Conscience and Magisterium in the Next Half-Century:  

An Emerging Quaestio Disputata  

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Introduction  

A few weeks ago in my graduate course in Fundamental Moral Theology after we had spent considerable time on conscience, the Magisterium and the contrasting positions adopted by various religious authorities on decisions to vote for Trump, Clinton, or a 3rd Party candidate one of our seminarians challenged me with the following provocative question: “We have been looking at these arguments for voting one way or the other, but why is it in this class we are considering positions that clearly are not in accord with what the bishops are teaching?”  

Eyebrows did go up around the room, and I suspect the question was pointedly rhetorical, but I did my best to respond as if it were a genuine search for elucidation. In addition to the coded statements put out by bishops and others across the theological and political spectrum, I suspect some more foundational issue revolves around competing notions of what “conscience” is and how it intersects with religious authority. Originally I had hoped to explore these questions in greater depth than I can do here in my limited time, and so what I will offer is merely an outline of a much longer 35-page paper-in-process.  

Vatican II, especially in Gaudium et spes (GS) and Dignitatis humanae (DH), marked a major watershed in the Church’s understanding of individual conscience and related concepts such as conscience formation, rights of conscience, ignorance and conscience, and the relation of conscience to the authoritative teaching of the Magisterium. Yet, not every Conciliar document or statement speaks in one voice in Greek-Chorus-esque unanimity. Lumen gentium’s Paragraph
#25, with its call for *obsequium religiosum*\(^1\) of “intellect and will” due to *all* instances of the ordinary magisterium has been used as either an antidote or cudgel, depending on your point of view, to the more “generous” freedom of conscience outlined in *GS* #16 and *DH*.

However, like many watershed moments, these developments in the theology of conscience have undergone serious tensions and pushback—exemplifying well Thomas Kuhn’s seminal insight on the difficulties encountered in a genuine paradigm shift. Especially the papacies of Pope John Paul II and Benedict XVI can be seen as strong efforts to counter what the leaders in those two pontificates viewed as the deleterious effects of too much freedom of conscience from the proper *obsequium religiosum* (ala *Lumen gentium* #25) due to even the ordinary Magisterium of the Church, and appeals to conscience were often viewed as either unacceptable dissent or outright disloyalty.

Now with the election of our first Jesuit pope perhaps the pendulum has begun to swing back a bit, though with resistance reminiscent of a tug-of-war on the verge of being declared a stalemate. It is therefore helpful and hopeful to recall Kuhn’s basic thesis about paradigm shifts— they take considerable time, effort, conflict and ultimately are only successful not when better arguments are brought forward, but when the proponents of the older positions retire or otherwise exit the arena.

One main field of battle was the Synods on the Family in October of 2014 and 2015 and the ensuing Post-Synodal Apostolic Exhortation *Amoris laetitia* released in April of this year. In these meetings and in episcopal reactions to *Amoris laetitia* we see very clearly a contrasting

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\(^1\) The best translation of this term is still a matter of some pointed debate among theologians. Clearly “religious obsequiousness,” while be the closest cognate would in this instance belong to the category of *faux amis*. “Religious respect” is my preferred translation and for a further explication of this term see James T. Bretzke, S.J., *Consecrated Phrases: A Latin Theological Dictionary*, 3rd ed. (Collegeville: Liturgical Press, 2013): 160-161.
views on conscience from individuals such as Chicago’s Cardinal Archbishop Blase Cupich, Archbishop Charles Chaput of Philadelphia, outgoing USCCB President Archbishop Joseph Kurtz, as well as suffragan bishops such as James Conley of Lincoln, NE and Thomas Paprocki of Springfield IL to name just a few. Another field of battle more recently has been conducted under the rubric of “moral guidance” in forming consciences of Catholic voters. Here the contest is a bit more coded and nuanced, but if anything even more sharply divided.  

To return to the notion of paradigm shift I believe one way of tracing the controversy is to consider two competing understandings of “conscience” and what a “rightly formed conscience” entails. While there is certainly some overlap in these views, there also are key areas that are frankly incompatible, if not inimical to each other---especially when the external authority of the Church’s magisterium is entered into the mix. So it will be helpful to outline these views on conscience before proposing as a navigational aid to the battle terrain the traditional notion of a *quaestio disputata* to consider the contrasting positions taken on the two principal recent tug-of-war contests regarding the reception and implementation of *Amoris laetitia* and lobbying for the Catholic vote in the recent presidential election.

**A Conscience Diptych**

In the traditional manualist tradition which reigned supreme up to Vatican II “conscience” was viewed primarily as a “faculty” of *recta ratio* which made judgments about the rightness and wrongness of individual moral actions. While a certain amount of lip-service was

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2 Archbishops Blase Cupich of Chicago and Joseph Tobin, C.Ss.R. of Indianapolis are among the most recently created cardinals by Pope Francis on November 19, 2016.  
3 For a representative cross-section of these views see the list I have compiled at [https://www2.bc.edu/james-bretzke/ReligionIn2016ElectionArticles.pdf](https://www2.bc.edu/james-bretzke/ReligionIn2016ElectionArticles.pdf).  
always given to an over-riding sanctity of conscience, “bad” judgments were considered due to ignorance-grounded error which should be able to be corrected if most every case. The role of the Magisterium then was to assist both in outlining clear moral teaching and condemning all errors. “Error has no rights” was the battle-cry before Vatican II.5

The major development in the understanding of conscience put forth in Vatican II’s Gaudium et spes and Dignitatis humanae was that conscience was far more than a faculty of right reason, but was the most privileged place where the individual encountered God. As I have expressed this elsewhere, this view presents conscience as one of our foundational modalities of being human.6

I outline these two sides of the Conscience Diptych with two diagrams:

Conscience as Faculty7

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5 The theological defense of this position was that rights are ultimately from God and God cannot give a “right” to error. This position was identified with Gregory XVI’s 1832 Encyclical Mirari vos which condemned religious indifferentism as an “insanity,”---a position reasserted by Pius IX in his 1864 Encyclical Quanta cura with the accompanying Syllabus of Errors.


7 From p. 127 of Bretzke’s A Morally Complex World.
In this view the central function of conscience is to make “correct” decisions in terms of moral principles and applications, somewhat akin to a mathematical model. Error is still possible, and under some conditions even “excusable,” but could never be supported as a legitimate prudential judgment, as this cartoon illustrates:

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8 I regret that I no longer can locate just when and where this cartoon was published, though I strongly suspect it was in *The New Yorker*, probably in the 1990’s.
Conscience as Modality of Being Human, Directed toward Responding to God as Transcendent

Contrasted with this more limited “faculty” approach to viewing conscience, GS, DH and a good deal of Catholic moral theology since the 1960’s has employed in a more personalist paradigm a more foundational understanding of conscience as operating within the person and serving as a core modality of realizing how individuals best respond to what they consider to be the voice of God in their lives. In my view my old teacher Joseph Fuchs is the best theoretician of this view which I diagram in this way:

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9 The locus classicus of this view is found in Gaudium et spes #16: “In the depths of his conscience, man detects a law which he does not impose upon himself, but which holds him to obedience. Always summoning him to love good and avoid evil, the voice of conscience when necessary speaks to his heart: do this, shun that. For man has in his heart a law written by God; to obey it is the very dignity of man; according to it he will be judged. (9) Conscience is the most secret core and sanctuary of a man. There he is alone with God, Whose voice echoes in his depths. (10) In a wonderful manner conscience reveals that law which is fulfilled by love of God and neighbor. (11) In fidelity to conscience, Christians are joined with the rest of men in the search for truth, and for the genuine solution to the numerous problems which arise in the life of individuals from social relationships. Hence the more right conscience holds sway, the more persons and groups turn aside from blind choice and strive to be guided by the objective norms of morality. Conscience frequently errs from invincible ignorance without losing its dignity. The same cannot be said for a man who cares but little for truth and goodness, or for a conscience which by degrees grows practically
Now if time allows in our discussion I can flesh out a bit more these two sides of the Conscience Diptych, but for now let us turn to two test-cases for the Conscience Diptych, namely the whole process of producing, receiving, or resisting Pope Francis’ Post-Synodal Exhortation *Amoris laetitia* and some of the ecclesial *Sturm und Drang* surrounding our recently concluded American Presidential Election. 12

**Test-Case #1: Reactions and Reception of *Amoris Laetitia* Process** 13
All that time allows is to scratch the surface, recognizing that this will not make the deep-seated itch disappear. Representing the “conscience as faculty” side of the Diptych and the corresponding role of the Magisterium to offer “correct” guidance we can look to Springfield, Illinois Bishop Thomas Paprocki who holds that the only “rightly-formed” conscience would be in absolute alignment with Church teaching. While a “faulty” faculty could result in an “following one’s conscience” in a path that deviates from Church teaching, this could never be deemed as a “good” to be respected, even if it must be grudgingly allowed under the principle of tolerance.14

The other side of the Diptych illustrating conscience-as-modality was employed by Bishop Paprocki’s Chicago Metropolitan, then Archbishop (and today Cardinal) Blase Cupich, who expressed himself on this topic in these words:

When people come to a decision in good conscience, then our job with the Church is to help them move forward and to respect that. The conscience is inviolable, and we have to respect that when they make decisions, and I've always done that. [Responding to a question if he would be open to allowing active homosexuals to participate in the sacraments Cupich went to say] I think that gay people are human beings, too, and they official English translation see http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia.html (accessed November 3, 2016). For a treatment of the notion of conscience in the Exhortation see James T. Bretzke, S.J., “In Good Conscience: What Amoris Laetitia can teach us about responsible decision making, America April 8, 2016 online at http://americamagazine.org/issue/article/good-conscience (accessed April 8, 2016).

14“Of course, those who are in ‘irregular situations’ [e.g., divorced and remarried] should talk to a qualified spiritual director or a priest in the context of sacramental confession, but forming a ‘good conscience’ means that they will recognize and repent of their sins, resolve to reform their lives in accord with Christ’s teachings and receive absolution in the Sacrament of Reconciliation before receiving Holy Communion. … Individuals must form their consciences in accord with Church teaching. Conscience assesses how a person’s concrete action in a given situation accords with Church teaching — not to determine whether one agrees with or accepts Church teaching in the first place.” Bishop Thomas Paprocki, December 26, 2105 Letter to State Journal-Register. This letter was reacting to an earlier Letter to the Editor from John Frem published on December 20, 2015 who had referenced approvingly Archbishop Cupich’s position respecting conscience-based decisions of individuals who may nevertheless be in irregular unions.
have a conscience. And my role as a pastor is to help them discern what the will of God is...

Test-Case #2: Political Campaign of 2016

In terms of conscience and magisterial moral guidance, “clearer”—though rather monochromatic—directives typically come from the conscience-as-faculty side of our Diptych. This raises, but does not answer, the question about the connection between political ideology and theological and ecclesial understandings of the relation between individual conscience and the *munera* of the Magisterium to teach, govern, and sanctify. It can be easily and amply demonstrated that both the moral issues and the accompanying ethical principles seem much more clear-cut in bishops such as Philadelphia’s Chaput, Denver’s Aquila, Kansas City’s Johnson, along with Paprocki (even if their practical directives differ) than bishops from the conscience-as-modality panel of the Diptych, such as Cardinals Cupich and Joseph Tobin, and California Bishops McGrath, Robert McElroy and so on. If one privileges a notion of conscience primarily (if not solely) as a “faculty” of right reason, that in turn is best guided through deductive analysis done in an abstract mode then the “clarity” supposedly arrived at is more easily understood.

On the other hand, if one allows for a greater breadth of what count as morally relevant features, coupled with a broader understanding of conscience as a core modality of the human person then the mode of moral analysis employed more likely will be personalist and inductive.

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15 For the actual words (and fuller context) of Archbishop Cupich in the October 16, 2015 see [https://www.youtube.com/watch?v=rXXp4sGrFjc](https://www.youtube.com/watch?v=rXXp4sGrFjc) (accessed December 31, 2015). Cupich was roundly criticized quite severely in the ultra-conservative Catholic blog-o-sphere. For some examples of this, as well as a fuller treatment of this whole debate see James T. Bretzke, S.J., “Conscience and the Synod: An Evolving *Quaestio Disputata,*” *Journal of Moral Theology* 5/2 (June 2016) 167-173. Cupich has also published several pastoral columns on *Amoris laetitia* and in one he called pastoral leaders both to learn from the experiences of people they were aiming to teach, and also to respect their consciences. See his “A Church that teaches and learns” August 7, 2016 [http://www.catholincenewworld.com/column/archbishop-cupich/2016/08/07/a-church-that-teaches-and-learns](http://www.catholincenewworld.com/column/archbishop-cupich/2016/08/07/a-church-that-teaches-and-learns) (accessed August 19, 2016).
It is my contention that this approach then leads to greater nuance and openness to the possibility of a variety of different responses that nevertheless are all seen as “prudent” and “informed” conscience-grounded decisions. A good exemplar of this approach is Cardinal Joseph Tobin’s column on conscience and the 2016 election in which he writes, quoting the USCCB Faithful Citizenship:

“In making these decisions, it is essential for Catholics to be guided by a well-formed conscience that recognizes that all issues do not carry the same moral weight and that the moral obligation to oppose policies promoting intrinsically evil acts has a special claim on our consciences and our actions. These decisions should take into account a candidate’s commitments, character, integrity, and ability to influence a given issue. In the end, this is a decision to be made by each Catholic guided by a conscience formed by Catholic moral teaching (#37).”\textsuperscript{16}

Tobin then concludes with this “conscience-as-modality” interpretation: “In the end, each of us must decide. It would be easier (more comfortable) if the Church would tell us who (or what) to vote for or against. But that is not the Church’s role, and Catholics would be among the first to cry ‘Foul!’ if our pope, bishops or priests inserted themselves into the political process in an inappropriate way.”\textsuperscript{17}

\textbf{A Concluding \textit{Quaestio Disputata}: Agreeing to Disagree?}

While examples on both panels of the Diptych could easily be multiplied considerably, now it is probably past time to bring it home. Applying Kuhn, my open-ended conclusion is that

\textsuperscript{16} The full document of the American bishops can be found at \url{http://www.usccb.org/issues-and-action/faithful-citizenship/forming-consciences-for-faithful-citizenship-title.cfm} (accessed November 3, 2016).

we are witnessing not only a major paradigm shift in the Church---with all of its attendant complexities and tensions---which can also be expressed in theological terms as a genuine *quaestio disputata* with representative positions on the spectrum of probabilism, probabiliorism, tutiorism and rigorism. Consideration of these foundational concepts in the Church’s moral tradition will be quite helpful in delineating the path ahead for the Church in the second half-century after the close of Vatican II.

As a Jesuit let my final words be those of Pope Francis when he said to recognize: "We are not living an era of change but a change of era." 18  

_E cosí sia!_

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