THE CATHOLIC UNIVERSITY OF AMERICA

The Authoritative Weight of Non-Definitive Magisterial Teaching

A DISSERTATION

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By
Lawrence Jerome King
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Catholic theologians have written extensively about infallible and definitive magisterial teaching, but much less so about the non-definitive teaching of popes and councils, even though many of the doctrines taught in papal encyclicals and by the Second Vatican Council fall into this category. Important questions arise regarding doctrines in this category: How are the Catholic faithful expected to respond to such teachings? As these doctrines have not been taught infallibly, what can be said about the possibility of error? Given that doctrines in this category do not all possess identical authority, how can the weight of a specific non-definitive teaching be determined? Official answers to these questions have been rare, brief, and often vague. As a result, the task of addressing these matters and developing a more comprehensive theology of the magisterium has fallen to theologians.

This dissertation addresses these questions. Ranging from the Middle Ages to the present day, the first three chapters survey theological and hierarchical evaluations of non-definitive magisterial teaching. These evaluations exhibit a considerable consensus on many points.

The fourth chapter of this dissertation constructs a concise method of measuring the authoritative weight of non-definitive doctrines. This construction begins by presenting the consensus among the theologians surveyed in preceding chapters, and then builds on that foundation by adjudicating the points on which these theologians disagree.

The usefulness of this method is then demonstrated in the fifth chapter, using the topic of religious liberty as a test case. A prima facie contradiction exists between the teaching on
religious liberty found in the nineteenth-century papal encyclicals and that found in Vatican II’s *Declaration on Religious Freedom*. The method elaborated in the fourth chapter is used to measure the authoritative weight of each of these teachings. These weights are then compared to one another; the result of this assessment indicates that the teaching of Vatican II has slightly more weight than the nineteenth-century teachings do. The implications of this result are then explained. The dissertation concludes by indicating potential applications of this method to additional topics.
This dissertation by Lawrence Jerome King fulfills the dissertation requirement for the doctoral degree in Systematic Theology approved by Christopher J. Ruddy, Ph.D., as Director, and by Rev. John P. Galvin, S.T.L., Dr. Theol., and Michael Root, Ph.D., as Readers.

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Christopher J. Ruddy, Ph.D., Director

_______________________________________
Rev. John P. Galvin, S.T.L., Dr. Theol., Reader

_______________________________________
Michael Root, Ph.D., Reader
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Abbreviations

AAS. Acta Apostolicae Sedis.


ASS. Acta Sanctae Sedis.


LG. Lumen gentium.


PIXA. Pii IX Pontificis Maximi acta. 2 parts in 9 volumes. Rome: Typographia Bonarum Artium, 1854 to 1878.
Introduction

In the wake of the Second Vatican Council, discussion of the Church’s teaching authority split into various streams. Some theologians held that the preconciliar manualists’ theology of the magisterium was completely outdated, arguing that it was based on a purely verbal model of revelation and indefensible historical claims. Other theologians completely accepted the manualist tradition, arguing that it showed that the conciliar documents were full of doctrinal errors, or at least ambiguous statements that lent themselves to such interpretation.

The theological “center,” sidelined into debates on various specific questions (such as the authority of Humanae vitae), was making few contributions to the fundamental study of the theology of the magisterium. It was unclear whether theologians of different views could debate topics related to the Church’s teaching authority within a common framework.

This situation changed in the 1980s; perhaps one could point to the publication of Francis Sullivan’s Magisterium: Teaching Authority in the Catholic Church as the beginning of this change. Sullivan’s book – the fruit of over twenty years of teaching ecclesiology at the

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Gregorian University before, during, and after the Council—wove together both preconciliar and postconciliar theology. Whereas those who were skeptical about the preconciliar theology of the magisterium, as well as those who were skeptical about the Council had often treated Vatican II as irreducibly unique among general councils, Sullivan interpreted its texts and measured their authority by the same rules used for earlier councils and for papal documents. Like the progressive theologians, he recognized that many of the techniques and assumptions in the preconciliar seminary manuals were obsolete, yet like the traditional theologians he found much in these manuals to be helpful in answering important questions. Moreover, he indicated that those who accepted the Council ought to recognize the value of these manuals, pointing out that the manualists’ terminology and concepts were used in the conciliar documents themselves. Indeed, when certain bishops submitted difficult questions, Vatican II’s Theological Commission replied that “the approved theological treatises should be consulted”—which Sullivan saw as an “obvious” reference to the seminary manuals then in use.

Many theological arguments depend on the level of authority of a specific act of magisterial teaching, and therefore it is essential that theologians, including those from different schools of thought, subscribe to a common understanding of how such teachings are to be weighed. For the past three decades, such a common understanding has been maintained across a very broad theological spectrum. This consensus is exhibited in recent debates on whether the

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4 Contrast his positive use of manuals by Lercher and Salaverri (Magisterium, 125-26, 145, 167-68) with his criticism of their exaggerated understanding of the papal magisterium (154-55, 228n4).

immorality of artificial contraception has been taught infallibly by the ordinary magisterium, on whether specific moral norms fall within the scope of the Church’s infallibility, and regarding the claim that the Church’s lack of authority to ordain women to the priesthood has been infallibly taught by the ordinary and universal magisterium. These debates are made possible by agreement on the basic principles of the theology of the magisterium. Indeed, if this agreement were not present, the participants in these disputes could not appeal to shared premises to refute each other’s arguments, but would be able to speak only to those on their own side.

These debates have focused almost entirely on questions regarding definitive magisterial teaching and the issue of infallibility. A great deal has been written regarding the infallibility of ecumenical councils, popes, the bishops dispersed throughout the world, and the universal belief of the faithful, usually in the context of a dispute regarding whether a specific doctrine has been taught definitively and infallibly. These are important matters indeed, and someday this consensus on the principles behind definitive and infallible teaching may lead to a consensus on which doctrines have been so taught.

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7 This debate occurred in a series of articles in *The Thomist* and *Theological Studies* between 1985 and 1994 by Grisez and Sullivan, triggered by Grisez’s response to certain arguments expressed by Sullivan in his *Magisterium*.

8 This issue was debated in numerous articles from 1995 to 1997 by authors including Sullivan, Peter Hünermann, Tarcisio Bertone, and Richard Gaillardetz, as well as a 1997 resolution by the Catholic Theological Society of America, and most recently in Sullivan, “The Definitive Exercise of Teaching Authority,” *Theological Studies* 75 (2014): 502-14.
Yet there is a huge body of teaching – including the vast majority of doctrines taught in papal encyclicals and in the documents of Vatican II – that has not been definitively and infallibly taught. Moreover, these doctrines do not all have the same weight as one another, and in order to resolve a number of pressing questions, one must be able to say something concrete about their weight. As Richard Gaillardetz has written, “[B]ecause so many Church teachings belong in the category of nondefinitive, authoritative doctrine, there is a real danger of the significant gradations of authority within this category being overlooked.”9 The question of how to measure the authoritative weight of non-definitive doctrines has been addressed much less frequently than matters related to infallible and definitive doctrine. It is this question that I shall address in this dissertation.

The importance of this question is recognized by many theologians. The International Theological Commission wrote in 1989, “It would be especially desirable that the church’s magisterium – in order not to expend its authority unnecessarily – indicate clearly in individual instances the varying forms and degrees of binding force of its pronouncements.”10 This would be beneficial not only for theologians but for all the Catholic faithful. As Gaillardetz has stated, “Every Catholic has a right to know with what doctrinal weight the Church is proposing a particular teaching.”11

Some theologians have suggested the revival of theological notes as a solution. Before Vatican II, many seminary manuals indicated the authority of each doctrinal proposition by

9 Richard R. Gaillardetz, Teaching with Authority: A Theology of the Magisterium in the Church, Theology and Life Series, vol. 41 (Collegeville, MN: Liturgical, 1997), 125, emphasis in original.
11 Gaillardetz, Teaching with Authority, 124.
attaching a theological note, ranging from *de fide* (the highest grade) to low grades such as *probabilior* and *tutior*. The International Theological Commission proposed such a revival:

The living character of tradition gives rise to a great variety of doctrinal statements, differing in import and degree of binding force. In order to assess and interpret them properly, theology has developed its teaching with regard to theological notes; this was derived in part from the church’s magisterium. Unfortunately, it has fallen somewhat into desuetude in recent times. Nevertheless, it is useful for the interpretation of dogma and should be renewed and further developed.\(^\text{12}\)

Similarly, Harold Ernst has argued that *Lumen gentium* assumes that its readers are familiar with the traditional system of theological notes. Indeed, without the aid of such notes, interpreters of doctrine lose the ability to discriminate sufficiently among propositions, and the theoretically many gradations of doctrinal authority collapse to a “zero-one” dichotomy. A doctrine is either fully binding or not at all, requires either absolute assent or none at all, is either defined dogma or mere opinion, has either been authoritatively pronounced by the magisterium or has not. The interpretive sophistication provided by a system of theological notes, as Ratzinger suggested in his commentary on the *Notificationes*, allows one to chart a path between these two unpalatable extremes.\(^\text{13}\)

However, as will be shown in Chapter One of the present work, reviving the traditional scheme of theological notes would not suffice to solve this problem. Despite the large number of notes, all non-definitive authoritative teachings by popes and councils are lumped together into a single category (*doctrina catholica*); no distinction is made between different degrees of authority within this category.

The same limitation applies to the three-tiered system that appeared in the 1989 *Professio fidei*: all non-definitive authoritative doctrines are lumped together in the third paragraph following the Nicene Creed, without any distinction being made between doctrines within this

\(^\text{12}\) International Theological Commission, “On the Interpretation of Dogmas,” 7 (B. II. 3.)

group. Subsequent documents from the Congregation for the Doctrine of the Faith have provided information about how doctrines within this group can be more precisely weighed, as will be discussed in Chapter Three, but the group itself was not subdivided. Therefore, no existing system of theological notes or categories offers a solution to this question.

Indeed, even if a new system of notes were to be developed, and all subsequent teachings by popes, councils, and bishops were to be labeled using these notes, this would not solve the problem of how to weigh teachings that have already been issued. For existing teachings, the solution must be rooted in an analysis of the wording of a teaching, its history, the intentions of the author(s), and perhaps its reception by the Church. As the Catholic Theological Society of America wrote in 1990, “For teachings that are not proclaimed ex cathedra, the religious attitude that is expected must take account of nuances in the way the official teachings are presented.”

Such “nuances” were specified, albeit in a rather vague manner, when Lumen gentium stated that the weight of a papal teaching was to be assessed “chiefly by the nature of the documents, by the frequent repetition of the same doctrine or by the style of verbal expression.”

Weighing the authority of a teaching is not of interest merely to those who study theological foundations or ecclesiology. All branches of Catholic theology refer to papal and conciliar teachings, and therefore all branches of Catholic theology must be able to specify the authority of these teachings.

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14 The Professio fidei first appeared in AAS 81, no. 1 (Jan. 9, 1989): 104-6, and in L’Osservatore Romano, Feb. 25, 1989, p. 6, and in English in Origins 18, no. 40 (Mar. 16, 1989): 661, 663. The three key paragraphs can be found in DS 5070.


There are three situations in which one needs to know the authority of a doctrine: when one investigates how a doctrine fares against a challenge from critical arguments or lived experience, when one compares contradictory acts of teaching from two different magisterial sources, and when one interprets a document that contains within itself contradictory (or apparently contradictory) statements.

The first situation frequently arises in the context of moral theology. When the topic of sexual morality or the death penalty or economic justice arises, it is not uncommon for someone to say something like “This is the Church’s teaching, and if you don’t accept it, you’ll be a ‘cafeteria Catholic’.” Or alternatively, “This isn’t infallible, so you don’t really have to worry about it.” Yet facile statements such as these – what Ernst referred to as a “zero-one dichotomy” – are not surprising in light of the complexity of a fully nuanced description of the situation.

Even though bishops, priests, and catechetical directors have offered excellent suggestions for handling such situations, their advice often remains quite general. For example, in 1967 the German Bishops’ Conference provided a statement to priests and other diocesan teachers in West Germany. Its relevant passage stated:

Now let us consider the possibility or the fact of error in non-defined statements of doctrine on the part of the Church, recognizing that these themselves in turn may differ very widely among themselves in their degree of binding force... In such a case the position of the individual Christian in regard to the Church is analogous to that of a man who knows that he is bound to accept the decision of a specialist even while recognizing that it is not infallible.17

17 This “semi-private” document, circulated by the Secretariat of the German Bishops’ Conference in 1967, is quoted in Karl Rahner, “The Dispute Concerning the Church’s Teaching Office,” trans. David Bourke, Theological Investigations, vol. 14 (New York: Seabury, 1976), 85-97, at 86-87. This passage is from section 18 of the bishops’ document. In 1967, the German Bishops’ Conference (Deutsche Bischofskonferenz) theoretically represented both West and East German bishops, but the East German government did not permit bishops in its territory to participate; a separate conference for East German bishops (Berliner Bischofskonferenz) would be created in 1976.
The German bishops further stated that, although there was “no place in preaching or catechesis” for the denial of a non-definitive doctrine, nonetheless “the faithful may, under certain circumstances, have to be instructed as to the nature of, and the limited weight to be attached to, a current doctrinal decision of this kind.”\(^\text{18}\) Yet this instruction provided pastors with no assistance in determining what “degree of binding force” might apply in a specific case.

The second situation is illustrated by the Church’s teaching regarding religious liberty during the 19th and 20th centuries. Many theologians hold that *Dignitatis humanae*, Vatican II’s Declaration on Religious Freedom, contradicts the teaching of Pius IX and Leo XIII on certain points, such as whether there exists a natural right to religious liberty. Yves Congar writes, “It cannot be denied that a text like this [*Dignitatis humanae*] does materially say something different from the Syllabus of 1864, and even almost the opposite of propositions 15 and 77-9 of that document.”\(^\text{19}\) Francis Sullivan includes religious liberty among “a number of” instances where “Vatican II has taken a position that differs from what previous popes had taught in their encyclicals.” In such cases, he argues, the conciliar teaching trumps the earlier teaching: “There can be no doubt that the teaching of the council on such issues as religious liberty, the ecclesial status of other Christian churches, and the significance of non-Christian religions prevails over what had been the official position of the Catholic Church put forth by the ordinary magisterium prior to Vatican II.”\(^\text{20}\) As will be discussed in Chapter Five, most theologians categorize both teaching of popes from 1832 to 1958 on religious liberty, and also the teaching of *Dignitatis humanae*.

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\(^\text{18}\) Ibid., 87 (section 19 of the bishops’ document).

\(^\text{19}\) Congar, *Challenge to the Church*, 44, emphasis in original. The *Syllabus of Errors* can be found in DS 2901-80.

humanae, to be non-definitive authoritative doctrine. If these teachings cannot be harmonized, how can one know which prevails over which? Indeed, if they can be harmonized, may a theologian still prefer one of the teachings alone over the harmonization of both? These questions will be addressed in the chapters that follow.

Not all theologians agree that Dignitatis humanae contradicts earlier teaching. However, even if a theologian were to assert that not a single contradiction exists among the non-definitive authoritative teachings by popes or councils throughout history, the possibility remains that such a contradiction might occur in the future. To deny this possibility – that is, to assert a priori that no future Church teaching can contradict any previous non-definitive teaching – is to claim that non-definitive teachings are actually definitive. Equivalently, if one denies that any non-definitive teaching can ever be retracted by the Church in the future, one must either deny that a non-definitive teaching can contain error (which is to claim that such teachings are infallible), or one must claim that the Church sometimes errs in its teaching, but having done so, it is not permitted to correct its errors.

The third situation in which weighing teachings is necessary is when there is some tension or discrepancy between two passages in the same magisterial document, or in different documents issued by the same council. Such tensions are often found in conciliar documents.

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21 For example, Avery Dulles is more circumspect than Congar or Sullivan, stating merely that “Vatican II seemed to modify, and even perhaps to reverse, previous papal teaching on several subjects such as biblical inerrancy, the ecumenical movement, religious freedom, and criteria for membership in the Church.” The Craft of Theology: From Symbol to System, expanded ed. (New York: Crossroad, 1995), 112. Also see his treatment in Magisterium: Teacher and Guardian of the Faith (Naples, FL: Sapientia, 2007), 106. In Chapter 5, some recent proposals to harmonize the various Church teachings on religious liberty will be discussed.

22 This dissertation will use religious liberty as a test case to illustrate how one can weigh non-definitive magisterial teaching. However, the conclusions in this work do not stand and fall on the claim that there is a contradiction between the Church’s preconciliar and conciliar teachings on this issue.
that result from compromise among the bishops. One method of dealing with such situations is exhibited by the following passage by Biblical scholar Joseph Fitzmyer on the interpretation of *Dei verbum* 19:

In studying this paragraph from Vatican Council II, one must remember that it was the product of much conservative and enlightened debate as *Dei verbum* took shape. The struggle between the two groups of council fathers can still be seen in the contrast in par. 19 between the unhesitating assertion of the “historical character” of the gospels and the later nuanced explanation of what the “sacred authors” have passed on to us.\(^{23}\)

Here one sees Fitzmyer dividing *Dei verbum* 19 into two interwoven strands. He does not actually say that the “nuanced explanations” offered by the “enlightened” Fathers possess more authority than the “unhesitating assertions” offered by the “conservative” Fathers, but his implication seems clear.

Fitzmyer is not the only theologian to assign different weights to doctrines taught within the same Vatican II document. Paul Lakeland writes, “I find myself in agreement with George Lindbeck, who in a fine early study of Vatican II, argued that the meaning of the council is to be discovered where it breaks new ground, not where it simply reiterates the teaching of the ages.”\(^{24}\) Meanwhile, other theologians would reverse this view, assigning more weight to passages that draw on longstanding traditions than to passages that display innovation or novelty.

Another common way of assigning different weights to different passages of one document is by partitioning it according to its literary structure. Thus certain post-Tridentine theologians held that the canons of a conciliar document were infallibly taught whereas its chapters were not.

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Other theologians argued that both parts of a document could contain infallibly taught
doctrines.\footnote{Between 1865 and 1867, John Henry Newman drafted a pamphlet about infallibility, and his notes contain
a list of the theologians on each side of this debate. Newman, *The Theological Papers of John Henry Newman on Biblical Inspiration and on Infallibility*, ed. J. Derek Holmes (Oxford: Clarendon, 1979), 134. By the 1950s, the
consensus among the manualists was that infallible teaching could occur within the canons and the chapters of a
document; see the survey of citations in Joaquín Salaverri (as Ioachim Salaverri), “De Ecclesia Christi,” in *Sacrae
Theologiae Summa, Iusta Constitutionem Apostolicam “Deus scientiarum Dominus”*, 2nd ed., vol. 1, corporate
authors Patres Societatis Iesu Facultatum Theologicarum in Hispania Professores (Madrid: Editorial Católica, 1952),
495-953, at 791-92 (book 2, epilogue, schol. 1, nn. 906-8).}

A variation of this division can be seen in some comments made by Joseph Ratzinger just
after the Second Vatican Council. *Dignitatis humanae* is structured as an introduction and two
chapters. The introduction states that the document “leaves intact the traditional catholic
teaching on the moral obligation of individuals and societies towards the true religion and the
one church of Christ.”\footnote{Dignitatis humanae 1 (DEC, vol. 2, 1002).} Yet Ratzinger holds that the chapters of this document contain
“something new, something that is quite different from what is found, for example, in the
statements of Pius IX and Pius XII. It would have been better to omit these compromising
formulas [in the introduction] or to reformulate them in line with the later text.”\footnote{Joseph Ratzinger, *Theological Highlights of Vatican II*, trans. Henry Traub (part 1), Gerard C. Thormann
(parts 2-3), and Werner Barzel (part 4) (Mahwah, NJ: Paulist, 1966), 212.} He then
appears to minimize the authority of these “compromising formulas” on the ground that it
appears in the text’s introduction rather than in its chapters: “The introduction changes nothing
in the text’s meaning; therefore, we need not regard it as anything more than a minor flaw.”\footnote{Ibid., 212, translation altered. The Barzel translation reads, “Thus the introduction changes nothing in the
text’s content; therefore, we need not regard it as anything more than a minor flaw.” However, the original text
reads, “An der Aussage des Textes ändert sie nichts, und so braucht man zu guter Letzt nicht mehr als einen
Schönheitsfehler in ihr zu sehen” [*Die letzte Sitzungsperiode des Konzils (Konzil, Bd. 4*) (Cologne: J. P. Bachem,
1966), 24]. I have removed “thus” (which does not appear in the German and suggests a logical connection that
does not exist), and replaced “content” with “meaning” (which is a more literal translation of *Aussage*).}

Such examples could easily be multiplied. It is clear, then, that the need to measure the
authority of non-definitive magisterial teaching arises when such a teaching is challenged by external arguments, when two different magisterial declarations seem to contradict one another, and when a single declaration includes passages in tension with each other.

To date, there is no published summary, comparison, or synthesis of the views of different theologians regarding how the authority of non-definitive authentic magisterial teachings are to be weighed. By clarifying some underdeveloped points in the theology of the magisterium, this dissertation will hopefully contribute a technique that may be useful in disputes where the parties appeal to non-definitive Catholic teaching. First, I survey the writings of those theologians who have addressed this topic (Chapters One, Two, and Three). I then compare their views to one another and demonstrate that for the most part their views are in harmony with one another. Next, I assemble a set of rules that encapsulates the points on which they agree, making judgments with regard to those issues where they disagree, and argue that these rules constitute a plausible systematization of what these theologians have asserted (Chapter Four). Finally, I look at what these rules imply about the comparative authority of the various statements that popes and councils have made regarding religious liberty (Chapter Five).

**Presuppositions**

The arguments in this dissertation presuppose that one can make meaningful statements about the content of divine revelation using human language: that is, statements that must be either true or false. This does not mean that my arguments assume a “propositional” understanding of revelation. I am not assuming that the act of faith is fundamentally an assent to propositions, nor am I assuming that a verbal statement can fully describe any aspect of divine
reality. However, I do presuppose that human language can convey real truths regarding such realities. If one does not accept at least this much, there cannot be any point in discussing the weight of doctrinal statements, as they themselves are phrased in human language.

Following various authorities on the theology of the magisterium, I distinguish between a sentence and a proposition. A sentence is a string of words in a specific language, whereas a proposition is the meaning expressed by a sentence. When the Catholic Church teaches a doctrine, it is asserting something about the truth or falsity of a proposition, not about a sentence as such. The meaning of a string of words will change as a language evolves, and a new sentence may be discovered that more precisely expresses an old proposition. Moreover, sentences in different human languages can express the same proposition. The arguments in this dissertation do not assume that such translation can be perfect, nor that translation is free of cultural assumptions (even hidden ones). However, if one does not accept that ideas expressed in one tongue can be expressed in others as well, any analysis of magisterial statements becomes pointless.

I also presuppose what might be called a “mainstream” theology of the magisterium. By this term, I mean the core of this topic which has been held in common by theologians of diverse views, before and after the Second Vatican Council. In the next section, I will sketch an outline

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29 Sullivan, Magisterium, 14-15; Gaillardetz, Teaching with Authority, 148-52.

30 Francis Sullivan argues that this minimal level of propositional validity is necessary because the Christian faith has traditionally been creedal: Magisterium, 12-17. His statement on page 16 is particularly concise: “I do not see how one can hold that the Church is really ‘maintained in the truth’ by the Holy Spirit, and at the same time hold that the Church could oblige its members to confess their faith in propositions which would actually be not merely human, partial, limited, capable of more adequate expression, culturally conditioned, etc., but downright false. In other words, the indefectibility of the Church in the truth requires that its normative confession of faith be expressed in propositions which, for all their inevitable limitations, are still true.” Sullivan is responding to Hans Küng’s idea that the Church “remains in the truth” despite errors even in its definitive teachings: see Küng, Infallible? An Inquiry, trans. Edward Quinn (New York: Doubleday, 1971), 175, 181-83.
of this topic, based on the works of Francis Sullivan, Avery Dulles, Richard Gaillardetz, Joseph Ratzinger, and Joaquín Salaverri.\footnote{Salaverri was the last of the preconciliar manualists to write an extended treatment of the magisterium. His manual drew upon and summarized the conclusions of the previous manualists. At Vatican II he was a peritus for the Spanish bishops, almost all of whom were in the minority faction. The other names mentioned above are probably familiar to most readers.} However, those with views closer to either extreme – those who would effectively raise every papal statement to the level of infallibility, and those who deny that the Church can teach infallibly at all – will find some of my arguments to be based on premises they reject.

Another presupposition needs to be stated, even though it may seem obvious to some readers: when a proposition is taught, but not taught infallibly, there is no guarantee that this proposition is not erroneous. In other words, if a certain proposition has been taught authoritatively by a pope or a council or the bishops throughout the world, but has not been taught infallibly, then one cannot be certain this proposition is true based solely on the fact that it has been authoritatively taught. (In some cases, however, one might be certain this proposition is true based on other factors.\footnote{This can happen in several different ways. A doctrine may have been taught by the Church many times, at different levels of authority: for example, while most theologians agree that Gaudium et spes 22 is not an infallible act of teaching, nonetheless Catholics will receive its teaching that Jesus is God as certain because it was been infallibly taught at Nicaea. Alternatively, while a non-definitive act of teaching act does not of itself demand an assent of faith, it may do so when combined with factors such as a clear teaching in Scripture, the consistent witness of tradition, or a sound logical argument, may call for such an assent. Nonetheless, it remains true that, by definition, a non-definitive teaching act does not of itself and by itself demand an irrevocable assent, and a doctrine taught solely by such an act is not thereby irreversible and irreversible.}) Of course, this does not mean that such a proposition is likely to be false. Both the reader who believes that the magisterium has frequently erred and the reader who believes such errors are quite rare (or even that such error might never occur in the lifetime of the Church, provided that its possibility is granted in principle) may find the arguments in this dissertation useful. But a reader who holds that Catholics are obliged to give unconditional
intellectual assent to all propositions taught by the magisterium will find my arguments to be pointless.

This is not to say that the arguments in this dissertation are opposed to a hermeneutic that attempts, first and foremost, to interpret two doctrinal pronouncements in such a way that they do not contradict each other. But such a hermeneutic does not prevent one from admitting a contradiction if efforts to harmonize are unsuccessful, any more than a hermeneutic of suspicion require the user to reject every claim made by an untrustworthy source. As Avery Dulles has written, “To deny on principle that ordinary papal teaching can be corrected would be, in effect, to assert that all of it is definitive.”33

**Terminology**

The terminology used in this dissertation follows the common usage of theologians who have published frequently on the theology of the magisterium. Rather than arranging these terms in dictionary format, it seems more useful to present a brief summary of the theology of the magisterium, letting the terms appear in their natural context.

The following table can serve as an outline of this section. The five rows of the table correspond to the levels of teaching that will be discussed.

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33 Dulles, *Craft of Theology*, 236n18.
<table>
<thead>
<tr>
<th>Common names before 1962</th>
<th>Common names since 1989</th>
<th>How taught?</th>
<th>Response expected</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Doctrinae catholicae</em></td>
<td>Non-definitive authoritative doctrines (Gaillardetz) Authoritative but not infallible doctrines (Sullivan) Reformable, non-definitive doctrines (Dulles)</td>
<td>Teaching by pope. Teaching by ecumenical council. (Unanimous but non-definitive teaching of dispersed bishops?)</td>
<td>Receive such doctrines with <em>obsequium voluntatis et intellectus religiosum.</em></td>
<td><em>Professio fidei</em> paragraph three. <em>Donum veritatis</em> §§17.1, 23.3. <em>LG</em> §25 ¶1. Canon 752.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Teaching by Roman congregation. Teaching by bishops’ conference or local synod. Teaching by one bishop.</td>
<td>Those subject to the teacher receive such doctrines with <em>obsequium animi religiosum.</em></td>
<td><em>Donum veritatis</em> §§18-19. <em>LG</em> §25 ¶1.</td>
</tr>
</tbody>
</table>
Doctrines taught at the highest level of authority are dogmas. These are doctrines that are contained within the deposit of revelation (explicitly or implicitly) and have been taught definitively and infallibly.\textsuperscript{34} They are represented by the first row in the preceding table.\textsuperscript{35}

Dogmas are referred to, collectively, as the primary object of infallibility.\textsuperscript{36} The \textit{Professio fidei} issued by the CDF in 1989 consists of the Niceno-Constantinopolitan Creed followed by three paragraphs describing different levels of Church teaching. The first of these paragraphs describes dogmas as those teachings “contained in the Word of God, whether written or handed down in tradition, which the Church . . . sets forth to be believed as divinely revealed.”\textsuperscript{37}

Members of the Catholic Church are expected to believe such dogmas with divine faith, and thus the theological note associated with these doctrines is “\textit{de fide}.” The denial of a dogma constitutes heresy, at least materially.\textsuperscript{38}

\textsuperscript{34} Joseph Ratzinger and Tarcisio Bertone, “Commentary on the Profession of Faith’s Concluding Paragraphs,” \textit{Origins} 28, no. 8 (July 16, 1998): 116-19, at § 7; Dulles, \textit{Magisterium}, 66, 73-75, 88; Gaillardetz, \textit{Teaching with Authority}, 93, 102-3, 106; Sullivan, \textit{Magisterium}, 60-61, 63, 73, 77, 79-80; Sullivan, \textit{Creative Fidelity}, 13-14, 28-29, 80, 83-84; Salaverri, “De Ecclesia Christi,” 658 (thes. 13), 661 (nos. 549-50), 662 (no. 551), 674 (thes. 14), 675 (no. 594). Before the nineteenth century, the word “dogma” could vary in its exact meaning; except when noted otherwise, this dissertation uses the meaning of “dogma” that has been standard since the early nineteenth century.

\textsuperscript{35} It should not be assumed that dogmas are the most important of all doctrines. A variety of factors throughout history have determined which doctrines have been defined as dogmas: most frequently, definitions have been made because a certain commonly held belief was contested by some group. Vatican II used the term “hierarchy of truths” to refer to the differing importance of Catholic doctrines based on their closeness to the core of the gospel. For more on this distinction, see Gaillardetz, \textit{Teaching with Authority}, 115-17.

\textsuperscript{36} There is some ambiguity as to whether the term “primary object of infallibility” refers to the set of all dogmas, or whether it is more broad and includes all things that could be taught as dogmas. For example, the doctrine of the Immaculate Conception became a dogma in 1854 and is part of the primary object of infallibility; prior to 1854 it was not a dogma, but theologians do not seem unanimous on whether, semantically, it would still have been considered part of the primary object of infallibility before that date, being then a doctrine that was within the scope of the Church’s infallible teaching authority.

\textsuperscript{37} \textit{Professio fidei} (DS 5070), first paragraph following the Creed.

\textsuperscript{38} Ratzinger and Bertone, “Commentary,” §§ 5, 8; Dulles, \textit{Magisterium}, 73-74, 83, 88-89, 95; Gaillardetz, \textit{Teaching with Authority}, 103n4; Sullivan, \textit{Magisterium}, 60-61; Sullivan, \textit{Creative Fidelity}, 14, 28, 80; Salaverri, “De Ecclesia Christi,” 706 (thes. 16), 785-86 (nos. 896-97).
There are three ways that dogmas can be taught: the pope can issue a definition (also known as teaching *ex cathedra*), an ecumenical council can issue a definition, or the bishops dispersed throughout the world can unanimously teach a doctrine as something to be held definitively by all the faithful.\(^{39}\)

The terminology presented above is used by the theologians who write about the magisterium. But one should not infer from this agreement on language that there must be agreement on applications. Indeed, even one of the most frequent questions asked by those curious about Catholicism – How many times throughout history has a pope infallibly taught a dogma? – generates a wide variety of answers. Louis Billot lists ten such definitions between 1302 to 1864.\(^{40}\) Klaus Schatz lists seven occasions between the fifth century and 1950.\(^{41}\) Francis Sullivan seems to concur with Schatz’ list.\(^{42}\) Karl Rahner states that the Marian dogmas of 1854 and 1950 are the “only concrete examples” of papal dogmatic definitions.\(^{43}\) A 1998 commentary on the *Professio fidei* written by CDF Prefect Cardinal Ratzinger and CDF

\(^{39}\) Ratzinger and Bertone, “Commentary,” §§ 5, 9; Dulles, *Magisterium*, 88; Gaillardetz, *Teaching with Authority*, 103; Sullivan, *Magisterium*, 60, 63; Sullivan, *Creative Fidelity*, 13, 28, 83-84, 158-59; Salaverri, “De Ecclesia Christi,” 674 (thes. 14). Papal and conciliar definitions are also called “solemn definitions.” Most authorities use “definition” and “solemn definition” interchangeably. Some authorities add a fourth way dogmas can be taught: by the universal belief of the entire Catholic faithful. The infallibility of the universal belief of the faithful is accepted by all the mainstream theologians who write on the magisterium, but the question of whether this is something to be listed alongside and parallel the other three methods of teaching, or whether it functions differently, is a disputed question.

\(^{40}\) Louis Billot (as Ludovicus Billot), *Tractatus de Ecclesia Christi, sive, Continuatio Theologiae de Verbo Incarnato*, 2nd ed. (Rome: S. C. de Propaganda Fide, 1903), 657-59 (part 2, ch. 3, q. 14, thes. 31, § 1.2).


\(^{42}\) Sullivan, *Creative Fidelity*, 82-86.

Secretary Archbishop Bertone cited the two Marian dogmas along with the declaration of Benedict XII that the saints in heaven behold the beatific vision even before the general resurrection (*Benedictus Deus*, 1336) as three examples, without offering a complete list.\(^{44}\)

The second row in the table represents a category of teaching that goes by several names. The manualists referred to it as the *secondary object of infallibility* or the *indirect object of infallibility*. Richard Gaillardetz suggests the term “definitive doctrines”, while Avery Dulles refers to “doctrines infallibly taught as inseparably connected with revelation.” This category contains doctrines that have been taught definitively and infallibly, but which are not themselves revealed by God. As with dogmas, these doctrines can have been taught definitively by a pope issuing a definition, an ecumenical council issuing a definition, or by the bishops dispersed throughout the world teaching this doctrine as something to be held definitively by all the faithful.\(^{45}\) The second added paragraph in the *Professio fidei* describes this category as “everything definitively proposed by the Church regarding [circum] teaching on faith and morals.”\(^{46}\)

Although some theologians have suggested that such doctrines should be believed as an act of faith,\(^{47}\) no magisterial document has made such a claim. The *Professio fidei* merely says that

\(^{44}\) Ratzinger and Bertone, “Commentary,” § 11 (nn. 22, 29, 36).


\(^{46}\) *Professio fidei* (DS 5070), second paragraph following the Creed.

such doctrines should be “firmly accepted and held.”

Both Vatican I and Vatican II deliberately used tenere rather than credere when describing the response owed to infallible teaching, in order to indicate that both the primary and secondary objects of infallibility were included, as it was considered appropriate to use credere only for revelation itself (the primary object).

Theologians agree that a non-revealed doctrine can be taught definitively only if it is closely connected to revelation itself. However, there is disagreement about what kind of connection is required. Many theologians, as well as some magisterial documents, suggest that the connection must be such that disbelief in this non-revealed doctrine will undermine the Church’s dogmatic teaching. For example, several theologians assert that the Church can teach definitively that a certain gathering of bishops was truly an ecumenical council, or that a certain person was truly pope, because doubting the validity of a council or a pope would undermine belief in the dogmas they defined. This disagreement over how the secondary object is connected to revelation leads to a great variety of views on what sort of doctrines are included in this object. Many of the manualists held that it includes philosophical truths that can be deduced.

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48 Ibid. In the first-person active of the Professio, “firmiter ... amplerctur ac retineo.”


50 Gaillardetz, Teaching with Authority, 118-19; Sullivan, Magisterium, 133-34; Sullivan, Creative Fidelity, 15-16.

51 The manualist tradition uniformly asserts this, along with modern theologians such as Francis Sullivan and Avery Dulles. See Adolphe Tanqueray, Synopsis theologiae dogmaticae fundamentalis, ad mentem S. Thomae Aquinatis, hodiernis moribus accommodata, 15th ed., vol. 1 (Paris: Societas Sancti Joannis Evangelistae, 1914), 544-45 (De Ecclesia, pt. 2, ch. 1, art. 1, n. 840); Sullivan, Magisterium, 136; Dulles, Magisterium, 77.
from revealed truths, philosophical truths that are logical prerequisites for receiving revelation, “dogmatic facts” such as the genuine sense of a text (the dispute over the meaning of Jansen’s Augustinus being the most famous example\(^52\)), “historical facts” such as the determination that a certain council was indeed ecumenical, “hagiographical facts” such as the canonization of a specific saint and the approval of their veneration, and practical decisions of the Holy See that have theological implications, such as the approbation of a specific religious order.\(^53\) At the other extreme, some theologians consider this category to be very narrow, or question whether it exists at all.\(^54\) Since this dissertation does not focus on the secondary object of infallibility, these disputes will not be explored here.\(^55\)

It should be noted that when the Professio fidei was first published, there was confusion in some quarters about what kind of doctrines the second paragraph referred to. Some theologians recognized from the phrasing that it was referring to the secondary object of infallibility,\(^56\) while others offered alternative theories.\(^57\) Eventually the CDF explained its intention more clearly.\(^58\)

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\(^52\) Sullivan, Creative Fidelity, 80-81.

\(^53\) Johann Baptist Franzelin (as Ioannes Bapt. Franzele), Tractatus de Divina Traditione et Scriptura, 4th ed. (Rome: S. Congr. de Propaganda Fide, 1896), 113-14 (Div. Trad., sect. 1, ch. 2, schol. 1, princ. 3); Billot, Tractatus de Ecclesia Christi, 402-12, 420-30 (part 2, ch. 2, q. 10, thes. 17), 663-64 (part 2, ch. 3, q. 14, thes. 31, § 1.4); Salaverri, “De Ecclesia Christi,” 712-29 (nos. 699-737).

\(^54\) For some examples, see Sullivan, “Secondary Object,” 537n3; CTSA, Report, 78n174.

\(^55\) For a comprehensive study of theologians’ views on this question from the 17th century until today, see Jean-François Chiron, L’inaffiliabilité et son objet: L’autorité du magistère infaillible de l’Eglise s’étend-elle sur des vérités non révélées? (Paris: Cerf, 1999).


\(^57\) Ladislas Örsy suggested several different possibilities in The Profession of Faith and the Oath of Fidelity (Wilmington, DE: Michael Glazier, 1990), 23-28.

Perhaps due to the initial period of confusion, one sometimes finds articles in which the doctrines of the first paragraph are called “infallible” and those of the second paragraph are called “definitive,” but this terminology is quite misleading, since both paragraphs refer to definitive doctrines that have been taught infallibly. Richard Gaillardetz suggests the term *definitive dogmas* for the first paragraph and *definitive doctrines* for the second.\(^{59}\)

Although the terms “infallible,” “definitive,” and “irreformable” are sometimes used interchangeably, they are distinguished both semantically and logically. Semantically, *infallible* is used to describe an act of teaching, not a proposition, while *irreformable* is used to describe a proposition, not an act. Thus “Mary was conceived without original sin” is an irreformable proposition because it was taught infallibly in 1854. The term *definitive* can be used to describe either a proposition or an act of teaching.\(^{60}\)

Logically, there is a distinction between teaching something infallibly (which means that it is impossible for this teaching to be false) and teaching something definitively (which means that it cannot be retracted or reversed in the future). However, theologians hold that these two qualities, while logically distinct, will always be found together. If the Church were able to teach something definitively but not infallibly, then the Church could bind the faithful to an

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\(^{59}\) Gaillardetz, *Teaching with Authority*, 102, 117.

irrevocable belief in something that is false.\textsuperscript{61} As Avery Dulles has written, “The term ‘irreformable,’ consecrated by the usage of Vatican I and Vatican II, means definitive, i.e., not subject to cancellation or reversal by any other body in the Church. As the reason for ‘irreformability,’ Vatican I assigned the charism of infallibility.”\textsuperscript{62} Therefore, while the terms “infallible,” “definitive,” and “irreformable” are logically distinct, in Catholic theology these properties are always found together.

The third row in the table represents a category of doctrines that have been taught to the universal Church, but which have not been taught definitively. The third added paragraph in the\textit{ Professio fidei} describes these as “teachings that either the Roman pontiff or the college of bishops enunciate when they exercise their authentic Magisterium, even if they do not intend to proclaim these teachings by a definitive act.”\textsuperscript{63} There is no generally accepted name for this category. Sullivan refers to these doctrines as “authoritative but not infallible teachings,” Gaillardetz calls them “non-definitive authoritative doctrines,” Dulles calls them “reformable” or “nondefinitive,” and Salaverri calls them\textit{ doctrinae “mere authentice” docta}.\textsuperscript{64} I will use Gaillardetz’ term in this dissertation, sometimes shortening it to “non-definitive doctrines” or “authoritative doctrines” when the context is clear.

This category of doctrines is the focus of this dissertation. It includes the majority of what has been taught in papal encyclicals, as well as most or all of the doctrinal teachings of Vatican II.

\textsuperscript{61} Sullivan,\textit{ Creative Fidelity}, 31.

\textsuperscript{62} Dulles,\textit{ Craft of Theology}, 236n16.

\textsuperscript{63} \textit{Professio fidei} (DS 5070), third paragraph following the Creed.

\textsuperscript{64} Sullivan,\textit{ Creative Fidelity}, 161; Gaillardetz,\textit{ Teaching with Authority}, 102, 120; Dulles,\textit{ Craft of Theology}, 236n17; Salaverri, “De Ecclesia Christi,” 696 art. III, 790.
To be in this category, a doctrine must have been taught to the universal church by the pope or by the college of bishops, but not in a definitive manner.⁶⁵ *Lumen gentium* 25 and the *Professio fidei* state that the Catholic faithful are expected to receive such doctrines with *religiosum voluntatis et intellectus obsequium*.⁶⁶ The meaning of this phrase will be explored in Chapters Two and Three.

Although the *Professio fidei* lists only three categories of teaching, the CDF’s 1990 *Instruction on the Ecclesial Vocation of the Theologian* (*Donum veritatis*) adds a fourth category with less authority than the first three: teachings “which involve, in addition to solid principles, certain contingent and conjectural elements.”⁶⁷ This *Instruction* goes on to warn that distinguishing the doctrinal from the contingent in such teachings is easiest when time has passed and a better historical perspective is gained. This category is represented by the fourth row in the table.

These four categories include all the doctrinal teachings taught to the universal Church by the universal teachers of the Church (the pope and the college of bishops). There are other teachings that have doctrinal import as well: teachings by the congregations of the Roman Curia, teachings by local synods and by national bishops’ conferences, and teachings by an individual

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⁶⁵ Many authors tacitly assume this means taught by the pope or by an ecumenical council. However, in parallel to the first two categories, it seems that this category would also include a doctrine that has been taught *unanimously* by the bishops dispersed throughout the world, but *not* taught by them as a doctrine to be held definitively. The only theologian I am aware of who makes this point is Gaillardetz [*Teaching with Authority*, 163, 184, 189]. In any event, this paper will focus solely on doctrines taught by popes and ecumenical councils, because the difficulty of verifying that an unwritten teaching has been taught unanimously by every bishop raises problems that are beyond the scope of this work.

⁶⁶ *Lumen gentium* 25 (DEC, vol. 2, 869); *Professio fidei* (DS 5070).

⁶⁷ Congregation for the Doctrine of the Faith, *Donum veritatis (Instruction on the Ecclesial Vocation of the Theologian)* § 24 [Latin version in AAS 82, no. 13 (Dec. 3, 1990): 1550-70; English version in *Origins* 20, no.8 (July 5, 1990): 117, 119-26; excerpts in DS 4870-85]. It is unclear whether *Donum veritatis* 24 is describing one additional category or two; this question will be discussed in Chapter Three.
bishop. Also included here are doctrines taught by the pope when acting in his role as the bishop of the particular Church of Rome (in other words, when not addressing the universal Church).

Finally, it is possible for the pope or another bishop to teach as a private doctor, as Benedict XVI explicitly did in his *Jesus of Nazareth* series. Such teachings have no magisterial authority at all.

A few additional terminological issues should be addressed. First, *ordinary magisterium* and *extraordinary magisterium* are commonly used terms, but there is no consensus regarding their precise meaning (despite the efforts of some contemporary authors to systematize their usage). There is agreement that when the bishops teach infallibly while dispersed throughout the world, this is an exercise of the “ordinary and universal magisterium,” and when the bishops teach infallibly in council, this is an exercise of the “extraordinary magisterium.” But when the bishops teach non-definitively and non-infally in an ecumenical council, is this the “ordinary magisterium” (Sullivan, Gaillardetz) or the “extraordinary magisterium” (Salaverri, Congar)? When the bishops dispersed throughout the world teach unanimously but not in a definitive manner, it is agreed that their teaching is not infallible; is such teaching still referred to as the “ordinary and universal magisterium”? (Gaillardetz says yes, but other authors reserve that term

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68 In the introduction to the first volume, Benedict writes, “It goes without saying that this book is in no way an exercise of the magisterium, but is solely an expression of my personal search ‘for the face of the Lord’ (cf. Ps 27:8). Everyone is free, then, to contradict me.” *Jesus of Nazareth: From the Baptism in the Jordan to the Transfiguration*, trans. Adrian J. Walker (New York: Doubleday/Image Books, 2007), xxiii-xxiv.

69 See, for example, the table in Gaillardetz, *Teaching with Authority*, 163; the discussions in Edmond D. Benard, “The Doctrinal Value of the Ordinary Teaching of the Holy Father in View of *Humani Generis*,” *Proceedings of the Sixth Annual Convention of the Catholic Theological Society of America* (1951): 78-107, at 78-79; and Sullivan, *Creative Fidelity*, 167.

only for infallible teaching.) To make things more confusing, “ordinary and universal magisterium” is often shortened to “ordinary magisterium” in casual writing, even though the latter is a much more general term. Therefore, I will avoid these terms, except when quoting sources.

Second, the Latin authenticus will be translated in this work as “authoritative.” Although some English translations of magisterial documents use the term “authentic” instead, this translation is misleading. Long ago, the English “authentic” was synonymous with “authoritative,” but today it means “genuine,” and therefore it is no longer an accurate translation of authenticus.

Third, as explained above, a doctrine which has been taught definitively and infallibly is called “irreformable.” This should not be understood to mean the words of a doctrinal definition cannot be reformulated. Indeed, it can happen that a better verbal formulation can express the original meaning more clearly. Rather, “irreformable” is simply a synonym for “irreversible.”

Finally, when discussing a (real or hypothetical) Church teaching that is not true, I will freely use words such as “error,” and when discussing two (real or hypothetical) Church teachings that cannot be harmonized, I will freely use words such as “contradiction.” This would hardly seem to need comment, but there are many theologians who work very hard to avoid such terms. I hope that the reader recognizes that these terms are never meant as a sign of disrespect

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71 Gaillardetz, Teaching with Authority, 163, 184, 189.
73 Gaillardetz, Teaching with Authority, 106.
74 My favorite being Sullivan’s assessment of a historical claim made at the Council of Florence: “it can scarcely be described as altogether true” [Creative Fidelity, 53].
for the teaching authority of the Catholic Church, which I accept as a gift given by Christ.

**Scope**

This dissertation will address the question of how one can weigh the authority of non-definitive authoritative teachings of popes and ecumenical councils. It may be useful to indicate the boundaries of this question.

First, my aim is to reach some conclusions regarding the rules and principles for weighing the authority of such teachings. Specific teachings will be referred to frequently, because principles and rules are often best explained by using examples, and also because some theologians reveal their implicit principles by making claims about the weight of specific doctrines. The final chapter will use the example of religious liberty to illustrate my conclusions. Nonetheless, my goal is to say something about the rules and principles for weighing doctrines, not to make judgments about the weight of individual teachings.

Next, the focus of this dissertation is on doctrines that have been taught authoritatively to the universal Church, but not infallibly and definitively. Doctrines of greater or lesser authority will be dealt with only insofar as my sources intermingle different types of doctrines in their writings. In short, the focus is on doctrines that appear in the third row of the table in the previous section.

Specifically, this dissertation’s focus is on how to measure the authoritative weight of doctrines in this row – that is, to measure what Richard Gaillardetz referred to as “the significant
gradations of authority within this category." Therefore, when looking at a theologian who has written about the weight of doctrines in this category, my interest is in what they have written regarding the gradations of authority among such doctrines. Much has been written about “the” weight of non-definitive teaching, often as if all such doctrines share the same weight. This perspective can be found in many articles and monographs on topics such as “can one dissent from non-infallible teaching?”, “what is the meaning of religiosum obsequium?”, and so on. This dissertation will not analyze such articles, except insofar as they allude to the fact that not all teachings in this category possess the same weight.

Moreover, I will restrict the analysis to doctrines that have been taught by popes or by ecumenical councils. Papal and conciliar teachings are issued in writing, allowing a careful analysis of a text (and its background) to be conducted. Although there are other ways for a doctrine to be taught authoritatively to the universal Church – for example, by the bishops dispersed throughout the world, or from informal teaching that has been repeated over the centuries – these other ways do not offer a doctrinal teaching in a single written form, making the problem of weighing and interpreting such teachings much more complex.

The focus of this dissertation is on how to weigh the authority of a teaching, not on how to interpret a teaching. These two questions are often related, and therefore the question of interpretation will be dealt with when necessary. For example, it is not uncommon for a theologian to declare that a certain statement in a conciliar document is the “hermeneutical key” to the entire text. Such a claim asserts something about authority (the key statement is the most authoritative part of the document) and asserts something about interpretation (other statements

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75 Gaillardetz, Teaching with Authority, 125, emphasis in original.
in this document should be interpreted in light of the key statement), and these two assertions
cannot be fully separated from one another. Nonetheless, by keeping the focus on the question
of authoritative weight rather than interpretation, the vast amount of literature about the
interpretation of doctrinal texts will be whittled down to a manageable level.

Finally, this topic has links to certain epistemological issues. The purpose of the Church’s
teaching office is to help Christians come to a better knowledge of God and divine revelation,
and so grow in their relationship to God. Yet that teaching office is not the only source of
knowledge regarding these matters. When a Catholic Christian is forming a belief about some
topic, their views will be informed by their own personal experience, the experiences of their
friends and acquaintances, their evaluation of any logical arguments they have encountered on
this topic, the weight they assign to the opinions of someone they deem an expert on this topic
(the expert’s *epistemic authority*), and the weight they assign to the Church’s teaching on this
topic. If these factors point in different directions, the person must explicitly or implicitly decide
which of them carries more weight.\(^76\)

Moreover, the last factor mentioned – the weight a certain person assigns to the Church’s
teaching on a specific topic – is itself a melange of three components: the persuasive power of
the arguments presented by the Church to support this teaching, the epistemic authority the
person grants to the authors of a Church document by virtue of their erudition and experience,
and the religious authority accorded to the formal authors of the document as pastors exercising
an ecclesial office which this person believes to have a divine foundation. Unless otherwise

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\(^76\) For a detailed treatment of this subject, see Józef M. Bocheński, *Was ist Autorität? Einführung in die Logik
der Autorität* (Freiburg im Breisgau: Herder, 1974), and Richard T. De George, “The Nature and Function of
Epistemic Authority,” in *Authority: A Philosophical Analysis*, ed. R. Blaine Harris (Tuscaloosa, AL: University of
Alabama, 1976), 76-93.
specified, when this dissertation uses terms such as “magisterial weight” or “authoritative weight,” it refers to the last of these three components.\footnote{Moreover, this is the only component that can be considered when discussing Church teaching in general, rather than specific examples. This component is sometimes referred to as the \textit{antecedent} weight of a Church teaching. It would be a valid theological question to ask, “If a pope fifty years from now makes an assertion about God in an encyclical, and he uses the following language to specify its importance, how much magisterial weight will it have?” – even though in this scenario nothing is said about what the doctrine itself happens to be. As Joseph Komonchak stated, “the chief basis on which Catholics are antecedently to trust what pope and bishops teach . . . is not their personal qualities of learning nor even whatever reasons they give for what they teach, but the fact that they occupy an office whose trustworthiness is sacramentally and spiritually based on the assistance of God.” Joseph A. Komonchak, “Authority and Magisterium,” in \textit{Vatican Authority and American Catholic Dissent: The Curran Case and its Consequences}, ed. William W. May (New York: Crossroad, 1987), 103-14, at 109.} This component alone is an appropriate topic for theological analysis; all the other factors mentioned above are more properly treated by an epistemological analysis. These epistemological factors will be briefly touched on in the later parts of this dissertation, but will not be the primary focus of this work.

\textit{Overview of the Dissertation}

The first three chapters of this dissertation survey what theologians have written on the question of how to weigh non-definitive authoritative teachings of the magisterium.

Chapter One begins with an analysis of how theologians from the Middle Ages to the nineteenth century understood the different levels of Church teaching authority, and how a system of “theological notes” was developed to indicate the reliability of various doctrines. It will be shown that very little attention was given to the problems presented by non-definitive teaching until the late nineteenth century. At this time, it became widely recognized that papal encyclicals often contained teachings that were authoritative and yet not definitive. In acknowledgement of this fact, a new level was inserted into the system of theological notes – a level that the manualists would eventually label \textit{doctrina catholica}. Yet the manualists wrote
only very brief comments about how to evaluate doctrines at this level.

This chapter then examines the views of manualists and other theologians in the nineteenth and early twentieth century concerning non-definitive doctrine. The chapter concludes with the last generation of manualists and preconciliar theologians, many of whose works were influenced by the claim made by Pius XII in *Humani generis* that even non-definitive papal teaching should end theological debate on an issue under certain conditions: “[I]f the Supreme Pontiffs in their official documents [in actis suis] purposely pass judgment [data opera sententiam ferunt] on a matter up to that time under dispute, it is obvious that that matter, according to the mind and will of the Pontiffs, cannot be any longer considered a question open to discussion among theologians.”

Chapter Two begins with the Second Vatican Council and its statements regarding papal and episcopal teaching authority, as well as the Council’s Theological Commission’s statements regarding the authority of the conciliar documents themselves. Immediately after the Council, some of the most influential *periti* published analyses of its documents which contain important insights into how they understood the weight of the different parts of these documents. This chapter then surveys theologians who wrote on the question of magisterial weight in during the subsequent two decades. While these theologians include such famous figures as Giuseppe Alberigo and Walter Kasper, perhaps the most influential of them was Piet Fransen, especially for his work on the interpretation of conciliar documents.

In 1989, the Congregation for the Doctrine of the Faith published the *Professio fidei*, and

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one year later, the *Instruction on the Ecclesial Vocation of the Theologian* (*Donum veritatis*). To date, these remain the most detailed statements from the Vatican regarding the weighing of magisterial documents. These documents have made a great impact on everything written on the magisterium since then. Chapter Three focuses on these theologians, among whom Francis Sullivan is perhaps the most prominent. In addition, there are theologians and historians who have written extensively on the interpretation of Vatican II, such as Ormond Rush, John W. O’Malley, and Brunero Gherardini, whose work will be examined for the principles they use when interpreting and weighing Vatican II’s documents. Many of the principles used by these authors are not stated explicitly (e.g., “other things being equal, the portions of a conciliar text written by the majority have more weight than the portions written by the minority”), but become clear from how they judge particular cases.

Due to the lack of any established theological tradition on how to measure gradations of authority within the category of non-definitive authoritative Church teachings, these theologians have been forced to offer their own original judgments when confronted with this question. For this reason, these theologians’ writings constitute primary sources in this dissertation, despite the recent vintage of their work.

Chapter Four begins with an analysis of the various principles uncovered in this historical survey. Some principles of how to weigh magisterial teachings will have been affirmed by virtually every one of the authors that have been examined, while others will be in dispute, or will have been mentioned only by a small number of the authors. The principles that these authors hold in common will be taken as established, and this will become the foundation for my proposed synthesis. Additional principles which are asserted by only one or two authors, but
which are fully compatible with the foundation and pose no logical problems, will also be included in this synthesis.

The next task is more difficult: how does one assess those principles asserted by some authors but denied by others? My goal here is to make judgments based on those criteria that seem the most objective. A principle suggested by one theologian might be tested for whether it is ultimately consistent with other assertions made by the same theologian. To take one example, a theologian may suggest that the “majority”-sponsored passages in *Lumen gentium* must be prioritized above its “minority”-sponsored passages, and that indeed the document should be understood in the sense that it was intended by those in the majority. But would this theologian use this same principle to weigh and interpret Vatican I’s *Pastor aeternus*? The dominant voices at the Council in 1870 favored defining the pope’s infallibility as “personal, separate, and absolute,” yet this was not done, in large part as a concession to the conciliar minority. So the same principle that would interpret Vatican II through the perspective of its majority would interpret the definition of papal infallibility in a ultramontanist manner. If a theologian is not willing to apply this principle as a general rule, then it is reasonable not to include it in the synthesis.

After these judgments have been made, a synthesis will be produced that represents the overall consensus of the surveyed theologians on the question of how to weigh non-definitive magisterial teachings.

Chapter Five tests this synthesis by applying it to the question of religious liberty. Some

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theologians substantially reject the nineteenth-century papal teachings on this question in favor of *Dignitatis humanae*, others substantially reject *Dignitatis humanae*, and others insist that all these teachings can be harmonized. The synthesis offered in Chapter Four, if it is sufficiently robust, should be able to indicate which of these viewpoints is ultimately supported by the magisterial teachings on this issue *in toto*, once the weight of each of these teachings is taken into account.

The conclusion indicates how this synthesis might be applied to other disputed questions in which different theologians claim support from magisterial teaching.
CHAPTER ONE
Survey of Views from the Middle Ages to 1962

It was during the High Middle Ages that canonists and theologians began to systematically
discuss what adherence the Christian faithful should give to specific doctrines. There had been
sporadic treatments of this question prior to this time, but they did not leave an imprint on the
conversation among scholars that has extended from the Middle Ages until today.

The first three sections of this survey, spanning the High Middle Ages to 1863, is primarily
based on secondary sources. Excellent surveys already exist of the thoughts of canonists and
theologians during this period on the subject of the Church’s teaching authority.

The Middle Ages

Non-definitive authoritative doctrine was rarely discussed before the late nineteenth
century. Most theologians who wrote about the Church’s teaching authority focused either on
definitive (infallibly taught) doctrines or on the acts of councils and popes that were merely
disciplinary or lacked any authority whatsoever. To discover whether they were aware of levels
of teaching in between these two extremes, it is necessary to determine which acts they
considered definitive and which acts they considered less-than-authoritative, set these categories
aside, and see if anything remains.

The infallibility of the faithful

Although for many Catholics, the word “infallible” is instantly associated with the word
“pope,” papal infallibility is only one piece of the doctrine of infallibility, and not the most
ancient one. As Francis Sullivan has written,
While the first known reference to the infallibility of ecumenical councils dates from the ninth century, and the first reference to the infallibility of popes to the thirteenth century, the conviction that the consensus of the universal church in its faith is an infallible norm of truth goes back to the second century, with Irenaeus, and is a consistent element of Christian belief.¹

Irenaeus, Tertullian, Gregory Nazianzen, Basil, Cassian, Eunomius, Epiphanius, Jerome, Augustine, Vincent of Lérins, and Nicephorus all agreed that the universal belief of the Christian faithful is a sure guide to true doctrine.² On multiple occasions, Augustine settled doctrinal disputes by invoking the *dogma populare*, receiving those doctrines held by divine faith “by all Christians – from bishops to lay faithful, penitents, and catechumens.” Vincent of Lérins stated that the test of orthodoxy is that “which is believed everywhere and always by all.”³

The medieval canonists held this view as well.⁴ Bonaventure considered it “most horrible and unbelievable that God would permit his holy people to err as a whole.”⁵

Exactly what quantity “as a whole” referred to was rarely spelled out. Some theologians understood this to mean that when the Church was sufficiently unified to form a consensus on a matter of doctrine, this consensus could not be wrong. William of Ockham held a more unusual view: he insisted that only perfect unanimity on a point of doctrine assured its truth, and

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therefore it was possible that heresy could become nearly universal in the Church, with the true doctrine preserved only by a miniscule and unnoticed remnant.\(^6\)

From what I have been able to determine, none of these authorities proposed that lesser degrees of authority might correspond to lesser degrees of unanimity. In other words, they asserted that whenever 100\% of Christians believed a certain doctrine to be revealed, that doctrine was certainly true, but they never indicated that it would be significant if some doctrine was believed by 80\% of Christians, or 51\% of Christians.

**The authority of a general council**

The early ecumenical councils were held as reliable judges of faith by the Church Fathers. Around 370, Athanasius wrote that “the word of the Lord which came through the Ecumenical Council at Nicaea remains forever.”\(^7\) In 591, Gregory the Great wrote of his reverence for the first four ecumenical councils, for “on them, as on a cornerstone, rises the structure of the holy faith. . . . The fifth Council[,] too, I equally venerate.”\(^8\) Moreover, many of the Fathers held that the great councils had been guided by the Holy Spirit.\(^9\) However, it is unclear whether they understood ecumenical councils, in general, as being infallible. *Infallibility* is a stronger concept than *inerrancy*: it indicates not only the absence of error, but the guarantee that error cannot be


\(^8\) Ibid., vol. 3, 309 § 2291.

\(^9\) Avery Dulles, *Magisterium: Teacher and Guardian of the Faith* (Naples, FL: Sapientia, 2007), 24-25. Thus the Council of Ephesus described the Nicene Creed as having been “defined by the holy fathers who were gathered together in the Holy Spirit at Nicaea” (*DEC*, vol. 1, 65).
present if certain conditions are met. If councils are infallible, then one can be sure that a future council – or a council in the past whose documents one has not yet read – cannot teach error in its solemn definitions. It is possible that the early Fathers believed in the inerrancy of the councils of their time merely because, having examined their documents, they had found no error in them.

The first theologian to describe ecumenical councils as infallible in the strict sense was Theodore Abu Qurra, a ninth-century Syrian monk and bishop. According to Abu Qurra, just as the apostles in the Council of Jerusalem were guided by the Holy Spirit (Acts 15:28), so too are the bishops in an ecumenical council protected from error.\(^\text{10}\)

Although it is unlikely that Abu Qurra was known in the West, by the High Middle Ages it was widely held among Western European canonists and theologians that general councils did not err when they defined a matter of faith to be held by all the faithful. Historian Brian Tierney concludes from a survey of the medieval canonists that they “never envisaged the possibility that the councils could have erred in faith.”\(^\text{11}\) Beginning around the year 1200, the canonists argued for the inerrancy of councils from the inerrancy of the whole Church, as a council was seen as “the whole church acting as a corporate body.”\(^\text{12}\) There was no suggestion that a council might choose to teach a matter of faith at a lesser level of authority.


\(^{11}\) Tierney, *Origins of Papal Infallibility*, 47; similarly 231. The twelfth-century decretalists understood “general councils” to refer to the councils of the first millennium; by the end of the thirteenth century, the medieval councils were included as well: ibid., 47, 142.

William of Ockham was an exception to this consensus as well, holding that a general council was not immune from error. Yet, like his opponents, he never mentioned the possibility that different levels of authority might be associated with different conciliar teachings on matters of faith.\footnote{Ockham, \textit{Dialogus}, part 1, book 5, ch. 26, at http://www.britac.ac.uk/pubs/dialogus/t1d54.html. In reading the \textit{Dialogus}, it should be kept in mind that views espoused by “the Master” represent Ockham’s own views, with a few exceptions: see John Kilcullen and George Knysh, “Ockham and the Dialogus,” 2002, on the British Academy website, accessed Mar. 11, 2014, http://www.britac.ac.uk/pubs/dialogus/wock.html.}

Canonists and theologians did distinguish between a council’s teachings on faith and its disciplinary edicts. A council’s disciplinary legislation could be revised by a pope or a future council, but when a council defined an article of faith, this was permanently binding. It was recognized, however, that a single conciliar decree might have both doctrinal and disciplinary aspects.\footnote{Tierney, \textit{Origins of Papal Infallibility}, 41, 46; Heft, \textit{John XXII}, 142. In this era, an “article of faith” \textit{[articulus fidei]} meant a definitive truth of faith. This term could be used for a truth contained in the deposit of faith, and also for a verbal formula that expressed this truth. The former was held to be unchanging, whereas the latter could be defined by the Church at some point in time, after which it became obligatory and irrevocable. (Tierney, \textit{Origins of Papal Infallibility}, 24; Heft, \textit{John XXII}, 142, 154-55, 181-82; Piet F. Fransen (as Peter Fransen), “The Authority of the Councils,” trans. Reginald F. Trevett, in \textit{Problems of Authority}, ed. John M. Todd (Baltimore: Helicon, 1962), 43-78, at 75. The term “dogma,” which would later acquire this same meaning, initially was a much more nebulous term: see ibid., 74; Piet F. Fransen, “Unity and Confessional Statements: Historical and Theological Inquiry of R.C. Traditional Conceptions,” in \textit{Hermeneutics of the Councils and Other Studies} (Leuven: Leuven University, 1985), 247-86, at 262-67; Heft, \textit{John XXII}, 152-54.} It was also held that legislation concerning the \textit{generalis status ecclesiae}, such as statutes regarding church polity and the sacraments, might be irrevocable even if they were not actually doctrinal.\footnote{Tierney, \textit{Foundations of Conciliar Theory}, 50-53; Heft, \textit{John XXII}, 139-40. I would speculate that some of these statutes would today be seen as having ecclesiological aspects, but as ecclesiology was not then considered a branch of theology these decrees appeared to be purely disciplinary, and yet were recognized as not subject to change.}

When medieval canonists or theologians discussed a general council, they usually envisioned a council that had been summoned by a pope, attended by a pope or his legates, and
whose documents were ultimately approved by a pope. The authority of such a council was universally acknowledged. On the other hand, there was great disagreement regarding the scenario of a pope and a council in conflict with each other. Some held that a pope had supreme authority even acting alone, while others held his authority to be strictly less than that of a council; some held that a council without a pope’s sanction lacked authority, while others placed it above the pope.  

This dispute will not be explored here, given the dissertation’s scope.

**The authority of a pope**

What teaching authority did a pope, acting without a council, possess? In the Middle Ages, popes did not typically act as teachers except when offering judgments on disputed issues. Gratian taught that scholars of Scripture are preeminent over even the pope when interpreting and expounding Scripture, while the pope is preeminent “on matters that must be defined” [*in causis vero definiendis*], as such definitions require not only knowledge but the power to rule. Such definitions could be disciplinary or doctrinal. Thus the English canonist Alanus stated that a pope’s definition [*diffinitio*] can create a new article of faith; even though this would be merely a new expression of the truths contained in the deposit of faith, this new formulation imposed an irrevocable obligation on the Catholic faithful. Similarly, Thomas Aquinas wrote that a pope had the authority to draw up a new symbol of faith. Historians today are divided on their

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interpretation of these claims: some hold that Alanus and Thomas were discussing the pope’s own authority to define dogmas, while others believe that Alanus and Thomas were referring to the power of a general council under the leadership of a pope.\textsuperscript{20}

John Peter Olivi, a member of the Spiritual wing of the Franciscan order, was the first theologian known to unambiguously assert that a pope can define a new dogma without the help of a council. In 1279, Pope Nicholas III promulgated the bull \textit{Exiit}, which praised the Franciscans and seemed to endorse their belief that their lifestyle was a perfect imitation of the poverty that Christ and his apostles practiced. A year or so later, Olivi wrote his \textit{Quaestiones de perfectione evangelica}, which included the question “Whether the Roman pontiff is to be obeyed by all Catholics as an unerring standard [\textit{tamquam regule inerrabili}] in faith and morals?”\textsuperscript{21} Olivi answered this question in the affirmative, while making it clear he was referring solely to a pope’s public teaching on matters of faith.\textsuperscript{22}

The Spiritual Franciscans continued to receive papal encouragement until the reign of John XXII. In 1322, John repealed some of the disciplinary rules in \textit{Exiit}, and the next year he issued a doctrinal statement, \textit{Cum inter nonnulos}, which rejected the claim that Christ had lived a life of poverty exactly as the Franciscans did. In 1324, the Franciscans rejected the Pope’s claim, citing Olivi’s book as proof that papal teachings on doctrine were infallible, and arguing


\textsuperscript{21} Tierney, \textit{Origins of Papal Infallibility}, 93-94, 97-99, 124. Tierney argues that Olivi, who held to a Joachimite view of history, feared a future wicked pope might want to crush the Franciscans and therefore wanted to bolster the authority of \textit{Exiit} against such a possibility: ibid., 125-26.

from this thesis that several popes (Gregory IX, Alexander IV, and especially Nicholas III in
Exiit) had infallibly taught that Christ’s poverty and Franciscan poverty were identical.23

Pope John refuted this argument in his bull Quia quorundam mentes in 1324.24 After
rebutting Olivi’s understanding of the “key of power” and the “key of knowledge,” John went
through the decrees his predecessors had issued regarding poverty, and explained why each of
these decrees lacked the qualities necessary for a dogmatic definition.25

John’s treatment of these texts merits close examination, as it shows how a fourteenth-
century scholar identified dogmatic definitions. He offered arguments based on specific
terminology: for example, he pointed out that when Alexander IV taught about Christ’s poverty,
he condemned anyone who might reject his teaching as “contumacious and as a rebel to the
Roman Church” [contumax et ecclesie Romane rebellis] – a milder censure than calling such
views “heretical” [hereticus].26 He made arguments based on the scope of the Church’s teaching
authority, questioning whether details of Christ’s and the apostles’ ownership of things “pertains
to faith and morals” [ad fidem vel mores pertineat].27 He illuminated the meaning of these
statements by citing other documents written by their authors: thus when the Franciscans cited

23 Tierney, Origins of Papal Infallibility, 171, 181-83.
24 Ibid., 186. According to Tierney, John initially planned to deny Olivi’s thesis that popes had the power to
teach infallibly. Tierney believes that John preferred that popes be seen as “sovereign” rather than “infallible.” A
sovereign pope would not be restricted by the acts of previous popes, just as kings were not bound by the laws of
previous kings: par in parem non habet imperium [an equal cannot bind an equal]. But if a pope can teach
infallibly, he restricts the freedom of future popes. However, according to Tierney, John changed his mind on this
while writing Quia quorundam mentes, advancing instead the much more modest claim that previous popes had not
taught infallibly on the question of Franciscan poverty. Ibid., 127, 130, 189-91.
26 Ibid., 244 (Latin text), 104 (Heft’s translation). The -e endings were a common variation for -ae in this
era.
27 Ibid., 248 (Latin text), 149 (Heft’s translation).
statements by Alexander IV and Gregory IX comparing Franciscan poverty to Christ’s, John pointed out that these popes had also compared Dominican poverty to Christ’s, but since these two orders followed different styles of poverty, these popes cannot have meant that Christ’s poverty was in every way identical to that practiced by the Franciscans.  

Having shown, by means of such arguments, that none of these previous popes had the intention to issue a dogmatic definition on this matter, John concluded that the Franciscans were wrong in claiming that “our predecessors have defined [diffiniisse] such things.”  

Yet at no point did John XXII deny that a pope could define a doctrine in such a way that it would be binding on his successors. Indeed, when he was later accused by Michael of Cesena of having done so, he insisted that he had not. His apologist Jesselin de Cassagnes asserted that John himself had issued a dogmatic definition in Cum inter nonnulos, basing this claim on the Pope’s wording (“we declare ... [that certain claims about Christ’s poverty] will henceforth be justly considered erroneous and heretical”).  

The next theologian to write a treatise on papal infallibility was Guido Terreni, who published his Quaestio de magisterio infallibili Romani pontificis between 1328 and 1339. Francis Sullivan concurs with the judgment of Bartolomé Xiberta that Terreni’s theology is so close to that of the First Vatican Council that “had he written it [his treatise] after Vatican I, he

28 Ibid., 77-78, 89.  
29 Ibid., 246 (Latin text), 124 (Heft’s translation).  
30 Tierney, Origins of Papal Infallibility, 190.  
31 Ibid., 194-95; Heft, John XXII, 157-59. Jesselin’s name is often Latinized as Zenzellinus. This passage from Cum inter nonnulos can be found in DS 931.  
32 Tierney, Origins of Papal Infallibility, 238.
would have had to add or change hardly a single word.”

Terreni stated that a pope could not err in his definitions of faith [*determinaciones fidei*], although he could err in matters not related to salvation. Throughout his treatise he limits the pope’s infallibility to matters of *fides*, except in one passage where he also includes *boni mores*. One of his arguments supporting papal infallibility is based on two premises: first, the whole Church cannot err in matters of faith; second, the pope is the universal teacher of the Church; therefore, if the pope were to teach falsely, the whole Church would be led into error, which is impossible. This argument, which roots the infallibility of the teaching Church in the infallibility of the whole Church’s belief, would be repeated by many scholars up to Vatican I. Moreover, while admitting that a pope could become a heretic as a private person, Terreni argues that no papal definition will ever be false. If a pope were to intend to define a false doctrine, God would prevent him from doing so, “either by death, or by the resistance of other people, or in some other manner.”

Although the ability of a pope to issue definitive teachings without calling an ecumenical council was a matter in dispute, all Catholics recognized that the pope did exercise real authority

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34 Tierney, *Origins of Papal Infallibility*, 248, 249n1; Heft, *John XXII*, 96n98; Sullivan, *Magisterium*, 92. Both Tierney and Sullivan equate Terreni’s *determinare* and *determinacio* with the modern terms *definire* and *definitio*.


37 For example, this argument appears in the works of Pietro Ballerini published in the 1760’s, per Richard F. Costigan, *The Consensus of the Church and Papal Infallibility* (Washington, D.C.: Catholic University of America, 2005), 95, 103, 106; and in Giovanni Perrone (as J. Perrone), *Praelectiones Theologicae*, 20th ed. (Paris: J.T. Migne, 1867), vol. 2, cols. 1023, 1024 (*De Locis Theologicis*, part 1, sect. 2, ch. 4, prop. 1, diff. 2, obj. 1 and *ad* 1).

when he issued official teachings on matters of faith. Such teachings were distinguished from
his acts as a private doctor. One canonist illustrated this distinction by stating that if the pope
and Augustine each wrote books of theology in his own private room, the book by Augustine
should be preferred by theologians, but if the pope defined something that concerned articles of
faith, his definition would have more authority than anything Augustine wrote. Popes
themselves made use of this distinction. Thus Pope Innocent III, replying to a bishop regarding a
Christological question, wrote, “We give you this response in our capacity as a scholar. But if
we must respond in our apostolic capacity, we respond more simply, indeed, but more
cautiously.” Pope Innocent IV published a commentary on the Decretals which was
recognized as the work of a private doctor, and was widely used in the schools. And when
Pope John XXII scandalized many in his teaching regarding the Beatific Vision in the 1330s, he
insisted that he was not teaching this authoritatively, but as a private doctor.

Identifying levels of authority

Although they differ on many details, Olivi, Terreni, and apparently John XXII himself
agree that the pope can issue infallible dogmatic definitions under certain limited conditions.
Logically, it would seem to follow from this that papal teaching on matters of faith can be
divided into two levels of authority: those which satisfy such conditions, and those which do

39 Tierney, Origins of Papal Infallibility, 41, 249; Heft, John XXII, 93-94.
40 Tierney, Origins of Papal Infallibility, 41.
41 Yves M.-J. Congar, “Theologians and the Magisterium in the West: From the Gregorian Reform to the
42 Tierney, Origins of Papal Infallibility, 249.
43 Heft, John XXII, xix (in the Foreword written by Harry McSorley), 97.
not. The former are infallibly taught; the latter are not. For this reason, Francis Sullivan concludes that these late medieval theologians recognized at least two levels of authority in papal teachings, roughly equivalent to the modern distinction between “extraordinary” and “ordinary” papal teachings.44

However, Tierney disagrees, arguing that no such distinction is found until the modern era.45 After the first edition of his Origins of Papal Infallibility was published, many of his critics challenged him on this point, and he replied to them in a postscript added in the second edition.46 While these critics were able to make very strong arguments asserting that medieval theologians must have understood the difference between infallible and fallible papal teaching – and, for that matter, infallible and fallible conciliar teaching – none of them were able to supply any instances of a theologian actually referring to this distinction. As a result, neither side seems to have been able to convince the other.

Based on this absence of explicit reference to non-definitive authoritative teaching among medieval theologians, it seems likely that those theologians who wrote about papal and conciliar infallibility in this era were so focused on infallible teachings that they neglected to discuss what level of authority (if any) their non-infallible teachings possessed. Of course, as has been noted, theologians recognized that popes often issued disciplinary decrees, decrees dealing with matters unrelated to faith, and theological writings as private doctors, none of which were definitive. But papal teachings that were doctrinal and public, and yet were not definitively taught – a category

44 Sullivan, Magisterium, 98; Sullivan, Creative Fidelity, 82.
45 Tierney, Origins of Papal Infallibility, 152, 268-69. Richard R. Gaillardetz agrees with Tierney on this question; see his Teaching with Authority: A Theology of the Magisterium in the Church (Collegeville, MN: Liturgical, 1997), 208.
46 Tierney, Origins of Papal Infallibility, 299-327.
that is logically implied by these theologians’ admission that not all doctrinal teachings are definitive – do not seem to have been systematically considered during this era.

In conclusion, medieval canonists and theologians who studied the decrees of councils and popes distinguished between doctrinal and disciplinary decrees, between teachings on matters of faith and teachings on secular subjects, and between the official teaching of a pope and his teaching as a private doctor. Within the realm of official doctrinal teachings, they recognized that certain teachings qualified as definitive or infallible, but they do not seem to have explored this distinction to the point of explicitly distinguishing multiple levels of authority among authoritative doctrinal teachings.

Theological Notes

In the High Middle Ages, many popes had been trained as canonists rather than as theologians. When theological controversies arose, popes would sometimes issue condemnations of certain ideas through documents that were prepared with the help of commissions of theologians. In the fourteenth century, these papal condemnations began to use certain theological terms to criticize the content of specific assertions: *heretica*, *erronea*, *male sonans*, *suspecta de haeresi*, and so on. These terms did not seem to attract much attention.

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until they were used by the Council of Constance (1414-18) in three separate documents. These would eventually become known as theological censures, or more generally, theological notes. (The term “theological notes” includes positive, negative, and somewhat neutral assessments of propositions, while the term “theological censures” includes only the negative theological notes.)

The earliest history of these censures is unknown today. Although they probably originated in the theological schools, by the fifteenth century they were associated primarily with documents of popes and councils. As a result, a number of theologians beginning with St. Antoninus of Florence (d. 1459) attempted to deduce the meaning of these censures by studying the magisterial documents in which they appeared.

In hindsight, it seems strange that these theologians did not simply write to Rome or Avignon and ask them to explain what each of these censures meant. Yet never in that era (or any time since) has there been explanation from any office of the teaching Church concerning the meaning of these censures. So theologians tried to learn their meaning by studying their use in official documents, observing the sequence in which the notes appeared (perhaps they were listed in order of weight?), determining whether two notes never appeared together in the same document (perhaps this meant they were synonyms?), and critiquing earlier theologians’ explanations of these notes. A monograph by John Cahill investigates the results obtained by

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48 John Cahill points out that all the fifteenth- to eighteenth-century theologians who studied these censures begin their treatment with the Council of Constance, apparently unaware of the earlier use of such censures. *Theological Censures*, xv n1. Nor does it seem that they were aware of the earlier use of graduated censures by theologians; a list of theological documents containing such censures between 1270 and 1329 can be found in Koch, “Philosophische und theologische Irrtumslisten,” 306-12.

49 Cahill, *Theological Censures*, xiii, 22, 39, 48-50, 55, 149.

50 Ibid., xiii, xvii-xviii, 1, 42-43, 48, 61.
these theologians, namely: St. Antoninus of Florence, O.P. (d. 1459), Juan de Torquemada, O.P. (1489), Silvestro Mazzolini da Prierio, O.P. (1516), Alfonso de Castro, O.F.M. (1547), Diego [Didacus] de Simancas (1552), Melchior Cano, O.P. (1563), Domingo Bañez, O.P. (1584), Pedro de Lorca, O.Cist. (d. 1606), Francisco Suárez, S.J. (d. 1617), Juan de Lugo, S.J. (1646), Lorenzo Brancati di Lauria, O.F.M.Conv. (1673), the Carmelites of Salamanca (1679), and Antonio de Panormo (1709). In addition, he briefly considers theologians who wrote about these censures in later centuries, including Gaspard Juénin (1704), Domenico Viva, S.J. (1708), Vincenzo Lodovico Gotti, O.P. (1727), Honoré Tournely (d. 1729), Claude Louis de Montaigne (1732), Heinrich Kilber, S.J. (1751), Joseph Gautier, S.J. (1756), Matthias Joseph Scheeben (1867), Johann Baptist Franzelin, S.J. (1870), Camillo Mazzella, S.J. (1879), Christian Pesch, S.J. (1894), Louis Billot, S.J. (1898), J. V. de Groot, O.P. (c. 1900), Reginaldo-Maria Schultes, O.P. (d. 1928), and Reginald Garrigou-Lagrange, O.P. (1938).

Cahill’s project was to determine the meaning of each individual note and censure, and his book is arranged accordingly. Thus he groups together each theologian’s interpretation of *haeresi proxima* (“close to heresy”), *error* (which has a specific meaning as a censure, even though the Latin word has a generic meaning), *piarum aurium offensiva* (“offensive to pious ears”), and so on.

Since the goal of this dissertation is to search for information on the lower levels of magisterial teaching, I have taken his results and rearranged them according to the definitions

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51 Ibid., 5nn1-2, 7n1, 9n1, 9n3, 13n2, 15n1, 16n2, 32, 34n1, 38nn1-2, 46, 46n1, 55n1, 60-61, 191. The years given in this list are those of the publication of each theologian’s writing on this matter, except when this is unknown, in which case the date of death is given and indicate with a “d.” Despite the dates that appear in the title of his book, Cahill’s survey is exhaustive from Antoninus (d. 1459) to Panormo (1709).

52 Ibid., 74n1, 81n1, 82n1, 89, 107n1, 137n1, 138n1, 139n1, 164-65, 166, 167n3, 169n1.
assigned to these various notes by each theologian. The result is the following list:

A. Revealed doctrines which must be held by faith.
   
   1. A revealed doctrine of faith which has been defined as such by the Church.
      
      Designated *fidei veritas* by Cano; eventually *de fide* and *dogma* became standard
terminology.\(^{53}\)
      
      a. An assertion that contradicts such a doctrine. Designated *haeretica* by
         Antoninus, Prieras, Castro, and all subsequent authorities.\(^{54}\)
      
      b. An assertion that contradicts such a doctrine, according to almost all
         theologians. Designated *third-grade error* (Cano, Bañez), *error* (Lorca).\(^{55}\)
   
   2. A revealed doctrine of faith, per all Fathers and theologians, but not yet defined as
      such by the Church.
      
      a. An assertion that contradicts such a doctrine. Designated *haeretica definibilis*
         or *haeretica non-authentic* (Panormo), *haeresi proxima* (Montaigne, Gautier,
         Groot).\(^{56}\)
   
   3. A revealed doctrine of faith, according to almost all theologians. Designated *fidei*

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\(^{54}\) Cahill, *Theological Censures*, xiii, 6, 9, 11-13; Congar, *Foi et théologie*, 166. Antoninus and Prieras
reserved this designation for a statement made by someone who did so obstinately and notoriously, but subsequent
authorities did not include the subjective dispositions in the grading of a proposition itself.

\(^{55}\) Cahill, *Theological Censures*, 26-27, 32, 35, 85. This item is distinguished from the preceding one based
on how certain it is that a contradiction exists. In the case of item A.1.a, there is no doubt that the assertion in
question contradicts a defined doctrine. In the case of item A.1.b, almost all theologians agree that there is such a
contradiction, but a small number of theologians hold that there is no contradiction, and therefore the assertion in
A.1.b deserves a slightly lesser censure than the one in A.1.a.

\(^{56}\) Ibid., 101-3, 107.
proxima (Panormo, and all subsequent authorities).\footnote{Ibid., 99-100; Sisto Cartechini (as Sixtus Cartechini), \textit{De valore notarum theologicarum et de criteriis ad eas diagnoscendas} (Rome: Pontificia Universitas Gregoriana, 1951), 67, 134-35; Congar, \textit{Foi et théologie}, 167.}

a. An assertion that contradicts such a doctrine. Designated \textit{second-grade error} (Cano, Bañez), \textit{error} (Lorca, Gotti), \textit{haeresi proxima} (Panormo, Montaigne, Gautier).\footnote{Cahill, \textit{Theological Censures}, 25, 32, 35, 84-85, 99-100, 107.}

4. A revealed doctrine of faith, according to most theologians. Designated \textit{fere de fide} or \textit{proxima de fide} (Lugo).\footnote{Ibid., 90-91.}

a. An assertion that contradicts such a doctrine. Designated \textit{fere haeresis} or \textit{proxima haeresis} (Lugo), \textit{probabiliter haereticus} (Panormo), \textit{haeresi proxima} (Tournely, Kilber). But other theologians argue that such an assertion cannot be censured, since there is insufficient certainty that it is false.\footnote{Ibid., 90-91, 99, 107.}

5. A doctrine that is revealed, but which was not fully clear until it was defined and clarified by the Church. Designated \textit{conclusio theologica} (Cano), although he says this term is used here in an “improper sense”; the Carmelites of Salamanca rejected this term for this category.\footnote{Ibid., 29, 57-58.}

B. Deductions.

1. A proposition deduced from two premises that are \textit{de fide}, and which has been defined by the Church. Designated \textit{conclusio theologica} and \textit{proxima ad certitudinem fidei} (Lorca). However, Suarez, Lugo, and Panormo consider such a proposition to be
simply a dogma of faith.\textsuperscript{62}

a. An assertion that contradicts such a doctrine. Designated \textit{haeresi proxima} (Lorca). However, Cano, Bañez, Suarez, Lugo, and Panormo consider such an assertion to be simply heresy.\textsuperscript{63}

2. A proposition deduced from two premises that are \textit{de fide}, but which has not been defined. Designated \textit{conclusio propriae theologiae} and “a truth of faith which is mediately revealed” (Cano), \textit{conclusio theologica} and \textit{proxima ad certitudinem fidei} (Lorca). However, Suarez, Lugo, and the Carmelites of Salamanca consider such a proposition to be simply a dogma of faith.\textsuperscript{64}

a. An assertion that contradicts such a doctrine. Designated \textit{error} (Bañez), \textit{haeresi proxima} (Lorca). However, Suarez, Lugo, and the Carmelites of Salamanca consider such an assertion to be simply heresy.\textsuperscript{65}

3. A proposition deduced from one premise \textit{de fide} and one premise known by natural reason, and which has been defined by the Church. Designated \textit{conclusio theologica} and \textit{proxima ad certitudinem fidei} (Lorca), but considered simply a dogma of faith by Suarez and Lugo. On the other hand, the Carmelites of Salamanca and Panormo hold that such a proposition cannot be defined by the Church.\textsuperscript{66}

a. An assertion that contradicts such a doctrine. Designated \textit{haeresim sapiens}

\textsuperscript{62} Ibid., 37, 44, 53-54, 63.
\textsuperscript{63} Ibid., 29, 32-33, 37, 44, 53-54, 63, 86-87.
\textsuperscript{64} Ibid., 21, 29, 37, 44, 53, 57.
\textsuperscript{65} Ibid., 33, 37, 44, 53, 57, 86-87, 176.
\textsuperscript{66} Ibid., 37, 44, 54, 58-59, 65.
(Turrecremata), *haeresim manifestam sapiens* (Simancas), *haeresi proxima* (Lorca), and considered simply heresy by Cano, Bañez, Suarez, and the Carmelites of Salamanca.\(^67\)

4. A proposition deduced from one premise *de fide* and one premise known by natural reason, but which has not been defined. Suarez gives the following example: “Christ is capable of laughter” – this follows from “Christ is truly human” (*de fide*) and “all humans are capable of laughter” (known by natural reason). Designated *conclusio theologica* and *proxima ad certitudinem fidei* (Lorca), *conclusio propriae theologiae* and “a truth of faith which is mediately revealed” (Cano), *conclusio theologica* (Suarez, Lugo, the Carmelites of Salamanca, Panormo, Montaigne, Gautier, Mazzella, Groot, and all subsequent authorities).\(^68\)

a. An assertion that contradicts such a doctrine. Designated *haeresim sapiens* (Turrecremata), *haeresim manifestam sapiens* (Simancas), *haeresi proxima* (Lorca), *error* (Bañez, Suarez, Lugo, Lauria, the Carmelites of Salamanca, Panormo, Gotti, Montaigne, Gautier, Scheeben, Mazzella, Groot, Billot, Garrigou-Lagrange, and all subsequent authorities).\(^69\)

b. An assertion that contradicts such a doctrine, according to almost all theologians. Designated *haeresim sapiens* (Suarez).\(^70\)

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\(^67\) Ibid., 8, 29, 32-33, 37, 44, 57-58, 112, 113.

\(^68\) Ibid., 21, 29, 37, 42, 53, 57-58, 63, 69, 81-82n1, 176-77; Cartechini, *De valore notarum*, 71, 134-35. Suarez’ example (“Christus est risibilis”) was repeated by many subsequent theologians: Cahill, 44-45, 71, 94-95.

\(^69\) Cahill, *Theological Censures*, 8, 33, 37, 42, 53, 57, 66-67, 71, 81-82n1, 89, 112, 113, 176-77; Cartechini, *De valore notarum*, 74, 134.

\(^70\) Cahill, *Theological Censures*, 120-21.
5. A proposition deduced from one premise de fide and one premise known by natural reason, according to almost all theologians, but which has not been defined. Designated conclusio theologica (Panormo).\textsuperscript{71} 

   a. An assertion that contradicts such a doctrine. Designated haeresim sapiens (Suarez, Viva), error (Juénin), errori proxima (Panormo).\textsuperscript{72}

6. A proposition deduced from one premise de fide and one premise known by natural reason, according to most theologians, but which has not been defined.

   a. An assertion that contradicts such a doctrine. Designated errori proxima (Lugo, Kilber), probabiliter erronae (Panormo). But other theologians argue that such an assertion cannot be censured, since there is insufficient certainty that it is false.\textsuperscript{73}

C. A doctrine which is universally believed, which is not revealed, and yet is connected to faith in such a way that, if it were denied, the result would not contradict the faith but would “weaken” the faith in some manner. Cano gives the following example: “Special prayers which are applied to one person by religious or by prelates are more beneficial to that person than general prayers.” Designated appendix fidei, doctrina christiana, and doctrina catholica (Cano, Bañez), and doctrina catholica (Lugo). This category was invented by Cano but was abandoned by the late 17th century, as subsequent theologians found his description

\textsuperscript{71} Ibid., 69-70; this may be an error on Cahill’s part, since one would expect Panormo to call this conclusioni theologicae proxima.

\textsuperscript{72} Ibid., 81n1, 100, 120-21, 139.

\textsuperscript{73} Ibid., 95, 99, 107.
An assertion that contradicts such a doctrine. Designated first-grade error (Cano, Bañez). D. An assertion made without sufficient arguments from authority or reason. Cartechini gives the following example: “In addition to the Blessed Virgin, there is another saint who was conceived without original sin.” Designated temeraria (consistently throughout this era).

Each of the notes in the preceding list indicates something about the meaning of a proposition. There are also a number of notes that indicate something about the phrasing of a proposition. Cahill has included these in his study as well. Again reorganizing his survey by content rather than by the name of each note, the following list is obtained:

A. There is some ambiguity about the meaning of the proposition.

1. The proposition’s sole proper (non-metaphorical) meaning is heretical, but it also has a metaphorical meaning which is orthodox. Suarez gives the example “Christ sins every day,” which is true only in the sense that the Church is metaphorically identified with Christ. Suarez states that such propositions should be condemned according to their non-metaphorical meaning.

2. The proposition has a definite heretical flavor. However, it is not manifestly heretical, and perhaps it might sometimes (under some circumstances) have a pious and Catholic

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74 Ibid., 20-22, 32, 49, 78 (the quotation is from page 22).
75 Ibid., 20, 32.
76 Ibid., 5, 50; Cartechini, De valore notarum, 103 (my translation of “Ita si quis diceret alius sanctus praeter B. Mariam Virginem conceptus sit sine peccato originali”); Congar, Foi et théologie, 167.
77 Cahill, Theological Censures, 119 (my translation of “Christus quotidie peccat”).
sense. Nonetheless, a judgment based on the actual circumstances of its enunciation indicates that the speaker probably intended the heretical meaning. The Carmelites of Salamanca give the following example: “Faith justifies”: although this proposition was once harmless, since the rise of Lutheranism it cannot be stated without qualification since it is liable to be misunderstood. Designated *male sonans* and *piarum aurium offensiva* (Turrecremata), *haeresim sapiens* (Bañez, Lorca, Lugo, Ferre, the Carmelites of Salamanca, Gotti, Tournely, Groot, and all subsequent authorities). 78

a. The same, except its flavor is merely erroneous (as defined above), not heretical. Designated *errorem sapiens* (Lugo). 79

3. The proposition has a definite heretical flavor. However, it is not manifestly heretical, and perhaps it might sometimes (under some circumstances) have a pious and Catholic sense. Moreover, a judgment based on the actual circumstances of its enunciation does not indicate that the speaker probably intended the heretical meaning. Designated *de haeresi suspecta* (Lugo, Ferre, the Carmelites of Salamanca, Gotti, Tournely, Groot, and all subsequent authorities). 80

a. The same, except its flavor is merely erroneous (as defined above), not heretical. Designated *de errore suspecta* (Lugo). 81

4. The proposition’s proper (non-metaphorical) and prima facie meaning is heretical, but

78 Ibid., 115-16, 122-23, 125-27, 129n3, 137-38, 139 (the example “Fides justificat” is on page 126).
79 Ibid., 124.
80 Ibid., 122-23, 127, 129n3, 137-38, 139.
81 Ibid., 124.
an alternative proper interpretation that is always available is pious. Designated
haeresim sapiens and male sonans (Castro, Simancas); Cano rejected this category.\textsuperscript{82}

5. The proposition is equivocal, having two proper (non-metaphorical) meanings, one of
which is heretical and one of which is pious. Given the circumstances, it seems more
likely that the speaker intended the heretical meaning. Designated haeresim sapiens
and de haeresi suspecta (Lauria, Panormo), haeresim sapiens (Montaigne, Gautier,
Mazzella).\textsuperscript{83}

a. The same, except the bad meaning deserves a censure less than haeretica, or
concerns action rather than belief. Designated male sonans and piarum aurium
offensiva (Panormo, Montaigne).\textsuperscript{84}

6. The proposition is equivocal, having two proper (non-metaphorical) meanings, one of
which is heretical and one of which is pious. The circumstances do not indicate which
meaning was intended by the speaker. Designated male sonans (Suarez), haeresim
sapiens and de haeresi suspecta (Lauria), de haeresi suspecta (Mazzella).\textsuperscript{85}

B. The meaning of the proposition is not necessarily false or unorthodox, and the speaker
intended no evil. However, the words are used in an incongruous and unusual manner. Lugo
gives the following example: “In God there are three relative essences”: the speaker
probably intends an orthodox meaning, but as traditional language uses “hypostases” or
“persons” for the Three and “essence” or “being” for the One, this phrasing will cause

\textsuperscript{82} Ibid., 112-14.
\textsuperscript{83} Ibid., 128-29, 132-34, 137-38, 139, 185.
\textsuperscript{84} Ibid., 163-64, 165.
\textsuperscript{85} Ibid., 119, 128-29, 138, 152.
confusion. Designated *male sonans* (Lugo, the Carmelites of Salamanca, Gotti, Gautier, and all subsequent authorities).  

C. The meaning of the proposition is not necessarily false or unorthodox. The speaker intended no evil, and the words are intended in their traditional signification. However, the phrasing is shocking or expresses something that is best left unsaid. Lugo gives the following example: “Matthew, greedy usurer, pray for us; Peter, perjurer and apostate, pray for us.” Designated *male sonans* and *piarum aurium offensiva* (Cano, Bañez, Lorca), *piarum aurium offensiva* (Suarez, Hurtado, Lugo, the Carmelites of Salamanca, Gautier, Franzelin, Mazzella, Groot, Pesch, Schultes, and all subsequent authorities).

Finally, in addition to notes and censures describing the meaning of a proposition and those describing the phrasing of a proposition, there are also censures describing the possible effects a proposition may have on its hearers (“scandalous,” “dangerous to morals,” “subversive of the hierarchy”, etc.). These need not concern us here.

As can be seen from the lists above, when all the definitions assigned to theological notes by theologians from the fifteenth to twentieth centuries are listed alongside each other, the result includes dozens of different ways that a proposition can be related to Catholic truths. Yet a careful reading of the lists above reveals that not a single one of these notes has anything to do

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86 Ibid., 153, 156, 166-67 (the example “In Deo sunt tres essentiae relativae” is on page 153); Cartechini, *De valore notarum*, 123.

87 Cahill, *Theological Censures*, 146-47, 149-50, 151-52, 154, 157, 168, 169, 188 (the example “Matthaeus usurare [sic] et avare, Petre perjure et apostata, orate pro nobis” is on page 155); Cartechini, *De valore notarum*, 123.

with non-definitive papal or conciliar teaching. The definition of a doctrine by the Church is reflected in several of these notes, but no other level of teaching is mentioned. Indeed, it is clear that most of these notes indicate something about the views of theologians rather than the views expressed in official Church documents.

In other words, theologians during this era treated every simple declarative statement regarding a matters of faith made by a general council as having equal weight. Thus when Lateran V declared that the rational soul is immortal and when Trent condemned the claim that the only mortal sin is unbelief, these statements were given equal weight according to the system of theological notes.\textsuperscript{89} Similarly, two simple declarative statements about faith made by popes were given equal weight to each other (although there was still great disagreement about the weight of conciliar teachings vis-à-vis papal teachings).

However, this does not mean that there was no way for a pope or a council to teach a doctrine at a lower level of authority. By attaching a note or censure to a statement, a pope or council could indicate that it was not choosing to definitively settle an issue. For example, when Pope John XXII condemned twenty-six statements associated with Meister Eckhart in 1329, he condemned fifteen of them as heretical (thus indicating that their exact contradictories were de fide), but he condemned the other eleven merely as male sonare (evil sounding), temerarios (rash), and de haerisi suspectos (suspect of heresy).\textsuperscript{90} And when Pius VI condemned eighty-five teachings of the Synod of Pistoia in 1794, each of them was given a specific censure: thus the

\textsuperscript{89} DEC, vol. 1, 605; DEC, vol. 2, 681. Recall that the authoritative weight of a doctrine is not the same as its position in the “hierarchy of truths.” The former measures the degree of certitude that Catholics can have about this doctrine; the latter measures how central this doctrine is to the core of the Gospel.

\textsuperscript{90} DS 979 (the full document, In agro dominico, is DS 950-79).
statement that the Body of Christ includes only those Christians who are perfect worshipers was condemned as heresy, while the statement that faith is the very first grace given by God and is preceded by no other grace was condemned as \textit{de haeresi suspecta, haeresim sapiens} (having the flavor of heresy), and \textit{erronea}.\footnote{DS 2615, 2622 (the full document, \textit{Auctorem fidei}, is DS 2600-2700).} Occasionally a pope or council might invoke a very low degree of certainty, as when the Council of Vienne, after considering two different descriptions of the effects of baptism on infants, decreed one opinion to be “more probable and more in harmony with the words of the saints and of modern doctors of theology.”\footnote{DEC, vol. 1, 361.}

When a pope or council’s decree explicitly stated the note or censure, its weight was easy to determine. Moreover, as was shown in the previous section, it was universally accepted that papal and conciliar teachings on disciplinary matters had to be treated differently from teachings on matters of faith, and also that a pope could teach as a private doctor if he so chose, and such teaching held no official authority at all. But what of papal or conciliar teachings regarding faith that did not include a theological note? There was still no answer to this question.

Cahill’s detailed study ends with the work of Antonio de Panormo in 1709. In the ensuing two centuries, the meaning of these notes would not change: thus the article on theological notes in the 1923 \textit{Dictionnaire de Théologie Catholique} adds nothing to Panormo’s work.\footnote{H. Quilliet, “Censures doctrinales,” in \textit{Dictionnaire de Théologie Catholique}, vol. 2 part 2, ed. A. Vacant, E. Mangenot, and É. Amann (Paris: Librairie Letouzey et Ané, 1932), cols. 2101-13. The title page contains the date 1932, but this appears to be the third printing of the 1923 edition.} In the middle of the twentieth century new notes would be added, as will be described in a subsequent section.
The Post-Tridentine Era

In the two centuries following the Council of Trent, the theology of the magisterium developed in several ways.

As we have seen, in the Middle Ages it was generally accepted that all the doctrinal teachings of general councils were infallibly taught, to be held by the faithful as being of faith (de fide), unless they were explicitly labeled otherwise. Of course, this applied only to teachings on matters of fides et mores, since the Church’s infallibility was understood to include only such matters.94

The structure of the Tridentine documents suggested other possible analyses. Most of these documents included a series of “chapters” containing doctrinal exposition and declarations, followed by a series of short “canons” anathematizing anyone who would (obstinately) hold certain assertions that contradicted the content of the chapters. But since the chapters were often much longer than the canons, not every positive assertion in the chapters corresponded to a condemnation in a canon. Why had the Council Fathers attached “anathema sit” only to certain false claims?

Some theologians concluded that Catholics must hold de fide that the views condemned in the canons were false, but the chapters themselves did not teach anything binding in faith. Others argued that in addition to the canons being de fide, any doctrine that was presented in the form of a definition was de fide even if it was located in a chapter, but the other material

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94 Prior to the 19th century, it seems best to leave the phrase fides et mores untranslated. These terms (especially mores) have a complicated history. See Piet F. Fransen, “A Short History of the Meaning of the Formula ‘Fides et Mores’,” in Hermeneutics of the Councils and Other Studies (Leuven: Leuven University, 1985), 287-318.
contained in the chapter – the “obiter dicta” – was not *de fide*. This question continued to be debated for several centuries.\(^95\)

Another development was the introduction of the “secondary object of infallibility.” Up to this point, infallibility had been applied only to the teaching of revealed truths entrusted to the Church as part of the deposit of the faith. In 1653, Innocent X issued the bull *Cum Occasione* condemning five propositions summarized from Cornelius Jansen’s *Augustinus* as heretical. Antoine Arnauld, a leader of the Jansenists, denied that these five propositions were accurate summaries of Jansen’s teaching; a pope could condemn these ideas, he argued, but could not condemn the book itself. The next pope, Alexander VII, replied by “declaring and defining” that these propositions were indeed faithful to the meaning of Jansen’s book. This began a long argument about whether the Church’s infallibility extended not only to revealed truths (the primary object of infallibility), but also to certain non-revealed truths (the secondary object).

Since the goal of this dissertation is to focus on non-infallible authoritative teaching, this debate will not be further explored here.\(^96\)

The third important development was the politicization of the debate over papal infallibility. In 1682, the Assembly of the Clergy of France, convoked by King Louis XIV himself, promulgated the Four Gallican Articles. The fourth of these articles stated that although the pope did play a principal role in defining doctrine, his definitions were irreformable “only

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\(^96\) For the initial condemnations, see DS 2001-7 and DS 2012. For a history of the secondary object of infallibility and the many positions theologians have taken on it, see Jean-François Chiron, *L’infaillibilité et son objet: L’autorité du magistère infaillible de l’Eglise s’étend-elle sur des vérités non révélées?* (Paris: Cerf, 1999).
when they have received the consent of the Church.”

During the following century, many theologians took the Gallican position, including Bossuet, Tournély, Bailly, Bergier, and La Luzerne. Others argued in favor of papal infallibility, including Orsi, Liguori, Zaccaria, Ballerini, and Muzzarelli. It was hardly a coincidence that the former were usually French and the latter were usually Italian. Only in the aftermath of the French Revolution did the infallibilist position become popular among Catholics in France.

A dissertation by Michael D. Place surveys what the proponents of papal infallibility in this era wrote regarding the pope’s authoritative but non-infallible teaching. Place studies the writings of four figures: St. Alphonse de Liguori (d. 1787), Francesco Antonio Zaccaria (d. 1795), Pietro Ballerini (d. 1796), and Mauro Cappellari (later Pope Gregory XVI, d. 1846). Two of these theologians – Liguori and Cappellari – say nothing at all about this question, apparently assuming that anything a pope teaches about fides et mores (except in his capacity as a private doctor) is infallible.

Ballerini’s treatment of papal infallibility is quite nuanced, and includes a description of the kind of papal teachings which are not infallible. In addition to disciplinary decrees and the teachings of a pope as a private doctor, Ballerini also considers as outside the scope of infallibility papal judgments regarding specific persons, as well as papal statements that a certain theological opinion is probable, safer than another, or morally certain. Even in situations where

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a matter is definable, a pope may choose to issue a non-definitive yet authoritative teaching on that matter, not invoking his full “ex cathedra” apostolic authority. He offers the case of Pope Honorius as an example. Honorius’ letter in A.D. 634 to Sergius, Patriarch of Constantinople spoke favorably of monotheletism, for which he was posthumously condemned by the Third Council of Constantinople (A.D. 680-81) and by his own successors in the papacy. Ballerini rejects the claim by some of his contemporaries that Honorius was speaking as a private doctor, as it would be absurd to suppose that a letter from a pope to a patriarch about a current controversy would not be an official statement. Moreover, the matter in question clearly falls within the scope of faith, since it was subsequently defined by Nicaea II. Therefore, he argues, it must be recognized that Honorius’ letter was an authoritative teaching; yet it was not infallible, as Honorius did not claim to be settling the question definitively. However, while Ballerini makes it clear that there is a non-infallible authoritative level of teaching, he does not indicate what kind of response the Catholic faithful owe to such teaching. Place hypothesizes that Ballerini might have seen it as comparable to the response owed to papal legislation – assent being the default position, but if grave reasons are found which oppose the teaching, Catholics may withhold internal assent as long as they do not question the legislator’s authority in general. He admits, however, that this is an extrapolation beyond what Ballerini actually states.

Zaccaria, too, recognizes that popes can teach non-definitively. Like Ballerini, he fails to

100 Ibid., 110-13.
101 DS 487, 488, 552, 563; DEC, vol. 1, 125.
103 Ibid., 125-28.
specify the obligation that the faithful have to such teaching.  

One final development in this era must be noted. As described in the previous section, it was recognized that a pope or council could choose to teach at a lower level of authority by attaching a theological note to a specific assertion. For example, the Synod of Pistoia (1786) taught that the Church should return to the ancient custom of having only one altar in each physical church. *Auctorem fidei*, Pope Pius VI’s response to this synod, condemns this teaching as “rash [*temeraria*]” and “injurious to the very ancient pious custom flourishing and approved for these many centuries in the Church, especially in the Latin Church.” Therefore, if a Catholic were to ask what to make of the following statement:

(A) We should return to the ancient custom of having only one altar in each physical church.

the reply of Pius VI was that this statement was *temeraria* – in other words, there are not enough strong arguments in its favor to justify rejecting the weight of recent tradition. But suppose a Catholic were to ask what to make of the following statement?

(B) The proposition “We should return to the ancient custom of having only one altar in each physical church” is rash.

According to some theologians of this era, including Liguori, even though statement A was condemned at a relatively low level, statement B has been taught infallibly. In other words, a Catholic cannot know with the certainty of faith that statement A is false, but he or she can know with the certainty of faith that statement A is *rash*.  

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104 Ibid., 234, 237-40.
105 DS 2631.
This seems an odd combination: if it is not certain that A is false, then it might possibly be true. But if it were true, and someone were to prove that fact, how could it be rash for them to demonstrate their proof? Or does Liguori’s position merely mean that one must hold that this statement was unsubstantiated with arguments in the time of Pius VI, even though better arguments might subsequently be found? Despite such logical problems, the idea that the “minor censures” could be taught infallibly would remain common until the mid-twentieth century.

**Pius IX and the First Vatican Council**

In the nineteenth century, several developments occurred which tended to centralize Catholic theology in Rome. In 1824, the restored Jesuit order was given charge of the Roman College (later the Gregorian University). With the growth of secular regimes in Europe, the Roman College became viewed as the most reliable source of Catholic doctrine. Seven of the eight popes who reigned in the century between 1878 and 1978 had Gregorian educations, and in 1969, 230 out of approximately 280 bishops in the United States had Gregorian educations. Many papal and conciliar documents from 1824 to 1962 were prepared by theologians from this school.\(^\text{107}\)

It was also during this era that popes began to issue encyclicals frequently. A significant portion of the teachings in these encyclicals dealt with matters of faith and morals, and yet were

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neither phrased in the form of definitions nor assigned specific theological notes. It was thus impossible for theologians to ignore the importance of non-definitive authoritative papal teaching, as many had done in the past.

_Tuas libenter_

Pope Pius IX’s letter _Tuas libenter_ was the first official Church document to refer explicitly to the existence of non-definitive authoritative teaching. It was also the first such document to state that dogmas could be established by the bishops even when dispersed throughout the world. And it was also the first such document to use the term “ordinary magisterium” – which, unfortunately, would soon be used to refer to both of the aforementioned kinds of teaching.

This letter was sent by Pius IX in 1863 to Munich’s Archbishop Gregor von Scherr, in reference to a congress of Catholic theologians held in that city. The Pope began by commending the theologians for professing their loyalty to all dogmas infallibly defined by popes and ecumenical councils. However, he continued, the assent of “divine faith” should be given not only to these dogmas, but must also “be extended to those matters transmitted as divinely revealed by the ordinary Magisterium of the whole Church dispersed throughout the world, and, for that reason, held by the universal and constant consensus of Catholic theologians.

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109 For the fact that this letter was indeed “first” in these categories, see Joseph A. Komonchak, “Ordinary Papal Magisterium and Religious Assent,” in _The Magisterium and Morality_, eds. Charles E. Curran and Richard A. McCormick (New York: Paulist, 1982), 67-90, at 76; Congar, _Foi et théologie_, 158; Gaillardetz, _Witnesses to the Faith_, 22, 25.
as belonging to the faith.”

The subsequent theology of the infallibility of the dispersed bishops (retitled the “ordinary and universal magisterium” at Vatican I) will not be explored here.

After stressing the importance of accepting infallibly taught doctrines, Pius IX reminded the theologians meeting in Munich

that it is not sufficient for learned Catholics to accept and revere the aforesaid dogmas of the Church, but that it is also necessary to subject themselves [se subiciant] to the decisions pertaining to doctrine that are issued by the Pontifical Congregations and also to those points of doctrine that are held by the common and constant consensus of Catholics as theological truths and conclusions [theologicae veritates et conclusiones], so certain that opinions opposed to these same forms of doctrine, although they cannot be called heretical, nevertheless deserve some other theological censure.

The Pope’s reference to “theological truths and conclusions” certainly includes propositions logically deduced from dogmas and naturally known truths as described in the earlier section on theological notes, although it is not clear if all the minor censures are being included in this statement.

**The First Vatican Council**

The documents of Vatican I contain only a brief reference to the obligation owed by the Catholic faithful to non-definitive teaching. It appears at the very end of the Dogmatic

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110 DS 2879. The idea that dogmas could be established by the dispersed bishops goes back at least as far as 1788, when Nicolas-Sylvestre Bergier wrote that “Catholics maintain that this body [of bishops], whether dispersed or assembled, is infallible.” See Costigan, *Consensus of the Church*, 123. The idea may have derived from the Gallican claim that a pope’s definitions must be approved by the bishops either in council or by correspondence. For the later history of the concept, see Gaillardetz, *Witnesses to the Faith*, 25-31, although in this work, Gaillardetz treats Joseph Kleutgen’s *Die Theologie der Vorzeit* (5 vols., 1853-60) as the first reference to the infallibility of the dispersed bishops, apparently unaware of Bergier’s reference to the concept. The term “ordinary magisterium” was apparently coined by Kleutgen, and made its way to Pius IX via Cardinal von Reisach: see Boyle, *Church Teaching Authority*, 15-19, 25, 30-38, 189n30.

111 DS 2880. I have changed “consent” to “consensus,” since the English consent refers to agreement subsequent to some request, decision, or action, while the Latin consensus is not time-dependent in this way.
Constitution on the Catholic Faith, *Dei Filius*:

But since it is not enough to avoid the contamination of heresy unless those errors are carefully shunned which approach it in greater or less degree, we warn all of their duty to observe the constitutions and decrees in which such wrong opinions, though not expressly mentioned in this document, have been banned and forbidden by this holy see.¹¹²

Although the Council’s other constitution, *Pastor aeternus*, discusses the pope’s infallible magisterium, it does not deal with his non-infallible magisterium – except insofar as, by specifying the conditions for the exercise of infallibility, it implies that teachings which failed to meet these conditions were not infallible. These conditions were explained in great detail by Bishop Vinzenz Gasser, spokesman for the deputation *de fide*, in his four-hour *relatio* of July 11, 1870.¹¹³

Gasser made several points that are of interest here. First, he criticized the extreme papalist position that made the pope the sole holder of the Church’s infallibility, thereby viewing all other infallibility (including that of an ecumenical council) as delegated by the pope – a position which, “I am sorry to say,” had been expressed by several bishops during the Council. Gasser said this position was invalid, because the pope’s own power of infallibility can never be delegated. Rather, there are two distinct subjects that exercise the power of infallibility: the pope and the entire body of the bishops. Although distinct, these two subjects are not separate,

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because an ecumenical council cannot act without the pope.\textsuperscript{114} Although he did not point this out, the non-delegability of this charism also means that no Roman Congregation can issue infallible decrees.

Second, he made it clear that the extent of the pope’s infallibility and the extent of a council’s infallibility were identical. He explained that if a complete constitution on the Church had been written, the deputation had planned on discussing the extent of the secondary object of infallibility. But having abandoned the longer project, the deputation had decided that the schema would merely state that the pope, in his \textit{ex cathedra} definitions, possesses the same infallibility that Christ gave to the Church. In other words, “the infallibility of the pope is neither more nor less extensive than the infallibility of the Church in her definitions of doctrine of faith and morals.”\textsuperscript{115} Although Gasser was referring only to infallibility, this principle has continued to inform theologians: for example, as will be seen in Chapter Three, Francis Sullivan uses this principle to argue that the full range of authoritative weights are equally possible for papal and conciliar teachings, and there is no \textit{a priori} reason to hold a conciliar text above a papal text or vice-versa.

Some bishops had proposed amending the text of \textit{Pastor aeternus} to state that a pope, when issuing an infallible definition, must use a specific verbal formula. Gasser rejected this suggestion by pointing out that such a condition made no sense, because the Vatican Council’s

\textsuperscript{114} Gasser, “Relatio,” 49-50.

\textsuperscript{115} Ibid., 75-79. According to Sullivan, \textit{Magisterium}, 133-36, this is the reason that \textit{Pastor Aeternus} says that a doctrine defined infallibly “must be held” [\textit{tenendum}] by the Church, instead of saying “must be believed” [\textit{credendum}]. The verb \textit{credere} indicates divine faith, which is properly given only to revealed matters, while \textit{tenere} is a more general verb than can include non-revealed matters as well. By using \textit{tenendum}, Vatican I allowed that infallibility may extend to a secondary (non-revealed) object, without actually defining this as a truth of faith.
intention was not merely to state that popes henceforth would have the authority to teach infallibly. Rather, as most theologians already recognized, definitions issued by popes had always been infallible provided that certain conditions were satisfied; the task of the Council was to specify what these conditions were. Indeed, Gasser pointed out, popes have been teaching infallibly for centuries. “We are not dealing with something new here. Already thousands and thousands of dogmatic judgments have gone forth from the Apostolic See.”

Finally, he stated that the very reason for the existence of the Church’s charism of teaching was to fulfill Christ’s command to shepherd the faithful. Therefore, a charism of infallibility would be useless if the faithful were unable to determine which teachings had been infallibly taught. Gasser made this point in the context of explaining why, even though a pope was morally obligated to properly research a question and to consult with the appropriate experts before issuing a definition, such preparation was not specified as a condition for a definition: if this were stated as a condition, the infallibility of a teaching could never be verified by the faithful, who would have no way of knowing exactly how much the pope had prepared. From a pope’s point of view, a definition required serious preparation; from the public’s point of view, if a pope did indeed issue a definition, it could be relied on regardless of what was publicly known regarding his preparation. There was no contradiction between these two points of view, for if a pope were to fail to adequately prepare, or otherwise intended to issue a definition that was “erroneous and destructive of the Church,” Christ’s promise would guarantee that the pope

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116 Gasser, “Relatio,” 47. While few contemporary theologians would agree with Gasser’s “thousands,” many agree that infallible papal definitions had been issued for centuries before Vatican I. See, for example, the different lists of papal definitions considered by Sullivan in Creative Fidelity, 81-89.
would be impeded in his attempt. 117 I would argue that Gasser’s axiom should be taken as foundational for any theology of the magisterium: any theology which admits that there are different levels of Church teaching authority, while describing them in such a way that the faithful are unable to determine the authority of any specific teaching, has no practical value.

There is one more question that Gasser addressed, but in such a way that his opinion is difficult to determine. In his relatio of July 11, Gasser stated that infallibility was active only when the pope was definitively settling a question, by “putting an end to a doubt about a certain doctrine” or “proposing that doctrine as one which must be held by the Universal Church.” Indeed, this finality was the “property and note of a definition, properly so-called.”118 In the days following his presentation, however, several bishops expressed their unhappiness with this assertion. What about the lesser censures, such as “proximate to heresy,” “offensive to pious ears,” and so on? Gasser had apparently ruled out the possibility that these minor censures could be infallibly taught. In response to their complaints, Gasser took the podium one more time on July 16 and announced that the deputation de fide wanted him to clarify this point. According to the deputation, the word “define” in Pastor Aeternus extended even to minor censures. For example, the pope could infallibly define a certain thesis to be “proximate to heresy.” Although the pope would not be anathematizing this thesis, nor defining that its opposite was true, he would be infallibly defining that this thesis was in fact proximate to heresy.119 Did Gasser really mis-speak on July 11, or had he altered his stated position on this question under pressure?

117 Gasser, “Relatio,” 46-47. He does not specify how God might “impede” a pope who intends to define a false doctrine.
118 Ibid., 73-74.
Lacking any private diaries from the members of the deputation, there is no way to know. Gasser’s revised comments allowed for the lesser censures to be taught infallibly, but it is difficult to read such a claim into the actual text of *Pastor aeternus*.

### The Manualist Era

The earliest theological “manuals” were collections of moral guidelines intended for confessors. Eventually the manualist tradition expanded beyond moral casuistry, and began to encompass all branches of systematic theology. In the nineteenth and early twentieth centuries, these manuals – often written by Jesuits at the Gregorian – were used in seminaries throughout the Catholic world. T. Howland Sanks has argued that although these professors hailed from different countries, they were less shaped by the cultures of their native lands than they were by the culture of *Romanitas* that permeated Papal Rome and then Vatican City. Joseph Komonchak has called the seminary manuals “a distinct *genus litterarium*.”

In contrast to medieval theology, which was characterized by the *quaestio* – in which a question is set forth, arguments on both sides are considered, and then a verdict is rendered – manualistic theology was characterized by the *thesis*. The author begins by stating a Catholic doctrine, and then “demonstrates” the truth of this doctrine by adducing proof from magisterial documents (popes, ecumenical councils, and local councils), Scripture, the Church Fathers, and arguments from reason. The early manuals are not wedded to a single philosophical outlook, but after Pope Leo XIII issued *Aeterni Patris* (1879) and made sure that Thomists were appointed to

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the philosophy and theology faculty at the Gregorian in the six years following that encyclical, the manuals were consistently written from a neoscholastic perspective. Generally speaking, these manuals discussed the theology of the magisterium within the treatise _de Ecclesia_, which was part of fundamental theology. Some of the most important manualists will be considered in this section.

**Johann Baptist Franzelin**

Johann Baptist Franzelin, S.J., was born in Aldein, Tyrol, in 1816. From 1850 until his death, he taught at the Gregorian, except for the four years that he served as prefect of the German College in Rome. He was the primary teacher of ecclesiology at the Gregorian from 1858 to 1876. He composed the first draft of _Dei Filius_ for the Vatican Council, and was created a cardinal in 1876. His manual _Tractatus de Divina Traditioene et Scriptura_ was published in 1870, shortly after Vatican I, and went through at least four editions. He died in 1886.

Much of Franzelin’s treatment of the magisterium is taken from earlier authorities. His use of theological notes conforms to the usage described earlier in this chapter. He explains the difference between a pope’s official teaching and his teaching as a private doctor. Like Liguori, he asserts that even the lesser censures can be taught infallibly. Then he goes further:

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he states that even a “global censure” can be infallible, mentioning the bull *Unigenitus* as a specific example.\(^{124}\) In this 1713 document, Clement XI condemned one hundred and one propositions taken from the writings of Paschier Quesnel, a Jansenist theologian.\(^ {125}\) But instead of attaching a censure to each of these propositions, Clement simply listed them all, and then concluded with the following global censure:

> We declare, condemn, and reprove the previously-listed propositions as false, captious, evil-sounding, offensive to pious ears, scandalous, pernicious, rash, harmful to the Church and to her practice, insulting not only to the Church but also to the secular powers, seditious, impious, blasphemous, suspected of heresy, and smacking of heresy itself, and indeed favorable towards heretics and heresies and schisms, erroneous, close to heresy, many times condemned, and, finally, heretical, and manifestly renewing various heresies (chiefly those in the famous propositions of Jansen, and indeed held in the sense in which they have been condemned), respectively.\(^{126}\)

The reader is left without any indication as to which of these propositions are merely offensive to pious ears and which are heretical. Another famous “global censure” appears in Leo X’s bull *Exsurge Domine*, which condemns forty-one errors of Martin Luther without specifying which censure applies to which error.\(^ {127}\) When Franzelin (and many manualists after him) claim that a global censure of this kind is infallible, they were apparently asserting that Catholics must believe that each of the condemned proposition is deserving of at least one of the censures listed, without any way of knowing which censures apply to any given proposition.


\(^{125}\) DS 2400-2502.

\(^{126}\) DS 2502, my translation. The original reads: “Propositiones praeinsertas tamquam falsas, captiosas, male sonantes, piarum auriam offensivas, scandalosas, perniciosas, temerarias, Ecclesiae et eius praxi injuriosas, neque in Ecclesiam solum, sed etiam in potestates saeculi contumeliosas, seditiosas, impias, blasphemas, suspectas de haeresi ac haeresim ipsam sapientes, necnon haereticis et haeresibus ac etiam schismati faventes, erroneas, haeresi proximas, pluries damnatas, ac demum haereticas, variasque haereses et potissimum illas, quae in famosis Iansenii propositionibus, et quidem in eo sensu, in quo hae damnatae fuerunt, acceptis continentur, manifeste innovantes respective ... declaramus, damnamus et reprobamus.”

Franzelin does limit the scope of infallibility even in dogmatic definitions by insisting that when a pope or council issues such a definition, only the doctrine explicitly being defined is being taught infallibly. The other material in such a document, including the arguments presented to support the conclusion as well as the *obiter dicta*, is not taught infallibly:

“Although one may hold that these passages have weighty authority, they are not infallible definitions.”\(^{128}\)

Moreover, a pope is free at any time to issue doctrinal opinions at lower levels of authority, without teaching infallibly. It is interesting that while Franzelin makes this statement with regard to popes, he does not seem to consider the possibility that an ecumenical council might do so as well. In the subsequent paragraph, when discussing the process of determining when a pope or council has taught infallibly, he points to the “Bull of Union with the Armenians” issued at the Council of Florence in 1439, explaining that it is difficult to determine “whether the teachings which are found here (namely, the teachings concerning the matter and form of the sacraments) are dogmatic definitions, or merely instructions to be observed in practice.”\(^{129}\) Franzelin mentions only two alternatives – infallibly taught doctrine and disciplinary instructions – without considering that this council might have issued non-definitive doctrinal teachings.

Franzelin describes the assent owed by the Catholic faithful to authoritative non-definitive


\(^{129}\) My translation. Original text: “...utrum quae ibi docentur nominatim de materia et forma sacramentorum, sint definitiones dogmaticae, an solum instructiones in praxi observandae.” Ibid., 119-20 (*Div. Trad.*, sect. 1, ch. 2, thes. 12, schol. 1, princ. 1, cor. 5). This was a controversial text, since it stated that the matter of the sacrament of Orders was the handing over of the instruments, an idea which had fallen into disfavor by Franzelin’s time. See *DEC*, vol. 1, 549.
papal teaching. He says that, while such “catholic doctrines” \([\textit{doctrinae catholicae}]\) do not possess “infallible truth” \([\textit{veritas infallibilis}]\), they nonetheless possess “infallible security” \([\textit{infallibilis securitas}]\). In other words, while Catholics cannot be absolutely certain that such teachings are true, they can be absolutely certain that accepting such teachings as true on the authority of the Church will not imperil their souls.\textsuperscript{130} It is worth nothing that Franzelin routinely italicizes all technical terms he introduces, but “doctrinae catholicae” is not italicized. It would seem, therefore, that he is using this term not as a special designation for the category of non-infallible authoritative teachings, but as a general term whose meaning is made specific only in the context of his text. Nonetheless, this term would soon be added to the ranks of theological notes to designate this category, possibly because of Franzelin’s use of it here.

Finally, Franzelin evaluates the authority of doctrinal teachings of the Roman Congregations. He says that these can never be infallible, since the Pope cannot delegate his charism of infallibility to another. The Holy Spirit does protect the teachings of these congregations, but such protection guarantees only their safety, not their truth. In other words, it is possible that the teaching of a Roman Congregation could be false, but it is not possible that the Catholic faithful could endanger their souls as a result of trusting such teaching. Catholics owe internal assent to the safety of such teachings; mere reverential silence is not generally sufficient.\textsuperscript{131}

\textsuperscript{130} Franzelin, \textit{Tractatus}, 2nd ed., 127-28 (\textit{Div. Trad.}, sect. 1, ch. 2, thes. 12, schol. 1, princ. 7). Franzelin cites Zaccaria as one of his sources for this idea, but according to Joseph Fenton the idea of “infallible security” is mostly original to Franzelin: see Joseph Clifford Fenton, “Infallibility in the Encyclicals,” \textit{American Ecclesiastical Review} 128 (1953): 177-98, at 195-96.

\textsuperscript{131} Franzelin, \textit{Tractatus}, 2nd ed., 128-55 (\textit{Div. Trad.}, sect. 1, ch. 2, thes. 12, schol. 1, princ. 7, cor. 2-4).
Christian Pesch

Christian Pesch, S.J., was born near Cologne in 1835. In 1884, he began teaching theology at Ditton Hall, a scholasticate in Liverpool that had been established by Jesuits who had left Germany during the Kulturkampf. In 1895, the scholasticate (and Pesch) relocated to Valkenburg, Holland. Pesch’s greatest work was a nine-volume manual of theology, the Praelectiones Dogmaticae, which would still be used in seminaries as late as the 1950s. He later wrote a four-volume abridgement of this work, the Compendium Theologiae Dogmaticae. Pesch taught at Valkenburg until 1912, and died in 1925.¹³²

The second part of the first volume of the Praelectiones, entitled “De Ecclesia Christi,” begins with a discussion of the teaching authority of the Church. Pesch investigates the foundations of the teaching authority and the use of infallibility in detail. He indicates that it is often difficult to determine whether any given doctrine was actually taught infallibly. He addresses the case of the Syllabus of Errors, citing nine theologians who expressed opinions about its infallibility. Some said yes, others said no, and others said it was infallible only in parts. Pesch makes no attempt to resolve their differences, nor does he offer an opinion of his own.¹³³

Unlike Franzelin, Pesch does not consider the minor censures to be infallible, as they often deal with matters that vary in time or place. For example, if one states in Latin that “the Father is the cause of the Son,” this would rightly be censured as “evil sounding” – but it is not evil

sounding in Greek, for the Greek word for “cause” is more broad than the Latin *causa*, and thus the Greek statement has an orthodox interpretation.\(^{134}\)

Pesch has an interesting view of the authority of the Roman congregations. Since congregations do not teach infallibly, one must “inquire into the reasons” for any doctrines they teach. “For in this way, it will happen that either the proposed doctrine shall be gradually received by the whole Church – and thus be elevated to the status of infallibility – or else error will gradually be detected.”\(^{135}\) This seems to suggest that no doctrine will remain authoritative but non-definitive forever: ultimately it will either be revoked or be taught definitively.

**Louis Billot**

Louis Billot, S.J., was born in 1846 in Sierck, France. In 1885, he was awarded the chair of dogmatic theology at the Roman College, completing the Thomistic reorientation of the school desired by Pope Leo XIII. Gerald McCool calls Billot “the first of the great Thomistic speculative theologians,” stating that “the influence which Billot exerted on Catholic theology through his published works and through the presence of his former students in seminaries and scholasticates throughout the world was enormous.” Billot taught at the Gregorian until 1910, when he became a consultor to the Holy Office, and the next year he was made a cardinal. A staunch French monarchist and nationalist, he was unhappy when Pius XI condemned *Action Française* in 1926, at which time he renounced the cardinalate after a private meeting with the

\(^{134}\) Ibid., 376-78 (part 2, sect. 5, prop. 51, schol., nn. 554-57).

\(^{135}\) Ibid., 353 (part 2, sect. 4, art. 2, prop. 46, schol. 3, n. 521).
Pope. He died in 1931.\textsuperscript{136}

In many ways, Billot’s theology represents the height of ultramontanism. He considers the bishops, even in council, to exercise no teaching authority other than that which is delegated to them by the pope. In fact, the only reason a council is preferable to the pope acting alone is that people are impressed by its solemnity and by the perfect unanimity between the bishops and the pope. On the last page of his manual, he states that “while the bishops are pastors and teachers with respect to the people, they are sheep and disciples with respect to the Pontiff.”\textsuperscript{137}

Billot distinguishes three modes of papal teaching: first, as a private doctor; second, in his role as Pontiff but without exercising the fullness of his apostolic power, and third, by issuing an \textit{ex cathedra} definition. The second category includes many things in recent papal encyclicals, as well as doctrinal decisions of the Roman Congregations which have been approved by the pope.\textsuperscript{138} So far, it would seem that Billot’s second category represents authoritative but non-definitive papal teaching.

But then Billot offers a surprising twist. When a pope, in an encyclical or similar document, directly proposes a certain doctrine, it is not an \textit{ex cathedra} statement as described by the Vatican Council, and yet it cannot be doubted that “in documents of this type, addressed to the universal Church, the Pontiffs are infallible.”\textsuperscript{139} This view raises nearly every papal teaching


\textsuperscript{137} My translation. Original text: “Rursus episcopi sunt pastores et magistri respectu plebis, oves vero et discipuli respectu Pontificis.” Louis Billot (as Ludovicus Billot), \textit{Tractatus de Ecclesia Christi, sive, Continuatio Theologiae de Verbo Incarnato}, 2nd ed. (Rome: S. C. de Propaganda Fide, 1903), 721 (part 2, ch. 3, q. 16, § 3). The other statements in this paragraph are from ibid., 431-32 (part 2, ch. 2, q. 10, thes. 18, introduction and § 1).

\textsuperscript{138} Ibid., 654-56 (part 2, ch. 3, q. 14, thes. 31, § 1.1).

\textsuperscript{139} My translation. Original text: “... quamvis nullatenus dubitandum videatur quin in documentis huiusmodi ad universalem Ecclesiam missis infallibiles sint Pontifices...” Ibid., 655-56.
to the level of infallibility.

Given this expansive view, it is hardly surprising that Billot also extends infallibility to the
minor censures – proximate to heresy, evil sounding, scandalous, tending toward sedition, and
offensive to pious ears – even when issued in the form of a global censure. Billot justifies this
claim by pointing out that popes and councils have issued these censures in solemn
documents.\textsuperscript{140}

Billot ranks the documents of Roman Congregations lower than papal documents. The
Roman Congregations of his era often declared it “safe” \textit{[tuta]} or “unsafe” for a certain doctrine
to be taught to the faithful. Billot asserts that such declarations do not apply directly to the
doctrine itself, but are relative to a particular situation, and can change if new and better
arguments are found. Therefore, if a Congregation alters its position regarding some doctrine,
this should not be considered a “revision” \textit{[reformatio]} of the earlier statement, as there is no
contradiction between a doctrine being safe to teach at one time and unsafe at another. Billot
cites the condemnation of the Copernican system as “unsafe” in the time of Galileo as an
example.\textsuperscript{141}

\textbf{Ludwig Lercher and Florian Schlagenhaufen}

Ludwig Lercher, S.J., was born in 1864 in Hall, Austria. He became a professor of
theology at the University of Innsbruck in 1899, and died in 1937.

The second book of Lercher’s multi-volume manual, “De Ecclesia Christi,” discusses the
teaching authority of the pope. Lercher, following the 1917 Code of Canon Law, asserts that no

\textsuperscript{140} Ibid., 412-20 (part 2, ch. 2, q. 10, thes. 17, § 2); 663-64 (part 2, ch. 3, q. 14, thes. 31, § 1.4).

\textsuperscript{141} Ibid., 448-49 (part 2, ch. 2, q. 10, thes. 19).
papal teaching should be held as definitive unless this fact is manifestly established.\footnote{142} All other papal teachings are taught with less than the pontiff’s maximum authority: these include not only writings of the popes themselves (such as encyclicals) but also documents of Roman Congregations approved by a pope. Catholics owe a certain kind of assent to these non-definitive teachings: not merely “reverential silence” \[silentium obsequiosum vel reverentiale\], but “internal religious assent” \[assensus internus religiosus\]. Yet the possibility of error in these teachings, although unlikely, does exist. When there are grave reasons for doubting the truth of such a teaching, one may suspend, contact the Holy See to inform them of the problem, and maintain reverential silence until the Holy See resolves the issue.\footnote{143}

After Lercher’s death, his manual was updated by Florian Schlagenhaufen, S.J., who edited the third, fourth, and fifth editions. Schlagenhaufen was born in 1892 in Haselbach, Styria, Austria, taught at the University of Innsbruck from 1928 to 1957 (except during the war), and died in 1969. Schlagenhaufen preserves all of the details of Lercher’s treatment described above. He also expanded the treatment of what would happen if the pope were to issue a false teaching:

If the Roman Pontiff authoritatively, but not with the highest authority, obliges all [the faithful] to assent to a matter as true (either revealed truth or truth connected to revelation), it does not seem that he is infallible \textit{de jure}. Neither is it \textit{necessary} to say that the Holy Spirit would never permit the Pontiff to promulgate such an erroneous decree.

Certainly the Holy Spirit will never permit the Church to be led into error by such a decree. The means by which such error will be rejected is \textit{probably} this: the assistance of the Holy Spirit will be given to the head of the Church, by which such an erroneous decree will be prevented. However, it cannot be absolutely ruled out that the error would be removed by

\footnote{142} Ludwig Lercher (as Ludovicus Lercher), \textit{Institutiones theologiae dogmaticae in usum scholarum}, 2nd ed. (Innsbruck: Rauch, 1934), vol. 1, 519 (book 2, ch. 4, art. 1, thes. 50, n. 498). The 1917 Code of Canon Law, c. 1323 §3, states, “A thing is not understood as dogmatically defined or declared unless this is manifestly established.” \textit{The 1917 or Pio-Benedictine Code of Canon Law}, ed. and trans. Edward N. Peters (San Francisco: Ignatius, 2001), 446.

the Holy Spirit in this manner: the pope’s subjects would discover the error and cease to internally assent to the decree.\

Along these same lines, Schlagenhaufen states that if a Roman congregation were to issue an erroneous teaching, the Holy Spirit would prevent the entire Church from being led into error, probably by leading the bishops and the faithful to withhold their internal assent.\

Of all the manualists, Schlagenhaufen goes into the most detail about the possibility of error in a non-definitive papal pronouncement.\

**Joaquín Salaverri**

Joaquín Salaverri de la Torre, S.J., was born in 1892 in Mondoñedo, Spain. He entered the Society of Jesus in 1910, receiving his theological training at Valkenburg and at the Gregorian. He taught at the Comillas Pontifical University from 1929 to 1932, at the Gregorian in the 1930s, and then again at Comillas from 1940 until his retirement in 1972. He served as a *peritus* for the Spanish bishops at Vatican II, and died in 1979.\

Salaverri contributed the treatise “De Ecclesia Christi” to the four-volume *Sacrae Theologiae Summa* written by the Spanish Jesuits. Richard McBrien has written that “nowhere

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145 Ibid.

146 This is the judgment of Joseph Komonchak, in “Ordinary Papal Magisterium,” 74-75.

is the traditional pre-Vatican [II] ecclesiology more faithfully or more responsibly set forth than in Joachim Salaverri’s ‘De Ecclesia Christi’ (‘On the Church of Christ’) in the first volume of the so-called Spanish Summa.’\textsuperscript{148}

Salaverri discusses the issue of canons versus chapters at Trent and Vatican I in some detail, citing a great number of sources. Despite the debate in previous centuries, he asserts that theologians are now unanimous in holding that infallibility is not limited to the canons alone. The canons express doctrines negatively by condemning falsehoods, while the chapters teach doctrines positively. However, in the chapters the infallible definitions occur only when a doctrine is taught “assertively, directly and principally.” The arguments and reasons offered for such doctrines, along with the obiter dicta, are not infallible. He quotes Franzelin’s statement that theologians are free to assign significant weight to such material, as long as they stop short of claiming they are infallible.\textsuperscript{149}

What response is owed to authoritative non-definitive teachings? Salaverri quotes several previous writers on this question, including some that say it is permissible to doubt such a teaching in the presence of weighty reasons against it, and others who do not. His own opinion is not clearly stated.\textsuperscript{150}

In an earlier article, Salaverri had proposed a new scheme of theological notes as a replacement for the traditional system. These new notes used terminology found in Tuas libenter


\textsuperscript{150} Ibid., 702-3 (book 2, ch. 2, art. 3, thes. 15, nn. 674-76).
and the documents of Vatican I, avoiding one-word notes such as “error” that might be confusing for those who did not realize that such words were being used in a technical sense.\textsuperscript{151} This system was apparently not well received, and Salaverri did not include it in the \textit{Sacrae Theologiae Summa}. Instead, he gives a more standard table of twenty-eight censures and positive notes and explains their various meanings. In a footnote elsewhere in the book he mentions that these can be taught infallibly, quoting the “clarification” that Gasser gave five days after his original \textit{relatio}.\textsuperscript{152} Salaverri also repeats Gasser’s statement that the extent of the primary and secondary objects of infallibility are identical for papal and episcopal teachings.\textsuperscript{153}

\textbf{Additional manualists}

Several other writers of seminary manuals will be briefly considered here.

Concerning the infallibility of the minor censures, several opinions were in circulation. Matthias Joseph Scheeben (1835-1888) agreed with Franzelin and Billot that when minor censures were used in a papal or conciliar condemnation, they were infallibly taught and binding on the faithful.\textsuperscript{154} Adolphe Tanquerey, S.S. (1854-1932), takes a more nuanced approach: he considers it a common and true opinion that the censures “proximate to heresy,” “erroneous in faith,” and “false” can be issued infallibly, but argues that “temerarious,” “offensive to pious


\textsuperscript{153} Ibid., 676 (book 2, ch. 2, art. 2, thes. 14, n. 595).

ears,” and “improbable” cannot be, because these notes “do not seem to define a doctrine.” Still, one is obligated to give religious assent to the judgment of the Church in such cases.  

Francis Sullivan, S.J. (b. 1922), who authored the very last Latin seminary manual, holds that in the chapters of a conciliar text, any doctrines that are clearly taught as something to be held by the faithful are taught infallibly, but that the arguments from Scripture or tradition, illustrative examples, and obiter dicta are not. More generally, he argues that definitions must be identified by a study of the wording and the context: a pope could define a doctrine in an encyclical even though such letters are not typically used for this purpose, as long as his wording made clear his intention. Sullivan’s later writings will be examined in Chapter Three.

In the twentieth century, the list of theological notes was expanded. The note indicating a definitive dogma had traditionally been de fide, but this was now rephrased as de fide divina et catholica to distinguish it from definitive non-revealed doctrines, i.e., the secondary object of infallibility (de fide ecclesiastica).

A new note was added to indicate non-definitive authoritative teachings: doctrina catholica. This term appears in the works of Salaverri, Sullivan, Timoteo Zapelena, S.J. (1883-

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156 Francis A. Sullivan (as Franciscus A. Sullivan), De ecclesia, vol. 1, Quaestiones theologicae fundamentalis (Rome: Aedes Universitatis Gregorianae, 1963), 296, 342.

1962), Gerardus van Noort (1861-1946), and Sisto Cartechini. Perhaps the name was derived from the use of this phrase in Franzelin’s manual, as mentioned earlier. Schlagenhaufen, however, labels non-definitive authoritative teachings as *doctrina communis et satis certa* (“common and sufficiently certain doctrine”).

Two different names were proposed for the censure deserved by an assertion that contradicts non-infallible authoritative doctrine. Zapelena, Salaverri and Sullivan use *errorea in doctrina catholica* for this category, while Cartechini uses “at least *temeraria*.”

The addition of these notes indicates the greater attention being paid to this kind of doctrine. Nonetheless, creating one single note for all non-infallible authoritative Church teachings meant that the system of theological notes was still not useful for distinguishing different weights *within* this category.

**Other Writers After Vatican I**

Some additional writers from the late nineteenth and early twentieth century will be briefly examined here.

**John Henry Newman**

John Henry Newman was born in London in 1801. As one of the founders of the Oxford Movement, he played a key role in the development of Anglo-Catholicism, although ultimately

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159 Zapelena, *De Ecclesia Christi*, vol. 2, 259; Cartechini, *De valore notarum*, 134; Salaverri, “De Ecclesia Christi,” 7, 790; Sullivan, *De ecclesia*, vol. 1, 385.
Newman himself joined the Roman Catholic Church in 1845. He was created a cardinal in 1879, died in 1890, and was beatified in 2010.

Between 1865 and 1867, anticipating a possible definition of papal infallibility, Newman began writing a pamphlet about this topic. Although this project was abandoned, his draft and notes were preserved by the Birmingham Oratory. In this unfinished work, Newman states that the Council of Trent was infallible in its canons, but not in the chapters prior to the canons, or in their reasons, or in their obiter dicta. Newman justifies this by citing a number of theologians, and noting that the majority hold that the canons alone are de fide.\(^{160}\) In his Letter to the Duke of Norfolk, written after the definition of papal infallibility at Vatican I, Newman argues that the distinction between canons, chapters, reasons, and obiter dicta applies equally to conciliar and papal definitions, going so far as to mention specific errors in the reasons (although not the defined teaching) in the definitions of Ephesus (431) and Nicaea II (787).\(^{161}\) He does not, however, address the general question of the weight of authoritative but not infallibly taught doctrines.

Considering whether the minor censures can be issued infallibly, Newman seems to lean against this possibility without giving a definite answer. When the Church states that certain doctrines are “temerarious” or “offensive to pious ears” or “scandalous,” it is making assertions that “necessarily vary with the time and place.”\(^{162}\)


\(^{162}\) Newman, Papers on Infallibility, 135.
Lucien Choupin

Lucien Choupin was born in 1859. He taught moral theology and canon law at the Jesuit scholasticate in Hastings, England, and subsequently at the scholasticate in Fourvière, Lyon. He died in 1932.

Choupin’s *Valeur des décisions doctrinales et disciplinaires du Saint-Siège* went through three editions between 1907 and 1928. Although a scholarly work, it was widely read in France.163 Choupin devotes nearly half the book to the *Syllabus of Errors*, analyzing each condemnation in the context of the earlier document in which it first appeared. Given the doubts that French Catholics then had about participating in the Third Republic, this focus is not surprising. He concludes that the *Syllabus* does not itself impart infallible authority. The contradictories of certain propositions in the *Syllabus* are indeed truths of faith, but this is because they were taught infallibly elsewhere.164

Choupin considers several different theologians’ explanations of the authority of encyclicals. He concludes that although they do not contain infallible teaching, they do have significant weight. The adherence required by an encyclical “is not the same as the adherence required in a formal act of faith. Strictly speaking, this teaching could be subject to error. We have a thousand reasons to believe that it is not. Such a thing has probably never happened, and it is morally certain that it never will happen. But, speaking absolutely, it could happen, in the sense that God does not guarantee this point of teaching in the way that he guarantees a teaching

formulated in the manner of a definition.”

**Willem van Rossum**

Willem Marinus van Rossum, C.Ss.R., was born in 1854 in Zwolle, Netherlands. He taught at the Redemptorist scholasticate in Wittem, Netherlands, from 1883 to 1892. In 1896, having relocated to Rome, he became a consultor to the Holy Office. Created a cardinal in 1911, he served as President of the Pontifical Biblical Commission (1914-1932) and as Prefect of the Congregation for the Propagation of the Faith (1918-1932). Van Rossum died in 1932.

In his work *De essentia sacramenti ordinis*, van Rossum explores the topic of the matter of the sacrament of Holy Orders. This was a disputed topic, and there were magisterial teachings that could be brought to bear on various sides of the issue. As a result, even though the focus of his monograph was not the theology of the magisterium, van Rossum is frequently forced to assess the magisterial weight of particular teachings.

One document of particular concern is the Bull of Union with the Armenians, *Exultate Deo*, written in 1439 and associated with the Council of Florence and Pope Eugene IV. One passage in this document asserts that the matter [*materia*] of the sacrament of Holy Orders is the handing on of the instruments: in the case of the priesthood, this means the handing on of the chalice and paten. Van Rossum argues that this doctrine is not being taught definitively, based

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165 My translation. Original text: “Mais enfin, cette adhésion n’est pas la même que l’adhésion exigée dans l’acte formel de foi. Il se pourrait, à la rigueur, que cet enseignement fût sujet à l’erreur. On a mille raisons de croire qu’il ne l’est pas. Il ne l’a probablement jamais été, et il est _moralement certain qu’il ne le sera jamais_. Mais, absolument parlant, il pourrait l’être en ce sens que Dieu ne s’en porte point garant, comme il se porte garant de l’enseignement formulé par mode de définition.” (Emphasis in original). Ibid., 50-55 (quote on p. 55). Choupin is quoting P. Pègues, but the context makes it clear that he approves of Pègues’ analysis.

166 *Exultate Deo*, in *DEC*, vol. 1, 534-559, at 549.
on a number of factors (such as the fact that Exultate Deo was not addressed to the Catholic bishops or to the Catholic faithful, but merely to one Oriental Church, and on the lack of reception of this teaching by future generations in the Church). Therefore it is taught only with “the Church’s ordinary and fallible authority” \[ab ordinaria ac fallibili Ecclesiae auctoritate\], and given sufficient reasons, a Catholic can disagree with this teaching.\(^{167}\)

Van Rossum also argues that when Roman Congregations address particular cases, the resulting documents are more practical than doctrinal. Such documents may have a guarantee of safety, but they do not have a direct guarantee of truth.\(^{168}\) On this point, van Rossum’s view is close to those of Franzelin and Billot.

**Gerardus van Noort, J. P. Verhaar, John J. Castelot, and William R. Murphy**

Gerardus van Noort was born in 1861 in Hageveld, Netherlands, and was ordained a priest in 1884. From 1892 to 1908 he taught at a seminary in Warmond, Netherlands, where he wrote his ten-volume textbook on dogmatic theology. He died in 1946. During van Noort’s lifetime, some volumes of his textbook were updated by Joannes Petrus Verhaar (b. 1889, Roelofarendsveen, Netherlands; d. 1948), his colleague at Warmond.

Van Noort’s original text discusses non-definitive doctrines briefly, in terms that are now familiar to the reader: such doctrines result from a pope who teaches with less than the full authority available to him; the Catholic faithful owe religious assent [\textit{assensus religiosus}] to such

\(^{167}\) Willem Marinus van Rossum (as G. M. van Rossum), \textit{De essentia sacramenti ordinis: Disquisitio historico-theologica}, 1st ed. (Freiburg im Breisgau: B. Herder, 1914), 162-175 (quotation from 169). The second edition of this work (Rome: Fridericus Pustet, 1931 or 1932, pp. 182-97) contains a more elaborate version of this same series of arguments.

doctrines; when grave objections appear, an individual Catholic can withhold this assent and merely observe a reverent silence; such cases are extremely rare.\footnote{Van Noort, \textit{Tractatus de fontibus revelationis}, 3rd ed., 178-83 (\textit{De fide divina}, ch. 1, art. 5, nn. 251-54.)} He states that encyclicals generally contain non-definitive doctrines, and the theological note \textit{doctrina catholica} is used to designate such teachings.\footnote{Van Noort, \textit{Tractatus de Ecclesia Christi}, 4th ed., 183-84 (sect. 2, ch. 2, art. 3, n. 181.).} Verhaar’s updated text preserves this material without changes.\footnote{Gerardus van Noort, \textit{Tractatus de Ecclesia Christi}, 5th ed., rev. J. P. Verhaar (Hilversum, Netherlands: Paulus Brand, 1932), 202-3.}

After the deaths of van Noort and Verhaar, their texts remained quite popular, and the task of preparing an English translation was given to two professors at St. John’s Provincial Seminary in Plymouth, Michigan: John J. Castelot, S.S. (b. 1916/17, d. 1999), professor of Scripture, and William R. Murphy, S.S. (birth and death dates unknown), professor of dogmatic theology. Castelot and Murphy expanded and revised the book significantly.

In their discussion of non-definitive teaching, Castelot and Murphy criticize \textit{doctrina catholica} as being not a true theological note. They see it as a catch-all term that can be given to a long document such as an encyclical by theologians who are unwilling to go through the text and assign a specific note to each assertion found therein.\footnote{Gerardus van Noort, \textit{Dogmatic Theology}, vol. 2, \textit{Christ’s Church}, trans. and rev. John J. Castelot and William R. Murphy (Cork, Ireland: Mercier, 1957), 391; idem, \textit{Dogmatic Theology}, vol. 3, \textit{The Sources of Revelation: Divine Faith}, trans. and rev. John J. Castelot and William R. Murphy (Westminster, MD: Newman, 1961), 290.} The apparent implication is that certain non-definitive teachings could be given more precise notes than \textit{doctrina catholica}, but the authors do not mention what these notes would be.

A new section by Castelot and Murphy discusses Catholic teaching on the relation between Church and State. This section includes a detailed analysis of the authority of Pope Leo XIII’s
teachings on this topic in his encyclical *Immortale Dei* (1885). The analysis by Castelot and Murphy is quite detailed.

First, the authors discuss the authority of encyclicals in general. These contain the public teaching of a pope, not merely his private opinion. The most authoritative encyclicals are those sent to all the bishops of the Church (as was *Immortale Dei*).

Second, they examine the language Leo uses in *Immortale Dei*: “Over and over again in the encyclical he refers to the fact that he is exercising his apostolic office of teacher of the entire Church; secondly, that his teaching on Church and State is ultimately grounded in revelation and sound philosophy.” Castelot and Murphy also point out that Leo is discussing Church-State relations throughout the Catholic world, not just in one country.173

Third, they state that “all theologians and canonists from Leo’s own day to the present refer to Leo’s teaching as the classic source of the Church’s teaching on relations between Church and State,” and offer a long list of such writers. This material constitutes an analysis of the *reception* of Leo’s teaching, although the authors do not use this word, as it had not yet become a common theological term.174

Fourth, they indicate that a series of popes have issued the same teaching: Leo XIII quoted two of his predecessors’ writings in his encyclical, and his successors Pius X, Pius XI, and Pius XII cited Leo’s teaching as authoritative.

Castelot and Murphy concludes that Leo XIII’s teaching on this matter has a great deal of authority. Yet their final conclusion is quite terse: “It is Catholic teaching (*doctrina*

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174 Ibid., 392.
This phrasing illustrates the limitations of the terminology of that era. Earlier, these two authors had argued that *doctrina catholica* was an imprecise catch-all term for whatever was found in an encyclical. Their careful evaluation of Leo’s teaching should have enabled them say something more specific about its weight. But lacking more precise terminology, Castelot and Murphy settle for this vague label that they could have assigned to the encyclical even without a detailed analysis.

**Charles Journet**

Charles Journet was born near Geneva in 1891, was ordained in 1917, and taught theology at the Grand Seminaire in Fribourg from 1924 to 1970. Journet served on the Vatican II preparatory commission that drafted the original schema *de Ecclesia*. In 1965, Pope Paul VI created him a cardinal and titular archbishop, enabling him to make several interventions during the final session of the Council. Journet died in 1975.

Journet, in his masterwork, *L’Église du Verbe Incarné*, writes that the Church can infallibly issue the minor censures. These lesser notes do not indicate a less irrevocable censure, but merely indicate that the claim being censured is contained within the deposit of revelation with a “greater degree of implicitness.”

The Church can even condemn infallibly and absolutely as “rash” such a proposition for example as “The Last Judgment will (or will not) take place at such a date.” In this case she pronounces in an absolute manner, not on the *date*, which remains uncertain, but on the *temerity* of those who predict it.\(^\text{176}\)

\(^{175}\) Ibid., 393.

Moreover, he argues that even when the Church issues prudential judgments and disciplinary decrees that are not infallible teachings, they are still guaranteed to be prudent – possessing what he terms “prudential infallibility” – as long as they are addressed to the universal Church. He cites Franzelin as the source of this argument.\footnote{177}

**Humani generis and its Aftermath**

The obligation of the Catholic faithful to accept non-definitive Church teaching was mentioned occasionally in papal documents between 1870 and 1950.\footnote{178} One important passage appeared in the encyclical *Immortale Dei* (Leo XIII, 1885):

> If in the difficult times in which Our lot is cast, Catholics will give ear to Us, as it behooves them to do, they will readily see what are the duties of each one in matters of opinion as well as action. As regards opinion, whatever the Roman Pontiffs have hitherto taught, or shall hereafter teach, must be held with a firm grasp of mind, and, so often as occasion requires, must be openly professed.\footnote{179}

Another such passage appears in the encyclical *Casti connubii* (Pius XI, 1930):

> [T]o her [the Church] therefore should the faithful show obedience and subject their minds and hearts so as to be kept unharmed and free from error and moral corruption, and so that they shall not deprive themselves of that assistance given by God with such liberal bounty, they ought to show this due obedience not only when the Church defines something with solemn judgment, but also, in proper proportion, when by the constitutions and decrees of the Holy See, opinions are proscribed and condemned as dangerous or distorted.\footnote{180}

\footnote{177} Ibid., 352-53.


However, none of these passages suggested that there was a diversity of weights to non-definitive doctrinal teaching. That possibility was implied for the first time in Pope Pius XII’s 1950 encyclical *Humani generis*:

> Although this sacred Office of Teacher in matters of faith and morals must be the proximate and universal criterion of truth for all theologians, since to it has been entrusted by Christ Our Lord the whole deposit of faith – Sacred Scripture and divine Tradition – to be preserved, guarded and interpreted, still the duty that is incumbent on the faithful to flee also those errors which more or less approach heresy, and accordingly “to keep also the constitutions and decrees by which such evil opinions are proscribed and forbidden by the Holy See,” is sometimes as little known as if it did not exist. What is expounded in the Encyclical Letters of the Roman Pontiffs concerning the nature and constitution of the Church, is deliberately and habitually neglected by some with the idea of giving force to a certain vague notion which they profess to have found in the ancient Fathers, especially the Greeks. The Popes, they assert, do not wish to pass judgment on what is a matter of dispute among theologians, so recourse must be had to the early sources, and the recent constitutions and decrees of the Teaching Church must be explained from the writings of the ancients.

Although these things seem well said, still they are not free from error. It is true that Popes generally leave theologians free in those matters which are disputed in various ways by men of very high authority in this field; but history teaches that many matters that formerly were open to discussion, no longer now admit of discussion.

Nor must it be thought that what is expounded in Encyclical Letters does not of itself demand consent [*assensum*], since in writing such Letters the Popes do not exercise the supreme power of their Teaching Authority. For these matters are taught with the ordinary teaching authority [*Magisterio ordinario*], of which it is true to say: “He who heareth you, heareth me”; and generally what is expounded and inculcated in Encyclical Letters already for other reasons appertains to Catholic doctrine [*doctrinam catholicam pertinent*]. But if the Supreme Pontiffs in their official documents [*in actis suis*] purposely pass judgment [*data opera sententiam ferunt*] on a matter up to that time under dispute, it is obvious that that matter, according to the mind and will of the Pontiffs, cannot be any longer considered a question open to discussion among theologians.\(^{\text{181}}\)

In the wake of this document, two fundamental interpretations of the last sentence arose.

In one interpretation, Pius XII was saying that the doctrinal teaching found in encyclicals (and similar documents) was divided into two categories – assertions intended to close discussion on a

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controverted question, and assertions written without such an intention – and the former had
greater weight than the latter, although both categories remained non-definitive. In the other
interpretation, Pius XII was saying that an assertion intended by a pontiff to close discussion was
itself infallible and definitive, whereas other assertions in encyclicals were not.

By the established principles of the theology of the magisterium, this question could have
been resolved if it were known exactly what Pius XII meant when he referred to such an
assertion being “no longer open to discussion.” If he meant that no Catholics were free to
challenge or obstinately doubt such an assertion at any time in the future, then he was by
definition saying that this assertion was definitive. But if he meant only that theologians were no
longer free to publicly debate this question or to advocate a position contrary to that of such a
pope, or that the question was not open to discussion at this time, then Pius was not referring to
definitive teaching. As the text was unclear on this point, theologians tried to determine Pius’
meaning from clues in the text.

At the 1951 convention of the Catholic Theological Society of America, Edmond D.
Benard (1914-1961) of the Catholic University of America presented a paper arguing that
_Humi generis_ was not, in this passage, referring to definitive teaching. Benard admitted that a
pope could, if he so chose, include an infallible definition in an encyclical, as long as the
wording of this definition made his intention clear, but Pius XII was not referring to that
possibility. Rather, Pius was referring to a weighty but non-definitive exercise of his
magisterium. Since this remained non-definitive, it could not produce _certitude_ that the
proposition being taught is true, but it did allow Catholics to “assent unconditionally, with no
fear of error, to the fact that the opinion the Pope sets forth is well founded and safe.” Did this
apply to all assertions clearly made in encyclicals? No, only to a “definite, direct statement ... which clearly and with recognizable intention applies to a hitherto controverted matter ... which does at least implicitly manifest his will that the controversy be closed.” Nonetheless, as this was not infallible teaching, a theologian might privately discover problems with the teaching, in which case he should respectfully contact the Holy See.182

Benard’s proposal was similar to Franzelin’s “infallible security” discussed earlier. Another American, Joseph C. Fenton (1906-1969) of the Catholic University of America, criticized this concept as too weak, preferring Billot’s claim that encyclicals can contain infallible teachings even when they do not contain definitions in the strict sense.183 (It appears that Fenton understood Franzelin’s “security” as meaning that one needed to assent to the safety of such teachings but not to their truth, whereas it appears to me that Franzelin was saying that Catholics should assent to the truth of non-definitive authoritative teachings, and if they do so, even though there is no absolute certainty that the teaching is true, one can be absolutely certain that by assenting to the teaching as true one will not imperil one’s soul.) Fenton, on the other hand, approaches the question from the perspective that any teaching which is not certainly true will inevitably be doubted by many Catholics, and these Catholics will then turn to theologians to determine which parts of an encyclical they are free to ignore. Therefore, doctrines directly taught in papal encyclicals should be treated as infallible.184 Fenton even extended this to papal

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184 In an earlier paper, Fenton warns that once a theologian “subject[s]” a pope’s writings “to the type of criticism he would have a right to impose on the writings of another private theologian,” the result will “inevitably” be the doubting of all papal teachings throughout history, which “for all practical purposes” renders them without
allocations, on the grounds that even if a pope speaks to a small audience, the subsequent publication of his allocations in the *Acta Apostolicae Sedis* means they are addressed to the universal Church.  

Another proposal in circulation during this era was that even though a pope might not teach infallibly in a single encyclical, whenever the same doctrine was taught in a series of encyclicals it must be taken as definitive. Paul Nau, O.S.B., (1901-?) offers several arguments in favor of this thesis. One is a mathematical analogy: just as a series of numbers can approach a definite limit, so a series of encyclicals can “converge” to definite doctrine “in the manner of an asymptote.” When this happens, Catholics can be certain this doctrine is true. A second argument is based on a comparison between the teaching authorities of the bishops and of the pope. Theologians agree that the bishops can teach infallibly in two ways: by issuing a solemn judgment in council (“extraordinary magisterium”), or by unanimously teaching a doctrine while dispersed throughout the world (“ordinary magisterium”). They also agree that the pope can teach infallibly by issuing a solemn judgment *ex cathedra* (“extraordinary magisterium”). By analogy, therefore, the pope must be able to teach infallibly using his “ordinary magisterium,” and this can be accomplished repeating the same teaching forcefully several times in a row. This

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infallibility also applies to a series of encyclicals written by different popes.\(^\text{187}\)

Nau also minimized the chance of error in the pope’s non-infallible teaching. Such error was theoretically possible, but surely this “does not happen more than twice or thrice in a thousand years”\(^\text{188}\). Moreover, “whatever opinion one may profess on the infallibility of the pope, it is just as disrespectful to proclaim publicly that he can be wrong, as to say to children: your parents may be lying to you.”\(^\text{189}\)

Joseph Fenton had earlier offered a similar argument. Although “the Church might come to modify its stand on some detail of teaching presented as non-infallible material in a papal encyclical,” he wrote, it is not possible that any subject “treated extensively in a series of papal letters directed to and normative for the entire Church militant” could be “radically or completely erroneous.”\(^\text{190}\)

Other theologians in this era were more open to the possibility of errors in a pope’s encyclicals. G. Absolonne, for example, pointed out significant differences between \textit{Providentissimus Deus} (Leo XIII, 1893) and \textit{Divino afflante Spiritu} (Pius XII, 1943) in their principles for Scriptural scholars. Granting that that these differences might be labeled “development of doctrine,” Absolonne nonetheless insisted that these two encyclicals disagreed


\(^{188}\) Ibid., 29n53; he is quoting Bossuet’s \textit{Defensio declarationis}, App. III D.

\(^{189}\) Ibid., 37; he is quoting a statement given by the Faculty of Paris in 1682.

\(^{190}\) Joseph Clifford Fenton, “The Doctrinal Authority of Papal Encyclicals: Part I,” \textit{American Ecclesiastical Review} 121 (1949): 136-50, at 149. It is unclear whether Nau was aware of Fenton’s thesis, which is mentioned only briefly in his paper. J. Robert Dionne points out that a few years later, a similar thesis appeared in the writings of Fidelis Gallati, a German Dominican, who may also have developed this idea independently. See Dionne, \textit{Papacy and the Church}, 34-35.
on certain specific points. Even so, he is firm in stating that theologians who have doubts about the content of non-definitive teaching should deal with these issues quietly rather than publicly.\(^{191}\)

Franz X. Hürth, S.J. (d. 1963), professor of moral theology at the Jesuit theologate in Valkenburg, Netherlands, and later at the Gregorian, was a consultor to the Holy Office and one of the ghostwriters for *Casti connubii*. In 1952, he published transcriptions of two allocutions by Pope Pius XII, and attached a note concerning their magisterial weight. In this note, he states that when such allocutions involve matters of faith and morals, “the faithful must give them internal and external submission,” but are not required to give “absolute or irreformable assent, because they are not set forth with supreme authority at the highest level, and for that reason infallible certitude is not extended to them.”\(^{192}\)

**Conclusion**

By 1962, the existence of non-definitive authoritative papal teaching was universally recognized. It was distinguished on the one hand from a pope’s definitive teaching (including the primary and secondary objects of infallibility), and, on the other hand, from doctrinal teachings addressed to only one portion of the Church, disciplinary legislation, and his writings as a private doctor. Such teaching could be recognized because it satisfied the criteria for


universal doctrinal teaching (it concerned *fides et mores*, and was addressed to the whole Church) but did not satisfy the criteria for infallible teaching. Theologians differed on the borders between these categories, but on the basic picture there was unanimity.

Did all non-definitive authoritative papal teachings possess the same authority, or did some have more weight than others? Many theologians had addressed the question of how Catholics should respond to teachings in this category, but most of their writings seemed to assume that this category was uniform throughout. Indeed, all teachings in this category were now labeled with a single theological note (*doctrina catholica*). Yet there had been some progress on this question. It was recognized that teachings issued by Roman Congregations and approved by the pope *in forma communi* carried less weight than those issued by the pope himself. *Humani generis* seemed to distinguish between authentic teachings intended to close a debate and those that were not. Several criteria could be used to weigh such teachings, as shown in the example from Castelot and Murphy’s update of van Noort’s book. And, of course, a pope might use an explicit theological note to indicate a proposition’s authority.

Much less had been written about non-definitive authoritative *conciliar* teaching. Of course, it was recognized that a council could teach non-definitively by attaching a specific theological note to an assertion, but when a council issued an assertion regarding *fides vel mores* without such a qualification, the assumption among theologians (apparently unanimous, if the survey given in this chapter is any indication) was that this was an infallible definition. The theological note *doctrina catholica* does not appear to have ever been used for a conciliar teaching. And the theological position that infallibility extended only to the canons, not the chapters, of a conciliar text had fallen out of favor.
For both papal and conciliar teachings, nonetheless, it was recognized that the *arguments* offered for a teaching were not themselves infallible, nor were the illustrations and examples or *obiter dicta*. This seemed to imply that there was some conciliar teaching that was non-definitive but authoritative – unless, perhaps, these reasons and *obiter dicta* possessed no authority at all? Franzelin indicated that they did have authority, sometimes even great authority, but did not expand on this claim. And what could be said about the arguments made for a non-definitive teaching? Did these have less weight than the teaching itself, and yet still significant weight? These and many more questions had been implied, but apparently not examined, by the theologians who had written about the magisterium before 1962.
CHAPTER TWO
Survey of Views from Vatican II to 1988

In the 1950s, theologians had become increasingly interested in the weight of non-definitive magisterial teaching, especially that in papal encyclicals. So it was not surprising that the Second Vatican Council addressed this issue in a variety of ways. During the two decades following the Council, most of the theological investigations of non-definitive authoritative teaching focused on determining the weight of the teachings of Vatican II itself. These matters are the primary focus of this chapter.

The Second Vatican Council

Vatican II was a crucial moment for any study of the non-definitive magisterium for three reasons. First, the conciliar documents offered important teachings on this issue. Second, the manner in which the Council proceeded reveals how the participants understood the related issues of its authority and its interpretation. Third, in the half-century since Vatican II, many theologians have offered interpretations and evaluations of its teachings based, at least in part, on the details of the conciliar proceedings and the way in which different persons and factions contributed to its results.

A “pastoral” council

Nearly four years passed between Pope John XXIII’s announcement of the Council in January 1959 and its opening in October 1962. During that time, the Pope frequently described
the upcoming council as “pastoral” in character. Pope John’s opening address recommended “the medicine of mercy,” and “explanations” rather than “condemnations.” But what did this mean in practice?

In July 1959, Cardinal Domenico Tardini, the Secretary of State for the Vatican, explained that this meant that the Council would be “more practical than dogmatic in character; more pastoral than ideological; it will provide norms rather than definitions.” And indeed, the schemas prepared before the first session of the Council avoided anathemas and theological censures. A note attached to the first schema on the Church stated, “All of these things are set out in a pastoral style lest a dogmatic text appear too juridical.”

As early as 1964, some Council Fathers who were unhappy with the direction Vatican II was taking began to argue that since this was merely a “pastoral” council, its decrees would not be binding in the same way that a traditional council’s decrees might be. Perhaps to rebut such views, Paul VI’s speech at the opening of the third session on September 14, 1964 included the following reminder:


The Council’s task is to bring certain troublesome theological controversies to a close.... Its task is to finally manifest to the faithful of the Catholic Church and to our brothers and sisters from separated communities what is the true concept of the orders of the sacred hierarchy, of which it was said, “The Holy Spirit has set up overseers [episcopos] to govern the Church of God” (Acts 20:28), and indeed with a firm authority [cum auctoritate certa] which may not be called into doubt.\(^6\)

Pope Paul was referring specifically to the debate about whether episcopal ordination was truly the highest form of the sacrament of Holy Orders, a matter that had been often debated in recent years and to which Lumen gentium would ultimately give a clear answer.\(^7\) But more generally, he was asserting that Vatican II, despite its “pastoral” character, was able to teach doctrine with authority, even ending debate on contentious issues.

Similarly, in his speech at the last public session of the Council, Paul VI stated the following:

One thing must be noted here, namely, that the teaching authority of the Church, even though not wishing to issue [definire] extraordinary dogmatic pronouncements, has made thoroughly known its authoritative teaching on a number of questions which today weigh upon man’s conscience and activity, descending, so to speak, into a dialogue with him, but ever preserving its own authority and force.\(^8\)


Division of the Council into factions

Since the Council of Nicaea, bishops gathered in council have organized in groups to advocate for their positions, and sometimes perceived those outside their group as adversaries. In some cases, historians have named such factions for their theology ("iconoclasts") or for a theologian who inspired them ("Arians"). The factions at Vatican II are most often referred to using contemporary partisan terms ("progressive" and "conservative") or based on their relative strength when votes were cast ("majority" and "minority").

Regardless of which terms are used, the history of Vatican II is often related in terms of political battles. To take one example:

The minority pursued its agenda relentlessly during the whole third period, and the Black Week was the conclusion of its persistent and consistent work. It used every possible procedural loophole to rein in the progress of the Council. It capitalized on the temperament of Paul VI to win little victories.... If the Black Week exhibited the commitment of the majority to its positions, it also showed how lax the majority had become. After winning the crucial battle of 1963, members of the majority did not watch out for the return of their adversary. The events of Black Week caught them off guard.9

Another example, this one from an author identifying with the minority:

For a long time it appeared as if the European alliance would have undisputed control over the Council. This could have proved unfortunate, because power, be it financial, political, military, academic or theological, has a way of being abused when a near monopoly is obtained over it. As the Council progressed, however, at least half a dozen organized opposition groups came into being and performed yeoman service by forcing the majority to take a closer and more careful look at the schemas before accepting them.... [One of these groups] was the International Group of Fathers (in Latin, Coetus Internationalis Patrum),

9 Luis Antonio G. Tagle, “The ‘Black Week’ of Vatican II (November 14-21 1964),” in HVT, vol. 4, 387-452, at 450. The term “Black Week” refers to the last week of the third session, during which occurred four events which the liberal majority perceived as setbacks for its cause (ibid., 387-88). By the way, I do not mean to suggest that Tagle paints these events in more of a political light than other writers; indeed, his conclusion is quite irenic (ibid., 452).
which – together with the Roman Curia – was depicted as the epitome of conservatism, holding back the progressive elements in the Council.¹⁰

Although some theologians eschew political-sounding labels as divisive or inaccurate, such labels allow some stories to be told that would be otherwise impossible.¹¹ At the same time, these labels are always limited in their utility, since Vatican II obviously did not consist of two thousand “majority” bishops with identical opinions on theological questions engaged in a pitched battle with two hundred “minority” bishops similarly united in all their views.

These points should be kept in mind, as some of the theologians who will be discussed in this dissertation see the majority/minority division as one important factor in weighing and interpreting conciliar documents.

**The evolution of the Dogmatic Constitution on the Church**

As the First Vatican Council had been unable to complete a constitution on the Church, many people expected the Second Vatican Council to undertake this project. This constitution went through many stages; here only the development of the material regarding non-definitive magisterial teaching will be noted.¹²

In 1959, shortly after John XXIII announced his intention to summon a council, the newly formed Ante-Preparatory Commission invited all Catholic bishops, Catholic university faculties,

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¹¹ For example, Margaret O’Gara argues in her book *Triumph in Defeat: Infallibility, Vatican I, and the French Minority Bishops* (Washington: Catholic University of America, 1988) that while the majority at the First Vatican Council appeared triumphant when the Council ended, certain views of the minority have been vindicated by subsequent theological development. Whether her thesis is true or false, it would be almost impossible to assert it (or refute it) without giving names to the conciliar factions.

and superiors of male religious orders to submit suggestions for the Council’s agenda. Several of the replies asked that the authority and extent of non-definitive Church teaching be clarified. To take one example, the Jesuit Superior General, Jean-Baptiste Janssens, requested the following:

1. It is desired that the extent and the authority of the Church’s *ordinary magisterium* be more precisely delimited, and that the reverence and obedience (including internal obedience) owed to it be emphasized.

2. Also, [it is desired that] the weight of *dogmatic definitions* be emphasized; such definitions are indeed capable of being improved, but they are irreformable, and do not evolve from one sense to another.

In the meantime, many in the Roman Curia were proceeding on the assumption that they would be setting the agenda for the Council. Sebastian Tromp, S.J., the secretary of the Preparatory Theological Commission, proposed that the Council begin with the bishops all assenting to a new Profession of Faith. Tromp drafted this text and presented it to the commission. Two of its paragraphs addressed the assent due to teachings of the magisterium:

2. Also, I firmly accept each and every doctrine that the unerring Church has defined by a solemn judgment or has asserted and declared by the ordinary and universal magisterium: especially those things which oppose the errors of these times.

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13 When the 1962 schema *de Ecclesia* was distributed, it included comments indicating how each chapter corresponded to the requests submitted to the Ante-Preparatory Commission. According to these comments, “very many bishops” as well as Curial congregations had requested that the doctrinal authority of non-definitive teaching be addressed. These comments can be found following chapter 7 of the schema in “Draft of a Dogmatic Constitution” (English); AS, vol. 1, pt. 4, 12-122, at 54 (Latin). Also see Fouilloux, “Antepreparatory Phase,” 93-97; Gaillardetz, *Church in the Making*, 6-7.

Likewise, I profess without doubt all the remaining doctrines defined and declared by Ecumenical Councils (particularly the sacred Synod of Trent and the First Ecumenical Council of the Vatican), especially the jurisdictional primacy and infallible magisterium of the Roman Pontiff, and in the same way I condemn and reject those things that are condemned and rejected by these Councils and by Encyclical Letters (particularly *Pascendi* and *Humani generis*).  

However, when this was presented to the Central Preparatory Commission in November 1961, there were numerous objections. In particular, several members pointed out that this text appeared to conflate the authority of papal encyclicals with the authority of conciliar definitions. Ultimately, this entire project was abandoned.  

The Second Vatican Council opened on October 11, 1962. In November, the first draft of the schema *de Ecclesia*, prepared by the Theological Commission, was distributed to the bishops. The seventh chapter (sections 28 to 35) dealt with the teaching office of the Church. Section 28 described the theological foundations of its authority. Section 29 described its object, including the extent of the secondary object of infallibility. Section 30 described the subjects who exercise this authority, beginning with the pope’s authority to teach matters definitively and infallibly. It then turned to his non-definitive teaching:

To the authoritative teaching office of the Roman Pontiff, even when he is not speaking *ex cathedra*, religious submission of mind and will [*religiosum voluntatis et intellectus obsequium*] must be given, in such a way that his supreme teaching office is reverently acknowledged and sincere adherence is given [*sincere adhaeratur*] to the judgment proposed by him, and this in accord with his manifest mind and will, as this appears chiefly from the

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16 Those objecting to the conflation of encyclicals with definitions included Cardinals Tisserant, Liénart, Döpfner, and Frings, and Archbishop Šeper. Ibid., 502-6, 521. For the abandonment of this project, see Komonchak, “Struggle for the Council,” 239.
nature of the documents, from the repeated statement of the same teaching, or from his manner of speaking [ex dicendi ratione]. The mind and will of the Roman Pontiffs is manifested particularly through the doctrinal acts which affect the whole Church, such as Apostolic Constitutions or Encyclicals or the more solemn Addresses. These are the chief documents of the ordinary teaching office of the Church and serve chiefly to explain and to form it; and what is taught and inculcated in them for the most part already belongs to Catholic doctrine. But if the Supreme Pontiffs in these acts should take care to pass judgment on a matter hitherto controverted, it must be clear to all that this matter, according to the mind and will of the same Pontiffs, can no longer be considered a question for public discussion among theologians.17

Although this passage does not explicitly state that a variety of weights are subsumed under the category of non-definitive teaching, this seems to be implied by the statement that a Catholic’s adherence to such teaching should “accord with” the Pope’s mind and will as manifested by “the nature of the documents,” by “the repeated statement of the same teaching,” and by the pope’s “manner of speaking” – for such criteria do vary from one instance to the next. The final sentence is taken almost word-for-word from Humani generis, with one change: whereas Humani generis had forbidden “free” or “open” debate [liberae disceptationis] on such matters, the conciliar schema merely forbade “public” debate [publicae disceptationis].18

Chapter 7 of the schema went on to state that the teaching of an individual bishop should be received by his subjects “with inner and religious assent of the mind” [interiore religiosoque animi assensu],19 and that the teaching of Roman Congregations should be received with “a religious and inner assent of the mind” [religiosa ... et de se interior mentis adhaesio].20

Moreover, theologians also “enjoy their own doctrinal authority in the Church.” Even though

17 “Draft of a Dogmatic Constitution,” ch. 7 § 30 (English); AS, vol. 1, pt. 4, 49-50 (Latin). The clause extending from “in such a way” to “proposed by him” had been added during the drafting to explain the meaning of “obsequium,” per Blyskal, “Ordinary Ecclesiastical Magisterium,” 80-81.
18 Compare the schema to DS 3885. An earlier draft of the schema had stated that such doctrines could not be debated “freely” [libere]: Blyskal, “Ordinary Ecclesiastical Magisterium,” 77-78.
19 “Draft of a Dogmatic Constitution,” ch. 7 § 30 (English); AS, vol. 1, pt. 4, 51 (Latin).
20 “Draft of a Dogmatic Constitution,” ch. 7 § 31 (English); AS, vol. 1, pt. 4, 51 (Latin).
this differs from that of the bishops, it must be honored by the faithful, especially when theologians exhibit morally unanimity on some issue. Therefore, no one may dispute “the common consensus of theologians” unless they have “serious and truly proven reasons” to do so. And if a theological consensus has been long-lasting and has associated a theological censure with the contrary opinion, no one can disagree with their conclusions “without temerity.”

Nowhere in this schema was there any discussion of non-definitive teaching by ecumenical councils.

This schema proved unacceptable to many of the Council Fathers. Several bishops and their periti began circulating documents suggesting alternatives, ranging from minor changes to a complete overhaul of the document. Cardinal Leo Jozef Suenens, Archbishop of Mechelen-Brussels, asked Gérard Philips, his peritus and a professor of theology at the University of Louvain, to work on this project, and between November 1962 and February 1963 Philips produced at least four distinct but related documents in Latin and French. In one of these documents, Philips included a remark about the doctrinal authority he envisioned for the constitution de Ecclesia:

21 “Draft of a Dogmatic Constitution,” ch. 7 § 32 (English); AS, vol. 1, pt. 4, 51-52 (Latin). The commentary from the Theological Commission points out that a long-lasting consensus among theologians only has such weight if a censure has been traditionally associated with the contrary opinion; it cites the literal interpretation of Genesis 1 as an example of a traditional position whose contrary was not given a censure, and which therefore can be disputed if “solid arguments” are available. The commentary also suggests that the authority of theologians is due (at least in part) to the fact that they act “under the watchful eye of the authoritative teaching office,” and thus act as its agents to some extent. Ibid., commentary after Chapter 7 (English); p. 631n (Latin).

The Constitution is an act of the extraordinary and universal magisterium, but it does not intend to impose any infallible and irrefromable doctrine except with regard to those portions of the document where such an intention is clear. It is extremely important to know whether this truly is the position of the Council.  

Another document circulated during this time period by the West German and Austrian Bishops’ Conferences requested clarification of the theological weight of the constitution. It recommended that the Council declare that every doctrine taught in its documents be taken as “the preaching of the ordinary magisterium,” with its authoritative weight flowing from that fact as well as that of any reasons given in the text, except when the text explicitly indicated a different weight.  

In March 1963, the Doctrinal Commission accepted one of Philips’ drafts as the basis for a revised schema on the Church. This draft, which began with the words “Lumen gentium,” preserved the first sentence of the original schema’s treatment of the pope’s non-definitive magisterium (quoted above), but dropped the remainder of the passage. Thus it no longer mentioned specific types of documents such as Apostolic Constitutions and Encyclicals, and no longer included *Humani generis*’ statement that non-definitive teaching could close theological debate on an issue. The sections on the authority of Roman congregations and of theologians were dropped entirely. Several emendations were proposed by the Council Fathers to this schema; among them were a proposal by five bishops to put back the sentence from *Humani*

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23 My translation. Original text: “La Constitution est un acte du magistère extraordinaire et universel, mais elle n’entend imposer une doctrine infaillible et irréformable que pour les parties de l’exposé où cette intention est manifieste. Il est extrêmement important de savoir si telle est bien la position du Concile” (emphasis in original). “Ce que nous attendons et espérons de la Constitution dogmatique sur l’Église,” item CMCG 14/05, University of Notre Dame Archives, Notre Dame, Indiana.

24 Hellín, *Concilii Vaticani II synopsis*, 718. The proposed statement was, “Quae sequuntur, tali ratione dicta et tali cum respectivi assensus obligatione imposita intellegantur oportet, qualis fide bene edoctis nota iam est ex praedicatione magisterii ordinarii Ecclesiae, nisi aliud explicita statuitur.”

25 Ibid., 704 (compare to the original schema on page 629).
generis, and a proposal by one bishop to add a sentence explicitly stating that theologians were free to investigate matters that had not been definitively established. Neither proposal was accepted by the Doctrinal Commission.26

By the summer of 1964 the text of this section had reached its final form:

The religious assent of will and intellect [religiosum voluntatis et intellectus obsequium] is to be given in a special way to the authentic teaching authority of the Roman Pontiff even when he is not speaking ex cathedra; in such a way, that is, that his supreme teaching authority is respectfully acknowledged, and sincere adherence given [sincere adhaeratur] to decisions he has delivered, in accordance with his manifest mind and will which is communicated chiefly by the nature of the documents, by the frequent repetition of the same doctrine or by the style of verbal expression [ex dicendi ratione].27

As can be seen, this text – which would soon be promulgated in section 25 of Lumen gentium – remained quite similar to the first sentence in the passage about the pope’s non-definitive teaching authority in the first schema.

There were three modi (proposed changes) submitted to the Doctrinal Commission concerning this passage. Although none of them resulted in changes to the text, the Commission’s response to them is informative. The first, submitted by three bishops, requested that Lumen gentium address the case – “at least theoretically possible” – of a learned person who is unable to give internal assent to an authoritative but not infallibly proposed doctrine. The

26 Joseph A. Komonchak, “Ordinary Papal Magisterium and Religious Assent,” in The Magisterium and Morality, eds. Charles E. Curran and Richard A. McCormick (New York: Paulist, 1982), 67-90, at 69, 84n6; Blyskal, “Ordinary Ecclesiastical Magisterium,” 100-2. Marcel Lefebvre was one of the five bishops who asked for the Humani generis language to be restored. Among the reasons they gave for this restoration was that even the ordinary teaching of a pope may require a definitive assent of faith “whenever a certain doctrine is continuously and in the same way proposed by such a magisterium” (translation in Blyskal, “Ordinary Ecclesiastical Magisterium,” 100). As was seen in Chapter 1, similar claims had been made by Paul Nau and by Joseph Fenton. For rejected proposals made during the preparatory phase that would have added more specific language regarding the precise level of obligation owed to non-definitive papal teachings, see Blyskal, “Ordinary Ecclesiastical Magisterium,” 84-87.

27 Lumen gentium 25 (DEC, vol. 2, 869). The Latin of this sentence is quite similar to the first sentence of the passage quoted from the original schema de Ecclesia on pages 110-11 above.
commission indicated that this case was adequately discussed in “the approved theological texts.” The second, also submitted by three bishops, suggested that the “sincere adherence” given to such papal decisions be qualified by adding the phrase “although not with absolute and irrefromable assent,” in order to more clearly distinguish infallible from noninfallible teaching.

The commission replied, “The ordinary magisterium often proposes doctrines which already pertain to the Catholic faith. So the proposed addition would need to be expanded even further [to make it fully accurate]. Therefore it is best that one be referred to the approved authors.”

The third, submitted by one bishop, recommended that something be added to the text indicating that further investigation and doctrinal progress are possible with non-definitive doctrines. The commission replied, “The observation is true, but it is unnecessary to introduce it here.”

As with the first schema, nothing in the text of Lumen gentium mentioned the possibility that an ecumenical council could teach non-definitively. The constitution stated that a council’s definitions “must be adhered to with the obedience of faith”; one might infer that a lesser

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28 Original text: “[Modi # 159]: Tres Patres invocant casum particularem, saltem theoretice possibilem, in quo eruditus quidam, coram doctrina non infallibiliter proposita, ob fundatas rationes interne assentire non potest.... [Reply]: De hoc casu consuli debent probatae expositiones theologicae.” AŚ, vol. 3, pt. 8, 88. (This text, along with the next two items cited, can also be found in Hellín, Concilii Vaticani II synopsis, 255-57.)

29 Original text: “[Modi # 160]: Proponunt tres Patres ut scribatur: ‘... et sententiis ab eo prolate sincere, quamvis non assensu absuluto et irrefromabili, adhaerere,’ quia clare distinguui debet assensu praestandus magisterio infallibili ab assensu magisterio authentico sed non infallibili praestando; de cetero remittit ille Pater ad observationem R. P. Hürth in eodem sensu (anno 1952). [Reply:] Magisterium ordinarium saepe proponit doctrinas quae ad ipsam fidem catholicam iam pertinent. Ergo additio proposita rursus compleunda esset. Ideo melius remittitur ad probatos auctores.” (The italics, present in the original, indicates the words to be inserted.) Ibid., 88. The proposed addition is taken from the passage by Franz X. Hürth quoted in Chapter One of this dissertation (see page 101 above). “Approved authors” refers to the writers of theological manuals, according to Komonchak, “Ordinary Papal Magisterium,” 69-71; and Francis A. Sullivan, Magisterium: Teaching Authority in the Catholic Church (Eugene, OR: Wipf & Stock, 2002), 166-67.


response is owed to conciliar teachings that are not definitions, but this is not stated.

However, during the 1964 session a statement was made about the authority of *Lumen gentium* itself. On November 16, Pericle Felici, the General Secretary of the Council, made three announcements. The first concerned voting procedures. The second (henceforth referred to as the *Qualificatio theologica*) offered some comments about the constitution’s theological weight. The third, the *Nota explicativa praevia*, will be discussed in the next subsection. When *Lumen gentium* was subsequently published, the second and third of these were included along with the text of the constitution proper. The *Qualificatio theologica* read as follows:

A question has been asked concerning the theological note [*qualificatio theologica*] that should be given to the teaching that is put forward in the Schema *The Church* (*De Ecclesia*) and is submitted for voting.

The doctrinal commission has replied to the question by evaluating the amendments proposed to the third chapter of the schema *The Church*, as follows:

“As is self-evident, the council text is always to be interpreted according to general rules that are known by all.”

On this occasion the doctrinal commission refers to its *Declaration* of 6 March 1964. We reproduce the text of this here:

“Taking into account conciliar custom and the pastoral aim of the present council, this holy synod defines as binding on the church only those matters concerning faith and morals which it openly declares to be such.

The other matters which the synod puts forward as the teaching of the supreme magisterium of the church, each and every member of the faithful should accept and embrace according to the mind of the synod itself [*iuxta ipsius S. Synodi mentem*], which is clear either from the subject matter or from the way it is said [*ex dicendi ratione*], in accordance with the rules of theological interpretation.”

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32 *DEC*, vol. 2, 898. The wording of Felici’s announcement on November 16, 1964 can be found in *AS*, vol. 3, pt. 8, 10. It is slightly different from the published text given above, as it refers to specific page numbers in documents available to the Council Fathers, but the third, fifth, and sixth paragraphs (the passages in quotation marks) are identical to the published text. What is less clear is whether the fifth and sixth paragraphs are truly identical to a declaration made on March 6 of that year, as asserted in Felici’s remarks. I was unable to locate the original declaration from March in the *Acta*, and the secondary sources I consulted never cited the original March text – they always cited the November text. The possibility that the March text might differ is suggested by a letter from Felici to the pope’s secretary written on November 14, which states that the Cardinal moderators had recently decided that rather than writing a detailed statement on the theological weight of the text, they would use an earlier statement which Felici is sending to the pope “with interpolations in pencil” (“con le aggiunte a lapis”). *AS*, vol. 6,
Despite the presence of some vague terms, this text gives some valuable directions for how *Lumen gentium*, and indeed all the documents of Vatican II, are to be weighed. The language is similar to that used in *Lumen gentium* 25 for the weighing of a papal teaching: both indicate the need to determine the “mind” of the writer, which is revealed in several ways, including from “the style of verbal expression [ex dicendi ratione].”

The *Qualificatio theologica* may be the first official text from Rome to state unambiguously that an ecumenical council can teach authoritatively without teaching definitively. It is less certain whether the Doctrinal Commission was presenting its view regarding Vatican II alone, or whether this reveals its understanding of previous councils as well; the reference to “the pastoral aim of the present council” might suggest the former, while the reference to “conciliar custom” might suggest the latter. The reference to “the rules of theological interpretation” suggest that there is nothing novel in this declaration, but, as we saw in Chapter One of this dissertation, the rules for weighing and interpreting non-definitive teachings in theological manuals and other such writings prior to 1962 specifically dealt with papal teachings. Perhaps the best interpretation of the last phrase of this text is this: the traditional rules used for weighing and interpreting non-definitive papal teachings apply also to non-definitive conciliar teachings.

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The value of the Nota explicativa praevia

 Episcopal collegiality was one of the most contentious issues at Vatican II. The most conservative view held that while a bishop’s power of orders was bestowed through the sacrament of Holy Orders, his power of jurisdiction was delegated by the pope, who alone possessed supreme authority in the Church. The most progressive or liberal view held that even though the pope could exercise supreme authority, he did so as the head of the college of bishops, and therefore in some sense the college of bishops was the sole subject of juridical authority in the Church. A more centrist view held that there were two distinct, although not separable, subjects of supreme power in the Church – one being the pope, and the other being the college of bishops united to the pope as its head. Chapter 3 of Lumen gentium was drafted by those who held the centrist view.

However, there were many on the conservative side who felt that Lumen gentium’s language was too ambiguous and could be interpreted too liberally. Some of the conservatives worried that this ambiguity had been intentional, and that once the Council was over the text could be used to defend a position that had not been intended by the majority of the Council Fathers. In November 1964, several of them made their views known to Pope Paul VI, and either because he shared their concern or to assuage their worries and thus work towards unanimity, he agreed that some points should be clarified. At this late date, few wanted to

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33 Tagle, “Black Week,” 417-27, 435; Wiltgen, Rhine Flows Into the Tiber, 228-32. Wiltgen indicates that the pope initially considered a clarification unnecessary, but was persuaded to support it when one of the more liberal members published an article indicating how he planned to interpret Lumen gentium’s teaching on collegiality after the Council. Tagle does not unambiguously endorse this chain of events, but indicates that there is some support for it (“Black Week”, 435n210).
revise the text itself, so a simpler method of clarification was sought. One proposal was that someone give an oral presentation clarifying the meaning of the terms used; the *relationes* given by Bishops Zinelli and Gasser at Vatican I were pointed to as precedents for this method. Others preferred a written document produced by the Doctrinal Commission. On November 11, Pope Paul decided that the Doctrinal Commission should produce a written text, but he seems to have seen both methods as equivalent in essentials, comparing a written note to “the method followed at the First Vatican Council.” The commission produced this note, based primarily on a short text by Philips, and it was read to the bishops on November 16.  

Three days later, when announcing the penultimate vote and the final public vote on *Lumen gentium*, Felici instructed the bishops that to cast their ballots “in accord with the announcements” of November 16 (that is, the *Qualificatio theologica* and the *Nota explicativa praevia*).  

Whether the *Nota explicativa praevia* is redundant with the text of *Lumen gentium*, or whether it clarifies and narrows the meaning of the text, or whether it contradicts the text has been a matter of long debate – one that need not be explored here. The authoritative weight of the note, however, is of interest. Luis Tagle writes:  

> Another important question concerns the weight that must be attributed to the NEP. Many theologians and commentators [he cites Ratzinger, Parente, Semmelroth] are of the opinion that the NEP is not part of the constitution, because it was not voted on nor approved by the assembly. The object of the vote was the text of *De ecclesia*, for which nothing could substitute. [Bishop Carlo] Colombo, however, attributes to it the same value as *LG*, to which

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34 Tagle, “Black Week,” 432-36. The quote (from p. 435) is from the pope’s directive to the Doctrinal Commission. Bishop Carlo Colombo had argued for a written document, while *periti* Gérard Philips and Yves Congar had argued for an oral presentation along the lines of Zinelli’s and Gasser’s. (At Vatican I, Federico Zinelli, Bishop of Treviso, had presented a detailed explanation of the text on papal primacy, while Vinzenz Gasser, Bishop of Brixen, presented the explanation of the text on infallibility.)

35 Ibid., 391.

36 For a summary of some views on this matter, see ibid., 438-42; John W. O’Malley, *What Happened at Vatican II* (Cambridge, MA: Harvard University, 2008), 244-45, 367n140.
it constituted a “morally necessary clarification” coming from pontifical authority. [Wilhelm] Bertrams also considers the NEP the Council’s official interpretation of collegiality, because LG was voted on and promulgated according to the sense provided by the NEP. For [Antonio] Acerbi, the NEP remains a document of the Doctrinal Commission, which provided accessory reasoning to support a certain interpretation of the text but was neither binding nor approved by a vote of the Council.\(^{37}\)

In addition, the process by which the Nota explicativa praevia was created reveals much about the value attributed to Zinelli’s and Gasser’s Vatican I relationes by the Pope, bishops, and periti at Vatican II. By citing these speeches as a model of how to resolve ambiguities in a conciliar text, they indicated that they possess, in some sense, a kind of quasi-magisterial status. It can be debated whether this status is due to the role the speeches themselves played in the Council, or to the presumption that the Council Fathers cast their final votes on Pastor aeternus after hearing Zinelli’s and Gasser’s speeches and therefore their content indicates the understanding of the Council Fathers at time of voting, but either way these relationes were accepted by the leaders of Vatican II as more than the opinion of two bishops. (This is also indicated, perhaps, by the fact that Lumen gentium 25 cites Gasser’s relatio four times in its footnotes, even though the footnotes in the documents of Vatican II are usually reserved for Scripture, the Church Fathers, and documents of popes and councils.)

**Relevant texts from the fourth session (1965)**

As mentioned earlier, a sentence in the first schema De Ecclesia that dealt with open discussion and debate of non-definitive teachings was eliminated in the revision process, and requests for new statements on this matter (both restrictive and expansive) were turned down. As a result, this question is not addressed in Lumen gentium. It is, however, briefly addressed in

\(^{37}\) Tagle, “Black Week,” 443.
the Pastoral Constitution on the Church in the Modern World, *Gaudium et spes*: “It should be recognized that the faithful, clerical as well as lay, have a just freedom of enquiry, of thought and of humble and courageous expression in those matters in which they enjoy competence.”

*Gaudium et spes* was the first (and so far, the only) magisterial document to be labeled a “pastoral constitution.” The first footnote in this document explains the meaning of this genre: The teachings in *Gaudium et spes* apply doctrinal principles to contemporary situations. Therefore, while this constitution is not purely doctrinal, it is nonetheless “dependent on principles of doctrine.” It is divided into two parts: the first part “develops” doctrines concerning humans and the world they live in, while the second part focuses “on questions and problems which seem particularly urgent today.” These facts affect the interpretation and weight of the document’s contents, which “should therefore be interpreted according to the general norms of theological interpretation and with due regard, especially in the second part, for the naturally changing circumstances of the matters treated.” Indeed, the second part “comprises material, subject to doctrinal considerations, which contain both permanent and transient [contingentibus] features.” This distinction between permanent and contingent features would be expanded upon by the document *Donum veritatis* in 1990, as will be discussed in the following chapter.

On November 15, 1965, when the Council was nearing the conclusion of its debates on *Dei verbum*, its other dogmatic constitution, the question of weight was raised again. This time, the Doctrinal Commission simply re-stated what it had said one year previously, repeating the

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38 *Gaudium et spes* 62 (*DEC*, vol. 2, 1113).
39 *Gaudium et spes*, preface, note 1 (*DEC*, vol. 2, 1069n1).
Statements by Periti

Several of the theological experts at Vatican II, including some who worked on *Lumen gentium*, published articles and even diaries during and immediately after the Council. In this section, some of these will be examined.

**Gérard Philips**

Gérard Philips was born in 1899 and became a priest in the diocese of Liège, Belgium. He received his doctorate at the Gregorian University in 1925. He taught at the Minor Seminary of St-Truiden and the Major Seminary of Liège before becoming a professor of dogmatic theology at the Leuven Theological Faculty. He was appointed to Vatican II’s Preparatory Theological Commission, and in 1963 became vice-secretary of the Theological Commission. As mentioned earlier, his draft document became the basis for *Lumen gentium*. In addition, Philips served as a senator for the Flemish Christian Democrat Party (CVP). He died in 1972.

Philips sees the *Qualificatio theologica* of November 16, 1964 as a refutation of those who minimized the authority of *Lumen gentium* as “merely pastoral directives.” The theological qualification indicates that while the constitution did not contain dogmatic definitions, its contents “must be considered as constitutive elements of the doctrine of the supreme magisterium of the Church. This means that they are a most solemn exercise of the magisterium,

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40 *AS*, vol. 4, pt. 1, 49-50, and vol. 4, pt. 6, 419. Christoph Theobald is in error when he states that the theological qualification given for *Dei verbum* on 11/15/1965 differs from the one given for *Lumen gentium* on 11/16/1964 (unless the *Acta* are in error and he is using a different and unspecified source): Christoph Theobald (as Christophe Theobald), “The Church Under the Word of God,” in *HVT*, vol. 5, 275-362, at 352.
giving the highest possible degree of certainty short of an infallible declaration.”

Philips expresses a generally favorable attitude toward the Nota explicativa praevia. In a commentary on Lumen gentium written in 1966, Philips stated that while the Nota contains a more detailed treatment of some points than does the dogmatic constitution, it “does not go beyond what is asserted there.” He says that the turmoil in the last week of the third session on other matters bled over into the reaction to the Nota, which was therefore “not judged with all desirable objectivity.” Yet the Nota is in full agreement with the five provisional questions that the bishops voted on directly in October 1963; indeed, “the agreement is exact and obvious.” Philips closes on an irenic note, arguing that Pope Paul’s intervention and the Nota were intended “to ease the last scruples of the hesitant,” and in this they succeeded, as only five Council Fathers voted against Lumen gentium in the final voting. Therefore, Philips argues, it is “impossible to speak of winners and losers, terms which are in any case quite out of place in speaking of a council.”

However, Philips was not enthusiastic about every aspect of the Nota. One of the purposes of Gasser’s relatio in 1870 was to explain how the Doctrinal Commission had chosen to respond to each of the modi (proposed amendments) submitted by the bishops, and their reasons for doing so. Philips saw the purpose of the Nota as being the same. Originally, the Nota began with the following words: “The Commission has decided, as an aid to the reader, to set forth the following general observations as a preface to the resolution of the modi.” However, shortly

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42 Ibid., 136-37. The five provisional questions and the vote on them are described in ibid., 115-17; for more details, see Alberto Melloni, “The Beginning of the Second Period: The Great Debate on the Church,” in HVT, vol. 3, 1-115, at 70-91, 98-105.
before the *Nota* was presented to the Council, the words “as an aid to the reader” were deleted.\(^\text{43}\) Philips later lamented this change, stating that “with the suppression of these words, the *Nota* seemed to acquire a kind of absolute character.”\(^\text{44}\)

**Umberto Betti**

Umberto Betti, O.F.M., was born in 1922, and taught at the Pontifical University of St. Anthony (the Antonianum). He served as a *peritus* on the Vatican II Preparatory Commission and during the Council itself, working especially on *Lumen gentium* and *Dei verbum*. He was created a cardinal in 2007 by Benedict XVI, and died in 2009.

In an essay written in 1965, Betti states that the *Qualificatio theologica* is “without precedent” in conciliar history. Previous councils, whose primary objectives had been to combat errors, had produced documents consisting of doctrinal chapters and canons listing condemned theses. These canons gave the interpretation of such documents “a measure of certainty, even though the need for careful examination remained.” *Lumen gentium*, by contrast, consists of doctrinal chapters without canons, as the goal of Vatican II was “not so much to condemn errors as to proclaim the truths of Catholic doctrine.” Its lack of dogmatic canons made it necessary for the Theological Commission to clarify its weight.\(^\text{45}\)

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\(^{44}\) My translation. Original text: “Par la suppression des mots indiqués, la *Note* semble acquérir une espèce de caractère absolu.” Ibid., 76.

\(^{45}\) My translation. Original text: “L’adjonction de la Formule de qualification théologique ne trouve pas de précédent dans la pratique conciliaire.... Vatican II auquel le pape assigna comme fin directe, non pas tant de condamner les erreurs que de proclamer les vérités de la doctrine catholique. Pour ce motif, alors que dans les
As mentioned earlier, the *Qualificatio theologica* indicates that the weight of a conciliar text is determined by ascertaining “the mind of the synod itself, which is clear either from the subject matter or from the way it is said.” Betti uses this rule to ascertain the weight of *Lumen gentium*. He notes that in LG 8, the Council endorses everything said about the papacy at Vatican I, and then declares that its purpose is to extend the work of the earlier council by “professing and declaring” the doctrine concerning the bishops, who are “the successors of the apostles.” It subsequently teaches the two doctrines he calls the “backbone” of Chapter 3: the sacramentality of episcopal consecration, and the collegiality of the episcopate.\(^ {46}\) From this, he concludes:

In brief, the chapters of this Constitution have the same weight as the doctrinal chapters of other ecumenical councils, in particular the Councils of Trent and Vatican I. Moreover, one should receive them even more attentively, because while Trent and Vatican I – by including canons corresponding to the chapters – allow the reader to know with all desired certainty the doctrines they taught, Vatican II sets forth its teaching on the Church only in the chapters of the Constitution containing this teaching.\(^ {47}\)

He then considers several other indications of the weight of *Lumen gentium*. Its title declares it a “dogmatic constitution.” In its first paragraph it announces its intention to set forward, in the tradition of earlier councils, the nature of the Church and its mission. It was intended to settle certain disputed questions among theologians with an authority that, as Paul VI

\(^ {46}\) Ibid., 214.

\(^ {47}\) My translation. Original text: “En bref, les chapitres de la Constitution ont la même valeur que les chapitres doctrinaux des autres conciles œcuméniques, en particulier des Conciles de Trente et de Vatican I. Bien plus, on doit les considérer avec une attention encore plus grande. Car, tandis que le Concile de Trente et Vatican I permettent de connaître avec toute la certitude désirée la doctrine enseignée par eux d'après les canons correspondant aux chapitres, Vatican II expose son enseignement sur l'Eglise uniquement dans les chapitres de la Constitution qui le contiennent.” Ibid.
stated in his speech opening the third session of the Council, “may not be called into doubt.”

Vatican II, being an ecumenical council, is not intrinsically any less weighty than any other such council; true, it avoided phrasing its teachings in the manner of definitions, but on key matters it used the solemn phrasing “docet sancta synodus.” Indeed, the teaching in section 18 that the bishops together with the pope govern the Church is “professed” [Fr. _professer_, Lat. _profiteri_] as if it were a truth of faith, while the teaching in section 22 the bishops together with the pope constitute a college is stated to have been established by Christ himself.  

True, _Lumen gentium_ does not contain any definitions “in the technical sense of the word,” and therefore denial of its teaching is not _ipso facto_ heretical. “But even if its infallibility, and consequently its irreformability, lack an explicit declaration, one should not for this reason conclude that it does not exist.” Even without any ecclesiastical sanction, it is clear that someone who does not adhere to the teaching of _LG_ “goes against the current of the Holy Spirit, who was circulating in the Council at high voltage.”

Betti concludes:

These brief considerations lead to the following conclusion, which indeed appears inescapable: the doctrine expounded in the Constitution, taken as a whole, is irrevocable. Its intrinsic validity exceeds that of its form of expression. Its essential elements, though they are likely to mature further in the future, have an eternal value from this time forward.

For these reasons, the doctrine of Vatican II, like that of other ecumenical councils, has now increased the patrimony of the Catholic religion in an irreversible manner. It can rightfully

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48 Ibid., 214-17.

49 My translation. Original text: “... n’équivaut pas à une définition au sens technique du mot.... Mais même si son infaillibilité, et par conséquent son irréformabilité, manquent de déclaration explicite, on ne doit pas pour cela penser qu’elle n’existe pas.” Ibid., 217.

be inserted in the formula of the profession of faith, as an addition and complement to the doctrine taught by the Councils of Trent and Vatican I.\textsuperscript{51}

Thus, while Betti does not explicitly state that \textit{Lumen gentium} contains definitive and infallibly taught doctrines, he cautions against concluding that it does \textit{not} contain such teachings. In addition, he uses terms such as “irrevocable” and “irreversible” which seem virtually synonymous with “definitive.” Moreover, his claim that the teachings of Vatican II can now be used in a Catholic profession of faith places them alongside the dogmas defined at previous councils, although this does not necessarily indicate that they are dogmas themselves.\textsuperscript{52}

\textbf{Joseph Ratzinger (1 of 2)}

Joseph Ratzinger was born in 1927 in Marktl am Inn, Bavaria, Germany. Only thirty-five years old when Vatican II began, he served as \textit{peritus} for Cardinal Josef Frings, Archbishop of Cologne. He taught at the University of Bonn (1959-63), the University of Münster (1963-66), the University of Tübingen (1966-69), and the University of Regensburg (1969-77) before being named Archbishop of Munich and Freising by Pope Paul VI. His subsequent career as Prefect for the Congregation for the Doctrine of the Faith, as Pope Benedict XVI, and as the first Pope

\textsuperscript{51} My translation. Original text: “Ces brèves considérations aboutissent à la conclusion suivante, qui semble même inévitable: la doctrine exposée dans la Constitution, prise en bloc, est irrévocable. Sa validité intrinsèque dépasse les modalités extérieures de son expression. Les éléments essentiels dont elle se compose, susceptibles il est vrai d’arriver à une plus complète maturation, ont dès maintenant une valeur éternelle. Pour ces raisons, la doctrine de Vatican II, comme celle des autres conciles oecuméniques, vient accroître le patrimoine de la religion catholique, de façon irréversible. Elle a tous les titres pour être insérée dans la formule de profession de foi, comme adjonction et complément de la doctrine enseignée en particulier par les Conciles de Trente et de Vatican I.” Betti, “Qualification théologique de la Constitution,” 218.

\textsuperscript{52} In April 1965, Betti wrote to Bishop Carlo Colombo, suggesting that the following words be added to the profession of faith that the bishops would make at the beginning of the fourth session: “Likewise, I faithfully accept and embrace the teaching on the Church that has been declared and handed down at this sacred Vatican Council II.” Although no such addition was made, Betti’s proposed text offers more evidence about exactly what doctrines he felt should be included in this profession (the Council’s “teaching on the Church”). Giovanni Turbanti, “Toward the Fourth Period,” in \textit{HVT}, vol. 5, 1-47, at 25-26.
Emeritus in six centuries is well known.

A 1965 essay by Ratzinger discusses the Council’s treatment of episcopal collegiality.\textsuperscript{53}

The final section of this article concerns the \textit{Qualificatio theologica}.

Ratzinger says that the task of determining the theological weight of Vatican II’s teachings presents an unprecedented challenge for three reasons: the “unusual length” of the texts, the “pastoral style” of the Council, and the fact that these texts “include neither canons nor anathemas, which until now have served as an interpretive norm for the question of what has actually been defined with an obligatory character.”\textsuperscript{54}

To determine the theological qualification of \textit{Lumen gentium}’s teaching on the collegiality of bishops, Ratzinger considers the following data: \textit{LG} is entitled a “dogmatic constitution,” a fact which is even more significant because an attempt by some Fathers to delete the word “dogmatic” from the title was rebuffed. True, the text is “pastoral,” but this does not exclude the teaching of doctrine – rather, as in Scripture itself, doctrinal and pastoral concerns are intermingled. Indeed, this intermingling is constitutive of the “literary genre” of these texts. Even for previous conciliar texts written in a traditional conciliar genre, it is often more difficult to determine exactly what is binding than many theologians claim.\textsuperscript{55}

He then looks at the \textit{Qualificatio theologica} issued in November 1964, which consists of three items. First, the Council proposes nothing as the object of divine and Catholic faith unless


\textsuperscript{54} My translation. Original texts: “la longueur inhabituelle des textes”; “la cachet pastoral du Concile”; “ils ne comportent ni les canons ni les anathèmes qui servaient jusqu’ici de norme interprétative dans la question de savoir ce qui était réellement défini avec caractère obligatoire.” Ibid., 787.

\textsuperscript{55} Ibid., 787-88.
expressly stated. “This is not the case anywhere in the text we have analyzed (nos. 19-22 of Chapter 3 of the Constitution). Therefore they contain no new dogma.” He says that the assertion of the sacramentality of the episcopal office “most nearly approaches being a dogma,” because of the solemnity of the introductory words “This sacred Council teaches,” but even it should not be considered a dogma, for the text does not state that this doctrine is part of the apostolic deposit of faith, nor that it be received with the assent of faith.\(^\text{56}\)

The second item states that every doctrine in \textit{Lumen gentium} is taught by the supreme Magisterium of the Church. Therefore, each of them imposes some degree of obligation. But this item does not help to differentiate the weights of different doctrines in the text.

The third item states that the weight of any specific doctrine is determined by its subject matter and by its “literary genre.”\(^\text{57}\) Applying this to \textit{LG}’s treatment of episcopal collegiality, Ratzinger writes:

To determine the literary genre, one must consider moreover that this is a text that the entire world episcopate – the college united with its head and invested with the supreme power of teaching – scrutinized intensively, word for word, for three years. The Holy Father himself also worked on it in depth, as he contributed a considerable number of proposals to help the text ripen. Finally, he solemnly ratified it: “And we ... approve, establish, and decree it in the Holy Spirit....” These reasons show that the text greatly surpasses the ordinary


\(^{57}\) The Latin refers to “the way the teaching is expressed” \textit{ex dicendi ratione} (see above, pages 111 and 114); Ratzinger translates this as “literary genre” (German \textit{der literarischen Gattung}, French \textit{genre littéraire}). Ratzinger, “Die bischöfliche Kollegialität,” 70; idem, “La collégialité épiscopale,” 789.
declarations of the papal magisterium, including encyclicals, with regard to the nature of the theological obligation it entails. It is a document born of the most intense work over several years, and it gives voice to the consciousness which the whole Church assembled in council takes from its faith.... This does not mean that the text is irreformable in the details of its wording, in the course of its reasoning, or in its scriptural and patristic citations. But it does mean that, among the totality of doctrinal texts of recent times, this Constitution attains a preeminent importance as a sort of center of interpretation. 58

Although Ratzinger’s essay is focused on the portion of Lumen gentium that deals with episcopal collegiality, the phrasing of this conclusion may suggest that his evaluation applies to the entire dogmatic constitution.

This passage raises another question. Is Ratzinger asserting that, other things being equal, the weight of non-definitive teaching by an ecumenical council (and confirmed by a pope) is greater than the weight of non-definitive teaching by a pope alone? Or is he merely making saying that this specific conciliar teaching happens to carry more weight than recent non-definitive papal teachings (“including encyclicals”)? It seems to me that this passage can easily be read in support of the former option, since many of the reasons he offers for his conclusion (the fact that “the entire world episcopate” worked on this document, and that it represents the mind of “the whole Church assembled in council”) would apply to nearly all conciliar

58 My translation. Original text: “Pour déterminer le genre littéraire, il faut considérer en outre qu’il s’agit d’un texte que tout l’épiscopat mondial, le collège uni à son chef et investi du suprême pouvoir d’enseignement, a scruté, trois ans durant, intensivement et mot par mot. Le Saint-Père lui-même aussi l’a travaillé à fond, car il a contribué par un nombre considérable de propositions à le faire mûrir. Finalement, il l’a solennellement ratifié: ‘Et Nous ... l’approuvons, arrêtons et décrétons dans le Saint-Esprit....’ Ces raisons font voir que le texte dépasse de beaucoup les déclarations ordinaires du magistère papal, y compris les encycliques, en ce qui concerne la nature de l’obligation théologique qu’il entraîne. C’est un document né du travail le plus intense au cours de plusieurs années et il exprime la conscience que prend de sa foi toute l’Eglise assemblée en concile. Elle a formulé ce document comme profession de son Credo, annonce au monde actuel et fondement de sa rénovation intérieure qui doit avoir des étais solides. Cela ne signifie pas qu’il soit irréformable dans les détails de ses énoncés, de la marche de sa pensée ou même de ses citations scripturaires et patristiques. Mais la conclusion est qu’une importance de premier ordre lui revient dans l’ensemble des textes doctrinaux modernes, en ce sens qu’il est une sorte d’interprétation centrale.” (Ellipses in quotation from Paul VI appear in Ratzinger’s text.) Ratzinger, “La collégialité épiscopale,” 789-90. The final sentence is clearer in the German: “Aber es bedeutet, daß im Gesamt der lehramtlichen Texte der neueren Zeit dieser Konstitution eine vorrangige Bedeutung als einer Art von Interpretationsmitte zukommt.” Idem, “Die bischöfliche Kollegialität,” 70.
documents. On the other hand, some of his points (such as the attention paid to this specific passage in the text “for three years”, and Paul VI’s personal interest in this passage) would not.\textsuperscript{59}

Although his strong wording has similarities to that in Betti’s 1965 essay, Ratzinger distanced himself from Betti’s evaluation in an essay published the next year. In this essay, Ratzinger refers to “two schools of thought” which existed during the third session and continued after the Council. One of these schools he calls the “minimalists” – those who refuse to accept any new doctrinal teachings from the Council, deeming it merely a “pastoral” affair. The other school is represented by Betti’s essay, which “raises most of the Council’s declarations practically (though not technically) to the status of dogmas.” Between these extremes, Ratzinger prefers a “middle way,” represented by the passage quoted earlier from Pope Paul VI’s speech of December 7, 1965 – a view he says is “beyond a doubt” shared by “most of the Council Fathers.” According to this middle way, even though “the Council has laid down no new dogma on any subject,” it has nonetheless taught doctrines in a binding manner. “Its texts, according to their literary form, have serious claims upon the conscience of Catholics; their pastoral dispositions are based on doctrine, and their doctrinal passages are suffused in concern for men and for a Christianity of flesh and blood in the world of today.”\textsuperscript{60}

After each council session, Ratzinger published a small book containing his perspectives and comments on the Council and its results. A passage in the book dealing with the fourth (and final) session shows his perspective on the relative weights of two portions of the same conciliar

\textsuperscript{59} Sullivan, \textit{Creative Fidelity}, 168-69 uses Ratzinger’s statements to support the latter option, although is seems unclear whether Sullivan is asserting that Ratzinger himself would agree with this conclusion.

text. *Dignitatis humanae*, the Declaration on Religious Freedom, consists of an introduction and two chapters. According to the introduction, this declaration “leaves intact the traditional catholic teaching on the moral obligation of individuals and societies towards the true religion and the one church of Christ.” Yet Ratzinger holds that the chapters of this document contain “something new, something that is quite different from what is found, for example, in the statements of Pius IX and Pius XII.” Rather than attempting to harmonize the introduction’s statement with the remainder of the text, Ratzinger seems to dismiss it, writing, “It would have been better to omit these compromising formulas [from the introduction] or to reformulate them in line with the later text.... The introduction changes nothing in the text’s meaning; therefore, we need not regard it as anything more than a minor flaw.” From the way he contrasts “the introduction” with “the text” and then dismisses the former, I infer that Ratzinger considers the introduction to *Dignitatis humanae* to have much less weight than its two chapters.

**Yves Congar (1 of 2)**

Yves M.-J. Congar, O.P., was born in Sedan, France, in 1904. He taught at Le Saulchoir from 1931 to 1939. He spent five years as a prisoner of war, and then returned to Le Saulchoir until 1954. During the 1950s, some of his work was criticized by the Holy Office and he was forbidden to teach or publish, a situation that was ended only when John XXIII named him to the Council’s Preparatory Theological Commission in 1960. He was one of the most prolific contributors to the documents of Vatican II. Congar was created a cardinal by John Paul II in

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61 *Dignitatis humanae* 1 (DEC, vol. 2, 1002).

1994 and died the following year.

In a work published the year that Vatican II opened, Congar discussed various aspects of the theology of the magisterium. Much of his treatment is similar to that of other theologians of this era (as discussed in Chapter One). One notable point is that Congar states that the bishops dispersed throughout the world can not only teach definitively, but can also teach at lower levels of authority. Thus if the worldwide episcopate unanimously teaches that a certain doctrine is *proxima fidei*, or *temeraria*, or *probabilis*, theologians must accept that this theological note does in fact apply to this doctrine.\(^{63}\)

During the third session of Vatican II, Congar strongly lobbied for Gérard Philips to give an oral presentation on the meaning of episcopal conciliarity, along the lines of Zinelli and Gasser at Vatican I.\(^{64}\)

In an essay published in 1965, Congar discussed the theological weight of *Lumen gentium*. He stated that the Council had not defined any dogmas “in the strict sense of the word,” but then seemed to waver on this issue: “The only passage in the Dogmatic Constitution on the Church that could be considered a genuine dogmatic declaration is the one concerning the sacramentality of the episcopate (*LG* III, 21): in effect, it terminates debate on a question discussed freely up until now among theologians.” But then Congar points out the lack of “emphatic, repeated, and solemn formulas” that traditionally accompany definitions, which would seem to be necessary for a dogmatic definition at Vatican II in light of the *Qualificatio theologica*.\(^{65}\) Even so, he


\(^{64}\) Tagle, “Black Week,” 433-34.

\(^{65}\) Original text: “Le Concile n’a pas voulu formuler de nouveaux dogmes au sens strict de ce mot. Le seul passage de la Constitution dogmatique sur l’Eglise qui pourrait être considéré comme une véritable déclaration
continues to be ambivalent on whether this doctrine is being taught definitively. “The verbal expression is not that of a dogmatic definition. Yet the matter is very important, its place in the doctrine of the episcopacy so decisive, that it is hard to see how the Council would not have rendered a definitive judgment here. But certainly this is the only case of this kind.”

His reasoning here utilized the premise that, other things being equal, a magisterial teaching that attempts to settle a disputed question carries more weight than one that does not.

He then discussed the weight of the other teachings in *Lumen gentium*. “So many other matters discussed in the Constitution,” although not imposed as definitions, are taught as “obligatory,” in the sense that they are “doctrines on which the Catholic magisterium unanimously agrees.”

**Karl Rahner**

Karl Rahner, S.J., was born in Freiburg im Breisgau in 1904. He taught at the University of Innsbruck from 1937-38 and again from 1948-64. In 1961 Pope John XXIII appointed him a consultor on sacramental theology to the Preparatory Commission; during the Council he served as *peritus* for Cardinal Franz König, Archbishop of Vienna, as well as serving on the Theological Commission. In this capacity he worked on *Lumen gentium* and several other documents.


66 Original text: “La façon de s’exprimer n’est pas celle d’une définition dogmatique, mais la matière est très importante, la place qu’elle occupe dans la doctrine de l’épiscopat si décisive, qu’on voit mal comment le Concile n’aurait pas porté, ici, un jugement définitif. Mais sans doute serait-ce le seul cas de ce genre.” Ibid., 1367.

67 Original text: “Sur tant d’autres points touchés par la Constitution ... Cela n’équivaut pas exactement à une ‘définition’; cela suffit pour que la doctrine proposée s’impose comme celle sur laquelle s’accorde le magistère catholique unanime.” (Emphasis in original.) Ibid.
During and after the Council, he briefly taught at the University of Munich and the University of Münster before retiring in 1971 to focus on writing and lecturing. He died in 1984.

Although Rahner does not seem to have been involved in the push for an oral *relatio* or the *Nota explicativa praevia* at Vatican II, he does indicate elsewhere that something besides a conciliar document can be an authoritative guide to understanding a conciliar document. In 1875, in response to criticism by German Chancellor Otto von Bismarck, the bishops of Germany issued a collective statement explaining that *Pastor aeternus* did not undermine the authority of the local bishop in his own diocese – a statement which was subsequently praised by Pope Pius IX.\(^68\) In an essay written shortly before Vatican II, Karl Rahner states that the German bishops’ statement was “an authentic commentary on the Vatican Council,” in part because it “received the express and unqualified endorsement of Pius IX.”\(^69\)

In an essay written the year the Council ended, Rahner wrote that the compromises made between the majority and minority at Vatican II should be seen as resulting from a free choice to reach unanimity. “Genuine unanimity was reached in freedom.... Naturally, such unity in freedom is achieved only with great effort, and here and there a step on the way may seem at first sight to be merely a bad compromise. But this is actually the way unity in true freedom is realized.”\(^70\)

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\(^68\) The German bishops’ statement can be found in DS 3112-3116, and Pius IX’s endorsement in DS 3117. These texts and their background can also be found in F. Donald Logan, “The 1875 Statement of the German Bishops on Episcopal Powers,” *The Jurist* 21 (1961): 285-95. For some of the history behind this, see John P. Boyle, *Church Teaching Authority* (Notre Dame, Ind.: University of Notre Dame, 1995), 134-35.


In an essay written the following year, Rahner analyzed the treatment of the theology of the magisterium in *Lumen gentium* 25. His comments on the non-definitive papal magisterium are as follows:

[This passage in *LG* discusses] the ordinary magisterium of the Pope (when he is not speaking *ex cathedra*). This magisterium is found in encyclicals, in particularly solemn allocutions, in declarations of the Congregations for Doctrine and for Seminaries, of the Biblical Commission etc., each of whose authority again varies widely. It must be accepted with the basic respect due to the office in general and with an inner assent to its declarations. The text does not mention the possibility that in some cases “obedient silence” is enough, but since this is commonly held, it is certainly not excluded here. When and with what safeguards this inner assent may be withheld is a subject discussed by the standard authors and need not be treated in detail here. The form and degree of inner assent should correspond to the way in which the doctrine presented is meant to be binding, and some rules, though not all – the text says “the principle” – are indicated briefly in the last part of the sentence, as a guide to the intention of the teacher. Again we must refer the reader to the text-books of fundamental theology for a detailed discussion of the criteria of the various degrees of obligation corresponding to the exercise of the magisterium.71

It is worth noting that Rahner categorizes the teachings of Roman congregations as part of the pope’s ordinary magisterium. He notes that the non-definitive teachings of popes and congregations “vary widely” in their authorititative weight, but does not indicate how the weight of a specific teaching can be determined.

**Edward Schillebeeckx**

Edward Schillebeeckx, O.P., was born in Antwerp in 1914. He taught dogmatic theology at the Dominican Institute of Leuven and then at the Catholic University of Nijmegen. During the Council, he served as a *peritus* for Cardinal Bernardus Alfrink, the Archbishop of Utrecht. He died in 2009.

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Like Rahner, Schillebeeckx supported the principle that a council should attempt to reach unanimity even when this attempt necessitates compromise. This is even more significant because he strongly held a “progressive” stance on collegiality, and was not always happy with the content of the compromises that the Council achieved (as will be seen in this section).

Nonetheless, in December 1964 he addressed an essay to those in Belgium who agreed with his views on collegiality, and attempted to calm their outrage at the compromises made during the last week of the third session, especially those which appeared in the *Nota explicativa praevia*.

He wrote:

One cannot say that the majority failed to take account of the rights of the minority. Both in the dogmatic constitution *On the Church* (even apart from the explanatory note) and in *On Revelation* they certainly made concessions and abandoned higher aspirations for the sake of the minority, sometimes after an admirable war of attrition.... On both sides there were conflicts of conscience, but naturally for the minority these were deeper and more painful, because they believed that the majority undermined doctrines already dogmatically defined, while the latter wanted only to bring out facets of the life of faith that were not yet officially recognized....

In keeping with sound theological and pastoral customs (to which there have been exceptions, always with unhappy consequences), all councils of the Roman Catholic Church throughout church history have rightly taken the view that in matters of faith in which a respectable minority continues to place a veto, the matter needs to mature and should not be forced. Then one focuses on settling only that which already possesses a virtually total consensus.... But in weighty matters of faith, no conclusion should be obtained on the basis of the democratic principle of “fifty percent plus one” or by a two-thirds majority. The Church is indeed more than a Council!\(^72\)

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\(^{72}\) My translation. Original text: “Men kan niet zeggen, dat de meerderheid geen rekening heeft gehouden met de rechten van de minderheid: zowel bij de dogmatische constitutie *Over de Kerk* (ook los van de *verklarende nota*) als bij die *Over de Openbaring* had men wel degelijk terwille van de minderheid water bij de wijn gedaan en hogere aspiraties laten varen, soms na een bewonderenswaardige uithoudingsvermogen.... Aan weerszijden ging het om gewetensconflicten, maar bij de minderheid lagen deze uiteraard dieper en pijnlijker, omdat zij van mening was dat de meerderheid de reeds dogmatisch bepaalde gegevens, terwijl deze laatste alleen maar nog niet officieel erkende facetten van het geloofsleven naar voren wilde brengen.... Naar gezond-theologische en kerkelijk-pastorele gewoonte (waarop wel uitzonderingen zijn geweest, steeds met droevige gevolgen) hebben alle concilies van de Rooms-katholieke Kerk zich in de loop der kerkgeschiedenis terecht op het standpunt gesteld, dat men in geloofszaken waarbij een respectabele minderheid een zwaar veto blijft stellen, de kwestie moet laten rijpen en niet mag forceren. Men legt dan slechts datgene bepalend vast waarover praktisch volledige eensgezindheid bestaat.... Maar in zwaarwichtige geloofskeuzes drijft men geen beslissing door op grond van het democratisch beginsel van ‘de helft plus één’ of van een tweedegraadse meerderheid. De Kerk is trouwens méér dan een concilie!” (Emphasis in
Schillebeeckx’ evaluation of the Nota is interesting. He points out that many bishops did not consciously take it into account: “Although voting was officially and juridically coupled with the ‘explanatory note,’ remarkable things have taken place in the minds of the voters. Questioned individually on the significance of their vote, many council fathers replied that they had voted for chapter III as such, without the slightest intentional reference to the explanatory note.”\(^\text{73}\) Yet he himself treats the Nota as an essential companion to the text of Lumen gentium, going so far as to state that “if the third chapter of the Constitution on the Church on the Church should have been approved without the accompanying note, then the Council would have approved an ambiguous text.”\(^\text{74}\) Moreover, he asserts that some members of the Doctrinal Commission saw tactical advantages in a deliberately equivocal text:

Read and study the third chapter of the Constitution, without the explanatory note, and it will quickly become clear.... The vague openess deliberately left in the schema was exposed by that note. By carefully reading the two texts, this invariably becomes more evident: the note stresses what the Constitution itself says, but without the diplomatic vagueness in which the text was shrouded.

A month before the “last week,” at a press conference for journalists in Rome I stated that they should be under no illusions regarding episcopal collegiality “according to the Second Vatican Council,” and that there should be a Third Vatican Council to approve papal collegiality (i.e., that the pope is required in conscience – at his discretion, of course – to take into account the world episcopate as accurately as possible). Even so, bishops and theologians were talking about collegiality in a sense that is nowhere reflected in the schema. But the minority – who were not stupid either! – understood well that this diplomatic vagueness in the schema was to be interpreted after the council in the widest

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possible sense, although the doctrinal commission had not expressly intended nor formulated this in the text itself.

The minority was not against collegiality as literally formulated in the text, but against the optimistic perspective that the majority of the doctrinal commission wanted to let resonate therein, deliberately vague and somewhat too diplomatically, without articulating it in the text. Even Congar had long ago objected to a conciliar text deliberately kept vague so that it can be interpreted equivocally. A theologian from the doctrinal commission – to whom I had already complained about the “minimalism” on papal collegiality during the second session – told me reassuringly, “We say it diplomatically, but after the Council we will draw the implied conclusions.” I found this to be unfair then, and indeed did not believe in such a conciliar interpretation, whereby one group of voters would take no notice of papal collegiality and the other group would imply it! There should have been either a clear text in which a maximalism (regarding collegiality) was formulated unambiguously, or a clear text in which the older minimalist view (which the schema expressly articulates) was stripped of its equivocal vagueness that concealed the actual problem.  

Some who came to reject the Council as dishonest and manipulative would cite Schillebeeckx’ inside account of these maneuvers as a kind of smoking gun.  

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My translation. Original text: “Ik zou plompweg kunnen antwoorden: leest en bestudeert u dan zelf het derde hoofdstuk van de Constitutie, los van die verklarende nota, en het wordt u na een uur duidelijk.... De vage openheid die het schema zelf opzettelijk had gelaten, werd door die nota blootgelegd. Bij herlezing van de twee teksten wordt het steeds evident: de nota onderlijnt datgene wat de Constitutie zelf zegt, maar dan zonder de diplomatieke vaagheid waarin de tekst was gehuld. Een maand vóór de ‘laatste week’ heb ik in een persconferentie aan de journalisten te Rome gezegd, dat zij zich geen illusies mochten maken over de bisschoppelijke collegialiteit ‘volgens het tweede Vaticaans concilie’ en dat er nog een derde Vaticaans concilie zou moeten komen, om de pauselijke collegialiteit goed te keuren (nl. dat de paus in geweten is verplicht, uiteraard naar eigen discretie, zo zuiver mogelijk rekening te houden met het wereldepiscopaat). Bisschopp en theologen bleven nochtans over de collegialiteit spreken in een zin die nergens in het schema tot uiting komt. Maar de minderheid – ook niet dom! – begreep wel, dat deze diplomatieke vaagheid van het schema ná het concilie zou geïnterpreteerd worden in de maximale zin, al had de leerstellige commissie dit dan niet uitdrukkelijk bedoeld noch in de tekst zelf geformuleerd. De minderheid was niet tegen de collegialiteit zoals de tekst die letterlijk formuleerde, maar wel tegen het hoopvolle perspectief dat de meerderheid van de leerstellige commissie bewust vaag en wat al te diplomatiek erin wilde laten meeklinken, zonder het in de tekst te formuleren. Zelfs Congar had reeds lang te voren bezwaren gemaakt tegen een bewust open gehouden concilietekst die als dubbelzinnig kan geïnterpreteerd worden. Een theoloog uit de leerstellige commissie aan wie ik reeds tijdens de tweede sessie klaagde over het ‘minimalisme’ aan pauselijke collegialiteit in het nieuwe schema, zei me geruststellend: ‘we zeggen het diplomatiek, maar na het concilie trekken we de geïmpliceerde conclusies.’ Ik vond dit toen unfair en geloofde trouwens niet in zulk een concilieinterpretatie, waarbij de ene categorie stemmers de pauselijke collegialiteit zou negeren en de andere categorie zou impliceren! Er had ofwel een duidelijke tekst moeten zijn waarin het maximalisme (wat de collegialiteit betreft) ondubbelzinnig werd geformuleerd, ofwel een duidelijke tekst waarin de eerder minimalistische opvatting (die het schema uitdrukkelijk formuleert) wordt ontstaan van haar dubbelzinnige vaagheid-door-verzwijging van het eigenlijke probleem.” (Emphasis in original. The original is one paragraph but I have broken it up in the text above.) Ibid., 158-59.

For example, see Atila Sinke Guimarães, *In the Murky Waters of Vatican II*, trans. José A. Schelini (Metairie, LA: MAETA, 1997), 97n15.
The text quoted above indicates the great weight that Schillebeeckx assigns to the Nota explicativa praevia. In his view, Lumen gentium without the Nota is equivocal on collegiality, while Lumen gentium with the Nota is unambiguous, and the latter is the correct interpretation. Thus it is no longer legitimate to interpret Lumen gentium without including the Nota explicativa praevia.

Others

As mentioned earlier, Karl Rahner argued that compromises in conciliar documents are a positive result of the quest for unanimity. Two alternative viewpoints on conciliar ambiguity should be mentioned here.

René Laurentin (1917-) of the Catholic University of Angers served as a consultant for some of the preparatory commissions, and then as a peritus during the Council. He contributed to the chapter of Lumen gentium on Mary in the Church. He argued that the Vatican II documents had been severely weakened by ambiguity:

We have just reached another limitation of Vatican II. Certain difficult questions were solved only half-way, or even less. Some formulas were cleverly calculated to keep alive contrary opinions. And a certain vagueness results. [He cites some examples]... Here and elsewhere, ambiguity has been cultivated to escape inextricable oppositions. One could extend the list of formulas which united opposing tendencies in such a way that they could be seen with two faces, like those photographic gimmicks where you can see pictures of two different people depending on the angle you look at the image. Indeed, Vatican II has already given rise to many controversies, and will give rise to many more.\footnote{My translation. Original text: “Nous venons de toucher une autre limite de Vatican II. En certains cas difficiles, les solutions sont restées à mi-chemin, ou moins encore. Des formules ont été savamment calculées pour laisser la vie sauve aux opinions contraires. Et il résulte un certain flottement... Ici et ailleurs l’ambiguïté a été cultivée pour échapper à des oppositions inextricables. On pourrait allonger la liste de ces formules qui ont rallié les tendances opposées parce qu’elles pouvaient être regardées sous deux faces, à la manière de ces ‘gadgets’ photographiques où l’on voit le portrait de deux personnes différentes selon l’angle de l’image avec le regard. Vatican II a déjà donné lieu et donnera encore lieu de ce fait à bien des controverses.” René Laurentin, Bilan du...}
By contrast, Leo Jozef Suenens (1904-1996), Primate of Belgium and one of the most important prelates at the Council, argued that to find the true meaning of a conciliar document one has to identify the “underlying thought of the majority,” which is often concealed by the final language of the documents. As a result of compromises designed to achieve unanimity, “the texts are sometimes far richer in what they imply than in what they affirm.” In the future, “it will be the task of men moved by the Holy Spirit to draw out all the vital riches contained in the conciliar texts – and, for that matter, in all that was said both inside and outside the Council hall, but which has become an integral part of Vatican II.”

**Vatican and Episcopal Documents, 1966-1988**

Before turning to the views of theologians in the 1970s and 1980s, it will be useful to review key passages in various magisterial documents issued during this period.

**Statement of West German Bishops (1967)**

In September 1967, the Secretariat of the German Bishops’ Conference (representing West Germany) printed a statement regarding how Catholics were to respond to magisterial teachings. This statement was not publicly published, but it was circulated to the clergy of each diocese and in some other circles.

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The circular frankly asserts that “in the exercise of its official function this teaching authority of the Church can, and on occasion actually does, fall into errors.” It explains that while error is impossible in infallibly taught doctrines, it remains a possibility “in non-defined statements of doctrine,” and that such statements “may differ widely among themselves in their degree of binding force.” Despite the possibility of error, in a typical situation Catholics are bound to hold to the Church’s teachings; this situation “is analogous to that of a man who knows that he is bound to accept the decision of a specialist even while recognizing that it is not infallible.” However, if a Catholic in good conscience concludes that such a teaching is in error, he or she is not required to accept it. The statement cautions, however, that the bar for such a decision is rather high – “subjective presumptuousness and an unwarranted attitude of knowing better will be called to account before the judgment-seat of God.” Moreover, dissenting opinions should not be expressed “in preaching or in catechesis.”

Despite its assertion that non-definitive statements “differ widely” in their weight, it does not explain the reasons for this variance, nor how the weight of a specific teaching might be determined.

**Responses by episcopal conferences to *Humanae vitae* (1968)**

Pope Paul VI issued his encyclical on the regulation of births in July 1968, and significant public dissent followed in much of Europe and North America. During the remainder of 1968, several statements were issued by national bishops’ conferences that discussed, among other

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80 Ibid., 85, 86, 87.

85-88. Although this document was distributed to very few individuals at the time, it was eventually published in *Dokumente der Deutschen Bischofskonferenz, Band I: 1965-1968* (Cologne: J. P. Bachem, 1998), 325-350. As I have been unable to obtain a copy of this volume, I am using the version that appears in Rahner’s article.
topics, the rules governing dissent. While varying in tone, the statements by the hierarchies of Belgium, West Germany, Austria, Canada, Scandinavia, and Switzerland agreed that dissenting from the teaching of *Humanae vitae* was possible in good conscience, provided that one’s conscience has been properly formed, and appropriate respect and consideration has been accorded to the teaching of the encyclical. The Austrian and Scandinavian statements explicitly stated that the teaching of the encyclical was not infallible. Beyond this, however, none of the statements discussed its specific level of authority.  

**Mysterium Ecclesiae (1973)**

In 1973, the Congregation for the Doctrine of the Faith released *Mysterium Ecclesiae* (*Declaration in Defense of the Catholic Doctrine of the Church Against Certain Errors of the Present Day*). It clarified that the “hierarchy of truths” discussed in *Unitatis redintegratio* 11 was not the same as the ranking of Catholic doctrines by their level of authority. A doctrine that is not central to the “foundation of the faith” may have been taught definitively. Presumably (although this was not stated) the converse was equally true: a doctrine that is central to the faith might not yet have been taught in a definitive manner by the Church. 

This document also discussed in detail the limitations of human language in the Church’s doctrinal teachings, and what God’s guarantee of truth did and did not imply for definitive

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81 These statements are quoted in Charles Curran, Robert E. Hunt, and the “Subject Professors,” *Dissent In and For the Church: Theologians and Humanae Vitae* (New York: Sheed & Ward, 1969), 198-201.

teachings. However, it did not address the different weights of magisterial teachings.

**1983 Code of Canon Law**

The revised Code of Canon Law discussed non-definitive teachings and the response owed to them in canons 752 and 753.

Can. 752. Although not an assent of faith, a religious submission of the intellect and will \( [\text{religiosum intellectus et voluntatis obsequium}] \) 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.

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 \( [\text{religioso animi obsequio adhaerare}] \) to the authentic magisterium of their bishops.

As can be easily seen, the language of these two canons closely follows that of *Lumen gentium* 25, and thus they add nothing new to our understanding of different weights of magisterial texts.

**The Extraordinary Synod of 1985**

At the conclusion of the Extraordinary General Assembly of the Synod of Bishops in the Fall of 1985, a report was released that included some rules for the interpretation of the Second Vatican Council. These rules pointed to a holistic interpretation that avoided privileging one

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83 Ibid., § 5.
84 *Code of Canon Law: Latin-English Edition*, new English trans., Canon Law Society of America (Washington, DC: Canon Law Society of America, 1998). The word “obsequium” is translated here as “submission”; different interpretations of this word will be considered later in this dissertation.
85 The development of these two canons, and their derivation from *LG* 25, is described in Blyskal, “Ordinary Ecclesiastical Magisterium,” 147-88.
passage above all the others, separating “spirit” from “letter,” or separating this council from the previous tradition:

The theological interpretation of the conciliar doctrine [1] must show attention to all the documents, in themselves and in their close interrelationship, in such a way that the integral meaning of the council’s affirmations – often very complex – might be understood and expressed. [2] Special attention must be paid to the four major constitutions of the council, which contain the interpretative key for the other decrees and declarations. [3] It is not licit to separate the pastoral character from the doctrinal vigor of the documents. [4] In the same way, it is not legitimate to separate the spirit and the letter of the council. [5] Moreover, the council must be understood in continuity with the great tradition of the church, [6] and at the same time we must receive light from the council’s own doctrine for today’s church and the men of our time. The church is one and the same throughout all the councils.86

George Lindbeck

George Lindbeck (1923-) of Yale Divinity School is a Lutheran theologian, and his book The Future of Roman Catholic Theology grew out of a series of lectures given at a Lutheran seminary in 1966.87

Lindbeck begins by asking about the authority of the teachings of Vatican II. While none of them are “dogmas in the full sense,” certain key teachings are “likely to have the practical force of dogmas, at least in the sense that no responsible Catholic theologian or spokesman will publicly deny them or suggest that his church might later reverse them.” In this category he includes the Council’s “decisions in favor of religious liberty, of the sacramentality and


collegiality of the episcopacy, and of the ‘general priesthood’ of all believers.”

Vatican II’s other teachings are “binding in various degrees.” Their weights are affected by several factors, such as the distinctions between dogmatic constitutions, other constitutions, declarations, and decrees. But the factor which most interests Lindbeck is the distinction between old and new. The conciliar documents are often ambiguous – “even deliberately ambiguous” – in passages which resulted from compromises between old and new positions. This leaves them open to “both rigidly ‘conservative’ and radically ‘progressive’ exegesis.” To Lindbeck, the new passages are more important. He offers two reasons for this. First, the newer theology was the fruit of the conciliar majority. Second, the history of “past councils and doctrinal pronouncements” reveals that their impact resulted from the novel aspects of their teaching.

In the body of his book, he identifies several teachings from Vatican II which were novel (or newly rediscovered), repeatedly using his principle to argue that these teachings are the true heart of Vatican II.

Since its publication, Lindbeck’s thesis has been adopted by at least one Roman Catholic

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89 Ibid., 3–4, 7. Lindbeck offers several examples to justify his claim that conciliar and papal teachings have made the greatest impact through their novel aspects. But there remains a missing or unstated premise in his argument: supposing that he knows that, in the long run, one conciliar teaching will have a greater historical impact than another, why does Lindbeck conclude that the former is theologically more important than the latter? Is this because he believes that those teachings which perdure through time are more likely to be true (perhaps because of God’s guarantees to his Church)? Or is he merely saying that as a practical matter, those teachings that perdure will be more interesting to future theologians, even if they do not enjoy a greater assurance of truth than those that are forgotten?

90 For examples, see ibid., 9, 27, 32-33, 65, 88, 111-12, 117.
In 1970, Archbishop Marcel Lefebvre, an outspoken member of the “minority” at Vatican II and a critic of many conciliar teachings and postconciliar changes, founded the Priestly Society of St. Pius X (SSPX) to preserve a form of traditional Catholicism. Lefebvre’s claim that Vatican II was in some sense invalid led to Yves Congar’s rebuttal: “Vatican II wasn’t perfect, in the eyes of either the ‘conservative’ elements or of the ‘progressive’ elements; but, more than any other ecumenical council in history, it had all the guarantees of authenticity.” Congar points out that Vatican II included bishops from the whole Catholic Church, that the progressive majority made many concessions to the conservative minority, and that the final votes were nearly unanimous. Indeed, Lefebvre himself voted yes on the final versions of most of the documents. Thus Vatican II “was far more heedful of its minority which was conservative, than Vatican I had been.” Congar, in line with his 1965 essay discussed above, states that Vatican II “didn’t produce any dogmas in the strict sense of the word,” but it was no less led by the Holy Spirit than earlier councils had been.

Lefebvre’s primary criticism of the Council, however, was not that it lacked the formal

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92 The official name of this society is “Fraternitas Sacerdotalis Sancti Pii X,” and therefore it is abbreviated FSSPX in Latin. However, in English-language documents the abbreviation is usually shortened to “SSPX,” even when the word “Priestly” is retained in the name.
94 Ibid., 66-67.
elements of ecumenicity, but that its teachings were inconsistent with the tradition of the Church, which is the ultimate test of Catholicity. Congar quotes a “Profession of Faith” made by Lefebvre in 1974:

We adhere whole-heartedly, and with our whole soul, to Catholic Rome, Guardian of the Catholic Faith and of the traditions necessary to maintain that Faith, to Eternal Rome, Mistress of Wisdom and Truth. On the other hand, we refuse and have always refused to follow the Rome of neo-modernist and neo-Protestant tendencies which clearly manifested themselves in the Second Vatican Council and after the Council in all the reforms which issued from it.... No authority, not even the most elevated in the Hierarchy, can compel us to abandon or diminish our Catholic Faith, clearly expressed and professed by the Magisterium of the Church for nineteen centuries.  

Congar agrees with some of Lefebvre’s specific claims. He agrees that some teachings of Vatican II differed from previous magisterial teachings. Regarding Dignitatis humanae (Declaration on Religious Liberty), Congar states, “It cannot be denied that a text like this does materially say something different from the Syllabus of 1864, and even almost the opposite of propositions 15 and 77-9 of that document.” But he argues that the difference is explained by way that political and social circumstances had changed in the century between the documents. He does not mention what authoritative weight should be accorded to either document, nor whether such weights change with the passage of time.

However, Congar rejects Lefebvre’s argument from Tradition against the Council’s validity:

Mgr Lefebvre never stops invoking tradition.... For him, tradition is what he calls “Eternal Rome,” “the Mass as it has always been” – in other words, Rome up to and excluding Paul VI, up to and excluding the Missal of 1969.


96 Congar, Challenge to the Church, 44 (emphasis in original).
... [Lefebvre writes:] “The Catholic Church is a Mystic Reality which exists not only in space, on the surface of the earth, but also in time and in eternity. In order for the Pope to represent the Church and be the image of Her, he must not only be united to Her in space but also in time, the Church being essentially a living tradition.” Perhaps a man who has published three books on tradition might be allowed to italicize these last words and put these questions:

Did life, of which the Holy Spirit is the supreme author, cease in the Church in 1962? Is life lacking in the Catholic communion ratified by the 2,500 bishops who surround the successor of Peter? Securus iudicat orbis terrarum said St Augustine in a well-known text: the whole universe is a good criterion....

Let us be fully catholic Catholics together with, yes, the eternal Church – that of Vatican II like that of Trent or Nicaea, the Church of Paul VI like that of Pius V like that of the Pope St Marcel (who died in 309)! 97

Whereas Lefebvre’s argument focuses on material tradition (the content of the teachings handed down by the Church, some of which were altered or updated at Vatican II), Congar’s rebuttal focuses on formal tradition (the act of handing down, preserving, and explaining the Church’s teachings, especially by the worldwide episcopate, a process which the Council Fathers and the postconciliar popes performed in unbroken continuity with their predecessors).

Yves Congar’s thought on reception is relevant here. In a seminal article published in 1972, he analyzed the concept of reception, a term which includes the recognition by the whole Church or part of the Church of the authority of Church leaders, the authority of councils, and the authority of doctrines. In this article, Congar discusses how the early councils were received, either by subsequent councils or by other means, by those bishops not present as well as the whole Christian faithful. Indeed, around sixty bishops in the minority faction at Vatican I left the Council before the final vote, and subsequently received its decrees as valid after they had been

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97 Ibid., 47–49 (emphasis in original).
convinced the “whole Catholic Church” had received them.  

Congar does not see reception as a juridical act. In other words, it is not as if conciliar decrees are valid because they are voted on by the council fathers and subsequently ratified by Christendom. Juridically, a council is an act of the college of bishops and the pope. Reception is the recognition by the Christian faithful that a putative council was indeed a truly Spirit-protected council. Therefore, reception should not be compared to the procedural aspects of a council (such as the casting of votes); rather, it is comparable to the process by which the bishops gathered in council determine what is in fact Christian truth.  

Congar uses the term “non-reception” to designate the case in which a teaching or event is not accepted by part or all of the Church. He cites as examples the non-reception of the Council of Chalcedon by the monophysites; the non-reception of the filioque by the East; the non-reception of the attempted reunion at the Council of Florence by the East; the non-reception of John XXIII’s apostolic constitution Veterum sapientia (1960), which decreed that Latin should be used to instruct seminarians; and the non-reception of papal infallibility and Humanae vitae “by a number of Catholics.”

He also discusses the concept of “re-reception,” which refers to a teaching that was received in one generation being put into a new context (but not rejected) by a subsequent generation. As an example, he cites the re-reception of Chalcedon by contemporary theologians with new Christological views. Another example is the way that Vatican II preserved the

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99 Ibid., 64-66, 68, also 53-54.

100 Ibid., 57-58.
dogmas of Vatican I, while at the same time framing the primacy of the pope in the context of his position within the college of bishops. “It is possible, analogously, to speak of a ‘re-reception’ of Vatican I by Vatican II and, again, in a new context and by means of a renewed reading such as that which allowed the minority of Vatican I to be represented as the *avant-garde* of Vatican II.”

Congar does not treat reception as a matter of degree. He gives examples of magisterial teachings (definitive and non-definitive) that were received, and examples of those that were not. But he never suggests that a teaching might be *partially* received, or that the *weight* of a teaching can be altered from one positive value to another by its reception. The closest he comes to suggesting this is in his discussion of how some local councils later acquired universal value due to their Church-wide reception. However, as will be seen in Chapter Three, later theologians will link Congar’s concept of reception with the question of the authoritative weight of individual teachings.

**Piet Fransen**

Piet Fransen, S.J., was born in Tournai, Belgium, in 1913. He earned his doctorate at the Gregorian, writing his dissertation on the interpretation of two canons from the Council of Trent’s decree on marriage. He taught at the Jesuits’ school of theology near the Catholic University of Leuven, and then at the University itself. In addition, he substituted for Karl Rahner at Innsbruck when Rahner was at the Council, teach there as a visiting professor in later

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101 Ibid., 49.
102 Ibid., 52-53.
years. From 1969 until his death in 1983 he headed the English-language division of the Louvain theological faculty.

During his academic career, Fransen wrote several articles that focused on the interpretation of conciliar texts. Although his focus was on the documents of general councils, in many cases his principles would apply, *mutatis mutandis*, to papal teachings as well.

Fransen echoes many of the principles that were discussed in Chapter One of the present work. A pope has no formal authority when teaching as a private person. Even though dogmatic definitions are guaranteed to be true, they are still an attempt to present divine truths in human language and therefore provide only a glimpse of God’s mystery, not a full picture. There is never a guarantee of infallibility to teachings addressed only to one portion of the universal Church: neither the teachings of a regional council nor the teaching of a pope to the local Church of Rome can be assumed to be definitive; for example, John Paul II’s teaching during his Wednesday general audiences is not binding on the universal Church, even though he is aware that this preaching will later be disseminated to a wider audience.  

In a dogmatic definition, “only the central assertion in a decree or a canon is defined,” not the arguments offered for it from Scripture, tradition, or reason. Then, what authority do such reasons and *obiter dicta* possess? On this question, Fransen is unclear. At one point he states that while these “do not have the same authority” as the conclusion they are used to justify, they nonetheless “give expression to the pastoral witness of the bishops in matters of faith, and so


belong to the acts of the ordinary magisterium, which, even in a Council, remains fallible”; they do involve magisterial authority, but even when the conclusion is taught infallibly, the reasons given possess an authority that “is not final, ... may be corrected and even, within certain limits, be called into question.”¹⁰⁵ Yet elsewhere he states that “only the conclusions involve the bishops’ hierarchical authority and belong to their authoritative mission,” which seems to imply that the arguments and *obiter dicta* possess no magisterial authority at all.¹⁰⁶

When making magisterial pronouncements – definitive or otherwise – the bishops are granted no new revelation but merely the assistance of the Holy Spirit. Fransen argues that “‘assistance’ can only be effective for someone who is open to it and who also does something himself. The pope and bishops, naturally, must *do something themselves* before they issue pronouncements. This preparatory work can be summarized as follows: prayer, study and reflection, and because they cannot know everything, consultation.” For this reason, he objects to the facile assumption that a bishop becomes a *doctor* by virtue of his ordination alone.¹⁰⁷

Non-definitive teachings by popes and councils “vary greatly” in their degree of authority. Factors affecting this include “the nature of the matter dealt with, the people addressed, and the nature of the document itself. The primary factor that must be stressed here is the degree of involvement of ecclesiastical authority, the extent to which the Magisterium brings its authority to bear.” Moreover, the type of arguments used to support a conclusion affect the weight of the conclusion: “arguments from faith” give the conclusion more “religious weight” than do


¹⁰⁶ Fransen, “Authority of the Councils,” 53.

¹⁰⁷ Fransen, “Exercise of Authority in the Church Today,” 7-8 (emphasis in original).
arguments from reason alone.\textsuperscript{108}

Regarding the authority of the Roman Congregations, he follows Willem van Rossum and Lucien Choupin in regarding curial decrees – even those of the Holy Office – as prudential statements about the safety of certain doctrines, not about their truth \textit{per se}.\textsuperscript{109} Most of the time this prudence is the most wise choice. However, this tutiorism also has its dangers. Simon Cutinha summarizes Fransen’s view as follows: “There is a tendency in the Catholic church to relegate the safer solution to the status quo ante. Such an attitude would reduce the church to immobility.... According to Fransen, in times of change and crisis ‘the safest solution is often a prudent progressivism tempered by some wise conservatism.’”\textsuperscript{110}

Unlike Congar, Fransen describes reception as a process that not only validates or invalidates putative acts of the magisterium, but also increases or decreases their authoritative weight. Thus some merely regional councils in the first millennium “have a special dogmatic value” because their teachings were so frequently cited by subsequent general councils and popes. Similarly, papal encyclicals vary in their authority, not merely because of variations in “the will of the Pope as expressed in the text of the encyclical,” but also because “the instinct of faith in pastors, theologians and in the faithful leads them to assign greater authority to some

\textsuperscript{108} Ibid., 5-6, 15.


\textsuperscript{110} Simon Marian Cutinha, “The Authority and Interpretation of Ecumenical Councils in the Thought of Piet Fransen, S.J.” (PhD diss., The Catholic University of America, 1988), 207; the internal quotation is from Piet Fransen, “Course Notes for ‘Hermeneutics of the Councils’” (Catholic University of Louvain, 1974-75), 66. According to Cutinha, these notes were “most probably” written out by Fransen himself rather than having been transcribed by one of his students: “Thought of Piet Fransen,” 46n2.
encyclicals rather than to others which seem to sink into oblivion.” Decisions may also sink into oblivion if they are too tightly connected to a particular situation or to one philosophical framework. Different teachings by the same body can be received differently: for example, the Council of Carthage in 418 issued several canons that were “received, even by the Eastern Churches,” and yet their canon on the damnation of unbaptized children was rejected by the universal Church “in the course of centuries.”

To the theological concept of reception, Fransen offers a secular analogy:

One could compare reception to sociologists’ understanding of the slow process of assimilation of concepts and ways of life in human society. However, in the Church the impetus for this assimilation should be the calm guidance by the Holy Spirit, particularly on special occasions, which the Second Vatican Council called “kairos,” the “signs of the times.” The fundamental motivation of every process of reception should be faith, even though other factors may be involved as well.

Although this analogy suggests that reception is a slow process, Fransen also offers a much quicker example when he states that the “teaching of Pius XII on the identity between the Mystical Body and the visible Roman Catholic Church,” often repeated by that pope, was subsequently “ignored by Vatican II and replaced by a new understanding.”

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111 Fransen, “Authority of the Councils,” 63-64 (which does not use the term “reception”); also idem, “Exercise of Authority in the Church Today,” 22.


The process of reception extends beyond the boundaries of the Catholic Church. “The value of the first four Oecumenical Councils, acknowledged as the Gospel in the Patristic era and recognized by most of the Christian Churches, is of course greater than that of Trent or Vatican I, which were not ‘received’ by the East.” Even so, Fransen clarifies that Trent and Vatican I do possess real authority.\footnote{Fransen, “Unity and Confessional Statements,” 279.}

Fransen addresses the issue of dissent from non-definitive teachings in the context of reception. As a result, he sees a wide gulf between the case of one individual dissenting and a broad wave of dissent:

Whenever a moral doctrine of the Church is questioned by solid theologians, by competent moralists, by faithful, and generous, and competent laymen, there is a serious probability that this doctrine should be corrected, made more refined or even changed. Whenever this is not the case, and one chooses to take a lonely road, indifferent to, or even in spite of, the doctrine of the church, one can no longer be sure of walking according to God’s will.\footnote{Piet Fransen, “Freedom of Conscience,” in Intelligent Theology, vol. 3, A Universal Theology, ed. Fransen and T. F. Torrance (Chicago: Franciscan Herald, 1969), 143-44, quoted in Cutinha, “Thought of Piet Fransen,” 211.}

With regard to the interpretation of magisterial texts, Fransen strongly insists on the need to interpret their phrasing in the context of the era, culture, and theological assumptions of the writers. He faults many theologians with mistakenly assuming that once certain words or phrases are used in an authoritative teaching, that “the psychological and historical laws which govern human language” no longer apply to them. In a 1962 essay, Fransen compared this error to the Christological heresy of docetism, and also to the error of reading the entire Bible literally without taking its literary forms into account. In his later writings he calls this error “dogmatic monophysitism.”\footnote{Fransen, “Authority of the Councils,” 66-68 (quote on 67); idem, “Exercise of Authority in the Church Today,” 3-4; idem, “Unity and Confessional Statements,” 274, 278 (where the word is rendered “monophysism”);} He sees this as pervasive throughout the Catholic Church, going so far as to
say that while there is now widespread tolerance of “a large amount of critical hermeneutical studies on the Bible ... it seems unacceptable in our Church to risk establishing the proper hermeneutical rules for the interpretation of the Church’s documents. This curious anomaly ... allows for a greater reverence towards the Church’s statements than towards the doctrine of the Bible, the Word of God.”  

He argues that theologians must recognize the human as well as the divine aspect of magisterial teachings, as the Church’s verbal formulas are translations of divine truths into human language, and the “process of translation is inevitably subjected to many interferences of heredity, of education, of temperament, of socio-cultural inherited meanings and values.”

Some of the projects for which Fransen is best known are applications of this principle. He has published studies of the theological context of the Council of Trent, including the precise ways in which the bishops and theologians at the Council used the words “dogma,” “haeresis,” “fides,” “mores,” and “errare,” and also the theological background and context of Trent’s teaching on Christ’s institution of the sacraments, the impermissibility of divorce in the case of adultery, and the sacramental character of ordination.


Joseph Komonchak (1 of 2)

Joseph A. Komonchak was born in 1939 in Nyack, New York, and was ordained a priest of the Archdiocese of New York in 1963. He received his licentiate in theology from the Gregorian University in 1964 and his doctorate from Union Theological Seminary in 1976. He taught at St. Joseph’s Seminary in Yonkers, New York from 1967 to 1977, and at The Catholic University of America from 1977 until his retirement in 2009.

Komonchak’s ecclesiological writings often focus on the interplay between the Church’s supernatural aspects and sociological aspects. His writings on the magisterium proceed in a similar manner: he distinguishes between the formal authority of the pope and bishops, which stems from their divine mission, and the material authority of their assertions. Thus, “the chief basis on which Catholics are antecedently to trust what pope and bishops teach … is not their personal qualities of learning nor even whatever reasons they give for what they teach, but the fact that they occupy an office whose trustworthiness is sacramentally and spiritually based on the assistance of God.”¹²¹ The key concept here is “antecedent authority”: the formal authority of the Church’s teachers means that when an individual Catholic is aware that the pope or college of bishops are about to issue a new teaching, this teaching can be accorded a certain authority even before its contents are known.

But once its contents are known, both the formal authority of the author and the material authority of the text must be taken into account. An encyclical such as *Humanae vitae* includes

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theological argumentation, and therefore it is fully appropriate for one Catholic to accept its conclusions because he finds its arguments persuasive, and another Catholic to accept its conclusions based on the formal authority of the author. But what of the Catholic who finds the argumentation unpersuasive or even erroneous? In such a case the material authority is lacking, but the author’s formal authority still exists, since the authority of a magisterial teaching is more than just the weight of its theological arguments.  

On the other hand, the authority of the author and the authority of the argumentation cannot be neatly separated. The pope receives no new revelation, and therefore he himself must have become convinced of the truth of this doctrine through some process, presumably as the result of arguments from Scripture, tradition, or reason. Therefore, weak arguments will inevitably undermine trust in even the formal authority of a teaching. Komonchak writes:

> The intrinsic necessity of theological reasoning in the magisterial process should also mean that it is not illegitimate to ask of an authorized teacher: “Why do you teach this? How did you arrive at this conclusion? How is it related to the central truths of the gospel?” And it is not the destruction of fallible authority to allow that the answers to such questions be tested in the public process of ecclesial discernment by which the whole Church seeks to understand and apply the gospel.

That is not to say that reasons need to be offered in every situation, but there needs to be a reasonable expectation that reasons could be produced if needed, and in disputed matters they are often essential. Komonchak warns against both extremes in this matter. At one extreme, the Catholic faithful might hold “a suspicious attitude” towards the magisterium, demanding evidence and reasons for every teaching instead of having a general “attitude of trust.” At the

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other extreme, Church teachers might exhibit an “unwillingness or inability to supply reasoned justifications of decisions.” And one of the dangers of the latter is that it may “lead to the suspicion that no reasons lie behind the decisions.” At that point, the lack of plausible arguments can completely vitiate the formal authority of the magisterium.\(^\text{124}\)

In such cases, private disagreement with a magisterial teaching is completely appropriate, as even several of the manualists (he cites Lercher and Schlagenhaufen) stated. Although a non-definitive magisterial teaching enjoys “a presumption in favor of its truth,” assent to this teaching can be suspended if “serious, personally convincing arguments lead a person to believe that the general presumption is not verified in this instance.” The issue of public dissent is more complicated, but Komonchak points out that even some manualists saw the role of individual disagreement as part of a process of Church-wide discernment – a process which would be much more difficult if done privately. Moreover, in the present era (1969) it is unlikely that private debates will remain secret anyway.\(^\text{125}\)

In light of the interplay between formal authority and the authority of arguments, Komonchak sees an advantage that conciliar acts of teaching have over papal acts. The conciliar process is more in harmony with the way in which Catholic doctrine traditionally unfolds, develops, is received, and perhaps becomes definitive. A council – at least ideally – involves “open and free debate, the pitting of argument against argument, compromise and conciliation,” resulting in moral unanimity on a final decision. This process often creates “the conditions for the reception of its determinations” by the whole Church. By contrast, a pope settling a disputed

\(^{124}\) Komonchak, “Authority and Magisterium,” 111.

\(^{125}\) Komonchak, “Ordinary Papal Magisterium,” 73-75, 80-84 (quotations from 80).
issue on his own fits a different paradigm: “the figure of the lonely pontiff agonizing over controverted issues in the privacy of his chambered conscience.” According to Komonchak, the latter scenario does not make clear the relationship between a theological conclusion and the arguments supporting it.126

Some other points made by Komonchak should be briefly mentioned here. As mentioned earlier, the first draft of Vatican II’s schema on the Church repeated *Humani generis*’ statement that public debate on a contentious issue must cease when the pope weighs in on the question, but this statement was subsequently removed as the schema was revised. Komonchak mentions this fact in three different passages, treating it as significant: does he see this as evidence that the Council Fathers deliberately rejected this thesis after some consideration? If so, he exhibits some hesitation about making this argument, adding “for what it’s worth” at one point.127

Komonchak also discusses the reception of councils, including the re-reception of conciliar teachings by a later generation, such as “Ephesus in the light of Chalcedon” and “Vatican I in the light of Vatican II.” Reception can also gradually elevate some teachings above others: “[T]he Church has discriminated among the 235 papal encyclicals,” some of which “come to possess enduring value, some of which prevail for a while but are later forgotten, some of which seem to fall stillborn from the press.” This winnowing of encyclicals has not been “directed by the hierarchy,” but rather has been the work of the whole Church.128

126 Komonchak, “*Humanae Vitae* and its Reception”, 231-32.
128 Komonchak, “*Humanae Vitae* and its Reception”, 236-37.
In an address given to a workshop for bishops in Dallas in 1984, Cardinal Joseph Ratzinger, the Prefect of the Congregation for the Doctrine of the Faith, offered clear, explicit rules for determining the weight of non-definitive teachings:

As I said in my opening talk, the teaching of the council on the levels of assent is very important for us here. *Lumen Gentium* (no. 25) gives three criteria for deciding: the character of the document, the frequency of repetition of the teaching and the manner of speaking....

When the church teaches something continually, that is more important than something she has taught only occasionally or has ceased to emphasize at all. Finally, the document itself will reveal diverse manners of speaking within the same composition. Not every concept in a papal document of definition [*sic*] is being defined infallibly. It seems to me that this distinction will help a great deal. If I say that the position of the church against artificial contraception has had a continuous history for the last 50 years, it simply cannot be maintained that it is a position of no consequence and less importance. Further, to make the observation that a particular statement is not infallible is not all that helpful, especially if the statement itself never pretended to be so. Just because a statement is not the most solemn form possible does not render it theologically insignificant to serious Catholic theological study.¹²⁹

Not only does Ratzinger here expand on the criteria listed in *Lumen gentium*, he also mentions that a text that contains an infallible definition may contain additional doctrines that are not being defined. Moreover, a long and “continuous history” increases the weight of a teaching: in this passage, he is clearly referring to a doctrine that has been taught over a long period by several popes or even councils.

The interpretation of Vatican II is a frequent topic in Ratzinger’s writings. One theme he often revisits is the symmetry between the erroneous interpretations of the progressive and

conservative extremes, both of which, in his view, set Vatican II in opposition to the preconciliar magisterium. In an essay written in 1975, he asserted, “It is impossible (‘for a Catholic’) to take a position for Vatican II but against Trent or Vatican I. Whoever accepts Vatican II, as it has clearly expressed and understood itself, at the same time accepts the whole binding tradition of the Catholic Church, particularly also the two previous councils.... It is likewise impossible to decide in favor of Trent and Vatican I, but against Vatican II. Whoever denies Vatican II denies the authority that upholds the other two councils and thereby detaches them from their foundation.” Indeed, “with regard to its contents, Vatican II is in the strictest continuity with both previous councils and incorporates their texts word for word in decisive points.”

In contrast to these views, he argues for “a continuity that allows neither a return to the past nor a flight forward, neither anachronistic longings nor unjustified impatience,” and says this continuity can be found by “return[ing] to the authentic texts of the original Vatican II.”

Ratzinger see two kinds of errors on the part of some on the “left.” Some locate the value of the Council solely in its novel aspects.

[The true council] ... already during its sessions and then increasingly in the subsequent period, was opposed by a self-styled “spirit of the Council,” which in reality is a true “anti-spirit” of the Council. According to this pernicious anti-spirit [Konzils-Ungeist in German], everything that is “new” (or presumed such: how many old heresies have surfaced again in recent years that have been presented as something new!) is always and in every case better than what has been or what is. It is the anti-spirit according to which the history of the Church would first begin with Vatican II, viewed as a kind of point zero.

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132 Ibid., 34-35. The second bracketed phrase is by Messori; the remainder of the text is Ratzinger. Ratzinger uses the terms “right” and “left” to describe different ideological positions on page 31; Messori encloses these terms in quotation marks.
Others identify a trajectory that points from the Council’s early texts to its later texts such as *Gaudium et spes*, and take the supposed destination of this trajectory as their goal:

An interpretation of the Council that understands its dogmatic texts as mere preludes to a still unattained conciliar spirit, that regards the whole as just a preparation for *Gaudium et spes* and that looks upon the latter text as just the beginning of an unswerving course toward an ever greater union with what is called progress – such an interpretation is not only contrary to what the Council Fathers intended and meant, it has been reduced *ad absurdum* by the course of events. Where the spirit of the Council is turned against the word of the Council and is vaguely regarded as a distillation from the development that evolved from the “Pastoral Constitution,” this spirit becomes a specter and leads to meaninglessness.\textsuperscript{133}

Conversely, some on the “right” wish the Council to be annulled, or demand “a revision that would be tantamount to a retraction.”\textsuperscript{134} But Ratzinger insists that there can be no turning back the clock to the era of the *Syllabus of Errors*. “The task is not, therefore, to suppress the Council but to discover the real Council and to deepen its true intention in the light of present experience. That means that there can be no return to the *Syllabus*, which may have marked the first stage in the confrontation with liberalism and a newly conceived Marxism but cannot be the last stage.”\textsuperscript{135}

Despite his emphasis on the “continuity” between Vatican II and earlier councils, Ratzinger makes it clear that Vatican II did not agree with preconciliar teaching in all respects. In a provocative turn of phrase, Ratzinger refers to *Gaudium et spes*, along with the Council’s declarations on religious liberty and non-Christian religions, as “a revision of the Syllabus of Pius IX, a kind of countersyllabus.” *Gaudium et spes* represents a change in attitude from confrontation with the world to seeking peace with it: “[T]he text serves as a countersyllabus

\textsuperscript{135} Ratzinger, *Principles of Catholic Theology*, 391.
and, as such, represents, on the part of the Church, an attempt at an official reconciliation with the new era inaugurated in 1789.”

Finally, Ratzinger makes it clear that, while the Council’s authority *de jure* arises from the actions of the bishops who produced its documents and the pope who approved them, the council’s authority *de facto* depends on its future reception. In 1973 he was optimistic about this, stating that the Council’s true “heritage” was still “awaiting its hour. And it will come; of that I am certain.” In a later writing he seemed less optimistic, writing that “the real reception of the council has not even begun,” and indeed that it was not guaranteed:

Not every valid council in the history of the Church has been a fruitful one; in the last analysis, many of them have been just a waste of time. Despite all the good to be found in the texts it produced, the last word about the historical value of Vatican Council II has yet to be spoken. If, in the end, it will be numbered among the highlights of Church history depends on those who will transform its words into the life of the Church.

In the year he wrote this, Cardinal Ratzinger left the Archdiocese of Munich for Rome, where he would spend the next thirty-one years as CDF Prefect and as Pope Benedict XVI. His magisterial writings will be treated in Chapter Three.

**Giuseppe Alberigo**

Giuseppe Alberigo (1926-2007), professor of church history at the University of Bologna, is probably the most renowned historian of Vatican II. In his writings, there are only a few

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136 Ibid., 381-82.
138 Ratzinger, *Principles of Catholic Theology*, 390 (first quotation), 378 (second quotation). The German original of this book was published in 1982, although some of the text is older than that date.
instances in which he addresses the question of authoritative weight directly. He states that after
the Council, the *Nota explicativa praevia* was gradually “consigned to irrelevance, because the
Council was never required to vote on the contents of the *Nota.*” He also states that Pius XI’s
cylical *Casti connubii* and Pius XII’s speech to obstetricians, despite being cited in *Gaudium
et spes,* rank lower in authority than the conciliar document itself.\(^{139}\) He also argues that the
“binding force” of Vatican II follows not so much from its text themselves (as the authors made
“nothing obligatory” in them) as from “the historical situation” of the conciliar event, which
“imposes obligations of its own.”\(^{140}\)

While some who criticize the Council contrast its “pastoral” nature to that of previous
“dogmatic” councils, Alberigo rejects such an opposition. For John XXIII, “‘pastoral’ was an
exceptionally rich term” that indicated a council “not solely dogmatic or solely disciplinary but
all-embracing.” In his call for a pastoral council, John was reversing the course set by
Gregory XVI (1831-46) who stated that the errors of his time called for the rod rather than a
gentle approach.\(^{141}\)

Regarding the dynamics inside the Council, Alberigo explains that although the so-called
“majority” was very large, it was nonetheless quite diverse and by no means did the members of

\(^{139}\) Giuseppe Alberigo, *A Brief History of Vatican II,* trans. Michael Sherry (Maryknoll, NY: Orbis Books,
2006), 74 (includes quotation), 101. Selections from *Casti connubii* can be found in DS 3700-24. Pius XII,
“Allocution to the Congress of the Italian Union of Obstetricians” (October 29, 1951) concerned the issue of
contraception, and can be found in AAS 43, no. 17 (Dec. 20, 1951): 835-54. Both of these are cited in the footnote to
*Gaudium et spes* 51 (DEC, vol. 2, 1104) regarding the liceity of different methods of contraception.

Reception of Vatican II,* ed. Giuseppe Alberigo, Jean-Pierre Jossua, and Joseph A. Komonchak (Washington, DC:
CUA, 1987), 1-24, at 18.

\(^{141}\) Ibid., 17n53 (includes quotation), 18n59; Giuseppe Alberigo, “The Authority of the Church in the
Documents of Vatican I and Vatican II,” trans. Anthony Matteo, in *Authority in the Church and the Schillebeeckx
Case, Papers from the International Colloquium on Authority in the Church (in Leuven, 1981),* ed. Leonard Swidler
this group agree on all issues. Moreover, the divisions within the Council should not be overstated; even when the majority and Paul VI disagreed, they did so without friction or conflict. The bishops debated and acted with true freedom; indeed, several of them changed their views as a result of the conciliar debates.\footnote{142 Alberigo, "Christian Situation after Vatican II", 11-12; idem, Brief History of Vatican II, 87, 118; idem, “Vatican II and its History,” trans. Paul Burns, in Vatican II: A Forgotten Future, ed. Alberto Melloni and Christoph Theobald, Concilium 2005, issue 4 (London: SCM, 2005), 9-20, at 17.}

Alberigo insists that Vatican II, understood as an \textit{event}, is more important than the documents it produced. As an event, Vatican II involved “[t]he task of renewal, the anxious searching, openness to the gospel, fraternal attention to all human beings” – these features “sum up the spirit of the conciliar event, which any sound and correct interpretation of its decrees must take into account.”\footnote{143 Giuseppe Alberigo, “Preface: 1965-1995: Thirty Years After Vatican II,” in HVT, vol. 1, xi-xv, at xii.} Focus on the documents alone does not reveal the full picture: the Council “managed to glimpse some important directions in which to move, although on other points it remained deaf and could produce no more than stammering utterances that, at a distance of twenty years, prove useless and embarrassing.”\footnote{144 Alberigo, “Christian Situation after Vatican II,” 16.} Moreover, the documents contain certain compromises that the event itself does not:

We may ask whether the obsolescence of the conciliar decrees (or at least many parts of them) is not greater than that of the conciliar event and its significance. The present History has gradually provided evidence of the recurring compromises in the development of the texts. Indeed, compromise was required for obtaining a broad consensus bordering on unanimity.... In fact, it was the Council as such, as a great source of communion, comparison, and exchanges, that was the fundamental message.\footnote{145 Giuseppe Alberigo, “Transition to a New Age,” in HVT, vol. 5, 573-644, at 628-29.}

Alberigo distinguishes Vatican II as an event from the “crises” that followed it. Although “some would try to blame” these crises on the Council, they were “already incubating” when John
XXIII became pope.\textsuperscript{146}

He sees the reception of Vatican II as the locus of a theological struggle. The true reception of a council takes more than a generation, cannot be controlled, and is often chaotic. Reception is described in terms of forward progress: “getting out of the post-tridentine shoals,” and “moving beyond positions developed in the immediately preceding decades”. The rejection of the Council by others is described as “the retreat of the conciliar (and postconciliar) minority into the fortress of a late tridentine traditionalism.”\textsuperscript{147}

But not all members of the hierarchy are comfortable with this chaos, and thus they often use the process of implementation (e.g., the work of the Consilium for the Implementation of the Constitution for the Sacred Liturgy) as a way to steer the reception of the Council in certain directions. Alberigo places the \textit{Nota explicativa praevia} in this context:

A different case of hermeneutical “mortgaging” occurred in the fall of 1964, during the Black Week, when Paul VI decided to add a \textit{Nota explicativa praevia} to the report of the Council’s Doctrinal Commission on the final changes to be made in chapter III of the Constitution of the Church. As the very title shows, the organizers of the note were trying to establish a principle of interpretation in advance, even before the Council approved \textit{Lumen gentium}.\textsuperscript{148}

Alberigo warns that if the hierarchy were to control the reception of the Council, or if the Council were to be received with a hermeneutic that holds up the “true Council” based on one interpretation of its documents rather than the “spirit of the Council,” this “would be an intolerable act of violence and would end in the most radical denial of the conciliar event. Only the \textit{sensus fidei} of the Church as a whole can be the adequate interpreter of a major council.

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\textsuperscript{146} Alberigo, “Christian Situation after Vatican II,” 15.  \\
\textsuperscript{147} Ibid., 2-8, 16 (quotation from 16).  \\
\end{flushright}
Such a sensus fidei can reach maturity only slowly, with the concurrence of the entire people of God; it cannot be replaced by an action of the hierarchy alone.” Indeed, “[e]ver since the experience of the first community in Jerusalem, ‘councils’ have been privileged moments at which the Spirit has permeated the Church and taken possession of it in an exceptionally intense way.... [T]hat is why the great councils have become the patrimony of all Christians, and why each Christian has the right and duty of defending the councils against any reductionist attack on their full meaning and message.”149 Indeed, if Vatican II’s doctrinal and disciplinary decisions were adopted and followed, but the Council was seen merely as the place where these decisions were made rather than as a momentous event, this too would be a betrayal of the Council:

An inability on the part of the Church to recognize this key moment in its own life would be a symptom of tragic sterility and blindness. No more insidious and effective “normalization” of the Council can be imagined than to deny its epochal importance. Such an emptying of its meaning would avoid the brutal rejection of the traditionalists but would nonetheless bury Vatican II in a post-tridentine “normality.”150

Hermann Josef Pottmeyer

Hermann Josef Pottmeyer (1934-) received his doctorate at the Gregorian in 1964, writing his dissertation on the interpretation of the First Vatican Council’s constitution Dei Filiius. He taught fundamental theology at the Ruhr University in Bochum, West Germany, from 1974 until his retirement in 2000, and served on the International Theological Commission from 1992 to 2003.

Pottmeyer contrasts the interpretation of Vatican II with the interpretation of previous councils. The rules for interpretation of previous councils – especially Trent and Vatican I – are

150 Ibid., 24.
“well known.” Their documents consist of chapters followed by canons; these canons often contain definitions. “The canonical definitions are to be interpreted in the light of the corresponding chapter, which supplies the theological exposition.” With regard to Vatican I, “a further aid to interpretation can be found in the council files. These consist primarily in the commentaries by the speakers of the responsible commission on the proposals of the council fathers and on the concluding text. Important indications of the intended meaning of the council can be discerned from these commentaries. Further clarification of the intended meaning of the council is also provided by the textual history of the two dogmas, and the council debates.”

An understanding of the historical context, especially the specific errors that the council was trying to address, is also crucial. However, as Vatican II did not use the traditional genre in its documents, these rules cannot be applied to it.

In an essay written twenty years after Vatican II ended, Pottmeyer argued that one must first examine the way that the Council has already been received before one can construct a hermeneutic to interpret its documents. Pottmeyer divides this reception into three stages with a distinct Hegelian flavor – a division which would soon become quite influential.

The first phase of reception, according to Pottmeyer, was a time of optimism and excitement, as the Council was seen as a kind of liberation. However, some went too far, seeing

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it as “an utterly new beginning.” Some advocated a democratization of the Church; Pottmeyer sees this as discarding not merely “the neo-scholastic view of the Church” but also “the normative self-understanding of the Church.” The second phase of reception was a reaction against the first. Theologians focused on the Council’s continuities with the past. Some of them claimed that because Vatican II had frequently cited Trent and Vatican I but had proclaimed no new dogmas of its own, it followed that Trent and Vatican I were doctrinally more important than the new council. These theologians preserved not only what was truly permanent in ecclesiology but also “the neo-scholastic understanding of the Church that had shaped” the First Vatican Council.154

As a result, it became apparent that the Vatican II texts contained both novel and traditional elements. On each side, theologians claimed that their positions were firmly based on the conciliar texts. Moreover, some conservatives, dismayed at the progressive elements in the texts, tried to ignore the Council completely, while some progressives, in order to avoid the conservative elements in the texts, declared that it was time to go “beyond the Council out of fidelity to the Council!” This group attempted “to separate the ‘spirit’ of the Council from its letter and then leave the letter behind.” Pottmeyer rejects this as invalid on the grounds that “[t]he ‘spirit’ of the Council makes itself known from the direction given in the texts. Conversely, of course, it is only in this ‘spirit’ that the texts are properly understood.”155

Pottmeyer insists that a third stage is needed, in which the conciliar documents, despite containing different emphases, no longer function as a source of division among Catholics.

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154 Pottmeyer, “New Phase in the Reception of Vatican II,” 33-34.
155 Ibid., 28, 34, 41-42 (quotations from 41-42).
Therefore, “the central hermeneutical problem in the reception of Vatican II” is the following: “Is Vatican II to be read in the light of Vatican I, or is the direct opposite the case, or will the as yet unachieved reconciliation of the two councils show the necessity of a further stage in the development of ecclesial self-understanding?” Pottmeyer advocates the final option. The hermeneutical task must be “to incorporate what is still binding in preconciliar theology into the newly acquired foundation, that is, into a communio ecclesiology and a Christian anthropology that calls for commitment to human dignity.”¹⁵⁶ In a certain sense, this task will require going “beyond” the Council, but this must be done in a manner faithful to both Vatican II and earlier tradition. For this reason he says we must understand Vatican II as “a transitional council.”¹⁵⁷

This new hermeneutic begins by recognizing that the Council Fathers often juxtaposed two different views in the texts rather than trying to reconcile them. “[A]l­­ongside a doctrine or thesis couched in preconciliar language is set a doctrine or thesis that formulates some complementary aspect.” Until now, two different hermeneutics have been frequently used – “one looks exclusively to the new beginnings produced by the conciliar majority, the other looks exclusively to statements that were taken over by the preparatory draft schemata at the instigation of the minority and reflect preconciliar theology. The two approaches share the same method of selective interpretation.”¹⁵⁸

Pottmeyer rejects the idea that the progressive and conservative elements of these texts must be seen in opposition to each other. He claims that “this juxtaposition was rendered possible by deeper insight into the teaching at issue in each instance,” and offers several

¹⁵⁶ Ibid., 33-34.
¹⁵⁷ Ibid., 27, 41, 43.
¹⁵⁸ Ibid., 36-37.
examples of this. True, these texts did result from compromises between the majority and minority, but both parties chose to compromise, making the results fully legitimate. Indeed, “the will to compromise is simply the will to remain united as long as the truth of the faith is not an issue, and to preserve communio with each other and continuity in doctrine. On this point all the council fathers were in agreement.” Earlier councils had done the exact same thing – juxtaposing elements that are in tension with each other, rather than fully developing a new framework that incorporates all of them. After the Council, a synthesis of these elements will gradually be developed; this is “a task the Council sets for the Church and for theologians; it is a task of reception, which is far from being a merely passive process.”  

This process requires an acceptance of the elements inserted by both the majority and the minority. “Fidelity to the Council requires that both juxtaposed theses be taken seriously and that an attempt be made through more penetrating theological reflection and a renewed ecclesial praxis to reconcile them in a synthesis that will allow for further advances.” But this does not mean treating all theses equally, for “despite their will to continuity the council fathers attached differing values to the theses in question. The theses defended by the minority do not represent the will of the council in the same degree as the theses that passed by an overwhelming majority.” Thus the majority passages have greater weight than the minority passages. Yet this contrast should not be taken to the extreme of nullifying the minority’s theses that appear in the final documents: “The fact remains, however, that majority and minority alike agreed to both theses and in particular to their juxtaposition.”

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159 Ibid., 37-38.
160 Ibid., 39-40.
How, in practice, is this synthesis to be worked out? Theologians must take into account the “evolution both of the council and its texts,” the Council’s “will to continuity as well as its will to move in a new direction” (while also taking into account “the stress that the Council itself laid on the one or the other thesis, according as a thesis was supported by the majority or the minority”), the acts of the Council, the writings of Council fathers and periti such as letters and diaries, and finally “the history of the Council’s influence down to the present time.” The goal is a larger theological context that can subsume all the theses in the conciliar documents. Neither Vatican I nor Vatican II placed their teachings in such a context, and in that sense these councils remain incomplete. However, Pottmeyer warns, even when some theologian discovers a wider context that subsumes all the theses from a council, one should not assume that this particular context was the one intended by the Council Fathers.

Pottmeyer’s proposal for placing conciliar documents in a wider context is similar to the concept of the “re-reception” of magisterial documents by later generations. This similarity is illustrated by Pottmeyer’s own attempt to “re-receive” the dogmas of Vatican I in his *Towards a Papacy in Communion: Perspectives from Vatican Councils I & II*. In order to reinterpret Vatican I’s teachings on the primacy of the pope and the infallibility of the papal magisterium, Pottmeyer uses the following techniques:

- He looks at how the conciliar text evolved; what was added and deleted in its various stages, to determine the intent of the authors.

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161 Ibid., 39-41.
• He looks at the historical context of the Council, to determine what trends and assertions the participants were concerned about, were influenced by, and which they wanted to refute.

• He looks at public interpretations of the text after the Council ended, and gives special weight to two (the 1875 statement of the German Bishops, and a book by Joseph Fessler, bishop of St. Pölten and Secretary-General of the Council) which Pope Pius IX publicly approved of.

• He gives great value to the relationes of Bishops Zinelli and Gasser. He notes where the approved text differs from what one might expect given the context of the time.

• And he measures all his findings by the text itself, highlighting passages in the text that support his reading even when these passages might not have a priori seemed important.\textsuperscript{163}

Perhaps one might describe the importance of this kind of re-reception as follows: when examining a conciliar teaching made long ago, one needs to determine precisely what the council fathers really did teach from what many Catholics in ensuing generations assumed that they taught.

In addition, Pottmeyer makes a few unrelated comments related to the weight of magisterial teachings which should be noted here. He assigns great value to Zinelli’s and Gasser’s speeches at Vatican I, describing Zinelli’s relatio as “nothing less than an official commentary on the dogma [of papal primacy] and a guide to its interpretation.”\textsuperscript{164} Moreover, responding to the thesis advocated by August Bernhard Hasler and Hans Küng that Vatican I’s teachings are “null and void on formal grounds, because the council had not been free in its definition,” Pottmeyer rejects Hasler and Küng’s historical claims, while not disputing the


\textsuperscript{164} Pottmeyer, “Recent Discussions on Primacy,” 222.
underlying principle that an unfree council would be invalid.\textsuperscript{165}

Pottmeyer argues that the \textit{obsequium} owed by Catholics to non-definitive teachings should not be rendered in German as “Gehorsam” or in English as “obedience,” for “assent to a non-definitive teaching cannot simply be commanded.” The Church’s power of magisterium should not be viewed as part of its juridical power, nor does it involve a relationship that is purely authoritative. As a translation for \textit{obsequium}, Pottmeyer prefers “submission,” “docility,” or “teachability,” for “its essence is a process,” not a “result.”\textsuperscript{166} Because this teaching comes from a religious superior, Catholics must respect “the legitimacy of the superior, and the moral character of the order,” and this generates a \textit{presumption} in favor of the teaching. But Catholics may also examine the truth of the teaching itself. Indeed, the new understanding of the Church as \textit{communio} – which is identical to the earliest understanding of the Church – suggests that the examination of the truth of a teaching is a necessary part of the process of reception, as this allows local churches to learn from the universal teachers and vice-versa.\textsuperscript{167}

\textbf{Walter Kasper}

Walter Kasper (1933-) taught at the University of Münster and the University of Tübingen. He served as Bishop of Rottenberg-Stuttgart from 1989 to 1999, and subsequently as secretary


\textsuperscript{167} Ibid., 288-92 (quotation from 288-89).
(1999-2001) and president (2001-2010) of the Pontifical Council for Promoting Christian Unity. In 2001 he was created a cardinal.

Kasper compares the weight of Vatican II’s teachings with those of Vatican I. In an essay written in 1987, he states that “[t]he Catholic Church is dogmatically bound to the First and Second Vatican Councils, which she cannot give up.”

Because the Holy Spirit guides the Church in council, “the results are a guiding principle which is binding [bindend] on the church.” In particular, its teachings include “some important binding [verbindlich] statements: the sacramentality and collegiality of the episcopal office, the universality of salvation, and others.” However, he also states that the Council “deliberately promulgated no infallible – i.e. fully binding [letztverbindlich] – decisions,” and that “it did not issue any new interpretation of dogma in the sense of an ultimately binding [letztverbindlich] dogmatic definition.”

It seems that Kasper’s distinction between “binding” and “ultimately binding” is another way of expressing the distinction between obsequium and the assent of faith.

Kasper states that the weight of Gaudium et spes is particularly difficult to determine: “The very genre ‘Pastoral Constitution’ is a novelty in conciliar history. The degree to which it is binding, its method, and its interpretation are therefore controversial in a particular way.” On the other hand, since this document was created by the bishops and conciliar process, rather than having been prepared in advance, “it expresses the ‘spirit’ of the last council particularly

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169 Walter Kasper, Theology and Church, trans. Margaret Kohl (New York: Crossroad, 1989), 168, 169-70, 168, 170, respectively; German from idem, Theologie und Kirche (Mainz: Matthias-Grünewald, 1987), 291, 293, 291, 293, respectively.
clearly.” Moreover, the Council Fathers objected to the proposal to downgrade it to something less than a “constitution.” To interpret and weigh its teachings, one must distinguish “between the generally binding doctrinal foundation, the description of the situation, and the application of the general principles to the pastoral situation.” Its situation-dependent teachings are “dependent on the validity of the arguments,” and therefore weigh “less than the authority of the doctrinal statements themselves.” Even so, one must not “relegate such statements to the sector of what is not obligatory at all, and a matter of pure choice.”

Developing an adequate hermeneutics of Vatican II’s documents is more difficult than with previous councils, where the condemnations of specific errors gave a context in which their teachings became clear. Moreover, “[i]n the Vatican II texts ‘conservative’ and ‘progressive’ statements are often found side by side, with no attempt at reconciliation. People talk about purely formal compromises.” Kasper sees Hermann Pottmeyer’s perspective, including his understanding of the three stages of conciliar reception, as an excellent guide. In particular, he agrees with Pottmeyer that Vatican II’s compromises were commendable, and were fully in keeping with how earlier councils operated: “pegging out the limits of the church’s position” and leaving to future theologians the task of developing “a theoretical mediation” of the different positions expressed in its documents.

Kasper proposes four rules for the interpretation of Vatican II’s doctrinal statements. First,
the texts have to be understood as a whole: each statement must be understood in the context of all the other statements made in the texts. Second, “the letter and the spirit of the council must be understood as a unity,” a perspective he refers to as a “hermeneutical circle.” He writes:

Every individual statement can ultimately only be understood in the light of the spirit of the whole, just as, conversely, the spirit of the whole only emerges from a conscientious interpretation of individual texts. We can therefore neither make a legalistically literal exegesis of the conciliar texts without allowing ourselves to be moved by their spirit; nor must we enthusiastically play off “the spirit of the council” against its actual texts.... The spirit of the whole, and hence the meaning of an individual text, can only be discovered by pursuing the textual history in detail, and from this extracting the council’s intention.\textsuperscript{173}

The third rule states that Vatican II must be understood in light of tradition. It would be “absurd to distinguish between the pre-conciliar and the post-conciliar church in such a way to suggest that the post-conciliar church is a new church; or as if, after a long, dark age in church history, the last council had at long last rediscovered the original gospel.” Finally, because each council interprets Catholic Tradition for its own specific era, with a focus on the issues or errors of that time, the historical background of the council must be used to illuminate the meaning of its texts.\textsuperscript{174}

Kasper’s insistence that Vatican II be understood in the light of tradition works the other way as well: earlier teachings can be reinterpreted in the light of newer ones. Kasper describes this re-reception in similar terms to those used by Congar and Pottmeyer. He also offers a spirited defense of this process, explaining why it is legitimate:

According to the Catholic understanding, the path to be undertaken involves the rereading and the re-reception of the dogmas of the First Vatican Council. Rereading and re-reception are not an escamotage [sleight of hand]. It means to interpret the teaching of the First Vatican Council on the primacy and infallibility of the Pope according to the “normal” and

\textsuperscript{173} Ibid., 172.

\textsuperscript{174} Ibid., 172-73.
common rules of dogmatic hermeneutics. According to these rules, dogmas should be abided by in the sense in which the Church once declared them. But in the Catholic view, this does not imply an irrational and fundamentalist compliance with a formula. In fact, according to the First Vatican Council, faith and understanding belong together. Catholic teaching therefore recognizes a progressive deepening in the understanding of the truth that was revealed once and for all. There is a history of dogmas in the sense of a history of understanding and interpretation, and there are corresponding theological rules of interpretation. In this context, Ratzinger speaks of the need for a rereading, Congar and others speak of a re-reception of the First Vatican Council.

.... Such reception and re-reception do not mean questioning the validity of the affirmations of a Council; rather, they mean its acceptance on the part of the ecclesial community. This is not a merely passive and mechanical acceptance; rather, it is a living and creative process of appropriation and is therefore concerned with interpretation.\(^\text{175}\)

In a lecture given in 2013, Kasper again calls for a “synthesis of old and new” in the reception of Vatican II, but this time he particularly emphasizes the new:

Vatican II was a council of transition. It wanted renewal without giving up the old. For this synthesis of old and new, however, the council could only set the framework for the postconciliar reception. So the question arises: In which direction does the compass of Vatican II point, and where is the church heading in this still young third millennium? Will it maintain the confident trust of John XXIII and the renewal from the sources or take the path back to defensive antireform and antimodernist attitudes? That is the question facing postconciliar reception.\(^\text{176}\)

Nonetheless, Kasper warns against a naive preference for novelty that would lead to “a liberal conformist church.” Rather, the goal should be “a church spiritually renewed from its sources.”\(^\text{177}\)

**Conclusion**

The Second Vatican Council taught that diverse levels of authority exist within the category of non-definitive authoritative papal teachings. Indeed, both this diversity and some

\(^{175}\) Kasper, “Introduction to the Theme,” 13 (brackets in original).

\(^{176}\) Kasper, “Renewal from the Source,” 281-82.

\(^{177}\) Ibid., 293.
criteria for judging the weight of such teachings appeared in the original draft of the schema de 
Ecclesia and at every stage of the process that produced Lumen gentium. Although the conciliar 
documents themselves did not state that an ecumenical council can teach in a non-definitive but 
authoritative manner, this was made clear in the Qualificatio theologica appended to Lumen 
gentium by the Theological Commission, and was evident in the debates about the weight of 
Vatican II’s teachings during the Council.

Immediately after the Council, various participants published commentaries on its 
documents, and their statements regarding the weight of certain passages and certain teachings 
are a key resource for the understanding of how the Council Fathers and periti understood the 
authority they were exercising.

During the next two decades, theologians debated how to weigh and interpret the 
documents of Vatican II. Their debates often focused on the question of whether the traditional 
criteria used for earlier magisterial teachings could be applied to the new Council in the usual 
manner. Moreover, as the public nature of the debates between different factions at the Council 
had made it apparent that some passages in the conciliar texts reflected the views of different 
participants, the question arose as to whether the documents should be understood in a unified 
fashion, or whether they should be divided into “majority” and “minority” passages with 
different weights assigned to each. In addition, the issue of reception was connected to these 
matters: did the interpretation and weight of a document depend solely on its history, its authors, 
and their intention, or did they also depend on how the document was received by the Church 
subsequent to its promulgation? All of these questions were examined and debated in the wake 
of Vatican II.
CHAPTER THREE
Survey of Views after the *Professio fidei*

The promulgation of a new *Professio fidei* in 1989 shifted the focus of discussions concerning the magisterium. By specifying three distinct levels of magisterial authority, it provided a framework that many theologians would soon use to structure their treatments of the topic. Subsequent papal and curial documents built on this framework as well. This chapter focuses on these magisterial documents and the writings of theologians since 1989 regarding the weight of non-definitive magisterial teaching.

*The Professio fidei and Other Magisterial Documents*

During the time that John Paul II was pope and Joseph Ratzinger was the Prefect of the Congregation for the Doctrine of the Faith (CDF), a number of papal and congregational documents were issued that dealt with the authority of the magisterium, building on the teachings found in *Lumen gentium*. Some of these also dealt with the proper interpretation of the Second Vatican Council, a topic that Ratzinger, after his elevation to the papacy, discussed in his Christmas Address to the Roman Curia of 2005. These documents are explored in this section.

*Professio fidei (1989)*

At the final session of the Council of Trent, it was decreed that all bishops, all persons who hold church benefices and meet in diocesan synods, and all who teach the Catholic faith in universities take an oath of fidelity that combined the Nicene Creed with anathemas against heresies condemned by general councils. The first such oath was promulgated by Pope Pius IV
in 1564.\textsuperscript{1} Over the ensuing centuries the list of those required to take the oath varied. After Vatican I, a few words were added to incorporate the dogmas taught by that council, and in 1910, an “Oath Against Modernism” was added by Pope Pius X.\textsuperscript{2} In 1967, Pope Paul VI abolished both of these long oaths, replacing them with the Nicene Creed followed by a short promise to “firmly accept and retain” all doctrines “of faith and morals” taught by the magisterium.\textsuperscript{3} This new formula alluded to the existence of different levels of magisterial authority only in its vague statement that doctrines should be accepted “according as they are proposed [by the magisterium].”\textsuperscript{4}

In order to clarify this matter, in 1989 a new \textit{Professio fidei} was promulgated, consisting of the Nicene Creed followed by three paragraphs, each specifying the response owed to a different level of magisterial teaching.\textsuperscript{5} The first added paragraph refers to revealed doctrines that have been infallibly taught by the magisterium (dogmas), and the second refers to non-revealed doctrines that have been infallibly taught by the magisterium (the “secondary object of infallibility”, or “definitive doctrines”). These categories have been described earlier in this

\textsuperscript{1} \textit{DEC}, vol. 2, 785; DS 1862-70 (the original text, plus the additions made after Vatican I in brackets).

\textsuperscript{2} DS 3537-50.


\textsuperscript{4} Ibid., my translation. Original text: “prout ab ipsa proponuntur.” The English translation of this phrase on the Vatican website is clearly faulty.

\textsuperscript{5} This \textit{Professio fidei} first appeared in \textit{AAS} 81, no. 1 (Jan. 9, 1989): 104-6, and in \textit{L’Osservatore Romano}, Feb. 25, 1989, p. 6, and in English in \textit{Origins} 18, no. 40 (Mar. 16, 1989): 661, 663. The three paragraphs can be found in DS 5070.
dissertation. The third added paragraph refers to non-definitive authoritative teaching:

What is more, I adhere with religious submission of will and intellect [*religioso voluntatis et intellectus obsequio ... adhaero*] to the teachings which either the Roman Pontiff or the College of Bishops enunciate when they exercise the authentic Magisterium even if they proclaim those teachings in an act that is not definitive. It will be recalled that “voluntatis et intellectus obsequium” is the same term used in *Lumen gentium* 25 to describe the response due to the non-definitive teachings of a pope. Although the *Professio fidei* makes it clear that councils, too, can teach non-definitively, it does not repeat *Lumen gentium*’s statement that there are different grades of authority within this category.

**On the Interpretation of Dogmas (1989)**

In October 1989, the International Theological Commission completed a document entitled *On the Interpretation of Dogmas*, which included a brief discussion of the assent owed to non-definitive authoritative teachings. It quoted *Lumen gentium* 25 on the varying degrees of authority within this category, and then offered a suggestion: “The precise meaning of this conciliar statement requires more thorough theological clarification. It would be especially desirable that the church’s magisterium – in order not to expend its authority unnecessarily – indicate clearly in individual instances the varying forms and degrees of binding force of its pronouncements.” It suggested that one way such indication could be made would be the revival of some kind of theological notes.

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6 See the “Terminology” section in the Introduction, above.

7 *Professio fidei*, final paragraph.


Donum veritatis (1990)

One year after the new Professio fidei was published, the Congregation for the Doctrine of the Faith released the Instruction on the Ecclesial Vocation of the Theologian (Donum veritatis).\textsuperscript{10} Whereas the Professio fidei lists three categories of magisterial teaching, Donum veritatis contains two distinct lists of magisterial categories (§§15-19 and §§23-24).

The first list distinguishes different kinds of teaching based on their level of authority and on their teacher. This list begins with a description of infallible teaching – including both the primary object and the secondary object – explaining that these can be taught by the pope or by the college of bishops (§§15-16). Teachings of the pope or the episcopal college that are not taught infallibly or definitively are listed next (§17.1), and then their edicts in matters of discipline (§17.2). Next are the teachings of the Roman congregations, especially the teachings of the CDF, which “participate in the ordinary magisterium” of the pope (§18). Finally, the teachings of individual bishops (§19.1) and episcopal conferences (§19.2) are mentioned. However, variations of authority within any of these categories are only referred to briefly, in an admonition to “take into account the proper character of every exercise of the magisterium, considering the extent to which its authority is engaged” (§17.2).

The second list distinguishes teachings based solely on their level of authority. The first three paragraphs in this list correspond to the three paragraphs of the Professio fidei. Thus the first paragraph in this list echoes the first paragraph in the Professio in its description of infallible

\textsuperscript{10} Congregation for the Doctrine of the Faith, Donum veritatis (Instruction on the Ecclesial Vocation of the Theologian): Latin version in AAS 82, no. 13 (Dec. 3, 1990): 1550-70; English version in Origins 20, no. 8 (July 5, 1990): 117, 119-26; excerpts in DS 4870-85. In the following paragraphs, references to Donum veritatis will be made by section number, and when applicable, the paragraph within that section.
teachings contained in the deposit of revelation (§23.1), the second paragraph discusses

definitive teachings which are “strictly and intimately connected to revelation” although not

themselves revealed (§23.2), and the third paragraph discusses non-definitive authoritative
teaching:

When the Magisterium, not intending to act “definitively,” teaches a doctrine to aid a better
understanding of revelation and make explicit its contents, or to recall how some teaching is
in conformity with the truths of faith or finally to guard against ideas that are incompatible
with these truths, the response called for is that of the religious submission of will and
intellect [religiosum voluntatis et intellectus obsequium requiritur]. This kind of response
cannot be simply exterior or disciplinary, but must be understood within the logic of faith
and under the impulse of obedience to the faith [cohaerere debet cum oboeditione fidei et ab
ipsa permoveri]. (§23.3)

However, whereas the Professio fidei mentions only three levels, the list in Donum veritatis
includes a fourth:

Finally, in order to serve the people of God as well as possible, in particular by warning
them of dangerous opinions which could lead to error, the magisterium can intervene in
questions under discussion which involve, in addition to solid principles, certain contingent
and conjectural elements. It often only becomes possible with the passage of time to
distinguish between what is necessary and what is contingent. (§24.1)

After an intervening paragraph that offers some observations about magisterial teaching in
general, this list concludes with one last paragraph:

When it comes to the question of interventions in the prudential order, it could happen that
some magisterial documents might not be free from all deficiencies. Bishops and their
advisors have not always taken into immediate consideration every aspect or the entire
complexity of a question. But it would be contrary to the truth if, proceeding from some
particular cases, one were to conclude that the church’s magisterium can be habitually
mistaken in its prudential judgments or that it does not enjoy divine assistance in the integral
exercise of its mission.... (§24.3)

Some theologians have interpreted these two paragraphs (§24.1 and §24.3) to be offering
complementary descriptions of a fourth level of magisterial teaching. Others have taken §24.1 as
describing a fourth level (interventions that combine “solid principles” with “contingent and
conjectural elements”), and §24.3 as describing a fifth level (“interventions in the prudential order”). If the latter is the case, the fourth and fifth levels would be distinguished by whether they are partially or entirely prudential. For example, the fourth level might include traditional Catholic just war theory, which arguably combines solid principles about the morality of violence with the assumption that no single weapon is capable of killing tens of thousands of people in a single blast – an assumption that is now seen to be contingent, but which Patristic and medieval theologians might have never questioned. The fifth level might include Pope John Paul II’s judgment about the 2002 Iraq War – an intervention in the prudential order that involved the application of principles to a specific case. The question of whether §24.1 and §24.3 refer together to a fourth level, or separately to a fourth and fifth level, need not be settled here. 

It is not completely clear who is being pictured as the teacher of these “lower level” doctrines. Like the Professio fidei, Donum veritatis describes the first three levels as being taught either by the pope or by the college of bishops in union with the pope, so when §24.1 refers to “the magisterium” teaching fourth-level doctrines, it is natural to take this as referring to the same teachers as the previous paragraphs. However, the reference in §24.3 to “bishops and their advisors” seems strange if papal teaching is being envisioned here.

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11 Francis Sullivan interprets these two paragraphs as referring to two different categories of teaching: see Francis A. Sullivan, Creative Fidelity: Weighing and Interpreting Documents of the Magisterium (Mahwah, NJ: Paulist, 1996), 21-22. Avery Dulles and Joseph Komonchak interpret them as referring to a single category: see Avery Dulles, The Craft of Theology: From Symbol to System, expanded ed. (New York: Crossroad, 1995), 108-11, 236n15; Joseph A. Komonchak, “The Magisterium and Theologians,” Chicago Studies 29 (1990): 320-23. In Craft of Theology, 236n15, Dulles asserts that Komonchak interprets these two paragraphs as distinct levels, but a careful reading of Komonchak, “Magisterium and Theologians,” 321-23, shows that Komonchak considers both of these paragraphs (Donum veritatis §24.1 and §24.3) to refer to the same level of teaching, and then cites §17.2 as referring to a fifth category (disciplinary edicts). Richard Gaillardetz’ view is less clear. If my reading is correct, he considers §24.1 to describe certain teachings that fit within the third level and yet combine “universal principles” with “contingent judgments,” and §24.3 to refer to a distinct category, “prudential admonitions and provisional applications of Church doctrine”; see Richard R. Gaillardetz, Teaching with Authority: A Theology of the Magisterium in the Church, Theology and Life Series, vol. 41 (Collegeville, MN: Liturgical, 1997), 102, 122-23.
Regardless of these ambiguous points, the important thing to note is that, according to
Donum veritatis, magisterial teachings that include contingent, conjectural, or prudential
elements possess a lower level of authority than those in the third category. The third category
itself is reserved for non-definitive authoritative teachings that do not contain contingent
elements.\(^{12}\)

Donum veritatis does not offer specific examples of teachings that belong in any of these
categories. However, when it was promulgated, Cardinal Ratzinger – then the Prefect of the
CDF – offered some remarks to the press about Donum veritatis in which he elaborated on the
fourth level of teaching, giving some historical examples:

The text also offers different forms of binding which arise from different levels of
magisterial teaching. It states – perhaps for the first time with such clarity – that there are
magisterial decisions which cannot be and are not intended to be the last word on the matter
as such, but are a substantial anchorage in the problem and are first and foremost an
expression of pastoral prudence, a sort of provisional disposition. Their core remains valid
but the individual details influenced by the circumstances at the time may need further
rectification. In this regard one can refer to the statements of the Popes during the last
century on religious freedom as well as the anti-modernistic decisions at the beginning of
this century, especially the decisions of the Biblical Commission of that time. As a warning
cry against hasty and superficial adaptations they remain fully justified; a person of the
stature of Johann Baptist Metz has said, for example, that the antimodernist decisions of the
Church rendered a great service in keeping her from sinking into the liberal-bourgeois world.
But the details of the determinations of their contents were later superceded once they had
carried out their pastoral duty at a particular moment.\(^{13}\)

This is reminiscent of Franzelin’s claim that non-definitive papal teaching – as well as the
教学 of Roman Congregations – does not possess “infallible truth” but rather “infallible

\(^{12}\) As discussed in Chapter Two, the distinction between permanent and contingent elements was mentioned
in the introductory footnote to Gaudium et spes.

\(^{13}\) From Cardinal Ratzinger’s press conference of 26 June 1990, published as “Cardinal Ratzinger speaks to
press on new instruction: theology is not private idea of theologian,” L’Osservatore Romano (English edition), no.
1147, July 2, 1990, p. 5. Dulles, Komonchak, and Gaillardetz agree that Ratzinger is referring to the fourth level of
teaching here, as his description matches that in Donum veritatis §24.1: see Dulles, Craft of Theology, 111; idem, 
Magisterium: Teacher and Guardian of the Faith (Naples, FL: Sapientia, 2007), 94; Komonchak, “Magisterium and
Theologians,” 322; Gaillardetz, Teaching with Authority, 123.
security” or safety, as was discussed in Chapter One above.

After giving its two lists of teaching levels, *Donum veritatis* describes the Catholic theologian’s response to non-definitive magisterial teachings. Although the Instruction is specifically addressing the response expected from a theologian, John Boyle describes this section as a general explanation of “that obsequium religiosum voluntatis et intellectus of which the Profession of Faith speaks, following LG 25.”

According to the Instruction, a Catholic theologian’s first step involves a “fundamental openness” to the teaching. He should not ignore this teaching merely because it has not been taught infallibly. He should be wary of an “ideology” that automatically values the reasoning of an individual above a teaching handed on by tradition. He should not reject magisterial teaching solely on account of his “subjective conscience,” for “conscience does not constitute an autonomous and exclusive authority for deciding the truth of a doctrine” (§§29, 33, 32.2, 28.2).

Even so, *Donum veritatis* does not assert that the theologian must finally assent to the teaching:

> The willingness to submit loyal to the teaching of the magisterium on matters per se not irreformable must be the rule [*pro regula habenda est*]. It can happen, however, that a theologian may, according to the case, raise questions regarding the timeliness, the form or even the contents of magisterial interventions. (§24.2)

How, then, should a theologian who has “serious difficulties” with a teaching proceed? The instruction states that he must “strive ... to understand this teaching in its contents, arguments, and purposes.” He should proceed with patience, as well as “a readiness, if need be, to revise his own opinions and examine the objections which his colleagues might offer him.” Disagreement would not be justified “if it were based solely ... upon the opinion that the opposite

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14 John P. Boyle, *Church Teaching Authority* (Notre Dame, Ind.: University of Notre Dame, 1995), 156.
position would be the more probable” [tantum nititur ... quod censetur sententiam oppositam probabiliorem esse] (§§28.1, 29, 28.2).

So the theologian should not treat this teaching as just one opinion among many, supported solely by the arguments presented. Rather, he must recognize “that magisterial teaching, by virtue of divine assistance, has a validity beyond its argumentation” – even if the arguments given for it are expressed in terms of “a particular theology.” Donum veritatis lists this principle as one of the “hermeneutical rules” needed to interpret a magisterial text (§§34.1, 34.2).

Weighing the authority of the text is another:

[T]he theologian will need, first of all, to assess accurately the authoritative status of the interventions, which becomes clear from the nature of the documents, the insistence with which a teaching is repeated and the very way in which it is expressed [ex dicendi ratione]. (§24.2)

The three criteria listed in this passage are taken word-for-word from Lumen gentium 25. However, whereas LG was discussing non-definitive papal teaching, Donum veritatis is discussing all non-definitive magisterial teaching, including that of an ecumenical council.

Donum veritatis also describes how the theologian should take into account historical factors and the opinions of the faithful. It is important to be aware of the filtering which occurs with the passage of time. This is not to be understood in the sense of a relativization of the tenets of the faith. The theologian knows that some judgments of the magisterium could be justified at the time in which they were made, because while the pronouncements contained true assertions and others which were not sure, both types were inextricably connected. Only time has permitted discernment and, after deeper study, the attainment of true doctrinal progress. (§24.3)

The theologian should also seek to understand the sensus fidei, while remembering that “the opinions of the faithful cannot be purely and simply identified with the sensus fidei.” Indeed, while “theological faith as such ... cannot err,” any Christian “can still have erroneous opinions since all his thoughts do not spring from faith” (§§35.2, 35.3).
If the theologian remains unconvinced after considering all these factors, he “has the duty to make known to the Magisterial authorities” the problems he has with the teaching. Such dialogue can “contribute to real progress and provide a stimulus to the Magisterium to propose the teaching of the Church in greater depth and with a clearer presentation of the arguments” (§30.1). *Donum veritatis* seems to envision this discussion taking place before the theologian has reached firm conclusions on the matter. But it also addresses the case where firm conclusions *have* been reached:

> It can also happen that at the conclusion of a serious study, undertaken with the desire to heed the magisterium’s teaching without hesitation, the theologian’s difficulty remains because the arguments to the contrary seem more persuasive to him [*argumenta in contrarium theolo praevalere videntur.*] (§31.1)

In such a case, the theologian is not obligated to give “intellectual assent” to the teaching. Nonetheless, he should not consider the question permanently closed, and should not present his own conclusions “as though they were non-arguable” (§§31.1, 27). The possibility of publicly expressing disagreement with the magisterium is subject to additional considerations (§27, 32.3, 33, 34.2, 36, 38) which need not concern us here.

An interesting contrast can be made between two of the guidelines that appear in *Donum veritatis*. As noted earlier, section 28.2 states that disagreement with a magisterial teaching cannot be justified if it is based only on the judgment that “the opposite position would be the more probable” [*probabiliorem*]. It should be recalled that in scholastic terminology, the terms *probabilis* and *probabilior* are not the equivalent of the mathematical concept of probability. A thesis is considered *probabilis* if there exists at least one plausible argument in its favor, and is considered *probabilior* if the arguments in its favor are stronger than the arguments for the alternatives. So section 28.2 is saying that even if a theologian were to conclude that the
arguments against a certain magisterial teaching are stronger than the arguments for it, that fact alone would not justify disagreeing with the teaching. That is, *Donum veritatis* §28.2 is saying that the scenario illustrated here

![Balance Scale Diagram]

could not justify a firm conclusion that the magisterial teaching is incorrect.

Nonetheless, section 31.1 of *Donum veritatis* states that after conducting a “serious study” along the lines described in this Instruction, a theologian would be justified in disagreeing with a magisterial teaching if “the arguments to the contrary seem more persuasive to him” [*argumenta in contrarium theologo praevalere videntur*]. At first glance, this may seem to contradict the statement in section 28.2. But there is an important distinction between these two statements. Section 28.2 describes a theologian who merely compares the theological, historical, and logical arguments for each side, whereas section 31.1 describes a theologian who, in addition to comparing the arguments, has also taken into account the fact that the Church’s magisterium has authoritatively taught this doctrine, and has taken this into account in the appropriate manner. Thus *Donum veritatis* §31.1 is saying that the scenario illustrated here
could justify a firm conclusion that the magisterial teaching is incorrect.

Therefore, this Instruction from the CDF not only stresses the importance of weighing the authority of a non-definitive magisterial teaching, but also indicates that this weight is in some sense *commensurable* with the weight of theological arguments. It is only by combining the weight of a doctrine’s magisterial authority and the weight of the theological arguments in its favor that one can determine the full authority of such a teaching.\(^{15}\)

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\(^{15}\) A few years after *Donum veritatis* was released, the text of Cardinal Ratzinger’s press conference described earlier in this section were re-published, and Ratzinger took this opportunity to reply to certain criticisms that *Donum veritatis* had received. Although these comments do not qualify as magisterial teaching, they provide a clearer understanding of the intention behind this document.

Some German theologians had complained that while *Donum veritatis* admitted that the magisterium had made errors in the past, it said nothing about errors in the present or the future. To these critics, Ratzinger commented that “to mention the past implies the admission that such events can repeat themselves.” [Joseph Ratzinger, *The Nature and Mission of Theology: Essays to Orient Theology in Today’s Debates: Approaches to Understanding Its Role in the Light of Present Controversy*, trans. Adrian Walker (San Francisco: Ignatius, 1995), 110.]

He also disagreed with certain (unnamed) theologians who were willing to assent to doctrines infallibly taught by the Church, but allowed all other doctrines to stand or fall solely by theological argumentation. Ratzinger compared this dichotomy to the excessive focus in medieval sacramental theology on the conditions for sacramental validity, which led to “[t]hose elements which do not affect validity appear[ing] to be ultimately trivial and interchangeable.” As this development had obscured the organic unity of the liturgy, just so does excessive focus on infallibility obscure the organic unity of the Church’s teachings: “[B]inding authority cannot be the prerogative of infallibility alone. It lies in the living, total form of the faith, which as such must always be capable of new expression lest it disappear in a whirl of changing hypotheses. That *auctoritas* admits of very different degrees is clearly stated in the document [*Donum veritatis*] and, strictly speaking, should be looked upon, not as an impediment, but as a stimulus to theology. That one degree differs from others does not imply, however, that lower-ranking *auctoritas* does not rate as *auctoritas* at all.” [Ibid., 111-13.]

He also clarified that the Instruction’s recommendation that a theologian report his divergent results to the magisterium was not intended to mean that this must be done in secret, although he admits that the phrasing could
The Catechism of the Catholic Church (1992)

The *Catechism* only contains one paragraph (§892) that discusses the weight of non-definitive authoritative teaching. This paragraph consists of quotations from and paraphrases of *Lumen gentium* 25, adding that the *religiosum animi obsequium* that the faithful owe to authoritative teaching, while “distinct from the assent of faith, is nonetheless an extension of it.”

When the *Catechism* was released, Cardinal Ratzinger offered some interesting comments about its authority. He insisted that the *Catechism* was not “a kind of new ‘Superdogma,’ as its detractors are prone to insinuate.” Rather, it was simply a compendium of doctrines that have been taught by the Church. Naturally, these doctrines possess a wide variety of authoritative weights, and the inclusion of a doctrine in the *Catechism* does not alter its weight. “The individual doctrines that the catechism affirms have no other authority than that which they already possess,” Ratzinger wrote. At the same time, he emphasized that the act of collecting all these doctrines into one catechism was intended to emphasize the unitary character of the Church’s teaching.

The Ratzinger-Bertone commentary (1998)

The 1983 Code of Canon Law had described the obligation owed by the Catholic faithful have given that impression. “The Instruction is not proposing ‘secret’ communications but dialogue which remains on an ecclesiastical and scientific plane and avoids distortions at the hands of the mass media.” [Ibid., 117.]


to dogmas and to non-definitive authoritative doctrines, but had not mentioned definitive non-revealed doctrines (the secondary object of infallibility). To correct this omission, and thus better align the Code with the Professio fidei, Pope John Paul II released the motu proprio Ad tuendam fidem in 1998. When this motu proprio was published in the Acta Apostolicae Sedis, it was accompanied by the reprinting of the Professio fidei and a detailed commentary signed by the CDF Prefect Cardinal Ratzinger and CDF Secretary Archbishop Tarcisio Bertone.\(^\text{18}\)

This commentary elaborates the three paragraphs in the Professio fidei that describe levels of teaching authority. Regarding the third paragraph, the commentary states:

To this paragraph belong all those teachings — on faith and morals — presented as true or at least as sure [tamquam vera aut saltem tamquam certa], even if they have not been defined with a solemn judgement or proposed as definitive by the ordinary and universal Magisterium. Such teachings are, however, an authentic expression of the ordinary Magisterium of the Roman Pontiff or of the College of Bishops and therefore require religious submission of will and intellect. They are set forth in order to arrive at a deeper understanding of revelation, or to recall the conformity of a teaching with the truths of faith, or lastly to warn against ideas incompatible with these truths or against dangerous opinions that can lead to error.

A proposition contrary to these doctrines can be qualified as erroneous [falsum] or, in the case of teachings of the prudential order, as rash or dangerous [temerarium seu periculosum] and therefore “tuto doceri non potest.”\(^\text{19}\)

The commentary gives examples of doctrines in the first and second categories of

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\(^{19}\) Ratzinger and Bertone, “Commentary,” §10. Italics in the original Latin and English.
authority. In the third category, however, no specific examples are given. Instead, a general statement appears:

As examples of *doctrines belonging to the third paragraph*, one can point in general to teachings set forth by the authentic ordinary Magisterium in a non-definitive way, which require degrees of adherence differentiated according to the mind and the will manifested; this is shown especially by the nature of the documents, by the frequent repetition of the same doctrine, or by the tenor of the verbal expression [*tenore locutionis*].

The wording here differs from that used in *Lumen gentium* 25, but the meaning is clearly the same.

**Pope Benedict’s Christmas Address to the Roman Curia (2005)**

Toward the end of the year in which he was elected pope, Benedict XVI discussed the question of the interpretation of the Second Vatican Council in an address to the Roman Curia. This speech quickly became famous for the term “hermeneutic of continuity” – a phrase that he did not actually use. Benedict contrasted two different interpretations of the Council:

On the one hand, there is an interpretation that I would call “a hermeneutic of discontinuity and rupture”; it has frequently availed itself of the sympathies of the mass media and also one trend of modern theology. On the other, there is the “hermeneutic of reform,” of renewal in the continuity of the one subject-church that the Lord has given to us. She is a subject that increases in time and develops, yet always remaining the same, the one subject of the journeying people of God.

The hermeneutic of discontinuity risks ending in a split between the preconciliar church and the postconciliar church. It asserts that the texts of the council as such do not yet express the true spirit of the council. It claims that they are the result of compromises in which, to reach unanimity, it was found necessary to keep and reconfirm many old things that are now pointless. However, the true spirit of the council is not to be found in these compromises but instead in the impulses toward the new that are contained in the texts.

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20 Ibid., §11. Italics in the original Latin and English.

Thus the “hermeneutic of discontinuity,” which Benedict opposes, is rooted in the distinction between those conciliar passages that represented the aspirations of the majority and those which were included as compromises with the minority.

Nonetheless, the Pope does not argue that discontinuity is inherently problematic. He goes on to describe several spheres in which the Council’s teaching differed from that of the nineteenth- and early twentieth-century hierarchy, such as the relation between faith and the natural sciences, the relevance of historical science and the historical-critical method of Scriptural exegesis, the relationship between the Church and the state, and the question of religious liberty. In the Council’s treatment of these matters, he sees both continuity and discontinuity:

It is clear that in all these sectors, ... some kind of discontinuity might emerge [at the Council]. Indeed, a discontinuity had been revealed but in which, after the various distinctions between concrete historical situations and their requirements had been made, the continuity of principles proved not to have been abandoned. It is easy to miss this fact at a first glance.

It is precisely in this combination of continuity and discontinuity at different levels that the very nature of true reform consists. In this process of innovation in continuity we must learn to understand more practically than before that the church’s decisions on contingent matters – for example, certain practical forms of liberalism or a free interpretation of the Bible – should necessarily be contingent themselves, precisely because they refer to a specific reality that is changeable in itself. It was necessary to learn to recognize that in these decisions it is only the principles that express the permanent aspect, since they remain as an undercurrent, motivating decisions from within.22

As in Donum veritatis, Benedict here argues that an apparently unitary doctrine can consist of both unchangeable “principles” and changeable “contingent matters.” This observation appears to be at the heart of his “hermeneutic of reform.” Any kind of change – however mild or however radical – involves both continuity and discontinuity, and so a mere statement that

22 Ibid., 538.
doctrinal development includes some unspecified “continuity and discontinuity at different levels” would be nearly vacuous. But by specifying what these different levels should be – continuity regarding principles and discontinuity regarding contingent elements – Benedict’s proposed hermeneutic becomes quite specific.

It is worth noting that the two hermeneutics opposed here are not mirror images of each other. The “hermeneutic of discontinuity” divides the conciliar documents into majority and minority passages – or perhaps into progressive and conservative passages – and then elevates the authority of one over the other. Benedict opposes this, and thus by implication accepts both the majority and minority passages as valuable. But when he goes on to advocate a “hermeneutic of reform” that discerns both discontinuity and continuity in the conciliar documents, treating both of them as valid and valuable, he does not identify this distinction with the division between minority and majority passages (or any other literary division). If he had done so, then the “hermeneutic of reform” might mean that an astute reader could point to one sentence in Lumen gentium as an example of continuity, and to another as an example of discontinuity. Rather, by identifying the unchanging aspects as the underlying principles and the changeable aspects as contingent matters, it would seem to follow that the unchanging and the changing are not merely juxtaposed in the text, but are intertwined at a more fundamental level. In this context, it is useful to recall the statement in Donum veritatis that “[i]t often only becomes possible with the passage of time to distinguish between what is necessary and what is contingent.”

It is certainly possible to interpret the Christmas Address as an indication that, according to

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23 Donum veritatis §24.1.
Pope Benedict, changes in Catholic teaching at Vatican II were located *entirely* on the level of the contingent – that is, the differences between Vatican II and preconciliar teaching did not involve any changes with respect to principles of theology or anthropology. Read this way, the Christmas Address would be saying that there were no changes with respect to the three levels of teaching mentioned in the *Professio fidei*, but only with regard to the fourth level of teaching mentioned in *Donum veritatis*. However, such an interpretation may neglect the nature of a hermeneutic, which is a method of interpretation rather than an absolute rule governing the meaning of a text.

**Dialogue with the SSPX (2009-2013)**

From 2009 to 2013, a series of discussions were held between the CDF and the Priestly Society of St. Pius X (SSPX) concerning the authority of the Second Vatican Council. Most of the relevant documents, including a “Doctrinal Preamble” that the CDF presented to the SSPX as the basis for discussion, have never been made public except through unofficial and perhaps unreliable channels. However, two of the documents have been published and are worth examining for their treatment of the weight of the teachings of Vatican II.

In 2011, Msgr. Fernando Ocáriz, a consultor to the CDF and a participant in the dialogue with the SSPX, published an article in *L'Osservatore Romano* which discussed the obligation of the Catholic faithful to the doctrines taught at the Council. Most of this article repeats *Lumen gentium* 25, the *Professio fidei*, and *Donum veritatis*. It then addresses the “number of innovations of a doctrinal nature” found in the conciliar documents, such as episcopal collegiality and religious freedom. Ocáriz states, “These innovations in matters concerning faith or morals, not proposed with a definitive act, still require religious submission of intellect and
will, even though some of them were and still are the object of controversy with regard to their continuity with earlier magisterial teaching, or their compatibility with the tradition.” He urges that the conciliar teachings and previous teachings be interpreted in a “unitive” manner, shedding light on each other.

The interpretation of the innovations taught by the Second Vatican Council must therefore reject, as Benedict XVI put it, “a hermeneutic of discontinuity and rupture,” while it must affirm the “hermeneutic of reform, of renewal within continuity”.... These are innovations in the sense that they explain new aspects which have not previously been formulated by the Magisterium, but which do not doctrinally contradict previous Magisterial documents. This is so even though, in certain cases – for example, concerning religious freedom – these innovations imply very different consequences at the level of historical decisions concerning juridical and political applications of the teaching, especially given the changes in historical and social conditions.24

Ocáriz’ insistence that there is no contradiction at the doctrinal level is clear. Indeed, the SSPX’s disagreement with this claim seems to have been the central impasse in the dialogue.25

The SSPX’s official reply to the Doctrinal Preamble included a text written by its Superior General Bishop Bernard Fellay and a text written by Fr. Jean-Michel Gleize, professor of ecclesiology at the SSPX seminary in Écône, Switzerland. Gleize’s text was later published.26 It is primarily a response to Ocáriz’ article and to Benedict’s Christmas Address.

Gleize understands Vatican II’s goal as trying to express Christian doctrine in terms of


modern philosophy and contemporary categories. He argues that such a project would be unable to generate teachings that preserve the core of traditional doctrine:

Undoubtedly the modern world may be led to pose in a new way the eternal questions to which the Church will bring answers that still flow from the same principles and the same method. But Vatican II did not examine the new questions raised by modernity in the light of faith.... [Rather, its goal was] to expound the faith in the light of and after the manner of modern thought....

Vatican II intended to express the faith following the principles and methods of a new school of thought that is opposed to faith, not only in any particular one of its contents, but in its very foundation, which is that of criteriological doubt.... Modern philosophy has in fact inverted the relationship of subject to object.... By adopting the investigative methods of modernity, the conciliar way of thinking accepted this inversion [la pensée conciliaire a assumé cette inversion], as the Declaration on Religious Freedom, for example, makes manifest: the principle and foundation of this declaration is nothing else that the primacy of ontological dignity over moral dignity, that is to say, the primacy of the subject over the object.\(^\text{27}\)

Gleize is here contrasting the preconciliar approach to religious liberty, which focused on whether true or false beliefs have rights, with Vatican II’s approach, which associates rights with the person holding these beliefs. In contrast to Benedict and Ocáriz, he sees the discontinuity in Vatican II’s teaching not in its application of doctrine but in its fundamental perspective on how theology is done.

Gleize finds four teachings of the Council to be “in logical contradiction” to earlier magisterial teachings: those on religious liberty, ecumenism, episcopal collegiality, and the identity of the Catholic Church with the Mystical Body of Christ.\(^\text{28}\)

Perhaps the core of the dispute between Rome and the SSPX lies in the question of what “Tradition” means in a Catholic context. For Gleize, Tradition refers primarily to the object of faith which has been handed down from the apostles to the present day. On the other hand,

\(^{27}\) Ibid., §6 (following the SSPX translation except with respect to the bracketed phrase).

\(^{28}\) Ibid., §7.
Gleize argues that the Council and the postconciliar Church understand Tradition to mean the process by which this is handed down. He cites one of Benedict XVI’s Wednesday audiences as illustrative of this viewpoint:

Tradition is the communion of the faithful around their legitimate Pastors down through history, a communion that the Holy Spirit nurtures, assuring the connection between the experience of the apostolic faith, lived in the original community of the disciples, and the actual experience of Christ in his Church.... Tradition is not the transmission of things or words, a collection of dead things. Tradition is the living river that links us to the origins, the living river in which the origins are ever present, the great river that leads us to the gates of eternity.\(^{29}\)

To this, Gleize responds, “But if the waters of this great river which bathes the faith of the Church never stay the same, we shall have a hard time indeed following Msgr. Ocariz in the search for a ‘unitarian interpretation’ that satisfies the demands of the principle of non-contradiction.”\(^{30}\)

It is worth noting that neither Ocáriz nor Gleize seems to consider the possibility that a change in non-definitive doctrine might be permissible. Ocáriz insists that Vatican II made no changes of doctrine \textit{per se}, while Gleize asserts that such change did occur and considers it unacceptable.

\textbf{John P. Boyle}

John P. Boyle was born in Iowa City in 1931, and was ordained a priest of the Diocese of Davenport in 1956. He received his licentiate from the Gregorian University and his doctorate from Fordham University. He taught in the School of Religion at the University of Iowa from


\(^{30}\) Gleize, “Une question cruciale,” §10.
1972 until his retirement in 2001, publishing several essays on the history and development of the magisterium. He died in 2006.

In a 1995 essay, Boyle traces the history of the term *obsequium* in the theology of the magisterium. Medieval theologians used this word to refer to the assent or obedience owed to revealed doctrines (matters of divine faith), citing Paul’s exhortation to “take captive every thought in the obedience [*obsequium*] of Christ.” Vatican II uses *obsequium fidei* to refer to this assent of faith, in contrast to the obligation owed to non-definitive teachings of the universal magisterium, which it calls *religiosum obsequium voluntatis et intellectus*. Boyle argues that these two uses of *obsequium* should be seen as merely “analogous,” as the assent of faith is fundamentally different from the response due to non-definitive teachings.31

Boyle appreciates the acknowledgement in *Donum veritatis* that theologians may discover errors in Church teaching, but feels that the many steps it imposes on theologians before they may publicly disagree with such a teaching amount to an unreasonable burden.32 He also points out that since the Instruction deals specifically with theologians, it is not clear how this applies to others who might not enjoy the same “presumption of competence” that a theologian with a canonical mission or mandate receives.33

According to Boyle, the concept of “reception” was gradually lost during the Middle Ages and the Tridentine era, as a result of “[a]n excessively juridical understanding of the church.” Indeed, it was not mentioned in any of the interventions at Vatican I. The teachings of that

31 Boyle, *Church Teaching Authority*, 64, 75, 87 (quotations from 75 and 87). The citation is from 2 Cor 10:5, which reads in the Vulgate, “in captivitatem redigentes omnem intellectum in obsequium Christi”.
32 Ibid., 153-55.
council rule out one possible view of reception: specifically, the idea that “the local churches and/or their bishops pass judgment on the concordance of the papal or conciliar act with the faith of the church and then receive or reject it.” But many other views on reception are compatible with Vatican I. Boyle suggests that the best response to non-definitive teaching is neither a formal juridical process nor unquestioning obedience. Rather, since all members of the Church are given charisms by the Holy Spirit, and these charisms are used to build up the Church, the Church’s teachings will be exhibited through the life and work of the faithful. This “process of reception” integrates the Church’s teachings into the lives of its people; in some instances, this process may “filter out teachings or practices which the church, the people of God, experiences, at least over time, as incongruent with its faith.” He gives some specific examples where this process has caused Church teaching to be “substantially altered,” such as the morality of usury and the issue of religious freedom. Indeed, in some cases an abandoned teaching is “now recognized as simply wrong,” such as the Mosaic authorship of the Pentateuch. Another example of teaching that has been abandoned can be found in “the reactionary social teaching of Pope Pius X, which has not even been mentioned in contemporary lists of papal social teaching since Leo XIII.”

**Joseph Komonchak (2 of 2)**

Shortly after *Donum veritatis* was released, Joseph Komonchak wrote a detailed analysis and commentary on its contents. He welcomes much of the Instruction’s content as an updating

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34 Boyle, *Church Teaching Authority*, 127, 140-41, quotes from 140 and 141.
35 Ibid., 91, 141, 215n41.
of previous CDF statements on the authority of the magisterium:

The Instruction introduces for the first time into an official document some of the criteria developed over the last century for evaluating the authority of magisterial documents.... The recognition that not all magisterial statements represent “the last word” on a subject is a contribution to the puncturing of what Yves Congar once described as the “incredible inflation” of the Magisterium over the last two centuries.\(^\text{36}\)

However, he objects to the way the Instruction lists teachings that combine “solid principles” with “contingent and conjectural elements” as a fourth level of teaching, distinct from the first three categories. On the contrary, “[a]ll exercises of the Magisterium involve some ‘contingent and conjectural elements,’ and they all have at times in fact required ‘filtering’ in order to differentiate the permanently valid from the contingently expressive.”\(^\text{37}\)

Komonchak also takes issue with the examples of this fourth category offered by Cardinal Ratzinger at the press conference for the release of Donum veritatis – namely, the preconciliar condemnations of religious freedom and the condemnations of Modernism. Whereas Ratzinger cited these as interventions that were appropriate at the time but which are now obsolete, Komonchak questions whether they were appropriate even in their own time. Perhaps the popes who issued these teachings were responding to some legitimate concerns, but one is not obligated to feel that their specific responses were necessarily appropriate. “One can acknowledge the concern or intent of the Magisterium in both cases without having to conclude that what it proposed was valid or true, even at the time.”\(^\text{38}\)

While agreeing with Donum veritatis that there are appropriate and inappropriate ways for theologians to proceed when they are unable to assent to a magisterial teaching, Komonchak


\(^{37}\) Ibid., 322, emphasis in original.

\(^{38}\) Ibid., 322-23, emphasis in original.
indicates that the Instruction shows a certain imbalance. In its depiction of the magisterium-theologian relationship, “the whole burden of virtue appears to fall upon theologians. There is not a word about the responsibilities of the Magisterium, about the possibility of its over-reaching, about the temptations to which it is subject, despite the assistance of the Spirit. The Instruction is very clear about what theologians must not do; it says nothing about what the Magisterium must not do.”39 A similar imbalance is shown in its treatment of whether theologians can communicate their dissenting views to others: although Donum veritatis refers to the obligation incumbent on theologians not to publicly proclaim their disagreements in certain circumstances, it does not mention that there are other circumstances in which they are obligated to proclaim such disagreements. Indeed, the Code of Canon Law states that the Catholic faithful have not only a right but also a duty “to reveal their views on matters concerning the good of the Church” to their pastors, and even, under certain conditions, “to the rest of the faithful.” 40

Komonchak holds that one of Donum veritatis’ goals is to restore the credibility of the magisterium among theologians and the Catholic faithful in general. But he argues that this goal would be achieved more effectively by an admission of “the possibility and fact of errors and

39 Ibid., 325.
40 Ibid., 327 (citing canon 212 §3 in Komonchak’s translation), 328.
abuses” by the hierarchy, along with “a determined and visible effort to prevent them from recurring,” and “modes of teaching which respect the complexities of issues.”

Komonchak has also written extensively on the history and interpretation of Vatican II. Apropos of whether any of Vatican II’s teachings contradicted earlier magisterial teaching, he describes *Dignitatis humanae*’s teachings on religious liberty as “a change in theory and practice” which “dethroned the preconciliar ideal.” Regarding the juxtaposition of different views in the final documents, Komonchak does not claim that one must hold one set of views above the other:

> [O]n many important subjects the council decided not to try to settle legitimately disputed theological questions but simply set forth the elements that must be kept together, perhaps even in tension, and in the stating of these the council, as was centuries-old conciliar practice, worked by compromise and conciliation toward the greatest consensus possible.

Moreover, he points out that it is wrong to assume that the Council’s debates and compromises always pitted “conservatives” against “progressives.” On the contrary, the debate on *Gaudium et spes* was primarily a debate between three different “views that emerged within the ‘progressive’ majority of bishops and theologians at Vatican II”: French-speaking theologians who, following M. D. Chenu, emphasized the “signs of the times”; German theologians such as Karl Rahner who faulted the text for underestimating the inevitable antagonism between the world and the followers of Christ; and Giuseppe Dossetti, *peritus* for Cardinal Giacomo Lercaro, who wanted the “naturalistic optimism” of the text be replaced with “an utterly supernatural Christian

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43 Ibid., 75-76.
optimism” proclaiming that the world’s structures could be renewed through radical Christian discipleship.44

Finally, Komonchak addresses whether the magisterial authority of a pope is the same as that of a council. To answer this question, he distinguishes between the formal authority and the material authority of the magisterium. As described in Chapter Two, the formal authority of the magisterium is the trust accorded to its teaching by the faithful on account of the assistance of the Holy Spirit promised to the Church’s teachers, while the material authority of the magisterium is the trust accorded to its teaching by the faithful on account of the arguments presented in magisterial documents. With regard to formal authority, a pope and a council may be equal. But as the Church is a human institution in addition to being a divine institution, the effectiveness of its teachers “does not rest solely on the authority of their office,” but also on human factors. And on this material level, a council has many advantages that a pope does not: it has access to the wisdom of more individuals, it has a representative character and is therefore more easily accepted as authoritative by the people of the Church, and it allows “the defects in an individual leader” to be “compensated for by the advice and participation of others.”45

Francis Sullivan

Francis A. Sullivan, S.J., was born in Boston in 1922. He graduated high school at age sixteen and entered the Society of Jesus soon afterward. He received his doctorate at the


Gregorian University in Rome in 1956, and that same year was made professor of ecclesiology at that university, continuing in that position until 1992. Afterward, he taught at Boston College from 1992 until his retirement in 2009 – having taught ecclesiology for more than half a century, under six popes, both before and after the Second Vatican Council. After his 1962 manual *De ecclesia* (discussed briefly in Chapter One), he published little for two decades, but since 1983 he has written dozens of articles about the magisterium, as well as two books aimed at both scholarly and popular audiences: *Magisterium: Teaching Authority in the Catholic Church* (1983) and *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium* (1996). The latter includes two chapters that directly address the topic of this dissertation. Throughout his many writings, Sullivan addresses nearly every aspect of the theology of the magisterium.

**Fundamental criteria for weighing a teaching**

Sullivan lists several factors that affect the weight of non-definitive authoritative magisterial teaching. The first is the identity of the teacher. In general, “[n]on-definitive magisterium can be exercised by an ecumenical council, by a pope, by the Congregation for the Doctrine of the Faith, by a regional council, by an episcopal conference, or by a local bishop.” However, not all of these subjects can address their teaching to the universal Church, and “it is only those addressed by a teaching who are obliged by its authority.” (Since the third added paragraph in the *Professio fidei* refers specifically to teaching that is authoritative for all

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47 *Creative Fidelity* chapter 10 addresses the interpretation and weighing of non-definitive magisterial teachings in general, and chapter 11 addresses the interpretation and weighing of the documents of Vatican II. There are many other passages in the book which deal with this topic as well.
Catholics, teachings made by local or regional authorities will not be considered in this dissertation.) Sullivan – following *Donum veritatis* – asserts that the Congregation for the Doctrine of the Faith “participates in” the papal magisterium when it releases a document that has been expressly approved by the pope. Nonetheless, Sullivan makes clear that such documents can never wield papal infallibility; indeed, statements by the CDF are always “less authoritative than those issued by the pope in his own name,” with the exception of articles in such a document that are approved by the pope *in forma specifica.* 48

Sullivan also addresses some disputed questions regarding ecumenical councils. Some theologians have argued that the councils of the second millennium are not truly ecumenical, as the bishops of the Orthodox churches were not participants. Sullivan rejects this claim, arguing that an ecumenical council is a meeting of the episcopal college, and “membership in this college requires hierarchical communion with the bishop of Rome” as stated in *Lumen gentium* 22. Therefore, councils such as Trent, Vatican I, and Vatican II were able to exercise the “supreme pastoral and teaching authority” of the episcopal college. 49 Other theologians have argued that the bishops at Vatican I were not “free” in their deliberations, invalidating their decisions. Sullivan does not accept their historical conclusions, but agrees with the principle that if the bishops at a certain council were not free in their deliberations and voting, their decisions would

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48 Sullivan, *Creative Fidelity*, 20; cf. 144-45; idem, “The Non-Definitive Exercise of Magisterium,” unpublished article, 2. My thanks to Fr. Sullivan for sending me this article.

49 Sullivan, *Magisterium*, 59-60, also 109-11. This is similar to Sullivan’s argument that the infallibility of the universal belief of the faithful implies that the universal belief of all the Catholic faithful is infallible, since the Church of Christ subsists in the Catholic Church: ibid., 19-21; idem, “The Sense of Faith: The Sense/Consensus of the Faithful,” in *Authority in the Roman Catholic Church: Theory and Practice*, ed. Bernard Hoose (Burlington, VT: Ashgate, 2002), 85-93, at 92-93.
lack validity.  

He also points out that one must distinguish between a document that was truly issued by an ecumenical council and a non-conciliar document presented at a council which was not actually the work of the council. This effort is important, for both kinds of documents are sometimes published alongside each other. He points to several examples that fall into the second category: Cyril’s “Twelve Anathemas” presented at the Council of Ephesus, the “Profession of Faith of Emperor Michael Paleologus” presented at Lyons II, and the “Decree for the Armenians” and the “Decree for the Jacobites” presented at Florence.

Another question is whether the teaching authority of a pope is greater or less than that of an ecumenical council. Sullivan argues that, because Vatican I held that Christ entrusted the charism of teaching to the Church itself and that this charism can be exercised either by the college of bishops (united with the pope) or by the pope alone, then “the pope has the same supreme teaching authority that the whole episcopal college has.... [O]ne must hold that the pope’s authority is equal to that of the whole episcopal college.” However, this does not mean that every papal teaching has the same weight as every conciliar teaching. Because the non-definitive magisterium “admits of varying degrees of authoritativeness,” papal teachings vary in their weight, as do conciliar teachings. Therefore, certain conciliar teachings may carry more weight than certain papal teachings, while other papal teachings may carry more weight than

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51 Sullivan, *Creative Fidelity*, 45, 60, 69-70, 77-78. All of these documents except the profession of Michael Paleologus appear in the Alberigo-Tanner edition of conciliar decrees (*DEC*, vol. 1, 50-61, 534-59, 567-82), although a careful reading of each of these texts reveals that the document’s voice is not that of the Council Fathers.
some conciliar teachings. If a theologian argues that a certain conciliar document takes precedence over a certain papal document, such an argument should be justified by the use of “[r]easons ... appropriate for evaluating the relative doctrinal weight of different examples of the ordinary exercise of teaching authority.”

The second factor Sullivan considers is the teaching’s audience. As mentioned, the third added paragraph in the *Professio fidei* discusses teaching addressed to the whole Church, which can be taught only by the universal shepherds of the Church. But these teachers do not always teach to the whole Church. For example, the pope sometimes teaches as the bishop of the local Church of Rome, and at other times addresses his teaching to a region he is visiting; such teachings do not carry authority for the whole Church.

The third factor is the object of the teaching – that is, the subject matter being taught. The Church can teach authoritatively on “matters of faith and morals,” which Sullivan sees as a broad category encompassing “whatever pertains to Christian belief and to a Christian way of life,” including “not only the moral teaching of the gospel, but also the natural moral law.” The Church may not be able to teach everything in this category *infallibly*, as the scope of infallibility is “limited to truths which are either revealed or are required for the defense or explanation of some revealed truth,” but the Church can teach *authoritatively* on a broader range of objects than

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53 Ibid., 169. In this passage, Sullivan is arguing – among other things – that Joseph Ratzinger’s 1965 assertion that *LG*’s teaching on episcopal collegiality “greatly surpasses” [*dépasse de beaucoup*] that of previous papal teaching on the matter (discussed in Chapter Two, above) is a comparison of the weights of specific documents, and does not “imply that papal teaching authority as such is inferior to conciliar authority.” Although Sullivan’s interpretation of Ratzinger’s statement is debatable, I am concerned at this point only with Sullivan’s own views.

54 Ibid., 21; idem, “Non-Definitive Exercise of Magisterium,” 1-2.
it can teach infallibly. Sullivan also calls attention to *Donum veritatis*’ distinction between teachings that deal purely with doctrinal and moral matters, teachings that combine solid principles with contingent factors, and acts which qualify as “interventions in the prudential order,” each representing a different level of authority.  

The three aforementioned factors can be seen as absolute criteria for non-definitive authoritative teaching: such teaching must be taught by a pope or council or a Roman congregation with the pope’s approval, such teaching must be addressed to the universal Church, and such teaching must deal with a matter of faith or morals. If any of these criteria are not met, the teaching does not fall within the third magisterial category.

Teachings in the third category possess authority, but they are not immune from error. Indeed, “such non-infallible teaching not only can be erroneous, but actually has been so” on certain occasions. Nonetheless, Catholics are expected to give *obsequium religiosum* – which Sullivan translates as “religious submission” – to such teachings. To do this, one must abandon any “obstinacy” and “adopt an attitude of *docility* toward the teaching.” If the teaching seems difficult to accept, one must “make an honest and sustained effort to overcome any contrary opinion.” One must examine the arguments on both sides, while recognizing that magisterial teaching is supported not merely by “the strength of its arguments.” But if, having done all this, a Catholic still cannot intellectually assent to this teaching, they may disagree with its contents, having “fulfilled their obligation of obedience.”

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55 Sullivan, *Creative Fidelity*, 18, 21-22. Although Sullivan does not expressly state that these three categories are listed in descending order of authority, that would seem to be his implication, as well as being consistent with *Donum veritatis*.

56 Sullivan, *Magisterium*, 157, 164-66, emphasis in original; cf. idem, “The Response Due to the Non-Definitive Exercise of Magisterium (Canon 752),” *Studia canonica* 23 (1989): 267-84, at 274-76. Also see idem,
It must also be noted that “within the category of the non-definitive magisterium, different degrees of teaching authority will be exercised.” The question of degree is not merely a theoretical issue, but has practical applications for someone struggling with a given teaching, for “the response that is due will be proportionate to the level of authority that was exercised in any particular teaching.” What factors indicate the precise weight of a teaching within this category? Sullivan describes many such factors, but they all function as clues to one central question: What was the intent of the teacher? This is the fundamental question that he approaches in many ways.

**Interpretation as a prerequisite**

The question of intention is entwined with the question of interpretation. Understanding the meaning of a document is often a prerequisite for understanding the goal of its author. To interpret a text, one must become familiar with the history behind its composition, the history and motives of its author, the immediate circumstances of its creation, and how it has been understood by its contemporaries and perhaps also later generations. In particular, one should identify the theological and philosophical worldview of its author, with an eye toward discovering implicit assumptions and omissions in the document. When the author refers to previous doctrinal teachings or cites Scriptural passages, it is crucial to know what these meant...

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*Sullivan, Creative Fidelity, 20; idem, “Non-Definitive Exercise of Magisterium,” 7.*

*Much of his book Creative Fidelity is devoted to the topic of infallible and definitive doctrines, and therefore explores the ways one can determining whether a pope or council intended to issue a definitive teaching: pp. 13-18, 41-108; see especially 45, 56, 82 for the central role “intention” plays. Our focus here will remain on non-definitive teaching, of course.*
in the milieu of the author, rather than focusing solely on their original meanings or their meanings today. It may well be impossible to determine all these factors in a specific case, but Sullivan expresses confidence that when there is widespread agreement among Catholic theologians about the meaning of a passage, their consensus is a reliable guide.

When a document has been composed by multiple writers – as some papal documents and virtually all conciliar documents have been – one must try to discover how these authors worked together, and what contributions each of them made, both materially and formally. Sullivan does not elaborate on this point, but his own arguments illustrate how this can be done. For example, to understand a certain decree of the Council of Trent, Sullivan points to a passage written by Melchior Cano about the meaning of this decree, arguing that because of the role he played at this council, “Cano was certainly in a position to know the mind of Trent on the matter.”

Determining intention: document types and structures

If the weight of a teaching depends on the intention of the author, how is this intention determined? The first step is to identify the type of document being issued:

The Second Vatican Council issued two “dogmatic constitutions,” one “pastoral constitution,” one “constitution,” nine “decrees,” and three “declarations.” There is no doubt about the intention of the council to indicate different levels of authority by these different titles. Similarly, there are different kinds of papal documents with different levels of authoritativeness. One visible sign of this diversity is the kind of seal affixed to the

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59 These factors are summarized in Creative Fidelity, 109-40, along with some examples. Of course, this topic is hardly original with Sullivan. Tracing a history of the hermeneutics of magisterial statements is beyond the scope of the present work.

60 Francis A. Sullivan, “The Meaning of Conciliar Dogmas,” in The Convergence of Theology: A Festschrift Honoring Gerald O’Collins, S.J., ed. Daniel Kendall and Stephen T. Davis (Mahwah, NJ: Paulist, 2001), 73-86, at 76-79. In this passage Sullivan focuses on the reliability of the consensus of “the great majority of approved Catholic theologians” regarding the meaning of the Vatican I definitions, but it seems reasonable to take this as a general principle.

61 Sullivan, Creative Fidelity, 130. This specific case will be studied in greater detail below.
document. The most authoritative documents are sealed with a lead seal (in Latin bulla) and on that account are called “bulls”; lesser documents are sealed with wax, and on others the papal seal is merely stamped in ink. Among the documents thus diversely sealed, the most authoritative are “apostolic constitutions,” “apostolic letters,” “encyclical letters,” and “apostolic exhortations.”

However, despite having “no doubt” that the type of Vatican II documents indicate something about their levels of authority, Sullivan does not give any specifics about what weight such titles indicate. Indeed, “the council never explained the significance which these titles have with regard to the degree of authority exercised in the respective documents.”

Moreover, the document type alone does not fully settle the question of weight. Sullivan states that if the fathers of Vatican II had chosen to issue dogmatic definitions (which he argues they did not), “one would surely be more likely to find them in the ‘dogmatic constitutions’ than in the ‘decrees’ and ‘declarations’” – hardly an absolute statement. Similarly, although “no dogma has ever been solemnly defined in a papal encyclical,” this does not mean that an encyclical could not be used for this purpose in the future.

Certain documents issued by the CDF (or, as it was formerly known, the Holy Office) are given special analysis. For example, the 1864 Syllabus of Errors listed eighty erroneous propositions that had been condemned in various writings of Pope Pius IX; each was followed by a reference to the document in which the condemnation had occurred. Sullivan quotes (and explicitly endorses) Newman’s analysis: given that the Syllabus lists these propositions without context, some of them quoted and some paraphrased from Pius IX’s earlier writings, it has “no

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62 Ibid., 21
63 Ibid., 169
64 Ibid., 46, 159. The dogmas of the Immaculate Conception and the Assumption were defined in apostolic constitutions.
dogmatic force” of its own. Catholics owe a certain obedience not to the *Syllabus* itself, but “to the original and authoritative documents” wherein the Pope’s teachings can be read in their original contexts, and “the nature and extent of the condemnation passed on any proposition” becomes clear.65 A similar rule applies to the *Catechism of the Catholic Church*: as Cardinal Ratzinger stated, each of its numbered paragraphs already possesses a certain weight that can be determined from its own history, but their inclusion in the *Catechism* “does not add to their authority.”66

After the type of document has been identified, structural divisions within the document itself provide evidence of the intention of the authors. As mentioned earlier, many conciliar documents included a series of expository chapters followed by canons asserting or condemning certain statements. It has long been held that when a canon asserts that a certain proposition is a revealed truth, or condemns a certain proposition as heretical, this constitutes an infallibly-taught dogmatic definition; however, there has been a longstanding debate about whether the *chapters* of a document contain infallible teaching. On this topic, Sullivan insists that the fundamental question, as always, is the intention of the authors. The division between chapters and canons is an important clue to their intentions, but is not the only clue available. Sullivan illustrates this point by offering several examples. He argues that the canons in Vatican I’s *Dei Filius* indicate infallibly-taught dogmas; the exact content of these dogmas is determined not merely by studying the canons but by reading the canons in the context of the entire document. Some of Trent’s documents have a similar structure; understanding them requires a similar process, but it

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also requires an understanding of the way that Tridentine theologians used terms such as “anathema” and “heresy” – usages that were not always identical to those found in nineteenth-century theology. Other documents from Trent contain no expository chapters, but instead consist of long canons containing a mixture of theological argumentation and anathematized statements; in such cases the argumentation carries less weight than the conclusion.  

Similarly, the manualists and other pre-Vatican II theologians had held that when a document defines a certain doctrine, the charism of infallibility applies only to the definition of that specific doctrine – not to the arguments adduced for it from Scripture, tradition, or theology, or any *obiter dicta* in the document. Sullivan holds that this view to be true in general (these elements “do not have the same doctrinal weight” as “the central assertion which is defined,” and thus “there is good presumption that councils and popes do not intend to define the sense of particular biblical texts which they cite in favor of their teaching”), while allowing that there may be exceptional cases if “clear evidence” demonstrates the intention to define such things.  

While most of his focus is on documents containing infallible definitions, Sullivan makes it clear that this rule applies to all magisterial decrees: “In every kind of document, there will always be a distinction to be made between the principal assertions and the accessory material which does not have the same importance.” As an example, he cites an essay by Karl Rahner on the knowledge of Christ, in which Rahner refers to a statement in *Mystici corporis* (concerning Christ’s vision of the Church’s members from the first moment of his conception) as a “marginal and incidental declaration.” Sullivan agrees with Rahner: because the central

67 Ibid., 48-53.
69 Sullivan, *Creative Fidelity*, 111.
purpose of *Mystici corporis* was to teach about the Church, not to teach about the human knowledge of the Incarnate Word, this statement about Christ’s knowledge carries less weight than the encyclical’s statements about the Church.\(^70\)

However, Sullivan does not *quantify* this difference in weight. To illustrate this point, one can consider Pius XII’s *Munificentissimus Deus*. This apostolic constitution contains arguments in favor of Mary’s Assumption drawn from history, liturgy, sacred art, the Church Fathers, the belief of the Catholic faithful, and the writings of many popes. According to Sullivan’s principle, only the fact of Mary’s Assumption was infallibly defined in this apostolic constitution; the remaining material has lesser weight. But exactly how much weight? Is this remaining material taught with extremely solemn authority, greater than any encyclical, just short of a definition? Or should it be accorded miniscule weight? Or something in-between? Sullivan does not address these questions. A similar question could be asked about the documents of Vatican II: when one has identified the “principal assertions” of a document, then the remainder has lesser weight – but does this mean *negligible* weight?\(^71\)

Sullivan describes various ways of dividing up a document (chapters versus canons, the writer’s principal assertion versus other material, the central teaching of a document versus the arguments offered in support of it), in each case using this division to distinguish the weight of different parts of a document. However, unlike some of the theologians considered in this


\(^{71}\) As seen in Chapter One, this principle that the argumentation and *obiter dicta* in a definition are not themselves infallibly taught is not original to Sullivan, but was held by the entire manualist tradition. And like Sullivan, the manualists never addressed the question of *just how much* weight the non-defined portions of such a document possess.
dissertation, Sullivan very rarely mentions the possibility of dividing up a document into the portions written by a conciliar majority and a conciliar minority as a way to determine their relative weights. The only time that this concept is mentioned in *Creative Fidelity*, Sullivan appears to agree with Hermann Pottmeyer that when a “progressive” thesis is juxtaposed with a “conservative” thesis in a document of Vatican II, it is wrong for a theologian to select one of these theses and discard the other.\(^\text{72}\) However, Sullivan also quotes Pottmeyer’s statement that “the council fathers [of Vatican II] attached differing values to the theses in question. The theses defended by the minority do not represent the will of the council in the same degree as the theses that passed by an overwhelming majority.” It appears that Sullivan here endorses Pottmeyer’s claim that the majority-inspired statements possess more weight than the minority-inspired ones, even though the minority-inspired ones must not be ignored.\(^\text{73}\)

**Determining intention: language and context**

The language used in a document is one of the most important clues that can reveal the level of authority intended by the author. First of all, the authority may be expressly stated. Sullivan describes theological notes and other terms that have been used throughout the centuries – “dogma,” “diffinimus,” “anathema sit,” and so forth. A theologian must be aware that some of these terms have changed their meaning over time, and therefore one must seek the meaning that

\(^\text{72}\) Sullivan, *Creative Fidelity*, 173-74. In this passage, Sullivan does not explicitly state that he agrees with Pottmeyer’s analysis. However, he devotes the final two pages of *Creative Fidelity* chapter 11 to Pottmeyer’s ideas, refers to Pottmeyer’s analysis as “very perceptive,” and finally uses a Pottmeyer quote as “a fitting conclusion to this chapter,” so it seems that this was indeed Sullivan’s intention.

was intended by the document’s authors. In particular, popes and councils were issuing infallible definitions before the theological concept of “infallibility” was explicitly developed. As they did not always use the term “we define,” nor did they refer to the charism of infallibility, one must look not merely for specific terminology, but for “indications of an intention to pronounce a definitive judgment of faith for the whole church.” This can be expressed in the affirmation of a certain doctrine, or in the condemnation of a certain viewpoint as heretical. In the latter case, the exact contradictory of the heretical viewpoint is being defined as a dogma, provided the object itself meets the appropriate criteria.\(^\text{74}\)

Lesser censures – such as “scandalous,” “rash,” and “close to error” – are commonly found in decrees of the Holy Office. Regarding these, Sullivan states, “Obviously the response due to any such decree will correspond to the gravity of the censure.” Moreover, some censures are temporary by their nature. For example, when the Holy Office declared that a certain doctrine “cannot be safely taught,” this censure reflected its judgment that at that time such teaching would pose a danger to the faithful.\(^\text{75}\)

With regard to global censures – a document in which many propositions are listed, followed by a list of censures, but with no indication of which censure corresponds to which proposition – Sullivan rejects the theory advanced by some manualists that such a document can be infallible. He says that these documents cannot contain dogmatic definitions, but are “examples of the ordinary, non-definitive exercise” of the magisterium.\(^\text{76}\) However, he does not

\(^{74}\) Sullivan, Creative Fidelity, 29, 49-54, 81-83, 94-96, 112 (quotation from 82).

\(^{75}\) Ibid., 145. On this point, Sullivan is following Louis Billot (see Chapter One above) and Franz Hürth.

\(^{76}\) Ibid., 89. In this passage Sullivan is considering papal documents, but he applies the same rule to conciliar documents on p. 75.
give any more specific statement about their level of authority, as he is focused at this point on
the question of whether they contain infallibly-taught dogmas.

The language of a teaching can indicate its weight in ways other than explicit theological
notes. As mentioned earlier, Pius XII stated in Humani generis that when a pope “purposely
passes judgment” on a disputed question, it should be no longer “open to discussion among
theologians.” Sullivan appears to accept this rule, using it to ascertain the weight of specific
teachings issued in recent years. More generally, “the degree of authoritativeness can be
assessed from the language that is used and the insistence with which a teaching is repeated.”
On this point, Sullivan is following Lumen gentium 25 and Donum veritatis §24.2.77

A more subtle clue is the absence of a certain claim from a document in which it might be
expected. An essay that Sullivan wrote about the development of doctrine regarding the
salvation of non-Christians is illustrative here. Sullivan notes that while both Pius XII and the
Holy Office during his reign stated that non-Catholics could be saved insofar as they were joined
to the Church through desire (even an implicit and unconscious desire), such a claim does not
appear in the documents of Vatican II except with regard to catechumens (whose desire is
explicit). To determine the significance of this omission, Sullivan looks at the history of the
Council. He finds that the first draft of the schema de Ecclesia reflected Pius XII’s broad
understanding of being joined to the Church by desire, but the relevant material was removed by
the Doctrinal Commission during the revision process in 1964. The commission explained that
this change had been made in response to the objections of several Council Fathers regarding the
status of non-Catholic Christians: since such people have been baptized, their link to the Church

77 Ibid., 4, 22, 46, 141 (quotation from 141).
is not adequately described by reference to “desire.” Sullivan concludes that, as the decision to remove this sentence was based on its implications for non-Catholic Christians, its removal did not indicate that what it said about non-Christians had been rejected. To determine what Vatican II taught on that issue, he looks at other works of the Council.\(^7\) In other words, Sullivan refuses to draw conclusions from the Council’s silence on a certain matter, even knowing that a statement on this matter was deliberately deleted during the drafting process, until he can determine the reason for this silence.

As this example shows, to determine the intention behind a document one must know its history. The importance of the historical background is also shown in Sullivan’s analysis of the Fourth Lateran Council’s doctrinal constitution *Firmiter*. This document begins with an elaboration of the Creed, and then continues with theological exposition on various topics. From the text alone it is not clear why these specific statements are being made, nor which of them are more central to the purpose for which it was written. Sullivan writes:

> Unfortunately for us, it [Lateran IV] did not add canons to its constitution, condemning the heresies that would contradict its doctrine. However, there is no doubt that it did have a number of heresies in mind, against which it was directing its positive presentation of Catholic faith....

> While the conciliar document does not describe these heresies, we know enough about the contemporary situation to be able to identify them.... When we compare the tenets of these heretics with the doctrines in which the decree *Firmiter* goes beyond the previous dogmas, it is clear that the council proposed these doctrines precisely with a view to affirming the Catholic beliefs which the heretics were denying. For this reason, one can conclude that the intention of the council was to teach, in a definitive way, those doctrines of Catholic faith which the Waldensians, Albigensians and Cathari were denying. In other words, one can recognize as dogmas of faith defined by Lateran IV those propositions of its decree *Firmiter*

which contradict the distinctive beliefs of the contemporary adversaries of the Catholic
faith. 79

As a specific example, Sullivan points to *Firmiter*’s assertions that God created angels and also
corporeal beings: “God ... created from nothing both spiritual and corporeal creatures, that is to
say angelic and earthly.”80 The Albigensians and Cathari despised matter and claimed that
corporeal beings had not been made by the one uncreated God. Given the Council’s desire to
refute these ideas, Sullivan concludes that *Firmiter*’s affirmation that God created corporeal
beings was central to its authors’ purpose and qualifies as an infallible dogmatic definition. On
the other hand, God’s creation of angels was not being disputed, and therefore the Council may
have mentioned it – “presum[ing] its truth as a matter of common belief” – merely as a natural
complement to its statement about corporeal creation. Therefore the authoritative weight of
Lateran IV’s teaching about the creation of angels carries significantly less weight than its
teaching about the creation of material things; in particular, one cannot conclude that its teaching
about angels is an infallible definition.81

This example illustrates the narrowness (not in a pejorative sense) and precision of
Sullivan’s judgments regarding the weight of a teaching. Grammatically there is but a single
clause in the statement that God “created from nothing both spiritual and corporeal creatures,”
and yet Sullivan distinguishes two assertions here – God’s creation of spiritual creatures and
God’s creation of corporeal creatures – and assigns different weights to the two. Sullivan makes
a similar distinction in identifying defined dogmas in the Nicene Creed. The bishops at Nicaea

79 Sullivan, *Creative Fidelity*, 67. The decree *Firmiter* can be found in *DEC*, vol. 1, 230-31 and in DS 800-802.
80 *Firmiter*, *DEC*, vol. 1, 230.
81 Sullivan, *Creative Fidelity*, 67-68.
intended to reject Arianism, so they added a clear assertion of the Son’s divinity to an existing baptismal creed. Therefore when they declared in their creed that Jesus Christ is “true God from true God” and “of one substance [homoousion] with the Father,” they were infallibly defining a dogma of faith. However, the articles in their Creed which do not concern the divinity of the Son “cannot be said to have been defined by the Council of Nicaea,” because “[t]here is no reason to think that the council intended to define any of the other articles of the baptismal creed which it used as the vehicle for its definition.” The same principle applies to the expanded creed issued by the First Council of Constantinople.  

These examples concern the question of whether a certain doctrine has been infallibly defined. On this point, Sullivan cites canon 749 §3: “Nothing is understood as infallibly defined unless this is manifestly established.” In canonical proceedings, this rule is an important safeguard, for the denial of a defined dogma materially constitutes heresy and can result in severe ecclesiastical penalties. On the other hand, there is no comparable canon concerning non-definitive teaching, so it is unclear whether Sullivan would use the same kind of “narrow” parsing when interpreting a non-definitive conciliar or papal document. It seems to me that he would, given his statement (cited earlier) that “[i]n every kind of document, there will always be a distinction to be made between the principal assertions and the accessory material which does...
not have the same importance.”

A different kind of precision is evident in how Sullivan uses the author’s background and worldview to parse the meaning of a document. Thus, when the Council of Nicaea anathematized those who held that the Son of God was “from another hypostasis” than the Father, it must be recalled that the bishops at Nicaea were using the word “hypostasis” in a different sense than it would be used in later generations. Similarly, when Pius X’s decree _Lamentabili_ condemned a number of propositions of the Modernists, these propositions must be understood in the sense that the Modernists intended them for the condemnations to apply; indeed, some of these propositions might be entirely orthodox in a different context. In both of these cases, the meaning of a specific statement in a magisterial decree must be understood in a precise sense that can be discovered through its historical context, lest the condemnation seem wider than its authors intended.

**Determining intention: the “spirit” of a council**

Sullivan does not write extensively on the concept of the “spirit” of a council or other event. At one point he refers to the “danger” of interpreting Vatican II by using a “spirit” of the Council that “leaves the letter behind.” To avoid this danger, he recommends – following Hermann Pottmeyer – that the “spirit” of the Council can be known only by reading the texts, and then in turn the texts must be read in this spirit rather than being divorced from their

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84 Sullivan, *Creative Fidelity*, 111, emphasis added


86 Sullivan, *Creative Fidelity*, 146-48; here Sullivan is following an argument advanced by Joseph Ratzinger in 1966.
Sullivan also includes an extensive excerpt from an article by Zoltán Alszeghy and Maurizio Flick, and writes favorably of the hermeneutical principles it illustrates. Alszeghy and Flick propose an interpretation of Trent’s *Decree on Original Sin* that is intended to preserve its core meaning without a literal acceptance of its assertions regarding the sin of Adam, the first human. These authors write:

The believer of today knows that the way in which Genesis and the corresponding passage in the letter to the Romans were read in the sixteenth century is exegetically questionable, and does not correspond to the findings of science about the history of the human race. On the other hand, a faithful Catholic does not want to abandon as erroneous the dogmatic definition of an ecumenical council....

What unconditionally demands our faith is the *message* which the council intended to teach, and not, in the same way or to the same degree, the *individual statements* by which the message is proposed. The authors then explain the hermeneutical distinction – often used in contemporary theology – between “the message of faith” and the way it is formulated. They note that the two are not easily separable, since the “cosmic system” implicitly assumed by any human being “is used not merely as a verbal means of expressing his proposition, but as a conceptual means for thinking it.” After exploring the conciliar statements, the authors propose to “distinguish those assertions which, in our opinion, demand the assent of faith, from those problems which remain open.” Here is one of the items that demands the assent of faith from Catholics, according to their conclusion:

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87 Ibid., 174
88 Ibid., 134-37
The condition in which all members of the human race are conceived does not correspond to the plan of God, but is caused by man himself, who from the beginning of human history abused his freedom. However, the council does not define to what extent the story of the drama of Eden as recounted in Genesis corresponds to historical fact, not even with regard to the person of the unique Adam, as father of all men.\textsuperscript{91}

It is instructive to compare this to the original canon in Trent’s decree:

If anyone does not acknowledge that the first man, Adam, when he acted against God’s command in paradise, immediately lost that holiness and justice in which he had been created and, because of the sin of such a transgression, incurred the anger and displeasure of God and consequently death, ... let him be anathema.\textsuperscript{92}

Note that Trent’s statement does not merely refer to Adam in passing. Rather, it consists solely of a series of assertions about what “the first man, Adam” did and how God punished him. Alszeghy and Flick therefore have to be quite creative in abstracting from this decree a theological kernel that can be held as true – indeed, held with “the assent of faith” – by those modern Catholics who believe that there never was a human without parents, nor a time in history when any living corporeal creature was immune from death. Although Alszeghy and Flick refer to the “message” of the Council rather than the “spirit” of the Council, these ideas have much in common, as both of them abstract a less-than-immediate message from the original texts.

\textit{Determining intention: concrete examples}

In addition to describing the principles of weighing and interpreting a conciliar document, Sullivan illustrates these principles using a variety of examples. His analysis of one of the canons in Trent’s “Decree on the Most Holy Sacrament of the Eucharist” shows how several of

\textsuperscript{91} Alszeghy and Flick, “Il decreto tridentino,” 635, in Sullivan, \textit{Creative Fidelity}, 136.

\textsuperscript{92} \textit{DEC}, vol. 2, 666; also DS 1511.
these principles can be used simultaneously:

If anyone says that faith alone is sufficient preparation for receiving the sacrament of the most holy eucharist: let him be anathema [anathema sit]. And, in order that so great a sacrament may not be received unworthily, and hence unto death and condemnation, the holy council establishes and declares [statuit et declarat] that, granted the availability of a confessor, those burdened by an awareness of mortal sin, however much they may feel themselves to be contrite, must first avail themselves of sacramental confession. But if anyone presumest to teach, preach or obstinately assert the contrary, or even defend it in public debate, by that very act he shall be excommunicated.93

Sullivan notes that the first sentence includes a very strong note (anathema sit), and was written in direct response to the Lutheran tenet that “faith alone is a sufficient preparation for receiving the eucharist.” So this teaching is definitive, when read narrowly: “Hence it is a defined dogma that faith alone would not always be a sufficient preparation.”94 In contrast, the second sentence includes a weaker affirmation (the Council “establishes and declares”). Sullivan considers whether the requirement of the sacrament of penance specified in this sentence could be merely a disciplinary decree, and rejects this possibility on account of the third sentence’s emphasis on the act of teaching. Therefore, the second sentence is doctrinal. But is it definitive? To answer this, Sullivan turns to the history of the Council. Melchior Cano (“a Dominican theologian who took part in the Council of Trent,” and “was certainly in the position to know the mind of Trent on the matter”) wrote an account of the composition of this canon. Cano stated that the Council Fathers were aware of Thomas Cajetan’s opinion that, when a person is aware of mortal sin, perfect contrition is sufficient preparation for receiving the Eucharist. The “great majority” of the bishops at Trent wanted to discourage this view, fearing it would lead to abuses, but they did not intend to condemn it as heretical. From Cano’s testimony, along with the significant difference

93 DEC, vol. 2, 698; also DS 1661.

94 Sullivan, Creative Fidelity, 129, emphasis in original.
in language between these sentences, Sullivan concludes that while the first sentence of this
.canon is a dogmatic definition, the remainder is not.95

Sullivan offers a wide array of analyses of specific texts to illustrate these principles.96
However, he does not include any examples where the clues point in different directions – for
instance, a magisterial teaching whose language is very forceful but whose history suggests it
was not seen as important by its authors, or vice-versa.

Vatican II as a special case

What weight should be assigned to the teachings of the Second Vatican Council? Sullivan
notes that theologians have taken several different positions on this question. He rejects the
views of those who argue that it was a “pastoral” council whose teachings lack “the binding
force” enjoyed by earlier councils. At the other extreme, he rejects the claim of Umberto Betti
(discussed in Chapter Two, above) that the Council’s major teachings are virtually equivalent to
dogmatic definitions in all but name. Rather, following Joseph Ratzinger and Yves Congar,
Sullivan concludes while Vatican II defined no new dogmas (for it “nowhere expressed its
intention” to do so), it nonetheless taught with real doctrinal authority.97 Sullivan describes the
obligation of Catholics toward its teachings:

Since this council chose not to define any new dogmas, it would not be heretical to deny any
of its teachings unless the matter were already a dogma of Catholic faith. However,
rejection of the work of the council as a whole, or of its principal contributions to the

95 Ibid., 130.
97 Ibid., 164-67. Since a “dogma” is a revealed doctrine taught infallibly by the Church, this statement does
not rule out the possibility that Vatican II defined some doctrine that falls within the secondary object of infallibility,
but Sullivan appears to rule this out in “Non-Definitive Exercise of Magisterium,” 3, where he states that the council
the Council “did not solemnly define any doctrine.”
renewal of Catholic life and thought, would surely have the effect of alienating a person from the mainstream of the Catholic Church today.  

Sullivan does not suggest that the documents of Vatican II should be weighed or interpreted by fundamentally different rules than other magisterial documents. He points to the 1964 *Qualificatio theologica* given by the Doctrinal Commission, which stated that the weight of each doctrine taught by the synod is determined by “the mind of the sacred synod itself, which becomes known either from the subject matter or from the language employed, according to the norms of theological interpretation.” As with other magisterial documents, then, the weight of Vatican II’s teaching is judged by the intention of its authors, which is discerned through careful study of the text, the history of the Council, and the background and motives of the authors – in brief, the same criteria Sullivan uses for all magisterial documents. “[I]n a global way,” the documents of this council “have the teaching authority proper to decrees of an ecumenical council.” And as the Council’s individual teachings vary in authority, it is “important to distinguish among the various levels of authority exercised by the Second Vatican Council,” just as one must observe “the varying degrees of authoritativeness” in every instance of “the ordinary exercise of magisterium.” Some of the weightiest conciliar teachings are those which “settled, without solemnly defining,” questions that had been hitherto disputed among theologians; Sullivan cites “the collegial nature of the hierarchy and the sacramentality of episcopal consecration” as examples.  

Nonetheless, Vatican II was different from previous councils in certain ways. Because of

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100 Ibid., 46, 167, 169-71 (quotations from 169 and 46).
Pope John XXIII’s “pastoral” intention, the Council included no canons or anathemas. The Council sometimes indicated its most important teachings by using terms such as “This sacred synod teaches” (“Docet sancta Synodus”), or the profession “We believe” (“Credimus”), but such clues are not always present in the texts. One widely applicable method of determining the weight of a teaching is to examine the Council’s history:

One factor that must be taken into account in weighing the level of authority exercised in any text is the degree to which the decision expressed in it was a major focus of discussion and deliberation during the council. Study of the *Acta Synodalia* will show that, in the course of the council, certain issues stand out as having been the object of the most intense discussion and deliberation, in not a few cases involving the intervention of the pope himself in the proceedings. It is reasonable to conclude that decisions reached by the council on issues like these will have a degree of doctrinal weight that is proportionate to the seriousness of the deliberations by which they were reached.

A third indication of the weight of a teaching is whether it appears in a “dogmatic constitution” or another type of document. However, Sullivan considers this to be a less valuable clue than the language used or the history behind a teaching, because not all doctrines taught in a single document have the same weight.

Regarding the weight of the pastoral statements in *Gaudium et spes*, Sullivan endorses Walter Kasper’ distinction between that document’s doctrinal principles and their application, both of which are taught authoritatively, yet in different degrees. Sullivan also endorses Kasper’s four rules regarding the unity of the Vatican II documents, the unity of the letter and spirit of Vatican II, the need to read the Council in the light of tradition, and the need to read the

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102 Sullivan, *Creative Fidelity*, 170-71. Sullivan cites the use of this principle in the writings of Ratzinger and Congar.
103 Ibid., 170.
Council in its historical setting.\footnote{Ibid., 171-73. These matters were discussed in chapter 2 above.}

Ultimately, even though he recognizes that the weighing and interpreting of Vatican II differs in some respects from that of previous councils, Sullivan does not suggest that this council’s approach was radically new. Although it did not issue definitions in the style of Trent or Vatican I, its authoritative non-definitive nature and pastoral focus were not unprecedented in the long history of the Catholic magisterium. In particular, Sullivan finds similarities between the expository style of its dogmatic constitutions and the style used in several papal encyclicals, as well as in the “Decree for the Armenians” produced during the Council of Florence.\footnote{Ibid., 46, 77}

\textit{Combining multiple instances of teaching}

In the previous subsections, Francis Sullivan’s analysis of the weight of an \textit{individual act} of magisterial teaching has been examined. Another question can be asked: What can be said about the authority of a non-definitive doctrine that has been taught \textit{more than once} by the magisterium, assuming we have determined the weight of each instance in which it has been taught? Sullivan does not seem to address this matter in his writings.\footnote{Given the overall sense of Sullivan’s writings, it seems reasonable to suppose that he would consider that the authority of such a doctrine would increase with each time it is taught by a pope or council, but I have not found any place he makes this assertion. At one point he mentions “the insistence with which a teaching is repeated” as a factor in its weight, but this is in the context of weighing a “particular exercise of the ordinary magisterium,” and so refers to a teaching that is repeated within a single document (\textit{Creative Fidelity}, 141). Elsewhere he discusses the conditions for the infallible exercise of the ordinary and universal magisterium, which can involve a teaching being repeated throughout time or space, but that, too, is a different topic.}

He does, however, discuss the scenario in which two magisterial documents \textit{disagree} regarding a matter of faith or morals. He begins by quoting a text Joseph Ratzinger wrote shortly
after Vatican II, in which he states that Vatican II’s teaching on episcopal collegiality “by far surpasses the ordinary declarations of papal magisterium, including the encyclicals, regarding the nature of the theological obligation which it entails.”¹⁰⁷ Sullivan endorses this view and expands on it:

While Ratzinger was referring to a specific conciliar text, namely that concerning episcopal collegiality, his judgment would seem applicable to a number of other texts in which Vatican II has taken a position that differs from what previous popes had taught in their encyclicals. There can be no doubt that the teaching of the council on such issues as religious liberty, the ecclesial status of other Christian churches, and the significance of non-Christian religion prevails over what had been the official position of the Catholic Church put forth by the ordinary papal magisterium prior to Vatican II.¹⁰⁸

In this passage, Sullivan makes three points that should be highlighted, and also distinguished from one another. First, he asserts that certain teachings of Vatican II conflict with earlier teachings in papal encyclicals, mentioning four specific teachings including the one mentioned by Ratzinger.¹⁰⁹ This assertion appears elsewhere in his writings as well. Thus at one point, he argues that even though the Vatican II documents do not expressly state that Catholics are free to disagree with non-definitive magisterial teaching, if one looks at “what the Second Vatican Council did” rather than “what it said,” it demonstrated that such disagreement is possible, since that is exactly how the Council itself acted:


¹⁰⁸ Sullivan, Creative Fidelity, 167-68.

¹⁰⁹ In a footnote, Sullivan points to a “thorough study” by J. Robert Dionne that identifies “five doctrines which had been taught in papal encyclicals, on which Vatican II has taken quite a different stand” (ibid., 202n16, citing Dionne, Papacy and the Church [New York: Philosophical Library, 1987]). The five questions that Dionne investigates are the role of bishops and whether they constitute a “college,” the goodness and salvific role of non-Christian religions, the relationship that ought to exist between Church and state, the question of religious liberty, and the identity of the Mystical Body of Christ with the Catholic Church.
One has only to compare the Decree on Ecumenism with such an encyclical as *Mortalium animos* of Pope Pius XI, or the Declaration on Religious Freedom with the teaching of Leo XIII and other popes on the obligation binding on the Catholic rulers of Catholic nations to suppress Protestant evangelism, to see with what freedom the Second Vatican Council reformed papal teaching. I think it would be true to say that the deepest divisions at Vatican II were between those bishops who saw the council as bound to affirm what had already been taught by the popes, and those who recognised the need for the Council to improve upon, and in some cases, to correct such teaching.110

Second, extending Ratzinger’s argument to these new cases, Sullivan argues that the *weight* of Vatican II’s teaching on these matters “by far surpasses” the weight of the previous teachings – some of which, it should be noted, had been repeated by several popes over a significant period of time.

Third, he concludes that on these disputed questions, the teaching of Vatican II “prevails over” the earlier teaching. This point is especially significant. Sullivan stipulates that one position on these matters had been authoritatively but non-definitively taught by the magisterium before 1962; indeed, he refers to it as “the official position of the Catholic Church” prior to the Council. However, because the weight of these teachings has been “far surpassed” by the weight of the Council’s teachings – even though the latter is also non-definitive teaching – the earlier teachings have been essentially replaced.111

In this example, Sullivan’s analysis hinges on his evaluation that the weight of the Vatican II teaching “far surpasses” the weight of the earlier teaching. Unfortunately, he does not offer examples in which two conflicting teachings have equal or roughly equal weights, nor does he indicate what conclusions would result from such a scenario.


111 The significance of this point is made more evident if one considers the alternative positions available to Sullivan. For example, he might have asserted that, faced with two conflicting non-definitive magisterial documents, Catholics ought to adopt a position midway between the two.
The role of reception

Based on various magisterial documents, Sullivan concludes that when the Church infallibly defines a dogma, it will be received as such by the Catholic faithful. Indeed, because this reception is certain, the non-reception of a certain doctrine by the Catholic faithful can be an indicator that this doctrine has not been infallibly taught.⁵¹²

When discussing the reception of non-definitive teaching, Sullivan does not suggest that there are any certainties. Following Florian Schlagenhaufen (see Chapter One, above), Sullivan states that the non-acceptance of a teaching by the Catholic faithful might be caused by the Holy Spirit alerting the faithful to the fact that this teaching is in error, and therefore the pope should take such a reaction seriously. However, non-acceptance can also be caused by other factors: it can be caused by obstinacy or apathy on the part of many Catholics; it can be caused by unconvincing arguments being offered for a teaching that is nonetheless true; it can be caused by the reaction to a flawed decision-making process. Moreover, “history has shown that it has sometimes taken a rather long time for even the decrees of an ecumenical council to obtain universal reception,” and so what looks like the initial rejection of a teaching might be part of the very slow process of its acceptance. Finally, it “seems likely” that a teaching rejected by some of the faithful will be accepted by others, and one should not jump to conclusions regarding which of these two groups represents the will of the Holy Spirit. In such a case, Sullivan suggests that one might need to “take into account the quality of faith and practice that is

otherwise manifested by those who dissent” from a teaching.\textsuperscript{113}

\textit{Summary}

Francis Sullivan’s treatment of the weight of non-definitive authoritative teaching is the most detailed of any theologian considered in this dissertation. This is hardly surprising, given how extensively he has written about nearly every aspect of the theology of the magisterium. His writings have had a profound influence on all who have followed him. Indeed, while other contemporary ecclesiologists do not always agree with each of his conclusions, they rarely discuss these matters without taking his views into account.

The unifying principle in Sullivan’s approach is the need to determine the intention of the authors. Whether the topic is the interpretation of a magisterial document, the relevance of a document’s structure, the value of the language used by the authors, the relationship between the “letter” and “spirit” of a council, or the contrast between Vatican II and earlier councils, Sullivan’s approach is, at its root, a quest to determine what the authors intended to teach, and with what level of authority they intended to teach it. In Chapter Four of this dissertation, the proposal I will present for how to weigh non-definitive magisterial teachings will owe much to Sullivan’s work.

\textit{Avery Dulles}

Avery Dulles, S.J., was born in 1918 to a prominent American family: his great-grandfather had been Secretary of State in the 1890s, and his father would hold that position

\textsuperscript{113} Sullivan, \textit{Magisterium}, 168-69. Sullivan credits Schlagenhaufen’s text to Ludwig Lercher, but as pointed out in Chapter One above, the text quoted by Sullivan was written by Schlagenhaufen after Lercher’s death.
under President Eisenhower. Raised Presbyterian, he became agnostic in his teenage years, then after a conversion he entered the Catholic Church at age twenty-two, and joined the Society of Jesus in 1946. He taught at Woodstock College from 1960 to 1974, at The Catholic University of America from 1974 to 1988, and at Fordham University from 1988 until his death in 2008. He was created a cardinal by John Paul II in 2001, but at his own request he was never ordained a bishop. He wrote extensively about many topics including the theology of the magisterium; one of the last books he wrote was *Magisterium: Teacher and Guardian of the Faith*, an introductory textbook on this topic.

It is well-known that some of Dulles’ views evolved over the course of his career. With regard to his theology of the magisterium, however, there do not seem to be any radical shifts. His treatment of the magisterium in two papers presented to a Lutheran-Catholic ecumenical meeting in 1974 mostly coheres with his treatment of this topic in *Magisterium* (2007), aside from organization and emphasis. Where differences appear they will be noted below.

Much of Dulles’ treatment of the topic in *Magisterium* repeats the content that appeared in the preconciliar manuals and in Francis Sullivan’s two books. When he treats the distinction between chapters and canons in conciliar documents, he points the reader to Salaverri’s manual for information on their authority. He agrees with Sullivan that the 1983 Code of Canon Law (c. 749 §3) means that “a doubtfully infallible definition is in practice to be treated as though it

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115 Avery Dulles, “Infallibility: The Terminology,” in *Teaching Authority and Infallibility in the Church*, ed. Paul C. Empie, et al., Lutherans and Catholics in Dialogue 6 (Minneapolis: Augsburg, 1980), 69-80; and idem, “Moderate Infallibilism,” in *Teaching Authority and Infallibility in the Church*, op. cit., 81-100. Although published in 1980, these papers were presented originally in 1974 (see p. 9).
were non-infallible.”

Like many authors who wrote after the 1989 *Professio fidei* was promulgated, Dulles structures his treatment of authority levels on its three-tiered structure, along with the fourth category mentioned in *Donum veritatis*. After discussing the first two levels of authority, he turns to non-definitive authoritative teaching: “This category is a very broad one, including many types of doctrines that can lead to a better understanding of faith and morality.”

Dulles does not explicitly state that doctrines within this category vary among themselves in their authority. He does, however, quote the statement in the Ratzinger-Bertone commentary that such teachings “require degrees” (plural) “of adherence differentiated according to the mind and will” of the author. Dulles also discusses Pius XII’s statement in *Humani generis* that when the pope passes judgment on a controverted question, theologians should no longer treat it as an open question. Dulles notes that *Lumen gentium* did not repeat this rule – “probably for the sake of brevity” – but argues that because this rule fits well with *LG*’s treatment of the non-definitive papal magisterium, “it would seem clear” that the rule still holds. Since not all teachings in the third category involve the passing of judgment on open questions, this rule distinguishes between different levels of authority in this category.

When Dulles turns to the concept of *religiosum obsequium*, his analysis is basically the

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116 Dulles, *Magisterium*, 77. Like Sullivan, Dulles does not suggest that this rule applies only to canonical proceedings; he seems to treat it as a rule that applies to theological dialogue as well. However, it is not clear that Dulles himself follows this rule when weighing the Church’s teaching on the immorality of artificial contraception, which he judges to “probably” fall within the secondary object of infallibility: ibid., 96n18.

117 Ibid., 91-92.

118 Ibid., 93; quoting Ratzinger and Bertone, “Commentary,” §11.

same as Francis Sullivan’s, although his phrasing is a bit more hesitant with regard to the possibility of non-assent to magisterial teaching. After examining Donum veritatis’ discussion of a theologian who cannot accept a non-definitive teaching, Dulles states that this document “seems to imply that the requirements of obsequium can, in exceptional cases, be fulfilled by what Francis Sullivan calls ‘an honest and sustained effort to overcome any contrary opinion I might have,’ even when that effort does not eventuate in the actual assent of the intellect.” 120 Dulles writes that theologians in this situation should avoid publicly calling attention to this disagreement. They may choose to be silent, for “[i]t can be assumed that if the Magisterium has erred, it will correct itself.” But it would also be appropriate for them to engage in “a measured discussion of theological difficulties in scholarly journals, professional societies, seminars and the like.” 121

With regard to the Second Vatican Council, Dulles states that it “abstained from invoking its own infallibility,” and that it “refrained from defining any new doctrines to be held under pain of heresy.” 122 However, Dulles also notes that the Council’s teachings on episcopal collegiality and the sacramentality of episcopal ordination “deliberately go beyond previous magisterial statements.” Moreover, the latter is phrased in very forceful language (“This sacred synod teaches”). 123 Dulles then states:

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120 Dulles, Magisterium, 93-94; the quote is from Sullivan, Magisterium, 164.
121 Dulles, Magisterium, 97 (first quotation); idem, “The Magisterium, Theology, and Dissent,” Origins 20, no. 42 (Mar. 28, 1991): 692-96, at 695 (second quotation). This article was reprinted, with some revisions, as chapter 7 of The Craft of Theology. An account written by Dulles decades earlier gives essentially the same position regarding the obligation to assent to a non-definitive teaching: The Resilient Church: The Necessity and Limits of Adaptation (New York: Doubleday, 1977), 111.
122 Dulles, Magisterium, 76 (first quotation), 69 (second quotation); similarly idem, “Infallibility: The Terminology,” 78; idem, “Magisterium, Theology, and Dissent,” 696n7.
123 Dulles, Magisterium, 69.
Commentators generally agree that while this is not a dogmatic definition in the strict sense, it ranks as a “definitive judgment” and calls for “obligatory adherence.” The unanimity of the Fathers voting for chapter III of *Lumen gentium* would seem sufficient for the affirmation here quoted to be considered at least as an utterance of the ordinary universal Magisterium, confirmed by the pope.\(^{124}\)

This seems to be a strange conclusion; I am not aware of any other theologian who has used the term “ordinary universal Magisterium” to designate a “definitive judgment” rendered by the Catholic bishops gathered in a general council and ratified by the pope: such a decree has always been called an exercise of the *extraordinary* magisterium, and the central text of such a decree has always been called a *definition*, regardless of its precise wording. In another essay, Dulles refers to this teaching as “an act of the extraordinary magisterium,” and yet still considers it not to be “a dogmatic definition in the strict sense.”\(^{125}\) In any event, it would appear that Dulles judges this teaching to be contained in the first or second categories of the *Professio fidei*, and therefore it need not concern us here.

Dulles, like several of the theologians examined previously, holds that an official statement by the committee that drafted a conciliar document can be an authoritative guide to understanding that document. For example, he treats the *relatio* of November 19, 1965 given by Bishop Emile-Joseph De Smedt, spokesman for the commission that was drafting *Dignitatis humanae*, Vatican II’s Declaration on Religious Freedom, as an authoritative guide to

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\(^{124}\) Ibid., 69-70. In this passage, the first internal quotation is from Yves M.-J. Congar, “En guise de conclusion,” in *L’Église de Vatican II: Études autour de la Constitution conciliaire sur l'Église*, vol. 2, ed. Guilherme Baraúna, French edition ed. Congar (Paris: Cerf, 1966), 1365-73, at 1367, and the second is from Joseph Ratzinger, “La collégialité épiscopale, développement théologique,” trans. into French by R. Virrion, in *L’Église de Vatican II*, op. cit., 763-90, at 789. As can be seen from the analyses of these essays in Chapter Two above, while these quotations are not taken out of context, neither Congar nor Ratzinger’s essay agrees with Dulles’ ultimate conclusions here.

understanding that document, describing De Smedt’s *relatio* as “the only official commentary on DH.”

On one key question, Dulles’ views seem to have changed over time. In an early writing, he affirms that Vatican II’s teachings altered existing doctrine:

> Vatican II quietly reversed the earlier positions of the Roman magisterium on a number of important issues. The obvious examples are well known....

> By its actual practice of revision, the Council implicitly taught the legitimacy and even the value of dissent. In effect the Council said that the ordinary magisterium of the Roman Pontiff had fallen into error and had unjustly harmed the careers of loyal and able scholars. Some of the thinkers who had resisted official teaching in the preconciliar period were among the principal precursors and architects of Vatican II.

> As a result of the conciliar experience, together with the general climate of ideas previously alluded to, dissent is today perceived by many sophisticated Catholics as an inevitable and potentially beneficial phenomenon.

By contrast, in *Magisterium* he notes that scholars are divided on whether the Council “in some respects corrected previous non-infallible teaching,” or whether it “simply made a new application of principles that had long been part of the Tradition,” without stating his own view on the matter.

He summarizes the controversy regarding the hermeneutics of Vatican II. Soon after the Council, “progressives interpreted the council on the principle that its innovations were more central than its reaffirmations of previously official positions” (he names Edward Schillebeeckx, Richard P. McBrien, and George Lindbeck), but subsequently “there has been a growing concern

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128 Dulles, *Magisterium*, 106. Dulles’ views regarding the Council’s continuity regarding religious liberty will be explored in Chapter Five.
to interpret Vatican II as continuous with Catholic teaching” (he names Joseph Ratzinger and Hermann Pottmeyer). On this matter, he favors the emphasis on continuity, seeing this as a necessary “corrective” to the earlier emphasis on contrast and change. He especially holds up the rules for interpreting the Council that appeared in the report of the Synod of 1985, writing that “[t]he Synod’s hermeneutical principles will make it clear that, notwithstanding some real shifts and developments, Vatican II is fundamentally self-consistent, stands in substantial continuity with earlier church teaching, and remains valid in its essentials for our own day.”

On the topic of reception, Dulles echoes several of the authors we have seen who discuss how a teaching of the magisterium can be “re-received” by the magisterium at a later date. He offers several examples, including the re-reception of Vatican II by the 1985 Synod of Bishops, the re-reception by Trent of the teachings of some Western local councils on predestination, and the re-reception of the teachings of Ephesus and Chalcedon in recent ecumenical dialogues with the Oriental Orthodox and Assyrian churches. Dulles also mentions that some scholars have argued that the non-reception of a doctrine by the faithful might be “evidence that the teaching must have been erroneous.” In Magisterium, written near the end of his life, he seems to treat this proposal with some skepticism (“this conclusion is not obvious”). In his earlier writings, however, he agreed with this view. Thus in 1986 he wrote, “Church history affords several instances in which the ‘nonreception’ of devout believers or church authorities has been a factor in overturning the teaching of popes and councils,” and in 1974 he stated that non-reception

131 Dulles, Magisterium, 107-9.
“among committed Christians who are orthodox on other points” could compromise even a seemingly infallible definition.\footnote{Avery Dulles, “Sensus Fidelium,” \textit{America} 155 (Nov. 1, 1986): 240-42, 263, at 263; idem, “Moderate Infallibilism,” 92.}

Although Avery Dulles did not write as extensively about the theology of the magisterium as did fellow Jesuit Francis Sullivan, he did treat a great variety of topics, including the different levels of authoritative weight, the meaning of \textit{obsequium religiosum}, the hermeneutics of Vatican II, and the reception of magisterial teaching. This was especially valuable in his ecumenical work, as he was able to explain the Catholic theology of the magisterium in numerous formal and informal dialogues with other Christians.

\textbf{Richard Gaillardetz}

Born in 1958, Richard Gaillardetz received his doctorate from the University of Notre Dame in 1991, writing his dissertation on the ordinary and universal magisterium. He taught at the University of St. Thomas in Houston from 1991 to 2001, at the University of Toledo from 2001 to 2011, and at Boston College since 2011. He has published extensively on the magisterium, including the textbook \textit{Teaching with Authority: A Theology of the Magisterium in the Church}, as well as a book aimed at a general readership, \textit{By What Authority? A Primer on Scripture, the Magisterium, and the Sense of the Faithful}.\footnote{Collegeville, MN: Liturgical, 2003.}

Gaillardetz structures his analysis of the different levels of magisterial authority around those listed in the \textit{Professio fidei} and \textit{Donum veritatis}. However, he is careful to note that these levels of authority are not the same as the “hierarchy of truths” discussed in \textit{Unitatis...
The hierarchy of truths refers to the degrees to which a dogma (or other doctrine) is central to “the foundation of Christian faith,” which is “the entire economy of salvation.” Thus the Marian dogmas are in the top level of doctrines with respect to authority (definitive dogmas), but are not as central to the economy of salvation as some other dogmas: their role is “more confirmatory in nature,” as their dogmatic content is “primarily concerned not with any particular biographical facts concerning events in the life of Mary but rather with what the life of Mary says about the nature of Christ’s saving work.”

Gaillardetz’ description of the categories of authority follows similar lines to the treatments we have explored earlier. When the pope or bishops issue a teaching, the authority of this teaching should be carefully determined, and “[i]n practice this process of verification will generally be undertaken by theologians.” To determine the authority of a teaching, theologians must determine the intention of its authors. Specific terminology (such as anathemas) offers valuable clues, but to be sure of the authors’ intention one must look at the historical and theological background of the document. In the case of a putative use of infallibility, theologians must ask whether the “pope and/or council was free of coercion, whether the definition was preceded by reasonable investigation of Scripture and tradition, and whether a true and not merely formal communion has been preserved by pope and bishops.” Although he mentions “freedom” in the context of infallible teaching, it is reasonable to suppose that Gaillardetz sees this as precondition for non-definitive authoritative teaching as well. Gaillardetz also argues that canon 749 §3 puts the burden of proof not only on those who assert that a certain teaching is a

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134 Gaillardetz, *Teaching with Authority*, 115-16, emphasis in original; cf. idem, *By What Authority*, 97-98.

135 Gaillardetz, *Teaching with Authority*, 202, 221 (quotations from 221).
dogma (as Sullivan has asserted), but also on those who assert it is a definitive doctrine (the second level of doctrine). In this case, Gaillardetz’ argument hinges on the penalties attached to the denial of “any claim of infallibility in church teaching,” so he does not extend this rule to the lower levels of authority.\footnote{Gaillardetz, “Ordinary Universal Magisterium,” 458.}

With regard to the lower levels, Gaillardetz refers to the third category as “nondefinitive, authoritative doctrines.” This category contains doctrines that “the Church is not yet ready or able to declare definitively as divinely revealed.” In other words, it includes doctrines that might be revealed but of which the Church is not completely certain (some of which might, in the future, be definitively taught), as well as doctrines that due to their distance from revelation can never be definitively taught.\footnote{Gaillardetz, \textit{Teaching with Authority}, 102, 120-21 (quotation from 121).} Moreover, this category also includes moral norms; such norms are “composite in character,” combining “universal moral principles” with “contingent judgments in concrete and changing moral contexts.”\footnote{Ibid., 122. Based on his wording, it appears that Gaillardetz is referring to the doctrines discussed in \textit{Donum veritatis} §24.1. If this is the case, Gaillardetz’ interpretation of this paragraph contrasts with other theologians who understand it to refer to a fourth category of doctrine. However, this reading is uncertain, as he seems to indicate that when a teaching stresses the fact that it combines moral principles with contingent judgments (as the American bishops do in their economic teachings), then such teaching “bear[s] more in common” with the category of “disciplinary teachings and prudential judgments” (ibid., 123).} Thus the third category is quite broad. Below it lies a fourth category of authority: “prudential admonitions and provisional applications of Church doctrine.” These teachings do not explicitly teach doctrine nor condemn error, “but simply warn of opinions that are potentially dangerous and misleading.” They have an “explicitly provisional character,” and can be called doctrines “only in an analogous sense.”\footnote{Ibid., 102, 123. The wording suggests that these are the teachings discussed in \textit{Donum veritatis} §24.3.} Gaillardetz wonders why, when the American bishops offer concrete teaching in the realm of
economics, justice, and peace, their phrasing emphasizes that this teaching combines doctrinal and prudential judgments, and yet when the Church teaches on bioethics and sexual ethics, it “has been reluctant to make this same distinction.”\textsuperscript{140}

Returning to the third category of doctrine, it is noteworthy that Gaillardetz stresses how much variation in authority exists in this category: “Many, perhaps most Church teachings belong in the category of authoritative, nondefinitive doctrine. For that reason it is important to recognize that ... not every teaching in this category should be viewed as equally authoritative.”\textsuperscript{141} Following \textit{Lumen gentium} 25, Gaillardetz mentions some of the factors that affect the level of authority (specifically, of papal teaching):

This passage [\textit{LG} 25] assumes a gradation of teaching authority within the exercise of the pope’s ordinary teaching. This gradation is determined formally by the documents themselves. Constitutions are the most authoritative of papal documents, followed by encyclicals. Then there are a number of other media for papal teaching, which include apostolic exhortations, pastoral letters, occasional addresses, and so on. One would generally expect, for example, that a new doctrinal formulation appearing in an encyclical would carry more weight than that offered in a weekly papal address.\textsuperscript{142}

Within a single document, levels of authority must also be distinguished. Gaillardetz describes many recent encyclicals as combining “the exercise of doctrinal judgment” with “protracted theological exposition.” Thus Paul VI’s \textit{Humanae vitae} combines a judgment on the morality of artificial contraception with an exposition on love and sexuality, and John Paul II’s \textit{Veritatis splendor} combines judgments against certain specific theological claims with a treatise from the point of view of personalist theology. In each case, the doctrinal judgments are authoritative

\textsuperscript{140} Gaillardetz, \textit{Teaching with Authority}, 122-23.

\textsuperscript{141} Ibid., 122.

\textsuperscript{142} Ibid., 180, emphasis in original; cf. idem, \textit{By What Authority}, 81.
exercises of the magisterium, but the theological exposition is less authoritative.\footnote{Gaillardetz, \textit{Teaching with Authority}, 181-82.}

Doctrines in the third category are not infallibly taught, and therefore “[t]he possibility of a substantive reversal cannot in principle be excluded.” Nonetheless, Catholics should remember that “the assistance of the Holy Spirit is operative in varying degrees in every exercise of doctrinal teaching.”\footnote{Ibid., 121.} This is compared to a patient’s trust in a physician: “When I go to a doctor because I am experiencing chest pains, I recognize that there is a remote possibility that the doctor will misdiagnose my condition. I still grant the doctor authority even though I know that her authority is not infallible.”\footnote{Gaillardetz, \textit{By What Authority}, 100.}

Gaillardetz’ analysis of how an individual Catholic should receive such teaching, and the conditions under which he or she may rightfully not assent to it, coheres with several of the authors studied earlier (including Boyle, Komonchak, Sullivan, and the West German Bishops’ statement) and need not be reviewed in detail.\footnote{Gaillardetz, \textit{Teaching with Authority}, 263-70.} He points to the words of Richard McCormick as a good summary of his position: the \textit{obsequium} owed to authoritative doctrine is a “docile personal attempt to assimilate the teaching, an attempt that can end in ‘inability to assimilate’ (dissent).”\footnote{Ibid., 268, quoting from Richard A. McCormick, \textit{Corrective Vision: Explorations in Moral Theology} (Kansas City: Sheed & Ward, 1994), 85; it is unclear to me why McCormick places quotation marks around “inability to assimilate.” Also see Gaillardetz, \textit{By What Authority}, 124-25.}

Regarding the Second Vatican Council, Gaillardetz follows Hermann Pottmeyer in emphasizing that the documents often juxtaposed ideas of the conciliar majority and the conciliar minority. Gaillardetz also points out that on certain issues, such as the connection between
episcopal collegiality and papal primacy and infallibility, the majority views at Vatican II had much in common with the minority views at Vatican I, and that *Lumen gentium* brings out several points that were not stated in Vatican I’s text but were mentioned in the *relatio* of Bishop Gasser (which he calls an “authoritative interpretation” of the text). Indeed, “Vatican II’s teaching on collegiality makes explicit what one could only infer from Vatican I.” Gaillardetz does not indicate whether he sees the minority-inspired and majority-inspired portions as differing in authority.\footnote{Gaillardetz, *Teaching with Authority*, 217-20 (quotations from 215, 219); also see idem, *Witnesses to the Faith: Community, Infallibility, and the Ordinary Magisterium of Bishops* (Mahwah, N.J.: Paulist, 1992), 118-23, and idem, *The Church in the Making: Lumen Gentium, Christus Dominus, Orientalium Ecclesiarum*, Rediscovering Vatican II (Mahwah, NJ: Paulist, 2006), 124.}

He refers to the *Nota explicativa praevia* as “a regrettable instance of the more juridical view of papal authority,” and as “a necessary compromise intended to quell the fears of the minority bishops,” but he does not indicate what authority it carries.\footnote{Gaillardetz, *Teaching with Authority*, 218n65 (first quotation); Gaillardetz, *Witnesses to the Faith*, 121 (second quotation).}

Gaillardetz does not explicitly contrast the authority of a council to the authority of a pope in general. However, at one point he writes, “Although much in the ambitious pontificate of John Paul II can be seen as a legitimate development of the vision of Vatican II, when it concerns the exercise of formal magisterial authority, it is difficult not to see that long pontificate as an attempt to recover the trajectory evident from Pius IX to Pius XII, in which the pope was being fashioned as chief theologian of the Church.”\footnote{Richard R. Gaillardetz, “Introduction,” in *When the Magisterium Intervenes: The Magisterium and Theologians in Today’s Church*, ed. Richard R. Gaillardetz (Collegeville, MN: Liturgical, 2012), vii-xviii, at xiii-xiv.} The implication of this sentence seems to be that some of John Paul II’s actions (such as his exercise of “formal magisterial authority”) were not legitimate developments of “the vision of Vatican II,” which in turn would imply that
Vatican II’s teachings – or at least some of them – constitute a standard by which the legitimacy of certain actions of subsequent popes can be judged. Admittedly my reading here may be tenuous, but if it is correct, Gaillardetz is indicating that Vatican II’s teachings, even though not definitive, nonetheless have binding force for future popes, which would line up with the assertion of Ratzinger (1965) and Sullivan (1996) that the authority of Vatican II’s most important teachings “by far surpasses” the teachings found in papal encyclicals.

With regard to the impact of reception on doctrines in the third category, Gaillardetz argues that reception is not a juridical requirement (as if the assent of the faithful would formally ratify the teaching), and neither is it a test for veracity (as if the assent of the faithful inevitably follows a true teaching, and therefore non-assent would indicate that the teaching is false). Rather, reception is necessary for the efficacy of a teaching:

[As contemporary theologians have insisted, reception is not concerned with the juridical validity or even veracity of a teaching but with its efficacy. A teaching that has not been “received” is not, for that reason, necessarily false. The claim is, in fact, more empirical in character. A teaching that is not received is not efficacious; it has no transformative power within the community. In short, a nonreceived teaching becomes irrelevant to the life of the community. This may be the situation in which the Catholic Church now finds itself with respect to Pope Paul VI’s encyclical *Humanae vitae*. Prescinding from the truth or falsity of the Church’s official position on artificial contraception, it is an empirical fact that this teaching has not been received by large segments of the Church today. For many Catholics, Church teaching on the morality of contraception is not so much rejected as ignored. In this situation, the ecclesiastical magisterium must avoid the temptation to simply “shout louder” and instead engage in an honest inquiry after the underlying reason for this nonreception. Is the resistance to this teaching rooted in nontheological factors, for example, cultural pressures, or is it theological in nature and a manifestation of the *sensus fidelium*?](gaillardetz)

Gaillardetz also suggests that one should not view “reception” as a one-directional movement, in which teachings flow from the pope and bishops to the people of the Church (nor as a one-directional movement from the pope and bishops to theologians, who then in turn pass it on to

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151 Gaillardetz, *Teaching with Authority*, 235.
the people). Rather, movement in all directions should be encouraged, with the pope and bishops, academic theologians, and the faithful situated in their local Churches all learning from each other, even though the pope and bishops remain the ones with the authority to formulate the results of this exchange as official doctrines.152

**Brunero Gherardini**

Brunero Gherardini (b. 1925) is an Italian priest of the Diocese of Prato, just north of Florence. From 1968 to 1995 he was a professor of ecclesiology and ecumenism at the Pontifical Lateran University, where he also served as Dean of the Faculty of Theology. Since 2000 he has been editor of *Divinitas*, a journal published in Vatican City. Gherardini is a priest in good standing in the Catholic Church, but his recent works have been promoted by the SSPX for their criticism of some aspects of the Second Vatican Council.153 His 2009 study of the hermeneutics of Vatican II, *Concilio Ecumenico Vaticano II: Un discorso da far*, has been translated into French and English.

Gherardini argues that Vatican II issued no definitions, not merely because of its “pastoral” nature, but because it avoided the literary structure (chapters and canons) and terminology *(definimus, damnamus)* that previous councils used for their definitions. Therefore its documents

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contain dogmas only when repeating doctrines “defined in previous Councils.” Nonetheless, all of its teaching possesses genuine authority.\textsuperscript{154}

Gherardini discusses four possible hermeneutics of Vatican II, finding at least two of them to be defensible. The first is a literal reading of its documents. Gherardini considers this a valid way to interpret the Council. Such a reading reveals a traditional theology of the priesthood, of the Church, and of the liturgy. Therefore, “Vatican II did not \textit{directly} put itself at the service of the weakening, or even the outright overcoming of such positions.”\textsuperscript{155}

Equally valid, however, is to read the documents through “the spirit of the Council.” This “spirit” was not merely an invention of those who came after the Council and wished to distort its meaning. Rather, this spirit is derived from the purpose and methods of the Council itself. The very “logic” of the Council was based on “opening up to the world which, up to then – it was said – was feared and held as a ghetto,” and at the same time, “closing up to the old-fashioned, domineering ways of the \textit{Syllabus} of Bl. Pius IX and the anti-modernist \textit{Pascendi} of St. Pius X.”\textsuperscript{156} Gherardini argues that as this focus on progress is indeed the “spirit” of Vatican II, it is quite proper to interpret the Council through this spirit. Therefore, he “maintain[s] with certainty” that the Council did “indirectly” assist in the weakening of Tradition. The result of this weakening is seen in the Council’s aftermath: a “hermeneutic of rupture” that produced exegesis and theology “free from scholastic philosophy and theology, free from ‘Denzinger,’ and free from history itself”; a new liturgical rite that “reduced the priest to the role of ‘a ‘presider’

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\item[\textsuperscript{154}] Brunero Gherardini, \textit{The Ecumenical Council Vatican II: A Much Needed Discussion}, trans. Franciscans of the Immaculate (Frigento, Italy: Casa Mariana, 2009), 58-60.
\item[\textsuperscript{155}] Ibid., 80, 87 (quotation from 87), emphasis in original.
\item[\textsuperscript{156}] Ibid., 89.
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I continue to believe in the good faith of the Council Fathers, at least the absolute majority of them. Hence, while they were materially responsible, I believe that they were not formally so. Yet of responsibility we must speak just the same. The [liturgical] reform was not a work of the Council; rather, it was perfected under the banner of the conciliar criteria which were interpreted in the light of that openness in which the Council had immersed itself.  

A third possible hermeneutic is the one advocated by Joseph Ratzinger (as a theologian, as a cardinal, and as pope). This hermeneutic – which Gherardini refers to as “the hermeneutic of continuity” and as “reform of the Church” – does not seem plausible to him, since if Vatican II was truly continuous with the past, it would have done nothing.

A fourth option, which Gherardini greatly desires to use for Vatican II, is a hermeneutic of “developing continuity,” in which doctrine develops without ever contradicting established Tradition. If a hermeneutic of developing continuity could be shown to apply to the Council, then its new teachings would be legitimate developments, not unprecedented novelties. But despite the appeal of this hermeneutic, Gherardini is unable to endorse it, for he is unable to see how certain conciliar teachings could be congruent with Tradition. His prose here becomes very personal: rather than writing in an accusing manner, he instead speaks of his own “personal limitations” and how this “problem” continues to trouble him.  

158 Ibid., 172-73. In this passage he is referring specifically to changes in the liturgy, but the argument is the same as the one he makes for the other postconciliar changes.
159 Ibid., 102-3.
book, he attempts to reconcile conciliar teachings with preconciliar teachings on the liturgy, religious freedom, ecumenism, the relationship between the Church of Christ and the Catholic Church, and episcopal collegiality. At times, he follows the two-fold division that Pope Benedict appeared to set forth in his Christmas Address of 2005: change occurs on the level of contingent matters and prudential judgments, but the doctrinal aspects do not change. On some of these topics, Gherardini ends up unsure whether there might be continuity, while on others he concludes that there cannot be. For example, after comparing *Dignitatis humanae* with the writings of Gregory XVI, Pius IX, Leo XIII, Pius X, and Pius XII, he laments, “It is not a question of different language; no, it is a substantial difference, and therefore inflexible. The content of DH and the contents of the previous Magisterium are different. So there is neither continuity nor development of the previous Magisterium in DH.”\(^{160}\)

The book concludes with an open letter to Pope Benedict XVI, asking him to issue a document, or at least to sponsor a series of studies by a Roman congregation or a Pontifical University, which would explain Benedict’s hermeneutical approach not merely in generalities, but by specifically showing where the continuity exists between the documents of Vatican II and the documents of earlier councils. “In this way it will be possible to know *if, in what sense, and up to what point* Vatican II and especially the post-conciliar era, might be able to be interpreted along the lines of an indisputable, albeit developing, continuity, or to know if there may be elements foreign to or even hindering this continuity.”\(^ {161}\)

Although Gherardini does not frame the questions he struggles with in terms of the *weight*

\(^{160}\) Ibid., 217.

\(^{161}\) Ibid., 300, emphasis in original.
of magisterial teaching, this appears to be the root of his quandary. By insisting that new magisterial teachings never contradict earlier ones, he is treating these earlier teachings either as as definitive, or as non-definitive but still outweighing the newer teachings. At the same time, although he holds that Vatican II’s teachings are not definitions, he is averse to the possibility that they contain error. Gherardini’s book illustrates one way to approach non-definitive teachings that appear to conflict with one another: seek some way to harmonize them, so that nothing affirmed by either teaching need be considered false.

The Authority and Interpretation of Vatican II

In this section, four scholars who have written about the interpretation of Vatican II will be considered. Although their primary focus is not the authority of the magisterium, some of their writings have touched on that issue and are worth noting in this study.

John W. O’Malley

John W. O’Malley, (b. 1927) is a Jesuit historian specializing in early modern Europe. He received his doctorate from Harvard University, taught for several decades at the Weston Jesuit School of Theology, and is presently University Professor at Georgetown University. He has written extensively on the history of the Jesuits, the Council of Trent, and the Second Vatican Council.

O’Malley asserts that when interpreting the documents of Vatican II, its four constitutions should be considered “highest in rank,” while its decrees and declarations “are to be interpreted in conformity with the principles and directions enunciated in these constitutions.” He also states that “the distinction between decrees and declarations, no matter what it originally meant,
has become meaningless.”

He characterizes Vatican II’s relationship with previous Catholic doctrine as one of “development” – a word which he sees as including both continuity and discontinuity. He describes the continuity as occurring on a “deeper” level than the discontinuity, because it means being true to a “transcendent” message while treating its cultural expression as impermanent. From this perspective, he examines the the six norms for the interpretation of Vatican II issued by the Extraordinary Synod of 1985, finding them “resoundingly sound,” except for what he sees as an over-emphasis on continuity. He therefore proposes a seventh norm “that would read somewhat as follows: ‘While always keeping in mind the fundamental continuity in the great tradition of the Church, interpreters must also take due account of how the council is discontinuous with previous practices, teachings, and traditions, indeed, discontinuous with previous councils.”

O’Malley considers Vatican II’s most significant innovation to be in its style rather than its substance. He compares it to previous councils, which used a variety of written genres:

Among the literary forms councils used were confessions of faith, historical narratives, bulls and letters, judicial sentences against ecclesiastical criminals, constitutions, “chapters,” and various kinds of “decrees.” Especially in the early councils the most respected and important form was the creedal statement. Nonetheless, down through the centuries the canon stands out for its recurrence and – if we take into account that in the sources it sometimes goes by other names – for its numerical predominance over every other form. A canon is an ordinance, usually only a few lines in length, that entails punishment for failure to comply.... The canons generally employ the formula: “If anyone should ..., let him be anathema.”


163 John W. O’Malley, “Vatican II: Did Anything Happen?,” in Vatican II: Did Anything Happen?, op. cit., 52-91, at 58, 54, 56; also see p. 84.

164 Ibid., 69-70. The second ellipsis appears in the original text.
By contrast, he describes the genre of much of the Vatican II documents as a *panegyric*, also known as *epideictic*. This genre involves “the painting of an idealized portrait in order to excite admiration and appropriation.”165 This genre features a specific kind of language: “horizontal words” (“brothers and sisters,” “cooperation,” “collaboration,” “dialogue,” “collegiality”); “friendship words” (“human family”); “humility words” (a prophet becomes a “partner in dialogue,” the priesthood is for “all believers,” and a king is a “servant”); words that indicate change (“development,” “progress,” “evolution,” “pilgrim,” “aggiornamento”); and “interiority words” (“joy and hope, grief and anguish” and the call to holiness).166 Although this epideictic genre was commonly used in the writings of the Church Fathers, it was not typical of Church councils prior to Vatican II:

The documents of Vatican II fit this mold. That is their “style.” They hold up ideals and then often draw conclusions from them and spell out consequences, as with the decree on bishops in which their responsibilities are clearly laid out. The responsibilities are laid out, however, not as a code of conduct to be enforced but as ideal to be striven for, with the understanding that they are to be adapted to times and circumstances.167

This new style has implications for the weight of a conciliar teaching. Commanding bishops to do something on pain of excommunication may carry more *legal* weight than encouraging them to do something, but in the context of the panegyric genre the authority to command does exist, even though the commands are phrased as encouragement. As O’Malley writes, Vatican II’s genre in no way “diminished the authority structures in the Church.” Bishops may now be called

165 Ibid., 73-74, 76 (quotation from 74).
167 O’Malley, “Vatican II: Did Anything Happen?,” 76. O’Malley points to Gérard Philips’ revision of the schema *de Ecclesia* as the introduction of the panegyric genre into the conciliar documents, suggesting that Philips may have been inspired by the writings of Henri de Lubac and the Patristic revival (ibid., 75-76).
“servant leaders,” but even “‘[s]ervant leaders’ know the buck stops with them.”

**Ormond Rush**

Ormond Rush (b. 1950) was ordained a priest of the Diocese of Townsville, Australia in 1975, and subsequently received his doctorate at the Gregorian University in Rome. Since 1991 he has taught at St. Paul’s Theological College (formerly the Pius XII Provincial Seminary) in Banyo, Australia, at times serving as its president and also as dean of the ecumenical consortium to which it belongs.

Rush suggests that it is important to see Vatican II through three different lenses: a “hermeneutics of the text,” a “hermeneutics of the author[s],” and a “hermeneutics of the receiver[s].” He believes that the third of these has often been neglected, and therefore it is important to emphasize it – “without forgetting the other two elements.”

A hermeneutics of the text focuses on what the documents of Vatican II literally say. As a synchronic approach, it does not give more weight to one text than another on account of which was written first.

A hermeneutics of the authors asks what the authors themselves intended; this requires an understanding of the writers and the history of the Council. The Council intended to make certain changes in Catholic teaching, but “never intended a macro-rupture, never intended to sever itself from the great tradition; innovations and discontinuities (micro-ruptures) were seen to

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168 Ibid., 84.
170 Ibid., 35, 44-46.
be ways of rejuvenating that broader tradition. In many ways, a hermeneutics of the authors is similar to what some theologians have called “the spirit of the council.” Rush agrees with Otto Hermann Pesch that this spirit is rooted in the intention of the conciliar majority:

The “spirit of the council” is the will of the overwhelming majority of the council Fathers which has emerged from the official record and in view of the pre-history of the council, even where it became watered down and weakened in particular by objections and sometimes unfair tricks of a small minority. As such it is a valid rule for interpretation of the conciliar texts.... One can here truly say: The world-church stands behind this or that theological statement.

Rush asserts that “the Council intended to define doctrine formally” on two topics (episcopal collegiality and the sacramentality of episcopal ordination), but this clear statement is followed by a reference to a study by Francis Sullivan study that does not actually support Rush’s conclusion.

A hermeneutics of the receivers refers to what is commonly known as the “reception” of the Council. However, since 1965 the Council has been received in many ways by many different groups. Rush suggests that reception in an ecumenical context is one of the most valuable. He also proposes that Sacrosanctum concilium’s liturgical principle of “full and active participation” be seen as a fundamental concept throughout the entire council. The full participation of the whole Church – clergy and laity – is “the key for interpreting the ‘spirit’ of the Council and therefore the ‘letter’ of its documents.”

Thus the whole Church must participate in the receiving of the Council itself. Reception is particularly needed for those

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171 Ibid., 7; cf. 75.
174 Rush, Still Interpreting Vatican II, x-xi, 52-55, 67, 82 (quotation from 82).
passages where the conciliar texts juxtapose different theological perspectives. Here, the Council assigned future theologians the task of working out a mediation or synthesis of these positions.\footnote{Ormond Rush, “The Prophetic Office in the Church: Pneumatological Perspectives on the Sensus Fidelium-Theology-Magisterium Relationship,” in \textit{When the Magisterium Intervenes: The Magisterium and Theologians in Today’s Church}, ed. Richard R. Gaillardetz (Collegeville, MN: Liturgical, 2012), 89-112, at 91-93.}

\textbf{Peter Hünermann}

Peter Hünermann was born in Berlin in 1929 and ordained a priest in 1955. He received his doctorate in 1958 in Rome, and his \textit{Habilitation} in 1967 in Freiburg-im-Breisgau. He taught at the University of Münster from 1971 to 1982, and at the University of Tübingen from 1982 until his retirement in 1997. Along with Bernd Jochen Hilberath, he edited the five-volume \textit{Herders theologischer Kommentar zum Zweiten Vatikanischen Konzil} (2004-05).

Hünermann takes issue with Ormond Rush’s proposal that one must combine a hermeneutics of the text, of the authors, and of the receivers to understand any text. On the contrary, Hünermann argues, each genre of writing has its own hermeneutical rules. For example, a personal letter is to be interpreted according to the intention of the author, a poem is written with the intention of involving the reader in the search for its meaning, and a law (in the English legal tradition) is to be interpreted primarily according to its explicit text.\footnote{Peter Hünermann, “The Ignored ‘Text’: On the Hermeneutics of the Second Vatican Council,” in \textit{Vatican II: A Forgotten Future}, ed. Alberto Melloni and Christoph Theobald, \textit{Concilium} 2005, issue 4 (London: SCM, 2005), 118-36, at 119-20, 122.} Therefore, before discussing the interpretation of the texts of Vatican II one must precisely identify their genre.

The genre of these documents, generally speaking, is that of “conciliar texts,” and it has
always been the case that conciliar documents are to be interpreted primarily through the text itself. Regardless of whether certain portions were drafted by the conciliar majority and others by the minority, and regardless of the debates on the council floor, once a council approves a specific document, it “acquires a new quality” – that is, “the text becomes a text of the Council and thereby claims to be an authentic and binding interpretation of the faith.”

More specifically, the documents of Vatican II were intended to answer the question of the Church’s self-definition. As such, their genre is specifically that of a constitutional text, similar (but not identical) to the constitution of a secular state. Indeed, the constitutional nature of the texts is evident from their contents: they proclaim “the principles of the life and social order of the Church”; they set out norms for situations in general without addressing every particular application of such norms; they “present themselves as the fundamental consensus of the Catholic Church”; and, like most constitutions, they “have the character of a compromise as they outline an ‘order of peace’ which has to include different points of view.”

As constitutional texts, the Vatican II documents have “precedence over all other authoritative instructions and pronouncements which can be proclaimed by authorities in the Church.” This is seen, for example, in the preface to the 1983 Code of Canon Law, which states that the revision of canon law has been carried out “according to the decisions and principles” laid out by the Council.

Therefore, Hünemann argues, one should not interpret the tensions in the texts as merely

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177 Ibid., 123.
178 Ibid., 125-28, emphasis in original.
179 Ibid., 126.
the juxtaposition of conflicting positions, nor as a “contradictory pluralism” of views.

Constitutional texts are not intended to solve every specific problem, but rather to set the boundaries within which such solutions are to be found and to indicate the goals of the society. When subsequent laws are enacted or structures created, they must stay within the constitutional bounds and aim for its goals. If these bounds are exceeded, the constitution has been “breached.” If the bounds are respected but the goals are not, the constitution has been “undermined.” Therefore it is important for all the groups within the Church to protect their rights as guaranteed in the Vatican II documents, for like all constitutions, these documents do not enforce themselves.  

**Christoph Theobald**

Christoph Theobald was born in Cologne in 1946, in the days when Germany was just beginning to recover from the war. He joined the Society of Jesus in France, was ordained a priest in 1982, and received his doctorate from the University of Bonn. Since 1980 he has taught fundamental and dogmatic theology at the Centre Sèvres in Paris.

Theobald sees the need for a new “reception” of Vatican II, as certain perspectives on the Council have been neglected in the decades since it closed. The Council’s meaning is determined by one’s understanding of its history. Because historians have focused on the pivotal days in December 1962 when Cardinal Suenens and Cardinal Montini (soon to be Pope Paul VI) proposed that the Church itself should be the focus of the Council’s work, theologians’

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182 Examples of historical accounts that emphasize the importance of Suenens’ and Montini’s speeches include Giuseppe Ruggieri, “Beyond an Ecclesiology of Polemics: The Debate on the Church,” in *HVT*, vol. 2, 281-
understanding of Vatican II has been shaped by the belief that “the Church” was its focus. Consequently, they categorize its documents by how they relate to the Church (ad intra, ad extra, and so on). Yet, Theobald argues, it equally valid to see the central story of the Council as a path running from the initial schemas on fundamental theology to the promulgation of Dei verbum in December 1965. From this perspective, the Council’s key breakthrough is its new understanding of “the underlying principle of Christian and ecclesial existence, the transmission of revelation.” And it is perfectly reasonable to view this “new relationship – defined as ‘pastoral’ – to the scriptures and to tradition” as the foundation for the new attitude toward the world expressed in Gaudium et spes, Dignitatis humanae, and Ad gentes.183

This point is not merely theoretical. Theobald argues that by focusing on the Church, previous commentators have elevated Lumen gentium to an improperly high level, using it as the hermeneutical key to understand other conciliar documents. Yet Gaudium et spes 44 and Ad gentes 22, which treat the cultural contextualization of the gospel, were written after Lumen gentium, and should therefore be seen as a later development in doctrine that takes precedence over Lumen gentium, which does not emphasize the importance of reform in the Church’s culture and doctrine. Upon reading the documents of Vatican II with a focus on revelation rather than the Church, new discoveries appear – such as the teaching in Ad gentes 22 that whenever the gospel is brought to a new culture, “the deeds and words revealed by God” will be “subjected to a fresh investigation.” True, this passage cautions that such an investigation must be illuminated


by tradition, scripture, the Fathers, and the Church’s magisterium, but nonetheless it represents a significant departure from how revelation was understood by theologians before the Council.\textsuperscript{184}

According to Theobald, the phrase “meaning of Vatican II” is another thing obscuring the centrality of revelation to the Council. This term that treats the Council as if it were a point in time rather than a process spanning several years. When the Council is understood as a process, its later documents are revealed as the flowering of what appears only in germ in its earlier documents: “What would have happened if the texts promulgated before the final adoption of Dei verbum, Dignitatis humanae, Ad gentes and Gaudium et spes had been able to benefit from the foundations laid down, not without difficulty, by those documents?”\textsuperscript{185}

Theobald’s focus on Dei verbum also puts Vatican II’s teaching on the magisterium in a different perspective. He points out that Dei verbum 10, while “conform[ing] to the general definition of the authoritative magisterium that was set forth in Lumen gentium 25,” nonetheless puts much more emphasis on the fact that revelation takes precedence over those who officially interpret it.\textsuperscript{186}

On a separate issue, Theobald makes an argument about the weight of the Council’s two dogmatic constitutions. He points to the Qualificatio theologica that was twice issued by the Doctrinal Commission (in 1964 regarding Lumen gentium, and in 1965 regarding Dei verbum). It states that the weight of any of the Council’s teachings can be determined “either from the

\textsuperscript{184} Ibid., 98-101.
\textsuperscript{185} Ibid., 88, emphasis in original.
\textsuperscript{186} Christoph Theobald (as Christophe Theobald), “The Church Under the Word of God,” in HVT, vol. 5, 275-362, at 281.
subject matter or from the way it is said.”\textsuperscript{187} Regarding the subject matter, Theobald argues that *Dei verbum* and *Lumen gentium* discuss the same subjects as Vatican I’s “Dogmatic Constitution on the Catholic Faith” (*Dei Filius*) and its “First Dogmatic Constitution on the Church of Christ” (*Pastor aeternus*), respectively. Regarding their manner of speaking, *Dei verbum* declares its purpose thusly: “This council aims, then, following in the steps of the councils of Trent and Vatican I, to set forth the authentic teaching on God’s revelation.”\textsuperscript{188} Similarly, *Lumen gentium* declares that it is “continuing the teaching of previous councils” and is “following in the footsteps of the first Vatican council.”\textsuperscript{189} In these ways, Vatican II’s dogmatic constitutions expressly state their purpose is to continue, update, and reinterpret the teachings in Vatican I’s dogmatic constitutions.

Therefore, Theobald argues, these Vatican II documents cannot possess less authority than the earlier teachings they are updating. “Why name *Dei Verbum* and *Lumen gentium dogmatic* constitutions if these texts have a lesser dogmatic value than that of the texts they claim to reinterpret?”, he asks. It follows that Vatican II’s dogmatic constitutions have equal authority to those of Vatican I, which infallibly taught dogmas of faith. In other words, the criteria set forth in the *Qualificatio theologica* “allow us to conclude that these [Vatican II] texts intend ‘to give infallible expression to the teaching of Christ.’”\textsuperscript{190}

\textsuperscript{187} *DEC*, vol. 2, 898.
\textsuperscript{188} *Dei verbum* 1, in *DEC*, vol. 2, 972.
\textsuperscript{189} *Lumen gentium* 1 and 18, in *DEC*, vol. 2, 849, 863.
\textsuperscript{190} Theobald, “Church Under the Word of God,” 352, emphasis in original.
The connection between interpretation and weight

The issue of interpretation is closely connected to the issue of authoritative weight. When a scholar asserts that one text is the hermeneutical key to understanding another, this logically implies that the first text has greater authority than the second. As an example, consider the question of how Christians should think about evangelization. *Lumen gentium* emphasizes the Church’s identity as the “People of God,” commissioned by Christ to share the good news with the rest of humanity, while *Ad gentes*, without contradicting this view, emphasizes the mutual enrichment of cultures and the inculturation of the gospel.\(^\text{191}\) John O’Malley takes the four constitutions of Vatican II as the key to interpreting the decrees and declarations, thus placing *Lumen gentium* above *Ad gentes*. Christoph Theobald sees the work of the Council as being incomplete in its earlier documents and fully realized in the documents from 1965, thus placing *Ad gentes* above *Lumen gentium*. So the two hermeneutics proposed by O’Malley and Theobald have important implications for how missionary activity is to be understood.

Another example can be seen when Ormond Rush finds the key to interpreting the entire Council in *Sacrosanctum concilium*’s “full and active participation” of all members of the Church. If one accepts this as the hermeneutical key to the documents of Vatican II, it will shape how one understands *Lumen gentium*’s teaching on Church governance and *Dei verbum*’s teaching on who should interpret Scripture. Again, by taking one text as the hermeneutical key

\(^\text{191}\) See especially *Lumen gentium* 5, 17, 19-20, 24; *Ad gentes* 9, 16, 18-19, 21-22. The missionary importance of receiving the goods things in non-Christian cultures is mentioned only briefly in *LG* 17, and here the stress is on how the Christian gospel will not only preserve these goods but also “cleanse, raise up, and perfect” them. By contrast, while *Ad gentes* 22 also discusses the purification of human cultures by the gospel, the stress appears to be on the “wonderful exchange of all the riches of the nations.”
to another, one accords more weight to the former than the latter.

The four figures considered in this section have also focused on how the history and genre of a text affect its interpretation. John O’Malley argues that, as the Vatican II documents fall into the panegyric genre, passages that are phrased in the form of *encouragement* serve the same function as passages in the documents of earlier councils that are phrased as *commands*; this places certain Vatican II passages on the same level with passages from earlier councils that use very different verbiage. Peter Hünermann argues that these documents belong to the genre of constitutional texts, and therefore the final texts should be understood as a unity, whereas Ormond Rush privileges passages reflecting the wishes of the conciliar majority over those representing the minority. Christoph Theobald sees Vatican II not as a single event but as a process that unfolded over several years. All of these authors phrase their theories in terms of interpretation, but they can equally be seen in terms of authority: how do the weights of a majority-inspired passage and a minority-inspired passage in *Lumen gentium* compare? How do the weights of a document released near the beginning of the Council and one released at its conclusion compare? How does the weight of *Ad gentes*, which uses the language of encouragement to urge Christians to evangelize, compare to the weight of a document from Lateran IV or Trent that uses emphatic commands in its texts? Because of its pastoral nature, Vatican II often used a different tone than earlier councils, and for this reason the weight of its teachings cannot be determined without first understanding how its documents are to be interpreted.
Conclusion

The promulgation of the *Professio fidei* and *Donum veritatis* provided a framework that has proved quite useful to contemporary theologians writing about the magisterium. The clear categories made it easy for a monograph to focus on a question relevant to one specific level of teaching. The official admission in a magisterial document (*Donum veritatis*) that errors were possible in non-definitive teaching – a claim that had long been standard in theological treatises – meant that the Church’s authoritative teachers and the Church’s theologians were now much more clearly agreeing on fundamental issues.

The magisterial documents and theologians surveyed in this chapter all agree on certain core ideas. They agree that a great number of doctrines fall within the category of non-definitive authoritative doctrine, including much of the contents of papal encyclicals and the documents of Vatican II. They agree that teachings that fall within this category vary among themselves in their weight; indeed, many of the theologians considered here offer similar lists of the factors that affect this weight. They agree that a faithful Catholic can in good conscience disagree with a non-definitive doctrine under certain conditions, and while they do not all describe these conditions in the same way, most of them indicate that the “bar” for disagreement is higher for a doctrine that has been taught with greater magisterial weight.

However, when one tries to put these ideas into practice, difficulties arise. A grocer with a scale can select two apples and determine which is heavier (or whether they weigh the same), but can a theologian select two non-definitive doctrines and determine which of them has greater authority (or whether they are equal)? Moreover, *Donum veritatis* indicates that the value of
theological arguments is in some way commensurable with the weight of a magisterial teaching’s formal authority, but is it feasible for a Catholic, uncertain about the morality of the death penalty, to compare the relative weight of a logical argument regarding the death penalty (or an argument based on Scripture) with the formal authority of Evangelium vitae §56? And while some of these applications are merely theoretical, the fate of the dialogue between Rome and the SSPX depends, in large part, on whether the two sides can agree on how to compare the weight of certain teachings of Vatican II with the weight of certain teachings of popes in the century-and-a-half prior to the Council.

The next chapter will attempt to combine, reconcile, and synthesize the different perspectives surveyed in Chapters One, Two, and Three into a coherent system for weighing a non-definitive teaching. Although a complete solution to all the aforementioned difficulties is probably unreachable, a useful synthesis should allow real progress to be made in the direction of a solution.
CHAPTER FOUR
Weighing Magisterial Teaching: A Proposal

In the previous chapters, the views of a number of theologians regarding magisterial weight have been surveyed. The goal of this chapter is to produce a single coherent system that implements, as much as possible, the insights of these theologians.

To accomplish this task, the factors affecting magisterial weight, as proposed by these theologians, will be considered one at a time. The theologians’ views regarding each of these factors will be collected and compared. When there is a significant consensus among them regarding one of these factors, the common view will be taken as an established principle for weighing the authority of a teaching. When a factor has been proposed by very few of these theologians, and the others are silent on the matter, the proposal will be accepted if it is consistent with the consensus principles and if it seems reasonable on other grounds. When there is a dispute among these theologians regarding a particular factor, I will attempt to judge the matter based, as far as possible, on objective criteria such as internal consistency.

Weighing a Single Document

In this section, the factors affecting the weight of a single act of teaching will be considered. In keeping with the scope of this dissertation, only non-definitive authoritative teachings issued by a pope or an ecumenical council are under consideration.

Basic traits of a non-definitive authoritative teaching

Treatises on the theology of the magisterium typically distinguish between the subject (the person or persons doing the teaching), the recipients (those to whom the teaching is addressed),
the object (the matter being taught), and the act of teaching (the manner in which the teaching is made).\footnote{Frequently the recipients are omitted from this scheme. As examples, see Richard R. Gaillardetz, \textit{Teaching with Authority: A Theology of the Magisterium in the Church}, Theology and Life Series, vol. 41 (Collegeville, MN: Liturgical, 1997), xiii, and the table of contents of this book, as well as the table of contents of Joaquín Salaverri (as Joachim Salaverri), “De Ecclesia Christi,” in \textit{Sacrae Theologiae Summa, Iuxta Constitutionem Apostolicam “Deus scientiarum Dominus”}, 2nd ed., vol. 1, corporate authors Patres Societatis Iesu Facultatum Theologicae in Hispania Professores (Madrid: Editorial Católica, 1952), 495-953 (see table of contents at xvii-xix).} Determining the level of authority requires that these items be identified.

To identify correctly the subject of a teaching, it is important to distinguish between a document issued by a pope and a document issued by a Roman dicastery. The theologians surveyed in earlier chapters describe the weight of dicasterial teachings in different ways, but all of them agree that they do not carry as much authority as a papal teaching. Similarly, one must distinguish between a document issued by an ecumenical council in its own name, and a document presented to a council that was not actually the work of the council fathers. As this dissertation focuses solely on teachings of popes and ecumenical councils, other magisterial teachers will not be considered here.

During the survey of theologians, a key question arose: Is the authority of a teaching affected by whether the teacher is a pope or an ecumenical council? Vinzenz Gasser and Francis Sullivan assert that popes and councils have equal authority – or more precisely, that papal teachings span a wide range of authority, and conciliar teachings span the same range of authority. The \textit{Professio fidei} and \textit{Donum veritatis} seem to agree, as they treat papal and conciliar teachings together when analyzing their authority. On the other hand, a 1965 essay by Joseph Ratzinger can be read to imply that, other factors being equal, conciliar teachings have more weight than papal teachings. In contrast, Joseph Komonchak argues that popes and
councils have equal formal authority, but councils have greater authority on a human level because they draw on the wisdom of more people, and their deliberations are visible to the entire Church.²

The relative authority of papal and conciliar teachings would seem to be an open question that deserves more study. Without pretending to resolve it, I note that even if Ratzinger did in 1965 did imply that councils rank above popes (and this is a questionable reading of his text), twenty-five years later he was the primary author of Donum veritatis, which treats popes and councils as equals with regard to their teaching authority. Komonchak’s point about human authority will be considered when the role of non-magisterial factors is treated later in this chapter. So I will follow Gasser, Sullivan, and the later Ratzinger in this matter. Sullivan – based on the First Vatican Council’s statement that teaching authority belongs to the Church per se, and this authority can be exercised by a pope or the college of bishops – concludes that “one must hold that the pope’s authority is equal to that of the whole episcopal college.”³

With regard to the recipients of a teaching, several of the surveyed theologians (Willem van Rossum, Joseph C. Fenton, John J. Castelot and William R. Murphy, Piet Fransen, Sullivan) state that a teaching has more weight if it is addressed to the universal Church rather than to only one region or one group within the Church.⁴ None of the surveyed theologians contest this point,

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² For Gasser, see Chapter One. For Ratzinger, see Chapter Two. For Sullivan, the Professio fidei, Donum veritatis, and Komonchak, see Chapter Three.
⁴ For van Rossum, Fenton, Castelot, and Murphy, see Chapter One. For Fransen, see Chapter Two. For Sullivan, see Chapter Three. It should be noted that many papal documents are formally addressed to the bishops of the Catholic Church. Such documents have always been understood to have as their ultimate audience the entire Church (as the local ordinary bears the responsibility for transmitting the teaching to the people of his diocese). When I refer to a teaching that is addressed to one group in the Church, I am not referring to such teachings; rather, I
and the writings of many theologians (as well as the Professio fidei) consider only universally directed teachings. So this principle would seem established. In any event, in focusing on the third category of teachings listed in the Professio fidei, this dissertation will consider only teachings directed at the whole Church.

The object of the magisterium has been extensively discussed in the case of infallible teachings. It is agreed that the Church can infallibly teach only those matters of faith and morals that have been revealed by God or are closely connected to revelation, but the precise extent of the primary and secondary objects of infallibility are disputed. The object of non-definitive authoritative teaching is broader than the object of infallible teaching; this claim is explicitly made by Sullivan and Richard Gaillardetz, and it is implicit in the way that both Vatican I and Vatican II describe the object of infallible teaching as a special subset of the object of magisterial teaching in general. Sullivan describes the object of non-definitive teaching as “whatever pertains to Christian belief and to a Christian way of life,” or equivalently, “matters of faith and morals” in a very broad sense. However, it has also been clearly recognized since the Middle Ages that purely disciplinary decrees are not included in this object (although in some cases a disciplinary decree has doctrinal or moral implications that are included).

Within the realm of non-definitive teaching, how is a teaching’s object related to the teaching’s weight? The Qualificatio theologica for Lumen gentium, Yves Congar, Piet Fransen, am referring to documents aimed at a regional audience (e.g., John Paul II’s apostolic exhortation Ecclesia in Asia) or documents addressed solely to a specific group (e.g., Pius XII’s “Allocution to the Congress of the Italian Union of Obstetricians”).

For details, see the discussion of the primary and secondary objects of infallibility in the Introduction (pp. 17-22 above) and the references cited there.

Sullivan, Creative Fidelity, 18. For Gaillardetz, see Chapter Three.
and Christoph Theobald all assert that when the object is especially important then the weight is greater. Other things being equal, this seems a reasonable principle, and none of the authorities surveyed contradict this claim.

*Donum veritatis* points out that many non-definitive teachings combine doctrinal elements with contingent, conjectural, or prudential elements. Moreover, insofar as it is possible to separate the doctrinal elements from the contingent elements, the former have more weight. Sullivan, Gaillardetz, Komonchak, and Pope Benedict XVI agree with these principles. As a corollary, a purely doctrinal teaching possesses more weight than a teaching that mixes doctrinal with contingent elements.

Lastly, the *act* of magisterial teaching must be considered. “Act” is a very broad term encompassing many aspects, several of which will be considered in this chapter; at this point, only the basic traits shared by all acts of magisterial teaching will be considered. An act of magisterial teaching is a public proclamation by someone authorized to teach in the name of the Catholic Church. The teacher must in some way invoke their authority: this can be done explicitly, or done implicitly in a variety of ways (e.g., a sermon in the context of a Mass, or the distribution of a letter to its recipients). When a pope or bishop teaches as a private doctor, no magisterial authority is present.

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7 For the *Qualificatio theologica*, Congar, and Fransen, see Chapter Two. For Theobald, see Chapter Three.

8 For *Donum veritatis*, Sullivan, Gaillardetz, Komonchak, and Benedict XVI’s Christmas Address, see Chapter Three. As described in Chapter Three, the *Professio fidei*’s three categories of magisterial teaching are extended by *Donum veritatis* to either four or five categories, based on the presence of contingent elements in a teaching. However, theologians are not agreed on exactly how *Donum veritatis* delineates these categories. Rather than trying to resolve this issue, I am focusing on the point of agreement: contingent elements possess less weight than doctrinal elements.

Moreover, in order to be valid, this act must be free. A pope with a gun to his head cannot freely issue a doctrinal teaching. The question of when such freedom is compromised is disputed. Indeed, some theologians have questioned whether the bishops at the First or Second Vatican Councils were free in their teaching. In rebuttal, the freedom of the bishops at Vatican I has been defended by Hermann Pottmeyer and Sullivan, and the freedom of the bishops at Vatican II has been defended by Karl Rahner and Giuseppe Alberigo. It seems to me that Pottmeyer, Sullivan, Rahner, and Alberigo are correct in their judgment. At neither Vatican Council did any bishop risk torture or death for opposing the will of the pope or of the conciliar majority. Perhaps some bishop feared that taking an unpopular stance might lead the pope to take away his diocese, but it seems absurd to claim that this qualifies as the kind of “duress” that would invalidate that bishop’s vote. (At the First Council of Nicaea, there were bishops who bore scars from being tortured for their faith!)

The freedom of these councils has also been questioned on the grounds that their procedures were biased. At Vatican II, the rules and procedures were criticized for giving too much power to the majority, to the minority, to the periti, to the Council of Presidents, to the commissions, to the pope, and to the Roman Curia, as well as for being unfairly changed during the course of the Council. One may agree with some of these criticisms without concluding that the Council was so manipulated that its decrees should be considered invalid. I would suggest that those who assert that the conciliar procedures were so unfair that they nullify its

10 For Pottmeyer, Rahner, and Alberigo, see Chapter Two. For Sullivan, see Chapter Three.

results should, at the very least, apply this critique consistently and delete the Council of Ephesus (A.D. 431) from the list of general councils, as its procedures were much more tightly controlled by Cyril of Alexandria than any faction or pope has controlled a council in recent centuries.\footnote{J. N. D. Kelly, *Early Christian Doctrines*, rev. ed. (New York: HarperSanFrancisco, 1978), 326-27; Leo Donald Davis, *The First Seven Ecumenical Councils (325-787): Their History and Theology* (Wilmington, DE: Michael Glazier, 1987), 153-60.}

Besides, the Church has never established a fixed set of procedures that all ecumenical councils are required to follow. Therefore, following a centuries-old tradition, I would argue that, regardless of what complaints are made by bishops during its sessions, any council that is accepted after its conclusion as valid and ecumenical by the pope, by the overwhelming majority of Catholic bishops, and by the overwhelming majority of the Catholic faithful must be considered a true ecumenical council.

When the subject, recipients, object, and act of an instance of teaching meet the conditions described above, it is an authoritative magisterial teaching. When, in addition, it lacks the conditions for an infallible and definitive teaching,\footnote{As explained in the Introduction, the precise qualifications for an infallible and definitive act of teaching are not being explored here; many authorities have written at length about these matters, agreeing with each other on many central issues while disagreeing on others.} it is a non-definitive authoritative teaching – the focus of the present dissertation.

What kind of assent do the Catholic faithful owe to such teaching? Some of the theologians surveyed in Chapter One – Louis Billot, Paul Nau, and Fenton – claim that unconditional internal assent is required, on the grounds that such teachings, even if not formally infallible, are effectively so. Lucien Choupin’s view is similar; he admits that even though in theory a pope could err in his ordinary teaching, it is morally certain that this eventuality will
never happen.\textsuperscript{14} I would argue that this position became untenable after Pius XII’s \textit{Humani generis}. In this encyclical, Pius discusses the obligation of theologians to a specific kind of non-definitive teaching (one where a pope “purposely pass[es] judgment on a matter up to that time under dispute”), stating that in such a case, the matter “cannot be any longer considered a question open to discussion among theologians.”\textsuperscript{15} Surely Pius was aware that Billot and others held that such teaching required such unconditional assent, and yet he required a much more mild response (refraining from theological debate) in this encyclical; it is reasonable to interpret this as a non-endorsement of Billot’s position.

Most of the theologians surveyed here agree that non-definitive authoritative teaching does not require unconditional assent. An individual Catholic is expected to make a sincere attempt to accept such teaching, but, under certain conditions, when an honest investigation of this teaching leads the person to conclude that it is incorrect, one has fulfilled his or her obligation. This obligation is termed “religiosum voluntatis et intellectus obsequium” in \textit{Lumen gentium} 25 and the \textit{Professio fidei}. I take this position as having been established by the agreement among these theologians – Ludwig Lercher and Florian Schlagenhaufen, Edmond D. Benard, G. Absolonne, Franz X. Hürth, several national episcopal conferences, Rahner, Fransen, Komonchak, Pottmeyer, John P. Boyle, Sullivan, Avery Dulles, Richard McCormick, Gaillardetz, and the Congregation for the Doctrine of the Faith in \textit{Donum veritatis} – as well as the untenability of the position held by Billot. These theologians do not perfectly agree on the conditions that justify

\textsuperscript{14} For Billot, Nau, Fenton, and Choupin, see Chapter One.

rejecting a teaching, but they agree in broad measure on such conditions.  

They also agree that, within the category of non-definitive doctrines, there is a gradation of magisterial authority, and that this fact needs to be taken into account when an individual is struggling with a specific teaching.

The traditional analysis of a magisterial teaching distinguishes between the subject, the recipients, the object, and the act. It is the term “act” which is the broadest, for it includes the precise wording of the teaching (understood in the context of contemporary theological discussion), the structure of the document in which the teaching appears (understood in the context of the appropriate genres), the sequence of events that produced the teaching (understood in their historical context), and the manner in which the teaching is promulgated. Therefore, the remainder of this section will focus on these matters.

**The centrality of intention, and the centrality of the text**

The teachings considered in this dissertation are *written* teachings. Church tradition has always placed great value on the literal text of such teachings – a summary of a teaching can never replace the original wording. At the same time, when interpreting a magisterial teaching, the primary goal is to identify the intention of its author or authors. Thus in the quest to weigh the authority of a written teaching, both the text itself and the intention of its authors play central roles.

In the survey of theologians that formed the first three chapters of this dissertation, the

16 For Lercher, Schlagenhaufen, Benard, Absolonne, and Hürth, see Chapter One. For the responses by episcopal conferences to *Humanae vitae*, Rahner, Fransen, and Pottmeyer, see Chapter Two. For Komonchak, see Chapters Two and Three. For Boyle, Sullivan, Dulles, McCormick, Gaillardetz, and *Donum veritatis*, see Chapter Three.
need to determine the intention of a text’s authors was a constant theme. Pope John XXII, in his 1324 bull *Quia quorundam mentes*, uses a variety of techniques to determine whether his predecessors Gregory IX, Alexander IV, and Nicholas III issued a dogmatic definition regarding the poverty of Christ; each of these techniques is an attempt to discover whether these popes, in their decrees, intended to issue such a definition. In his voluminous writings regarding the magisterium, Sullivan continually focuses on the need to determine an author’s intention. It is a fundamental rule that one cannot weigh a document without first interpreting it to understand what it meant to its author; this point is especially stressed by Fransen and Sullivan.\(^{17}\) Walter Kasper’s words about interpreting Vatican II can be applied to many magisterial documents: “[T]he meaning of an individual text ... can only be discovered by pursuing the textual history in detail, and from this extracting the council’s intention.”\(^{18}\)

This rule should not be understood as detracting from the centrality of the text itself. The bishops gathered in council have always understood that their task is to issue written documents. Conciliar speeches are given merely to propose, endorse, oppose, or modify a written text that would ultimately be promulgated by the Council. This has been the pattern from the beginning: after a council, the official documents are promulgated and distributed throughout the Church, while the transcripts of bishops’ interventions and the minutes of committee meetings were preserved for the much smaller audience of future historians and theologians (or discarded entirely).\(^{19}\)

\(^{17}\) For John XXII, see Chapter One. For Fransen, see Chapter Two. For Sullivan, see Chapter Three.


\(^{19}\) One exception to this pattern occurred on Nov. 19, 1964, when Pericle Felici, the General Secretary of the Council, informed the Fathers that the importance of the *Qualificatio theologica* and the *Nota explicativa praevia*
I would argue that it is incorrect and illogical to treat the centrality of the text and the centrality of intention as competing hermeneutics, or even as opposite poles of one hermeneutic.\textsuperscript{20} A text is useless unless it is understood, and the centrality of intention indicates that, first and foremost, a text should be understood in the sense intended by the writer. Conversely, the intention that is sought is the author’s intention in writing the text. Theologians from John XXII to Francis Sullivan do not discuss “intention” as if it were some disembodied object; rather, their goal is to interpret a specific text by understanding the meaning intended by its authors.

How should a text be interpreted when it makes ambiguous statements or is silent on key points regarding its topic?

Different kinds of ambiguity must be distinguished. When a reader finds a text ambiguous on some point, it is often the case that the writer(s) of the text did not intend for this point to be unclear. In such cases, an investigation into the immediate history of the document or its

\textsuperscript{20} Ormond Rush’s distinction between a “hermeneutics of the text” (which takes the Vatican II texts at face value) and a “hermeneutics of the authors” (which focuses on the authors’ intentions apart from the texts) seems misguided to me. It is unclear how one could understand any written text without reference to the language and concepts of the time it was written. To take one example: the Council of Nicaea anathematized those who would call the Father and the Son two distinct hypostases (\textit{DÉC}, vol. 1, 5), and yet orthodox Christian theology from the late fourth century onward did exactly that; without understanding how the meaning of this word had developed, the Nicene anathema would be inexplicable. Similarly, while Peter Hûnemann makes some very persuasive points in his essay (see Chapter Three above), his insistence on interpreting a conciliar text primarily through the text itself ought not to mean ignoring the intention of the authors. If he is merely asserting that each statement in a conciliar text needs to be understood first and foremost in the context of that text, then this seems a true and important rule. For example, the meaning of the terms “Church of Christ” and “Catholic Church” in \textit{Lumen gentium} 8 is revealed by reading that section in the context of chapter one of this dogmatic constitution, not by asking how these terms were used by theologians in the year 1964.
historical context may reveal the intended meaning. For example, the Council of Trent’s Decree on Original Sin twice repeats Paul’s statement that “all” have sinned. Taken at face value, this statement would seem to imply that Jesus himself sinned; such a reading becomes even more plausible when the decree goes on to state that Mary is not included in the scope of this statement without mentioning any other exceptions. Yet even a cursory familiarity with sixteenth-century Catholic theology reveals that the writers could not possibly have intended to claim that Jesus was tainted with original or actual sin. This is one case of a general rule: When a magisterial text written by one person is ambiguous on some point, and the intention of the writer can be determined on that point, then the text should be understood in the sense intended by the author. Similarly, when a text written by a group of people (e.g., an ecumenical council) is ambiguous, and the writers shared a common intention, then the text should be understood based on that intention.

But what if history shows that that an ambiguous conciliar text was understood in diverse ways by the bishops who approved it? If the vast majority of the bishops held one interpretation, then it seems reasonable to accept that interpretation as authoritative. At the other extreme, if the vast majority of bishops found some passage incomprehensible, and only a handful (perhaps including the material authors of the passage) assigned it any meaning, then it seems reasonable to assign zero weight to this passage, since it could hardly be considered an act


2² To be clear, this analysis does not concern the case of a thesis that some bishops wish had been included in the text, or the bishops’ opinions regarding a matter that goes beyond the text while conforming to its “spirit” – such matters will be discussed later. Nor does it concern revisionist history that a participant in a council dreams up years after the event. This analysis is focused on the case of an actual ambiguity in the text – a passage that one bishop can point to and honestly say “When I voted for this text, I believed this sentence meant X,” to which another bishop would honestly reply, “I believed it meant Y.”
of teaching by the college of bishops gathered in council. Between these extremes would be a passage whose basic meaning was agreed upon, but which some bishops interpreted in a much more specific manner. For such a passage, I would suggest that the meaning held in common has conciliar authority, but a more specific interpretation of the text held by only a few bishops should not be taken as authoritative.\(^\text{23}\)

This principle also applies to the case where competing interpretations of an ambiguous text are held by different factions at a council. As mentioned in Chapter Two, Edward Schillebeeckx relates a story in which a member of the Doctrinal Commission claimed that some of *Lumen gentium*’s authors had deliberately included equivocal statements so that, after the Council, they could promote their interpretation as the true meaning of the document.

Regardless of the accuracy of this story,\(^\text{24}\) the rule I am proposing here would solve such a problem: the “common denominator” of meaning that was held by the vast majority of the bishops who voted to approve *Lumen gentium* is an authoritative interpretation of that document,

\(^{23}\) An example may help clarify this. The bishops at Chalcedon taught that Christ was “truly God” and also “truly man, of a rational soul [*ek psychēs logikēs*] and a body” (*DEC*, vol. 1, 86). Given the historical context (e.g., the widespread rejection of Apollinarianism since the end of the previous century), one can make a strong argument that the bishops at Chalcedon were expressing, among other things, their consensus that Christ had a human mind and possessed human knowledge. Suppose that historians were to establish that when the bishops at Chalcedon voted for this decree, a dozen of them understood it to be endorsing some particular view regarding the relationship between Christ’s human knowledge and divine knowledge – but that this understanding was not widely shared. In this scenario, we should hold the consensus of the bishops to be an authoritative interpretation of the text, but the additional details held only by a minority should not be assigned conciliar authority. To take a more recent example, a theologian who claims conciliar authority for a specific interpretation of the phrase “subsistit in” in *LG* 8 needs to show that this interpretation was widespread among the bishops who voted for this dogmatic constitution in 1964 – not merely that a few members of the doctrinal commission held this interpretation.

\(^{24}\) As discussed in Chapter Two, Schillebeeckx argued that the text of *Lumen gentium* on collegiality was indeed “deliberately vague” [*bewust vaag*] regarding the relationship of the pope to the college of bishops, and was compatible with different understandings of this relationship. He saw the *Nota explicativa praevia* as a clarification of this ambiguity [Edward Schillebeeckx, “Pijnlijke dagen – een interpretatie: II,” in *De Paus: Opvattingen over een omstreden ambt*, ed. Michel van der Plas (Utrecht: Amboboeken, 1965?), 156-66, at 159]. I have not found any recent investigation of this story. Interestingly, when the supporters of *LG*’s text on collegiality reassured Pope Paul VI that this text preserved all the traditional prerogatives of the pope, their explanation of the doctrine sounded quite similar to what would later become the *NEP*: see Tagle, “Black Week,” 420-23.
but a specific interpretation held only by a small group (whether publicly or secretly) has no conciliar authority. It is merely one of several specific theologies that are compatible with the conciliar document. Of course, its advocates are free to offer theological arguments in favor of it, but it does not possess *magisterial* authority. Thus I must disagree with René Laurentin’s disapproval of language “cleverly calculated to keep alive contrary opinions”\(^\text{25}\) in the Vatican II documents: when such equivocity is intentional, it indicates that the authors have chosen not to settle a disputed question – a long-accepted practice in magisterial teaching.

What if, rather than being ambiguous, a text is entirely silent on a point that the reader might expect it to address? Sometimes this silence results from the deliberate choice of the authors not to settle an open question: for example, Trent’s *Decree on Original Sin* does not answer the question of whether Mary had ever been subject to original sin,\(^\text{26}\) and Pope Pius XII’s *Munificentissumus Deus* avoids stating whether Mary experienced death before her body was assumed into glory.\(^\text{27}\) As the authors’ intention is clear in such cases, the document can be interpreted according to their intent. At other times, historians find that an earlier draft of a document contains an assertion that is absent in the final version, indicating that this assertion was removed during the editing process. In Chapter Three, I looked at Sullivan’s approach to two examples of this in the Vatican II documents. In order to determine the significance of the removal of a passage during the revision process, Sullivan investigated whether the editors had given a reason for the deletion, and investigated what other documents from the same Council


\(^{26}\) *DEC*, vol. 2, 665-67.

\(^{27}\) DS 3903.
had said on this topic, but he did not argue that the deletion of a statement in the editing process was, of itself, an authoritative rejection of this statement. This seems a reasonable rule to adopt.\textsuperscript{28}

\textbf{Are there privileged interpreters?}

Several of the theologians surveyed in this dissertation have treated certain persons or documents as particularly valuable – and in some sense, authoritative – interpreters of conciliar documents. The most commonly cited examples are the \textit{relationes} of Bishop Federico Zinelli and of Bishop Vinzenz Gasser on behalf of the \textit{Deputatio de fide} at the First Vatican Council. Zinelli and Gasser discussed the texts on papal primacy and on infallibility, respectively. Both of their \textit{relationes} elaborated on the meaning of the text and explained the \textit{Deputatio’s} verdict on each alteration proposed by one of the Council Fathers. It was only after hearing these presentations that the bishops voted on the text of these chapters. As discussed in Chapter Two, the speeches by Zinelli and Gasser were cited during Vatican II by several people (including Pope Paul VI and Yves Congar) as models for clarifying ambiguous passages in \textit{Lumen gentium}.\textsuperscript{29} Moreover, Gasser’s \textit{relatio} is cited four times in the footnotes to \textit{LG 25}. Pottmeyer describes Zinelli’s \textit{relatio} as “nothing less than an official commentary on the dogma [of papal

\small\textsuperscript{28} Although none of the theologians surveyed in this dissertation assert that silence on a certain point should be interpreted as an authoritative rejection of that point, this view can be found in some theological writings. For example, John Connelly argues that since \textit{Nostra aetate} did not express a hope that the Jewish people would turn to Christ at some future historical time, its silence on this point means that such an expression is improper, and therefore subsequent episcopal documents actually \textit{contradict} the Council if they express such a hope. John Connelly, “The Catholic Church and the Mission to the Jews,” in \textit{After Vatican II: Trajectories and Hermeneutics}, ed. James L. Heft with John O’Malley (Grand Rapids: Eerdmans, 2012), 96-133, at 124. Of course, a variety of arguments can be brought to bear on this topic, but my rule (following Sullivan’s example) implies that \textit{Nostra aetate}’s silence is not \textit{by itself} such an argument.

\small\textsuperscript{29} Tagle, “Black Week,” 432-36, especially 433-34 (regarding Congar), 435 (regarding Paul VI).
primacy] and a guide to its interpretation,” and Gaillardetz calls Gasser’s relatio an “authoritative interpretation” of the text on infallibility. In a similar manner, Dulles describes the relatio given at Vatican II by Bishop Emile-Joseph De Smedt regarding the final draft of Dignitatis humanae as “the only official commentary” on that document. None of the surveyed authors expresses disagreement with the idea that an official relator during a council may offer an authoritative interpretation of a text, although many of them are silent on this matter.

The authoritative status of the Nota explicativa praevia is a matter of dispute. As discussed in Chapter Two, some bishops and theologians questioned its authoritative status, while others held that as the bishops were expressly told to cast their final vote on Lumen gentium in light of the NEP, which therefore must be taken as an authoritative interpretation of that dogmatic constitution. The Qualificatio theologica seems to have been less controversial; both Sullivan and Theobald hold it as an authoritative guide to the magisterial weight of Lumen gentium, and none of the surveyed theologians expressed disagreement with this view.

The records of earlier councils are not as complete as those of the two Vatican Councils, and one can rarely identify each stage in the drafting process of a document and exactly how its material authors interacted with the assembly as a whole. Therefore, in order to determine the bishops’ understanding of a specific conciliar text, historians often rely on narratives written

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31 Gaillardetz, Teaching with Authority, 215.


33 For Sullivan and Theobald, see Chapter Three.
after a council by its participants. As mentioned in Chapter Three, Sullivan treats Melchior Cano’s explanation of Trent’s decree regarding the Eucharist as a reliable guide to the understanding of the bishops who produced this document, for “Cano was certainly in a position to know the mind of Trent on the matter.”\textsuperscript{34} Another example in this category would be the letter explaining the texts and intention of the First Council of Constantinople that was sent in 382 (the year after the Council) to Pope Damasus by some of the bishops who had been present there. While the creed written at Constantinople does not explicitly call the Holy Spirit “God” or declare him \textit{homoousious} with the Father or the Son, it has always been understood as a declaration of the full divinity of the Spirit – in part because this letter has been understood as the correct interpretation of its meaning.\textsuperscript{35}

Unlike conciliar decrees, papal decrees have only one formal author, and therefore the pope himself is the primary authority on the meaning of an ambiguous decree. Therefore, statements made by the pope before or after he issues a decree are the most valuable clue to his intention. If someone writes an analysis of a papal decree and the pope endorses this analysis, then it can be taken as a reliable explanation.

When a council issues a decree and a pope confirms it, is that pope an authoritative interpreter of the decree? The dogmatic constitution \textit{Pastor aeternus} was issued by the First Vatican Council and confirmed by Pius IX. A few years later, Pius endorsed the 1875 Joint

\textsuperscript{34} Sullivan, \textit{Creative Fidelity}, 130.

\textsuperscript{35} The letter of 382 was written at a synod held in Constantinople that year; its attendees were almost the same group that had been present in the council of 381. The letter calls all three Persons “homoousios” and says they share “a single Godhead”: \textit{DEC}, vol. 1, 25-30, at 28. For the history of this letter, see ibid., 21-23; J. N. D. Kelly, \textit{Early Christian Creeds} (New York: Longmans, Green and Co., 1950), 306, 325-26, 343-44; Gilles Emery, \textit{The Trinity: An Introduction to Catholic Doctrine on the Triune God}, trans. Matthew Levering (Washington, DC: CUA, 2011), 77-78.
Statement of the German Hierarchy regarding its interpretation; both Rahner and Pottmeyer treat this statement as authoritative in large part for this reason. However, it is unclear whether, as a general rule, a pope’s interpretation of a conciliar decree confirmed by him should always be considered authoritative. It is even less clear whether a future pope or future council can authoritatively interpret the writings of their predecessors.

**The document type**

A document’s genre affects the weight of its teachings. This assertion has been seen in *Lumen gentium* 25 and *Donum veritatis*, as well as the writings of Fransen, Sullivan, Gaillardetz, and the commentary by Ratzinger and Tarcisio Bertone; none of the surveyed authors have disagreed with this assertion.

In the Middle Ages, the authority of a papal document was indicated by the seal attached to the document. A lead seal (*bulla*, hence the term “bull”) possessed the most weight – in both senses of the word. In recent centuries, a variety of document types have flourished. There is widespread agreement that apostolic constitutions are frequently the most weighty documents, but there does not seem to be agreement on the sequence after that. Gerardus van Noort, Castelot and Murphy, Benard, Ratzinger, and Sullivan state that encyclicals typically do not contain infallible teachings, as does Pius XII in *Humani generis*. However, Benard and Sullivan

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36 For Rahner and Pottmeyer, see Chapter Two.
37 For *Lumen gentium* and Fransen, see Chapter Two. For *Donum veritatis*, Sullivan, Gaillardetz, and the Ratzinger-Bertone commentary, see Chapter Three.
38 As see in Chapter Three above, Sullivan lists apostolic constitutions, apostolic letters, encyclical letters, and apostolic exhortations as the four highest in rank, whereas Gaillardetz puts encyclical letters immediately below apostolic constitutions. In canon law, a *motu proprio* ranks second after an apostolic constitution; see Francis G. Morrisey, *Papal and Curial Pronouncements: Their Canonical Significance in Light of the Code of Canon Law*, rev. ed. (Ottawa: St. Paul University, 1995), 14-17.
add that there is no rule against such an occurrence in the future.\textsuperscript{39}

George Lindbeck, Sullivan, and John W. O’Malley agree that the four constitutions are the most weighty documents to emerge from Vatican II. The importance of the designation “constitution” is also attested by the arguments during the Council over whether to use this designation for the schema on “The Church in the Modern World.”\textsuperscript{40} Umberto Betti, Ratzinger, Sullivan, and O’Malley point to the dogmatic constitutions as especially authoritative; this view is also supported by the negative reactions from several Council Fathers when one printing of \textit{Lumen gentium} was labeled merely “constitution” instead of “dogmatic constitution.”\textsuperscript{41} None of the surveyed authors suggest there was a difference in authority between the Council’s “decrees” and “declarations”; O’Malley explicitly denies any distinction between these two kinds of documents.\textsuperscript{42}

As this dissertation is not focusing on documents from Roman Congregations, the types of documents written by them will not be considered here. There is, however, one more kind of document that must be considered: a compendium of papal or conciliar teachings that is selected and published by these congregations. The two most famous examples are the \textit{Syllabus of Errors} and the \textit{Catechism of the Catholic Church}. Of course, these two are very different – the \textit{Syllabus} is a compilation of statements by a single pope, most of which were delivered in minor allocuations, whereas the \textit{Catechism} is a compilation of doctrines taught over two millennia, some of which were taught with the highest level of authority. But what they have in common is

\textsuperscript{39} For Van Noort, Castelot, Murphy, and Benard, see Chapter One. For Ratzinger, see Chapter Two. For Sullivan, see Chapter Three.

\textsuperscript{40} Giovanni Turbanti, “Toward the Fourth Period,” in \textit{HVT}, vol. 5, 1-47, at 19, 19n48.

\textsuperscript{41} Komonchak, “Toward an Ecclesiology of Communion,” 41-42.

\textsuperscript{42} For Lindbeck, Betti, and Ratzinger, see Chapter Two. For Sullivan and O’Malley, see Chapter Three.
that they were intended to publicize teachings that had previously been made, rather than to issue new teachings. As has been seen, John Henry Newman and Sullivan both state that the Syllabus adds no new authority to the quoted statements of Pius IX, and Ratzinger (as Prefect of the CDF) makes a similar evaluation of the Catechism.\(^43\)

Although there is unanimous agreement that the document type is relevant for weighing the doctrines taught therein, Sullivan cautions against placing too much emphasis on this factor, since many magisterial documents contain several different doctrines, not all of which are taught with the same weight.\(^44\) Although only Sullivan mentions this rule explicitly, all the surveyed authors agree on the need to distinguish between different assertions contained within one document, and so this rule seems fully consistent with their views.

In light of the fact that weight varies within a single document, the possible ways in which a document can be subdivided will be addressed next.

**Partitioning the document: literary structure**

There are two primary methods of subdividing a magisterial document based on its literary structure. The second of these subsumes the first, and in my judgment is more helpful when determining the weight of the assertions contained in the document.

The first way to partition a document is according to its explicit subdivisions. Many magisterial decrees begin with an introduction containing motivation or context for the teachings that follow. The body of a long document is often divided into chapters. Some conciliar

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\(^{43}\) For Newman, see Chapter One. For Sullivan, and for Ratzinger’s evaluation of the Catechism, see Chapter Three.

\(^{44}\) For Sullivan, see Chapter Three.
documents contain several canons, typically phrased in a negative manner (“If anyone should say X, let him be anathema”). Some conciliar and papal documents contain a list of condemned propositions, each of which is followed by a specific censure (e.g., heretical, evil-sounding, etc.); others contain a list of condemned propositions followed by a global censure. All of these impose an explicit structure on the document.

The second way to partition a document is according to structure of its logic. Its central points (propositions being asserted or condemned) can be identified in a variety of ways: by observing the explicit subdivisions of the document, by analyzing the logic of the argumentation used, and by investigating the reasons why the document was issued. The remainder of the document can then be divided up according to how each passage relates to these central points: some passages consist of arguments (whether from Scripture, tradition, previous magisterial teachings, or natural reason) supporting the central points, others consist of practical applications of these points, and others can be classified as *obiter dicta* (e.g., hortatory passages and incidental material).

As discussed in Chapter One, post-Tridentine theologians debated whether both canons and chapters of a magisterial document were infallibly taught, or whether only the canons were infallibly taught. According to Joaquín Salaverri, by the 1950s theologians had reached a consensus that an infallible definition did not occur unless a doctrine was taught “assertively, directly and principally.”

Although it is now widely accepted that Salaverri and his fellow manualists were too quick to identify teachings as infallible, the consensus he refers to indicates that the theological focus had shifted from a document’s explicit structure (canons versus

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chapters) to its logical structure (principal assertions versus other passages). Earlier theologians such as Newman and Johann Baptist Franzelin usually focus on the former method, but at other times they used the latter. Later theologians such as Ratzinger, Fransen, Sullivan, and Gaillardetz focus primarily on the latter. These later theologians do not ignore a document’s explicit structure; rather, they treat it as an important clue to understanding its logical structure – but not the only clue. Thus Sullivan notes that when a document contains a series of canons that are similar to one another in content and phrasing, this constitutes *prima facie* evidence that the writers intended each canon to have similar weight. Yet when two canons use significantly different wording, then they need not have equal weight. For example, some of Trent’s decrees contain no chapters, and their canons contain both assertions and arguments for them. Sullivan argues that in such cases, the assertion should be given more weight than the argumentation. This rule applies when distinguishing infallible definitions from non-definitive passages, and also when distinguishing levels of authority within non-definitive documents. “In every kind of document, there will always be a distinction to be made between the principal assertions and the accessory material which does not have the same importance,” he writes; the application of this rule depends on the details of the case.

In my judgment, this method – partitioning a document according to the logical structure of its argumentation – is the best way to subdivide a document and determine the relative weights of its components. This method recognizes the document’s explicit structure as an important clue to what is most central, but also takes into account other clues such as the motive

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46 For Newman and Franzelin, see Chapter One. For Ratzinger and Fransen, see Chapter Two. For Sullivan and Gaillardetz, see Chapter Three.

47 Sullivan, *Creative Fidelity*, 111.
behind its composition. It applies to documents that contain definitive teachings and those that do not. This appears to be the principle that the manualists were converging toward before 1962; it is supported by many of the surveyed post-Vatican II theologians and denied by none of them. Moreover, this method recognizes the centrality of intention: by distinguishing between a document’s principal assertions, argumentation, applications, and *obiter dicta*, it subdivides the document based on the way in which they embody the authors’ intention.

Newman, Franzelin, Salaverri, Ratzinger, and Sullivan agree that in the case of an infallible definition, the arguments used in its support are not themselves infallibly taught. This rule extends to non-definitive documents as well (although only Sullivan explicitly states this fact): the arguments and reasoning used to support a document’s principal conclusions have less weight than the conclusions themselves.

Therefore, when analyzing a magisterial document, the first task is to divide it up into its principal assertions, argumentation, applications, and *obiter dicta*.

The second task is to determine the authoritative weight of the principal assertions. All of the techniques discussed in this chapter can be used here, keeping in mind that these assertions are the document’s most authoritative passages.

There is a third task which has often been forgotten: determining the authoritative weight of the remainder of the document. Of the theologians surveyed in this dissertation, only

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48 This rule applies in the typical case. There might be a specific instance in which a certain argument is being definitively taught, but this would require that the text indicate this fact. One interesting corollary mentioned by Ratzinger, Fransen, and Sullivan is that when a magisterial text defines a certain point and supports it by referring to a Scriptural passage, the intent of the passage’s human author is not itself defined.

49 For Newman, Franzelin, and Salaverri, see Chapter One. For Ratzinger, see Chapter Two. For Sullivan, see Chapter Three.
Franzelin and Salaverri have addressed this third task, and they only briefly. Franzelin points out that in the case of an infallible definition, the argumentation and *obiter dicta* are not infallible, “although one may hold that they have weighty authority,” and Salaverri repeats this statement. This gives very little guidance – may one hold that these passages have very little authority, or even none? On this question it seems safer not to offer a general solution, but to proceed on a case-by-case basis.

One additional remark by one of the surveyed theologians needs to be considered here. As mentioned in Chapter Two, shortly after Vatican II ended, Joseph Ratzinger discussed the tension between some statements in the introduction of *Dignitatis humanae* and the teachings found in its two chapters. He resolved this tension by dismissing the introductory statements, asserting that the introduction “changes nothing in the text’s meaning.” Did Ratzinger hold, as a general rule, that the introduction to a conciliar text has negligible authority? Even if this was his position in 1966, I have not found any other writings by him that repeat such a claim, and none of the other theologians surveyed in this dissertation have suggested anything along these lines. The introductory sections of magisterial documents often contain motivational or background information that does hold less weight than the main assertions in the chapters that

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51 For Salaverri, see Chapter Three.

follow, but this is not always the case,\textsuperscript{53} and therefore a blanket dismissal of introductions seems completely without warrant.

\textit{Partitioning the document: authorship}

A different way of subdividing a conciliar document is to partition it according to its authorship, and then accord different weights to the sections that result. Some theologians assert that if a conciliar document arises from debate and compromise between two factions, one larger than the other, passages in this document that represent the view of the majority faction have greater weight than those representing the thought of the minority.

Not infrequently, a conciliar document preserves vestiges of the debate between the council fathers. Even when the final version of the document is approved by a large majority of the bishops, historians may be able to identify certain passages as the work of a specific faction. Some passages may have been included by the council majority as a concession to a minority faction. Still other passages may teach some doctrine as compromise between the views of two or more factions; in such cases, each faction might have preferred a text that canonized its particular beliefs, but was willing to accept the compromise wording because they considered it true, even though it did not endorse all of their views.

Of course, there are sizeable gaps in historians’ knowledge of the mechanics of many

\textsuperscript{53} In particular, this is not the case with the statements in the declaration \textit{Dignitatis humanae} that Ratzinger dismisses in his 1966 essay, such as the statement that the Declaration “leaves intact the traditional catholic teaching on the moral obligation of individuals and societies towards the true religion and the one church of Christ” (\textit{DH} 1, in \textit{DEC}, vol. 2, 1002). It is clear both from the text itself and from the history of its composition that the persons who placed this statement in the introduction intended it to rule out certain interpretations of the theology in its subsequent chapters; this matter will be explored in more detail in Chapter Five. I wonder whether Ratzinger dismissed this statement for reasons other than its location in the introduction, but used imprecise language when explaining his position.
ecumenical councils. Nonetheless, in some cases there is a significant amount of knowledge regarding the process by which a document was composed, including the specific bishops, *periti*, and committees that drafted and revised the documents. In some cases the author of a specific passage or specific phrasing is known. Even when this data is not available, historians may be able to identify passages in a document that echo the theological views of certain bishops or theological schools.\(^5^4\)

As seen in Chapter Two and Three, the Vatican II documents are an obvious reference point for this kind of analysis, because their textual history is well documented, and because the history of the Council has so often been framed as a battle between the “majority” and the “minority.” Some of the theologians surveyed in these chapters argue that passages expressing the views of the conciliar majority should be given more weight than those inspired by the majority. Thus Leo Jozef Suenens argues that the “underlying thought of the majority,” which can be found in what the conciliar texts “imply” rather than what they “affirm,” is the true meaning of the Vatican II documents.\(^5^5\) Along a similar vein, Lindbeck argues that those passages in a document that teach a *new* doctrine are the most important for various reasons,

\(^5^4\) Such textual analysis could also be used to subdivide a papal document that has more than one material author (“ghostwriter”), if the pope himself has not substantially revised and unified the final version of the text, and if the authorship of the different portions of the text can be determined with some certainty. However, since such conditions rarely apply, the focus here will be on conciliar documents. For one attempt to use this technique on a papal document, see George Weigel, “*Caritas in Veritate* in Gold and Red,” July 7, 2009, on the *National Review Online* website, accessed Sept. 30, 2015, http://www.nationalreview.com/article/227839/caritas-veritate-gold-and-red-george-weigel.

including that novel teachings are the work of the majority. Otto Hermann Pesch describes the view of the majority as “the spirit of the council” and the voice of “the world-church,” seeing it as a “valid rule for interpretation of the conciliar texts,” especially when the official text has been “watered down and weakened” by the minority. The American Jesuit biblical scholar Joseph Fitzmyer was not included in our survey of theologians, but his comments on section 19 of Dei verbum illustrate this perspective quite well:

In studying this paragraph from Vatican Council II, one must remember that it was the product of much conservative and enlightened debate as Dei verbum took shape. The struggle between the two groups of council fathers can still be seen in the contrast in par. 19 between the unhesitating assertion of the “historical character” of the gospels and the later nuanced explanation of what the “sacred authors” have passed on to us.

Clearly, Fitzmyer is implying that the “unhesitating assertions” offered by “conservative” bishops are less valuable than the the “nuanced explanations” offered by “enlightened” bishops, even though the entire text was approved by the gathering as a whole.

On the other hand, Rahner, Schillebeeckx, Congar, Kasper, Komonchak, Dulles, and Peter Hünermann assert that an ecumenical council’s quest for compromise and consensus is a good thing, and that the contributions of the minority to the final documents should not be rejected. Even when a document juxtaposes majority-inspired statements with minority-inspired statements in a manner that reveals a certain tension between them, the resulting text should be accepted. Kasper and Ormond Rush argue that it is the task of future theologians (and perhaps

56 For Lindbeck, see Chapter Two.
future magisterial teaching) to find a way to mediate between these positions or find a new synthesis that incorporates the key elements from both.\textsuperscript{59} Similarly, Pope Benedict’s Christmas Address of 2005 rejects the claim that the spirit of the Council is found not in its compromises but “in the impulses toward the new that are contained in the texts.”\textsuperscript{60}

Pottmeyer stakes out a middle position. He holds that the contribution of the majority has greater value than that of the minority, for “[t]he theses defended by the minority do not represent the will of the council in the same degree as the theses that passed by an overwhelming majority.” At the same time, he holds that compromises are necessary and good, and therefore that the minority contributions have real value and should not be rejected, for the “majority and minority alike agreed to both [factions’] theses and in particular to their juxtaposition.”\textsuperscript{61} Sullivan appears to agree (he quotes this passage from Pottmeyer at length, referring to its analysis as “very perceptive”).\textsuperscript{62} And, although Kasper in his earlier writings emphasizes the value of Vatican II’s compromise passages, in 2013 he stresses the value of the new rather than the old.\textsuperscript{63}

Finally, Rush sees value in all three of these positions: his “hermeneutics of the text” accepts the official version of the text at face value regardless of which factions contributed

\textsuperscript{59} For Rahner, Schillebeeckx, Congar, and Kasper, see Chapter Two. For Komonchak, Dulles, Hünermann, and Rush, see Chapter Three.


\textsuperscript{62} Sullivan, Creative Fidelity, 173-174.

\textsuperscript{63} For Kasper, see Chapter Two.
which passages, his “hermeneutics of the authors” assigns much greater weight to the majority view (he quotes Pesch on this point), and his “hermeneutics of the receivers” holds that future theologians will build on the official texts and resolve their inherent tensions.\footnote{For Rush, see Chapter Three.}

There are thus several respected theologians who propose that majority-sponsored passages have much greater weight than minority-sponsored passages, and several who do not. How is this disagreement to be resolved? I suggest that this proposal be examined for practicality and consistency.

There are several practical difficulties with this proposal. As Alberigo and Komonchak point out, the idea that the bishops at Vatican II can be neatly divided into two well-defined factions is false. Indeed, if the bishops had been neatly divided into “conservatives” and “progressives,” then when a straw vote was taken on five controversial propositions in the schema \textit{de Ecclesia} (October 30, 1963) one would have expected that each of the five propositions would have received the same number of votes – yet the votes in favor of each proposition varied from a low of 74.9\% to a high of 98.4\%.\footnote{The five propositions asserted the following: the episcopacy is the highest level of the sacrament of Holy Orders; episcopal consecration causes its recipient to become a member of the body of bishops; the college of bishops is successor to the apostles and (together with the pope) possesses supreme authority in the Church; the college of bishops possesses this authority by divine law; and the schema \textit{de Ecclesia} should address the possible restoration of the permanent diaconate. Alberto Melloni, “The Beginning of the Second Period: The Great Debate on the Church,” in \textit{HVT}, vol. 3, 1-115, at 102-5. For more on the significance of these five votes, see Gérard Philips, “Dogmatic Constitution on the Church: History of the Constitution,” trans. Kevin Smyth, in \textit{Commentary on the Documents of Vatican II}, vol. 1, ed. Herbert Vorgrimler (New York: Herder & Herder, 1967), 105-37, at 115-17; Richard R. Gaillardetz, \textit{The Church in the Making: Lumen Gentium, Christus Dominus, Orientalium Ecclesiarum} (Mahwah, NJ: Paulist, 2006), 6-27, at 17-18.} Alberigo also mentions that some bishops changed their minds as a result of the debates. Moreover, Komonchak points out that when \textit{Gaudium et spes} was being written, the primary debate was not between conservatives and
progressives, but between three different views within the so-called progressive camp.\textsuperscript{66} So a facile dualism cannot stand. Nonetheless, these practical difficulties might be surmounted by avoiding a \textit{global} use of the terms “majority” and “minority,” and instead using these terms only with respect to one specific topic at a time.

The consistency of this proposal poses a greater problem. Consider the following scenario:

An ecumenical council of the Catholic Church is held at which a contentious question is debated. It becomes clear that a majority of the Council Fathers want to issue a specific teaching on this topic, while a minority object to this teaching. Some in the minority believe this teaching is flatly incorrect; others concede that there may be an orthodox way to interpret this teaching but worry that it is likely to be misunderstood. Ultimately, the council promulgates a decree that is mostly along the lines desired by the majority, but has been revised to omit the more extreme points held by the leaders of the majority, and to incorporate some of the minority’s theology. Some in the majority see this as an olive branch to the minority; others complain that the document has been watered down by compromises. Nonetheless, despite these revisions, it is generally acknowledged – both by those sympathetic to the majority and by those sympathetic to the minority – that overall this council was a clear “victory” for its majority. After this council ends, some prelates and theologians explain this council’s teachings in terms of the majority’s theology: in their preaching and writing, they frequently refer to those portions of the council’s decrees that clearly represent the majority’s views, and promote certain theological works by renowned members of the majority as embodying the true meaning of the council, while holding that the minority-inspired passages are an unfortunate relic of a discredited viewpoint. Yet soon

\textsuperscript{66} For Alberigo, see Chapter Two. For Komonchak, see Chapter Three.
after the council ends, these prelates and theologians are dismayed when certain Church leaders – even former members of the majority! – begin taking actions and making statements that resonate with the minority-inspired passages.

The prelates and theologians who see themselves as the heirs of the conciliar majority view such actions and statements as a serious misunderstanding of the council – perhaps even a betrayal of the council’s true meaning. Are they right? Is this council’s true meaning to be found in its majority-inspired passages, not in those reflecting the views of the minority or designed to compromise with them?

This description applies to the Second Vatican Council. As mentioned above, Suenens, Lindbeck, Otto Hermann Pesch, and Fitzmyer are among those who find this Council’s true meaning in its majority-inspired passages.

Yet this description applies equally to two earlier councils.

The majority of bishops at the First Vatican Council wished to define the primacy and infallibility of the pope. The loudest voices in this faction insisted that the pope was directly responsible for the entire Church and possessed an infallibility that was “personal, separate, and absolute.” The bishops in the minority opposed the definition for a variety of reasons, and they especially opposed the “personal, separate, and absolute” language. The dogmatic constitution *Pastor aeternus* was widely seen as a triumph for the majority (indeed, many minority bishops left before the final vote on the document *Pastor aeternus*). Yet Bishop Gasser’s *relatio* given before the final vote made it clear that the document did not endorse personal, separate, and

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absolute papal infallibility. Gasser explained that papal infallibility is not “personal” in the sense that it belongs to the pope as a private person; indeed, the doctrinal commission had changed the title of *Pastor aeternus’* fourth chapter from “On the Infallibility of the Roman Pontiff” to “On the Infallible Teaching Authority of the Roman Pontiff” to make this more clear. The pope’s infallibility is not “separate” from the infallibility of the bishops in council, nor from the whole Church’s infallibility of belief; *Pastor aeternus* stated that infallibility belongs to the Church as a whole, and can be exercised by popes or councils under certain circumstances. With regard to the third adjective, Gasser is even more emphatic: “In no sense is pontifical infallibility absolute, because absolute infallibility belongs to God alone.” Papal infallibility, on the other hand, “is bound by limits and conditions.”68 Thus the “personal, separate, and absolute” language desired by the most vocal elements of the majority was omitted from the promulgated decree. Because of this, every one of the minority bishops who had left the council was able to endorse *Pastor aeternus* after studying its contents.69 Nonetheless, the Council was widely seen as a victory for the ultramontanists, and they proceeded to use it to bolster their most extreme arguments. Louis Billot’s 1898 manual, for instance, associates infallibility with the pope alone, arguing that the bishops – even gathered in council – are merely the pope’s delegates, and it is his approval of a conciliar document that is the source of its authority.70 This faction might have expected the pope himself to agree with them, and yet in the years following the Vatican

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70 Louis Billot (as Ludovicus Billot), *Tractatus de Ecclesia Christi, sive, Continuatio Theologiae de Verbo Incarnato*, 2d ed. (Rome: S. C. de Propaganda Fide, 1903), 524-28 (part 2, ch. 3, q. 12, § 2), 716-17 (part 2, ch. 3, q. 16, § 1).
Council, Pius IX repeatedly endorsed interpretations of *Pastor aeternus* that insisted that local ordinaries possessed their own authority (and were not merely papal delegates) and described papal infallibility in moderate terms. Therefore, if Vatican I’s true meaning is found in the will of its majority, then Pius IX betrayed the true meaning of the Council with these acts – and Vatican II, by placing papal infallibility in an ecclesial context, did so as well.

The same argument applies to a much earlier synod. The victorious party at Ephesus in 431, led by Cyril of Alexandria, condemned Nestorius and any possible division between Christ’s humanity and divinity. At this Council, Cyril’s party shunned the “two natures” language that Nestorius had used, instead stressing the unity of Christ’s person. Ephesus’ documents were generally in line with Cyril’s own writings, but the bishops chose not to follow him all the way, and thus they did not give conciliar approval to Cyril’s Third Letter to Nestorius and its “Twelve Anathemas” which expressed Alexandrian Christology in uncompromising terms. Despite this reluctance, Ephesus was widely understood as a repudiation of the Antiochene position. Therefore many of Cyril’s partisans were shocked when, two years later,
he and John of Antioch compromised on a “Symbol of Union” which referred to Christ’s “duality of natures.” Despite Cyril’s insistence that the “two natures” terminology could be used with an orthodox meaning, many in Alexandria saw this as a betrayal of the Cyrillian doctrine that had triumphed at Ephesus. Two more councils – at Ephesus in 449 and at Chalcedon in 451 – responded in opposite ways. At Ephesus in 449, Patriarch Dioscorus of Alexandria, Cyril’s successor, condemned the Symbol of Union and anathematized any reference to “two natures” after the Incarnation. In 451, the Council of Chalcedon endorsed the Symbol of Union and acknowledged Christ “in two natures which undergo no confusion, no change, no division, no separation.” These rival councils exhibit two possible ways to interpret the Council of Ephesus held in 431. Ephesus (449) interpreted Ephesus (431) through the eyes of its majority, discarding the compromises made with the Antiochens during and after the Council – not completely unlike the way that Suenens, Lindbeck, O. H. Pesch, and Fitzmyer would interpret Vatican II. Chalcedon interpreted Ephesus (431) through its official documents (which did not condemn all usage of the “two natures” language). And today, outside of the Oriental Orthodox communion, it is Chalcedon – not Ephesus (449) – that is recognized as a valid general council.

I argue, therefore, that any theologian who holds that the “progressive” passages in the

74 Kelly, Early Christian Doctrines, 328-29; Davis, First Seven Ecumenical Councils, 160-63. The full text of this “Symbol of Union” can be found in DEC, vol. 1, 69-70.

75 Grillmeier, Christ in Christian Tradition, 479; Kelly, Early Christian Doctrines, 330; Davis, First Seven Ecumenical Councils, 163.


Vatican II documents be given more weight than the “conservative” passages on the grounds that the former reflect the true wishes of its majority must also, to be consistent, interpret Vatican I as an ultramontanist and interpret Ephesus as a monophysite. As it does not appear that the theologians surveyed here do this, it seems best to reject this rule.

To avoid a possible misunderstanding, I should stress that I am not saying that it is always wrong to hold that some majority-authored passage has more weight than some minority-inspired passage. The reader should assign more weight to one passage if it is expressed in more emphatic language than another, or if it discusses a topic that is central to the goals of the council, or if any of the other factors discussed in this section apply. But the given passage does not have greater authority merely because it reflects the thought of the majority faction. Of course, when a certain view is especially dear to the majority of bishops at a council, history shows that the conciliar documents typically give more emphasis to this view than to its opposite. So when *Lumen gentium* 21 teaches that episcopal consecration is the fullness of Holy Orders and imprints a sacred character, this is not just one teaching among many: its great weight is indicated by the strong language used (“This sacred synod teaches,” etc.), by the arguments drawn from Scripture, the Church Fathers, and liturgical tradition, by the text’s emphasis on the bishops’ role as successors to the apostles, by the conciliar debates that reveal the authors’ intention, and by the straw vote of October 30, 1963 (84% in favor). Indeed, this teaching is one of the most weighty in the entire dogmatic constitution. But its weight is not due to its support by the so-called “majority.”

*Internal indications of weight*

A single magisterial document often contains a number of distinct teachings, sometimes
related to each other or to a common theme. Since these teachings may not all be asserted with the same weight, it is necessary to distinguish between them and to understand the overall structure of the document. Thus it is necessary to first divide up the document based on its literary and logical structure, and then to attempt to determine the weight of its individual teachings.

In this dissertation’s survey of theologians, the most commonly mentioned factor for determining the weight of a teaching is the language used. Pope John XXII, Gasser, Castelot and Murphy, Salaverri, *Lumen gentium* 25, the *Qualificatio theologica*, Betti, Ratzinger, Fransen, *Donum veritatis* §24.1, the Ratzinger-Bertone commentary, Sullivan, Gaillardetz, and Theobald all testify to this.\(^78\)

Language can indicate a teaching’s weight in three different ways. First, the authors may refer to their own ecclesial authority: “By my apostolic office, I declare ....,” or “As successor to Saint Peter, I decree ....,” or “This holy synod, representing the universal Church, legitimately assembled in the Holy Spirit, teaches that....” As Fransen states, “The primary factor [in the authority of a magisterial teaching] ... is the degree of involvement of ecclesiastical authority, the extent to which the Magisterium brings its authority to bear.”\(^79\) Invoking one’s own authority before issuing a particular teaching indicates its importance.\(^80\)

\(^{78}\) For John XXII, Gasser, Castelot, Murphy, and Salaverri, see Chapter One. For *Lumen gentium*, the *Qualificatio theologica*, Betti, Ratzinger, and Fransen, see Chapter Two. For *Donum veritatis*, the Ratzinger-Bertone commentary, Sullivan, Gaillardetz, and Theobald, see Chapter Three.


\(^{80}\) Theobald proposes an interesting variation of this rule: If a pope or council asserts that it is continuing the work of a previous pope or council, then their teaching must possess equal authority to the teachings of their predecessor. Based on this proposal, he argues that the key teachings of Vatican II must possess the same level of authority as the key teachings of Vatican I – that is, they must be infallibly taught definitions. Betti makes a similar
Second, the text itself may explicitly indicate the authority of a teaching. The writer may use specific terminology (“we define,” “let anyone who expresses disagreement be anathema”) or otherwise indicate whether the teaching is definitive or tentative. In some cases, a doctrine will be taught and assigned a positive note, and in other cases a doctrine will be condemned and assigned a censure. Some examples were mentioned in Chapter One, such as Pius VI’s condemnation in 1794 of eighty-five propositions taught by the Synod of Pistoia, each of which was assigned a specific censure. Chapter One also included examples of “global censures,” in which several different propositions were condemned without specific censures being assigned to each; in such cases it is more difficult to determine the weight of each condemnation.

Because the meaning of certain terms has changed through history, and some terms can be used in either a precise or a vague manner, understanding the historical and theological context of a document is a prerequisite for interpreting the meaning of specific censures and approbations. Even in the case of infallible definitions, no specific wording has been used consistently over time.

In addition to the notes and censures described earlier, language may indicate weight in other ways. For example, a document may assert that a certain doctrine was taught by Christ, is apostolic in origin, or “has always been held” by the Church. Or it may state the kind of assent that is required by the faithful (“divine faith,” obsequium, etc.) or otherwise indicate in what

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81 DS 2600-2700.
manner the faithful are bound to respond to this act of teaching.

Third, the rhetorical force of the language is an indicator of weight. Vehement and forceful language can be an indicator of how strongly the writers felt about a certain topic in their document. Of course, in judging the force of language, one must be especially attentive to the circumstances and to the phrasing commonly used at the time.

Vatican II raises certain issues with regard to language. As mentioned in Chapter Two, John XXIII asked the Council to avoid “condemnations,” and so, from the initial schemas to the final documents, neither anathemas nor theological censures were used. In this respect, the Vatican II documents stand in stark contrast to those of Trent and Vatican I, which contain dozens of anathemas.\(^2\) Does the absence of condemnations in the Vatican II documents indicate a low level of magisterial weight? Or, in light of John XXIII’s request, do they merely express their weight using different kinds of language? The survey of theologians revealed disagreement on this point: Brunero Gherardini argues that Vatican II issued no dogmatic definitions based on its lack of traditional terms such as “definimus” and its lack of canons, whereas O’Malley holds that even though Vatican II used a panegyrical style largely unprecedented among conciliar documents, this style does allow for strong statements, even though they are phrased as encouragement rather than as commands.\(^3\)

If Vatican II had invented a completely new rhetorical style, it would indeed be difficult to compare it to earlier magisterial styles. But I would argue that this is not the case. Anathemas, theological notes, and censures were not always used in solemn magisterial documents prior to

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\(^2\) *DEC*, vol. 2, 660-799, 802-16.

\(^3\) For Gherardini and O’Malley, see Chapter Three.
the Council: for example, neither the definition of the Immaculate Conception (1854) nor the definition of the Assumption (1950), both widely recognized as exercises of papal infallibility, uses terms such as *anathema sit* or *de fide*. Several papal encyclicals written in the decades before the Council – including *Humani generis*, which contains some significant strictures – use no anathemas. And while O’Malley is correct to point out the wide use of panegyric in the Vatican II documents, this is not the only genre to appear in these documents, nor was it entirely absent from the documents of previous councils.

Most importantly, the *Qualificatio theologica*, while recognizing that “pastoral” language will be used in its documents, states that the Council is able to issue binding definitions as well as teachings of lesser weight:

Taking into account conciliar custom and the pastoral aim of the present council, this holy synod defines as binding on the church only those matters concerning faith and morals which it openly declares to be such. The other matters which the synod puts forward as the teaching of the supreme magisterium of the church, each and every member of the faithful should accept and embrace according to the mind of the synod itself [*iuxta ipsius S. Synodi*

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84 See DS 2800-04 and DS 3900-04, respectively. Both of these documents express the idea that someone who rejects its teaching thereby separates himself from the Catholic Church or its faith, but without using the word “anathema.” Indeed, compared to Vatican I, which says of such a person “let him be anathema!,” *Munificentissumus Deus* says of such a person, “[L]et him know that he has fallen away completely from the divine and Catholic faith” (DS 3904). Pius XII’s phrasing seems much more mild.


86 There are many passages in the Vatican II documents that illustrate O’Malley’s “panegyric.: For example, “[T]he bishops, in their prayer and work for the people, pour forth abundantly and in many ways from the fullness of the holiness of Christ” (*LG* 26): this statement should not be understood as an assertion that every single Catholic bishop abundantly performs good works, but as an ideal meant to encourage those who are doing good work and to admonish those who are not. However, many other passages (e.g., *Lumen gentium*’s “subsistit in,” the Scriptural hermeneutic of *Dei verbum*, the practical reforms in *Sacrosanctum concilium*) are not written in this style. Moreover, extensive use of panegyric can be found in Lateran V’s praise of vowed religious, which extols their “hardworking and anxious zeal,” their “unending labours for the glory of the divine name,” and many other “praiseworthy actions” (*DEC*, vol. 1, 645-46.)
mentem], which is clear either from the subject matter or from the way it is said [ex dicendi ratione], in accordance with the rules of theological interpretation.  

Although most of the theologians surveyed here agree that the Council Fathers did not choose to issue any dogmatic definitions, the Qualificatio theologica makes clear that use of pastoral language did not prevent them from doing so. A fortiori, the use of pastoral language did not prevent them from issuing non-definitive authoritative teachings.

Another internal indication of weight is the repetition of a certain teaching; this rule is stated in Lumen gentium 25 and repeated in Donum veritatis §24.1, in the Ratzinger-Bertone commentary, and by Sullivan. This rule applies to repetition within a single document or in multiple documents; the case of multiple documents will be considered in more detail later. In either case, this rule seem eminently reasonable – when an author repeats a certain point over and over, this is an obvious indication that this point is central to the author’s intention.

**External indications of weight**

To understand authorial intention, it is often necessary to know the setting and background of a magisterial document. If a certain topic was central to the reason that a council was called, or was added due to widespread demand during a council, or was given greater time and attention than other matters, then it is reasonable to conclude that the authors attributed great

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87 *DEC*, vol. 2, 898.

88 For *Lumen gentium*, see Chapter Two. For *Donum veritatis*, the Ratzinger-Bertone commentary, and Sullivan, see Chapter Three.

89 *LG* 25 discusses the response owed to “decisions he [a pope] has delivered,” explaining that his intention “is communicated chiefly by the nature of the documents, by the frequent repetition of the same doctrine or by the style of verbal expression.” Since both “decisions” and “documents” is plural, it is not clear whether this envisions a single “decision” being taught in multiple documents or one repetition per document, but there seems no reason to construe this passage narrowly to rule out one or the other.
importance to this topic. Applications of this rule have shown up in the works of John XXII, Kasper, Pottmeyer, and Sullivan, and are very much in accord with the views of the other theologians surveyed.⁹⁰

*Humani generis*, in its discussion of non-definitive papal teaching, states that when a pope “purposely pass[es] judgment on a matter up to that time under dispute,” theologians are no longer free to publicly debate it.⁹¹ Although the rules regarding theologians’ freedom to discuss a matter were subsequently revised (e.g., by *Donum veritatis*), Benard, Betti, Congar, Sullivan, and Dulles agree that this principle from *Humani generis* means that when a pope or a council chooses to settle an open question, such teaching is an especially weighty instance of non-definitive teaching.⁹² The historical context of a document will reveal whether a question was disputed prior to the event, and both internal and external factors will indicate whether the pope or council intended to settle this question or merely to weigh in on one side while keeping the debate alive.

Finally, both Ratzinger and Congar argue that that if the pope or bishops are deeply involved in the writing of some passage, that passage has more weight than one that was casually approved by the pope or bishops after having been prepared by *periti* or ghostwriters.⁹³ Although this rule was suggested by only two of the surveyed theologians, it seems a reasonable clue as to the intention of the pope and bishops, although it seems best to combine it with other

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⁹⁰ For John XXII, see Chapter One. For Kasper and Pottmeyer, see Chapter Two. For Sullivan, see Chapter Three.

⁹¹ Pius XII, *Humani generis*, § 20.

⁹² For Benard, see Chapter One. For Betti and Congar, see Chapter Two. For Sullivan and Dulles, see Chapter Three.

⁹³ For Ratzinger and Congar, see Chapter Two.
factors whenever possible. Of course, in many cases such details are lost to history, but in some cases (for example, the meticulous way in which certain phrases in Vatican II’s treatment of religious liberty were revised repeatedly) the close involvement of the pope and bishops is well documented.

**Partitioning the concepts: principles and contingent matters**

The distinction between doctrinal principles and contingent matters is mentioned in the first footnote to *Gaudium et spes*, but a detailed magisterial treatment of the topic did not appear until *Donum veritatis* in 1990. *Donum veritatis*, the Ratzinger-Bertone commentary, Pope Benedict’s Christmas Address, Fernando Ocáriz, Komonchak, Kasper, Sullivan, and Gaillardetz all indicate that there are teachings that can be separated into a doctrinal part and a contingent part. In such cases, the contingent part has less weight, and its pertinence may vary with time or circumstance.94

Kasper focuses on this distinction when weighing *Gaudium et spes*, arguing that one must distinguish “between the generally binding doctrinal foundation, the description of the situation, and the application of the general principles to the pastoral situation.” The contingent elements weigh “less than the authority of the doctrinal statements themselves,” although they still have true magisterial weight.95 Sullivan endorses Kasper’s analysis of this document.96

Unlike the approaches to partitioning a document described earlier, dividing the doctrinal from the contingent cannot always be done by classifying specific passages, sentences, or words

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94 For *Gaudium et spes* and Kasper, see Chapter Two. For *Donum veritatis*, the Ratzinger-Bertone commentary, Benedict XVI’s Christmas Address, Ocáriz, Komonchak, Sullivan, and Gaillardetz, see Chapter Three.

95 Kasper, *Theology and Church*, 173-74.

96 For Sullivan, see Chapter Three.
as “doctrinal” or “contingent.” In some cases this might be possible, but in other cases the
contingent and doctrinal are combined at the conceptual level. This is illustrated by Sullivan’s
analysis of a passage in the Decree for the Jacobites (a text included in the acta of the Council of
Florence):

The holy Roman church ... firmly believes, professes, and preaches that all those who are
outside the catholic church, not only pagans but also Jews or heretics and schismatics,
cannot share in eternal life and will go into the everlasting fire which was prepared for the
devil and his angels (Mt 25:41), unless they are joined to the catholic church before the end
of their lives ... and that nobody can be saved, no matter how much he has given away in
alms and even if he has shed his blood in the name of Christ, unless he has persevered in the
bosom and the unity of the catholic church.97

Sullivan interprets this teaching as the conclusion to a syllogism. Its major premise is that any
person who is “guilty of the sin of infidelity” (i.e., someone who has “culpably refused either to
accept the true faith or to remain faithful to it”) will not be saved. Its minor premise is that all
Jews, heretics, and schismatics are guilty of this sin. The former is a doctrinal principle that the
Catholic Church still teaches (as in LG 14), but the latter is a contingent judgment that “we
cannot agree with” today.98 Regardless of whether one agrees with the specifics of Sullivan’s
argument, his method of argumentation illustrates the way in which doctrinal and contingent
factors can be intertwined within the logic of a teaching. It is not possible to separate the text of
this passage into its minor premise and major premise, as neither is actually stated.

Donum veritatis §24.1 offers an additional caution: “It often only becomes possible with
the passage of time to distinguish between what is necessary and what is contingent.” If this is
ture, can any generation be certain that it has distinguished the doctrinal from the contingent in a

97 DEC, vol. 1, 570, 578, italics in original. The complete text of the Decree for the Jacobites, a.k.a. the Bull
of Union with the Copts, is in ibid., 567-82. The weight of this decree will be analyzed in the Conclusion.
98 Francis A. Sullivan, Salvation Outside the Church? Tracing the History of the Catholic Response
specific teaching, even one from the distant past? At the very least, one should be hesitant to conclude that modern or postmodern theologians have reached a level of understanding that will never be surpassed.

**Partitioning broadly or narrowly**

As argued in the previous subsections, when several teachings are contained in a single magisterial document, it is necessary to divide up the document in order to distinguish between different teachings, and then use internal and external criteria to determine the weight of each. Of course, while this procedure is easy to describe in theoretical terms, there are difficulties that can be encountered in practice. One of them is the need to determine the coarseness or fineness of such a partition.

Sullivan’s analysis of *Firmiter*, a doctrinal constitution issued by the Fourth Lateran Council, illustrates this issue. As described earlier, this constitution begins with a detailed creed that covers the Trinity, creation, salvation history, and sacramental theology. The passage dealing with creation reads as follows:

> God ... by his almighty power at the beginning of time created from nothing both spiritual and corporeal creatures, that is to say angelic and earthly, and then created human beings composed as it were of both spirit and body in common. The devil and other demons were created by God naturally good, but they became evil by their own doing.\(^99\)

If one were asked to divide this passage up based on its logical and literary structure, the easiest method might be to divide it into its grammatical clauses (there are four in the Latin, five in the English). One could then try to weigh each of them. However, this division would not take into account the purposes for which the document was written. As related in Chapter Three, Sullivan

\(^{99}\) *DEC*, vol. 1, 230.
points out that this document was written in response to the Albigensians and Cathari, and therefore the Council Fathers were especially concerned with Catholic doctrines denied by these groups: that corporeal things were created by God (rather than by a demiurge), that God created the human body (not merely the soul), and that there are no creatures, however malign, that were not originally good. From this historical fact, Sullivan argues that these doctrines possess more weight in *Firmiter* than doctrines that were not in dispute. This illustrates two important points. First, there are times that a passage will have to be divided up into very fine portions – in this instance, even the apparently unitary clause “God ... created ... both spiritual and corporeal creatures” contains two assertions of unequal weight. Second, it will not always suffice to partition a document and then analyze its pieces; in some cases, the partitioning will have to be revisited and refined as more facts are learned about its historical setting.

Another example can be seen in the very first decree of the Council of Trent, which declares that “the one God is the author” of both Testaments, and that “the five books of Moses, namely Genesis, Exodus, Leviticus, Numbers, Deuteronomy; Joshua, Judges, Ruth, ..., 150 Psalms of David, ...” must be accepted “as sacred and canonical.” By attributing the five books of the Torah to Moses and all 150 psalms to David, was this Council issuing a teaching regarding their authorship? Internal and external clues point to a negative answer. This passage begins with a clear statement of its purpose: “The council has decided that a written list of the sacred books should be included in this decree in case a doubt should occur to anyone as to which are the books which are accepted by this council.” And, as is well known, there was

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100 DEC, vol. 2, 663-64.
101 Ibid., 663.
much argument about the status of the deuterocanonical books during the Reformation, but the Mosaic authorship of the Torah was not a point of contention. So the reference to “the five books of Moses” is simply the contemporary way of referring to those books and was not intended as an assertion regarding their authorship, even though grammatically it does make such an assertion. In this example, one must partition this decree at the logical level, not a syntactic level, for the assertion of a book’s canonicity and the assertion of its authorship cannot be separated syntactically in this passage.

A phrase from Salaverri expresses this principle well: one must distinguish between those doctrines taught “assertively, directly, and principally” by the authors, and those that are not.102 Sometimes this distinction can be made simply by looking at the text, but not always.

A similar rule applies when analyzing the condemnation of a doctrine. When a certain doctrine is condemned, one must “determine what positive proposition is the exact contradictory of the one that is condemned.”103 Many condemned doctrines are described in very narrow terms. For example, a canon issued at Trent’s twenty-first session states, “If anyone says that all Christ’s faithful should receive both forms of the most holy sacrament of the eucharist by command of God or as necessary to salvation: let him be anathema.”104 If one wishes to rephrase this doctrine in a positive form, this should be done in a precise manner – taking into account the words all and necessary, as well as the qualifier “by command of God” – lest the result distort

103 Sullivan, Creative Fidelity, 112.
104 DEC, vol. 2, 727.
the precise meaning of the original statement.\textsuperscript{105}

\textbf{Identifying a hermeneutical key}

The Extraordinary Synod of 1985, Dulles, and O’Malley agree that Vatican II’s four constitutions are the hermeneutical key to understanding the Council. What do they mean by this claim? The Synod’s report explains that these constitutions “contain the interpretative key for the other decrees and declarations.”\textsuperscript{106} O’Malley explains that the constitutions are “highest in rank” of all the Vatican II documents, and therefore its other documents “are to be interpreted in conformity with the principles and directions enunciated in these constitutions.”\textsuperscript{107}

Generally speaking, taking one document or passage as the hermeneutical key to understanding another implies that the first has more weight than the second.\textsuperscript{108} For example, if the four constitutions are taken as the hermeneutical key to Vatican II, then the doctrine and instructions regarding bishops, priests, laity, and religious contained in the Council’s other documents should be interpreted in light of the doctrine of the Church and the goals of the


\textsuperscript{108} There can be reasons other than weight for taking document X as the hermeneutical key to understanding document Y – for instance, they might have equal weight but Y is written in more ambiguous language.
Council as set forth in the constitutions. This same result follows if the four constitutions are taken as having more *weight* than the other documents.

Therefore, the claim made by the Extraordinary Synod, Dulles, and O’Malley that the four constitutions are the hermeneutical key to the Council coheres with the claim made by Lindbeck and Sullivan that the four constitutions have the greatest weight of the Council’s documents. In a variation of this claim, Betti and Ratzinger point to the *dogmatic* constitutions as having the greatest weight. Theobald argues that the later texts (he specifically names *Dei verbum*, *Gaudium et spes*, *Dignitatis humanae*, and *Ad gentes*) should take priority over the earlier texts (including *Lumen gentium*), but he alone makes this claim.\(^{109}\) So the survey of theologians in this dissertation reveals a consensus regarding the great weight of the two dogmatic constitutions; this point can be considered as established. There is somewhat less consensus about including the other two constitutions (*Sacrosanctum concilium* and *Gaudium et spes*) in this set.

### Identifying the “spirit” of an event

The “spirit” of a council is a concept that has been used in various ways. Among the authors surveyed here, the “spirit of Vatican II” has often been used to refer to the overall theme or meaning of the Council. Once this spirit has been identified, it is used as the key to understanding the Council’s documents, actions, and how its work should be carried on.

The Extraordinary Synod of 1985, Pottmeyer, Kasper, Sullivan, Dulles, and O’Malley all insist that the spirit of Vatican II cannot be separated from its documents. “[I]t is not legitimate

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\(^{109}\) For Lindbeck, Betti, and Ratzinger, see Chapter Two. For Sullivan and Theobald, see Chapter Three.
to separate the spirit and the letter of the council,” the Extraordinary Synod states; this line is repeated by Dulles and O’Malley. Pottmeyer offers a more detailed explanation: “The ‘spirit’ of the Council makes itself known from the direction given in the texts. Conversely, of course, it is only in this ‘spirit’ that the texts are properly understood.” Sullivan echoes this statement almost word-for-word. Kasper agrees, but also includes as elements of this spirit the history of the composition of the texts and the intentions of the Council Fathers.

Some of the surveyed theologians have offered alternative ideas. Otto Hermann Pesch locates the spirit of the Council in the desires of the majority; this idea was dealt with in an earlier subsection. Theobald finds the spirit of the Council in its 1965 documents, seeing the earlier writings as stepping-stones to this goal, but he is alone in this assertion.

Pottmeyer refers to certain unnamed progressive theologians who locate the spirit of Vatican II in new ideas not expressed by the Council but found by extrapolating in the direction to which the Council was held to be pointing. Pottmeyer, who disagrees with their views, describes their goal as “separat[ing] the ‘spirit’ of the Council from its letter and then leav[ing] the letter behind,” and thus going “beyond the Council out of fidelity to the Council!”

Gherardini, while very unhappy with such views, finds them reasonable. He argues that the purpose of Vatican II was to open the windows of the Church and let the modern world in, and therefore those who want to let in even more modernism than the Council did are in accord with

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112 For Kasper, see Chapter Two. For Sullivan, see Chapter Three.

113 For O. H. Pesch, see the Rush section in Chapter Three. For Theobald, see Chapter Three.

its spirit. In my analysis, this understanding of the spirit of an event seems very difficult to justify, as the resulting “spirit” is supported neither by the documents nor by the express intentions of their authors. Moreover, one cannot deduce tomorrow’s theology by extrapolating along the trajectory of today’s doctrinal developments, for doctrine does not develop in a linear fashion.

The understanding of the “spirit” of a Council (or other event) supported by the Extraordinary Synod of 1985, Pottmeyer, Kasper, Sullivan, Dulles, and O’Malley seems the most reasonable to me. Even a long and detailed conciliar decree cannot cover every practical situation or theoretical possibility, and so it is perfectly reasonable to ask, “Vatican II (or Trent or Lateran IV) made such-and-such statements about bishops in certain situations, but they did not mention bishops in this other situation; what would they have said about this case?” Such questions cannot be answered by the text alone, but a moderate and reasonable understanding of the “spirit” of a council rooted in a deep understanding of its texts often allows such questions to be answered. (Of course, sometimes such questions cannot be answered at all.) In the same way, a confusing passage in a text written at some council can be clarified by reading it in the light of other texts from that council and by studying the intentions of the council fathers.

**What kind of scale is to be used?**

Given all the different factors that contribute to magisterial weight, it is tempting to weave

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115 For Gherardini, see Chapter Three.

116 Indeed, sometimes doctrine develops in one direction and then the opposite. For example, in A.D. 866, Pope Nicholas I condemned torture as a violation of divine law (DS 648); then in A.D. 1252, Innocent IV called for the torture of heretics (Ad extirpanda §26, quoted in Jordan Bishop, “Aquinas on Torture,” New Blackfriars 87 (2006): 229-37, at 229); and then in the 19th and 20th century torture was forbidden and condemned a number of times, including in Gaudium et spes 27.
them all into a concise mathematical system. Points could be awarded in each of several
categories, and then all the points added up, resulting in the official magisterial weight of, say, 
_Lumen gentium’s_ teaching on episcopal ordination. However, it is unclear how one might
convert the concepts described in this section into numerical values. More importantly, there is
no precedent for such a system in any of the theologians surveyed here, nor – as far as I know –
anywhere in the Catholic tradition or in the writings of philosophers who study the concept of
authority.

Two methods of designating levels of magisterial authority have been described in this
survey: the system of theological notes used from the Middle Ages until the mid-twentieth
century, and the three-tiered system established by the 1989 _Professio fidei_. As explained in
Chapters One and Three respectively, each of these systems places all non-definitive
authoritative doctrinal teachings into a single category, and so neither system is able to
distinguish between different weights _within_ this category.

Many of the theologians surveyed here have made it clear that there is a great deal of
variation within this category, but none of them have indicated whether the weights of doctrines
in this category form a continuous range (where one teaching might be ever-so-slightly more
authoritative than another), or whether there are a discrete set of possible weights within this
category.

There are, however, two assertions that have been made by several of the surveyed
theologians regarding the relative rankings of teachings within this category.

One assertion – made by _Humani generis_, Benard, Congar, Sullivan, and Dulles – states
that when a non-definitive teaching settles a question that has been debated among theologians, it
must be accorded a very high degree of authority, although not as much as a dogmatic definition. Thus *Humani generis* states that even though the doctrines taught in papal encyclicals are not taught with the “supreme power” of the pope’s authority but merely with his “ordinary teaching authority,” nonetheless some of them (specifically, those in which the pope “purposely pass[es] judgment on a matter up to that time under dispute”) deserve a particularly strong response.\textsuperscript{117} Benard states that even though a Catholic cannot be absolutely certain that such a doctrine is true, he can be absolutely certain that it is at least “well founded and safe.”\textsuperscript{118} Echoing the language of *Humani generis*, Sullivan refers to Vatican II as having “settled, without solemnly defining” some open questions.\textsuperscript{119}

Another assertion – made by Gérard Philips, Betti, Ratzinger, Lindbeck, Kasper, and Sullivan – is that certain Vatican II teachings are especially weighty, although not quite at the level of definitive teaching. Thus Philips states that the core teachings of *Lumen gentium* “must be considered as constitutive elements of the doctrine of the supreme magisterium of the Church. This means that they are a most solemn exercise of the magisterium, giving the highest possible degree of certainty short of an infallible declaration.”\textsuperscript{120} Betti argues that even though *Lumen gentium* does not contain any dogmatic definitions, its doctrine “taken as a whole, is irrevocable”; its key elements “have an eternal value from this time forward,” and therefore “can rightfully be inserted in the formula of the profession of faith, as an addition and complement to

\textsuperscript{117} Pius XII, *Humani generis*, § 20.
\textsuperscript{119} Sullivan, *Creative Fidelity*, 46. For Congar, see Chapter Two. For Dulles, see Chapter Three.
\textsuperscript{120} Philips, “Dogmatic Constitution on the Church,” 135.
the doctrine taught by the Councils of Trent and Vatican I.\textsuperscript{121} In 1965, Ratzinger writes that \textit{Lumen gentium} “greatly surpasses the ordinary declarations of the papal magisterium, including encyclicals, with regard to the nature of the theological obligation it entails.”\textsuperscript{122} Lindbeck indicates that the key teachings of Vatican II, while not dogmas, are “likely to have the practical force of dogmas, at least in the sense that no responsible Catholic theologian or spokesman will publicly deny them or suggest that his church might later reverse them.”\textsuperscript{123} Kasper states that the key decisions of the Council are “binding on the church,” even though they are not infallible and therefore not “ultimately binding.”\textsuperscript{124}

These two assertions contain a common element: There exist certain doctrines within the category of non-definitive authoritative teaching (the “third category” of teachings listed in the \textit{Professio fidei}) whose weight is so great that they are \textit{near the top of this category} – not quite as high as definitive teachings, but extremely high.

This suggests a useful way to indicate the weight of any teaching in this category: compare it to this category as a whole. Is it near the top of this category? Is it somewhere in the middle? Is it near the bottom, much weaker than most authoritative teachings? Although such


\textsuperscript{124} Kasper, \textit{Theology and Church}, 168, 170. For Sullivan, see Chapter Three.
an approach has its limits, it is based in the language used by many of the surveyed theologians. Therefore, this method will be adopted when describing the weight of a single act of magisterial teaching.

When multiple acts are involved, other considerations come into play. These will be considered next.

**Weighing Multiple Documents**

The previous section analyzed the factors involved in weighing the authority of an act of magisterial teaching within a single document. Of course, it frequently happens that a certain topic is addressed by the Church’s official teachers more than once. How should this repetition be taken into account? This section will address this question.

**Combining documents that agree**

Often a doctrine is taught more than once, either when a pope repeats his own teaching, or when a pope or council repeats a teaching of their predecessors. How does such repetition affect the authority of a doctrine?

Nau, Fenton, Castelot and Murphy, *Lumen gentium*, Ratzinger, *Donum veritatis*, and the Ratzinger-Bertone commentary all state that repetition increases the weight of a doctrine.¹²⁵ None of the surveyed theologians disagree, so this statement can be easily accepted.

Indeed, Nau and Fenton go further than this, claiming that when a doctrine is taught forcefully in a series of papal encyclicals, then it should be considered definitive, even when

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¹²⁵ For Nau, Fenton, Castelot, and Murphy, see Chapter One. For *Lumen gentium* and Ratzinger, see Chapter Two. For *Donum veritatis* and the Ratzinger-Bertone commentary, see Chapter Three.
none of the individual acts of teaching qualifies as such. However, this claim is not made by any of the other surveyed theologians, nor is it mentioned in any conciliar or magisterial treatment of infallibility, so it seems best to reject it.

Although precise numerical measures are impossible, it seems reasonable to think of the weight of a doctrine’s authority increasing each time it is repeated. This perspective seems especially applicable when a doctrine is taught in several documents of approximately equal weight – for example, in a series of papal encyclicals over a long period of time. By contrast, if a doctrine is taught in a very authoritative way (e.g., as the central teaching of a conciliar or papal constitution) and also in a very minor way (e.g., as a tangential assertion in an apostolic exhortation focused on an unrelated topic), the latter would contribute little to the total weight of this teaching.

**Adjudicating between documents that disagree**

Suppose that two magisterial teachings on a matter of faith or morals contradict one another. Assuming the authoritative weight of each act of teaching has been determined, how is this dispute to be adjudicated?

*Possible rule number one: When two teachings appear to contradict, they must be harmonized.*

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126 As mentioned in Chapter Two, this claim was also made by five bishops, including Marcel Lefebvre, in a proposed emendation to the schema *De ecclesia* rejected by the Doctrinal Commission in 1963. However, Lefebvre in his later writings seems to consider this claim less than certain: see Marcel Lefebvre, *Religious Liberty Questioned*, trans. Jaime Pazat de Lys (Kansas City, MO: Angelus, 2002), 31.

127 In other words, the weight of a doctrine increases if it is taught on several occasions by the same pope, and the weight of a doctrine also increases if it is taught on several occasions by different popes. But does one of these increase the weight of a doctrine more than the other? Unfortunately, nothing in our survey of theologians addresses this question, and therefore it must be left unresolved.
Gherardini appears to support this rule, arguing that neither continuity nor development of doctrine allow a place for contradiction. He argues that one must find a way to harmonize Vatican II’s teachings with earlier magisterial teachings, for if Vatican II did contradict earlier teachings, then it would be unacceptable. One might consider this rule to be an *absolute* hermeneutic of continuity (far beyond the hermeneutic advocated by Pope Benedict XVI).\(^{128}\)

Sometimes, teachings that appear contradictory at first glance may, upon careful examination, prove compatible. Indeed, Catholic theology is replete with doctrines that are in tension with one another: the omnipotence of God and the freedom of human beings, the Church as God’s intended vehicle for grace and the presence of grace outside the visible Church, the command to worship God alone and the veneration of saints, and so on. Therefore, when faced with a *prima facie* contradiction, it would be prudent to investigate whether a contradiction really exists. However, to hold as a rule that *every* apparent contradiction must be harmonized is to deny that two magisterial pronouncements can ever truly contradict one another.

Although such a view may seem appealing, it cannot be logically sustained. Consider the following question: Can a Catholic be certain that the magisterium has never, and will never, err in its non-definitive (i.e., non-infallible) authoritative teaching? This is the very definition of infallibility, so if one were to answer “yes,” that would mean that non-infallible teaching is actually infallible – in other words, one would deny that the Church can issue non-infallible teachings. But such a claim is unsupported by any Catholic tradition; even the most extreme infallibilists in the nineteenth and early twentieth centuries admitted that not all magisterial teaching is infallible. Therefore, the possibility of error in non-definitive teaching cannot be

\(^{128}\) For Gherarini and Benedict XVI’s Christmas Address, see Chapter Three.
ruled out. Next, consider this question: If the Church were to teach an error, would it be possible for the Church to subsequently discover this error and correct it? To answer “no” would be absurd, for this would mean that if the Church were to err, she would be permanently bound to this erroneous teaching. Therefore, it is possible that the Church could err in its teaching and subsequently correct this error. The result would be two acts of teaching that contradict one another. So the possibility of two contradictory teachings cannot be ruled out.\textsuperscript{129} And clearly, in such a scenario, the best response would not be for Catholics to attempt to hold both teachings as true and try to harmonize them.

Moreover, even in cases where two teachings can be harmonized, this may not be the best choice. When two statements are in tension, harmonizing them always involves a certain amount of “stretching.” This can be seen in certain proposals to harmonize apparent contradictions in Scripture or apparent contradictions in scientific data. In the case of non-definitive magisterial teaching, if the only possible harmonization involves stretching the meaning of both teachings in an implausible manner, it may be more reasonable to regard one of them as erroneous.

So this rule cannot be taken as the general solution to the problem of apparent contradiction.

\textit{Possible rule number two: When two teachings contradict one another, distinguish between their doctrinal principles and their contingent elements. The contingent elements may

\textsuperscript{129} This is simply one possible scenario; I am not suggesting that whenever two teachings contradict one another, the first is in error and the second is correct. Other scenarios are possible as well, such as a true teaching followed by an erroneous teaching, or two contradictory teachings which are both erroneous. Even if one were to hold that in such cases the Church will inevitably detect its error and correct it, such a correction might lie in the far distant future. Several of the surveyed theologians, especially the manualists, propose limits on how frequently or how seriously the Church could err in its non-definitive teaching. But the only limits on this that have been expressly taught by a pope or council are that if the Church does teach an erroneous doctrine, this error will not be accepted by all the faithful, for “[t]he entire body of the faithful ... cannot err in matters of belief” (\textit{LG} 12).}
be in error. The doctrinal principles of both teachings must be held as true, and harmonized if they are in tension.

None of the theologians surveyed endorse this as a general rule, but some of them treat specific cases in this manner. Congar states that the Syllabus of Errors and Dignitatis humanae contradict one another on certain points, but he attributes this to the political and social changes that occurred during the intervening period; since such changes presumably would not affect purely doctrinal issues, he presumably locates the changes in contingent matters. In his Christmas Address of 2005, Pope Benedict’s hermeneutic of reform approaches the differences between Vatican II and earlier teachings as “continuity and discontinuity at different levels,” where the continuity involves “principles” and the discontinuity involves “contingent matters.”\(^\text{130}\) Ocáriz, building on this hermeneutic, insists that Vatican II made no changes in doctrine, but only changes in historical, juridical, and political matters.\(^\text{131}\)

Yet it cannot be inferred from these statements that Congar, Ratzinger/Benedict, or Ocáriz believe that all contradictions between magisterial teachings can be resolved according to this rule. Indeed, Benedict does not even claim in his Christmas Address that Vatican II made absolutely no changes at the doctrinal level, for he is merely proposing a hermeneutic – and a hermeneutic is an approach to interpreting a text, not a complete interpretation. For example, one listens to a close friend with a hermeneutic of trust, and listens to a habitual liar with a hermeneutic of suspicion, but this does not mean that he or she, after careful deliberation, will conclude that every statement made by their friend is true or that every statement made by the

\(^{130}\) Benedict XVI, “Address to Roman Curia,” 538.

\(^{131}\) For Congar, see Chapter Two. For Ocáriz, see Chapter Three.
lier is false. Just so, it seems to me that while Benedict’s hermeneutic seeks first and foremost to locate Vatican II’s breaks with the past at the level of contingent matters, it does not rule out the possibility of change at the doctrinal level in specific cases, if the evidence strongly warrants it. Nonetheless, even if this analysis is incorrect and Benedict was asserting that Vatican II made no changes at the doctrinal level, he was addressing the specific case of Vatican II; he did not assert that doctrinal contradictions never occurred in Church teaching before 1962 or after 1965. Indeed, Ratzinger was the author of *Donum veritatis*, which states that doctrinal error is possible in the Church’s non-definitive teachings, and he reiterated this point in his private writings that defended *Donum veritatis*.

Certainly, when two teachings contradict each other, one should investigate the possibility that the contradiction is entirely at the level of contingent matters. In many cases, this will be the correct solution. But it cannot be the solution in every case.

*Possible rule number three: When two teachings contradict one another, accept the weightier one, and ignore the lesser one.*

Although none of the surveyed theologians explicitly endorse this rule, some of them seem to follow it when contrasting certain teachings of the Second Vatican Council with earlier teachings. Thus Fransen writes that Pius XII’s teaching “on the identity between the Mystical Body and the visible Roman Catholic Church” was “ignored by Vatican II and replaced by a vision of the Church that was completely new with respect to the other churches and ecclesial communities.”  

Church’s official doctrine on this question after 1965 is not Pius XII’s teaching, nor even a mixture of his teaching and Vatican II’s, but Vatican II’s alone. Similarly, Sullivan argues that Vatican II contradicted earlier magisterial teaching on certain topics, and that the Council’s teaching on these matters “prevails over what had been the official position of the Catholic Church put forth by the ordinary papal magisterium prior to Vatican II.”\textsuperscript{133} Again, the verb “prevails” seems to indicate a replacement rather than a mixture. At other points in their writings, Fransen and Sullivan assert that Vatican II’s key teachings are among the weightiest of all non-definitive magisterial teachings.\textsuperscript{134} It seems reasonable to conclude that this is the reason that they see Vatican II’s teachings as replacing the earlier teachings with which they conflict.

In some cases, such a rule seems reasonable. One such case might be where a certain teaching is issued, and later a different teaching was issued along with an explicit repeal of the first teaching and an explanation of why it should no longer be considered valid. Another case would be where the two teachings have extremely different levels of authority. For example, if one is a tangential matter mentioned briefly in a papal allocution, and the other is the central teaching of a conciliar constitution or a papal encyclical, it would make sense to take the latter as authoritative and ignore the former.

In general, however, it does not seem to me that one would be justified in ignoring one teaching merely because it has less weight than the other, especially if both of them have significant weight. So the third possible rule, while it may apply in certain cases, does not seem viable as a general rule.

\textsuperscript{133} Sullivan, \textit{Creative Fidelity}, 167-68.
\textsuperscript{134} For Fransen, see Chapter Two. For Sullivan, see Chapter Three.
Possible rule number four: When two teachings contradict one another, accept the more recent teaching, and ignore the earlier one.

It is possible to interpret Fransen’s and Sullivan’s comments above as flowing from this rule, but since there is nothing in their writings to indicate that they have such a preference for new over old, this interpretation seems unreasonable. However, this rule coheres with the views of some of the other surveyed theologians. Lindbeck prefers what is novel to what is old in the documents of a single council, so he might prefer the novel parts of a later council to the documents of an earlier pope or council. Theobald privileges Vatican II’s 1965 documents over its earlier documents, so he might agree with this rule as well.135

On the other hand, there are several theologians whose disagree. The Extraordinary Synod of 1985, Pottmeyer, Kasper, Ratzinger, and Sullivan all stress the need to interpret magisterial teachings in the light of tradition, which precludes a rule that discards earlier teachings whenever a more recent one arrives.136

Moreover, nothing in the Catholic tradition suggests that new teachings automatically replace old ones. If this were the case, then whenever popes or councils have issued non-definitive teachings, they would have acted on the assumption that whatever they teach will make all previous teachings obsolete – and neither the history of councils nor the history of papal teaching suggests that this is the case. So this rule seems indefensible.

In conclusion, it would seem that rules one, two, and three are each appropriate in limited circumstances. If two teachings seem to contradict at first, but a harmonization can be devised

135 For Lindbeck, see Chapter Two. For Theobald, see Chapter Three.
136 For the Extraordinary Synod of 1985, Pottmeyer, Kasper, and Ratzinger, see Chapter Two. For Sullivan, see Chapter Three.
that is reasonable (and even better, would have satisfied the authors of both documents), then this is the best solution. If two teachings differ only in contingent matters and agree in principles, then a separation of these factors allows a harmonization of their doctrinal elements.

If neither kind of harmonization is plausible, but one teaching greatly outweighs the other, then the latter can be ignored. Magisterial authority, in such circumstances, behaves in an analogous manner to the authority of experts. If the chairman of the Federal Reserve Bank asks one hundred economists whether to increase or decrease interest rates, and ninety-eight say the rates should be raised while two say the rates should be lowered, there is a clear consensus in favor of raising rates, and the two dissenters can be ignored. (Of course, in such cases, it would be prudent to listen to the arguments made by the two dissenters, but if the arguments are obscure and one is forced to rely on these individuals’ reputation as experts, then the best choice is to trust the vast majority of experts over a tiny minority.) Similarly, a tangential comment by a pope in a minor document can be safely ignored when it contradicts a series of strong, clear, weighty teachings in a series of encyclicals.

But there may be cases where none of these rules are reasonable: when two teachings are incompatible, even at the level of doctrine, and each of them has been taught by the magisterium with significant weight. In such cases, it seems to me that one would not be justified in simply discarding one of the two teachings. Magisterial authority, in such cases, is analogous to the authority of experts when they are divided. If fifty economists say that rates should be raised, and the other fifty say they should be lowered, then their authority (as experts) is neutralized. If sixty say that rates should be raised, and forty say they should be lowered, then the authority of experts favors raising rates, but only to a small degree. By the same reasoning, it seems to me
that if the weights of magisterial authority supporting opposite sides are equal, then the two cancel each other out; in such cases, Catholics may make a decision based on the weight of the logical arguments, or their own understanding of Scripture, or other factors, but the weight of magisterial teaching as such does not compel in either direction. If the magisterial weight on one side is greater than the other, but neither is negligible, then the resulting magisterial authority favors one side, but to a lesser degree than if the opposing teachings had not been issued.

Of course, in all cases it must be remembered that the weight of magisterial teaching as such is not the only factor that Catholics are expected to consider. This point will be returned to shortly.

**The Effect of Reception on Magisterial Weight**

The magisterial weight of a doctrine is affected by a number of factors. The previous two sections have examined the factors that apply when a teaching is issued or in the history leading up to this event. According to many of the theologians surveyed, the weight of a doctrine is also affected by certain events that take place after it is taught by the magisterium. These factors fall under the general name of “reception.”

As seen in the first three chapters of this dissertation, many theologians use the term “reception” in two senses: in reference to the manner in which a doctrine taught by the pope or bishops is received by the members of the Church, and in reference to the manner in which a doctrine taught by the pope or bishops is received by popes and bishops in later generations. For example, much of the discussion about “the reception of *Humanae vitae*” uses the word in the first sense, whereas theologians who describe *Lumen gentium*’s teaching on papal primacy as a
“re-reception of Vatican I” are using the word in the second sense. In a study of reception as a theological concept, both senses are important and interrelated. However, in Chapters Four and Five of this dissertation, the word “reception” will be used in the first sense. The second sense deals with the relationship between earlier and later magisterial teachings, but there is so much established vocabulary available to deal with this relationship (e.g., reaffirmation of an existing doctrine, contradiction of a previously taught doctrine, development of doctrine) that there do not appear to be any concepts in this relationship that cannot be expressed in other ways.

One key point must be clarified at the outset: Is the object of reception a single act of teaching, or is it a doctrine? For example, is it better to speak of “the reception of the encyclical Humanae vitae” or to speak of “the reception of the Church’s teaching on the immorality of artificial contraception”? It seems to me that the latter is preferable. Many of the theologians surveyed in this dissertation have pointed out that reception as an ecclesiological phenomenon takes place over many years. In the summer of 1968 and for several years afterward, the response to Humanae vitae was an important event in cultural and ecclesial history. But in 2015, it seems impossible to distinguish between the reception of Casti connubii, the reception of Pius XII’s pronouncements regarding birth control, the reception of Humanae vitae, the reception of John Paul II’s pronouncements regarding birth control, the reception of the Catechism of the Catholic Church’s treatment of birth control, and so on. Indeed, there are probably millions of Catholics who have never read any of these documents but have learned about the Church’s teaching from a high school teacher, an article in the Washington Post, or a conversation with someone at a party. So rather than trying to distinguish between the “reception” of each magisterial document that discusses this topic, it seems more reasonable to
treat these together as the reception of the Church’s teaching on the immorality of artificial contraception.

According to many of the surveyed theologians (Christian Pesch, Schlagenhaufen, Congar, Komonchak, *Donum veritatis*, Boyle, Sullivan, and Gaillardetz), the reception of a doctrine by the people of the Church (the *Christifideles*) is an indication of its truth. Many of them treat this in an all-or-nothing manner: a true teaching will be received by the whole Church, and a false teaching will be rejected by the whole Church. This makes sense in light of the centuries-old theological tradition, reaffirmed in *Lumen gentium* 12, that the universal agreement of all the *Christifideles* on a matter of faith is infallible.

However, while unanimity on a point of faith implies that it is true, no theological tradition claims that when 90% (or 75%, or 51%) of the faithful believe a doctrine, that doctrine is probably true. So what is the significance of reception when a doctrine is neither unanimously accepted nor unanimously rejected? If a teaching is received by a clear majority of the faithful, does this constitute evidence that it is probably true?

Such a claim is implied by Komonchak and *Donum veritatis*, and stated by Boyle, Sullivan, and Gaillardetz. If this view is accepted, then the widespread-but-not-unanimous acceptance of a teaching is a testament to its authority which increases its weight, and the widespread-but-not-unanimous rejection of a teaching decreases its weight. However, all of these theologians emphasize that the process of reception takes time, so it is difficult for a

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137 For C. Pesch and Schlagenhaufen, see Chapter One. For Congar and Komonchak, see Chapter Two. For *Donum veritatis*, Boyle, Sullivan, and Gaillardetz, see Chapter Three. Pottmeyer’s and Ratzinger’s statements on reception suggest that they may agree with this view, but this is somewhat unclear.

138 For Komonchak, see Chapter Two. For *Donum veritatis*, Boyle, Sullivan, and Gaillardetz, see Chapter Three. Dulles makes a similar assertion in 1986, but treats it as dubious in 2007.
theologian to be sure that enough time has elapsed for these numbers to give useful information. Moreover, *Donum veritatis*, Sullivan, and Gaillardetz explain that an individual’s acceptance or rejection of a teaching can be caused by a number of factors, some of which obscure rather than illuminate the Holy Spirit’s role in the process of reception. All of these caveats make it very difficult to analyze the results of an opinion survey (or any other method of assessing popular acceptance of a teaching) and convert these results to a quantitative statement regarding the effect of this degree of reception on the weight of a teaching.\(^\text{139}\)

Therefore, the methodology I have chosen in this dissertation does not offer any clear instructions on how to assess the impact of reception on the weight of a doctrine’s authority. When analyzing the authority of a doctrine, it should be kept in mind that its reception may be a significant factor, but how to quantify this remains an open question.

### Comparing magisterial authority to other factors

Magisterial authority has two different aspects. When speaking of the Church’s authoritative teachers, it refers to the guidance given to these teachers by the Holy Spirit in fulfillment of Christ’s promises to the Church. Sullivan writes, “Catholics believe that the sacrament of episcopal ordination, which confers on bishops the function of the pastoral magisterium, is a divine pledge of a special assistance of the Holy Spirit in the fulfillment of

\(^\text{139}\) Moreover, only a minority of the surveyed theologians assert that non-unanimous acceptance or rejection of a teaching is theologically significant; the remaining theologians are silent on this matter. And it is implausible to attribute this silence to tacit consent, for reception has only recently become a major focus of theology – so it is impossible to say what many of the theologians surveyed in Chapter One and Chapter Two would have said about this matter.
their teaching role.”¹⁴⁰ When speaking of the faithful, it refers to the trust extended by the faithful to their teachers; the basis for this trust is the guidance of the Holy Spirit. Komonchak writes, “[T]he chief basis on which Catholics are antecedently to trust what pope and bishops teach . . . is not their personal qualities of learning nor even whatever reasons they give for what they teach, but the fact that they occupy an office whose trustworthiness is sacramentally and spiritually based on the assistance of God.”¹⁴¹ When the Catholic faithful are forming a judgment on a matter that has been taught by the pope or the bishops, they are expected to consider the magisterial authority of the teaching. Ideally, this judgment will require assessing the weight of magisterial authority in each particular case, for “the response that is due will be proportionate to the level of authority that was exercised in any particular teaching.”¹⁴²

But magisterial authority is not the only factor that the Catholic faithful are expected to take into account when forming a judgment. In many cases, a variety of arguments are asserted both in favor of and against a specific teaching. These arguments may draw on Scripture, tradition, various philosophical systems, “common sense,” and many other things, and – depending on how important the issue is and how much time a person has to spend on the question – it is reasonable and even sometimes obligatory for someone to study these arguments and try to evaluate them. Indeed, magisterial documents often themselves contain such arguments, indicating that the faithful are not typically expected to simply accept a teaching


without being told the reasons for it. Moreover, since not everyone can be an expert in all matters, it is both reasonable and inevitable that humans will learn by trusting others, and therefore that many people will be influenced in their beliefs by their trust of others whom they judge to be experts in the matter.

The goal of this dissertation is to say something about the evaluation and weighing of magisterial authority, so its focus is on the level of trust deserved by Church teachings based on their religious authority. An individual may accord a certain Church teaching much more authority than this amount – for example, many fans of John Paul II’s Theology of the Body support it not merely because of the magisterial authority of Familiaris consortio and the pope’s Wednesday audiences, but also because they find the arguments persuasive, they consider Karol Wojtyła’s erudition impressive, and their personal experiences seem to confirm its teachings. An individual may believe a certain Church teaching based solely on its magisterial authority – for example, on the question of valid matter for the Eucharist, many Catholics simply trust the Church and have never studied any actual arguments for or against this question. And an individual may question or even reject a certain Church teaching if he or she believes that the weight of the arguments is against it. According to Donum veritatis, such disagreement is appropriate as long as they have taken into account the significance of its magisterial authority.

Therefore, determining the level of a teaching’s magisterial authority is one step in the decision-making process, but it is not the only step.

A Proposed Synthesis

In this chapter, I have compared and evaluated the views of the surveyed theologians on
the various factors involved in weighing non-definitive teachings. Where there is a consensus I have accepted it; where there is conflict I have attempted to resolve it, discarding untenable views and striving for a synthesis of reasonable views when one can be attained.

The resulting synthesis of their views is offered as my proposal for the weighing of non-definitive magisterial teaching.

In this section, this proposal is presented in summary form. The full details have been given throughout this chapter.

Rules on interpreting a magisterial document:

- Before weighing a document, one must first interpret it. The primary goal of interpretation is to determine the intention of its authors and to understand the meaning they intended to express in the document.

- When interpreting a conciliar document, one should regard the assembled bishops, as a body, as its formal authors. An interpretation held by the consensus of the bishops should be taken as the correct meaning. When a point is deliberately left unsaid or equivocal, the interpretation of one faction has no conciliar authority.

- Interpretations made by the authors themselves, or endorsed by them, should be considered especially reliable. If the bishops at a council vote on a document after its meaning is explained in an official relatio on behalf of its material authors, then (absent other evidence) it can be assumed that the bishops understood the text according to this explanation.

- When using the “spirit” of a council to interpret its documents, this “spirit” should be rooted in a deep understanding of all its texts. This method of interpretation allows clear passages and the authors’ known intentions to clarify confusing passages and to fill in holes without going “beyond” the text to meanings that the authors did not intend.

Rules on partitioning a magisterial document:

- A magisterial document often contains one or more teachings, arguments supporting these teachings, and various other kinds of material. It is necessary to divide the document up to identify its different parts.

- The explicit structure of a document (chapters, paragraphs, canons, etc.) is an important clue to its underlying structure, but it is not the only clue.
• Even when certain passages in a conciliar document originated with one faction and other passages originated with another faction, it is not necessary to partition the document according to authorship, for the document in its final form was approved by the consensus of the bishops gathered in council.

• In some cases, partitioning must be done at the logical level, not the syntactic level, because a single semantic statement may contain multiple implicit statements. For example, “The five books of Moses are inspired by God” logically contains two assertions (these books are inspired by God, and these books were written by Moses), and these two assertions may be taught at different levels of authority.

Rules on weighing the teachings in a magisterial document:

• The fundamental goal is to determine the degree of authority the authors intended to bring to bear in a specific act of teaching. To make this determination, one must understand linguistic use in the historical and theological culture of the writers. 

• The document type (e.g., constitution, bull) is an indicator of its weight. However, this factor should not be given too much emphasis, for the choice of document type is not always based on its content. Moreover, within a single document one often finds several doctrines with varying levels of authority.

• Once the document has been partitioned according to its logical structure, its principal teachings can be identified. These teachings possess the most authority. Other teachings typically possess less, depending on the context and their connection to the document overall. Statements that appear only within the arguments for these teachings, and statements that are not part of the logical structure of the document (obiter dicta) possess significantly less authority.

• The language used in a teaching will often indicate doctrinal weight. This indication can occur in several ways: (1) The authors may refer to their own ecclesial authority; (2) the text itself may explicitly indicate the authority of a teaching; (3) a certain point may be repeated; (4) the rhetorical force of the language may indicate how important this topic was to the authors. When judging language, the setting is very important; for example, Vatican II deliberately avoided using canons and anathemas, and therefore it expressed the weight of its teachings in a different style than Trent or Vatican I.

• When a pope or a council chooses to settle an open question, such teaching is an especially weighty instance of non-definitive teaching.

• When a certain topic was central to the reason a council was called, or was added due to widespread demand during the council, or was given far more time and attention than other matters, then its weight is higher (other things being equal).

• If the pope or bishops were deeply involved in the writing of some passage, that passage has more weight than one that was casually approved by the pope or bishops after having been prepared by periti or ghostwriters (other things being equal).
• If the authors of a text intended a specific set of teachings or documents to be the hermeneutical key to understanding others, then the former have more weight than the latter.

• When the topic of a teaching has great intrinsic importance in theology as a whole, then the weight of the teaching itself is usually high (other things being equal).

• Insofar as it is possible to separate a teaching into doctrinal elements and contingent elements, the former have more weight than the latter. A purely doctrinal teaching possesses more weight than a teaching that mixes doctrinal with contingent elements.

The points listed above describe the analysis of a single act of teaching. When a doctrine is taught more than once, its weight increases, as this repetition is a sign of the importance attached to this teaching by the popes and councils issuing it.

When two acts of non-definitive authoritative teaching appear to contradict one another, the following steps can be taken to address this issue:

1) If the two teachings can be completely harmonized in a reasonable manner, use the resulting harmonization.

2) Otherwise, if the teachings can be separated into doctrinal and contingent elements, and the doctrinal elements harmonized in a reasonable manner, use the resulting harmonization.

3) Otherwise, if one teaching possesses great authority while the other is taught with very little authority, use the former and discard the latter.

4) Otherwise, it should be frankly admitted that there is a contradiction between two non-negligible teachings. In such a case, if one teaching has greater weight than the other, then it is reasonable to treat the former as possessing a certain degree of magisterial authority, but it possesses less authority than it would if the contradictory teaching did not exist.

Finally, the reception of a doctrine is also an important factor in determining its weight, but how to quantify its impact remains an open question, as the theology of reception is still in an emergent phase.

This proposal will be illustrated in Chapter Five with an investigation of magisterial teaching regarding religious liberty.
CHAPTER FIVE
Application: The Case of Religious Liberty

In this chapter, the utility of the method proposed in Chapter Four is illustrated by applying it to a topic frequently addressed by non-definitive authoritative magisterial teaching: religious liberty.

*Dignitatis humanae*, the Second Vatican Council’s Declaration on Religious Freedom, stands in significant tension to the teaching of nineteenth- and early twentieth-century popes. Several theologians and historians find a doctrinal contradiction between these documents, including Francis Sullivan, John P. Boyle, J. Robert Dionne, Brian Tierney, and Albert Outler (who prefer Vatican II’s position) and Marcel Lefebvre, Jean-Michel Gleize, and Brunero Gherardini (who prefer the pre-conciliar position).¹ There are other theologians who do not find a contradiction between these documents; some of their arguments will be explored later in this chapter. Nevertheless, the fact that many respected theologians do find a contradiction makes this matter worth exploring.

The debate among Catholic theologians regarding religious liberty in general, and the

interpretation of nineteenth- and twentieth-century documents in particular, has been long and voluminous. I am certainly not in a position to settle this question or even to offer significant new contributions. Therefore, my treatment of this topic is largely based on the work of earlier scholars, as will be evident throughout this chapter. The purpose of this chapter is primarily to illustrate the application of my proposal regarding the weighing of magisterial teaching, not to digress more than is necessary into the religious liberty debate. My hope is that even those who disagree with my analysis of religious liberty will find in this chapter a useful illustration of the method developed in this dissertation.

When the history of Catholic magisterial teaching on religious liberty is examined, there certainly seems to be a contradiction, or at least a tension, between preconciliar teaching (especially by nineteenth-century popes) and conciliar teaching (especially that of Dignitatis humanae and popes since the Council). Compare the following statement from Pius IX’s 1864 encyclical Quanta cura:

[Certain people in our era] do not fear to foster that erroneous opinion, most fatal in its effects on the Catholic Church and the salvation of souls, called by Our Predecessor, Gregory XVI, an insanity, viz., that “liberty of conscience and worship is each man’s personal right, which ought to be legally proclaimed and asserted in every rightly constituted society....”

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to this passage from Dignitatis humanae:

This Vatican Council declares that the human person has a right to religious freedom. Such freedom consists in this, that all men and women should be immune from coercion on the part of individuals, social groups or any human power, so that no one is forced to act against his conscience in religious matters, or prevented from acting according to his conscience, in

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private or in public, whether alone or in association with others ... provided that just public order is preserved.³

On the face of it, these texts seem to contradict each other. This is the reason that religious liberty has been chosen to illustrate the method outlined in Chapter Four: one situation where weighing the authority of different texts is especially important is when there appears to be a contradiction between them. As explained in Chapter Four, one of the steps in this method is to determine whether a contradiction really does exist; this step will be discussed later in this chapter.

When reading magisterial texts on Church-State issues such as religious liberty, one often finds disciplinary and political issues intertwined with doctrinal teachings. At the outset of this investigation, therefore, it will be helpful to narrow down the focus to one specific doctrinal issue. In this effort, I am building on the work of J. Robert Dionne, Michael Davies, and Brian Harrison, who have identified several points on which preconciliar and conciliar magisterial teaching do not disagree.⁴ These include the following:

- Every person has a duty to inform their conscience. Therefore, no person has a moral or intellectual right to reject a moral truth once it is known to them.
- Every person has a duty to follow their conscience, even when it is erroneous.
- Every person has a duty to seek the truth in religious matters. If this truth is found, they have the duty to adhere to it. In other words, no person has a moral or intellectual right to reject divine truth insofar as it is known to them.

³ *Dignitatis humanae*, §2, text in AS, vol. 4, pt. 6, 703-18. English translation in *FTHD*, 3-37. I am using the English translation of *Dignitatis humanae* found in *FTHD*, 3-37, because it is the most literal translation from the Latin that I have found, and because this volume includes five earlier drafts of this conciliar document whose English translations illustrate the variations in the Latin texts.

• God has revealed certain truths to humans through revelation. The definitive revelation of God has been given through Christ, and the one true religion can be found in the Church that Christ established.

• The Catholic Church, having received Christ’s mandate to spread the gospel, has the right to preach the gospel throughout the world, as well as the right to worship God both privately and publicly.

• The assent of faith may never be forced. Neither the Church nor any human power may compel non-Catholics to join the Church, nor compel them to join in its worship, nor compel them to assent to its teachings.

The propositions listed here are asserted in Catholic magisterial documents both before and after 1962. On these points, there is no contradiction between preconciliar and conciliar doctrine, even if the behavior of Church officials has not always reflected these principles.

At the same time, there are two issues that are frequently cited as contradictions between the earlier and later teaching of the Church. The first is the obligation of the State to establish the Catholic Church as its official religion. The second is religious liberty. Since one of these will suffice for the purpose here, this chapter will ignore the first issue and focus on religious liberty.

In Catholic teaching, the religious liberty debate concerns the right of non-Catholics to practice and publicize their religious views. Does every human person have a natural right to religious liberty? This question, as posed, is too short and therefore liable to misinterpretation. For greater precision, the analysis in this chapter will focus on whether magisterial teaching affirms or denies the following assertion, which I will refer to as “Proposition RL.”

**Proposition RL:** Every human person has a natural right to be free from external coercion in religious matters. That is, whenever he acts according to his conscience in religious matters (engaging in acts of private worship, public worship, and testifying to others regarding his faith in speech or in writing), he has a right to be free from coercion on the part of other
human beings (including individuals, social groups, or a political state) – except insofar as his actions disrupt the public order and hence the rights of others. This right may be exercised by individuals as well as groups of persons who hold their religious beliefs in common. This is a natural right, meaning it is rooted in human nature itself.  

To avoid misunderstanding, it should be noted that Proposition RL asserts the existence of a natural right, and therefore it makes a doctrinal claim; it is not merely a disciplinary edict. Moreover, this proposition concerns a person’s civil right to immunity from coercion on the part of other men and women; it does not concern a person’s internal right to freedom with respect to God (coram Deo) or with respect to objective truth. In other words, Proposition RL does not state that a person is free choose whatever religious beliefs or practices they wish without incurring moral guilt, for a person’s moral obligations toward God and epistemic obligations toward the truth are not the topic of this proposition. As will be seen in the following survey of Catholic teachings on this matter, it is important to distinguish between statements regarding a person’s natural right to be free from civil coercion, a person’s internal right to an unfettered conscience and unfettered choice coram Deo, and an objective claim about religious truth (such

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5 The wording of Proposition RL is not identical to that of any magisterial document, but it draws heavily on points asserted in Dignitatis humanae, as well as points condemned in the writings of certain nineteenth-century popes – as will be seen shortly. Its purpose is to focus our inquiry on the points most in tension between the former and the latter. When trying to determine whether two documents contradict one another, the easiest test is to look for the statement “X is true” in one document and the statement “X is false” in the other (where “X” represents the exact same assertion in the exact same wording). But such an easy proof of contradiction cannot be found in the magisterial documents of the nineteenth and twentieth centuries. Nineteenth-century documents do condemn certain tenets related to religious freedom, and twentieth-century documents affirm do certain tenets related to religious freedom, but these tenets are not worded in an identical manner. To deal with this situation, I have followed the method developed by Dionne: First, compose a statement (Proposition RL) distilling the key points of tension between these two bodies of teaching. Second, determine whether nineteenth-century papal teaching condemns Proposition RL (even if using different words). Third, determine whether Dignitatis humanae affirms Proposition RL (even if using different words). If the older teaching condemns Proposition RL while the newer teaching affirms it, then a contradiction between the older and newer teaching will have been established.
as indifferentism, which states that all religions have equal intrinsic value).

In the next two sections, Catholic teaching before 1962 and Catholic teaching after 1962 will be examined. In each case, two questions will be asked: Does this teaching affirm or deny Proposition RL? What is the magisterial weight of this teaching?

**Weighing Catholic Teachings Before 1965**

The magisterial teachings in this section will be considered chronologically. As will be seen, these teachings cohere with one another to a considerable extent. It should be kept in mind that, according to the proposal outlined in Chapter Four, when a certain doctrine is taught repeatedly, its authoritative weight increases.

**Before the nineteenth century**

In the Middle Ages, with the concurrence of the Church and the State, legal restrictions were placed on religious minorities living in Catholic Europe. Although these restrictions varied by time and place, there was enough uniformity that Thomas Aquinas believed certain rules to be universal throughout the Catholic world, including the following: non-Christians must not be compelled to join the Church, but should be prevented from proselytizing among Christians; apostates (former Christians) may be compelled to rejoin the Church and profess its teachings; the rites of Jews should be tolerated, but the rites of pagans and heretics should be banned; non-Christian parents must be permitted to raise their young children in their own faith (and therefore baptism and evangelization of their children is forbidden), but once the children are grown, Catholics are allowed to evangelize them. Thomas offered arguments from reason, Scripture, and especially the custom of the Church to support these rules. But none of these rules were
described in terms of *rights*, save for the authority of parents over their children.\(^6\)

Throughout the Middle Ages and the Tridentine era, popes and councils issued many disciplinary decrees restricting heretics and non-Catholics in the exercise of their religious beliefs. In 1215, the Fourth Lateran Council commanded Catholic princes to expel heretics from their territories.\(^7\) In 1415, the Council of Constance ordered all copies of Jan Hus’ books to be burned and handed him over to be executed.\(^8\) But these decrees were disciplinary, teaching doctrine at most implicitly.

Based on their research on this topic, Avery Dulles concludes there was no “formal teaching” regarding religious liberty prior to the nineteenth century, and Brian Harrison finds only one instance of such teaching, in Leo X’s bull *Exsurge Domine*.\(^9\) *Exsurge Domine* condemns the following proposition: “That heretics be burned is against the will of the Spirit.” But this bull ends with a global censure, making it unclear whether this proposition is condemned as “heretical,” as “false,” or merely as “seductive of simple minds.”\(^10\)

During the Enlightenment, many philosophers asserted that religious liberty was a human right. Article 10 of the French *Declaration of the Rights of Man and of the Citizen* (1789) stated, “No one must suffer for his opinions, even for religious opinions, provided that his advocacy of

\(^6\) Thomas Aquinas, *Summa Theologica*, trans. Fathers of the English Dominican Province (Allen, TX: Christian Classics, 1981), II-II, q. 10, aa. 8-12. Thomas says that baptizing a child against its parents wishes – indeed, doing “anything” to him or her against their wishes – is “contrary to natural justice” (a. 12 co.).

\(^7\) *DEC*, vol. 1, 233-34.

\(^8\) *DEC*, vol. 1, 428, 429.


them does not endanger public order.”

The chaos and carnage let loose by the French Revolution reinforced the belief of many Catholics that such liberty was the first step toward the persecution of Christianity. In 1800, Pope Pius VII’s encyclical *Diu satis* called for anti-Christian books to be burned in order to oppose “this great license of thinking, speaking, writing, and reading.” But this, too, was merely a disciplinary decree. The first unambiguously doctrinal pronouncement on this matter was issued by Pope Gregory XVI (1831-1846).

**Pope Gregory XVI**

Gregory XVI wrote his first encyclical, *Mirari vos*, in 1832. It is addressed to all Catholic bishops. After a description of the calamities of the era, Gregory exhorts the bishops to stay loyal to the Church, her discipline, and her doctrine (§§ 7-10). He then condemns some contemporary errors: opposition to clerical celibacy (§ 11), threats to marriage (§ 12), religious indifferentism (§ 13), liberty of conscience (§ 14), freedom of the press (§§ 15-16), rebellion against princes (§§ 17-19), and separation of Church and state (§§ 20-21).

Regarding liberty of conscience, Gregory writes:

And from this very rotten font of indifferentism flows the absurd and erroneous proposition (or rather, nonsense!) that liberty of conscience should be affirmed and guaranteed for everyone. It spreads ruin in sacred and civil affairs, though some repeat over and over again with the greatest impudence that some advantage accrues to religion from it. “But the death of the soul is worse than freedom of error,” as Augustine was wont to say. When all restraints are removed by which men are kept on the narrow path of truth, their nature, which is already inclined to evil, propels them to ruin.... Experience shows, even from earliest

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times, that cities renowned for wealth, dominion, and glory perished as a result of this single evil, namely immoderate freedom of opinion, license of free speech, and desire for novelty. Although he identifies religious indifferentism as the root of the notion of religious liberty, Gregory was aware that this was not its only source. At the time, the French Catholic writer Hugues-Félicité Robert de Lamennais was asserting in his journal *L’Avenir* that the Church should encourage absolute liberty of religion, speech, and the press. Lamennais was convinced that the world would enthusiastically accept the truth preached by the Catholic Church once she was no longer encumbered by an alliance with the State. Although Lamennais was not mentioned by name in *Mirari vos*, the pope instructed Cardinal Bartolomeo Pacca to send a personal letter to Lamennais stating that *Mirari vos* repudiated his views, while recognizing his personal sincerity.

Regarding freedom of the press, Gregory writes:

> Here We must include that harmful and never sufficiently denounced freedom to publish any writings whatever and disseminate them to the people, which some dare to demand and promote with so great a clamor.... Some are so carried away that they contentiously assert that the flock of errors arising from them is sufficiently compensated by the publication of some book which defends religion and truth. Every law condemns deliberately doing evil simply because there is some hope that good may result. Is there any sane man who would say poison ought to be distributed, sold publicly, stored, and even drunk because some antidote is available and those who use it may be snatched from death again and again? .... [T]his Holy See has always striven, throughout the ages, to condemn and to remove suspect and harmful books. The teaching of those who reject the censure of books as too heavy and onerous a burden causes immense harm to the Catholic people and to this See. They are even so depraved as to affirm that it is contrary to the principles of law [*a recti

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14 Ibid., §13. I have re-translated the first sentence; the Latin text is: “Atque ex hoc putidissimo indifferentismi fonte absurda illa fluit ac erronea sententia, seu potius deliramentum, asserendum esse ac vindicandum cuilibet libertatem conscientiae” (italics in original).

iuris principiis abhorrere], and they deny the Church the right [ius] to decree and to maintain it.\textsuperscript{16}

Gregory’s emphasis on external “restraints” of speech and the sale of books makes it clear that he is condemning the civil rights of freedom of worship and freedom of the press, not merely internal rights. And while his main concern seems to be indifferentism, these passages cannot be understood merely as the combination of a doctrinal teaching (indifferentism is wrong) and a contingent assertion (civil freedoms tend to promote indifferentism), for the final sentence quoted above makes it clear that this is a matter of “principles of law” and the Church’s “rights.” So the teaching of Mirari vos appears to contradict Proposition RL.\textsuperscript{17}

What is the weight of this teaching? To determine this, each of the factors listed in the final section of Chapter Four will be assessed.

The first factor is the document type. Mirari vos is an encyclical addressed to the entire episcopacy; such documents typically contain authoritative but non-definitive teaching. The encyclical does not have a unified focus but treats seven distinct topics; none of them are identified as more important than the others, but four of them are aspects of the general topic of how a civil state ought to promote the Catholic religion. So religious liberty is one of, but not the only, central issues of the encyclical.

In the passages that discuss religious liberty, the pope does not emphasize his own authority. The weight of the teaching is not indicated with theological notes (“erroneous” is not

\textsuperscript{16} Gregory XVI, Mirari vos, §§15-16.

\textsuperscript{17} One might argue that Mirari vos and Proposition RL are compatible on the following grounds: Proposition RL affirms a natural right to religious liberty except when this disrupts the public order, while Mirari vos condemns the right to religious liberty without mentioning this exception. However, it seems to me this argument would ignore the historical context: as mentioned earlier, France’s Declaration of the Rights of Man and of the Citizen included this exception, and therefore this harmonization of Mirari vos and Proposition RL requires that the encyclical be read as not condemning the French liberty, which seems quite unlikely.
being used in the technical sense here), but the pope uses vehement language throughout: “absurd,” “nonsense,” “the greatest imprudence,” and “harmful and never sufficiently denounced,” as well as his poison analogy. His teaching regarding religious liberty is not repeated throughout the document but is concentrated in paragraphs 14 to 16.

As Gregory draws on what he sees as longstanding Catholic tradition, little in this encyclical falls into the category of settling an open question. Religious liberty as the fruit or font of indifference is not treated as something new. However, Lamennais’ idea that religious liberty should be upheld for the benefit of Catholic evangelization seems to be a new idea, and since this was one of the pope’s concerns, this would seem to constitute settling an open question.

There is no indication within the text that the topic of religious liberty was the fundamental reason for the writing of this encyclical. Moreover, as far as I have been able to determine, there is no historical record indicating that Gregory XVI personally devoted more time and attention to the chapters on liberty of conscience and freedom of the press than he did to the other topics addressed in this letter, although more historical research might reveal additional data. The chapters on these topics are certainly not intended as the hermeneutical key through which the rest of the encyclical should be interpreted, as they are treated as two errors among the many of the day.

While these topics do not have the same intrinsic importance that the fundamental truths of faith possess, they do have a certain importance, as they are closely connected with the Church’s mission of evangelization and teaching. In Gregory’s judgment, erroneous views on liberty of conscience and freedom of the press will lead civil governments to allow too much freedom,
leading to the confusion of Catholics and of those whom the Church is evangelizing.

Finally, as explained earlier, Gregory presents his teaching on these topics as a doctrinal issue independent of contingent factors.

As can be seen in the previous six paragraphs, assessment of the factors affecting magisterial weight results in neither a numerical value nor a grade on a clearly defined scale. Such precision is not possible. Fortunately, neither is it necessary. As will be seen after all the documents examined in this chapter are measured in this way, enough data will be generated to allow qualitative comparisons to be made.

Cardinal Pacca’s letter to Lamennais can be considered an authoritative interpretation of Mirari vos, as it was written at the pope’s behest to explain his encyclical’s application to Lamennais’ theories. It contains the following passage:

The doctrines of L’Avenir on liberty of worship and liberty of the press ... have much astonished and pained the Holy Father; for if, in certain circumstances, prudence requires that they should be tolerated as a lesser evil, such doctrines can never be put forward by a Catholic as a good or desirable thing.18

The distinction made by Cardinal Pacca would come to be known as the distinction between “thesis” and “hypothesis.” According to the thesis/hypothesis model, religious liberty is, in itself, evil. Therefore, in ideal circumstances (in thesi), Catholicism should be the established religion of the State, and legal limits should be placed on the exercise of other religions. However, in less-than-ideal circumstances (in hypothesi), laws like these could increase the risk of civil unrest or even civil war, so it would be prudent to allow religious liberty in order to avoid these greater evils. In this hypothesis situation, religious liberty is a concession granted to non-

18 Maclear, Church and State, 139, italics in original.
Catholics – it is not theirs by right.\textsuperscript{19}

\textbf{Pope Pius IX}

Pius IX addressed Church-State relations and religious liberty in letters and allocutions on several occasions. Some of these would later be publicized when the Holy Office paraphrased passages from them in the \textit{Syllabus of Errors} (1864).

The first of these was the apostolic letter \textit{Multiplices inter} (June 1851), which condemned a book by a Peruvian priest for “den[ying] that the Church possesses the power to dogmatically define that the religion of the Catholic Church is the uniquely true religion, and teach[ing] that everyone has the freedom to embrace and profess that religion which he supposes true by the light of his reason.”\textsuperscript{20} It is unclear whether this refers to civil liberty or to freedom in one’s conscience. In the \textit{Syllabus} this statement became condemned proposition 15: “Everyone is free to embrace and profess the religion that by the light of reason he judges to be true”;\textsuperscript{21} this wording preserves the ambiguity as to whether it refers to civil liberty or freedom \textit{coram Deo}.

In the allocution \textit{Acerbissimum vobiscum}, given at a secret consistory in September 1852, Pius IX discussed the treatment of the Catholic Church by the Republic of New Granada (the forerunner of Colombia and Panama). Among Pius’ criticisms was the fact that New Granada’s

\begin{itemize}
\item \textsuperscript{19} Davies, \textit{Second Vatican Council}, 65-66; Dionne, \textit{Papacy and the Church}, 154-55. Dionne tentatively points to an 1863 issue of \textit{Civilità Cattolica} as the first use of the “thesis / hypothesis” terminology: ibid., 416n29.
\item \textsuperscript{21} \textit{Syllabus of Errors}, no. 15, in DS 2901-80, at 2915.
\end{itemize}
constitution permitted immigrants to publicly practice their religions. In the Syllabus, this sentiment became, “[I]t is praiseworthy that in some Catholic regions the law has allowed people immigrating there to exercise publicly their own form of worship.” Because Acerbissimum vobiscum was a private allocution focusing on the situation in a single country, it has very little magisterial weight. Moreover, as discussed in Chapter Three of this dissertation, John Henry Newman and Francis Sullivan both held that the Syllabus itself has no weight beyond that of the documents it summarizes.

Numquam fore putavissemus, an allocution of December 1856, discussed a new constitution being proposed by the Mexican Republic. Pius stated that according to this constitution, not only was the Catholic Church’s privileged status in Mexico eliminated, but also “the free exercise of any religion is permitted, and the full power to openly and publicly manifest any opinions and thoughts whatsoever is bestowed on every man and woman, in order to more easily corrupt the morals and hearts of the people, to spread the detestable and most foul plague of indifferentism, and to overthrow our holy religion.” This would become proposition 79 of the Syllabus: “It is in fact false that civil freedom of worship and the full right granted to all to express openly and publicly any opinions and views lead to an easier corruption of morality and

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22 Pius IX, Acerbissimum vobiscum, in PIXA, pt. 1, vol. 1, 383-95, at 384-85. For the history of this allocution, see Choupin, Valeur des décisions doctrinales, 406-7.

23 DS 2978.

of the minds of the people and help to propagate the plague of indifferentism.”

In both versions of this statement it is clear that the pope is referring to civil freedom, not freedom within one’s conscience. However, he does not address the issue of rights, and therefore there is no actual contradiction between Proposition RL (which states that people have a right to religious freedom) and this claim by Pius IX (which states that religious freedom leads to unpleasant consequences).

In the allocution *Maxima quidem laetitia*, delivered in June 1862 to bishops and cardinals gathered for the canonization of twenty-seven Japanese martyrs, Pius discussed various errors of the day. He asserted that many modern philosophers “not only perversely dare to derive all truths of religion from the innate power of human reason, but also grant to each man a certain fundamental right [primarium ius] by which he can freely think and speak about religion, and offer to God the honor and worship that he deems most pleasing.”

This alleged “fundamental right” would seem to refer to the internal right of conscience, not a civil right, as it is juxtaposed with the claim that all religious truths can be derived from reason.

Whereas the preceding letters and allocutions possess limited magisterial authority, the encyclical *Quanta cura* is much more weighty. Issued by Pius IX on December 8, 1864 – the tenth anniversary of the definition of Mary’s Immaculate Conception, as the encyclical itself points out – *Quanta cura* is addressed to all Catholic bishops. Pius begins by saying that just as

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25 *DS* 2979.

previous popes condemned the errors of their times, he himself has “condemned the chief errors of this most unhappy age” on many occasions (§§ 1-2). He says that many new errors have arisen, as well as old ones, and proceeds to describe several of them (§§ 3-5) and condemn them all (§ 6). The remainder of the encyclical (§§ 7-12) praises the bishops, asks for prayers, and proclaims a jubilee month.  

The errors described in paragraphs 3 to 5 all concern relations between Church and State, the civil regulation of religion, and the Church’s authority in temporal matters. The pope begins by criticizing those people who insist that the State should not distinguish “between the true religion and false ones.” These same people favor religious liberty:

And, against the doctrine of Scripture, of the Church, and of the Holy Fathers, they do not hesitate to assert that “that is the best condition of civil society, in which no duty is recognized, as attached to the civil power, of restraining by enacted penalties, offenders against the Catholic religion, except so far as public peace may require.” From which totally false [omnino falsa] idea of social government they do not fear to foster that erroneous opinion, most fatal in its effects on the Catholic Church and the salvation of souls, called by Our Predecessor, Gregory XVI, an insanity [deliramentum], viz., that “liberty of conscience and worship is each man’s personal right [proprium ... ius], which ought to be legally proclaimed and asserted in every rightly constituted society; and that a right resides in the citizens to an absolute liberty, which should be restrained by no authority whether ecclesiastical or civil, whereby they may be able openly and publicly to manifest and declare any of their ideas whatever, either by word of mouth, by the press, or in any other way.” But, while they rashly affirm this, they do not think and consider that they are preaching liberty of perdition....

It is clear that the pope is referring to a civil right to religious liberty, and he even mentions the exception for “public peace.” So it appears that this passage condemns Proposition RL (among

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27 Pius IX, Quanta cura.

28 Ibid., § 3, italics and quotation marks in the Latin and the English originals. The first set of quotation marks has no footnote and presumably is used to indicate that these sentiments are being attributed to others. The second set of quotation marks enclose a paraphrase, not a direct quote, of Mirari vos §§ 14-15.
other things).\textsuperscript{29} After listing several more errors, the pope twice mentions his “Apostolic Office” and then issues the following global condemnation:

> Therefore, by our Apostolic authority, we reprobe, proscribe, and condemn all the singular and evil opinions and doctrines severally mentioned in this letter, and will and command that they be thoroughly held by all children of the Catholic Church as reprobated, proscribed and condemned.\textsuperscript{30}

What is the weight of this teaching? \textit{Quanta cura} is an encyclical addressed to the entire episcopacy. Like \textit{Mirari vos}, this encyclical does not have a single focus but treats several errors. All of them are aspects of the general topic of how a civil state ought to promote the Catholic religion. So while religious liberty cannot be said to be the main focus of the encyclical, it is one of its coequal targets.

In his condemnation of these errors, the pope emphasizes his own authority. He does not use theological notes to specify the weight of the condemnation, but he uses several vehement terms in describing religious liberty and its consequences. There is, however, no repetition of the condemned propositions: once religious liberty has been described, the encyclical turns to other matters.

Nothing in the pope’s teaching falls into the category of settling an open question. Indeed, Pius emphasizes that he is merely restating a traditional Catholic position, reiterated most

\textsuperscript{29} It should be noted that Proposition RL contains an exception for “public order,” whereas \textit{Quanta cura} condemns religious liberty with an exception for “public peace.” As will be discussed later in this chapter, some theologians, finding a significant difference between these two expressions, argue that the teaching of \textit{Quanta cura} is compatible with the affirmation of a natural right to religious liberty with a public order exception. However, if this argument is accepted (that is, if one holds that Pius IX condemned religious liberty with a public peace exception but not religious liberty with a public order exception), then one must conclude that Pius IX did not condemn the system of religious liberty established by the French Revolution, for the \textit{Declaration of the Rights of Man and of the Citizen} promulgated religious liberty with an exception for “public order” [\textit{l’ordre public}]. This conclusion that seems historically implausible to me, so I would argue that Pius IX was not using “public peace” to mean something significantly different from the French “public order” — and therefore \textit{Quanta cura} does indeed condemn Proposition RL. Nonetheless, to resolve this argument is beyond the scope of this dissertation.

\textsuperscript{30} Pius IX, \textit{Quanta cura}, § 6.
recently by Gregory XVI.

There is no indication that religious liberty was the fundamental reason for the writing of this encyclical. I am not aware of any evidence suggesting that Pius was personally concerned with this topic more than the others in the encyclical. As with Mirari vos, the treatment of religious liberty does not serve as the hermeneutical key to understanding the entire encyclical. Regarding the intrinsic importance of the topic of religious liberty, the same comments made in the previous section regarding Mirari vos apply here as well.

Finally, Pius’ teaching appears to be fundamentally doctrinal. In the first part of the passage quoted above, he cites “the doctrine of Scripture, of the Church, and of the Holy Fathers” as support, which suggests he does not view this matter as contingent. In the second part, he indicates that the “erroneous opinion” regarding religious liberty is a deduction from the first part, so it is possible that this conclusion uses contingent premises as well as doctrinal, but his terminology (“each man’s personal right”) seems to indicate that he still perceives his teaching as being derived from human nature and not from recent political developments.

Some theologians have suggested that Quanta cura contains infallible teaching. Louis Billot includes it in his list of instances of papal infallibility, but he does not specify which teachings in this encyclical he considers to be definitions.\(^\text{31}\) As the encyclical does not attach a specific condemnation to any of the errors it cites, but offers only a general condemnation of them all, it is unclear exactly what evaluation the author is making of each individual rejected thesis. Moreover, the global condemnation itself does not use traditional theological censures

\(^{31}\) Louis Billot (as Ludovicus Billot), *Tractatus de Ecclesia Christi, sive, Continuatio Theologiae de Verbo Incarnato*, 2nd ed. (Rome: S. C. de Propaganda Fide, 1903), 657-59 (part 2, ch. 3, q. 14, thes. 31, § 1.2).
(haeretica, haeresi proxima, etc.) to specify the nature of the condemned statements. For these reasons, Klaus Schatz and Francis Sullivan do not consider Quanta cura to contain any infallible teachings. Marcel Lefebvre describes its condemnation of “liberty of conscience and of worship” to be “in all likelihood” infallibly taught, but this seems a mild assertion given that Lefebvre rejects Vatican II for abandoning the teaching of Quanta cura. Given the vague nature of its global condemnation, it seems to me that it does not contain definitive or infallible teaching. Since the purpose of this chapter is to illustrate how non-definitive teaching is weighed, I will proceed on this assumption, as the process will be informative even to those who do consider these teachings definitive.

**Pope Leo XIII**

Leo XIII wrote over eighty encyclicals during his twenty-five year pontificate. Immortale Dei, issued in November 1885, deals with the relationship between Church and State, focusing mostly on Catholicism being established as an official religion. It devotes one passage to religious liberty:

> The Church, indeed, deems it unlawful [iudicat non licere] to place the various forms of divine worship on the same footing as the true religion, but does not, on that account, condemn those rulers who, for the sake of securing some great good or of hindering some

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33 Lefebvre, Religious Liberty Questioned, 29-31. Elsewhere, Lefebvre describes the condemnation of “separation of Church and State” as having “the guarantee of infallibility,” but this is not the same thing as religious liberty: idem, They Have Uncrowned Him: From Liberalism to Apostasy, The Conciliar Tragedy, trans. unknown (Kansas City, MO: Angelus, 1988), 103-4.
great evil, allow patiently custom or usage to be a kind of sanction for each kind of religion having its place in the State.\textsuperscript{34}

In this passage, it is unclear whether the “unlawfulness” of a religion-neutral state is a disciplinary or a doctrinal statement.

\textit{Libertas praestantissimum} (June 1888) is much clearer on this matter. In this encyclical, Leo analyzes different kinds of liberty. He begins by discussing natural liberty (a person’s ability to make free choices), with particular focus on moral choices, describing sin as an action contrary to reason (§§ 3-6). This topic leads to a discussion of natural law, eternal law, and human law, followed by an argument that the Church is a friend to true liberty (§§ 7-14). Leo then identifies a certain group opposed to this true liberty: “men ... who, usurping the name of liberty, style themselves \textit{liberals}.” He distinguishes between an extreme liberalism that abolishes all rules in favor of license, a purely rationalistic liberalism that derives laws from human reason while rejecting divine law, and a “somewhat more moderate” liberalism that recognizes both natural law and divine law yet insists that the State should enforce only the former. He argues that each of these views is flawed (§§ 15-18). He then turns to specific freedoms advocated by these “liberals”: liberty of worship (§§ 19-22), liberty of speech and the press (§ 23), liberty of teaching (§§ 24-29), and liberty of conscience (§§ 30-31). Although each of these is condemned in principle, he explains that there are circumstances in which a just State may tolerate these freedoms (§§ 32-42). Finally, he writes that Catholics are permitted to overthrow a despotic government, to prefer democratic government, and to liberate their nation.

from a foreign ruler, as long as they work within the bounds of justice (§§ 43-46).  

Regarding liberty of worship, Leo writes:

[Civil society must acknowledge God as its Founder and Parent, and must obey and reverence His power and authority. Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness – namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges. Since, then, the profession of one religion is necessary in the State, that religion must be professed which alone is true, and which can be recognized without difficulty, especially in Catholic States, because the marks of truth are, as it were, engraven upon it. This religion, therefore, the rulers of the State must preserve and protect....

For these same reasons, Leo argues that liberty of speech, the press, and of teaching should be tempered in order to protect the innocent from false opinions and immoral ideas. Nonetheless, as divinely-revealed truth and naturally-known truth cannot contradict one another, “there is no reason why genuine liberty should grow indignant, or true science feel aggrieved, at having to bear the just and necessary restraint of laws by which, in the judgment of the Church and of reason itself, human teaching has to be controlled.” The restrictions on speech, printing, and teaching endorsed by Libertas praestantissumum are based on the content of the communication, not on whether the manner of communication disturbs the public order. Leo sees these restrictions as fully in accord with natural rights, not a violation of them. Therefore, it seems that this encyclical’s teaching contradicts Proposition RL, although there are some passages in which it is not completely clear whether Leo is dealing with civil liberty or freedom within one’s conscience.

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36 Ibid., § 21.
37 Ibid., § 27.
Leo is certainly dealing with civil liberty when he concedes that, in certain circumstances, the State may prudently choose not to exercise its right to restrict non-Catholic speech, press, or teaching:

Yet, with the discernment of a true mother, the Church weighs the great burden of human weakness, and well knows the course down which the minds and actions of men are in this our age being borne. For this reason, while not conceding any right to anything save what is true and honest, she does not forbid public authority to tolerate what is at variance with truth and justice, for the sake of avoiding some greater evil, or of obtaining or preserving some greater good.... But if, in such circumstances, for the sake of the common good (and this is the only legitimate reason), human law may or even should tolerate evil, it may not and should not approve or desire evil for its own sake.  

The last sentence makes it clear that even when it is prudent for the State to permit liberty of speech, press, and teaching, such liberties are an “evil” to be tolerated, not rights to be approved of. Indeed, “it is contrary to reason that error and truth should have equal rights.” This passage is a good summary of the thesis/hypothesis model.

What is the weight of this teaching? Libertas praestantissumum is an encyclical addressed to the entire episcopate; it contains authoritative non-definitive teaching. The encyclical focuses on many aspects of liberty. The treatment of moral choices and law appears first and is very long, suggesting that this may have been the pope’s primary concern, but its position may simply indicate that this material is foundational for the applications that follow.

In the passages that discuss religious liberty, the pope does not emphasize his own authority. The weight of the teaching is not explicitly indicated using theological notes or any other method.

What can be said about the strength of the language? Leo does not use the vehement

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38 Ibid., § 33.
39 Ibid., § 34.
language that Gregory XVI and Pius IX did. Indeed, his condemnations – “justice forbids,” “reason forbids,” “at variance with truth and justice” – sound mild by comparison. The harshest wording occurs when describing a state which tolerates illicit liberties for the sake of a greater good: Leo refers to this as the tolerance of “evil,” making his disapproval clear without raising his voice, as it were. As mentioned in Chapter Four of this dissertation, the surveyed theologians and magisterial documents are virtually unanimous in citing the strength of language as an indication of magisterial weight. Does Leo’s mild-sounding terminology therefore make his teaching less authoritative than Gregory’s and Pius’?

I would suggest that the answer is no. Force of language is a function of context. Parents and teachers who rarely raise their voices can command attention with a slight change in tone that would be unnoticed in someone who often yells. Just so, Leo’s verbiage must be understood in the context of his writing and his philosophical development. In the early nineteenth century, the theology of Thomas Aquinas had been in decline, and the Gregorian University had few Thomists on its faculty, save for Luigi Taparelli d’Azeglio. Taparelli’s teaching profoundly influenced a seminarian named Gioacchino Pecci – who later become Pope Leo XIII. So it happened that Leo issued the encyclical *Aeterni Patris* early in his pontificate, declaring Thomas’ philosophy to be the most compatible with Catholicism. Within a few years he had arranged for Thomists to receive the theology and philosophy chairs at the Gregorian.40 It is therefore no surprise that Leo’s encyclicals display the calm tone of Thomas Aquinas. Gregory and Pius use harsh language, describing liberty of conscience as “nonsense” or “insanity.” In

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contrast, Leo does not outrightly condemn the term “liberty of conscience”; rather, he carefully
distinguishes two meanings of this term, rejecting one while approving the other:

Another liberty is widely advocated, namely, *liberty of conscience*. If by this is meant that
everyone may, as he chooses, worship God or not, it is sufficiently refuted by the arguments
already adduced. But it may also be taken to mean that every man in the State may follow
the will of God and, from a consciousness of duty and free from every obstacle, obey His
commands. This, indeed, is true liberty, a liberty worthy of the sons of God, which nobly
maintains the dignity of man....

It is true that when Leo rejects the idea that people have an intrinsic civil right to speak, print,
and teach doctrines that are opposed to Catholic doctrine, he does not use the same kind of
language as Gregory and Pius. But in my judgment, the language he uses is no less forceful,
read in the context of Leo’s writing style, than that of his predecessors taken in the context of
their style. When Leo says that “justice forbids, and reason itself forbids” equal rights to be
granted to true and false religions, his intention is clear: he is making a strong and unambiguous
claim, not merely suggesting that granting equal rights in this way *might* be bad.

Within this encyclical, there is no significant repetition of Leo’s teaching on religious
liberty. Once he has finished discussing liberty of worship, speech, the press, teaching, and
conscience, he passes on to new topics and does not return to these.

There is no indication that Leo sees himself as settling an open question. In fact, his
writing style treats these teachings as timeless truths, not responses to recent theological
controversies or political developments. For this same reason, it appears that Leo sees the
intrinsic wrongness of religious liberty as a matter of doctrine, not of contingent elements. This
can be seen in the contrast between his absolute language when discussing the principles

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involved, and the contingent language used when discussing specific details of what should be
censored by the Church (this is based on “the judgment of the Church and of reason itself”) and
of the conditions that allow for a prudential judgment to tolerate this liberty in certain
circumstances.

With regard to religious liberty being the fundamental reason for the encyclical, the
personal involvement of the pope in its treatment, and its intrinsic importance, the comments
made regarding Mirari vos and Quanta cura apply here as well.

Although this encyclical focuses on many different kinds of liberty, the theme that
constantly recurs is that the wrong kind of freedom allows people to make choices that are based
on a misunderstanding of the good, whereas true freedom – which means conformity with
objective truth – liberates a person to choose the good.\(^{42}\) In my reading, this is the hermeneutical
key to interpreting the entire encyclical, and therefore Leo’s distinction between the good and
bad meanings of “liberty of conscience” should be understood in this light. Therefore, his
specific teaching on civil liberty has less authoritative weight than his central point regarding the
nature of freedom itself.

**Twentieth-century popes up to 1963**

Pope Pius X condemned the separation of Church and State in his encyclical Vehementer
nos (1906), but he focused on the need for an established Church, not on religious freedom.\(^{43}\)

Pope Pius XI condemned actions by the Fascist government of Italy in Non abbiamo

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\(^{42}\) This is set forth explicitly at the beginning of the encyclical (ibid., §§ 5-6), where Leo quotes and
summarizes Augustine and Aquinas on the meaning of freedom.

bisogno (June 1931, addressed to all Catholic bishops and ordinaries), and the Nazi government of Germany in *Mit brennender Sorge* (March 1937, addressed to all Catholic bishops and ordinaries, particularly those in Germany). Both of these encyclicals contain stirring passages upholding the rights of believers’ consciences against these states’ tyranny.\(^44\) However, it is unclear whether these rights are being demanded on behalf of all Italian and German subjects, or merely on behalf of Catholics. The encyclicals focus on Italy’s and Germany’s violations of their agreements with the Holy See, their mistreatment of the Catholic Church, and the promotion by their schools and media of idolatry of the State and (in the case of Germany) pantheism, paganism, and racism. Given this focus, it is possible to read these documents as defending the rights of Catholics alone, or as applying to everyone, and historians and theologians do not agree on which interpretation is correct.\(^45\)

Pope Pius XII seems to have expressed his views differently at different times. In *Con sempre*, a radio address for Christmas 1942, he says that all governments should recognize certain “fundamental human rights,” including “the right to worship God privately and


\(^{45}\) For example, *Mit brennender Sorge* § 31 states that “the believer” [*der gläubige Mensch*] has the right to profess “his faith” [*seinen Glauben*], and civil laws to the contrary violate natural law. Does this apply to Catholic believers alone, or to believers of all faiths? J. Robert Dionne writes, “Nothing in *Mit brennender Sorge* indicates that this sentence was written with any intent other than defending the rights of Catholics. Indeed, in those pre-eccumenical days, one finds in this encyclical nary a reference to other Christians who along with Catholics were paying a heavy price for fidelity to their own understanding of the Gospel.” Dionne, *Papacy and the Church*, 161-62. On the other hand, at Vatican II Archbishop De Smedt offered a very different interpretation of this sentence: “No one who understands the condition of the times and the purpose of this encyclical can fail to understand the universal intent of this statement.” Émile De Smedt, “Bishop de Smedt’s Report on Religious Liberty,” in *Declaration on Religious Freedom of Vatican Council II*, ed. Thomas F. Stransky. (New York: Paulist, 1966), 93-108, at 105.
This teaching seems to anticipate that of Vatican II. A more complicated case is *Ci riesce*, a papal allocution to a convention of Italian Catholic jurists in December 1953. In this speech, Pius discusses a possible global federation of nations, and how, within such a regime, global laws would interact with national laws. He foresees that travel between the member nations would be common, and that travelers would be permitted to practice their own faith even in a nation with a different state religion. This raises a question: may “the jurist, the statesman and the Catholic state ... give their consent” to such an arrangement? Pius’ answer echoes the thesis/hypothesis model. On the one hand:

>[N]o human authority, no state, no community of states, whatever be their religious character, can give a positive command or a positive authorization to teach or to do that which would be contrary to religious truth or moral good.... Not even God could give such a positive command or positive authorization, because it would be in contradiction to His absolute truth and sanctity.

On the other hand, just as God permits evil to exist for the sake of a greater good, the State may permit untruthful and immoral speech and action if there is a proportional reason to do so. The pope summarizes these “two principles” in the following words:

>First: that which does not correspond to truth or to the norm of morality objectively has no right to exist, to be spread, or to be activated. Secondly: failure to impede this with civil laws and coercive measures can nevertheless be justified in the interests of a higher and more general good.

This passage indicates, or at least implies, that there are other circumstances in which “failure to

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48 Ibid. (English version), 310.

impede” the exercise of non-Christian religion is not justified. Such a claim contradicts Proposition RL.

How can these two teachings by Pius XII be reconciled? There is no clear answer; theologians and historians differ in their assessments. In any event, neither a papal radio address nor an allocution directed to a group of jurists have much magisterial weight.

Finally, Pope John XXIII addressed religious liberty in his 1963 encyclical *Pacem in terris*:

> Also among man’s rights is that of being able to worship God in accordance with the right dictates of his own conscience [*ad rectam conscientiae suae normam*], and to profess his religion both in private and in public. According to the clear teaching of Lactantius, “this is the very condition of our birth, that we render to the God who made us that just homage which is His due; that we acknowledge Him alone as God, and follow Him.”

This passage certainly defends religious liberty – but for whom? Does such liberty apply to everyone, or only those whose consciences are conformed to the objective truth of the Gospel?

This is a disputed question. As Thomas Stransky explains:

In theological tradition *conscientia recta* has two different meanings. For Thomas Aquinas, *recta* means conformity to truth, i.e., to *objective* moral norms. *Conscientia recta* and *conscientia vera* are the same. On the other hand, following Duns Scotus and Suarez, *conscientia recta* means sincere or upright, i.e., formed to the best of one’s ability, without bad will. *Conscientia recta* is either *vera* (in fact conformed to objective truth), or *erronea* (in fact not so conformed, whether intentionally or not). In *Pacem in terris*, which if the two meanings did Pope John intend? After the publication of the encyclical, some theologians (e.g., G. de Broglie, S.J.) claimed the first meaning (*conscientia recta = vera*). Others (e.g., Cardinal Bea and Bishop de Smedt) claimed the second. In 1965, Pietro Pavan, one of Pope

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50 For example, Avery Dulles and De Smedt see Pius XII’s teachings as a stage in a gradual development of doctrine from the 19th century to Vatican II. Dulles, “Dignitatis Humanae and Development,” 46-47; De Smedt, “Report on Religious Liberty,” 106-7. In contrast, Dionne sees Pius XII’s teaching as the same as that of the 19th century popes, with only three modifications: (1) toleration of religious liberties can be permitted not merely for the common good but also out of respect for invincibly erroneous consciences; (2) there are circumstances where such toleration is obligatory; (3) in this era [the 1950s] such circumstances are widespread. Dionne, *Papacy and the Church*, 163-65.

John’s principal helpers in the drafting, stated that the pope deliberately chose *recta* in order to *not* resolve the theological problem.\(^{52}\)

If the first meaning is correct, then John XXIII is merely restating the views of his predecessors. If the second meaning is correct, then John XXIII is teaching that the right to religious freedom belongs not only to Catholics, but to all who sincerely follow invincibly formed consciences. In neither case would he be going as far as Proposition RL, which extends this right to everyone.

In summary, what can be said about the teaching of twentieth-century popes up to 1963? Pius X and Benedict XV did not address the doctrinal question of religious liberty. Pius XI defended religious liberty but in an ambiguous manner. Pius XII seems to have offered different teachings at different times, none of which were issued at a significant level of magisterial authority. John XXIII defended some kind of religious liberty, but used equivocal language (perhaps deliberately). Ultimately, then, none of these popes added or subtracted much from the weighty teachings of Gregory XVI, Pius IX, and Leo XIII.

**Reception of these teachings**

The reception of preconciliar teaching regarding religious liberty deserves a study of its own. This subsection will very briefly look at two examples of opposite extremes: Spain and the United States of America.

From 1492 until the early nineteenth century, Spain was an absolute monarchy with little toleration for non-Catholics. The Napoleonic wars (1807-1814) inaugurated six decades of

\(^{52}\) Thomas F. Stransky, “Commentary: History and Development of the Declaration, 1960-1965,” in *Declaration on Religious Freedom*, ed. Stransky, op. cit., 11-54, at 20n11. Stransky’s source for Pavan’s comments is Pietro Pavan, *Libertà religiosa e pubblici poteri* (Milan: Ancora, 1965), 357. In this encyclical, *rectam* modifies *normam* (*not conscientiae*), but presumably the theologians Stransky cites had concluded that John XXIII was nonetheless utilizing one (or both) of the meanings of *conscientia recta*. 
struggles between Catholic monarchists and anticlerical republicans. Eventually, in the
Restoration of 1874, a constitutional monarchy was established. The new constitution declared
that Catholicism was the “religion of the State,” but granted to all people the free exercise of
religion in private. Public ceremonies and evangelization, however, were restricted to Catholics.
The Holy See objected that this concession granted too much toleration to Protestants, but
eventually came to accept it as a workable compromise.\(^5^3\) This acceptance can be seen as Rome
making an accommodation as a result of how its teaching had been “received” locally.

The 1920s and 1930s saw, in succession, eight years of dictatorship, five years of a
republic, and three years of civil war. Anticlerical and antireligious violence by anarchists and
communists during the Spanish Civil War – 6,832 priests, monks, and nuns executed; and
thousands of churches burned – cemented the allegiance of most Catholics to the coalition of
monarchists and fascists led by Francisco Franco.\(^5^4\) In 1945, the Franco regime promulgated a
fundamental law governing the country, the \textit{Fuero de los Españoles}. Article 6 of its bill of rights
read, “The profession and practice of the Catholic religion, which is that of the Spanish State,
will enjoy official protection. No one shall be disturbed on account of his or her religious beliefs
or private practice of his or her faith. Religious ceremonies or external displays other than those
of the Catholic religion will not be permitted.”\(^5^5\) When Spain and the Vatican signed a concordat

\(^{53}\) Stanley G. Payne, \textit{Spanish Catholicism: An Historical Overview} (Madison: University of Wisconsin,
Paulist, 1966), 91-108, at 96-98 (quotations from 97).

\(^{54}\) Payne, \textit{Spanish Catholicism}, 168; also see Stanley G. Payne, \textit{The Franco Regime, 1936-1975} (Madison:
University of Wisconsin, 1987), 197-208.

\(^{55}\) Quoted from Jiménez Urresti, “Religious Freedom,” 95-96, translation modified. The Spanish text reads:
“La profesión y práctica de la Religion Católica, que es la del Estado Español, gozará de la protección oficial. Nadie
será molestado por sus creencias religiosas ni el ejercicio privado de su culto. No se permitirán otras ceremonias ni
in 1953, the Vatican insisted that Article 6 of the *Fuero* was not to be changed. In Franco’s government, the Minister of Education was appointed only with the approval of the Catholic hierarchy, Catholic religious education was mandatory in public schools, and Catholic religious publications were exempt from state censorship. During this era, Spain’s population included about 30,000 Protestants and 5,000 Jews who were permitted to worship only in approved chapels or private residences. In the 1950s, as the Spanish regime was gradually being accepted as part of the Western bloc in the Cold War, its treatment of religious minorities caused friction with its new allies. As a result, the Cardinal Primate of Spain, Enrique Pla y Deniel, visited Pius XII to ask for more freedom for Protestants. When Pla pointed out that public manifestations of Protestantism were permitted even in Italy, the pope replied, “But we are unable to ask of Italy what Spain can and must give.” The thesis/hypothesis model is clearly seen in Pius’ distinction between a nation where Catholic uniformity was feasible and one where it was not.

In the United States, the reception of nineteenth- and early twentieth-century papal teaching on religious liberty stands in stark contrast to that in Spain. When the schema *de Ecclesia* was presented to the bishops at the First Vatican Council, the American bishops were unhappy that it described the Catholic confessional state as the ideal state. During the floor

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56 “Inter sanctam sedem et Hispaniam: Sollemnes conventiones,” in AAS 45, no. 13 (Oct. 27, 1953): 625-56, at 651-52. For the history of the concordat, see Payne, *Franco Regime*, 420-21. The concordat also gave the Spanish state a role in the selection of bishops, and awarded monetary subsidies to the Church.

57 Payne, *Spanish Catholicism*, 179-91. Immunity from censorship only applied to purely religious teachings. When Pius XII recorded a radio message in 1939 congratulating the Nationalists on their victory in the civil war, his request that mercy be shown to the defeated Republicans was deleted from the Spanish broadcast (ibid., 180).

debate, several of them asked that these passages be removed.\(^{59}\) Ultimately the issue became moot, as this schema was abandoned when the Council chose to focus on the papacy.

Within the American theological world, the Church’s teaching on religious liberty was often controversial. As described in Chapter One, when John J. Castelot and William R. Murphy produced their heavily revised translation of Gerardus van Noort’s *Tractatus de Ecclesia Christi* for an American audience, they added a section analyzing the authoritative weight of Leo XIII’s teaching on Church-State relations. It is unclear whether their conclusion – that this teaching is authoritative but not definitive – was intended to stress or to downplay its authority, but the fact that this topic was chosen among all others testifies to the interest of American theologians as to whether dissent was permitted on this matter.

From the late 1940s until the opening of the Second Vatican Council, there was ongoing tension and debate between American theologians who accepted the thesis/hypothesis model and those who held that the American arrangement was at least as valid as any other. The former included Joseph C. Fenton (1906-1969) and Francis J. Connell, C.Ss.R. (1888-1967), both of the Catholic University of America, while the latter included John Courtney Murray, S.J. (1904-1967) and Gustave Weigel, S.J. (1906-1964), both of Woodstock College. These theologians disagreed on the value of religious liberty, the magisterial status of nineteenth-century papal teaching on this matter, and the correct interpretation of Pius XII’s allocution *Ci riesce*. Murray rejected the claim that “Spain is ‘the ideal’,” as well as the designation of Spain’s arrangement as “thesis” and the United States’ as merely “hypothesis.” In 1955, the Vatican imposed

restrictions on Murray’s freedom to publish on this topic. Perhaps Murray’s prominent role in the drafting of *Dignitatis humanae*, which will be described shortly, could be seen as a vindication of his divergence from preconciliar papal teaching.

**Estimation of weight**

As has been demonstrated in this section, while there were many papal statements regarding religious liberty between 1832 and 1963, only three of these – the teachings expressed in the encyclicals *Mirari vos* (Gregory XVI), *Quanta cura* (Pius IX), and *Libertas praestantissimum* (Leo XIII) – have significant magisterial weight and deny Proposition RL. The weights of these teachings have been assessed earlier in this section. They are presented again in the following table:

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60 Donald E. Pelotte, *John Courtney Murray: Theologian in Conflict* (New York: Paulist, 1976), 13-14, 34-59 (quotations from 38, 46). As with a number of the Holy Office’s restrictions on theologians in the 1950s, the precise limitations on Murray were quite vague. Vincent McCormick, S.J., the American Assistant to the Jesuit Superior General in Rome, advised him as follows: “I suppose you may write poetry. Between harmless poetry and Church-State problems, what fields are taboo I don’t know; but ordinary prudence will give the answer” (ibid., 53).
<table>
<thead>
<tr>
<th></th>
<th>Gregory XVI: <em>Mirari vos</em></th>
<th>Pius IX: <em>Quanta cura</em></th>
<th>Leo XIII: <em>Libertas praestantissimum</em></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Document type</strong></td>
<td>Encyclical</td>
<td>Encyclical</td>
<td>Encyclical</td>
</tr>
<tr>
<td><strong>Centrality to document</strong></td>
<td>One of several central issues</td>
<td>One of several central issues</td>
<td>One of several kinds of liberty discussed</td>
</tr>
<tr>
<td><strong>Author’s authority invoked?</strong></td>
<td>No</td>
<td>“Our apostolic office” and “our apostolic authority”</td>
<td>No</td>
</tr>
<tr>
<td><strong>Authority of doctrine stated?</strong></td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Doctrine repeated in document?</strong></td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Rhetorical force of language</strong></td>
<td>Vehement, non-technical</td>
<td>Vehement, non-technical</td>
<td>Firm assertions using Thomistic language</td>
</tr>
<tr>
<td><strong>Settles an open question?</strong></td>
<td>No, except perhaps with regard to Lamennais</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Centrality to the occasion</strong></td>
<td>Apparently none</td>
<td>Apparently none</td>
<td>Apparently none</td>
</tr>
<tr>
<td><strong>Involvement of pope and/or bishops</strong></td>
<td>Apparently no special involvement</td>
<td>Apparently no special involvement</td>
<td>Apparently no special involvement</td>
</tr>
<tr>
<td><strong>Hermeneutical key to other teachings?</strong></td>
<td>No</td>
<td>No</td>
<td>No; the hermeutical center is the nature of freedom itself</td>
</tr>
<tr>
<td><strong>Intrinsic importance of topic</strong></td>
<td>Connected to evangelization and catechesis</td>
<td>Connected to evangelization and catechesis</td>
<td>Connected to evangelization and catechesis</td>
</tr>
<tr>
<td><strong>Purely doctrinal, purely contingent, or a mixture?</strong></td>
<td>Purely doctrinal</td>
<td>Appears to be purely doctrinal</td>
<td>Purely doctrinal</td>
</tr>
</tbody>
</table>

The next section will analyze the teaching of the Second Vatican Council and of Pope John Paul II.

**Weighing Catholic Teachings From 1965 Onward**

Fifty years after the conclusion of Vatican II, the Council’s Declaration on Religious
Liberty (*Dignitatis humanae*) remains the most significant teaching on religious liberty in living memory. This document will be the primary focus of this section. Some statements by Pope John Paul II will be considered as well.

**The Second Vatican Council**

Before the Council began, two documents had been prepared that addressed the question of religious liberty. One had been drafted by the Theological Commission, and the other by the Secretariat for Promoting Christian Unity. The two offered starkly different teachings.

The Theological Commission, led by the Secretary of the Holy Office, Cardinal Alfredo Ottaviani (1890-1979), had prepared the schema *de Ecclesia* for the use of the Council. Its ninth chapter discussed Church-State relations. The chapter explains that the State itself has religious duties toward God, and that divine law should be taken into account by civil rulers:

“This demands above all that full freedom be granted to the Church and that whatever the Church judges to hinder the attainment of the eternal goal is excluded from legislation, governing, and public activity.” Yet the schema also recognizes that there are nations where “Christ and the Church he founded” are not “accepted by its citizens and by the civil power”; in such places a “different relationship” must exist between the civil power and the Church than in

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61 There were two versions of this chapter. The original version, submitted by the Theological Commission to the Central Preparatory Commission in June 1962, can be found in *ADP*, vol. 2, pt. 4, 657-72; an English translation (minus footnotes) can be found in “‘Constitution on the Church’: A Schema Proposed by the Theological Commission, Second Part, Chapter IX: On the Relations between the Church and the State, and On Religious Tolerance,” in Davies, *Second Vatican Council*, 295-302. The revised version, distributed to the bishops on Nov. 23, 1962, can be found in *AS*, vol. 1, pt. 4, 65-74; an English translation can be found in “Draft of a Dogmatic Constitution on the Church,” Chapter IX: “Relations Between Church and State,” translated by Joseph A. Komonchak, rev. July 27, 2013, on the WordPress.com website of Joseph A. Komonchak, accessed May 24, 2014, http://jakomonchak.wordpress.com/2013/07/27/draft-of-a-dogmatic-constitution-on-the-church/. My focus is on the second version, as that was the one debated in council.

62 “Draft of a Dogmatic Constitution,” ch. 9 § 42.
Catholic states. Although its treatment of this topic is quite brief, the basic outline of the thesis/hypothesis model is evident. A lengthy footnote argues that Leo XIII’s teaching on Church-State relations is “immutable doctrine,” not merely “contingent norms given ... in relation to circumstances no longer existing” as “[m]any writers have recently taught.”

This schema was debated on the council floor in December 1962, but was eventually set aside for reasons unrelated to the religious liberty issue. The schema that replaced it in 1963 – which eventually became *Lumen gentium* – contained no treatment of this matter.

The Secretariat for Promoting Christian Unity, led by Cardinal Augustin Bea, S.J. (1881-1968), had prepared a very different document. The primary overseer of this document during its drafting and frequent revision was Bishop Émile De Smedt of Bruges, Belgium (1909-1995). It was written by several *periti* under his direction, with revisions based on more than seven hundred oral and written interventions from hundreds of bishops. After five years of revisions, rewrites, and debates, this document was promulgated as Vatican II’s Declaration on Religious Liberty. A complete history of this document can be found elsewhere.

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63 Ibid., ch. 9 § 43.

64 Ibid., ch. 9, footnote 18. The term “immutable doctrine” is not a traditional theological note, but it seems to suggest that this teaching should be taken as definitive. According to a memo written by Murray in 1962, Ottaviani considered the traditional teaching to be *proxima fidei* (Pelotte, *John Courtney Murray*, 79). This note means that the vast majority of reliable theologians consider this doctrine to be *de fide* – a dogma of faith – but that it has not yet been established as such by the ordinary or extraordinary magisterium. However, Ottaviani makes no such assertion in an article published in the United States criticizing those who have questioned this doctrine: Alfredo Ottaviani, “Church and State: Some Present Problems in Light of the Teaching of Pope Pius XII,” *American Ecclesiastical Review* 128 (1953): 321-34.

versions of this text were produced. To avoid complicated references to the various names given to these drafts, I will simply refer to them as “Schema A” through “Schema G.” A brief history of them follows.66

- **Schema A**, entitled *Constitutio de libertate religiosa*, began with the words “Mater ecclesiae.” It was written in 1960 and 1961, and then submitted to the Central Preparatory Commission on June 18, 1962, where it was discussed on June 19-20.67

- **Schema B** became the fifth chapter of the schema on ecumenism. This chapter was entitled *De libertate religiosa*, and began with the words “Huius capitis momentum.” It was distributed to the bishops on November 19, 1963. The discussion of the schema on ecumenism during the Council’s second session included very little discussion of this chapter, but several bishops submitted comments on it in writing after the session ended.68

- **Schema C** was still part of the schema on ecumenism, now as an appendix. It was entitled *De libertate religiosa, seu, De iure personae et communitatum ad libertatem in re religiosa*, and began with the words “Huius declarationis momentum.” In conciliar parlance it was referred to as the *textus prior*. Its new features were composed primarily by John Courtney Murray and Pietro Pavan. It was sent to the dispersed bishops in Spring 1964, and debated on the floor in September after the Council resumed.69

- **Schema D**, once again a separate document, was entitled *Declaratio de libertate religiosa, seu, De iure personae et communitatum ad libertatem in re religiosa*. It began with the words “Dignitatis personae humanae.” In conciliar parlance it was referred to as the *textus emendatus*. The revisions since the previous version were primarily made by Murray, with contributions by Pavan and Gustave Thils. It was distributed to the bishops on November 17, 1964 with the intention it be voted on, but the Council of Presidents decided that the revisions were so extensive that Schema D

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67 Text in *ADP*, vol. 2, pt. 4, 676-84. For history and authorship, see *HVT*, vol. 1, 297-98.


qualified as a new document, and therefore no vote was permitted without prior debate. As there was no time left in the third session for such a debate, written comments were requested.  

- **Schema E** bore the same title as Schema D and began with the words “Dignitatis humanae personae.” It was referred to as the *textus reemendatus*. The revisions were made primarily by Murray, Johannes Feiner, and Yves Congar. The text also incorporated material from a 1964 intervention by Bishop Carlo Colombo, as well as some notes from Pope Paul VI. It was sent to the dispersed bishops in Spring or early Summer 1965, and debated on the floor when the fourth session began in September. On September 21, the bishops accepted this schema as the basis for a final document: the vote was 1997 *placet*, 224 *non placet*, and 1 null.  

- **Schema F**, entitled *Declaratio de libertate religiosa: De iure personae et communitatum ad libertatem socialem et civilem in re religiosa*, began with the same words as Schema E. It was referred to as the *textus recognitus*. The revisions were numerous but mostly minor, made primarily by Pavan, Congar, and Jacques Dupont. Material from a September 22 intervention by Bishop Alfred Ancel was incorporated as well. It was distributed to the bishops on October 22. The bishops voted to approve each article as well as each section as a whole; all of them received large majorities, although there were many requests for changes.  

- **Schema G** bore the same title and incipit as Schema F. It was referred to as the *textus denuo recognitus*. It differed from the previous schema only in minor ways, and most requests for changes were rejected – including some from the Pope. It was distributed to the bishops on November 17, 1965. The bishops voted by a substantial majority that this text be promulgated: 1954 *placet*, 249 *non placet*, 7 *placet iuxta modum*, and 6 null. When Pope Paul promulgated this text on December 7, another vote was taken, and this time the vote was 2308 *placet*, 70 *non placet*, and 8 null.

Each time a schema was distributed to the bishops while the Council was in session, De Smedt presented a *relatio* to the assembly explaining its content, describing the changes from the

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73 *Dignitatis humanae*, text in AS, vol. 4, pt. 6, 703-18. English translation in *FTHD*, 3-37. For history and authorship, see *HVT*, vol. 5, 120-21, 477; Healy, “Drafting of *Dignitatis Humanae*,” 232-33. Technically, there was an eighth version: the official promulgated text (AS, vol. 4, pt. 7, 663-73). But this was merely Schema G with the paragraph headings and most footnotes removed, so it does not need to be considered separately.
previous version, and responding to proposals for changes that had been submitted. When a new schema was sent to the dispersed bishops during an intersession, a written relatio was included, and an additional relatio was given in September when the assembly reconvened.

The final text – Schema G, or simply Dignitatis humanae – endorses religious liberty as a natural right, and asserts that it arises from the intrinsic dignity of human beings:

This Vatican Council declares that the human person has a right to religious freedom [ius ... ad libertatem religiosam]. Such freedom consists in this, that all men and women should be immune from coercion on the part of individuals, social groups or any human power, so that no one is forced to act against his conscience in religious matters, or prevented from acting according to his conscience, in private or in public, whether alone or in association with others, within due limits [intra debitos limites]. In addition, this Council declares that the right to religious freedom has its foundation in the very dignity of the human person, as known from both the revealed word of God and reason itself. This right of the human person [ius personae humanae] to religious freedom must be acknowledged in the juridical order of society, so that it becomes a civil right [ius civile].

The phrase “within due limits” is ambiguous, so the next paragraph makes these limits clear:

“[T]he exercise of this right is not to be impeded, provided that just public order is preserved [dummodo iustus ordo publicus servetur].”

This right applies not only to individuals but also to groups:

The freedom or immunity from coercion [Libertas seu immunitas a coercitione] in religious matters that belongs to individual persons must also be recognized for them when they act together in community. Religious communities are called for by the social nature of man and of religion itself.

Immunity is therefore due to these communities by right [iure], provided they do not violate the just requirements of public order, so that they may govern themselves according to their own norms, honor the Supreme Being with public worship, ... and promote institutions in which members can join together to order their own life according to their religious principles....

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74 Ibid., § 2.
75 Ibid.
Religious communities also have the right not to be prevented from publicly teaching about or witnessing to their faith in speech or in writing.\textsuperscript{76}

The text then cautions that proselytism should not cross the line into dishonesty or coercion.

Based on these passages, it seems clear to me that \textit{Dignitatis humanae} affirms Proposition RL in its entirety. It does not merely endorse religious toleration on pragmatic grounds, but asserts that this liberty flows from human nature itself, and is therefore a natural right. De Smedt’s final \textit{relatio}, presented on November 19, makes this same point clear: “It is clear that the approved text affirms a right whose object is immunity from coercion.... Immunity of this kind is demanded by the very dignity of the person.”\textsuperscript{77}

What weight do the teachings in \textit{Dignitatis humanae} possess? The document is a conciliar “declaration,” which is typically considered less authoritative than a “constitution.” As mentioned in earlier chapters, the designation “constitution” was held by the Council Fathers to be quite significant, so it is safe to say that \textit{Dignitatis humanae} does not contain any teaching as authoritative as the most important teachings from Vatican II’s constitutions. However, all conciliar documents contain numerous teachings of various weights, so the most authoritative teaching in a declaration could have more weight than \textit{some} of the teachings contained in a constitution.

The explicit structure of \textit{Dignitatis humanae} consists of four parts: a preface (§ 1), a chapter on the “general principle” of religious freedom (§§ 2-8), a chapter on religious freedom’s

\textsuperscript{76} Ibid., § 4.

roots in revelation (§§ 9-14), and a conclusion (§ 15). The logical structure of its argumentation follows a different pattern. At the beginning of chapter one, the document “declares” the right to religious liberty. It then “declares” that this liberty “has its foundation” in human dignity itself. Subsequently, it explains that the Church’s understanding of human dignity is rooted two sources: knowledge gained by “human reason through centuries of experience,” and divine revelation, which “brings to light the dignity of the human person in all its fullness.”78 This is the skeletal outline of the argument being presented; the other portions of the document elaborate on these matters and describe the practical consequences of religious liberty. Specifically, chapter one gives additional details on the nature of religious liberty, and explains its roots in experience; chapter two provides Scriptural and traditional rationales.

Therefore, the logical structure makes it clear that the main point of this declaration is the affirmation of a natural right to religious liberty. The centrality of this point can also be seen in its frequent repetition in the document. Moreover, in September 1965, after Schema E had been debated for some time, Pope Paul and Cardinal Bea agreed that there should be a preliminary vote on the general acceptability of this schema. Bea drafted the text of a formula to be submitted to the bishops, and Pope Paul made very slight changes to it. The resulting question was:

Does it please the fathers that, while firmly maintaining revealed doctrine on the one true religion for all human beings, it be declared that there is a natural right to religious freedom, a right based on the dignity of the human person and to be recognized by civil law, according to the teaching expounded in the schema and to be completed in keeping with the observations approved by the fathers?79

78 Dignitatis humanae, §§ 2, 9.

79 Gilles Routher, “Finishing the Work Begun: The Trying Experience of the Fourth Period,” in HVT, vol. 5, 49-184, at 97n186. Bea’s original version can be found in ibid., 96n179. Ultimately, the question submitted to the
The phrasing of this question indicates that both the pope and the Secretariat for Promoting Christian Unity agreed that the central point of this text was the declaration of a natural right to religious freedom.

The right of “the human person” to religious liberty is affirmed in § 2. The right of groups to religious liberty is affirmed in § 4. Nonetheless, it seems to me that these should not be treated as two distinct doctrines but rather as part of one single doctrine. During the debates, there were many bishops who denied that non-Catholics have a right to publicly worship and to publicly disseminate their beliefs, and many more who disagreed, but none of the histories of the debates that I consulted indicated that any bishop asserted that such rights were possessed by individuals acting alone but not in groups. Indeed, it is hard to imagine that any of the bishops, when debating the permissibility of public worship by non-Catholics, were visualizing rites being celebrated publicly by a single person acting alone. So the discussion of group rights in Dignitatis humanae § 4 should be seen as an explication of the right affirmed in § 2, and not as a distinct doctrinal assertion. Accordingly, the central teaching of this document is that a human right to religious liberty exists, and this right can be exercised either individually or socially.

The second most important teaching in the document is that this right is rooted in the dignity of the human person. These two teachings – the existence of a right to religious liberty and its basis in human dignity – are the only two claims in the document to be emphasized with the phrasing “This Council declares” (the former in § 2 and § 9, the latter in § 2 alone). As mentioned previously, these are the only two doctrinal points that appear in the formula drafted by Council Fathers on September 21 was not this specific, asking merely about the acceptability of “the re-emended text” (ibid., 104).
by Cardinal Bea and Pope Paul. Yet the second teaching – that the basis of religious liberty is human dignity – is not being taught with as high a level of authority as the fact of this liberty, as can be seen from the fact that the second is used as the argument proving the first. As explained in Chapter Four, all authorities agree that the weight of what is principally taught by a magisterial document is greater than the weight of the arguments used to support it.

Moreover, although every version of this document asserted the existence of a natural right to religious liberty, its basis in human dignity was not present from the beginning. Schema A and Schema B claimed that this right was based on man’s right and duty to follow his conscience, and Schema B went so far as to say that this right – and indeed, dignity itself – exists only for a person following a conscience that is either correct or “in invincible error.” In other words, neither persons who are violating their own consciences nor persons with culpably incorrect consciences possess this dignity or this right – a point that was stressed by De Smedt in his relatio for Schema B. Schema C revised this teaching, asserting that this right had two foundations: each person’s conscience, and each person’s obligation to follow God’s calling [vocatio divina]. It was in Schema D that the basis for the right to religious liberty was changed to human dignity; this was stated even more clearly in Schema E. In a written relatio mailed to the bishops along with Schema E, De Smedt explained why the authors had abandoned the focus on conscience: “No human authority has any competence to pass judgment on whether

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80 Stransky, “Commentary,” 24; Dionne, Papacy and the Church, 173-175; quotation from Schema B, § 2 (FTHD, 247).
81 “[A] natural right to true and authentic religious liberty ... [exists for] each human person whether his conscience be sincere (rectam) and true or sincere and false concerning faith, provided only that he sincerely follow the dictate of conscience.” De Smedt, “Report on Religious Liberty,” 97.
82 Schema C, §§ 26, 29 (FTHD, 263, 267).
83 Schema D, § 3 (FTHD, 289); Schema E, § 3 (FTHD, 321-22).
a man’s conscience is true or erroneous, whether it was rightly formed or wrongly, ‘for that is in the power of God alone, who alone searches and judges the secret designs of the heart’ (Pacem in terris).”\(^8^4\) To make this point even clearer, in Schema F the following text was added, incorporating an intervention made by Bishop Alfred Ancel (the auxiliary bishop of Lyon) in the name of 100 French and 31 Indonesian bishops: “[R]eligious freedom does not have its foundation in a subjective disposition, but in the very nature of the human person. Consequently, the right to immunity persists even for those who do not satisfy their obligation to seek the truth and to hold fast to it.”\(^8^5\) This chronology reveals that the authors did not begin with human dignity and investigate its consequences, thereby discovering the right to religious freedom; rather, they began with the right to religious freedom and considered how it might be rooted in some aspect of human nature that had been traditionally recognized by the Church.

For all these reasons, it seems safe to conclude that this teaching on human dignity has significant weight in this document, but not as much as the assertion of the right to religious liberty itself.

Because it is Dignitatis humanae’s teaching that a natural right to religious liberty exists (and not its statements regarding human dignity) that causes this declaration to affirm Proposition RL, this teaching must be the focus of our investigation. What weight does this teaching possess?

The first chapter opens with the statement “This Vatican council declares” [Haec Vaticana


Synodus declarat] that the human person has a right to religious freedom” (§ 2), invoking the Council’s authority and using the verb declarare, which is a sign of weight (although not as significant as definire, which is often used for definitive teachings). The second chapter concludes with a reminder that “the Catholic Church is the teacher of truth, and it is her duty ... to declare and confirm with her authority the principles of the moral order that flow from human nature” (§ 14), making it clear that the Church has the right and authority to proclaim rights of this kind.

The Declaration contains no traditional theological notes, nor any explicit statement about the manner in which the Catholic faithful are expected to receive this teaching.

That religious liberty is a right is repeated over and over in the Declaration (it appears in §§ 2, 4, 6, 7, 9, 13, 15). This repetition is an indicator of this teaching’s importance. Indeed, the authors intended this repetition to indicate this doctrine’s authority, for Pietro Pavan, one of the text’s authors, writes: “The right to religious freedom must be regarded as a fundamental right of the person or as a natural right, that is, one grounded in the very nature of man, as the Declaration itself repeats several times.”

There are no anathemas, nor any scathing language condemning opposing views. But Vatican II avoided such language in all its documents, so this is not an sign of weight or a lack thereof. Taking into account the Council’s pastoral style, several instances of strong language can be seen: Dignitatis humanae calls the right to religious liberty an “inviolable right” and a “sacred right” (§ 6), and it repeatedly demands that civil governments recognize this right (§§ 2, 4, 5, 6, 7, 15).

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According to the method developed in Chapter Four, when an open question is “settled” (albeit non-definitively) by the teaching of a pope or council, such teaching is especially weighty. It is difficult to determine whether that applies in this case. In 1961, was religious liberty an open question? Based on the encyclicals of Gregory XVI, Pius IX, and Leo XIII, it could be argued that it was a settled question, but settled in the opposite manner from the teaching that Vatican II would offer. So it is not clear how this rule might be applied in this case.

Another principle stated in Chapter Four states that when a certain topic is a major focus of a council, or was given far more time and attention than other matters, then its weight is higher (other things being equal). The time spent on Dignitatis humanae was much less than that spent on the schemas on the Church, which were much lengthier documents. Religious liberty was not the reason for the Council’s summoning, nor was it central to the focus on the Church that resulted from the Suenens and Montini interventions of 1962. On the other hand, Pope Paul, on the final day of the Council, described Dignitatis humanae as “a declaration that will undoubtedly remain one of the great documents of the Council,” suggesting that it stands out

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87 The claim that the nineteenth century papal teaching was settled doctrine was made not only by Fenton in his arguments with Murray in the 1950s, but also by Cardinal Ottaviani, who weighed in on the American controversy in 1953. See Ottaviani, “Church and State,” especially 327-28, where he accuses a Catholic state that permits non-Catholic evangelization of “betray[ing]” their subjects “by permitting the enemies of its faith to bring division within it,” and 323, where he says that on Church-State relations, “the teachings of the Popes have remained constant so as to make these principles a part of the patrimony of Catholic doctrine.”

even among other conciliar documents. Moreover, from its inception two of the Council’s primary purposes were to address ecumenical issues and to lead the Church into an encounter with the modern world. It is hard to see how either of these purposes could have been accomplished had the Council reaffirmed the doctrine that the right to religious liberty, strictly speaking, belonged to Catholic Christians alone. So while the Council was not called primarily to discuss religious liberty, and Dignitatis humanae received far less discussion time than some of the constitutions, it was arguably connected to the Council’s central purpose in certain ways.

The next principle states that if the pope or bishops were deeply involved in the writing of a text, then this text has more weight than one that was casually approved by the pope or bishops after having been written entirely by periti or ghostwriters. At the Council, the debate on religious liberty was long, vigorous, and sometimes heated. By the time Dignitatis humanae was complete, there had been 120 spoken interventions by bishops in Council (several of them speaking on behalf of many like-minded bishops), and over 600 written interventions submitted. Pope Paul monitored the progress of the Declaration, listening to the bishops’ debate as well as consulting outside sources – he solicited at least two papers from French philosopher Jacques Maritain on the topic of religious liberty to help him form his views on the Declaration. On March 20, 1965, the pope received a draft of Schema E, and on May 6 he responded by giving some notes and recommendations to Bishop Carlo Colombo, who passed them on to the periti.

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90 For this reason, Joseph Ratzinger described three key documents – Dignitatis humanae, Gaudium et spes, and Nostra aetate – as together forming “a kind of countersyllabus,” opening a door to the modern world a century after the Syllabus of Errors had shut this door. Joseph Ratzinger, Principles of Catholic Theology: Building Stones for a Fundamental Theology, trans. Mary Frances McCarthy (San Francisco: Ignatius, 1987), 381-82.
working on the document. Similarly, on September 30, the pope looked over the work being
done on Schema F and submitted some comments and requests to De Smedt, and in November
he offered some comments on Schema G as well as suggestions for what De Smedt should cover
in his final relatio.\textsuperscript{91}

There had also been ample input from those who disagreed with the doctrine. Those who
had spoken on the Council floor in opposition to the schema included Cardinal Ottaviani
(Secretary of the Holy Office), Cardinal Michael Browne, O.P. (former Master General of the
Dominicans), Archbishop Marcel Lefebvre, C.Sp.S., and many Spanish bishops.\textsuperscript{92} One observer
at the Council described the debate in vivid terms:

Cardinal [Richard] Cushing (Boston) took the floor and in a voice that sounded like an old-
-fashioned revivalist roaring at the crowd, he paraphrased the American Declaration of
Independence to the effect that the Catholic Church ought also to have a decent respect for
the opinions of mankind, that Catholics must grant to others what they have steadfastly
demanded for themselves, that “religious freedom (defined as the immunity from all
coercion in religious affairs) is a necessary means, willed by God, by which men can seek
God, can find him, can serve him.” ... Then came Cardinal [José] Bueno [y Monreal]
(Seville) and we were back once more in the Mediterranean mentality. He could approve the
abstract principle of religious liberty but found insuperable difficulty in passing from
principle to practice, in politics and society. Surely it ought to be lawful, he said, to prohibit
the spread of error when this can do harm to those who are seeking to profess the true
Christian faith.\textsuperscript{93}

Although many of the Declaration’s opponents were Spanish or Italian, there were exceptions to
this rule. Cardinal Norman Gilroy of Sydney, Australia, said it was absurd to claim that
“religious communities that perpetuate heresy have the right ... to spread their falsehoods. Can

\textsuperscript{91} Healy, “Drafting of \textit{Dignitatis Humanae},” 213; Ricardo Burigana and Giovanni Turbanti, “The
Intersession: Preparing the Conclusion of the Council,” in \textit{HVT}, vol. 4, 453-615, at 503n120, 538-41, 543n208;
Routhier, “Finishing the Work,” 111n239, 120.

\textsuperscript{92} Claude Soetens, “The Ecumenical Commitment of the Catholic Church,” in \textit{HVT}, vol. 3, 257-345, at 286-

\textsuperscript{93} Outler, \textit{Methodist Observer}, 122-23, describing a portion of the debate on Sept. 23, 1964.
an ecumenical council dare to say that any heretic has the right to lure the faithful, to take them away from Christ, the Supreme Shepherd, and lead them to poisoned pastures?"94 The opponents of the Declaration were quite organized. In 1962, a number of conservative bishops had formed a loosely knit organization – the Coetus Internationalis Patrum – through which they coordinated many of their efforts during the Council. This group also distributed papers to the bishops explaining their objections to the Declaration, arguing that its claims about religious liberty contradicted Scripture and papal teaching.95

These objections from the minority resulted in many changes to the document. Passages were added clarifying that the Declaration concerned only civil liberty – that is, the immunity from state coercion – and not the freedom of man’s conscience in the face of God.96 One such passage in the final text reads:

[T]his holy synod proclaims that God himself has made known to mankind the way in which men are to serve him, and so be saved in Christ and come to blessedness. We believe that this one true religion subsists in the Catholic and apostolic Church.... All men and women are in fact bound to seek the truth, especially in those things concerning God and his Church, and to embrace and hold fast to it once it is known (§1).

In several of De Smedt’s relationes, he stated that the human conscience has an obligation toward God that cannot be removed, and insisted that the civil freedom to believe error should not call into doubt the distinction between truth and error. To the objection that “error has no rights,” De Smedt responded that “the approved text affirms a right whose object is immunity

from coercion, and not the content of any religion.... Nowhere is it affirmed – nor, as is evident, may it be affirmed – that there exists a right to disseminate error."\(^{97}\)

Many of the Declaration’s critics worried about its impact in states where the Catholic Church was established as the official religion. To address this matter, Schema E stated that the Declaration did not object to the establishment of a state religion, provided that the religious freedom of all citizens was respected. This assertion persisted in all subsequent versions.\(^{98}\) To avoid the possibility that the Declaration be interpreted as encouraging an atheistic or laicist state, language was added in Schema G stating that “the civil power ... should in fact acknowledge and show favor to the religious life of its citizens.”\(^{99}\) To prevent Communist governments from using the “public order” clause to restrict legitimate religious exercise, it was stated that such restrictions must be enacted by “juridical norms that conform to the objective moral order.”\(^{100}\) To avoid the possibility that Catholics would misinterpret this document as absolving them of their obligation to heed Church teaching, a reminder was added: “In forming their conscience, the Christian faithful should carefully attend to the sacred and certain teaching of the Church.”\(^{101}\) These changes – seen by some as concessions to the minority – are one reason that Dignitatis humanae received such overwhelming support in the final vote.


\(^{100}\) Dignitatis humanae § 14. The “objective” moral order was first mentioned in Schema F, § 7 (FTHD, 357), as a result of an intervention by Archbishop Karol Wojtyła: cf. Harrison, Religious Liberty and Contraception, 98-99.

\(^{101}\) Dignitatis humanae § 14; this statement first appeared in Schema D, § 13 (FTHD, 301).
Not all requests for content changes by the minority were granted. For example, on November 18, 1965, the Coetus Internationalis Patrum asked that “public order” be changed to “common good,” and that a quotation about the common good from John XXIII’s *Pacem in terris* be added. If these changes were made, the leaders of this group stated that they would vote for the document. However, these changes were not made, probably because many of these conservative bishops intended to interpret a “common good” exception in a very broad sense.\footnote{Wiltgen, *Rhine Flows Into the Tiber*, 250-51. Wiltgen seems to be the only source for the Coetus’ promise to vote for the document under these conditions. De Smedt explained the reason for rejecting this proposal in his final *relatio* (“Relatio” [Nov. 19, 1965], 721-22.)}

In summary, the text of *Dignitatis humanae* was worked on laboriously, with many contributions from the bishops (including many who initially opposed the Declaration) as well as the pope. There was great transparency to this process, as the bishops were able to peruse seven different versions of the text and offer suggestions and amendments at each stage. These facts increase the weight of its authority.

As explained in Chapter Four, many theologians and even magisterial documents point to Vatican II’s constitutions (or at least its dogmatic constitutions) as being the “hermeneutical key” to understanding its other documents. The Pastoral Constitution on the Church in the World, *Gaudium et spes*, contains some passages that match the teaching of *Dignitatis humanae*. This constitution connects human freedom to human dignity. It states that today, there is an “increasing awareness of the exceptional dignity which belongs to the human person, ... whose rights and duties are universal and inviolable.” It includes “religious freedom” [*libertatem ... in re religiosa*] in a list of things that are “required to lead a truly human life” and which therefore
“should be rendered” to all men and women.\textsuperscript{103} This teaching is clearly in line with that of \textit{Dignitatis humanae}; indeed, the statement about “increasing awareness” of human dignity is very similar to the first sentence of the Declaration.\textsuperscript{104} Therefore, if the Council is primarily understood through the lens of its four constitutions, \textit{Dignitatis humanae} is revealed as a more detailed treatment of a doctrine already present in a conciliar constitution (regardless of any actual chronological dependence between these passages). This does not mean that the teaching of \textit{Dignitatis humanae} is promoted to “constitutional” weight, but it indicates that it fits in with the global project of the Council rather than being an unrelated topic.

Another factor affecting a teaching’s weight is the intrinsic importance of the topic. \textit{Dignitatis humanae} does not assert that its teaching on religious liberty belongs among the central truths of Christianity. The primary importance of this topic, according to the Declaration, is its close connection to human dignity itself. Also, as with the nineteenth-century popes, \textit{Vatican II} connects the issue of religious liberty to the importance of evangelization. But the specific connection is different: Gregory XVI, Pius IX, and Leo XIII taught that the religious activities of non-Catholics should be restricted lest they make it more difficult for people to hear the message of the Catholic Church, whereas \textit{Vatican II} taught that God wills that those hearing the Church’s message be able to respond of their own volition without any external coercion (§§ 10-11, 14).

Finally, can the teaching of \textit{Dignitatis humanae} be separated into doctrinal and contingent

\textsuperscript{103} \textit{Gaudium et spes} §§ 17, 26 (\textit{DEC}, vol. 2, 1078, 1085).

\textsuperscript{104} In the \textit{DEC} translation, the first sentence of \textit{Dignitatis humanae} reads, “The dignity of the human person is a concern of which people of our time are becoming increasingly more aware.” This might indicate a direct dependence of \textit{GS} 26 on \textit{DH} 1, or vice-versa, or they might both be derived from the similar phrase in \textit{Pacem in terris} §79.
elements? According to this declaration, every human being possesses an “inviolable” right to immunity from coercion in religious matters. This is a “sacred right” that is founded on human dignity itself (§§ 2, 6). It is a right that can be known from human reason as well as from divine revelation (§§ 2, 9). These assertions concern human nature itself – not contingent matters that vary by time, place, or circumstance. De Smedt confirms this in his written *relatio* explaining Schema E: “[I]t is entirely wrong to assert that the demands of the dignity of the human person, as well as the rights of man, are not identical in a ‘confessional State’ and in a ‘pluralistic society.’”

Certain contingent matters are discussed in this declaration, but these are connected to the reason that this doctrine was not always recognized in the past, not to the truth of the doctrine itself. At its outset, *Dignitatis humanae* states that “the sacred Council intends to develop the teaching of the recent popes on the inviolable rights of the human person and the juridical order of society” (§ 1). Although the right to religious liberty can be demonstrated from reason, this demonstration was not always understood by the Church, for the implications of human dignity “have come to be more fully known to human reason through centuries of experience” (§ 9). Although the right to religious liberty is attested in revelation, this attestation has not always been recognized: “[A]lthough revelation does not *expressly* affirm the right to immunity from external coercion in religious matters, it nonetheless *brings to light* the dignity of the human person in all its fullness” (§ 9, emphasis added); indeed, Scripture reveals this right in a way that requires a complex argument to explain (cf. §§ 10-11). In these sections it is explained that the Church’s understanding of religious freedom has changed, but the human right to religious

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freedom has not. Indeed, the right to religious freedom is not something that exists merely during the Christian dispensation. It has been *revealed* completely only during this dispensation, for the true meaning of human dignity was revealed “in consummate form in Jesus Christ.” But Christ’s revelation did not cause any change in human nature, but merely revealed “the dignity of the human person whom [God] himself created” (§ 11). In summary, the human right to religious liberty derives from human nature itself and has never changed, even though the Church’s understanding of it may have developed. So *Dignitatis humanae* presents its teaching on religious liberty as a matter of doctrine, not as a contingent matter.

**Pope John Paul II**

During Vatican II, Archbishop Karol Wojtyła was a strong proponent of *Dignitatis humanae*. After his 1978 election to the papacy, he frequently cited this declaration and reiterated its teaching on the nature and foundation of the right to religious liberty. In his first encyclical, *Redemptor hominis* (1979), he writes that “the Church in our time attaches great importance to all that is stated by the Second Vatican Council in its *Declaration on Religious Freedom*, both the first and the second part of the document,” and then elaborates on both of these parts. Regarding revelation, he describes how the right to religious liberty was implicitly “part of the content” of Christ’s proclamation of the Gospel, “being included not necessarily in words but by an attitude towards it.” This attitude was shown by Christ and then by his apostles when, while preaching, they acted with “a deep esteem for man, for his intellect, his will, his conscience and his freedom.” At the same time, religious liberty can be discovered “from the

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106 For an overview of John Paul II’s numerous references to this document, see Hermínio Rico, *John Paul II and the Legacy of Dignitatis Humanae* (Washington: Georgetown University, 2002), 119-47.
point of view of natural law, that is to say from the ‘purely human’ position,” and therefore “[t]he curtailment and violation of religious freedom are in contrast with man's dignity and his objective rights.” On other occasions, he repeats Dignitatis humanae’s assertion that this right exists even in men and women who do not make a sincere effort to shape and follow their consciences, and that the exercise of this right can be limited only insofar as public order requires it. Thus he affirms all the aspects of Proposition RL.

Indeed, John Paul elevates religious liberty to an even higher position than the Council had. In a 1978 message to the United Nations, he writes that “the right to freedom of thought, of conscience and of religion” held “a central position” among other rights. In a message for the 21st World Day for Peace (Jan. 1, 1988), he refers to religious freedom as “a cornerstone of the structure of human rights,” explaining that “[t]he civil and social right to religious freedom, inasmuch as it touches the most intimate sphere of the spirit, is a point of reference of the other fundamental rights and in some way becomes a measure of them.” He repeats these same words, quoting himself, in his apostolic exhortation Christifideles laici (1988). This concept appears again in his encyclical Centesimus annus (1991) when the pope addresses the nations of


the world, especially those that had recently cast off the yoke of Communism, and urges them to respect human rights. After listing a number of these rights – to life, to a family, to learn, to seek the truth, to work, to have and to raise children – he writes, “In a certain sense, the source and synthesis of these rights is religious freedom, understood as the right to live in the truth of one’s faith [in propriae fidei veritate] and in conformity with one’s transcendent dignity as a person.” Here he connects religious freedom not only to activities such as worshipping and testifying, but to all the dimensions of human existence.

What is the weight of this teaching? Although the pope offers this teaching in several messages and letters of low magisterial authority, he also includes it in two encyclicals, *Redemptor hominis* and *Centesimus annus*, both of which are addressed to the clergy, religious, and laity of the Church along with “all men and women of good will.” In neither of these encyclicals is religious liberty the central topic, nor is it given pride of place in their formal or logical structure. There is no reference to his own authority in these passages, but his statement that “the Church in our time attaches great importance to all that is stated by the Second Vatican Council in its Declaration on Religious Freedom” (*Redemptor hominis* § 12) implicitly refers to the Church’s authority and perhaps to the Council’s. The level of authority of this doctrine is not stated. The doctrine is not repeated, and language is not particularly emphatic, although it is on par with the other language used in these encyclicals.

John Paul describes the intrinsic importance of this doctrine in terms beyond those used by *Dignitatis humanae*, placing it central among all other human rights. In all of these documents,

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he depicts religious liberty as a fundamental human right based in reason and revelation, not as something transient or contingent.

**Reception of these teachings**

The practical effects of *Dignitatis humanae* were seen both in Rome and throughout the world. The affirmation of religious liberty for non-Catholics was received with gladness by many Christians involved in the ecumenical movement; indeed, without this affirmation it is hard to imagine that the Catholic Church could have become a leading ecumenical partner after the Council.

Catholic life was altered as well. In 1966, the ecclesial penalties associated with the *Index librorum prohibitorum* (Index of Forbidden Books) were abolished. Catholics were advised to be prudent in their use of books that might harm faith or morals, and the Congregation for the Doctrine of the Faith stated that the Index “retains its moral force,”¹¹³ but it was no longer updated and quickly fell into desuetude. The Feast of Christ the King was revised: references to Christ’s “social kingship” were removed from the hymns and readings of the Divine Office, the reference to “the nations” being subject to Christ’s rule was removed from the Collect for the Office and the Mass, and the feast was moved to the end of the liturgical year in order to emphasize the eschatological nature of Christ’s kingship.¹¹⁴

In Spain, legal and cultural changes occurred. Although Catholicism remained the official religion of the Franco government, a law establishing religious freedom was prepared in late

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1965 and promulgated in 1967. Its preamble quoted Dignitatis humanae and explained that the Declaration had made this new law necessary. Even before the law went into effect, the government stopped enforcing the old restrictions. In January 1966, Protestant minister Juan Alamo Prades appeared on a television program broadcast throughout Spain to celebrate the Octave for Christian Unity.\textsuperscript{115}

As the years went by, the old-line Spanish bishops passed away, and Pope Paul VI appointed numerous apostolic administrators and auxiliary bishops who supported the teaching of Vatican II. Franco and his vice president, Luis Carrero Blanco, felt betrayed by all the changes. After an argument with the new archbishop of Madrid, Cardinal Vicente Enrique y Tarancón, Carrero publicized an accounting of all the money the government had spent building churches and promoting the Catholic faith over the decades – totaling 300 billion pesetas – declaring that, even if the Church hierarchy had forgotten, “God does not forget.” In the 1970s, a new generation of Spanish priests, religious, and laity was often associated with liberal and socialist causes, and, for the first time ever in Spanish history, anticlericalism began to appear on the political right.\textsuperscript{116}

\textit{Estimation of weight}

In this section, the authority of the Second Vatican Council’s and Pope John Paul II’s teachings on religious liberty has been assessed. The results are presented again in the following


\textsuperscript{116} Payne, Franco Regime, 560-63 (quotation from 562). In 1972, 300 billion pesetas was equivalent to 4.73 billion U.S. dollars, or adjusted for inflation, 27 billion USD (2016). However, is unclear whether Carrero’s monetary figures were correct.
Before comparing these weights to that of the preconciliar teaching analyzed in the previous section, the question of whether all these teachings can be harmonized will be
addressed.

**Can These Teachings be Harmonized?**

Is it possible for the teaching of Gregory XVI, Pius IX, and Leo XIII and the teaching of Vatican II and John Paul II to both be true? Or is there an irresolvable contradiction between them?

As described earlier in this chapter, it appears that the teaching of Gregory, Pius, and Leo denies Proposition RL while the teaching of the Council and John Paul affirms it. If this is the case, then these two teachings contradict each other on this topic. As explained in Chapter Four, when one wants to determine the magisterial weight of a doctrinal topic, and two acts of non-definitive authoritative teaching on this topic appear to contradict one another, the first step is to determine whether the rival teachings can be harmonized.

The question of whether there is a contradiction between these teachings was debated on the floor of the Council. Since the Council there have been innumerable treatments of this matter. I do not pretend to be able to contribute anything original to this debate. In this section, I will quickly summarize some of the arguments made in support of harmonizing these teachings, but I will not attempt to evaluate and resolve them.

In my tentative judgment, the case for contradiction is stronger than the case for harmony. However, the purpose of this chapter is to illustrate the method developed in Chapter Four, not to function independently as a comprehensive treatment of the doctrine of religious liberty. Therefore, after presenting a *précis* of arguments in favor of contradiction and in favor of harmonization in this section, the remainder of this chapter will be written as if the case for
contradiction had been established – because it is in the face of a contradiction that the method developed in this dissertation is especially useful.

**Arguments made during the Council**

During the Second Vatican Council, many opponents of the schema on religious liberty objected that it contradicted earlier papal teachings.\(^{117}\) As John Courtney Murray wrote shortly after the Council, “The notion of development, not the notion of religious freedom, was the real sticking-point for many of those who opposed the Declaration even to the end.”\(^{118}\) In an intervention made in September 1965, Marcel Lefebvre argued that “the conception of religious liberty” proposed in the document did not originate from “the tradition of the Church”, but rather from “the self-styled philosophers of the eighteenth century: Hobbes, Locke, Rousseau, Voltaire.” After being taken up by the Catholic Lamennais, religious liberty was condemned by Pius IX and Leo XIII. “This same conception, this ‘new law’ so many times condemned by the Church, the Conciliar Commission is now putting before us.”\(^{119}\)

The authors of *Dignitatis humanae* asserted its continuity with earlier teaching. Yet the evidence they put forth seemed to change over time. On November 19, 1963, De Smedt presented in a *relatio* excerpts from the teachings of popes from Leo XIII to John XXIII, arguing that they showed a gradual development toward a recognition of religious freedom, and concluding with a plea: “It is evident that certain quotations from the popes, because of a

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\(^{117}\) For some examples, see Healy, “Drafting of *Dignitatis Humanae*,” 225; Stransky, “Commentary,” 38; Miccoli, “Two Sensitive Issues,” 115; Routhier, “Finishing the Work,” 71.


\(^{119}\) Quoted in Davies, *Second Vatican Council*, 150.
difference of words, can be put in opposition to our schema. But I beseech you, Venerable
Fathers, not to force the text to speak outside of its historical and doctrinal context, not, in other
words, to make the fish swim out of water.”\(^{120}\) In Fall 1964, an expanded version of De Smedt’s
argument was inserted into Schema D. It included excerpts from several papal statements,
concluding that the teaching on religious liberty resulted “from principles that remain always the
same in their meaning and purpose” which are now being applied in new social circumstances.\(^{121}\)
This claim was challenged not only by conservative bishops but also by some supporters of
religious liberty. Cardinal Franz König, the Archbishop of Vienna and a strong advocate of
_Dignitatis humanae_, stated, “Historical continuity, which the survey exhibited in number two
[Schema D § 2] intends to show, does not as a matter of fact exist in the manner [described].
The position as given cannot be sustained historically.... The apologetic intent of safeguarding
the principle of continuity should not lead us to adapt historical facts according to our good
pleasure.”\(^{122}\) In Schema E, this entire section was dropped.\(^{123}\) In November 1965, after
approving the final version of Schema G, Pope Paul requested that De Smedt reply to the claim
of discontinuity in his final _relatio_.\(^{124}\) In this speech, De Smedt stated:

Some fathers assert that the Declaration does not sufficiently explain how our doctrine does
not contradict Church documents up to the time of Pope Leo XIII. As I stated in my
previous _relatio_, the task of making this clear belongs to future theological and historical
studies. Regarding the substance of this problem, it must be said that while papal documents
up to Leo XIII put more emphasis on the moral duty of public authorities toward the true

\(^{120}\) De Smedt, “Report on Religious Liberty,” 103-7 (quotation from 107).

\(^{121}\) Schema D, § 2 (FTHD, 287). The full “Quaestio historica” constitutes § 2 and footnotes 14-16 (FTHD,

\(^{122}\) Quoted in Dionne, _Papacy and the Church_, 182. The first bracketed text is mine; the second is Dionne’s.

_Humanae_ and Development,” 51.

\(^{124}\) Routhier, “Finishing the Work,” 120.
religion, recent popes, while preserving this teaching, have complemented it by focusing on another duty of public officials: the duty to respect the requirements of the dignity of the human person in religious matters as a necessary element of the common good.\textsuperscript{125}

The second sentence in this passage sounds almost like an admission of defeat.

In 1966, Murray – one of the \textit{periti} most involved in writing the Declaration – wrote, “The course of the development between the \textit{Syllabus of Errors} (1864) and \textit{Dignitatis Humanae Personae} (1965) still remains to be explained by theologians.”\textsuperscript{126} This, too, may indicate that Murray did not believe that continuity had been demonstrated during the Council by the Declaration’s authors.

In light of the inability of the Declaration’s authors to rebut the claims of contradiction, one sentence in its preface merits examination:

Further, since the religious freedom which men and women demand in order to fulfill their duty to worship God concerns immunity from coercion in civil society [\textit{in societate civili}], it [this Council] leaves intact the traditional Catholic teaching on the moral duty individuals and societies [\textit{hominum ac societatum}] have toward the true religion and the one Church of Christ.\textsuperscript{127}

At first glance, this sentence might appear to claim that \textit{Dignitatis humanae} does not contradict earlier magisterial teaching. The meaning and the truth of this sentence have proven quite contentious.

\textsuperscript{125} My translation. Original text: “Aliqui Patres affirmant Declarationem non sufficienter ostendere quomodo nostra doctrina non opponatur documentis ecclesiasticis usque ad Summum Pontificem Leonem XIII. Ut in ultima relatione iam diximus, in futuris studiis theologicis et historicis haec materia in plena luce ponenda erit. Quoad substantia problematis haec dicenda sunt: dum documenta pontificia usque ad Leonem XIII magis insistebant in officia moralia potestatis publicae erga veram religionem, ultimi Summi Pontifices, hanc doctrinam retinentes, ipsam complet illustrando alud officium potestatis publicae, nempe officium observandi in re religiosa exigentias dignitatis personae humanae tamquam elementum necessarium boni communis.” De Smedt, “Relatio” (Nov. 19, 1965), 719.

\textsuperscript{126} Murray, “Religious Freedom [Introduction],” 673.

\textsuperscript{127} \textit{Dignitatis humanae} § 1. To match the Latin, I have altered the FTHD translation by making the second occurrence of “society” plural.
The phrase “individuals and societies” is one reason for this controversy. Although portions of this sentence appeared as early as Schema E, the words “and societies” were not added until the final version (Schema G). Whereas the duties of each individual person toward God and conscience is a point elaborated on throughout the Declaration, the duties of society toward God and the Church are not explained in the text. This leads to a key question: Do “societies” include civil governments? De Smedt’s relationes are ambivalent on this question, offering evidence for both an affirmative and a negative answer. Dulles argues that “societies” in this sentence does include civil governments.

If the phrase “individuals and societies” does not include civil governments, then this sentence does not deny that Dignitatis humanae may have changed the traditional Catholic teaching on the moral duty that civil governments have toward religion.

If the phrase “individuals and societies” does include civil governments, and “the traditional Catholic teaching” includes the teaching of nineteenth-century popes, then this statement appears to be false. As has been shown, these popes taught that in a Catholic-majority nation, the civil government has a duty, at least under certain circumstances, to protect the true religion by preventing followers of other religions from disseminating their views. Yet according to Dignitatis humanae §§ 2-14, such a restriction on non-Catholics would be a

128 Compare to Schema E, § 2 (FTHD, 321) and Schema F, § 1 (FTHD, 350-51).

129 In his relatio for Schema E, De Smedt states, “The Declaration is also based on another distinction which especially Pope Pius XII and Pope John XXIII have highly praised. This is the distinction between society and the State.” De Smedt, “Method and Principles,” 127-28. On the other hand, in his relatio for Schema G, De Smedt explains the meaning of this sentence as including “the duties of the public authority toward the true religion” [officia potestatis publicae erga veram religionem], and “public authority” almost certainly here refers to civil government. De Smedt, “Relatio” (Nov. 19, 1965), 719.

violation of their natural rights.

Should this sentence be dismissed as factually incorrect? This was the view of Joseph Ratzinger in 1965, who was skeptical about the addition of the words “and societies”:

The term “duty” here has doubtful application to communities in their relation to the Church. Later on in the Declaration, the text itself corrects and modifies these earlier statements, offering something new, something that is quite different from what is found, for example, in the statements of Pius IX and Pius XII. It would have been better to omit these compromising formulas [in the introduction] or to reformulate them in line with the later text. The introduction changes nothing in the text’s meaning; therefore, we need not regard it as anything more than a minor flaw.\(^\text{131}\)

Thus Ratzinger dismisses this sentence as an erroneous characterization of the body of the document. Lefebvre was less generous in his explanation of this sentence:

[S]omeone will say, “Just read it! It is written, ‘There is nothing contrary to tradition!’” -- well, yes, it is written. But that does not stop everything from being contrary to tradition! And that sentence was added at the last minute by the Pope in order to force the hand of those -- in particular the Spanish bishops -- who were opposed to this schema. And indeed this maneuver unfortunately succeeded; and instead of 250 “no’s” there were only seventy-four -- because of a little sentence: “There is nothing contrary to tradition”! Well, let us be logical! They changed nothing in the text! It is easy after the fact to stick on a tag, a label of innocence!\(^\text{132}\)

On the other hand, Avery Dulles says that this sentence must be taken as “[t]he general principle for interpreting these texts,” referring to Dignitatis humanae as well as the papal texts that preceded it.\(^\text{133}\) Yet he does not offer any argument defending this position. Certainly one should investigate whether it is possible to harmonize all these teachings. But if such a

\(^{131}\) Joseph Ratzinger, Theological Highlights of Vatican II, trans. Henry Traub (part 1), Gerard C. Thormann (parts 2-3), and Werner Barzel (part 4) (Mahwah, NJ: Paulist, 1966), 212, emphasis added and translation altered. For an explanation of the alteration, see footnote 28 on page 11.

\(^{132}\) Lefebvre, They Have Uncrowned Him, 168-69. Lefebvre’s theory about this sentence changing the vote totals is not supported by the chronology of the votes. The penultimate vote (249 non placet) took place after Schema G, containing this sentence, was distributed; the final vote (70 non placet) took place on the day of its promulgation by the Pope.

\(^{133}\) Dulles, “Dignitatis Humanae and Development,” 55. Another theologian who takes this sentence as the hermeneutical key to understanding the Declaration is Victorino Rodriguez, O.P.; for an analysis of his argument, see Harrison, Religious Liberty and Contraception, 71-76.
harmonization turns out to be impossible, it seems to me unreasonable to use this single sentence to vitiate the remainder of the Declaration. If someone asserts that addition of this sentence, late in the revision process, changed the fundamental meaning of the entire Declaration, then it is incumbent on them to explain why the vast majority of bishops supporting a declaration on religious liberty did not object to this change.

**Arguments made since the Council**

At the beginning of this chapter, several theologians were named who find a contradiction between preconciliar and conciliar teaching on religious liberty. However, there are also theologians and historians who argue that these teachings can be harmonized. A full analysis of their arguments would fill several volumes, so only a brief summary of some of their arguments will be given here.

Roger Aubert, a historian of the Church, had written about the history of teaching on religious liberty even before the Council. In early 1965, Aubert published a defense of the continuity between preconciliar teaching and the teaching of the schema on religious liberty. He argued that even though Gregory XVI, Pius IX, and Leo XIII had mentioned religious liberty in their condemnations, it was not their real concern:

> What was condemned by the popes of the nineteenth century, over and above a certain liberal arrangement of society whose sources of inspiration and concrete manifestations appeared to them incompatible with the doctrine of the Church, was primarily a theoretical relativism and indifference which denies the rights of God over man, far more than a practical indifference which is content to ask that one respect the free conscience *[la personnalité libre]*, even when it is wrong.  

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134 My translation. Original text: “Ce qui a été condamné par les papes du XIXème siècle, au delà d’une certaine organisation libérale de la société dont les sources d’inspiration et les manifestations concrètes leur paraissaient incompatibles avec la doctrine de l’Église, c’est avant tout un relativisme et un indifférentisme
This argument is similar to the one De Smedt made in his 1963 relatio, which asserts that these popes condemned this freedom “when it is based on religious indifferentism” and when it is based “upon the principle that the individual conscience knows no law.” In other words, these popes were fundamentally condemning a radical freedom of conscience coram Deo, not the civil liberty advocated by Dignitatis humanae.

Another argument, similar to the previous one, is that these popes were condemning the idea that a non-Catholic has a positive right to worship according to his religion and to publicize his religious views, whereas Vatican II taught that a non-Catholic has a negative right to be free from State coercion when worshipping and witnessing to his religion – and there is no contradiction between these two claims. Brian Harrison, followed by Avery Dulles, refers to the former as ius agendi and the latter as ius exigendi. In terminology often used during the Council, the nineteenth-century popes asserted that “error has no rights,” whereas Vatican II asserted that “persons in error do have rights” – two assertions that appear to be in tension but which are actually compatible. According to this harmonization, non-Catholics do not have a positive right to err, but they do have a negative right to be free from coercion when they err.

Thomas Pink proposes a different harmonization of preconciliar and conciliar teaching. He distinguishes between three agents that might coerce religious practice: the Church, the State acting on its own initiative, and the State acting as an agent for the Church. According to Pink,


135 De Smedt, “Report on Religious Liberty,” 102. Dionne argues that this relatio was based, in part, on an earlier article by Aubert: Dionne, Papacy and the Church, 189.

preconciliar and conciliar Catholic teaching agree that the State has no authority to coerce religious practice on its own initiative. However, the Church does possess the authority to coerce the religious practice of baptized Christians as well as any public practices of non-Christians that have the potential to affect Christians, and the Church may use this authority either acting on its own or by using the State as its agent. He argues that *Dignitatis humanae*’s primary purpose was to reemphasize the teaching that the State may not do this on its own authority – a declaration that it has often been misunderstood as applying to the the other two cases. He also states that around the time of the Council, the Church decided that it would no longer use states to coerce religious practice (he does not specify when or by whom this decision was made); however, this decision could change in the future if circumstances change, as it is not required by *Dignitatis humanae*’s teaching on human rights.\(^{137}\)

Another argument in favor of harmonization focuses on the difference between *public peace* and *public order*. Pius IX, in *Quanta cura* § 3, condemns the claim that men and women have the right to publicly worship and witness as they choose except when it disrupts “the public peace” [*pax publica*], whereas *Dignitatis humanae* § 2 affirms that men and women have the right to publicly worship and witness as they choose except when their acts disrupt “the just public order” [*iustus ordo publicus*]. Some theologians argue that an exception for “public peace” is quite narrow whereas an exception for “public order” is broader – and therefore, if the civil government allows a public order exception, the liberties granted to its citizens do not fall

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under the condemnation of the earlier popes. Both Brian Harrison and Avery Dulles make this argument, and it appears to be supported by the *Catechism of the Catholic Church* as well.

There are, however, some difficulties with this argument. As mentioned earlier in this chapter, it implies that Gregory XVI and Pius IX did not condemn the system of religious liberty established by the French Revolution, which seems a surprising conclusion. Moreover, in the final weeks of Vatican II, the Coetus Internationalis Patrum requested that “public order” be replaced by “common good,” arguing that religious liberty with a public order exception contradicted preconciliar papal teaching. Their request was refused, and De Smedt dedicated part of his final *relatio* to explaining why a “common good” exception would be too broad. If De Smedt had believed that *Dignitatis humanae*’s public order exception was broader than the public peace exception condemned in the nineteenth century, saying so would have made his argument much stronger, but he never mentioned such an idea.

Harrison’s version of this argument goes further than that of Dulles. Harrison concludes that the public order exception in *Dignitatis humanae* does not apply merely to the means by which a person’s views are expressed but to the views themselves. For example, under the

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139 *Catechism of the Catholic Church*, 2nd edition (Washington: United States Catholic Conference / Libreria Editrice Vaticana, 1997), §§ 2104-2109 deals with religious freedom. The author of this section ingeniously interweaves references to documents old and new, and thus offers one possible vision of how they can be harmonized. § 2109 reads as follows: “The right to religious liberty can of itself be neither unlimited nor limited only by a ‘public order’ conceived in a positivist or naturalist manner. The ‘due limits’ which are inherent in it must be determined for each social situation by political prudence, according to the requirements of the common good, and ratified by the civil authority in accordance with ‘legal principles which are in conformity with the objective moral order.’” The footnote on the first sentence cites Pius VI, *Quod aliquantum* (1791) § 10 and Pius IX, *Quanta cura* § 3; the footnote on the second sentence cites *Dignitatis humanae* § 7. However, as mentioned in Chapter Three above, Cardinal Ratzinger, who supervised the creation of the *Catechism*, stated that it has no authority beyond that of the documents it refers to, so the creative combination of old and new documents in this section presumably has no magisterial weight of its own.

systems condemned by nineteenth-century popes (e.g., the French Revolution’s *Declaration of the Rights of Man and of the Citizen* and the United States’ Bill of Rights as interpreted by certain court decisions), a citizen is free to peacefully and calmly distribute a pamphlet advocating the reestablishment of the Aztec human sacrifice rites. Yet, according to the system of religious freedom proposed by *Dignitatis humanae*, the State may prohibit such activities, for even if this pamphlet is distributed in a manner that does not disturb the peace, its contents advocate a religious system that violates a just public order.\(^\text{141}\)

An unrelated argument focuses on the gradual development of doctrine that led to the affirmation of religious liberty at Vatican II. According to several theologians, including Pietro Pavan (one of the *periti* who worked on the Declaration) and Avery Dulles, the writings of Pius XI, Pius XII, and John XXIII exhibit a gradual increase in emphasis on the value of human dignity and the rights that flow from it. Therefore, when *Dignitatis humanae* bases the right to religious liberty on human dignity, this is a natural development consistent with the writings of these popes.\(^\text{142}\) The problem with this argument is that even if *Dignitatis humanae* is consistent with twentieth-century popes’ teaching on human dignity, it could still contradict nineteenth-century popes’ teaching on religious liberty.

Another argument was advanced by John Courtney Murray in 1965. He distinguished between two factions in the argument over religious liberty, which he named “the First View” (those who hold that the doctrinal teachings of Pius IX and Leo XIII must not be changed) and

\(^{141}\) Harrison, *Religious Liberty and Contraception*, 109-11. Similarly, Harrison argues that *Dignitatis humanae*’s public order exception allows the State to pass anti-blasphemy laws and to ban atheistic propaganda, even though such bans would not be allowed under a mere public peace exception.

“the Second View” (those who see doctrines such as these as historically conditioned). At its root, their conflict is not a disagreement about individual doctrines but rather a “clash between classicism and historical consciousness.” When those holding the First View read an encyclical written by a nineteenth-century pope, they believe that “[w]hat matters is what he said – the propositions that he put down on paper.” Those holding the Second View, including Murray, disagree. They see the nineteenth-century question of religious liberty and the twentieth-century question of religious liberty as two distinct topics, for they are each rooted in the history and culture of their own era. Because “the state of the question has been altered” in the decades since Leo XIII, “the nineteenth-century answer is inadequate” today. Answering today’s questions is the job of today’s Church.\(^{143}\)

The debate between those who find a contradiction between these documents and those who do not raises an important topic: What would be the implications of a contradiction between two magisterial documents? To address this question, one must first distinguish between definitive and non-definitive teachings.

Because definitive teachings are those taught infallibly (and vice-versa), it should not be possible for two definitive teachings to contradict one another. If this were to occur, then it would follow that the theology of the magisterium as taught by a wide variety of theologians (and by magisterial documents themselves) must be fundamentally incorrect. Faced with such a situation, a Catholic would either have to abandon his or her faith in the Church altogether, or

would have to somehow trust the Church without trusting her teaching office.\footnote{Hans Küng’s ecclesiology is an example of the latter: he denies that the pope, an ecumenical council, or the college of bishops can teach any doctrine infallibly, and therefore there is no theological statement – not even the statements in the Creed – that a Catholic can be certain is true. See Hans Küng, \textit{Infallible? An Inquiry}, trans. Edward Quinn (New York: Doubleday, 1971), 173-200; idem, \textit{Infallible? An Unresolved Enquiry}, expanded ed., trans. Eric Mosbacher, Edward Quinn, and John Bowden (New York: Continuum, 1994), 230-33, 245-48. Catherine Mowry LaCugna, \textit{The Theological Methodology of Hans Küng} (Chico, CA: Scholars, 1982), 118-21, 148-52.}

A contradiction between a definitive teaching and a non-definitive teaching would be less problematic. The implications of such a contradiction depend on which teaching occurred first. If, for example, a pope in the eleventh century had taught \textit{non-definitively} that Mary was tainted with original sin, and then in 1854 Pius IX taught definitively that she was not, it would logically follow that the eleventh-century pope had erred. On the other hand, if a century from now some future pope were to teach \textit{non-definitively} that Mary was tainted by original sin, then this pope’s teaching would not only be erroneous but would be material heresy, as it would contradict a defined dogma.\footnote{If a pope were to contradict a dogma (a definitive doctrine within the primary object of infallibility), then Catholic theologians would suddenly become quite interested in the medieval and Tridentine-era debates about the status of a heretical pope. If a pope were to contradict a definitive doctrine within the secondary object of infallibility, it is difficult to predict the consequences, given the number of disputed questions regarding this object. In either case, the situation would be even more complex if a pope were to contradict a doctrine whose definitive status was a matter of debate among bishops, theologians, and the faithful.} In either case, the definitive teaching would be true and the non-definitive teaching would be false.

A contradiction between two non-definitive teachings would, \textit{in principle}, not be alarming. If two teachings contradict one another, then one of them contains an error. But the theologians surveyed in this dissertation agree that it is possible for a non-definitive teaching to contain doctrinal error (even though they disagree on the likelihood of such an event), and therefore such an error need not affect the Catholic understanding of the magisterium. However, \textit{in practice}, the impact of such a contradiction may be significant for many Catholics. After all, changes
even in matters that have nothing to do with doctrine – such as the language of the liturgy – have shocked and scandalized some Catholics (while comforting others). This is one reason that Roman Congregations have at times declared that certain propositions “cannot be safely taught,” and theologians once applied the theological note “offensive to pious ears” to certain propositions, even when the truth of the proposition was not the primary contention.

Predicting the sociological and psychological impact of such a contradiction is difficult. Not only is “scandal” difficult to measure, but an occurrence that scandalizes one person may reassure another. Dulles and Harrison worry that if it were conceded that the Church has taught erroneously regarding religious liberty, such an admission would give ammunition to those who argue that the Church’s teaching regarding artificial contraception is in error.\textsuperscript{146} However, whether a specific Catholic is scandalized by a change in teaching depends, among other factors, on whether her or she believes that the Church has replaced false teaching with true or vice-versa. \textit{Dignitatis humanae} was especially scandalous to those who believed that the preconciliar condemnation of religious liberty was correct; in their view, the problem was not merely that two documents contradicted one another but that the Church had moved from truth to error on this point. Another example can be seen in the fourteenth-century dispute over the beatific vision. In the 1330s, Pope John XXII taught – in clear contradiction to longstanding Catholic teaching and belief – that the souls of the blessed dead will not behold the beatific vision until after the general resurrection at the end of time. After his death, one of the very first acts of his successor, Benedict XII, was to issue the constitution \textit{Benedictus Deus} (1336) teaching that John XXII was

\textsuperscript{146} Dulles, “\textit{Dignitatis Humanae} and Development,” 51; Harrison, \textit{Religious Liberty and Contraception}, 8-9. These passages list several theologians who have explicitly argued that the change on religious liberty paves the way for a change in other teachings.
wrong and that the souls in heaven do behold the beatific vision. In both cases, these popes were teaching a doctrine that contradicted an earlier teaching, but John’s teaching scandalized many in the Church, whereas Benedict’s was widely welcomed. The reason for the different reactions was that the Catholic faithful (including bishops, priests, religious, laity, and theologians) believed that John’s teaching was false whereas Benedict’s was true.147

On the other hand, those who worry that admission of error will lead to scandal should consider that the insistence on non-contradiction can itself lead to serious problems when pushed beyond the bounds of plausibility. Some of the theologians who hold that there is no contradiction between nineteenth-century papal teaching on religious liberty and the teaching of Dignitatis humanae offer an interpretation of one (or both) of these teachings that would have astounded its original authors. By doing so, they seem to be arguing that authoritative magisterial teaching must always be true if interpreted correctly, but that this true interpretation may not be discovered until decades or centuries after the teaching is issued. This would seem to undermine our ability to ever be sure about the meaning of any teaching – a result that would seem to undermine the value of magisterial teaching far more than admitting occasional errors in non-definitive teaching would do. In addition, when a theologian, faced with an apparent contradiction between two documents, offers highly implausible interpretations of these documents to defend their truth, it makes the faithful less likely to trust the theological enterprise entirely. Comparing two magisterial teachings on religious liberty from different centuries, Brian Tierney writes, “To present the second statement as a ‘development’ of a single

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unchanging Catholic truth that was implicit in the first one is surely to strain human credulity too far. A man who believes that will believe anything.”

These comments are meant to address the general question of whether theologians should ever be willing to admit the possibility of error in an authoritative teaching by a pope or a council. To what degree they apply to the specific case of religious liberty is open to dispute. The present dissertation does not pretend to solve this question or to fully explore Catholic teaching regarding religious liberty; rather, the topic of religious liberty is being used here to illustrate the proposed method for determining the weight of magisterial teachings.

According to the method outlined in Chapter Four, when a theologian is confronted with a prima facie contradiction between two magisterial documents, he or she should diligently seek to determine whether these documents can be reasonably harmonized, or at least harmonized on the level of doctrine with the contradictions relegated to the level of contingent matters. In this subsection, I have summarized a few of the arguments that historians and theologians have proposed to harmonize the teaching of Gregory XVI, Pius IX, and Leo XIII with the teaching of Vatican II and John Paul II. Evaluating these arguments would take several volumes and would be too off-topic. So instead of trying to resolve this question, I will proceed according to the premise that the nineteenth-century papal teaching denies Proposition RL and the teaching of Dignitatis humanae affirms Proposition RL, and that therefore there is a contradiction between the earlier and the later teachings. Those who disagree with this premise will still find the

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148 Brian Tierney, Origins of Papal Infallibility 1150-1350: A Study on the Concepts of Infallibility, Sovereignty and Tradition in the Middle Ages, 2nd printing with postscript (New York: E.J. Brill, 1988), 277. Tierney’s description here of the views of his opponents is not entirely accurate, and he mistranslates a key word in Lateran IV’s decree, but such details are irrelevant when measuring “scandal,” which is to some degree an emotional reaction.
Comparing the Weights

In the case of a possible contradiction between two teachings, the method developed in Chapter Four prescribes a four-step process. The first step is to determine whether the two teachings can be completely harmonized. If this is not possible, the second step is to determine whether they can be harmonized at the level of doctrine, with the differences relegated to contingent elements. If this is not possible – and as explained in the previous section, I am proceeding under this premise – then a third step is needed.

The third step is to determine whether one teaching possesses great authority while the other is taught with very weak authority. If such is the case, then one may discard the latter.

But this step does not apply in the case of religious liberty. The nineteenth-century papal teaching involves a doctrine taught by three successive popes, in a number of documents – most notably, in three encyclicals addressed to all the bishops of the Catholic Church. Such a teaching has significant authority. The recent teaching involves a doctrine taught by an ecumenical council in a document that was carefully crafted over several years with the involvement of hundreds of bishops, approved by 97% of the bishops at the council and promulgated by a pope – and then repeatedly reaffirmed by a subsequent pope in several documents. This teaching, too, has significant authority. So there is no warrant for simply ignoring one side or the other.

Therefore, step four is needed. The weights of the two teachings must be compared to each other. If one side has greater weight than the other, then the result favors the greater one,
but its weight is less than it would if the contradictory teaching did not exist.

The two tables earlier in this chapter provide a convenient presentation of the weights of these two teachings. The first table summarizes the weight of the teaching on religious liberty in *Mirari vos* (Gregory XVI), *Quanta cura* (Pius IX), and *Libertas praestantissimum* (Leo XIII). The second table summarizes the weight of the teaching on religious liberty in *Dignitatis humanae* (Vatican II) and two encyclicals of John Paul II. A comparison of these tables reveals the following disparities:

- **Document type:** Encyclicals and conciliar declarations are both significant documents, but are not the most authoritative papal or conciliar documents. This factor assigns roughly equal weight to the earlier and to the later teachings.

- **Centrality to document:** The topic of religious liberty is central to *Dignitatis humanae*, but none of the other documents. So this factor assigns more weight to the later teaching.

- **Author’s authority invoked?** The authority of the author is invoked in *Quanta cura* and *Dignitatis humanae*, but not the other documents. This factor assigns roughly equal weight to the earlier and to the later teachings.

- **Authority of doctrine stated?** This is not stated in any of the documents, so this factor has no effect in either case.

- **Doctrinal repeated in document?** The teaching on religious liberty is repeated frequently throughout *Dignitatis humanae*, but not in the other documents. This factor assigns more weight to the later teaching.

- **Rhetorical force of language:** Taking into account their authors’ different styles, *Mirari vos, Quanta cura, Libertas praestantissimum*, and *Dignitatis humanae* all use very forceful language. As there are three instances of this for the earlier teaching versus one of the latter, this factor assigns more weight to the earlier teaching.

- **Settles an open question?** It is possible that *Mirari vos* settles a question with regard to Lamennais’ specific theory, but other than that, none of these documents settle an open question. It can be argued that *Dignitatis humanae* changes the Church’s position on what some had considered to be a closed question. But both of these points are ambiguous. Ultimately, it is unclear how this factor affects the weight of any of these documents.
• **Centrality to the occasion:** Religious liberty was not the primary reason for the writing of any of these encyclicals, nor was it one of the primary reasons that Vatican II was convoked. So this factor has no effect in either case.

• **Involvement of pope and/or bishops:** None of these encyclicals give any indication that the pope was especially involved in the writing of the sections dealing with religious liberty. However, the pope and many bishops – including bishops in opposition – were closely involved in the writing of *Dignitatis humanae*, and much of its content reflects this fact. So this factor assigns more weight to the later teaching.

• **Hermeneutical key to other teachings?** This factor does not apply to *Mirari vos,* *Quanta cura,* *Redemptor hominis,* or *Centesimus annus.* The hermeneutical center of *Libertas praestantissimum* is Leo’s description of the nature of freedom itself; its teaching on religious freedom is a corollary to this. The hermeneutical center of Vatican II is found in its constitutions; one of them (*Gaudium et spes*) states the key points of *Dignitatis humanae* in brief form. So this factor assigns roughly equal weight to the earlier and to the later teachings.

• **Intrinsic importance of topic:** Religious liberty is not placed near the top of the hierarchy of truths in any of these documents. Most of them connect it to evangelization and catechesis, which is not at the top of the hierarchy of truths but is clearly important, for without evangelization and catechesis none of these truths can be taught. In addition, *Dignitatis humanae* connects religious liberty to human dignity. Most significantly, *Centesimus annus* places religious liberty central among all other human rights, calling it their “source and synthesis” (§ 47). So this factor assigns slightly more weight to the later teaching.

• **Purely doctrinal, purely contingent, or a mixture?** All of these documents portray the question of religious liberty as a matter of doctrine, independent of changeable or contingent elements. So this factor assigns equal weight to the earlier and to the later teachings.

Many of these factors favor neither the earlier nor the later teachings. Some of them (centrality to the document, repetition of the doctrine, involvement of pope and bishops, intrinsic importance of the topic) favor the later teaching, while only one (rhetorical force) favors the former teaching. Since this is not a mathematical exercise, one cannot simply tally these factors up and award more points to one side or the other. The evaluation of authoritative weight is more qualitative than quantitative. Nonetheless, qualitatively the advantage clearly is on the side of the newer doctrine. Of all these documents, only one of them – *Dignitatis humanae* – is
dedicated to religious freedom; all the others focus on a variety of topics of which religious freedom is one, and not the central one. *Dignitatis humanae* had the close involvement of a pope and the bishops. Although it was not a papal document, Paul VI dedicated a great deal of time to making sure this document was passed and to making sure its content was satisfactory. Moreover, those who objected to the doctrine were given ample opportunity to make their case during the four years of the council, and by the time of the final vote there can be no doubt that their views were understood by the vast majority who voted in favor of the document. These are important factors that clearly favor the conciliar teaching. It is true that the rhetorical force of language is somewhat stronger in the earlier encyclicals, but it remains strong in *Dignitatis humanae* as well.

Overall, then, it must be said that the authority of the conciliar teaching in favor of Proposition RL is stronger than the authority of the preconciliar teaching against Proposition RL.

When several teachings agree with each other, combining them increases their cumulative weight. But what happens when teachings that disagree with each other are combined? In this case, the cumulative result can be relatively small.

Because the nineteenth-century teaching has less weight than the conciliar teaching, the cumulative result favors the latter. Yet because the difference in weight is not great, this cumulative result is not quantitatively large. Even though magisterial authority cannot be measured by numbers, a numerical analogy may be helpful: If a business has debits of $70,000 and credits of $75,000, then the business is in the black, but its credit balance – $5,000 – is comparatively small. In the same way, the cumulative result of these contradictory teachings supports religious liberty, but with relatively little authoritative weight.
The practical implications of this result are significant. This result means that when two theologians debate religious liberty, their argument should not be settled simply by pointing to magisterial documents, as there are non-negligible magisterial teachings on different sides of this issue. Other factors – Scripture, tradition, reason, human experience – should be the focus of their debate. Certainly there will be theologians who agree with the teaching of *Dignitatis humanae* and will argue for its truth, as well as theologians who agree with the teaching of Gregory XVI, Pius IX, and Leo XIII and argue for the views held by these popes. But neither of these theological camps should expect the *magisterial authority* of these texts will be the primary factor in settling this debate.

What would such a debate look like? Arguments from Scripture might cite the Old Testament laws regarding idolatry and apostasy (Deut 13; 17:1-7) and how they were implemented (1 Kgs 18:20-40; 2 Kgs 23:1-25; 1 Macc 2:15-28; etc.), along with the actions and teachings of Christ and his apostles (*Dignitatis humanae* § 11 provides many citations, such as the parable of the wheat and tares). An important question must be considered: Is the claim that religious liberty is a *natural right* consistent with God’s command in the Old Covenant not to permit it? This question leads to many theological and Scriptural considerations. And perhaps its answer might be more than a simple “yes” and “no” once the historical context is taken into account. Indeed, even Thomas Aquinas placed certain questions in a category of not-quite-natural-law when the commands of the Old Covenant and the commands of the New treated certain actions differently.\(^{149}\)

Arguments from Church tradition might look at the practice of the early Church, the

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\(^{149}\) For one example, see Thomas Aquinas, *Summa Theologica*, Supp., q. 65, a. 1, co.
history of how coercion was eventually approved, and the different shapes it took. It is admitted by all Catholic theologians that the behavior of the Church’s hierarchy and laity has frequently been sinful. Is there a theological problem with widespread and long-lasting systemic sin on the part of the people of the Church? In other words, if the Church for centuries accepted a certain practice (religious coercion, or slavery, or the death penalty) and taught that it was acceptable under certain conditions, would this be incompatible with the theological or philosophical claim that this practice is (and therefore always has been) intrinsically immoral? An exploration of this topic could be done in the context of moral theology and development of doctrine. Or it could be done in the context of the theology of history.

Arguments regarding religious liberty could build on other magisterial teachings. Dignitatis humanae grounds its teaching in a certain understanding of human dignity; how is human dignity treated in other Church documents? For example, is there a tension between Dignitatis humanae § 2, which states that the right to religious liberty (rooted in human dignity) “persists even for those who do not satisfy their obligation to seek the truth and to hold fast to it,” and Gaudium et spes § 16, which states that the dignity of the human conscience can be lost “when a person shows little concern for seeking what is true and good”?

Some theologians might question both preconciliar and postconciliar teaching on this

150 For one famous example, see John T. Noonan, Jr., A Church That Can and Cannot Change: The Development of Catholic Moral Teaching (Notre Dame, IN: University of Notre Dame, 2005).
151 The conciliar intervention of Cardinal Josef Beran (Prague) offers a fascinating theology of history. After describing the trials of the Church under Czechoslovakia’s Communist regime, Beran offers a supernatural explanation: “[T]he Church in my country now seems to be making painful expiation for the sins committed in the past against freedom of conscience in the name of the Church, such as the burning of John Hus and the forced re-Catholicizing of the majority of the Bohemian people.” (Quoted in Stransky, “Commentary,” 48-49.) Can it be argued that in the era of the New Covenant, certain large-scale historical developments are divine rewards or punishments for human behavior?
152 It is unclear whether Gaudium et spes §16 is claiming this dignity can be entirely lost.
matter, denying that religious liberty is a natural human right but also denying that Catholic states can ever have a moral obligation to restrict non-Catholic religions. In this view, religious liberty would not be *directly* a question of human right, but would have to be treated by considering a variety of Catholic and natural moral principles (including human rights) in addition to contingent matters. Could the moral status of religious liberty be different in a nation that is overwhelmingly Catholic and a nation that is literally 100% Catholic? Could the moral status of religious liberty be different in a monarchy and in a democracy? The issue of rights is connected to the issue of Catholic teaching regarding just and unjust forms of government – a topic on which there is much room for development.  

Alternatively, the issue of natural rights could be bypassed entirely. The Catholic natural law tradition often proceeds ontologically; in this case, by focusing on the purpose of the human intellect. Given that the human intellect was created by God to know the truth, ontologically based natural rights arguments will tend to privilege true knowledge over erroneous beliefs, because the purpose of the intellect is fulfilled by the former and not the latter. A completely different result arises if the argument proceeds on an existential rather than ontological basis. Existentially, each human person finds himself or herself inhabiting a puzzling universe, and tries to understand this universe and his or her place in it. From this starting point, it is reasonable that each of us should respect every person who is engaged in this quest for truth,

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153 Shortly after the Council concluded, the Spanish theologian Teodoro Jiménez-Urresti proposed that a Catholic majority country such as Spain should be allowed to pass legislation restricting proselytizing by non-Catholics. He based his proposal on *Dignitatis humanae*’s statement that rights are possessed not only by individuals but by social groups, arguing that and one such social group – “the Spanish people” – believes with its “Catholic collective conscience” that such proselytization is wrong. Jiménez Urresti, “Religious Freedom,” 93-94. This is an example of a proposal that does not seem to agree with either preconciliar or postconciliar teaching on religious liberty, and it raises interesting questions (is there really such a thing as the collective conscience or collective will of a group?) which tie into theology, sociology, and political theory.
even when their conclusions differ from ours.

The conciliar debates on religious liberty could also be studied to determine which bishops and theologians were correct in their predictions of social changes that would occur in the wake of *Dignitatis humanae*. The Declaration’s opponents warned that it would lead to widespread indifferentism and a decline in religion. Cardinal Raúl Silva Henríquez, Archbishop of Santiago, Chile, predicted that the quantity of conversions to Catholic Christianity would likely decrease, but the “quality” of those converting would increase. In May 1965, Congar wrote that the Declaration would increase indifferentism and relativism in the short run, but increase people’s trust in the Church and lead to much “good fruit” in the long run – a process that he estimated would take “two or three centuries”! Of course, it is impossible for historians looking back on the half-century since the Council to distinguish with certainty between those cultural shifts caused by the documents and the event of Vatican II, and those that would have happened anyway. Nonetheless, if the question of religious liberty is not purely a matter of natural right but also involves prudential judgments, some of those judgments must involve predictions as to the effect of religious liberty in society.

These are just a few of the methods that could be used to study this theological question. In the 1950s, a fruitful debate on religious liberty in the United States was cut short when John Courtney Murray was silenced. Since the Council, the debate on religious liberty has too often used the authority of *Dignitatis humanae* (or the authority of preconciliar papal teaching) as the most important theological source. If my analysis is correct that the cumulative magisterial weight of the Church’s teaching on religious liberty is fairly small, then it would be best to

investigate, debate, and develop this teaching without using “The magisterium says so” as the primary argument.

**Conclusion**

In this chapter, I have attempted to apply the method developed in Chapter Four to Catholic teaching on religious liberty. Because this method is not composed of mechanistic criteria that can be applied in an objective manner, some readers may generally approve of this method while disagreeing with particular judgments I have made in my analysis of specific papal and conciliar teachings. In such a case, the reader can substitute his or her judgment for mine in those specific places, and reassess the weight of each factor affecting the weight of these teachings, and thus, *mutatis mutandis*, calculate the cumulative weight of Church teaching on religious liberty in a manner consistent with their judgments.

In any event, I hope that this chapter has presented a useful example of how this method can work. This example is relatively complicated, as it includes teaching on different sides of one issue. Some other cases are much more straightforward; one such example is described in the General Conclusion which follows.
General Conclusion

The method for determining the weight of authoritative non-definitive magisterial teachings developed in this dissertation is not, in its roots, fundamentally new. As the survey in Chapters One, Two, and Three demonstrated, theologians, popes, councils, and Roman Congregations over the past several centuries have described many factors that indicate the authoritative weight of such teachings. My contribution has been to collect as many of these accounts as possible, set them alongside each other, resolve contradictions between them, and assemble the result into a single coherent method; this was done in Chapter Four. Chapter Five contained an illustration of this method’s application to one particular case.

This method may be able to provide a useful contribution to many theological discussions and debates. There are at least three situations in which it would be helpful.

First, it can be tempting for theologians to stress or even exaggerate the authority of magisterial teachings with which they agree, while downplaying the weight of teachings about which they are skeptical. A method that measures the authority of a teaching with some degree of objectivity could reduce such a temptation, enabling theologians to debate the substance of an issue rather than simply disagreeing on the weight of their preferred magisterial documents.

Second, as explained in *Donum veritatis*, when a theologian is uncertain whether to accept an authoritative non-definitive magisterial doctrine, they “need, first of all, to assess accurately the authoritativeness of the interventions” by which the magisterium has taught this doctrine.¹ The greater its magisterial authority, the greater must be the weight of counter-arguments for a

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Catholic to legitimately reject this doctrine. Admittedly, there is no defensible way to set up an objective numerical scale that measures both the weight of magisterial authority and the strength of arguments from Scripture, tradition, and reason. Nonetheless, a common-sense application of the method outlined in this dissertation would lead to useful results. If a doctrine has been taught repeatedly, using strong language, in emphatic ways, then only extremely strong arguments ought to suffice to overrule it. If a doctrine has been taught once with weak language in a minor document, then even a mild argument on the other side would be significant. In cases where the magisterium has taught on opposite sides of the same issue – as Chapter Five argued was the case with religious liberty – then these teachings may, to some extent, cancel each other out, so that very strong arguments are not required to move this topic back into the realm of free debate.

Third, this method provides a useful way of rebutting implausible claims of magisterial authority. Whereas peer-reviewed theological journals tend to publish reasonable claims made by responsible theologians, non-academic debate (in person or on the internet) is often full of absurd claims that some doctrine is infallible or some other doctrine has no authority at all. When a claim is quite exaggerated, a simple and quick use of the method developed in this dissertation can suffice to answer it.

Here is one example. When the issue of salvation of non-Catholics is discussed on the internet, one passage that is frequently quoted is the following:

The holy Roman church ... firmly believes, professes, and preaches that all those who are outside the catholic church, not only pagans but also Jews or heretics and schismatics, cannot share in eternal life and will go into the everlasting fire which was prepared for the devil and his angels (Mt 25:41), unless they are joined to the catholic church before the end of their lives ... and that nobody can be saved, no matter how much he has given away in
alms and even if he has shed his blood in the name of Christ, unless he has persevered in the bosom and the unity of the Catholic Church.  

This passage, from the document *Cantate Domino* – usually attributed to Pope Eugene IV and the Council of Florence – has not infrequently been declared “infallible” by amateur theologians on the internet. Indeed, even Hans Küng refers to it as “the allegedly infallible doctrine of the Council of Florence.” Unlike the more compact formula “no salvation outside the Church,” this passage offers no exceptions for catechumens, unbaptized martyrs, or unbaptized infants. It leaves no room for invincible ignorance, baptism of desire, baptism by fire, “anonymous Christians,” or any other theory that allows for the possible salvation of someone who does not formally join the Catholic Church “before the end of their life.”

Yet this passage’s alleged “infallible” status can be quickly rebutted using the method outlined in this dissertation along with a basic grasp of history. One of the goals of the Council of Florence was reunion between the Western and Eastern Churches. Several bishops from the Greek Orthodox Church arrived, and in July 1439 the Council (including the Greek bishops) achieved what was thought to be the reunion of the Catholic and the Greek Orthodox Churches. After this accomplishment, a few envoys from the Armenian Apostolic Church arrived; their Church Churches had been divided from the Roman and Greek Churches since A.D. 451.

Instead of having the full council address the theological and disciplinary disagreements behind

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2 *DEC*, vol. 1, 570, 578, italics in original. The majority of this text is a quotation from Fulgentius of Ruspe (A.D. c. 465-c.530).


this division (as had been done in the case of the Greeks), a shortcut method was used: a handful of scholars drew up a document that purportedly summarized “Roman” theology, the Armenian envoys signed it, and Pope Eugene then presented a copy of the document to the Council. Two years later, an Egyptian monk representing the Coptic Orthodox Church arrived. The same procedure was followed: a document was drawn up by a few theologians, the monk Andrew signed it, and the pope presented a copy to the Council.\textsuperscript{5} The document drawn up for the Coptic monk, \textit{Cantate Domino}, contains the passage quoted above.\textsuperscript{6}

To impeach the authority of this passage, one could go through all the steps in the method outlined in Chapter Four, demonstrating that this is not a conciliar decree, nor really a papal decree, and is not addressed to the universal Church. But a simpler way to proceed is to argue that each tenet taught in the document signed by the Armenians and the document signed by the Coptic monk has the same authority as every other tenet in these two documents. This argument is quite simple, for one need only look at each factor listed in Chapter Four and note that, for each tenet in these two documents, each factor gives identical results. Therefore, if someone maintains that the statement about salvation has been infallibly taught, it follows that the other tenets in these two documents have been infallibly taught as well. Yet some of these tenets are quite surprising. One asserts that ever since the promulgation of the Gospel, circumcision prevents someone from being saved, “whether or not they place their hope in it,” and regardless


\textsuperscript{6} The document signed by the Armenian envoys, \textit{Exultate Deo}, is in \textit{DEC}, vol. 1, 534-59: pp. 534-38 contain Eugene’s statement to the Council, 538-54 contain the document itself, and 554-59 contain the formal acceptance by the Armenians. The document signed by Andrew the Coptic monk, \textit{Cantate Domino}, is in \textit{DEC}, vol. 1, 567-82: pp. 567-70 contain Eugene’s statement to the Council, 570-82 contain the document itself, and 582 contains the formal acceptance by Andrew.
of whether it took place “before or after baptism.” It seems unlikely that any of those who hold the literal truth of the statement on salvation outside the Church would also be willing to hold that all circumcised male Catholics are damned. Another interesting tenet from these documents states that the matter [materia] of the sacrament of Holy Orders is the handing on of the instruments: that is, “the priesthood is bestowed by the handing over of a chalice with wine and a paten with bread; the diaconate by the giving of the book of the gospels.” If this were definitive teaching, then Pius XII would have been teaching heresy when he issued an apostolic constitution declaring that the matter of this sacrament is the imposition of hands.9

The argument in the last paragraph does not require an intricate use of the method outlined in this dissertation, but simply a cursory determination that the tenets in these two documents must all have equal authority. This argument would hopefully suffice for rebutting someone intent on using the passage about salvation above as an incontestable proof-text.10

Although it is my hope that this method may prove useful to other scholars, it certainly does not answer all questions about the weight of non-definitive authoritative magisterial teaching. A few of these open questions should be mentioned here.

The most significant open question concerns reception. As explained in Chapter Four, the term “reception” is used in two senses: reception of a doctrine by the whole Church, and

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7 *Cantate Domino*, in *DEC*, vol. 1, 576.
8 *Exultate Deo*, in *DEC*, vol. 1, 549.
9 Pius XII, *Sacramentum ordinis*, § 4 (DS 3859).
10 A more detailed study of these documents reveals that in fact they are not conciliar documents at all, and were never promulgated by Pope Eugene as his own authoritative teaching. Their intended audience was less than a dozen people, and so their magisterial weight is negligible. For details, see Willem Marinus van Rossum (as G. M. van Rossum), *De essentia sacramenti ordinis: Disquisitio historico-theologica*, 2nd ed. (Rome: Fridericus Pustet, 1931 or 1932), 182-191.
reception of a doctrine by the future magisterium (and with regard to the latter, there are more precise terms available than “reception”). Many of the surveyed theologians stated that the reception of a doctrine by the whole Church plays a role in its magisterial authority. However, the survey did not reveal any consensus on what this role is, nor how to measure it. For this reason, the impact of reception was not incorporated into the synthetic method of weighing a doctrine proposed in Chapter Four. Reception is a major topic in theological research today, and so perhaps in the near future a consensus may appear on this topic, at which point it would be desirable to incorporate it into the system developed here.

Another open question concerns the value of a document that is cited or quoted in a later document bearing significant authority. When a conciliar or papal document includes a quotation from an earlier document, and this quotation is used as an integral part of the new document, the quoted passage is imbued with the authority natural to its position in the new text. But what can be said about the portions of the earlier document that were not quoted or cited by the new magisterial text? Certain scholars have suggested that when a magisterial text uses portions of an earlier document, it imbues the entire earlier document – not just the quoted portions – with some amount of extra authority. This suggestion seems implausible to me.


12 For example, Dei verbum § 19 summarizes and quotes some portions of the Pontifical Biblical Commission’s 1964 instruction Sancta mater ecclesia. Gerald P. Fogarty interprets this act by the Second Vatican
However, as none of the surveyed theologians mention this issue, it was not addressed in this dissertation. This point may be worth investigating further.

There are also some unresolved issues regarding an authoritative doctrine that is republished or otherwise restated in a semi-official manner. One example is the *Catechism of the Catholic Church*. As mentioned in Chapter Three, Cardinal Ratzinger stated that the *Catechism* bestows no new authority on the doctrines it repeats; their authority is derived from the documents in which they were officially taught. It is difficult to disagree with the Prefect of the Congregation for the Doctrine of the Faith regarding the *Catechism* whose creation he oversaw. Yet the creation of the *Catechism* involved thousands of decisions regarding which doctrines to restate and which to ignore – a process overseen by the Prefect of the CDF and ultimately by the pope. Was this in no way a magisterial act? For example, the first edition of the *Catechism* included a fairly strong statement against the death penalty, while the definitive edition included a much stronger statement, incorporating material from John Paul II’s recent encyclical *Evangelium vitae*. Neither included any passages from statements of earlier popes or the *Catechism of the Council of Trent* supporting the death penalty.¹³ This seems a significant fact,

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and so it seems strange to accord no magisterial authority to this decision. The same question would apply to a pope who instructs the Vatican to republish and distribute an encyclical written by one of his predecessors: this republishing might not be a magisterial act per se, but at the very least it seems to involve the “re-reception” of the past magisterium by the present magisterium. As Joseph Komonchak has pointed out, as time passes some papal encyclicals “come to possess enduring value, some ... prevail for a while but are later forgotten,” and “some ... seem to fall stillborn from the press.”¹⁴ This is due to many factors, but surely one factor has been that the Vatican has reminded the Catholic faithful frequently about some encyclicals, and not bothered to do so about others.

One last question concerns the magisterial authority of liturgical rites. Although the primary purpose of the Mass, the other sacraments, and the Liturgy of the Hours is not didactic, these liturgies certainly have a didactic function. If a certain doctrine is asserted in a liturgical text, should this be considered a kind of magisterial teaching? If so, how would its weight be determined? Would it depend, for example, on the length of time that it has been part of the liturgy? What is the significance of liturgical testimonies to ancient but now obsolete ecclesial actions?

Finally, a personal note. Determining the authority of a magisterial teaching can play an important role in resolving a theological quandary. But it can also be a component of unhelpful quarrels, or can be used to “justify” a decision that has already been made. As many of the

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theologians and documents studied in this dissertation have reminded us, a Catholic’s attitude toward the authoritative teachers of the Church should, at its root, be based in the recognition that they are the successors to the apostles commissioned by Christ. A recognition that there are occasions when magisterial statements are not error-free should not lead someone to a skeptical or hostile attitude toward the Church’s teaching office. And on an even more fundamental level, the Church’s teaching office was not instituted by Christ simply for the sake of handing on knowledge – even profound knowledge about divine realities. It exists to bring God’s people into a closer relationship with him. As Yves Congar pointed out, while the hierarchy plays a crucial role of mediation, an excessive theological focus on the hierarchy can lose sight of “the two terms between which that mediation comes, the Holy Spirit on one side, the faithful people ... on the other.”15 The knowledge transmitted to the faithful by the Church’s teaching office exists for this purpose and no other.

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