

# CONFORMITY AND DISSENT IN THE CHURCH

By KEVIN T. KELLY

WHEN I BEGAN to think about the theme of this article, I assumed that my brief was to concentrate on the issue of dissent. I would need to explore the phenomenon of dissent in the Church and look at its theological justification and its practical implications. This assumption seemed to be borne out by the fact that the other articles in the issue were also centred on the theme of dissent. Understandably, the issue of dissent had been in my thought for some time. I was conscious that a number of dissenters in the Church had been in trouble in recent years, including my fellow moral theologian and good friend, Charles Curran. Consequently, I was aware that in the present climate in the Church the legitimacy of dissent was under threat. In fact, during his recent visit to the United States the pope himself had challenged the legitimacy of dissent in his meeting with the U.S. hierarchy:

It is sometimes claimed that dissent from the magisterium is totally compatible with being a 'good Catholic' and poses no obstacle to the reception of the sacraments. This is a grave error that challenges the teaching office of the bishops of the United States and elsewhere.<sup>1</sup>

Over the weeks prior to settling down to writing this article, I have allowed the theme of dissent to ferment slowly at the back of my mind.

During this time I could not get rid of an uneasiness I had been feeling for some time over the term 'dissent'. I had tried to articulate this uneasiness in an article on Charles Curran's stance vis-à-vis the Congregation for the Doctrine of the Faith (CDF):

Dissent is a negative word. It belongs to the same stable as terms like deny, oppose, contradict. There is nothing positive or

affirmative about it . . . Fr Curran is not doing himself justice when he describes his stance as one of dissent. The heart of his position is not captured by the statement: 'I dissent from the Church's teaching'. More accurate would be something like: 'Drawing on the riches of the Church's tradition and in the light of the Church's deeper knowledge of this aspect of human life gained through its dialogue with the human sciences today, I believe that what I and many Christians are saying is a more adequate expression of the richness of our present understanding than is found in the current statement of the Church's teaching'. The term *dissent* has no feel for all that is positive in such a position—respect for tradition, concern for the truth, love of the Church, shared responsibility for the Church's mission in the world. It does not express the respect for teaching authority which motivates someone adopting this kind of stance.<sup>2</sup>

In his recent book, significantly entitled *Faithful dissent*<sup>3</sup>, Curran noted the point I was making but was not convinced by it:

On a number of occasions it has been suggested that I might be hurting my own cause by labelling my positions as dissent. However, I want to be clear and responsible. As a Catholic theologian I should always explain the official Catholic teaching and then show how I relate to it. Clarity, honesty, and truth require that positions be labelled as dissent when they are such. However, . . . my theological endeavour is in no way totally identified with dissent. The primary function of the theologian is to interpret, explain, and understand. The vast majority of the times this does not involve any dissent. However, on occasions the interpretive function of the theologian will result in a dissenting position. A responsible theologian should never try to hide or dissimulate dissent. Dissent is dissent and not just dialogue.<sup>4</sup>

Curran's refusal to get involved in any kind of 'diplomatic theology' is seen by Bernard Häring as a clear sign of his theological integrity and of his respect for the Church:

Curran is deeply convinced that the first thing a theologian owes the Church is complete honesty and forthrightness in thinking and speaking (and this includes writing). Curran will have nothing to do with the so-called 'diplomatic' methods of those who through casuistic 'watering down' and hair-splitting interpretation of Church teaching in fact change the meaning of that teaching

without the appearance of deviation. Curran is scrupulously honest in the presentation of what the Church's magisterium really says and means, even when it doesn't correspond to his own way of thinking. The primary thing for him is absolute loyalty in the presentation of the official position. If that teaching is based on arguments in the area of natural moral law, then he asks his reader what images of God and of humankind, what historical experiences are behind the arguments. Then comes the inevitable question: are the arguments convincing? If they don't seem convincing to him, another question follows: are there perhaps other convincing arguments that could be put forward that would support the official teaching? If, after all these considerations, he is of the opinion that the norm presented by the Church needs refinement or in some cases change, he says so frankly, taking up the difficult burden of partial dissent. Very seldom is there total dissent.<sup>5</sup>

I was able to appreciate what Curran and Häring were saying and I could agree with their refusal to engage in any form of 'diplomatic theology'. Nevertheless, my uneasiness about the term *dissent* would not go away.

Finally the penny dropped. The editor of *The Way* had actually given me the clue and I had failed to see it in front of my very eyes! I had not been asked to write about 'dissent' but about 'conformity and dissent'. For some strange reason the word 'conformity' had escaped my notice.

In popular parlance, to call someone a 'conformist' is hardly to pay that person a compliment. The term 'conformity' carries overtones of obsequious subservience, currying favour, lacking the courage of one's convictions and so on. How, then, in reading the proposed title for this article, had I taken it for granted that within the Church 'conformity' would be accepted by everyone as an acceptable Christian attitude? Surely we inhabit the same world and use the same language as everyone else! It would be strange if Christians were to regard 'conformity' as a positive virtue! Why is it, I wondered, that among Catholics 'dissent' is a position that needs to be defended, while 'conformity' can get away with murder and remains unchallenged?

This led me to follow a different line of enquiry. Conformity and dissent are both responses to particular instances of the exercise of teaching authority. If we are to explore how appropriate they are as responses, we obviously need to look at what kind of exercise of teaching authority it is that they are responding to. Clearly, it

is not the kind of teaching whose truth is guaranteed by the Church's charism of infallibility. No theologian would want to claim that dissent might be an appropriate response to what is perceived to be true. Is it then the kind of teaching which is often referred to as 'non-infallible teaching'? Not exactly, since a great deal of teaching which has not been infallibly defined belongs to what Ladislav Örsy calls 'the organic unity of Christian doctrine'. So not *all* non-infallible teaching is open to the possibility of a dissenting response. Yet *some* non-infallible teaching certainly is since, as Örsy points out, much non-infallible teaching does not belong to that organic unity and is no more than 'human opinion':

There is much among non-infallible teachings that is human opinion. It follows that the division of our beliefs into two neat categories, infallible and fallible, coupled with the suggestion that dissent from non-infallibly stated doctrine should be always permissible, is a simplistic approach to a complex issue. Some of the non-infallibly stated doctrines may well be integral parts of the deposit of revelation. It follows also, with no less force, that a good portion of the non-infallible propositions is no more than respectable school opinion, and as such not part of the universally held Catholic doctrine. Theologians should not be easily castigated for criticizing or rejecting such teachings; to say that *all* non-infallible teaching forms an organic unity with infallible magisterium is nonsense.<sup>6</sup>

Our exploration of the appropriateness of conformity or dissent as a response, therefore, is limited to *some particular exercises of teaching authority* in the area of non-infallible teaching. More specifically, it is limited to those exercises of teaching authority in which it is claimed that the teaching at issue is inadequate or perhaps even erroneous. Moreover, it is only to be expected that it will include instances of teaching on specific moral issues since often the truth of such teaching depends on the adequacy of both the empirical evidence available and the philosophical analysis which is being used.<sup>7</sup>

It might be useful to look at a specific example of such non-infallible moral teaching. On 22 February 1987 the Congregation for the Doctrine of the Faith issued a teaching document entitled *Instruction on respect for human life in its origin and on the dignity of procreation*.<sup>8</sup> Among other things this *Instruction* taught that in-vitro fertilisation (IVF) is immoral even when it is 'homologous' (i.e.

limited to using the married couple's own egg and sperm), and involves no sacrifice of embryos in the process and when IVF is the only way the couple can have a child of their own:

In conformity with the traditional doctrine relating to the goods of marriage and the dignity of the person, *the Church remains opposed from the moral point of view to homologous 'in vitro' fertilization. Such fertilization is in itself illicit and in opposition to the dignity of procreation and of the conjugal union, even when everything is done to avoid the death of the human embryo.*<sup>9</sup>

Though not unexpected, this teaching would seem to run counter to the thinking of very many Catholics, including most moral theologians who have written on this subject. I suspect it is also out of line with the conviction of many bishops. Moreover, as far as I can judge, it is also contrary to the teaching of all the other Christian Churches—at least in the U.K.<sup>10</sup>

This raises a crucial question: what sort of *authority* does such teaching carry within the Catholic Church? It cannot be denied that juridically it is in order since it emanates from the appropriate Roman Congregation acting within its specific field of competence. However, teaching is not simply a 'juridical' act. Rahner points out that teaching in the Church is much more a collaborative venture:

The teaching authority in the Catholic Church is not the sort of official body which acts in isolation and in every respect in total independence of other real elements in the Church, and so presides over this discovery of truth or development of doctrine in a totalitarian manner . . . On any true understanding there is, even in the Catholic Church, an open 'system' in which the most varied factors (the 'instinct' of the faithful, fresh insights on the part of individual Christians and theologians, fresh situations that arise in a particular age, the new questions to which these give rise and much else besides) work together to throw fresh light upon the Church's own awareness of her faith, and to produce a development of doctrine.<sup>11</sup>

Consequently, a particular instance of teaching can hardly be regarded as fully 'authoritative' if the teaching authority promulgating it has not taken the appropriate steps needed to inform itself thoroughly on the matter on which it is attempting to offer

teaching. The same would be true if it has not listened with sufficient attention to the way concerned men and women of good will (who will not all be theologians, or Roman Catholics, or even Christians) are struggling to search for the truth in the matter under consideration.

To deny the full authority of a specific instance of teaching is in no way to deny the actual authority to teach which belongs to the Church and to those persons and bodies in the Church which carry a special teaching responsibility. The acceptance of their authority to teach is part and parcel of what the U.S. moral theologian, Richard McCormick, calls the 'Catholic context'.<sup>12</sup> Nevertheless, to accept their authority to teach does not imply that one automatically accepts as true every particular point of their teaching. While the 'Catholic context' implies a general presumption of truth in favour of official teaching, it does not imply that the presumption becomes anything stronger than a presumption. Consequently, in some instances a particular instance of teaching might be so inadequate that the presumption very quickly cedes to contrary evidence. McCormick puts this well.

Presumptions are not carved in granite. Presumptions can be and have been undermined by further consideration, changed facts, the presence of human folly and other factors. In a word, so-called official teaching enjoys this presumption to the extent that the undermining factors have been avoided insofar as is humanly possible. This is especially the case in the moral realm, where human experience and reflection are so vital in discerning the morally right and wrong. More specifically the pastors of the Church enjoy this presumption only insofar as they have appropriately tapped the available sources of human understanding, as the late Karl Rahner so often insisted. When they short-circuit these processes—whether by haste, *hubris*, pressure, political purpose or whatever—the presumption is correspondingly weakened. I say this for one simple reason: it is not often said. The terms 'authentic' and 'official' are often pressed on the noun 'teaching' as if they were simply convertible with absolute certainty. When this happens we have corrupted a presumption of truth into presumptuousness.<sup>13</sup>

John Mahoney links this with the remark by Paul VI in *Humanae vitae* (n 59) that the Holy Spirit is 'interiorly enlightening the hearts of the faithful and inviting them to give their assent' (i.e. to the teaching of the magisterium). However, Mahoney suggests

that it might not always be 'assent' that the Holy Spirit is inviting the faithful to:

The possibility cannot be ruled out, however, that in such non-infallible teaching on a matter which is not contained in revelation the response of the body of the faithful will be less than whole-hearted in agreeing with the papal teaching and the considerations underlying it. For the influence of the Holy Spirit in the hearts of the faithful . . . might be a more positive one of refining, qualifying, or even correcting the papal teaching . . . Within this more complex description of the work of the Spirit in the Church, which, through a variety of channels, is ever leading the community towards the 'whole truth', not only is disagreement wellnigh inevitable, but it is almost essential, or at least normal.<sup>14</sup>

Let us leave aside the debatable question as to how far the CDF teaching on homologous IVF enjoys the presumption of the truth.<sup>15</sup> Instead, for the sake of argument, let us suppose that we are faced with an exercise of teaching authority by the hierarchical magisterium which is seriously deficient both as regards its internal argumentation and as regards its process of consultation. In other words, it is a piece of teaching which is contrary to the emerging consensus among moral theologians and in the Church at large. It does not appear to offer to the Church and the world the best understanding of the truth that the Church has to offer. Its internal argumentation is unconvincing and it offers no reasons in its favour other than those which have already been considered and found wanting by moral theologians in general. Any consultation that has taken place has been limited to those who can be relied upon to agree with the position favoured by the teaching authority.<sup>16</sup>

If the scenario I have drawn is both possible and realistic, we need to face the question: what is the most appropriate response to such an exercise of teaching? Is it conformity or dissent or is there some other alternative?

The new Code of Canon Law, basing itself on *Lumen gentium* (n 25), would say that as authentic teaching it should be received with 'a religious submission of intellect and will' (*religiosum intellectus et voluntatis obsequium*—canon 752). In explaining the meaning of *obsequium*, Ladislav Örsy<sup>17</sup> states that it cannot be given 'an easy and standard meaning'. Sometimes it means nothing more than 'respectful listening and reflection on what has been "officially" stated—knowing that the Church as a whole is still far from a

final commitment'. When this is the kind of *obsequium* which is appropriate, dissent is not an accurate description of what is going on. 'We are not talking so much of dissent as of contribution toward a common assent that should eventually emerge from the search for "all the truth".' In another instance, when the Church is 'on the threshold of a surrender in faith', *obsequium* might mean 'submission'. Örsy makes a helpful comment on the final clause of canon 752, which states that 'the faithful, therefore, should avoid what is not congruent with such a doctrine':

Undoubtedly, it is not a call for an assent of faith. It is a call for *obsequium*, as it is fitting and due according to the nature of the case. At times, the voicing of a different opinion can be most congruent because it advances the search and thus helps to clarify the doctrine further . . . At times it can be incongruent because it has little positive to offer and it disrupts the Church.

In a more recent article,<sup>18</sup> Örsy argues that *obsequium* needs to be seen as a 'seminal expression' in Vatican II. As such it defies immediate definition. 'Like a seed sown which must take roots and grow before it can bear fruit, a seminal expression must be assimilated, pondered over, before its potential meaning can unfold.' The conclusion he draws from this is very relevant:

The discussion whether it means precisely 'respect' or 'submission' works on a wrong assumption, which is that the Council indeed meant it in a specific and precise way. The Council has spoken on a different level. When it spoke of religious *obsequium*, it meant an attitude toward the Church which is rooted in the virtue of religion, the love of God and the love of His Church. This attitude in every concrete case will be in need of further specification, which could be 'respect' or could be 'submission', depending on the progress the Church has made in clarifying its own beliefs.

*Obsequium*, like *communio*, ultimately means to be one with the Church, one in mind and heart, which means one in belief and in action. *Obsequium* is a special expression of this communion, mainly in doctrinal matters. It is ideally perfect when someone is so well united in faith with the Church as to believe all that the Church holds firmly, and search with the Church when some point in our tradition is in need of clarification. In the first case we can speak of *obsequium fidei* (one with the believing Church:



holding firm to a doctrine), in the second case, of an *obsequium religiosum* (one with the searching Church, working for clarification).

Although he shares my own dislike for the term 'dissent', there seems little doubt that Örsy would accept dissent as an appropriate response in the scenario I have outlined and he would not consider such dissent to be in conflict with the kind of *obsequium* demanded by canon 752.<sup>19</sup> Presumably he would also argue that it is a response in keeping with the requirements of *Lumen gentium* (n 25).

It is sometimes argued that what people want is clear teaching and that to raise questions about points of teaching is to disturb their faith unnecessarily. I fully agree with Örsy in his rejection of this argument; he maintains that to attempt to impose an inappropriate form of *obsequium* on people can create 'a serious crisis of faith' for ordinary Catholics when they are eventually faced with developments in the Church's teaching and practice:

Many of the faithful experienced such a 'crisis of faith' after Vatican II because 'the teaching of the Church has changed'. In truth, our faith has not changed. The root of the crisis was in earlier misinformation. Points of doctrine that required an assent of faith and theological opinions that did not were indiscriminately proposed by less than well informed preachers as 'the teaching of the Church', and when the council reaffirmed the essential doctrines and modified or abandoned other theological opinions, the crisis followed inevitably.<sup>20</sup>

A further objection might be raised. Surely there is a world of difference between the withholding of internal assent and the external and public expression of dissent. Public dissent weakens the missionary witness of the Church and causes confusion and disunity within the Church. For the sake of *communio* theologians should be prepared to keep their dissent within the closed circle of their professional discipline or at least restrict themselves to expressing it privately to the teaching authority in question through the appropriate channels. This would maintain an impression of external conformity through a public stance of 'reverential silence'.

How far such an attitude of 'reverential silence' was appropriate in the past is open to debate. I would agree with Rahner that our contemporary society 'makes such *silentium obsequiosum* quite

impossible to maintain any longer'.<sup>21</sup> I believe that today 'reverential silence' might even be irresponsible as a response to certain exercises of teaching authority.

Like the IVF issue already referred to above, many of today's burning moral questions concern completely new possibilities which modern technology has opened out to humankind. Returning to the IVF example for the moment, this new procedure can bring fresh hope to the lives of infertile couples. A Church which adopts a strong stance on the fruitfulness of marriage should be very sensitive to the depth of suffering experienced by a couple when they discover that they cannot have a child of their own. Is 'respectful silence' an appropriate attitude for a moral theologian to adopt when he or she believes that the condemnation of homologous IVF by the CDF is erroneous and does not take account of the best moral thinking both within the Catholic Church and among Christians as a whole? Has the moral theologian no responsibility towards the infertile couple whose conscience is being disturbed and even misinformed by this teaching?

Moreover, moral theologians also have a responsibility towards society in general as it wrestles with some of the critical issues of the day. In a recent paper<sup>22</sup> I tried to present this point as clearly as I could:

If we are to be in tune with the spirit of our modern age, it is no longer possible to do moral theology behind closed doors or in the privileged pages of some exclusive theological journal. Moral questions are the common fodder of open debate in the mass media. Moral theologians today are faced with a choice. Either they opt out of the dialogue: this might be a recipe for a quiet life removed from any tension with the hierarchical magisterium but it will be viewed by many moral theologians as a dereliction of duty in their service to the Church and the world. Or they decide to play their part in the dialogue. If they make this second option, they have no choice but to abide by the rules of dialogue. And rule one is that they must be prepared to say what they honestly believe. Obviously, they can, and usually should, report the authentic teaching of the Church, since that is part of the contribution they are expected to make. However, they must also be prepared to query that teaching whenever scientific discernment reveals that it is open to question. To be less than honest or to show a lack of scientific discernment vis-à-vis authentic teaching is to surrender one's credibility in the dialogue; it puts the moral theologian's contribution on a par with that of the party politician.

Moreover, such a stance harms the credibility of the Church itself, if it is suspected that the reticence of moral theologians might be occasioned by fear of Church authorities taking punitive action against them.

Bishop James Malone, until recently president of the U.S. National Conference of Catholic Bishops, acknowledges that this kind of public dissent has to be accepted if the Church is to face up to the demands of its mission in the kind of world we live in today:

Bishops and theologians must manage our collaboration and our conflicts on center stage: we should face this fact . . . A democracy lives by open, public debate where all parties are both free to speak and accountable for the implications of their positions . . . Catholicism is not a democracy; but that truism does not touch the question of how Catholicism lives in a democratic culture . . . Bishops and theologians must preserve the faith and share the faith in a culture which values the courage of convictions openly stated, openly criticized and openly defended . . . Theologians without an appetite for creativity and development will not serve us well in an age where knowledge grows by quantum leaps.<sup>23</sup>

Therefore, given the scenario I postulated earlier, I would suggest that the appropriate response to such an exercise of teaching authority is certainly not conformity. Conformity in such an instance would be failing in one's responsibility towards the faithful in general and society at large. It would also be doing a disservice to the hierarchical teaching authority in the Church. Richard McCormick makes this point when he questions the 'reverential silence' stance of some bishops. His remarks also are relevant to moral theologians and Catholics in general:

If bishops are not speaking their true sentiments, then clearly the pope is not able to draw on the wisdom and reflection of the bishops in the exercise of his ordinary magisterium. When this happens, the presumption of truth in papal teaching is weakened, because such a presumption assumes that the ordinary sources of human understanding have been consulted, as the late Karl Rahner so repeatedly argued. That is why what is called the 'enforcement of doctrine' is literally counter-productive. It weakens the very vehicle (papal magisterium) that proposes to be the agent of strength and certainty.<sup>24</sup>

This ties in with a comment reported to have been made by Cardinal Suenens in the discussions of the Papal Commission on Birth Control:

We have heard arguments based on 'what the bishops all taught for decades'. Well, the bishops did defend the classical position. But it was imposed on them by authority. The bishops didn't study the pros and the cons. They received directives, they bowed to them, and they tried to explain them to their congregations.<sup>25</sup>

Am I saying, then, that in the particular scenario I have envisaged dissent is the more appropriate response? If I accept Curran's use of terminology, I would have to answer 'yes'. However, I still feel that 'dissent' does not do justice to all the positive elements that go into such a response—concern for the Church's integrity in its teaching mission, commitment to Vatican II's call to dialogue in a common search for the truth, respect for the place of human reason in discovering and articulating our deepening understanding of the truth, responsibility towards those who are looking for help in major decisions affecting their personal or professional lives, etc. The term 'dissent' misses all this, as Örsy observes: 'The voice of a theologian proposing an answer different from the one given by those in authority may not be an act of dissent at all; rather, it may be a needed contribution to the development of doctrine, coming from someone who is assenting to every part of the revealed truth'.<sup>26</sup>

Perhaps looking at how this article relates to the words of John Paul II quoted in the opening paragraph might exemplify the point I am trying to make. Rather than adopt a 'diplomatic theology' approach which would try to show that the pope really meant the very opposite to what he really said, I acknowledge that the position I have put forward is in conflict with what the pope said to the U.S. bishops. However, in saying this I am adopting a far more positive stance than saying simply that I dissent from what the pope has said. Whatever the pope's statement was intended to achieve in his personal agenda for that particular meeting, as it stands it is not an adequate presentation of the position on dissent as it has developed within Catholic theology. When the bishops at Vatican II voted on *Lumen gentium* (n 25), it was certainly not their intention to rule out all possibility of dissent. That is clear from a study of the way this passage came to be formulated. There is no

doubt that it was intended to leave room for dissent according to the criteria found in the theology manuals. That means that the assent demanded by the passage is only a conditional assent and therefore an assent that can be withheld, given the conditions required by the manuals.<sup>27</sup>

Furthermore, the position I have put forward in this article would not be entirely foreign to the mind of John Paul II. In an earlier work<sup>28</sup> I noted that John Paul II, writing in 1979 as a phenomenologist philosopher, had argued that positive dissent is 'essentially an attitude of solidarity' and had gone on to stress that opposition is vital to any community's growth and well being: 'The one who voices his opposition to the general or particular rules or regulations of the community does not thereby reject his membership'. He even insisted that a healthy community is obliged to recognize the constructive role of loyal opposition and to structure itself to enable this to be effective:

In order for opposition to be constructive, the structure, and beyond it the system of communities of a given society, must be such as to allow opposition that emerges from the soil of solidarity not only to express itself within the framework of the given community but also to *operate* for its benefit. The structure of a human community is correct only if it admits not just the presence of a justified opposition but also that practical effectiveness of opposition required by the common good and the right of participation.<sup>29</sup>

We might be doing John Paul II an injustice if we assume that his statement to the U.S. bishops represents the sum total of his thinking on conformity and dissent in the Church.

#### NOTES

<sup>1</sup> *Origins*, 1/10/87, p 261.

<sup>2</sup> *The Tablet*, 21/6/86, pp 647-648. cf also Ladislav Örsy, 'Magisterium: assent and dissent', in *Theological Studies*, 1987, pp 490-491.

<sup>3</sup> Sheed & Ward, 1986.

<sup>4</sup> *Op. cit.*, p 100.

<sup>5</sup> 'The Curran Case', in *Cross Currents*, 1986, p 335.

<sup>6</sup> Örsy, *art. cit.*, pp 485-486.

<sup>7</sup> The special difficulties related to moral teaching are noted by Örsy, *art. cit.*, pp 486-487. John Mahoney writes helpfully on this point, drawing on his personal research into the

meaning of 'faith and morals' in Vatican II, cf *The making of moral theology* (Clarendon Press, Oxford, 1987), pp 143-174.

<sup>8</sup> English translation, CTS 1987.

<sup>9</sup> Pp 30-31—italics as in the official text.

<sup>10</sup> Kelly, Kevin T.: *Life and love: towards a Christian dialogue on bioethical questions* (Collins 1987), pp 15-19.

<sup>11</sup> *Theological investigations*, XI, p 286. Cf also Mahoney, John: *Seeking the Spirit* (London, 1981) pp 97-117.

<sup>12</sup> 'The search for truth in the Catholic context', in *America*, 8/11/86, p 278.

<sup>13</sup> *Art. cit.* p 278.

<sup>14</sup> Mahoney, John: *The making of moral theology*, pp 295-296.

<sup>15</sup> Cf also, McCormick, Richard: 'The Vatican document on bioethics: some unsolicited suggestions', in *America*, 17/1/87, pp 24-28. Writing shortly before the CDF instruction was published, McCormick offers useful criteria for assessing the 'authority' of the forthcoming instruction.

<sup>16</sup> It might be objected that I am trying to argue my case by constructing a scenario which could never happen. On the contrary, this is far from being an impossible scenario. Francis A. Sullivan, who would hardly be described as a radical theologian, admits that much of the criticism of the hierarchical magisterium in recent years has been occasioned by just this kind of scenario: 'It is my impression that the criticism of the ordinary magisterium that has been most consistently voiced by Catholic theologians in recent decades is along the lines suggested here by Congar and (Archbishop) Coffey: namely, that on certain issues the official teaching of the Holy See (encyclicals, declarations of the CDF) seems to them to reflect, in too narrow a way, theological options which are not seen as representing the most widely respected theological opinion in the Church today'. [*Magisterium: teaching authority in the Catholic Church* (Gill & Macmillan, Dublin, 1983) pp 210-211]. Richard McCormick makes a similar observation: 'It is my unavoidable impression that the wisdom resident in the entire Church has *not* gone into some teachings', [*art. cit.* (in footnote 12) p 281].

<sup>17</sup> 'Reflections on the text of a canon', in *America*, 17/5/86, pp 396-399.

<sup>18</sup> Örsy, Ladislav: 'Magisterium: assent and dissent', in *Theological Studies*, 1987, pp 473-497; text quoted from pp 489-490.

<sup>19</sup> A similar position is taken up by James A. Coriden, one of the editors of *The Code of Canon Law: a text and commentary* (Commissioned by the Canon Law Society of America, 1985). On p 548 of that work, à propos of canon 752, Coriden writes: 'This canon describes the appropriate response of the Christian faithful to the teachings of the Church. In doing so, it carefully distinguishes this level of response from that described in canon 750, namely a respect rather than the assent of faith . . . In the language of *Lumen gentium*, n 25, the canon speaks of 'religious respect' as the proper response to what legitimate Church authority teaches in matters of faith and morals. This is a general guideline which incorporates a healthy respect for and acceptance of sound teaching in the Church. It calls for a basic attitude of religious assent based on a presumption of truth and good judgment on the part of the teaching authority. However, since teachings are included which are not infallible and can be erroneous, the principles of the pursuit of truth and the primacy of conscience still come into play. In other words, dissent is possible because the teachers mentioned in the canon can be and *de facto* have been mistaken. To search for the truth is everyone's duty and right (c 748).

<sup>20</sup> Pp 397-398. McCormick even describes suppression of dissent as a 'use of force', (*art. cit.*, p 281).

<sup>21</sup> *Theological investigations*, XIV, p 94.

<sup>22</sup> To be published as part of a forthcoming *Festschrift* in honour of Sean O'Riordan.

<sup>23</sup> 'How bishops and theologians relate', in *Origins*, 31/7/86, p 174.

<sup>24</sup> McCormick, Richard: 'Notes on moral theology', in *Theological Studies*, 1987, p 102.

<sup>25</sup> Kaiser, Robert Blair: *The politics of sex and religion*, (Leaven Press, Kansas City, 1985), p 170.

<sup>26</sup> 'Magisterium: assent and dissent', in *Theological Studies*, 1987, p 492.

<sup>27</sup> J. Salaverri, for instance, in his *Sacrae Theologiae Summa*, I (Madrid, B.A.C. 1962), p 710, gives two conditions for suspending assent: (1) if a person really believes that what the magisterium is teaching is false; (2) if there are solid reasons strongly in favour of the view contrary to the one taught by authority. Salaverri's position is fairly representative of the manual tradition. Admittedly, the manual tradition as a whole does not favour public dissent, even though Lercher admits that dissent, not just by theologians but even by the faithful in general, might be inspired by the Holy Spirit as a way of preserving the Church from error. [Lercher L.: *Institutiones Theologiae Dogmaticae*, I, (Barcelona, Herder, 4th Edit. 1945) p 297.] For a fuller treatment of this whole issue, cf Gula, Richard M.: 'The right to private and public dissent from specific pronouncements of the ordinary magisterium', in *Église et théologie*, 1978, pp 319-343.

<sup>28</sup> *Divorce and second marriage* (Collins, 1982) pp 96-97.

<sup>29</sup> Wotjtyla, Karol: *The acting person* (Reidel, London, 1979), pp 286-287.