. This is all the more true for decrees.

Regarding “decrees,” the term is used in a variety of ways in contemporary canonical usage to refer to documents within the legislative (e.g., general decrees),¹⁸² executive (e.g., general executory decrees¹⁸³ or particular decrees as singular administrative acts),¹⁸⁴ and judicial (e.g., decrees of a judge)¹⁸⁵ ambit of ecclesial power of governance. Canon 754 would envision the possibility of legislative and executive decrees by which doctrine is proposed or error proscribed. But the canon’s use of decree would also include “other documents of a doctrinal character having the same finality, emanating whether from the Holy See or from another legitimate authority: pontifical dicastery, episcopal conference, synod of bishops, etc To these documents the faithful are morally and juridically obliged to observance.”¹⁸⁶

¹⁸² 1983 *CIC*, c. 29: “Decreta generalia, quibus a legislatore competenti pro communitate legis recipiendae capaci communio feruntur praescripta, proprie sunt leges et reguntur praescriptis canonum de legibus.”

¹⁸³ 1983 *CIC*, c. 32: “Decreta generalia exsecutoria eos obligant qui tenentur legibus, quarum eadem decreta modos applicationis determinant aut observantiam urgent.”

¹⁸⁴ 1983 *CIC*, c. 48: “Decretum singulare intellegitur actus administrativus a competenti auctoritate executiva editus, quo secundum iuris normas pro casu particulari datur decision aut fit provisio, quae natura sua petitionem ab aliquo factam non supponunt.”

¹⁸⁵ 1983 *CIC*, c. 1617: “Ceterae iudicis pronuntiationes, praeter sententiam, sunt decreta, quae si mere ordinatoria non sint, vim non habent, nisi saltem summarie motiva exprimant, vel ad motiva in alio actu expressa remittant.”

¹⁸⁶ Gruppo Italiano Docenti . . . , 574.

Some argue, however, that the terms “constitutions” and “decrees” are, in fact, to be interpreted strictly, i.e., that the proposing of doctrine or the proscription of error would not require the observance called for in canon 754 if the legitimate authority of the Church were to attempt to fulfill this duty by means of some other type of document.¹⁸⁷

In light of the development process, however, and specifically the intervention made in the *coetus* session in February 1980 regarding use of the terms “constitutions” and “decrees” as being too restrictive, and in light of the canonical tradition, it should be kept in mind that these terms are not to be interpreted too strictly.

d. . . . *quae ad doctrinam proponendam et erroneas opiniones proscribendas* . . .

Here the canon indicates that it is those constitutions and decrees which aim at proposing doctrine (*proponere*) or proscribing (*proscribendas*) error which require observance from the Christian faithful. Gone is the verb “to prohibit” (*prohibere*) since, as the revision process demonstrated, the goal of these documents is not to override the freedom of the faithful in Christ to reject of their own choosing what is contrary to the faith, but to warn them of what, by its nature, is erroneous so that they may reject it accordingly.

The application of canon 754 to doctrine promoted by the CDF encounters a wrinkle here in that there is a slight variance in the verbiage employed by *Pastor bonus* and canon 754: whereas *Pastor bonus* speaks of the CDF’s duty to promote doctrine

¹⁸⁷ Balam describes which documents fall under the rubric of a constitution (Balam, 207-208) and which documents are decretal (209-210) claiming that the canon, in referring only to these two types of documents, ought not to be applied too indiscriminately.

(*promovere*), here the canon addresses the proposal of doctrine (*proponere*). In fact, none of the initial canons of Book III even use the verb *promovere* to speak of the manner by which doctrine is presented as does *Pastor bonus*. Instead of *promovere*, one notes a variety of verbs in the canons: “to proclaim” (*annuntiare*) and “to expound” (*exponere*) in canons 747 §1 and 750 §2, “to proclaim” (*proclamare*) in canons 749 §1 and 750 §2, “to declare” (*declare*) in canon 749 §2, “to be handed on” (*tradere*) in canon 750 §1, “to propose” (*proponere*) in canons 750 §§1&2 and 754, “to declare” (*enuntiare*) in canon 750 §2, and finally “to issue” (*ferre*) in canon 754. Thus immediately there is a canonical disconnect in that two sources of law, i.e., the Apostolic Constitution *Pastor bonus* and the Code of Canon Law, do not share a common terminology regarding what the CDF is to do and how what it does is to be received. This does not mean, however, that the two have no connection. In fact, the two terms, though different, can be regarded as essentially equivocal for the following reasons.

First, when one takes into consideration the theological substrata of both *Pastor bonus* and canon 754 and the similar pastoral aim underlying the two, as the previous chapter and this chapter have done respectively, it becomes clear that both pieces of legislation share the Second Vatican Council and its characteristic pastoral thrust as their primary source.¹⁸⁸ Thus, even if there is discrepancy regarding the exact wording of the

¹⁸⁸ The first principle stated in the Preamble for the Guidelines for the Revision of The Code of Oriental Canon Law states: “One of the most effective ways of implementing the ‘aggiornamento’ of the Church, as desired and decreed by the Second Vatican Council is by the revision of the Code of Oriental Canon Law carried out in accordance with the principles and spirit of the same Council” (see Pontificio Commissio Codici Iuris Canonici Orientalis Recognoscendo, *Nuntia* 3 (1976) 18). Included among the guidelines is the “Pastoral Character of the CICO [*Codex Iuris Canonici Orientalis*].” The guideline stated that “The Code must conform to the ‘General Directive’ of the Second Vatican Council which requires that in the revision of the Code suitable laws be drawn up in keeping with the principles laid down in the

two pieces of legislation, their common origin lends a common interpretation to both *promovere* and *proponere*.

Second, while there is no direct parallel between canon 754 and a single canon of the Code of Canons of the Eastern Churches, there is nonetheless a qualitative similarity between canon 754 of the 1983 *CIC* and canons 604 and 605 of the 1990 *CCEO*:

Can. 604. It is above all for the pastors of the Church to be diligent in ensuring that amidst the varieties of doctrinal enunciations in the various Churches, the same sense of faith is preserved and promoted, so that the integrity and unity of faith suffer no harm, but rather that the catholicity of the Church is brought into a better light through legitimate diversity.¹⁸⁹

Decree 'Christus Dominus' on the pastoral office of bishops. Consequently: Special care must be taken in the drawing up of laws so that the new Code reflects a concern not only for justice but also for that wise equity which is the fruit of understanding and charity: indeed the Code must be such as to encourage pastors to practice these virtues with discretion and intelligence. The canonical norms, therefore should not impose obligations when instructions, exhortations, suggestions and similar acts by which communion among the faithful is fostered, are sufficient for the better attainment of the Church's purpose" (*Nuntia* 3 [1976] 20-21).

¹⁸⁹ *Codex Canonum Ecclesiarum Orientalium auctoritate Ioannis Pauli PP. II promulgatus* (Vatican City: Libreria Editrice Vaticana, 1990) c. 604: "Ecclesiae Pastorum imprimis est sedulo curare, ut inter varietates enuntiationum doctrinae in variis Ecclesiis idem sensus fidei servetur atque promoveatur ita, ut integritas et unitas fidei damnum non patiat, immo catholicitas Ecclesiae per legitimam diversitatem in meliorem lucem ponatur." Hereafter this text shall be cited as *CCEO*. English translation from *Code of Canons of the Eastern Churches, Latin-English Edition* (Washington, DC: CLSA, 1992). All subsequent English translations of canons from this code will be taken from this source unless otherwise indicated.

For a comparative study on the canons relevant to the *munus docendi* in Book III of the Code of Canon Law and those of the Code of Canons of the Eastern Churches, see Thomas Green, "The Teaching Function of the Church: A Comparison of Selected Canons in the Latin and Eastern Codes," *The Jurist* 55 (1995) 93-140. George Nedungatt, relator for the *coetus de clericis et magisterio ecclesiastico* for the 1990 *CCEO*, provided reports for the meetings of the *coetus* group: see *Nuntia* 10 (1980) 65-82 for a record of the meeting which occurred on 12-14 March 1979 and *Nuntia* 11 (1980) 55-75 for the meeting held from 26 November through 7 December 1979. See also two articles by Nedungatt: "Magisterio Ecclesiastico nei Due Codici," *Apollinaris* (1992) 313-328; and "The Teaching Function of the Church in Oriental Canon Law," *Studia canonica* 23 (1989) 39-60.

Victor J. Pospishil and the Canon Law Society of America, in their tables correlating the 1983 *CIC* with the *CCEO*, both identify c. 754 from the former with c. 10 of the latter which states: "Verbo Dei inhaerentes atque vivo Ecclesiae magisterio authentico adhaerentes tenentur christifideles fidem immenso pretio a maioribus custoditam ac transmissam integre servare et aperte profiteri necnon eam et exercendo magis intellegere et in operibus caritatis fructificare." Pospishil comments, however, that the two canons are not counterparts but only most closely related. See Victor J. Pospishil, *Eastern Catholic Church Law* (New York, NY: Saint Maron Publications, 1996). He notes that c. 10 "places the rights and obligations of Eastern Catholics in the context of *faith* [sic], thereby emphasizing that the exercise of rights and the

Can. 605. It pertains to the bishops, especially as they are assembled in synods or councils, but in a unique way to the Apostolic See, to promote authoritatively, to guard and to defend conscientiously the integrity and unity of faith and good morals, even, when there is need, reprobating opinions that are contrary to them, or warning about those things that can endanger them.¹⁹⁰

These canons describe for the Eastern Churches essentially the very same pastoral responsibility as canon 754 describes for the Latin Church yet both canons do so by use of the verb *promovere*. Note in canon 604 that the main objective is explicitly presented, i.e., to preserve and promote the same sense of faith “so that the integrity and unity of faith suffer no harm, but rather that the catholicity of the Church is brought into a better light through legitimate diversity.” In canon 605, a direct reference is made to the Apostolic See’s “unique” competency in this endeavor to promote “the integrity and unity of faith and good morals” and only then, when needed, to reprobate contrary opinions. The wording better reflects the preference given in the mind of the legislator to the positive promotion of doctrine first before needing to proscribe error, a preference also present in the dual proper duty of the CDF in *Pastor bonus*.

The canons of the *CCEO* were promulgated after *Pastor bonus* and share its use of *promovere* and, at the same time, reflect their counterpart in the 1983 *CIC* which, promulgated before *Pastor bonus*, uses the verb *proponere*. The immediate parallelism

fulfillment of obligations must always be carried out keeping in mind the spiritual dimension of ecclesial society” (95-96).

¹⁹⁰ *CCEO*, c. 604: “Ad Episcopos praesertim in Synodis vel Consiliis coadunatos, singulariter vero ad Sedem Apostolicam pertinet integritatem et unitatem fidei bonosque mores auctoritative promovere, custodire et religiose defendere, etiam reprobando, quatenus opus est, sententias, quae eisdem contrariae sunt, vel monendo de eis, quae eadem in discrimen ponere possunt.”

between the canons of both codes¹⁹¹ enables us to draw a connection between the legislation of *Pastor bonus* and canon 754 despite the subtle variance in word choice. Thus *promovere* in *Pastor bonus* and *proponere* in canon 754 can be deemed equivocal insofar as both have the same purpose and function.

e. . . .*fert legitima Ecclesiae auctoritas*, . . .

Absent from the canon is any explicit reference to the Holy See as in 1917 *CIC* canon 1324. Instead the canon refers simply to the “legitimate authority of the Church,” a broader expression unlike every other initial canon of Book III in which the supreme authority of the Church is identified as competent to teach. None of the general introductory canons to Book III speak of any authority other than the Roman Pontiff and the bishops, either as a college or individually, since they are addressing the extraordinary and ordinary magisterium of the Church. The more broad expression in canon 754 of “the legitimate authority of the Church” lends the canon to being the only canon which may most suitably addresses the promotion of doctrine by an authority other than the pope or college of bishops, e.g., dicasteries of the Roman Curia, and for our purposes, the CDF.

As stated above, the expression “legitimate authority of the Church” in this canon was selected by the consultors not to exclude the Apostolic See as such a legitimate

¹⁹¹ See Jobe Abbass, “The Interrelationship of the Latin and Eastern Codes,” *The Jurist* 58 (1998) 3: “While canon 18 of the 1917 Latin code limited recourse . . . to ‘parallel passages of the (Latin) code,’ *CIC* canon 17 and *CCEO* canon 1499 do not preclude making recourse to parallel texts of one or the other of the codes as an aid to canonical interpretation.”

authority, as it had been explicitly designated in the canon's prior history, but to broaden the term given the canon's applicability. In light of the interpretative principle presented in canon 6 §2: "Insofar as they repeat former law, the canons of this Code must be addressed also in accord with canonical tradition."¹⁹² Canon 754 does not repeat canon 1324 exactly but there are several reasons to understand the Apostolic See still as a "legitimate authority of the Church" in canon 754. The *coetus* group was fully intending to reinsert the term "Apostolic See" into the canon but decided not to for the sake of being succinct. As pointed above, canon 605 of the CCEO emphasizes the unique competency of the Apostolic See "to promote authoritatively, to guard and to defend conscientiously the integrity and unity of faith and good morals." Finally, the contextual placement of canon 754 as the last of the initial canons and the only one to include this clause of broad competency makes this canon the only one of the initial canons of Book III in which the Apostolic See could be included. This last reason serves as a bridge to considering the final portion of the canon.

f. . . . *speciali vero ratione, quae edit Romanus Pontifex vel Collegium Episcoporum.*

Were the Roman Pontiff and the college of bishops the only legitimate authorities to propose doctrine or proscribe erroneous opinions by means of the constitutions or decrees addressed in canon 754, then this last clause of the canon would be redundant. There is no reason to especially highlight the constitutions and decrees of the Roman Pontiff

¹⁹² 1983 *CIC* can. 6 §2: "Canones huius Codicis, quatenus ius vetus referent, aestimandi sunt ratione etiam canonicae traditionis habita."

or College of Bishops if no other authority could issue such documents as well. The phrase, then, only emphasizes all the more that canon 754 pertains to an ecclesiastical authority beyond the Roman Pontiff and college of bishops.

2. Contextual Analysis of the Canon

To complete the analysis of canon 754, it is helpful to consider it in light of its historical association with canons 750-753. A summary overview of their content is warranted in order to draw the connections between them and canon 754 into greater clarity.

Canon 750 and 754 were originally linked in the 1980 *Schema* as Canon 708 §1 and §3 respectively. The canon was segregated and the new independent canons were placed in their current sequential order in the 1982 *Schema* for eventual promulgation in the new Code. Canon 750 §1 addresses the assent of faith, *assensus fidei* or *religiosum fidei*, required to that which is considered and taught by the authentic magisterium to be of divine revelation. Canon 750 §2 addresses that doctrine so proximate to the doctrine of the first paragraph that it is to be definitively held (*definitive tenendas*):

Can. 750 §1. A person must believe with divine and Catholic faith all those things contained in the word of God, written or handed on, that is, in the one deposit of faith entrusted to the Church, and at the same time proposed as divinely revealed either by the solemn magisterium of the Church or by its ordinary and universal magisterium by the common adherence of the Christian faithful under the leadership of the sacred magisterium; therefore all are bound to avoid any doctrines whatsoever contrary to them.

§2. Each and every thing which is proposed definitively by the magisterium of the Church concerning the doctrine of faith and morals,

that is, each and every thing which is required to safeguard reverently and to expound faithfully the same deposit of faith, is also to be firmly embraced and retained; therefore, one who rejects those propositions which are to be held definitively is opposed to the doctrine of the Catholic Church.¹⁹³

Therefore, whenever the CDF promotes a doctrine of faith and morals already definitively proposed as belonging to the deposit of faith as described in canon 750 §1, the observance or response required by the Christian faithful required by canon 754 is the *assensus fidei*. Failing to do so may result in the heresy, apostasy, or schism defined in canon 751.¹⁹⁴ When the CDF promotes doctrine that “is required to safeguard reverently and to expound faithfully” the doctrine properly belonging to the first category, as in canon 750 §2, the observance required by canon 754 is that it be definitively held.

¹⁹³ 1983 *CIC*, c. 750: “§1. Fide divina et catholica ea omnia credenda sunt quae verbo Dei scripto vel traditio, 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, quod quidem communi adhaesione christifidelium sub ductu sacri magisterii manifestatur; tenentur igitur omnes quascumque devitare doctrinas iisdem contrarias. §2. Firmiter etiam amplectenda ac retinenda sunt omnia et singula quae 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.”

Pope John Paul II added the second paragraph to the canon in 1998: see Pope John Paul II, *Motu proprio Ad Tuendam Fidem*, 18 May 1998: AAS 90 (1998) 457-461.

¹⁹⁴ Though here too the *coetus* group sought to cast the canon into a milder tone in referring not to heretics but to heresy, not to apostates but to apostasy, and not to schismatics but schism. See Castillo Lara, 20-21: “Concrètement, deux problèmes furent affrontés: a) S’il fallait conserver ou non les délits contre la foi (hérésie, apostasie et schisme) (can. 1325 §2) et, b) Comment codifier l’attitude envers l’oecuménisme. Quant au premier problème, il apparut absolument nécessaire de maintenir les notions mentionnées, les privant toutefois de la connotation péjorative qu’elles pouvaient avoir concernant les frères séparés. Dans ce but, on préféra un discours plus général et abstrait, en référence non pas à la personne mais au fait en lui-même: définir non pas qui est hérétique, mais plutôt ce qu’est l’hérésie, en soulignant l’exigence de la *mala fides*.” See *Communicationes* 19 (1987) 232-233: “Dicitur haeresis, pertinax, post receptum baptismum, alicuius veritatis fide divina et catholica credendae denegatio aut de eadem dubitatio; apostasia, fidei christianae ex toto repudiatio; schisma, subiectionis Summo Pontifici aut communicationis cum Ecclesiae membris eidem subditis detrectatio. Haeresis, apostasiae aut schismatis rei non sunt nisi qui culpabiliter talia admiserint.”

Proceeding to canon 752, we recall that it and 754 were originally linked in the 1980 *Schema* as Canon 708 §2 and §3 respectively. The canon was segregated and the new independent canons were placed in their current sequential order in the 1982 *Schema* for eventual promulgation in the new Code. Canon 752 presents a second level of doctrine with its own magisterial weight. The notion of an *obsequium religiosum*, or “religious submission,” is introduced as being different from the assent of faith, or *religiosum fidei* addressed in canon 750:

Can. 752 Although not an assent of faith, a religious submission of the intellect and will must be given to a doctrine which the Supreme Pontiff or the college of bishops declares concerning faith or morals when they exercise the authentic magisterium, even if they do not intend to proclaim it by definitive act; therefore, the Christian faithful are to take care to avoid those things which do not agree with it.¹⁹⁵

The canon is taken largely from *Lumen gentium* 25 with some variations.¹⁹⁶ The initial wording of the canon, i.e., “[a]lthough not an assent of faith,” presents the transition this canon is introducing from the previous two canons which do address an *assensus fidei*.¹⁹⁷ The subject of the magisterial authority addressed in canon 752 is the supreme authority of the Church (cf. cc. 330-336), i.e., the pope and the college of

¹⁹⁵ 1983 *CIC*, c. 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 authenticum exercent, etsi definitivo actu eandem proclamare non intendunt; christifideles ergo devitare curent quae cum eadem non congruant.”

¹⁹⁶ For a brief but helpful commentary on canon 752, especially in comparison with its root source in *Lumen gentium* 25, see Francis Sullivan, “The Response Due to the Non-Definitive Exercise of Magisterium,” *Studia canonica* 23 (1989) 267-283. See also Lucy Blyskal, “Ordinary Ecclesiastical Magisterium in Canons 752 and 753 in the 1983 Code” (JCL Thesis, The Catholic University of America, 1986).

¹⁹⁷ See Lucy Blyskal, CSJ, “*Obsequium*: A Case Study,” *The Jurist* 48 (1988) 559-589 for a treatment of *obsequium religiosum* to the non-infallible magisterium of the Church.

bishops. Yet once again, should the CDF promote the doctrine of faith and morals which “the Supreme Pontiff or the college of bishops declares concerning faith and morals” even by a non-definitive act, unlike the definitive act described in canon 749 §1 for the Roman Pontiff or canon 749 §2 for the college of bishops,¹⁹⁸ the observance required by canon 754 is the religious *obsequium* of mind and will.

The final canon before canon 754, while not originally a separate paragraph of canon 708 in the 1980 *Schema*, nonetheless reflects canon 754’s history insofar as it describes episcopal magisterial authority:

Can. 753 Although the bishops who are in communion with the head and members of the college, whether individually or joined together in conferences of bishops or in particular councils, do not possess infallibility in teaching, they are authentic teachers and instructors of the faith for the Christian faithful entrusted to their care; the Christian faithful are bound to adhere with religious submission of mind to the authentic magisterium of their bishops.¹⁹⁹

Canon 753 pertains to the magisterium of bishops who serve as “authentic teachers and instructors of the faith for the Christian faithful entrusted to their care.” The focus of this canon, then, is the magisterium of each individual bishop or of several

¹⁹⁸ 1983 *CIC*, c. 749: “§1. Infallibilitate in magisterio, vi muneris sui gaudet Summus Pontifex quando ut supremus omnium christifidelium Pastor et Doctor, cuius est fratres suos in fide confirmare, doctrinam de fide vel de moribus tenendam definitive actu proclamat. §2. Infallibilitate in magisterio pollet quoque Collegium Episcoporum quando magisterium exercent Episcopi in Concilio Oecumenico coadunati, qui, ut fidei et morum doctores et iudices, pro universa Ecclesia doctrinam de fide vel de moribus definitive tenendam declarant; aut quando per orbem disperse, communionis nexum inter se et cum Petri successore servantes, una cum eodem Romano Pontifice authentice res fidei vel morum docentes, in unam sententiam tamquam definitive tenendam conveniunt. §3. Infallibiliter definita nulla intellegitur doctrina, nisi id manifesto constiterit.”

¹⁹⁹ 1983 *CIC*, c. 753: “Episcopi, qui sunt in communione cum Collegii capite et membris, sive singuli sive in conferentiis Episcoporum aut in conciliis particularibus congregati, licet infallibilitate in docendo non polleant, christifidelium suae curae commissorum authentici sunt fidei doctores et magistri; cui authentico magisterio suorum Episcoporum christifideles religioso animi obsequio adhaerere tenentur.”

bishops gathered in an episcopal conference or a particular council, both of which fall short of the full college of bishops. Thus their magisterium does not, as such, enjoy infallibility. Since the Petrine *diaconia* entails the unique responsibility to strengthen the brethren (Luke 22:32), *Pastor bonus* clearly sets the CDF, as an agent of that same *diaconia*, in service to the magisterium of the bishops throughout the world. Canon 753 requires the Christian faithful to adhere with a religious *obsequium* of mind to the magisterium of their individual bishops.

In the revision process for canon 754, the magisterium of the individual bishops, or of the bishops gathered in regions, provinces, or in episcopal conferences was acknowledged as legitimate authority to propose doctrine and proscribe error. Thus, when the authorities described in canon 753 propose doctrine or proscribe error, though they do so non-infallibly, still the obligation of canon 754 applies and the Christian faithful's observance is one of a religious *obsequium* of the mind.

E. Conclusion

This chapter has investigated the genesis and development of canon 754 in order to establish the canon's direct applicability to the CDF's task of promoting doctrine as an integral part of its proper duty. By "applicability" is meant that canon 754, among all the initial canons of Book III of the Code of Canon Law, pertains to the promotion of doctrine by an authority besides the pope and college of bishops and provides, at the

same time, a directive as to what the proper response to that promotion of doctrine ought to be.

The chapter began by noting a very serious question which immediately springs to mind regarding the binding nature of legislation which would seek to command a response of faith, namely, can such a directive be binding upon the intellect to make the assent of faith? Ought not legal norms pertain solely to action and acts of the will? Though this is a question meriting significant study and further inquiry, such a task is beyond the scope of this study. It is noted, however, that the initial canons of Book III, from which canon 754 is drawn, do indeed legislate the various levels of response to the various levels of doctrine which the Christian faithful are to offer.

With this underlying issue established, the chapter proceeded to its investigation into canon 754 in the following manner. First, the chapter examined the sources for canon 754 as they were presented by the Pontifical Commission for the Authentic Interpretation of the Code of Canon Law: 1) canon 1324 of the 1917 *CIC*; 2) the encyclical letter of Pius XII *Humani generis*; 3) Cardinal Ottaviani's letter to the episcopal conferences *Cum oecumenicum concilium*; and 4) the *Relatio Commissionis Synodalis* from the 1967 Synod of Bishops. It is in these sources, taken together, where one can perceive the beginnings of a deep commonality in pastoral approach between *Pastor bonus* and canon 754. The sources demonstrate a significant shift in perspective regarding how best to address doctrinal errors, a shift away from a posture of condemnation of the error to one of open engagement and a positive rearticulation of the sound doctrine to be believed.

Next the chapter turned to the code revision process to present how this shift in perspective influenced the deliberations among the members of the *coetus De Magisterio Ecclesiastico* in their crafting what would become canon 754. Whereas some of the *fontes* seem to connote an aggressive condemnatory approach to doctrinal error more reminiscent of the greater history of the Congregation's approach to the same (e.g., canon 1324, Cardinal Ottaviani's circular letter to the episcopal conferences *Cum oecumenicum concilium*, and to a lesser extent, Pius XII's encyclical *Humani generis*), the fact is that these sources served more as a foil for the consultants to help them determine how *not* to write the new legislation. The influence of the Second Vatican Council in guiding their deliberations is undeniable. The *aggiornamento* sought by John XXIII at the Council's opening and the *novus habitus mentis* sought by Paul VI at its close, fashioned an ecclesiological environment in which the former *modus operandi* for shepherding the people of God would necessarily have to yield to a new approach. The consultation which the *coetus de Magisterio Ecclesiastico* received reflected this broad new approach relevant to doctrinal error and how best to address it. The desire was to enable competent ecclesiastical authority to articulate the faith in a fresh manner, to emphasize it and allow its veracity to impress itself upon the Christian faithful, now more readily acknowledged as possessing a maturity in faith and a discerning ability to reject what is contrary to sound doctrine and morals.

Following directly upon a review of the revision process, the chapter considered canon 754 in its text and context in order to point out that the exact nature of the observance it requires of the Christian faithful is to be determined by the nature of the

doctrine to be observed. For this determination one looks to the other initial canons of Book III.

Perhaps it is most fitting to state that what this chapter has highlighted more than anything else is the deep commonality that exists between the complexion of the CDF in *Pastor bonus* and that of canon 754 in the 1983 Code of Canon Law, i.e., both pieces of legislation share a similar *ratio legis*; an acknowledgement of the necessity for ecclesiastical authority to correct, reprove, proscribe, and even condemn error but that this is not to be done as a first course of action. Rather, the preference in both *Pastor bonus* and in canon 754 is that the CDF aim at clarifying the doctrine of faith and at guiding the way to an integrated moral life such that authentic discipleship may flourish and the communion proper to the baptized may more readily be realized.

The previous chapter concluded with a question often asked: how are the Christian faithful to respond to the documents issued by the CDF by which the doctrine of faith and morals is promoted? The search for a legal answer to this question has proven fruitful. Within the Church's *ius vigens* relevant to the *munus docendi*, the applicability of canon 754 in particular to the promotion of doctrine by the CDF is most clear when considering the light which the revision process sheds on the text and context of the canon itself. The canonical tradition of specifying the Apostolic See as a competent ecclesiastical authority to promote doctrine and proscribe error paves the way for understanding the CDF, in light of *Pastor bonus*, as chief among the dicasteries of the Roman Curia in this competency.

Canon 754, as a legal norm directing a response of faith, does not define the particular response required of the Christian faithful to all efforts of the CDF to promote doctrine but rather concentrates on the CDF's ability to point the Christian faithful to the appropriate response in a positive (and sometimes negative) manner. The level of response, then, is something that must be discerned in each particular case when the CDF promotes a particular doctrine.

It remains for this study to articulate some final points for further inquiry and development. Included in them is the investigation of whether there are common doctrinal themes which have seen more frequent promotion in light of contemporary challenges to the faith; a consideration of the juridical value of the various documents by which the CDF promotes doctrine; and whether the CDF has demonstrated consistency in its use of various types of documents, e.g., Instructions, Notes, etc. These practical considerations will bring this study to its conclusion and simultaneously open it up for further considerations.

CHAPTER FIVE

**VARIOUS CONSIDERATIONS ON THE COMPETENCY OF
THE CONGREGATION FOR THE DOCTRINE OF THE FAITH
TO PROMOTE DOCTRINE**

Throughout the course of this study we have made passing reference to a variety of considerations meriting further attention as a result of the findings presented. It falls to this ultimate chapter to take those matters into consideration. Specifically, this chapter will address the following four topics relevant to the competency of the CDF to promote doctrine and will, at the same time, seek to frame the questions which call for further inquiry.

First, by taking into consideration the specific texts in chapter three, this chapter will attempt to assess how consistently the CDF and its subsidiaries, the ITC and the PBC, have employed ecclesiastical documents of varying magisterial and juridic value for the purpose of promoting the doctrine of faith and morals.¹ Second, the chapter will investigate whether there are common doctrinal themes which seem to have been promoted with greater frequency in light of contemporary challenges to the faith. Third, the chapter will consider very briefly the recent development of placing the Pontifical Commission *Ecclesia Dei* under the leadership of the CDF and how that may bear on the promotional competency of the CDF. Finally, the chapter will consider whether and to

¹ As presented in chapter three (see footnote 5 on page 156), several scholars have attempted to make this assessment and to try and bring systematization to curial documents in general, immediately suggesting that the curial use of documents is not uniformly ordered.

what degree the CDF's exclusive competency to promote doctrine contributes to its enjoying a certain preeminence within the Roman Curia today.

Concluding these investigations will bring us to the core of the dissertation, i.e., a succinct articulation of how the promotion of doctrine by the Congregation for the Doctrine of the Faith is best conceived in light of *Pastor bonus* and canon 754.

A. The Value and Consistency of CDF, ITC, and PBC Documents in Fulfilling the Duty To Promote Doctrine

Assessing ecclesiastical documents is not an easy task in part because there are so many different types. The texts presented in chapter three, for example, were classified as letters, instructions, acts of symposia, doctrinal notes, notes, declarations, and even just documents. Another reason why classifying ecclesiastical documents can prove arduous is because they are not always used consistently by those authorities issuing the texts. For this reason, it cannot be presumed that the label of an ecclesiastical document will faithfully convey its content. In this regard, Kurt Martens likens canonists to oenologists: just as oenologists “know that you cannot judge a wine by merely looking at the label of the bottle” and that “one has to taste the content of the bottle,” so “canon lawyers should do with ecclesiastical documents.”² This portion of the chapter, then, seeks to “uncork”

² Martens, 136. “Canon lawyers are thus in a sense oenologists in the field of law: they will look behind the label or name tag that was put on the document and come to a real understanding of the nature of the document; based upon an analysis of the content.” Martens stresses that this is vitally important to appreciate the true value of a text: “When reviewing the current theories on the canonical value of Roman documents, it seems to be more appropriate to look at the content of the document first, rather than to look at the form or name of it. Roman documents are given all kinds of names, according to an ancient curial tradition and evolving with times and people. Therefore, a reading merely based upon names given to

the juridic and magisterial value of the categories of CDF documents reviewed in chapter three. Knowing this will facilitate an assessment as to what extent these documents have been employed consistently in promoting the doctrine of faith and morals.

1. Letters

The type of public document most commonly used by the CDF in the promotion of doctrine since *Pastor bonus* is the “Letter” or, as Francis Morrissey calls them, “Circular Letters.”³ The Code of Canon Law uses the term “letter” in a variety of ways, speaking of apostolic letters,⁴ dimissorial letters,⁵ letters of the diocesan bishop,⁶ letters of introduction,⁷ pontifical letters,⁸ and testimonial letters.⁹ Dictionaries of canon law, however, describe other kinds of letters with juridical import.¹⁰

documents will not be sufficient to establish the precise meaning and nature of a particular document. There is much chance that such reading will be misleading” (150).

³ Morrissey, *Papal and Curial Pronouncements*, 32-34.

⁴ See 1983 *CIC*, cc. 379, 382 §§2-3, 404, 405 §1, and 406 §2.

⁵ See 1983 *CIC*, cc. 1015, 1018-1023, 1052 §2, 1053 §2, 1383.

⁶ See 1983 *CIC*, c. 548 §1.

⁷ See 1983 *CIC*, c. 903.

⁸ See 1983 *CIC*, c. 367.

⁹ See 1983 *CIC*, cc. 1051, 2°; 1572.

¹⁰ E.g., see Jean Werckmeister, *Petit Dictionnaire de Droit Canonique* (Paris: Les Éditions du Cerf, 1993). Werckmeister defines the “Apostolic Letter” as “Lettre du pape. En particulier, c’est par des ‘letters apostoliques’ qu’est signifiée sa nomination à un nouvel évêque (can. 379, 382, etc.)” (130); “Testimonial letters” as “Attestation signée de l’évêque ou du supérieur majeur certifiant qu’un candidat aux ordres est idoine et n’est pas atteint par des empêchements ou des irrégularités (can. 1051)” (199); “Bulls” as “Lettre pontificale solennelle, de caractère public (par opposition au bref, non solennel et privé)” (44); and “Briefs”

As noted in chapter three, the letters issued by the CDF since *Pastor bonus* to promote doctrine are addressed primarily to the bishops of the Church throughout the world and are geared to elucidating certain doctrinal themes addressed in light of contemporary errors. The letters seek to assist bishops in their *diaconia* to preserve and promote the integrity of the faith. In this regard, the letters are more magisterial in nature than juridical, i.e., they aim at promoting the faith in support of the bishops' responsibility to *teach* the doctrine addressed in each letter, more so than to address governmental matters *per se*. To say this, however, is not to say that those documents which are magisterial in character do not have any juridic consequences. Book III of the Code of Canon Law regulates from a juridical perspective the response of the Christian faithful to magisterial teaching. This is important to remember in assessing the value or weight of ecclesiastical documents issued for the purpose of teaching the faith like the letters of the CDF here under review.

Morrissey observes that "the relatively new form of circular letters used by the Curia is more difficult to circumscribe in legislative terms."¹¹ He reaches this conclusion in part because the letters have been used of late "to outline procedures and to indicate new obligations" but not necessarily to legislate new law.¹² Furthermore, the fact that curial letters are not consistently published in the *Acta Apostolicae Sedis* adds to the difficulty of ascribing a juridical value to the texts. "Consequently," writes Morrissey,

as "Lettre pontificale, plus courte que la bulle, et généralement de caractère privé" (43). See also Naz, vol. 6, who differentiates between "Anonymous Letters" (407-408); "Lettres d'Attache" (408); "Calumnious Letters" (408); Pontifical Letters (408-416); and Letters of Religious (416-419).

¹¹ Morrissey, *Papal and Curial Pronouncements*, 32.

¹² *Ibid*, 32.

“there is not really any other choice but to state that they are not legislative documents, but are simply means of expressing the intentions and policies of the congregations.”¹³

Unlike Morrissey, who seems to establish the non-legislative character of curial letters by default, for John Huels “the first step in interpreting an ecclesiastical document is the determination [of whether] the document in question [is] a product of the teaching office of the Church, the *munus docendi*, or . . . a product of the governance function of the Church, the *munus regendi*.”¹⁴ Furthermore Huels counsels,

There is only one reliable way to determine whether an ecclesiastical document is magisterial or juridical in nature, and that is to examine its contents and purpose. If it is dealing with a doctrinal or moral matter, it is magisterial; if it deals with a matter related to discipline, procedures, structures, rights and obligations and so forth, it is juridical. This distinction is easily made by anyone who has studied canon law and theology. It takes no additional skills.¹⁵

Despite indicating the facility with which an educated person can make this important distinction, he goes on to state the following:

There are also many juridical documents that contain brief theological introductions or that interweave both theology and law. The theological statements may justify and provide a context for the juridical statements, but they do not change the basic nature of the document, which is juridical. The Code of Canon Law itself contains many canons that are theological in nature, but it remains a juridical text given its overall nature and purpose. Likewise, a magisterial text, such as an apostolic exhortation, may refer to canonical norms and urge their observance, but the nature of the document is not altered. The allusions to canon law do not change its

¹³ Ibid., 32-33.

¹⁴ John Huels, “A Theory of Juridical Documents Based on CC. 29-34,” *Studia canonica* 32 (1998) 339. In footnote 7 on the same page, Huels defines his use of the term “magisterial”: “The term ‘magisterial’ document as used here pertains to documents with a primarily theological content; it does not necessarily connote a teaching of the ‘authentic magisterium’ that must be believed or given *obsequium* (cc. 750, 752).”

¹⁵ Huels, “A Theory . . .,” 340.

magisterial nature, as is clear from its purpose and overall content. Moreover, there are documents that have a mixed nature, both theological and canonical, such as many apostolic constitutions and some directories and instructions. Such documents are the subject of study by both canonists and theologians.¹⁶

In chapter two we saw that the *munus docendi* will, at times, necessitate an exercise of the *potestas regiminis*, e.g., Book III of the Code of Canon Law as Huels points out above, but that in these instances the *potestas*, primarily employed in the discharge of the *munus gubernandi*, is used in these instances in discharging the *munus docendi*. Huels' observation above is therefore helpful to our present consideration since, as he notes, individual ecclesiastical documents may be strictly juridical, strictly magisterial, or a mixture between the two. Strictly juridical documents will be issued in virtue of the *potestas regiminis* and will be disciplinary in nature. Strictly magisterial documents will be issued in virtue of the *potestas magisterii*, such as the documents used by the CDF to promote doctrine, and will be doctrinal in nature. A "mixed document" may be disciplinary with doctrinal references, or doctrinal with disciplinary consequences; in this case the document is to be categorized in terms of its primary aim or overarching emphasis. This is precisely the task undertaken in chapter three.

The letters of the CDF, based on their "purpose and overall content," lend themselves to be understood as being magisterial in nature. Thus, they do not properly fit into any of the above-mentioned canonical uses of the term "letter." The juridical weight of each letter, then, is directly determined by the magisterial weight of the doctrine

¹⁶ Huels, "A Theory . . .," 340.

articulated within the letter itself.¹⁷ As we reviewed in chapter four, canon 754, and the related canons 209 and 212 §1, place legal obligations on the faithful regarding the teaching authority of the Church and thus even when a document appears exclusively magisterial in character, there are, nonetheless, juridic consequences which must be taken into consideration; consequences in the form of a legally obliged response to the doctrine promoted.

2. Instructions

Turning to “Instructions,” the second most often used document to promote doctrine by the CDF among those presented in chapter three, we note that the 1983 Code of Canon Law defines them as strictly legal texts:

Can. 34 §1. Instructions clarify the prescripts of laws and elaborate on and determine the methods to be observed in fulfilling them. They are given for the use of those whose duty it is to see that laws are executed and oblige them in the execution of the laws. Those who possess executive power legitimately issue such instructions within the limits of their competence.

§2. The ordinances of instructions do not derogate from laws. If these ordinances cannot be reconciled with the prescripts of laws, they lack all force.

§3. Instructions cease to have force not only by explicit or implicit revocation of the competent authority who issued them or of the superior of that authority but also by the cessation of the law for whose clarification or execution they were given.¹⁸

¹⁷ Martens, 150: “The nature of authority of a Roman document that is a teaching document, will determine the level of obedience that is due to the document and the teaching contained in such document, and consequently will also determine what someone’s position is in the Church.” For a treatment of the obligations and rights of the Christian Faithful vis-à-vis the teaching function of the Church, see Carlos Errázuriz, *Il “Munus Docendi Ecclesiae”: Diritti e Doveri dei Fedeli* (Milan: Giuffrè Editore, 1991).

¹⁸ 1983 *CIC*, c. 34: “§1. Instructiones, quae nempe legum praescripta declarant atque rationes in iisdem exsequendis servandas evolvunt et determinant, ad usum eorum dantur quorum est curare ut leges

The canon has no direct predecessor in the 1917 Code of Canon Law yet Benedict XV, in establishing the Commission for the Authentic Interpretation of the Canons of the Code, indicated that the Sacred Congregations were competent to issue instructions to shed light on the implementation of the 1917 Code.¹⁹ Some commentators on that code spoke of instructions as being legislative in nature.²⁰ During the code revision process, however, the consultors determined that instructions were not to be understood as laws but as documents issued by those with executive authority to help clarify how the law was to be implemented.²¹ Thus instructions, as Moodie notes, can be considered akin to handbooks or guidelines except that the norms they contain are beyond mere recommendations and are binding.²²

exsecutione mandentur, eosque in legum exsecutione obligant; eas legitima edunt, intra fines suae competentiae, qui potestate executiva gaudent. §2. Instructionum ordinationes legibus non derogant, et si quae cum legum praescriptis componi nequeant, omni vi carent. §3. Vim habere desinunt instructiones non tantum revocatione explicita aut implicita auctoritatis competentis, quae eas edidit, eiusve superioris, sed etiam cessante lege ad quam declarandam vel exsecutione mandandam datae sunt.”

¹⁹ Pope Benedict XV, Motu proprio *Cum iuris canonici*, 15 September 1917: AAS (1917) 483: “Sacrae Romanae Congregationes nova Decreta Generalia iam nunc ne ferant, nisi qua gravis Ecclesiae universae necessitas aliud suadeat. Ordinarium igitur earum munus in hoc genere erit tum curare ut Codicis praescripta religiosae servantur, tum *Instructiones*, si res ferat, edere, quae iisdem Codicis praeceptis maiorem et lucem afferant et efficientiam pariant.”

²⁰ Naz cites the instructions emanating from the Roman Congregations as examples of the Congregations’ legislative power even though his description of them focuses on their purpose of clarifying the application of law. See Raoul Naz, *Dictionnaire de droit canonique*, vol. 4 (Paris : Letouzey et Ané, 1949) 213: “Le pouvoir législatif des Congrégations s’exerce par les actes suivants: 1. Instructions—Ces actes, comparables aux règlements d’administration publique du droit français, tendent à fixer l’interprétation des lois, ou à en assurer dans le détail l’observation.”

²¹ See *Communicationes* 14 (1982) 136: “Instructiones non sunt leges et ideo sub forma Instructionum ferri non possunt leges.”

²² See Michael R. Moodie, “General Decrees and Instructions,” in *New Commentary on the Code of Canon Law*, ed. John P. Beal et al. (New York/Mahwah, NJ: Paulist Press, 2000) 100: “An instruction, therefore, is a handbook or guideline for those whose responsibilities involve the application of the law in concrete circumstances—people such as pastors, vicars, directors of religious education, etc. The guidelines for the application of the law found in an instruction, however, are not merely suggestions; they oblige

Of the four instructions noted in chapter three which were issued by the CDF for the purpose of promoting doctrine, two appear more magisterial than juridical in nature – *Donum veritatis*²³ and *Dignitas Personae*²⁴ – and, as a result, do not seem to fit as well into the definition of an instruction provided in canon 34. The other two instructions – *Ecclesiae de mysterio*²⁵ and *Ardens felicitatis*²⁶ – appear to possess both a magisterial and disciplinary section. It is the presence of the latter section which makes these two documents more properly “instructions” according to how they are defined in canon 34. The following considerations will shed light on why this is the case.

Regarding the two instructions appearing primarily doctrinal in nature, both *Donum veritatis* and *Dignitas Personae* are geared not so much towards the implementation of ecclesiastical law as they are the “implementation” of sound doctrine. Instead of pinpointing the prescriptions of legislated norms for specific application, these instructions aim at promoting and clarifying the doctrinal principles which, if taught clearly and embraced, would lead to a subsequent correct discipline more in accord with the Church’s law. In this way, these instructions of the CDF appear to be texts which, while certainly “instructive” are nonetheless not exactly instructions, at least as canon 34

those who are responsible for the application of the law. Instructions provide more detailed regulations in an attempt to ensure a more uniform application of the law accommodated to current circumstances. Instructions are based on the presumption that coordination of activity fosters the common good.”

²³ See page 160.

²⁴ See page 204.

²⁵ See page 170.

²⁶ See page 188.

envisions an instruction to be.²⁷ The CDF's choice to label these two documents as instructions, then, points to their instructive character but not necessarily to the legal character of instructions presented in canon 34. For the sake of consistency, perhaps these documents ought to have been labeled as "Doctrinal Instructions" or quite possibly as "Letters" since they do not differ appreciably from the form and intent of the letters reviewed above.²⁸

Regarding the two instructions manifesting a dual nature, *Ecclesiae de mysterio* and *Ardens felicitatis*, what is described above regarding the first two instructions would also apply to them. But what these two texts have which the above two do not is a separate juridical section treating specific laws and their correct interpretation and implementation. These sections render these two documents more in accord with how instructions are defined in canon 34.

In the introduction to *Ecclesiae de mysterio*, the document explicitly lays out its methodology as being theological first, followed by the more juridical aspect of the participation of the non-ordained in the sacred ministry of priests:

Before addressing the concrete situations which were presented to us, it is necessary to look briefly at the essential theological elements underlying the significance of holy orders in the organic makeup of the church. This is so that the ecclesial discipline will be understood better in light of the

²⁷ Huels ("A Theory . . .") places instructions on his list for both "Magisterial Documents" (353) and "Juridical Documents" (355) issued by the Holy See. Martens notes that "The most difficult form of curial documents—at least with regard to interpretation—is the instruction" (141-142). Morrissey agrees: "It is this form of document [i.e., the Instruction], along with the declaration, that has given rise to the greatest difficulty in interpretation in the postconciliar era. Since the texts are not strictly speaking legislative – at least according to their nature – their application certainly allows for more leeway than would a decree" (Morrissey, *Papal and Curial Pronouncements*, 29).

²⁸ Or, as Martens wonders: "it is questionable . . . whether the category of circular letters is not really part of the category containing instructions" (143).

truth and of ecclesial communion, which are concerned with promoting the rights and obligations of all, and for which in the church “the salvation of souls must always be the supreme law.”²⁹

The fact that this document is an instruction in accord with canon 34 gives the text juridical value. As Huels noted, the doctrinal section preceding the specific articles by which individual cases are treated does not alter the overall juridic nature of the text itself. Rather, the theological framework presented first is in place in order to understand the norms which follow. Of note, however, is the fact that John Paul II approved this instruction *in forma specifica* which means “the pope effectively withdrew competence from the eight dicasteries responsible for the Instruction and made the document his own.”³⁰ But in making this particular instruction his own, Huels observes, the Pope made it a legislative text and not simply an act of a higher executive power of governance. Huels concludes this for two primary reasons:

(1) The last sentence of the Instruction says that the Supreme Pontiff has “ordered its promulgation.” Administrative instructions are not promulgated but “published;” promulgation is reserved for laws, general legislative decrees, and general executory decrees (cc. 7; 31 §2). Since an instruction is not promulgated, the fact that the pope ordered this Instruction to be promulgated indicates that he has elevated it to the status of law (*lex*). (2) The second last sentence of the Instruction states: “All particular laws, customs and faculties conceded by the Holy See *ad experimentum* or other ecclesiastical authorities which are contrary to the foregoing norms are hereby revoked.” An administrative document cannot revoke particular laws and legal customs. Only a legislative text can do

²⁹ See *EM, Prooemium*; AAS 89 (1997) 856: “Antequam certis respondeatur casibus, huc delatis necesse est de Ordinis sacri significatione in Ecclesiae constitutione quaedam brevia et essentialia elementa theologica praeponere, quae comprobatur faveant intellectum disciplinae ecclesiasticae, utpote quae, veritate servata ecclesiasticae communione, omnium iura officiaque provehere vult ‘pro salute animarum, quae in Ecclesia suprema semper lex esse debet’ [1983 *CIC*, c. 1752].”

³⁰ See John Huels, “Interpreting an Instruction Approved *in forma specifica*,” *Studia canonica* 32 (1998) 14.

that (cc. 20, 28). By approving the Instruction *in forma specifica*, by ordering its promulgation, and by explicitly revoking contrary particular laws and customs, the pope created, in effect, a document with a new nature – a “legislative instruction.” Consequently, the Instruction must be treated as universal law (*lex*), law that emanates from the supreme legislator, and the rules on ecclesiastical laws apply to it (cc. 7-21).³¹

Provost comments that a curial document approved *in forma specifica* does not, by that fact, require that it now be considered a papal document.

If it were, the document should be listed in the *Acta Apostolicae Sedis* under the pope. But curial documents approved *in forma specifica* continue to be listed in the AAS under the respective dicastery of the Roman Curia. They are not even listed as a special category of “documents approved *in forma specifica*,” and they continue to be referred to by the name of the dicastery which issued them, not by the name of the pope who granted the approval *in forma specifica*.³²

The introduction to *Ardens felicitatis* explicitly indicates that the instruction was issued in accord with canon 34. Yet, at the same time, the instruction sought to put the “disciplinary determinations” within a “well-founded doctrinal framework to ensure a correct approach and to make clear the reasoning behind the norms.” As a result, the instruction is constructed of two primary sections: the first addressing “doctrinal aspects” of the question, and the second addressing “disciplinary dispositions.” The second section of the text, presented in a series of ten articles, provides norms for the appropriate implementation of canonical norms. Thus this text is a prime example of one document

³¹ Huels, “*Interpreting an Instruction...*,” 15-16. Huels also addresses in this same article that if the provisions of the Instruction have legislative force, whom do they bind? He states that the diocesan bishops and ordinaries to whom the Instruction is addressed are bound directly and “that it *indirectly* binds everyone else affected by the matter” (43).

³² James Provost, “Approval of Curial Documents *in forma specifica*,” *The Jurist* 58 (1998) 220.

possessing two approaches to the same topic: one properly doctrinal (magisterial) and the other properly juridical (gubernatorial).

Recognizing this about the instructions of the CDF means that their value, both magisterial and juridic, must be determined on a case by case basis. Like letters, the magisterial weight of CDF “doctrinal instructions” is directly dependent upon the doctrine addressed within the instruction itself and their juridical value stems from canon 754 and the obligation to observe such doctrine with the appropriate response for the specific level of teaching. The juridical weight of those CDF instructions which more directly reflect what canon 34 envisions is determined by canon 34 itself.

3. Symposia Acts

As with the studies of the ITC and the PBC, the acts from the symposia sponsored by the CDF presented in chapter three were published for the benefit of ongoing scholarship and to assist theological research in such a way that it take into consideration key doctrinal elements regarding the primacy of the Successor of Peter³³ or the inherent human dignity of the mentally handicapped and their fundamental rights.³⁴ Insofar as these documents are compilations of the interventions made by scholars during the symposia, they are not to be taken together as a single authoritative document, i.e., the acta constitute neither a single juridic text nor magisterial text. But to say that these published acts do not constitute a magisterial text does not mean that they are devoid of

³³ See page 174.

³⁴ See page 200.

magisterial value. The doctrine addressed at the symposia and subsequently published, insofar as it is a reiteration of the authentic teaching of the Church relevant to each topic, ought to be received as authoritative. For this reason the acta are examples of the promotional effort of the CDF which sponsored the symposia, even if they are not considered as individual documents.

4. Notes and Doctrinal Notes

To promote the doctrine regarding papal power in relationship to marriage, the CDF issued a “Note”³⁵ but to promote the doctrine regarding the participation of Catholics in political life³⁶ and regarding the meaning of authentic evangelization,³⁷ the CDF issued “Doctrinal Notes.” At first glance, there does not seem to be an appreciable difference in focus or style between the Note and the Doctrinal Notes. What is the difference and why were the two different types of texts used in these instances?

The Code of Canon Law does not make reference to any type of document called a Note, much less a Doctrinal Note. Assessing the texts from the point of view of their content, one has difficulty concluding what the fundamental difference is between them, if one exists at all. Complicating matters is the fact that the CDF refers to its own Doctrinal Note on authentic evangelization as simply a Note within the text itself.³⁸

³⁵ See page 178.

³⁶ See page 190.

³⁷ See page 202.

³⁸ See page 203 at footnote 116 *supra*.

Beginning with the Doctrinal Note pertaining to the participation of Catholics in political life, the document pays special attention to formulating a correct understanding of Christian conscience since so many Catholic politicians comfortably sever their public life from their religious life along the fault line of the conscience misconceived of as enjoying an autonomy apart from any objective norms by which the conscience is to be well formed. The Doctrinal Note therefore desires to address a very practical matter yet perhaps what makes the Doctrinal Note doctrinal is that the CDF preferred to approach the practical considerations from the doctrinal principles underlying them. Thus, as stated in chapter three, the CDF sought to “shed light on one of the most important aspects of the unity of Christian life: coherence between faith and life, Gospel and culture, as recalled by the Second Vatican Council.”³⁹ The Doctrinal Note is directed first to bishops, but not exclusively so. The CDF sought to address Catholic politicians as well and, indeed, any and all of the laity who play a political role in their communities. The doctrinal principles addressed in the text are applicable to all.

The same can be said about the Doctrinal Note regarding the meaning of authentic evangelization. Here too the CDF wants to clarify the anthropological, ecclesiological, and ecumenical implications involved in evangelization, in order to thwart growing confusion about the relationship between evangelization and the conscience. The goal is practical but the methodology is doctrinal, trusting that a sound articulation of doctrine will lead to right action in the concrete.

³⁹ *Participation of Catholics*, Intro. Specifically, the document references *GS*, 31, 75,76; *AA*, 7; *LG*, 36.

The one Note on the limits of papal power regarding the dissolution of sacramental marriages is fundamentally no different from the doctrinal note. It seeks to address a very specific practical question, i.e., whether the power of the Roman Pontiff admits of the ability to dissolve sacramental marriages *ratum et consummatum*, by exploring the doctrinal implications involved.

Given this assessment, it would seem that the Note addressing the power of the Roman Pontiff regarding marriage might better have been labeled as a Doctrinal Note like the other two documents. Insofar as these texts are doctrinal in character and that the legal system of the Church does not describe a particular document labeled as “Note,” they are to be received as possessing a magisterial character and are to be observed in accord with the doctrine promoted in them.

5. Declarations

Morrissey discerns at least three types of declaration: the simple declaration, the authentic interpretation or declaration, and the extensive declaration.⁴⁰ In all of these, Morrissey regards declarations as juridical in nature. But what of *Dominus Iesus*,⁴¹ the one declaration presented in chapter three as demonstrative of the CDF’s competency to

⁴⁰ Morrissey, 29-32. He makes the distinction as follows: a general declaration “is not a new law and must be interpreted in the light of existing legislation” (30); an authentic interpretation or declaration is “communicated in the form of law, [and] has the same force as the law itself and must be promulgated (c. 16 §1, 3°)” (30); and an extensive declaration, “which to a certain extent modifies the law” (31). Morrissey also notes that declarations are also used in judicial procedures, e.g., declarations of marriage nullity and in penal procedural law.

⁴¹ See page 185.

promote doctrine? Its focus is on the necessity of a sound Christology, especially as that impacts ecumenical and inter-religious dialogue.

As pointed out in chapter three, the CDF states that its purpose in issuing *Dominus Iesus* was “to recall to Bishops, theologians, and all the Catholic faithful, certain indispensable elements of Christian doctrine, which may help theological reflection in developing solutions consistent with the contents of the faith and responsive to the pressing needs of contemporary culture.”⁴² The CDF itself refers to the document as addressing the topic in “expository language,”⁴³ not in juridic language. Use of the label “Declaration” here is not intended canonically but, again, magisterially. By means of *Dominus Iesus*, the CDF seeks to declare the fundamental magisterial principles necessary to ensure more readily an ecumenical effort reflective of sound Christology, soteriology, and ecclesiology. For the sake of consistency, then, it may be better to ascribe to documents such as *Dominus Iesus* the label “Doctrinal Declaration.”

6. Documents of the ITC and PBC

At the outset of the chapter, we noted that *Pastor bonus* article 55 establishes both the International Theological Commission and the Pontifical Biblical Commission “within” (*apud*) the CDF. Operating according to their own proper law, the primary task of each commission is to promote sound theological and biblical studies respectively in order to offer a valid contribution to the magisterium of the Church in the teaching of the

⁴² See page 185 at footnote 78.

⁴³ See page 185 at footnote 79.

faith and in the interpretation of sacred scripture. As a result, the studies of the two commissions reviewed in chapter three, much like the acts of symposia directly sponsored by the CDF, are not tantamount to an official ecclesial document; i.e., they are not a Note, or Letter, or Declaration. Rather the studies are summations of the fruit of intense study and dialogue which represent, in an authoritative manner, the mind of the magisterium on select topics. The determination of their juridic value, then, is made in light of the regulations of the introductory canons of Book III of the 1983 Code of Canon Law and their assessment of the varying levels magisterial teaching.

7. Conclusions on the Value and Consistency of CDF, ITC, and PBC Documents

The documents of the CDF are varied and this study has only reviewed those public documents the Congregation has used since *Pastor bonus* which manifest a promotional emphasis regarding the doctrine of faith and morals. Whereas some appear as strictly doctrinal in character, others appear to be juridical. In all cases, the doctrine promoted by means of these documents necessitates a response of the Christian faithful in accord with the nature of the doctrine promoted. As noted in this section of the chapter, scholars have attempted to provide some systematic way of understanding curial use of documents while at the same time acknowledging that such a task is not easily accomplished. Morrissey, for example, at the conclusion of his attempt wrote:

. . . it would be most helpful if various legislative organisms in the Church would clarify the legal import of their pronouncements. The new Code has helped determine the nature of a number of documents; however, at times

this classification has not been followed, or if a given title has been used, the contents do not correspond to the nature of the document.⁴⁴

His frustration is understandable. The issue is not that there are so many different types of documents but that they are not labeled and used in such a way that they consistently reflect the purpose for which they have been issued. The four instructions of the CDF are a case in point; two of them more accurately reflect the definition of instructions in canon 34 whereas two of them less so. Adding a descriptor to a type of document, as in adding the descriptor “Doctrinal” to the title “Note” or to the label “Declaration” is another example. Creating a different *kind* of Note or a different species of Declaration raises an anticipation that the document itself will differ in some significant manner. Yet the one Note issued by the CDF does not differ appreciably from the Doctrinal Notes; i.e., it is just as doctrinal as those properly described as doctrinal. The one Declaration, *Dominus Iesus*, is not a declaration in any legal sense of the term and so the question may be asked as to whether it is the best label for the text.

In general, a more precise and careful labeling system, employed consistently by all of the dicasteries of the Roman Curia, would be of great benefit to the dicasteries themselves in more successfully conveying that which they desire to convey. Such a system would also be of great help to the Christian faithful to receive the documents as they are intended to be received. If the canonical system defines and classifies juridic documents, there is no reason why magisterial documents cannot also be clearly defined.

⁴⁴ Morrissey, 45.

Of course, after defining them, the next step would be for the ecclesiastical authorities who issue them to use them consistently.

B. Key Doctrinal Themes Promoted

The CDF, ITC, and PBC texts by which the doctrine of faith and morals have been promoted treat of a variety of theological issues. At the heart of all of them is the underlying concern for ecclesial unity based on sound doctrine and sound scriptural exegesis. This concern for unity of faith is itself indicative of the Petrine *diaconia*. Still, individual themes seem to recur in the texts. What follows is simply a brief acknowledgement of some of the more readily apparent ones.

1. Ecclesiality

A key doctrinal theme which appears from the texts is the theme of ecclesiality. In the CDF Letter, *Orationes formas*, the CDF stresses that Christian prayer is fundamentally both personal and ecclesial. In the face of so many Christians turning to the spiritualities of other religions which lack an ecclesial dimension of prayer, the CDF sought to highlight the greatness of Christian prayer in its corporate dimension and, quite literally, how liturgical prayer incorporates the believers into the Body of Christ.

Similarly in the Instruction, *Donum veritatis*, the CDF sought to root the work of theologians more deeply into the fabric of the Church's life in communion with her

sacred pastors. The CDF addresses theologians as having an ecclesial vocation. In the CDF Letter, *On Some Aspects of the Church Understood As Communion*, the theme of ecclesiality is the central thrust of the text. In its Letter, *The reception of holy communion by the divorced and remarried members of the faithful*, the CDF stressed the ecclesial dimension of the reception of Holy Communion as well as the ecclesial dimension of marriage and how there must be integrity between the two.

In the Instruction, *Ecclesiae de mysterio*, the CDF along with the other dicastery signatories, stressed that ecclesial roles in the Church are differentiated and, as in the case of sacred ministers, divinely intended for the life of the Church. Related to this is the CDF Letter, *On the Collaboration of Men and Women in the Church and in the World*, which sought to advance the dignity and role of women in the life of the Church in such a way that no harm is done to understanding femininity as a true gift of tremendous value.

The CDF Declaration, *Dominus Iesus*, and especially its last three sections on the role of the Church in the mystery of salvation, emphasizes the relationship between Christ the Head and his body, the Church, vis-à-vis his salvific action in the world.

2. Petrine Ministry

Another theme which arises from the various texts considered is that of the Petrine ministry and its implications. The 1996 CDF sponsored symposium, *The Primacy of the Successor of Peter*, was a response to John Paul II's invitation in *Ut Unum Sint* (n.

95) to assist him in considering from a fresh perspective the role of the Successor of Peter in the life of the Church.

The subsequent 1998 document from the CDF, “The Primacy of the Successor of Peter in the Ministry of the Church,” only continues this reflection on the meaning and ecclesial significance of Petrine primacy. Later that same year, the CDF Note, *The Power of the Pope and Matrimony*, addressed the more specific limits of Petrine power regarding marriage.

3. Prayer

A third theme emerging from the doctrine promoted by the CDF is that of prayer. The CDF Letter, *Orationes formas*, noted an urgency to assist bishops in their effort to teach the faithful how to pray according to doctrinal and pastoral criteria in light of the revelation of Christ, safeguarded by the tradition of the Church. The CDF Instruction *Ardens felicitatis* is addressed to bishops and seeks to help them articulate a theologically sound context for both personal and liturgical prayer for healing.

4. Ecumenism

The Doctrinal Note, *On Some Aspects of Evangelization*, addresses what is involved in the transmission of faith in Christ to those who have not yet discovered him. It stresses the importance of evangelizing both in word and in deed. This has obvious ramifications for how ecumenical dialogue is to be engaged. The CDF Doctrinal Note,

Some Questions Regarding the Participation of Catholics in Political Life bear consequences for the manner in which Catholic politicians represent their faith in the public forum and witness to Jesus Christ in their work and public activities.

The Declaration *Dominus Iesus* has direct impact on the ecumenical dialogue the Church maintains with other Churches, ecclesial communities, and non-Christian religions. In the sixth and final section of the text, the CDF highlights some of these ramifications. For example, while the Church is necessary for salvation insofar as the Church is the body of Christ, the sole mediator between men and God, still at the same time God bestows his grace and his salvation to those of other faiths by mysterious ways known to him alone. The document confirms, however, that the Church cannot be reduced to *one way* of salvation among many. Also, since the Church cannot be regarded as just another world religion and since she possesses in its fullness what is meant for all, then her mission *ad gentes* is truly a universal mission in that the Christian faith is meant for all; inter religious dialogue is part of the Church's mission *ad gentes*.

The ITC study *Faith and Inculturation* addresses problems which the process of inculturation faces in encountering popular piety, non-Christian religions, cultural traditions, and modernity. As noted in chapter three, this study is especially helpful to those bishops who minister in areas of the world where the predominant culture is not yet Christian and where the cultural dialogue proper to ecumenism and inculturation of the faith may have harmful influence on the integrity of the Christian faith rather than the Christian faith informing and perfecting the non-Christian culture.

The ITC study *Interpretation of Dogma* is also relevant for ecumenical concerns since it treats of how doctrine is to be expressed in such a way that it is conveyable to new cultures and the circumstances of history. Most directly applicable to the theme of ecumenism is the 1996 ITC study *The Relationship between Christianity and Other Religions*.

Of direct consequence for ecumenical dialogue with Judaism is the PBC's 2001 study *The Jewish People and their Sacred Scripture in the Christian Bible*. At the outset of the study, the PBC acknowledges with sorrow the suffering endured by the Jewish people during the Second World War at the hands of Christians and the devastating effect that has had on Jewish-Christian relations. The PBC, therefore, prepared and presented this study motivated ultimately by a pastoral and ecumenical aim.

Similarly, the PBC text *The Bible and Morality: Biblical Roots of Christian Conduct*, reflects the Commission's desire to address a topic common to all peoples, i.e., the quest for happiness and meaning in life. Though the document probes how this quest is most readily achieved by conducting one's life in accord with biblical indicators, both from the Old and New Testaments, still the overarching concern for the PBC is the dialogue, engagement with culture, and formation of a common moral fiber in the greater human family.

5. Human Dignity

The CDF Doctrinal Note, *Some Questions Regarding the Participation of Catholics in Political Life*, states that the dignity of the human person is the non-negotiable principle which gives value and meaning to the entire democratic system and structures which therefore means that political participation in any endeavor that would attack human life, or fail to acknowledge this fundamental principle, is an inescapable inconsistency with the Catholic faith. The Doctrinal Note articulates that Catholics have a duty to oppose any law which would disregard human dignity or, when such laws are already in place, to curtail its ill effects. The Doctrinal Note makes specific mention of opposition to abortion, the support of marriage and family life, the protection of parental rights in the education of their children, the duty to protect children from exploitation, to advance religious freedom, and to work for peace by vigilantly defending justice.

The CDF Letter, *Considerations Regarding Proposals To Give Legal Recognition To Unions Between Homosexual Persons*, while addressing the practical impermissibility of granting legal status to homosexual unions, also addresses the dignity of those who suffer from same-sex attraction as something which must be acknowledged and respected.

The CDF Letter, *On the Collaboration of Men and Women in the Church and in the World* presents masculinity and femininity as being of equal value and dignity and that together in their complementarity the full *imago Dei* is manifest. Cautioning against the oversimplified argument that equality between the sexes must mean sameness, the

CDF attempts to safeguard the doctrine of faith and morals from ill-conceived anthropological notions which fail to take into account what is known of man by the light of natural reason and revelation.

The 2004 CDF sponsored symposium on the *Dignity and Rights of Mentally Handicapped Persons* stressed the fact that the mentally handicapped are our brothers and sisters, many of whom are capable of great faith and that their dignity is in no way lessened by their particular kind of suffering. In fact, just the opposite, their suffering elicits love from those around them and spurs contemplation on the mystery of man.

The Instruction, *Dignitas Personae* was issued as an update to the earlier CDF instruction *Donum Vitae* in light of the rapid advancements in biomedical technologies which pose potential harm to the dignity of the human person.

The 2004 ITC study *Communion and Stewardship: The Human Person Created in the Image of God* champions the truth that “human persons are created in the image of God in order to enjoy personal communion with the Father, Son and Holy Spirit and with one another in them, and in order to exercise in God’s name responsible stewardship of the created world.”⁴⁵

Finally, the PBC text *The Bible and Morality: Biblical Roots of Christian Conduct*, begins with two primary premises, the first of which reflects the theme of human dignity, i.e., that man is, by his very nature, ordered to happiness and meaning. The document explains how living a moral life in no way threatens human dignity but presupposes and confirms it. In the face of human degradation, which is always the fruit

⁴⁵ See page 222 at footnote 169 for citation.

of an immoral life, the necessity to live one's life in a manner commensurate with human nature cannot but be the surest way to attain the happiness for which man is made and to preserve human dignity both at the individual and communal level. The document also stresses human dignity when it presents the moral life as reflective of man's communal nature. The relationships of one's life, based on authentic love, support and contribute to one's dignity.

C. The Pontifical Commission *Ecclesia Dei* and the Promotion of Doctrine

As mentioned at the outset of chapter two,⁴⁶ with the motu proprio *Ecclesia Unitatem*, Pope Benedict XVI placed the Pontifical Commission *Ecclesia Dei* under the leadership of the CDF in a relationship similar, but not identical, to how the Pontifical Biblical Commission and the International Theological Commission collaborate within the CDF. The Pontifical Commission *Ecclesia Dei* had been established by John Paul II in 1988 to address the schismatic Archbishop Marcel Lefebvre and to provide a stable office at the Holy See to facilitate the restoration of full ecclesial communion for the members of the Society of Saint Pius X.⁴⁷

It is not the intention of this study to probe the history or future of this Pontifical Commission in any great detail but only to make note of this recent development since it

⁴⁶ See page 74, footnote 2.

⁴⁷ Pope John Paul II, Motu proprio, *Ecclesia Dei*, 2 July 1988: AAS 80 (1988) 1493-1498. On 30 June 1988, Archbishop Marcel Lefebvre consecrated Bernard Fellay, Bernard Tissier de Mallerais, Richard Williamson, and Alfonso del Gallareta to the episcopate without first obtaining the necessary papal mandate to do so. By this act, the five men incurred the penalty of excommunication *latae sententiae* (see 1983 *CIC*, c. 1382), a fact later declared by the Congregation for Bishops on 1 July 1988 (see *L'Osservatore Romano* [3 July 1988] 1).

may have direct ramifications vis-à-vis the competency of the CDF to promote the doctrine of faith and morals, particularly doctrine of an ecclesiological and sacramental character given the theological issues with which the Society of Saint Pius X has difficulty.

Benedict XVI states his rationale for placing *Ecclesia Dei* in a collaborative relationship with the CDF as follows:

Precisely because the problems that must now be addressed with the society [of St. Pius X] are essentially doctrinal in nature, I have decided 21 years after the motu proprio *Ecclesia Dei* and in conformity with what I had proposed (cf. *ibid.*, Art. 11) to rethink the structure of the Commission *Ecclesia Dei*, linking it closely to the Congregation for the Doctrine of the Faith.⁴⁸

With this decision I have wished in particular to show fatherly solicitude to the “Society of St. Pius X” in order that it rediscover full communion with the church.⁴⁹

To “link” the Commission with the CDF, Benedict provides three norms:

- a) The president of the commission is the prefect of the Congregation for the Doctrine of the Faith.
- b) The commission, with its own allocation of staff, is composed of the secretary and officials.
- c) The task of the cardinal president, assisted by the secretary, is to refer the principal cases and doctrinal questions to the judgment of the Congregation for the Doctrine of the Faith through its ordinary procedures and to submit the results thereof to the superior dispositions of the supreme pontiff.⁵⁰

⁴⁸ EU, n. 5; *Origins* 39 (2009) 162.

⁴⁹ EU, n. 7; *Origins* 39 (2009) 162.

⁵⁰ EU, n. 6; *Origins* 39 (2009) 162.

Similar to the ITC and the PBC, the Commission *Ecclesia Dei* has as its president the Prefect of the CDF and is to refer doctrinal questions of greater importance to the pope for his “superior dispositions.” It will be interesting to observe if, in the future, the work of *Ecclesia Dei* in conjunction with the CDF will include the fostering of doctrinal studies, similar to the work performed by the ITC, but with a specific focus on those doctrinal matters over which there is discord between the authentic magisterium and the followers of Archbishop Lefebvre. Such studies would enable the Holy See to engage in the dialogue it seeks to have with the “Society of Pius X” in order to discover deeper points of agreement and commonality. With Benedict XVI’s lifting of the excommunication incurred by Archbishop Lefebvre and the bishops he ordained without a mandate, Benedict “intended to remove an impediment that might have jeopardized the opening of a door to dialogue and thereby to invite the bishops and the ‘Society of St. Pius X’ to rediscover the path to full communion with the church.” This would seem to point to the Pope’s resolve to approach the division from a different tact; an approach less condemnatory and more open to conversation of a doctrinal nature. The role of *Ecclesia Dei* in cooperation with the CDF will hopefully facilitate this approach and be restorative to ecclesiastical communion.

D. The Promotion of Doctrine and Curial Preeminence of the CDF

The brief historical sketch with which this study opened shows that the CDF has had, from its inception, a unique relationship to the pope in terms of the assistance it

renders him in discharging his pastoral *diaconia* for the universal Church. This unicity of the CDF stems from the fact that its competency pertains to the *munus docendi* of the pope's *diaconia*, i.e., it surpasses matters of ecclesiastical governance and touches upon doctrinal matters pertaining directly to the integrity of the faith; an exclusive competence *super negotio fidei*. For this reason, the position of the CDF among the pope's advisors has been not only unique but preeminent insofar as what pertains to doctrine is of the greatest importance and that what pertains to ecclesiastical governance is ordered to allowing the proclamation of the gospel to occur more readily. In other words, the CDF's assistance to the pope's *munus docendi* touches more directly on the central mission of the Church given to her by Christ. The historical preeminence of the CDF has meant that its authority, beginning with Paul III's *Licet ab initio*, has been comprehensive and its doctrinal jurisdiction expansive.

In *Immensa aeterni Dei*, Sixtus V positioned the *Congregatio sanctae inquisitionis haereticae pravitatis* (Congregation for the sacred inquisition of heretical error) in the first place because “faith, without which it is impossible to please God, is the foundation of the whole spiritual edifice.”⁵¹ As noted in chapter one, *Immensa aeterni Dei* gave the Congregation a clearly delineated canonical identity as the paramount Congregation within the newly structured Roman Curia.⁵²

⁵¹ *Immensa aeterni Dei*, 986: “In primis igitur, quoniam fides, sine qua impossibile est placere Deo, totius spiritualis aedificationis fundamentum est”

⁵² Regarding the CDF in the reform of *Immensa aeterni Dei*, Ferme notes: “La Congregazione dell’Inquisizione Romana, istituita ‘tamquam firmissimum catholicae fidei propugnaculum’ venne accolta immutata, secondo il suo ultimo ordinamento, e collocate in testa a tutte le Congregazioni, perché il mantenimento della purità e dell’integrità della fede cattolica forma il fondamento della Chiesa” (451-452).

Later, in the drafting stages for the Apostolic Constitution *Sapienti consilio* of Pius X, the Congregation of the Holy Office was referred to as “supreme” even though this appellation was ultimately dropped from the final draft.⁵³ The fact that it was considered at all, however, is sufficient to point to some degree of paramountcy which the Holy Office enjoyed. Yet what remained consistent in every draft, as well as in the final text, was the presentation of the Holy Office first among all the dicasteries.

Paul VI also stressed the priority of the CDF’s special role in the Roman Curia when, in *Integrae servandae* he wrote “[t]here is no doubt that one must properly begin with the Congregation of the Holy Office, due to the fact that to it are entrusted the most important affairs of the Roman Curia, as are the truth in the doctrine of faith and morals and the cases strictly connected to such doctrine.”⁵⁴ If Paul VI’s rationale for emphasizing the priority of the CDF was because of the nature of its competency, it spurs us to wonder about the current place of the CDF insofar as its competency over matters of doctrine is largely the same if not emphasized by the addition of *promovere* to the description of its proper duty. Are not “the most important affairs of the Roman Curia” still entrusted to the CDF, i.e., the affairs involved in ensuring that the deposit of faith is faithfully taught and transmitted through the ages?

To claim that the CDF maintains such a pride of place in the Roman Curia today, however, is to make an assertion that could be easily dismissed as a direct contravention

⁵³ Giuseppe Ferretto, “La Riforma del B. Pio X,” *Apollinaris* 25 (1952) 53.

⁵⁴ *IS*; AAS 57 (1965) 953: “Et initium esse ducendum a Congregatione Sancti Officii non est dubium, quippe cui potissima tributa sint inter Romanae Curiae negotia; qualia profecto sunt de fide moribusque doctrina et causae cum hac doctrina artius conexas.”

to what *Pastor bonus* explicitly states, namely that all the dicasteries are juridically equal.⁵⁵ Furthermore, as Antonio Menniti Ippolito claims, an appreciation for the competency of any one curial office is not readily achieved by studying it in isolation from, or in opposition to, the rest of the Roman Curia, as if the offices in service to Petrine *diaconia* were somehow pitted against each other or vying for status:

Scholars who have tried to work their way through the intricate web of relationships that characterized the Roman curia at different times in its history have often been faced with a complex situation because historians dealing with the several agencies that made up the curia have often tended to assess each agency independently from the rest, as though it were isolated from the general context. . . . It is remarkable how many studies on the Roman curia insist on the competition between the various offices and dwell on the overwhelming power of one over the rest rather than on the balance between them—as though this latter approach were out of the question, and the very life of government agencies were not normally (and, for obvious reasons, necessarily) based on some form of equilibrium.⁵⁶

Ippolito raises a valid observation; it is not the purpose of this study to suggest that the CDF is *prima inter pares* from a juridical point of view since *Pastor bonus* settles that question definitively in the negative: the CDF is juridically equal to every other dicastery in service to the Petrine *diaconia*. But the juridical point of view is only one point of view. Juridical equality is not to be misinterpreted as indecipherability; the manner in which the various dicasteries render assistance to the Roman Pontiff is certainly not uniform. For example, the Secretariat of State enjoys a certain intimacy with

⁵⁵ See *PB*, art. 2, §2: “Dicasteria sunt inter se iuridice paria.” *Regimini Ecclesiae Universae* had indicated this prior to *Pastor bonus* (see *REU*, n. 1 §2; *AAS* 59 [1967] 890: “Congregationes sunt inter se iuridice pares”).

⁵⁶ Antonio Menniti Ippolito, “The Secretariat of State As The Pope’s Special Ministry,” in *Court and Politics in Papal Rome, 1492-1700*, ed. Gianvittorio Signorotto and Maria Antonietta Visceglia (Cambridge: Cambridge University Press, 2002) 132-133.

the daily affairs of the Roman Pontiff which would not necessarily be the case for the other dicasteries.⁵⁷

Thus each dicastery is unique insofar as each has its own particular competency. But what continues to distinguish the CDF from the other dicasteries is the fact that its competency pertains to the authentic magisterial teaching of the faith. In addition to the juridical point of view, then, another vantage point opens up from which to consider the station of the CDF within the Roman Curia, not *qua* dicastery, but *qua doctrinal* dicastery as presented in chapter two of this study, i.e., that by its unique share in the *potestas magisterii* to promote doctrine as well as in its less unique share in the *potestas regiminis* to safeguard doctrine, it is a servant to the *munus docendi*.⁵⁸ In this regard, the makeup of the CDF as presented in *Pastor bonus* is in great continuity with its history, at least implicitly.⁵⁹ The fact that *Pastor bonus* does not address the magisterial authority of the CDF explicitly may have been, according to Brian Ferme, an oversight insofar as the

⁵⁷ *Pastor bonus* notes that the Secretariat of State “provides close assistance to the Supreme Pontiff in the exercise of his supreme office” (*PB*, art. 39; AAS 80 (1988) 870: “Secretaria Status proxime iuvat Summum Pontificem in Eius supremo munere exercendo”) and “in a special way [expedites] the business concerning the daily service of the Roman Pontiff” (*PB*, art. 41 §1; AAS 80 (1988) 870: “Ad priorem sectionem pertinet peculiari modo operam navare expediendis negotiis, quae Summi Pontificis cotidianum servitium recipiunt . . .”).

⁵⁸ See Figure 2 on page 98.

⁵⁹ Ferme, 454: “È vero che una lettura attenta degli articoli che si riferiscono alla competenza della CDF, probabilmente deve condurci a concludere che questa potestà [*magisterii*] sia implicita. Ma poiché questa potestà non sia stata menzionata esplicitamente, ci troviamo in una certa confusione e perciò in una certa difficoltà per apprezzare il ruolo veramente unico che la CDF gioca nella curia romana. Sotto molti aspetti è proprio questa *potestas* e le varie responsabilità con essa connesse che hanno dato origine alla qualità di ‘Suprema’ per la CDF per molti secoli, almeno fino alle riforme iniziate da Paolo VI nel 1967.”

powers exercised by the Roman Curia were categorized solely in terms of the power of jurisdiction, be it executive or judicial.⁶⁰

The CDF's bipartite proper duty in *Pastor bonus* in many ways perpetuates the ultimate reason behind the CDF's historical preeminence, i.e., it grants to the CDF in an exclusive manner, broad and far reaching competence on anything regarding the doctrine of faith and morals. This competence extends even over the other offices of the Roman Curia.⁶¹ The added positive emphasis of promoting doctrine only contributes to this unique competency among the dicasteries of the Roman Curia since now the CDF not only regulates doctrine but can positively articulate it. This is a significant authority given the importance of the teaching function of the Church.

It is the contention of this study that the doctrine of the faith is of a higher order than the Church's canonical system. This is not to say that the former is valuable and the latter is worthless. It is only to say that ecclesiastical good order, achieved by juridical norms, is in service to the proclamation of the gospel and the authentic teaching of the

⁶⁰ Ferme, 455: “. . . uno dei fattori importanti che ha contribuito negli ultimi trentanni, ad una parziale o mancata comprensione circa il rapporto particolare fra la CDF e il Sommo Pontefice nell'ambito magisteriale, è dovuto al fatto che non c'era abbastanza attenzione dedicata alla potestas magisterii della CDF. Questo è forse dovuto ad una svista nella PB nella quale i poteri esercitata dalla curia romana sono intesi come giurisdizionali e vicari, sia esecutivo che giudiziale, e certamente non legislative senza specifica approvazione del Sommo Pontefice (art. 18 PB). Tuttavia, non si ritrova diretto accenno alla potestas magisterii, ma è precisamemnte questa *potestas* che caratterizza la CDF e le distingue dagli altri dicasteri in tal modo da renderla unica.”

⁶¹ In chapter two (pages 136-140) we reviewed *Pastor bonus*, article 54 by which the CDF is made competent to review the doctrinal elements of documents emanating from the dicasteries of the Roman Curia. Specifically *Pastor bonus* makes reference to the CDF's rights to this prior review in articles 58 §2, 62, 73, 94, 102, 137 §1, and 161.

faith, and not the other way around.⁶² In other words, the Church's law is not an end unto itself but is a handmaid to the transmission of the doctrine of faith and morals such that the full mystery of revelation might be more readily heard and embraced. Ladislav Örsy states that

The *purpose* of canon law is to assist the Church in fulfilling its task which is to reveal and to communicate God's saving power to the world. Law can help by creating order in the community, an order that leads to tranquility and peace: a good disposition for the "assembly" to become "light to the nations."⁶³

Ecclesiastical order, which is the primary focus of the *munus gubernandi*, is not the aim of the Church's life; it orders the Church's life so that it may further the proclamation of the gospel, a task which is the primary focus of the *munus docendi*.

A better understanding of canon law could be achieved by recalling that in the Christian community an overall obligation of *theological origin* exists prior to any law; it is a bond that binds the faithful to God and to each other; canon law can do no more than to give directions in detail as to how

⁶² See d'Onorio, 39: "Société d'hommes, l'Église doit assurer le bon ordre tant spirituel ou doctrinal (pour ce qui se rapporte à l'intégrité de la foi et des sacrements) que disciplinaire (pour ce qui concerne le règlement des conflits dont l'Église, pas moins que toute autre société humaine, n'est exempte). L'ordre public ecclésial est, en effet, une condition *sine qua non* de l'accomplissement de la mission de l'Église. C'est bien ainsi que s'explique l'existence d'un Code de droit canonique dont la nécessité est toujours actuelle. Toutefois, il faut se garder de donner à l'aspect juridique et organisationnel de l'Église une importance disproportionnée car elle est une institution tout entière orientée vers les réalités éternelles et surpasse, par là même, toutes les autres institutions humaines (d'Onorio here cites Leo XIII, Encyclical letter *Sapientiae christianae*, 10 July 1890, *Acta Sanctae Sedis* 22 [1888-1890] 385-404). En effet, pour reprendre les termes mêmes de Pie XII, ces éléments juridiques—sur lesquels l'Église, elle aussi, s'appuie et qui la composent—proviennent de la 'constitution divine donnée par le Christ et servent à atteindre la fin surnaturelle. . . . La structure sociale de la communauté chrétienne est cependant d'un ordre tout à fait inférieur dès qu'on la compare aux dons spirituels dont elle est ornée et dont elle vit, et à leur source divine. . . . Il apparaît avec évidence que ceux-là se trouvent dans une grave erreur qui se représentent à leur fantaisie une Église pour ainsi dire cachée et nullement visible; de même ceux qui la regardent comme une institution humaine avec un certain corps de doctrine et des rites extérieurs mais sans communauté de vie surnaturelle' [Pius XII, Encyclical letter *Mystici corporis*, 19 June 1943: *AAS* 35 (1943) 193-248]."

⁶³ Ladislav Örsy, "Theology and Canon Law," in *New Commentary on the Code of Canon Law*, ed. John P. Beal *et al.* (New York/Mahwah, NJ: Paulist Press, 2000) 2.

to fulfill this principal obligation in daily life. Canon law, in its essence and existence, depends on a pre-existing theological reality.⁶⁴

Örsy does not speak of the relationship between theology and canon law in a hierarchic manner but rather as two disciplines enjoying a relationship “of distinct specificity in an organic unity” and as “impervious to any simple comparison.”⁶⁵ But he makes an important distinction when relating canon law specifically to the doctrine of faith:

There is a direct relationship between the two when canon law gives effect to divine law. This must not be confused with the often encountered situation when canon law repeats a divine law; the divine law still has its authority from God. I am speaking of a far more delicate situation. . . . *The relationship, however, is never that of identity.* Ecclesiastical law must not be identified, ever, with the deposit of revelation—not even with its unfolding reality. This is equivalent to saying that canon law must never be elevated to the dignity of the word of God. Revelation is protected by the Holy Spirit to the point that the Church can never lose it, or falsify it; this is the ultimate meaning of infallibility. Canon law is a manifestation of the humanity of the Church. This is, of course, not to deny the assistance of the Spirit to the Church in building structures; such

⁶⁴ Ladislav Örsy, “Theology and Canon Law,” *New Commentary*, 7. Örsy develops his treatment of the relationship between theology and canon law in his book, *Theology and Canon Law: New Horizons for Legislation and Interpretation* (Collegeville, MN: The Liturgical Press, 1992). For more on the relationship between ecclesiastical law in the life of the Church and its relationship to theology, see Winfried Aymans, *Diritto Canonico E Comunione Ecclesiale: Saggi di Diritto Canonico in Prospettiva Teologica* (Turin: F. Giappichelli Editore, 1993); Barnabas Ahern, “The Spirit and the Law,” *The Way* 6 (1966) 219-229; Salvatore Berlingò, *Giustizia e Carità nell'Economia della Chiesa. Contributi per una Teoria Generale del Diritto Canonico* (Turin: F. Giappichelli Editore, 1991); Jean Beyer, ed., *SS. DD. Pauli VI: Allocutiones de Iure Canonico*, 2nd ed. (Rome: Pontifical Gregorian University, 1980); Péter Erdő, *Teologia del Diritto Canonico: Un Approccio Storico-Istituzionale* (Turin: F. Giappichelli Editore, 1996); Javier Hervada, *Coloquios Propedéuticos Sobre El Derecho Canónico*, 2nd ed. (Pamplona: Navarra Gráfica Ediciones, 2002); Valentín Ramallo, *El Derecho y el Misterio de la Iglesia* (Rome: Università Gregoriana Editrice, 1972); Myriam Wijlens, *Theology and Canon Law: The Theories of Klaus Mörsdorf and Eugenio Corecco* (Lanham, MD: University of America Press, 1992).

⁶⁵ Ladislav Örsy, “Theology and Canon Law: An Inquiry into Their Relationship,” *The Jurist* 50 (1990) 409.

assistance, however, never amounts to a guarantee of finding, with inerrancy, the most prudent laws conceivable.⁶⁶

The primacy of doctrine over law is not one of opposition but one of teleology; the proclamation of the gospel is the primary end of the Church's mission and that the good ordering of the Church's life is in service to that end.⁶⁷ Similarly, the *munus gubernandi* is ordered to the preparatory work so that the *munus docendi* may be more readily fulfilled. The CDF shares the Roman Pontiff's concern that the deposit of faith and that doctrine of faith and morals so necessarily connected to it be proclaimed with authenticity and accuracy. That is a preeminent concern and the CDF, with its unique competency, thus treats of that which is preeminent.

E. The Core of the Study: The Promotion of Doctrine by the Congregation for the Doctrine of the Faith in Light of *Pastor bonus* and Canon 754

Now that the various considerations raised throughout this study have been addressed, at least in a cursory manner, it remains to articulate in a succinct manner the

⁶⁶ Ladislav Örsy, "Theology and Canon Law: An Inquiry . . .," 429-431.

⁶⁷ Damizia, 270-271: "La fede è il più grande dono che Dio fa all'uomo, mediante il suo *logos*, ma la fede è come una lampada, che deve essere sempre alimentata: trae il suo alimento dall'annuncio evangelico. Così il *munus docendi* pone le basi della santificazione." He goes on to state, citing Pauline theology of law and spirit, that "Il *munus regendi* dovrebbe più istruire e persuadere, che comandare o proibire: deve essere concepito come un insegnamento vivo, che deve sempre far riferimento all'annuncio del Cristo. Per questo Paolo ci insegna che il fine dell'intimazione è 'la carità che procede da un cuore puro, da una buona coscienza e da una fede sincera' [1 Tim 5]. . . . Paolo ci insegna che l'intimazione deve essere sempre unita con l'insegnamento: *παράγγελλε ταύτα και διδάσκει* [1 Tim 4:11]" (271). "La legge, che non riesce anche con la sua efficacia, a cambiare lo spirito dell'uomo, è sorpassata dalla fioritura di opere buone realizzate dal giusto, le quali soddisfano la giustizia di Dio. Nella manifestazione delle opere di carità, l'uomo è guidato dallo spirito e non dalla legge perché il giusto va sempre al di là dei limiti posti dalla legge: I frutti dello Spirito, al contrario, sono: carità, gioia, pace, longanimità, benignità, bontà, fedeltà, mitezza, temperanza. Contro azioni del genere non vi è legge [Gal. 5:23]" (272).

core of this study, i.e., to articulate the specific contribution made to the canonical science which this study has attempted to offer.

This is not the first study to consider the history of the Congregation for the Doctrine of the Faith. Quite the contrary, much ink has been spilled concerning its development, its competencies, and all of its transformations from Paul III's *Licet ab initio* to its present configuration as a dicastery of the Holy See. Neither is this the first study to consider the development and meaning of canon 754 and all of the theological and canonical implications involved in legislating a response of the Christian faithful to the magisterial teaching of the Church. Furthermore, as we have seen, a great deal has already been written about *Pastor bonus* and its norms for the CDF.

The originality of this study, then, lies in its effort to draw out and to consider the underlying theological and pastoral connections, stemming largely from the Second Vatican Council, which all of these legal entities share in common in order to grasp a clear and precise canonical notion of what the promotion of doctrine entails on the part of the CDF. Obtaining such a notion is not easy, as this study has demonstrated, since it necessarily involves the larger and ongoing questions of the interplay between the *munera* of Christ and the *sacra potestas* by which they are carried out; the relationship between the dicasteries of the Roman Curia, and of the CDF in particular, and the Roman Pontiff; the manner by which the dicasteries of the Roman Curia, and the CDF in particular, assist the Roman Pontiff and the college of bishops in the discharge of his Petrine *diaconia* and their apostolic *diaconia* respectively; the question of how doctrine is

to be enshrined in legislation and the propriety of legislating a response of faith to it; and the consistency, or lack thereof, of the documents by which all of this takes place.

What is the clear and precise canonical notion, then, by which the CDF's promotion of doctrine is best understood? It can be summed up in the following conclusive statements:

1. The CDF competency to promote doctrine (*promovere*) is established in article 48 of *Pastor bonus* as a distinct, though not separate, dimension of the Congregation's proper duty, along with the traditional competency to safeguard it (*tutari*). This distinction is one of *emphasis* more so than *novelty* since performing one necessitates the other. The explicit legislating of the promotional dimension is a relatively recent development; before Paul VI, the legislation governing the CDF concentrated on its competency to safeguard doctrine only.
2. The CDF competency to promote doctrine *explicitly* means that the CDF fosters studies in order that "the understanding of the faith may grow and a response in the light of the faith may be given to new questions arising from the progress of the sciences or human culture" (*PB*, article 49). The ITC and the PBC, as curial entities structurally linked to the CDF, are associated with this mission to foster studies and therefore carry out their responsibilities according to their own proper law but within the CDF and in a manner beholden to it (*PB*, article 55).
3. The CDF competency to promote doctrine is in service to the *diaconia* entrusted by Christ to Peter and the apostles in a primatial and collegial manner respectively. Therefore, in addition to serving the *diaconia* of the Roman Pontiff, the competency to promote doctrine *implicitly* means that the CDF is to assist the bishops, individually (e.g., *ad limina* visits) or in groups (e.g., doctrinal commissions at the episcopal conference), in carrying out their office "as authentic teachers and doctors of the faith" (*PB*, article 50).
4. The CDF competency to promote doctrine is specifically ordered to assist the pope and bishops in fulfilling their *munus docendi* by which the doctrine of faith and morals is positively articulated or taught. To accomplish this, the CDF participates vicariously in the universal ordinary magisterium of the Roman Pontiff (*potestas magisterii*) in direct service to

him or in service to the college of bishops. The CDF's participation in the former makes it unique among the dicasteries of the Roman Curia.

5. The CDF competency to promote doctrine requires that the Congregation issue a variety of documents for this purpose; documents with a magisterial weight determined by the nature of the doctrine promoted and a juridical value determined by the nature of the document employed and the canonical norms of Book III of the Code of Canon Law relevant to the various levels of magisterial teaching. The precise weight, magisterial and juridical, of each document must be assessed on a case-by-case basis.

6. The CDF competency to promote doctrine results in documents containing doctrinal statements to be "observed" by the Christian faithful, according to canon 754 of the 1983 *CIC*. Canon 754 is the one canon among the initial canons of Book III, *De Ecclesia Munere Docendi*, which defines the "legitimate authority of the Church" broadly enough to include the CDF.

7. The CDF competency to promote doctrine in *Pastor bonus* and the proposal of doctrine in canon 754, understood equivocally, are indicators that the "legitimate authority" of the CDF to promote doctrine is not something extraneous and overbearing to one's discipleship and communion with Christ, somehow imposing a matter to be believed for arbitrary reasons. Rather the proposal of doctrine is something intrinsic to discipleship and in service to the same; an indicator of a true *diaconia*.

8. The CDF competency to promote doctrine, as an explicitly articulated element of the Congregation's proper duty, is derived from the *novus habitus mentis* of the Second Vatican Council. The current text and context of canon 754 is derived from the same. Thus both acts of legislation share a similar *ratio legis*; an acknowledgement of the necessity for ecclesiastical authority to correct, reprove, proscribe, and even condemn error but not as a first course of action; the preference in both *Pastor bonus* and in canon 754 is that the CDF aim at promoting the doctrine of faith and morals.

9. The CDF competency to promote doctrine is not easily discerned in the practical sphere. Lacking any formulaic litmus test by which the documents of the CDF can be classified as promotional or safeguarding, and noting that the CDF does not classify its own documents accordingly, the determination of a promotional emphasis must be made with each text

by assessing its general character and purpose. A consistent labeling of documents would facilitate this assessment.

10. The CDF competency to promote doctrine provides the CDF a place of prominence in the Roman Curia, explicitly acknowledged in the curia's history, insofar as its exclusive doctrinal competence grants it significant and broad authority over matters of faith and morals touching more directly upon the central mission of the Church to "teach all nations" (cf. Matthew 28:19).

CONCLUSION

Pastor bonus describes the CDF's proper duty as involving the promotion and safeguarding of doctrine on faith and morals, but it stops short of expressing a preference of one competency over the other, at least explicitly. When one considers the theological and pastoral influences which led to the crafting of the Apostolic Constitution, especially the posture of pastoral engagement as manifested in the Second Vatican Council, and when one considers the overall pastoral tone and title of the document which John Paul II expresses at the outset of the text, it can be inferred that the *mens legislatoris* envisions the CDF's work to promote doctrine as being paramount.

While not supplanting the correlative competency to safeguard doctrine on faith and morals, the preference to promote it is a preference of style and approach to doctrinal questions and challenges, i.e., it is to teach doctrine, explain it, articulate it anew, apply it to contemporary circumstances, make it intelligible and attractive. This preference is not original with *Pastor bonus*. Peters roots this preference in the Church's early history:

From the earliest Christian communities to the late twelfth century, Christians placed great faith in the power of instruction to root out even the most egregious of errors. The teaching authority of the community and its leaders, the *magisterium*, was invoked again and again, from the learned debates of fourth- and fifth-century Church councils to the sermons of twelfth-century monastic and secular clergy. Since the Truth had been revealed, it could surely be demonstrated. Those who refused to accept demonstrative truth were necessarily considered either as invincibly ignorant or willfully perverse. Nevertheless, many churchmen could and

did exhibit great faith in persuasion and great patience in applying the faith.

Even the disciplinary literature of the Latin Church recognized the power of *persuasio* and allowed for its operation even in the most extreme cases. But when *persuasio* failed, other disciplinary means were called for, and the twelfth century, basing its work on earlier literature, erected an elaborate disciplinary structure upon which to draw after persuasion had failed.¹

To probe the canonical implications of this mission to promote the doctrine of faith, a mission of *persuasio*, has been the subject matter of this study.

Chapter one provided us a brief historical sketch of the CDF, enabling us to see that, apart from Paul VI's references to the positive work of the CDF, the competency to safeguard doctrine (*tutari*) had become largely the CDF's primary and exclusive responsibility in all the legislation governing the structure and mission of the CDF up until *Pastor bonus*.

Chapter two examined the general themes of *Pastor bonus* and its specific norms for the CDF. By ascribing the competency to promote doctrine to the CDF as part of its proper duty, it emphasized the positive aspect of the CDF's work. The chapter clarified that to speak of the promotion of doctrine is to speak of a function ultimately in service to the primatial and collegial *diaconia* entrusted by Christ to Peter and the apostles, and to the *munus docendi* in particular as a part of that *diaconia*. Furthermore, to speak of the CDF's promotion of doctrine exceeds the canonical limits of the *potestas regiminis* and necessitates a participation in the Petrine *potestas magisterii*.

¹ Peters, *Inquisition*, 44.

Chapter three provided illustration of what this positive engagement looks like in practice by reviewing the CDF, ITC, and PBC texts which manifest a promotional emphasis more so than an aim to safeguard the doctrine on faith and morals. Practically speaking, it would seem that the CDF cannot safeguard doctrine from the corrosive effects of theological error without, at the same time, expounding and promoting the sound doctrine from which the error deviates. Conversely, in the CDF's efforts to promote sound doctrine, it often places such doctrine as a relief in contrast to the typical and commonplace misperceptions of theological truths. It must be said, then, that the promotion of doctrine and the safeguarding of doctrine are not two "proper duties" of the CDF conducted independently from each other, but that they are two dimensions of the CDF's one proper duty which co-penetrate whenever the CDF acts. They are "two sides of the same coin" to borrow a cliché, by which the CDF renders a great service to the truth of revelation as it is faithfully taught by the authentic magisterium of the Church. The texts presented in chapter three, are not *responsa* to specific *dubia* submitted to the CDF arising from doctrinal cases in pastoral contexts, but neither are they disconnected from actual ecclesial lived experience. In fact, the documents of the CDF by which doctrine is promoted, like those which safeguard it from error, are always geared toward the practical living out of the faith to the full. They are aimed at enabling the People of God to avoid error and falsehoods regarding the saving gospel of Christ which otherwise could compromise their growth in sanctity. The teleology of the CDF's work:

. . . even when in defense of doctrine, is not directed at the humiliation or punishment of the errant, but at the care of the purity and integrity of the

faith, desirous to see return to the house of the Father whoever may have deviated from the master's way by error.²

Chapter four drew parallels between the similar theological and pastoral movements which led to the development of the CDF's competency to promote doctrine in *Pastor bonus* and to the development of canon 754 and its expression of the positive engagement which the legitimate authority of the Church is to have vis-à-vis the doctrine on faith and morals. These parallels point out the applicability of canon 754 to doctrine promoted by the CDF. Behind them both is the desire to enable competent ecclesiastical authority to articulate the faith in a fresh manner, to emphasize it and allow its veracity to impress itself upon the Christian faithful, now more readily acknowledged as possessing a maturity in faith and a discerning ability to reject what is contrary to sound doctrine and morals.

Chapter five assessed the consistency with which the CDF and its subsidiaries, the ITC and the PBC, have employed ecclesiastical documents of varying magisterial and juridic value for the purpose of promoting the doctrine of faith and morals, recognizing that greater consistency in labeling documents issued for particular purposes would assist those for whom the documents are issued in receiving their contents with greater precision, clarity, and ease. The chapter then surveyed the promotional texts presented in chapter three to cull underlying themes which speak to the doctrinal concerns of the Church in the recent past.

² Silvestrelli, 237: "Proprio per questo la sua azione, anche quando è in difesa della dottrina, non è diretta alla umiliazione ed alla punizione degli erranti, ma alla custodia della purezza ed integrità della fede, desiderosa di vedere tornare alla casa del Padre chiunque abbia per errore deviato dalla strada maestro."

The chapter noted the recent placement of the Pontifical Commission *Ecclesia Dei* under the leadership of the CDF in recognition of the fact that its work at tending to the wound of division which exists between the Church and those of the “Society” of Saint Pius X is largely doctrinal in character. The chapter speculated about how this doctrinal work with the guidance of the CDF will manifest what *Pastor bonus* intended for the CDF’s ability to promote sound doctrine.

The final related consideration to the topic of this study which we considered in chapter five was a reassessment of the historical preeminence enjoyed by the CDF within the Roman Curia in light of the renewed emphasis to promote doctrine. It would seem that given the exclusive competency pertaining to matters of doctrine, matters which are paramount and more centrally touch the heart of the mission of the Church *ad gentes*, that the CDF can still be considered to handle, as Pope Paul VI once said it did, those things of greatest importance; those things pertaining directly to the transmission of the deposit of faith.

Finally, the chapter addressed the core of the dissertation by a series of conclusive statements and articulated how the promotion of doctrine by the Congregation for the Doctrine of the Faith is best conceived in light of *Pastor bonus* and canon 754. The placement of *promovere* into the definition of the CDF’s proper duty reflects John Paul II’s desire to emphasize the pastoral dimension of the CDF’s work and is not so much an innovation. By fostering a variety of studies, especially in its oversight of the studies conducted by the ITC and the PBC, and in the assistance it renders to the college of bishops to teach the faith in a compelling and applicable manner to the contemporary age,

the CDF carries out this task to promote the doctrine of faith and morals. The legal competency to promote doctrine granted to the CDF in *Pastor bonus* is reflected in canon 754 of the Code of Canon Law which binds the Christian faithful to observe the doctrine promoted by the legitimate authority of the Church, the CDF included.

In the end, the CDF's competency to promote doctrine finds its unity with the competency to safeguard it when one conceives of both competencies as fundamentally a service to the truth. As we conclude this study, perhaps Saint Paul's advice to Saint Timothy would serve us well in appreciating the fact that the important role of promoting sound doctrine on faith and morals in service to the Roman Pontiff and, in union with him, the college of bishops, is an apostolic *diaconia* constitutive of the Church herself and a duty present from the very beginning of the Christian community. To St. Timothy, whom St. Paul calls his "true child in the faith,"³ he counseled:

I charge you in the presence of God and of Christ Jesus who is to judge the living and the dead, and by his appearing and his kingdom: preach the word, be urgent in season and out of season, convince, rebuke, and exhort, be unfailing in patience and in teaching. For the time is coming when people will not endure sound teaching, but having itching ears they will accumulate for themselves teachers to suit their own likings, and will turn away from listening to the truth and wander into myths. As for you, always be steady, endure suffering, do the work of an evangelist, fulfill your ministry. For I am already on the point of being sacrificed; the time of my departure has come. I have fought the good fight, I have finished the race, I have kept the faith.⁴

³ 1 Tim 1.

⁴ 2 Tim 4:1-7.

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