

On Recognizing Infallible teachings of the Ordinary Universal Magisterium: A Rejoinder to Francis Sullivan

According to *Lumen gentium* n.25, the college of bishops, in communion among themselves and with the pope, can proclaim doctrine infallibly outside of an ecumenical council when they are in agreement that a particular doctrine is to be held definitively. *Lumen gentium* refers here to what Catholic doctrine and theology knows to be the ordinary universal magisterium. How do we know when the ordinary universal magisterium has taught a doctrine infallibly? This question has been addressed by the distinguished Jesuit ecclesialogist Francis A. Sullivan in some articles and in his book *Creative Fidelity*.¹ I have had the occasion to examine and criticise Sullivan's treatment of the question.² Another scholar offered his own criticism of my views and my critique of Sullivan.³ Recently, Sullivan replied to my criticisms of his work.⁴ In his reply to me, Sullivan explained more clearly than he did in his book, *Creative Fidelity*, about what he holds concerning the conditions for and criteria of the infallible teaching of the ordinary universal magisterium. The chief point of disagreement between Sullivan and myself turns on the weight of importance that should be given to the consensus of theologians for recognizing when the ordinary universal magisterium has taught a doctrine infallibly. In addition, it is unclear whether Sullivan thinks that a judgement by the Pope that a particular doctrine has been taught infallibly by the ordinary universal magisterium is enough for such a doctrine to be 'manifestly established' and recognizable. Let me explain.

1) Sullivan now states he agrees that the absence of a consensus among theologians does not mean there has not been a definitive teaching of the ordinary universal magisterium. At the same

¹ *Creative Fidelity Weighing and Interpreting Documents of the Magisterium*, (New York: Paulist Press, 1996). "The Doctrinal Weight of *Evangelium Vitae*," *Theological Studies*, 56 (1995): 560-5; "The Secondary Object of Infallibility," *Theological Studies*, 54 (1993): 536-50; "Reply to Germain Grisez," *Theological Studies*, 55 (1994): 732-37; *Magisterium*, (New York: Paulist Press, 1983), esp. pp. 119-52.

² "The Infallibility of the Ordinary Universal Magisterium: A Critique of Some Recent Observations," *Heythrop Journal*, 39 (1998). More recently in response to Richard Gaillardetz's reading of Sullivan: "Reply to Richard Gaillardetz on the Ordinary Universal Magisterium and to Francis Sullivan," *Theological Studies* 64 (September 2003): 598-609. Also, of related interest: "Christ, the Moral Law, and the Teaching Authority of the Magisterium," *Irish Theological Quarterly* 64 (Spring 1999): 17-28.

³ Richard Gaillardetz, "The Ordinary Universal Magisterium: Unresolved Questions," *Theological Studies* 63 (September 2002): 447-471.

⁴ "Reply to Lawrence J. Welch," *Theological Studies* 64 (September 2003): 610-615.

time, Sullivan says “What I do hold is that without such a consensus it would be difficult *to be certain* that the conditions for infallible teaching had been fulfilled.”⁵ He reasons “that because Catholic theologians are professionally qualified to make informed judgments about the degree of authority with which doctrines have been taught by the magisterium, a lack of consensus among them as to whether a doctrine had been taught infallibly would make it questionable whether that fact was ‘manifestly established.’ ”⁶ This seems to me to still attribute too much to the importance of the consensus of theologians because it loses sight of the fact that there are other ways for the infallible teachings to be recognized. Secondly, it exaggerates the importance that Pius IX gave the consensus of theologians in *Tuas Libenter*.

I anticipated this line of thinking in both my *Heythrop Journal* article and my article for *Theological Studies* where I acknowledged that there are places in Sullivan’s work where he can be read as saying that the consensus of theologians is something like a logical condition of our ability *to claim* there has been such an exercise of the teaching authority of the ordinary universal magisterium. I believe that there are other ways to recognize and know that a doctrine has been infallibly taught. The example I still give is the teaching in *Evangelium vitae* against direct abortion, murder and euthanasia which the Pope identifies as infallibly taught by the ordinary universal magisterium.⁷ This confirmation by the head of the apostolic college, together with the common adherence of the faithful down through the ages to these doctrines, are more than enough to ‘clearly establish’ that here is a case of infallible teaching. The question in my mind even after Sullivan’s reply to me is whether he still thinks that:

It is too soon to know whether there will be the consensus of theologians that would show that it is ‘clearly established’ that the immorality of murder, abortion and euthanasia are infallibly taught. What this would mean is that the Church has taken an irreversible stand on these issues.⁸

⁵ Ibid., 615.

⁶ Ibid.

⁷ Sullivan admits that there are good reasons for thinking that the Pope meant to invoke the infallibility of the ordinary universal magisterium in EV, nos 57, 62, 65. See his *Creative Fidelity*, 159. Nevertheless Sullivan still thinks that “questions remain.” For further discussion of this point see my “The Infallibility of the Ordinary Universal Magisterium: A Critique of Some Recent Observations,” 33, n.24.

⁸ Sullivan, *Creative Fidelity*, 160.

Does Sullivan still really want to hold that we await the ‘clear establishment’ that the Catholic Church has taught irreversibly on the immorality of abortion, murder, and euthanasia because there is not yet a consensus of theologians that would show it? If so, at least in the case of *Evangelium vitae*, does it not make the consensus of theologians more important than the judgment of the head of the apostolic college about *what is* an infallible teaching of the ordinary universal magisterium? Perhaps Sullivan does not want to embrace this conclusion but it seems to follow from his contention that we await a consensus of theologians to show that it is ‘clearly established’ that the intrinsic evil of abortion, murder and euthanasia are infallibly taught. Why is not the Pope’s judgement enough for ‘clear establishment?’

2) If I understand him correctly, Sullivan wants to make a distinction between the consensus of bishops which is the only consensus required for the infallibility of their ordinary teaching and the consensus of theologians without which it would be difficult to be certain that the conditions for infallible teaching had been fulfilled. But does this not hold the recognition or knowability of the infallible teachings of the ordinary universal magisterium hostage to the present or future consensus of theologians? Again, Sullivan may not intend this consequence but it appears to follow in the case of what the pope identifies in EV as doctrines that have been taught infallibly by the ordinary universal magisterium.

Sullivan says in his reply that “I do not believe that one can appeal to a past consensus of bishops as infallible if they are no longer agreed in teaching that doctrine.”⁹ As an example he cites the teaching that unbaptized infants would be deprived of the beatific vision if they died without baptism and the Bishops at the Council of Florence who “taught that all pagans and Jews would go to Hell if they did not become Catholics before they died.”¹⁰ While I think the latter

⁹ “Reply to Lawrence J. Welch,” 611.

¹⁰ Ibid. Sullivan seems to have changed his views, at least to some extent, on how to interpret teaching of the Council of Florence. In his book, *The Church We Believe In*, Sullivan asked whether the Catholic Church changed its mind on the question of the necessity of being in the church for salvation because there seems to be a contradiction between Florence and the Second Vatican Council which affirmed (*Lumen gentium*, 16) the possibility of salvation for those who “through no fault of their own do not know of the gospel of Christ or his church.” Sullivan asked: “Is there any way of reconciling these positions?” He gave this answer:

If I am not mistaken, the underlying dogma has always really been what Vatican II explicitly declared it to be: “There is no salvation for those who are culpably outside the Church.” The difference between Florence and Vatican II is that Florence judged all those outside guilty, and Vatican II presumed them to be innocent. What has changed is a way of judging other people. *The Church We Believe In*, (Paulist Press: New York, 1988) 120.

may be questionable as an example, I would agree that it is possible that if one could show that there was an interruption in the consensus of bishops on a particular teaching then it might be an indication that there is not the kind of episcopal consensus that would alert us to a definitive and infallible teaching. On the other hand, I do not believe that this is absolutely the case. In other words, it seems to me that there could be a breakdown in consensus among bishops about a particular point of doctrine that has in fact been taught infallibly prior to a later lack of consensus.¹¹

A strong argument could be made for example that something like this occurred during the iconoclast controversy in the 8th century. The use and veneration of images which was common at least since the 5th century came to be rejected not only by numerous bishops but several patriarchs of Constantinople as well.¹² Prior to the solemn proclamation of the Church's faith

So what has changed does not really seem to be doctrinal. Some 4 years later Sullivan substantially repeated this point even more fulsomely as part of his very fine study of the doctrine *Extra Ecclesiam nulla Salus*, entitled *Salvation Outside the Church? Tracing the History of the Catholic Response*, (Paulist Press: New York, 1992) 199-204. I believe Sullivan's earlier and careful interpretation of Florence is sound. There is something after all that both Florence and Vatican II teach: the necessity of the Church for salvation. The dogma that was really being taught at Florence was not the judgment that non-Christians were culpably outside the Church. It is true, the bishops no longer judge all non-Christians to be culpably outside the Church, but this judgment was really extrinsic to the underlying dogma that was taught. Was this judgment about the culpability of non-Christians a doctrine? It is hard to see how it was. Such a 'judgment' seems to pertain more to the incomplete and imperfect formulation the Church can sometime express in its teachings. If anything, Florence demonstrates more the historicity of dogma than it does to serve as an example that of how one should not appeal to the past consensus of bishops about a doctrine if the bishops are now no longer agreed in teaching that doctrine. Sullivan in *Salvation Outside the Church*, observes: "These limits of the cultural, geographical, psychological horizons of medieval Christians are historical factors which profoundly conditioned their expression of the doctrine of the necessity of the church for salvation."

¹¹ I mentioned in my article in *Theological Studies* that Sullivan himself seems to recognize there can be times that a prior consensus has been lost but is still binding and needs to be restored and received again. In one of his articles on the magisterium, Sullivan points out how papal definitions (extra-ordinary magisterium) can sometimes be ". . . needed to overcome a threat to the Church's unity in the faith and bring about a consensus, or restore one that had been lost." See *Dictionary of Fundamental Theology* s.v. "Magisterium," (New York: Crossroads, 1994): 619.

¹² For instance, Anastasius (730-54) Constantine II, (754-66), Nicetas I (766-80) and Paul IV (780-84). The latter later recanted his iconoclasm.

regarding holy images at the Seventh Ecumenical Council in 787, the teaching of the Church on this point of doctrine was taught by what we would call the ordinary universal magisterium. This doctrine of the Church was taught most especially in and through the Church's liturgical tradition and practice as well as in the common teaching of bishops. The popes (Gregory I and Gregory II) and other bishops who defended the holy images taught quite clearly that the Church's teaching was permanent and irreversible. In other words, the popes and bishops appealed to a prior consensus. They did not think that because there was no longer the kind of consensus among bishops in their own time that it was not possible to appeal to the long standing prior consensus of former times *and that such a consensus was binding on all bishops for all times.*

It certainly seems sound to say that the Church's teaching on holy images prior to the Seventh Ecumenical Council was taught infallibly by the ordinary universal magisterium despite the fact that there was not the consensus among bishops in the 8th century that existed in former centuries.

In my *Heythrop Journal* article I spoke of the task of the Church to achieve a communion across time so that the present age of the Church shares fully in the life, faith and identity of the Church of the past. The Church of the present time is challenged to preserve and assimilate everything that is of the faith that she has received from the Church that has gone before her. My point is this: a lack of consensus of bishops about a particular point of doctrine about which there was a former consensus could be a sign of impaired communion. Something like this it seems to me to have occurred during the iconoclast controversy and at other times in the Church's history and something like it could occur again. Therefore I cannot agree with Sullivan, at least not absolutely and in every case, that one cannot appeal to a past consensus of bishops as infallible if they are no longer agreed in teaching that doctrine.

3) Sullivan asks me if it really would be just for a person to incur the penalty of excommunication if it were not 'manifestly established' that a doctrine had been infallibly taught by the ordinary universal magisterium.¹³ Obviously to be excommunicated for obstinately

¹³ "Reply to Lawrence J. Welch," 614. Sullivan refers here to the fact that I took issue with his claim that canon 749.3 (No doctrine is to be understood to be infallibly defined unless this fact is clearly established as such) which is applicable to defined dogmas should also be applied to undefined dogmas and definitive teachings of the ordinary universal magisterium. I argued that it is better not to apply canon 749.3 and its requirement of *manifeste constiterit* to undefined dogmas and definitive teachings of the ordinary universal magisterium in a univocal way because it is a juridical term that refers to the formulation of defined doctrine. To use the term univocally introduces a confusion about how definitive teachings of the ordinary universal magisterium are known and recognized. There is a distinction, I pointed out between "teaching something" (ordinary universal magisterium) and "teaching by way of defining" (extraordinary magisterium). One has to look for something different in the effort to identify the infallible and definitive teachings of the ordinary universal magisterium. Sullivan in reply acknowledges that it

denying an infallible teaching of the ordinary universal magisterium it must be possible for that teaching to be reasonably recognized. The difference between Sullivan and myself seems to amount to whether one can still recognize, without difficulty, an infallible teaching of the ordinary universal magisterium even if there is not a consensus of theologians that the conditions for such a teaching have been fulfilled. Or, as Sullivan might put it, whether the lack of a consensus of theologians as to whether a doctrine has been taught infallibly would make it questionable whether that fact was ‘manifestly established’.” My short response is: Not if the pope, who as head of the college of bishops, alerts us that the ordinary universal magisterium has taught a doctrine infallibly. Thanks, in part, to what the Pope points out in EV, I think that the immorality of abortion, murder, and euthanasia are good examples of infallible teachings of the ordinary universal magisterium that can be recognized without great difficulty. Even though there may have not been a consensus of theologians about this fact,¹⁴ the Pope’s teaching about

is obvious that “the criteria by which one can know with certainty that a doctrine has been defined are different from those by which one can be certain that a doctrine has been taught infallibly by the ordinary universal magisterium.” Still, Sullivan judges that “the difference between the criteria is irrelevant.” See “Reply to Lawrence J. Welch,” 614.

I admit that these teachings of the ordinary universal magisterium must be recognizable in some way. But there is a difference between “manifesting by defining” (extra-ordinary magisterium) and “manifesting by leaving clues” (ordinary magisterium). I am glad that Sullivan thinks this is obvious but I do not believe it is obvious to every theologian. It is all too easy to think that the infallible teachings of the ordinary universal magisterium should look like the infallible teachings of the extra-ordinary magisterium and thus conclude that therefore there must be very few of them.

¹⁴ It is worth repeating a point here that I am made in footnote 8 of my *Theological Studies* article: Prior to *Evangelium vitae* Richard McCormick claimed that most theologians disputed the idea that the Church even had the authority to teach about abortion infallibly let alone that the Church had done so through the ordinary universal magisterium. Some 11 years prior to *Evangelium vitae* Richard McCormick, arguing against Grisez, wrote “They [theologians] simply disagree--as most would and should--with Grisez that the immorality of direct abortion is infallibly taught by the ordinary magisterium. More generally, they deny that such particular norms are the proper object of infallibility.” See “Medicaid and Abortion,” *Theological Studies* (December 1984) 715-721, at 720. In another telling passage McCormick also claimed “Rahner’s analysis would deny the very possibility of infallible teaching where direct abortion is concerned. *And it is safe to say that this is the common conviction of theologians.*” Ibid. Emphasis mine. If McCormick was correct about the fact that many theologians believed that particular moral norms cannot be the proper object of infallibility, then what EV teaches, about direct abortion, murder and euthanasia as being taught infallibly by the ordinary universal magisterium, has enormous consequences for contemporary Catholic moral theology.

their status is now enough to ‘manifestly establish’ them as the very kind of infallible teachings envisioned by *Lumen gentium* 25.

