

## APPENDIX A

# CTSA COMMITTEE REPORT ON COOPERATION BETWEEN THEOLOGIAN AND THE CHURCH'S TEACHING AUTHORITY

### INTRODUCTION

In the course of the fall and early winter of 1979, widespread concern emerged among members of the Catholic Theological Society of America (CTSA) as a result of inquiries and actions by church authorities regarding various theologians in the Roman Catholic community. In view of this concern and in preparation for the Society's annual convention in June, 1980, Rev. William J. Hill, O.P., its President, requested that an *ad hoc* committee be formed to consider possibilities for more cooperative and constructive relations between theologians and the Church's teaching authority.

The committee was formed by the end of January and, after a preliminary discussion of issues, established its agenda. The committee recognized that the constraints of time imposed clear limitations on the scope of its report. It therefore decided not to examine particular cases in detail but rather to address some of the more fundamental questions involved in cases about which concern had been expressed. In this way, the committee hoped to be able to provide some basic information and analysis for the convention, as well as a constructive proposal for a future course of action. It was subsequently decided that the report should be mailed to all CTSA members, as with the report of the CTSA Committee on Ecclesiastical Academic Legislation.

In what follows the committee offers: first, a brief statement of recent causes for concern; second, a review of relevant discussion, since Vatican II, of the relationship between the ecclesiastical magisterium (hereafter referred to simply as magisterium) and theologians; and third, a proposal for a joint study with the Canon Law Society of America. There are also four appendices, presenting respectively an English translation of the *Ratio agendi*, the 1971 procedural statement from the Sacred Congregation for the Doctrine of the Faith; a summary of recent and promising collaborative efforts involving theologians and bishops; a select bibliography on theology and the magisterium; and an outline of projected issues for a joint study by the CTSA and the CLSA.\*

\*ED. NOTE: These appendices have already been circulated among the membership. Only the second is reproduced in these *Proceedings* at the end of the report. Reference to the translation of the *Ratio agendi* is included in the text of the report. L.S., Ed.

## I. RECENT CAUSES OF CONCERN ABOUT THE RELATIONS OF THEOLOGIAN'S AND CHURCH AUTHORITY

Attending in the first place to questions of process, the committee summarizes here some of the concerns most widely expressed with regard to the relations between theologians and Church authority. There is clear concern, to begin with, that judicial or quasi-judicial procedures or accusations seem too frequently to be the first steps in the discussion of a theologian's work. A friendly dialogue ought to be the very first step. Its overall purpose should be to discover what the theologian is actually saying and why. (For a translation of the *Ratio agendi* of the Sacred Congregation for the Doctrine of the Faith, see *Canon Law Digest* 7 [1968-72], 181-84.)

There is also concern that such discussions all too often begin at the Roman rather than the local level. It is unfortunately the case that officials at a considerable distance may easily misunderstand the context and tone of a theologian's work, as well as its pastoral repercussions. Colleagues and officials on the more local scene can take account of these facets much more reliably.

Secrecy of procedure is a serious concern. Theologians who are accused of incorrect teaching do not know who their accusers are. It is well known that those who are ill disposed to a particular person and his or her work do not always represent it fairly. Furthermore, an accused theologian does not know his or her defender and has no say about who this will be.

Concern is often expressed that a single school of theology may all too easily be used as a criterion for orthodoxy. It has seemed to some that orthodoxy has been judged on the basis of a single school of thought (e.g., the so-called Roman school). As Vatican II clearly admits, however, there is a difference between the substance and the formulation of the faith. In addition, it should be admitted that the substance of the faith may be expressed in a pluralism of ways. It is imperative, therefore, that broad theological consultation be involved when the orthodoxy of a theologian is being assessed.

Another concern results from excess of response. There are many ways in which error or imprudent opinion can be identified. If the interest of the faith and the faithful can be protected by calling public attention to an error, then it could well be excessive, for example, to remove a theologian's canonical mission.

Among theologians themselves, there is concern that more forthright criticism of theologians by their peers is required. To many observers, responses by ecclesiastical authorities appear to be too frequent and not always helpful. They could well prove unnecessary in many instances, if theologians were to be more constructively critical of one another.

Concern also arises from persons being designated as theologians although they lack the proper credentials. Bishops in particular are irritated by this; they may frequently be told that "theologians say . . .,"

only to find that the names given in support of the opinion would not be fully recognized by the theological community.

There is also concern that such discussions all too often begin at the Roman rather than the local level. It is unfortunately the case that officials may fail, for example, to provide truly persuasive evidence for an opinion, especially if it is a dissenting opinion; or failure to be sensitive to the pastoral repercussions of one's statements; or failure to show sufficient respect for the magisterium.

Finally, it is of extreme importance for the vitality of the theological enterprise that the laity be better educated about the meaning and weight of theological statements and writing. It is an essential task for theology to probe and hypothesize, to attempt new formulations, and to do so in a way that is open to public criticism. But if theological work is taken as the last word, then theology, the theologian, and the faithful all suffer.

Beyond these concerns regarding process, there are, of course, concerns also about substance. The committee discussed these under several headings, noticing the effects produced by differing concepts of revelation, church, authoritative teaching, and the function of theology. We have tried to address the more immediately relevant of these in the following review of recent discussions on the relationship between the magisterium and theologians.

## II. RECENT DISCUSSIONS

Although the relationship between the magisterium and theologians was not the subject of extended formal discussion at the Second Vatican Council, the Council did represent an unusually significant instance of close cooperation between the two bodies. While the documents of Vatican II have authority in the Church because they are statements of a council of bishops, they clearly would not have been what they are had theologians not done the work they did in the decades before the Council and if theologians had not played the role of experts that they were given at the Council itself.

Since the Council, the relationship between the magisterium and theologians has been the object of study and also of controversy in a number of situations and in a variety of ways. The first major occasion after the Council was the publication of *Humanae vitae* and the ensuing controversy, in which a number of theologians publicly announced their disagreement with that encyclical's teaching. Various issues were raised in the course of the debate that followed: the authority of the ordinary magisterium of the pope, the legitimacy and/or "right" of dissent by theologians and by others of the faithful, the relationship between theological reasoning and magisterial statement, the ecclesial responsibilities of theologians and, eventually, the character and authority of the universal ordinary magisterium of bishops.

The centenary of the definition of papal infallibility by Vatican I provoked another set of publications, many of them in connection with the works of Hans Küng and Brian Tierney. Here the chief issues were the notion of dogma, its "irreformability," the role of critical historical

and hermeneutical interpretation of past magisterial statements, the "hierarchy of truths," and the notion of "reception."

The discussion of the relationship was further complicated by the collapse of the unitary method provided by Neo-Scholasticism and the appearance of a variety of methods, principles and languages in Catholic theology. The relationship between unity of faith and pluralism in theology was discussed by a number of major theologians, by the International Theological Commission (1976) and, in the United States, in a symposium sponsored by the Committee on Doctrine of the NCCB and by the Joint Committee of Catholic Learned Societies and Scholars (1979).

Another aspect of the discussion concerned the question whether there is more than one magisterium in the Church. This discussion focused attention on the nature of authority, on the relationship between official and scholarly authority and on the ecclesial roles of each. These questions were addressed not only in many articles but also in another symposium sponsored by the NCCB's Committee on Doctrine and by the JCCCLSS (1978).

The issues involved in these debates were not addressed by theologians alone. Both Pope Paul VI and Pope John Paul II took the occasion of addresses to the International Theological Commission to speak to the issue. Several bishops have also published articles on the subject. The third Symposium of European Bishops produced several articles in 1975. At a symposium in Philadelphia in 1978, four papers were delivered by bishops.

The International Theological Commission devoted its 1976 meeting to the subject and published a set of theses that has been widely noted. Many of the background papers prepared for this discussion have been published.

The subject has also been the object of ecumenical study. The Anglican/Roman Catholic International Consultation produced an agreed statement on "Authority in the Church," and the Lutheran/Roman Catholic Consultation in the United States recently published a statement on infallibility. Teaching authority in the Church is now under discussion in Faith and Order, and Protestant theologians have also published commentaries on the Roman Catholic discussion.

In the last ten years the history of the relationship between magisterium and theology has been studied much more closely. Already there are serious works on almost every period of Church history, and these have begun to affect the posing of the general theological question.

Finally, the publication of *Sapientia Christiana* and the first drafts of the proposed new Code of Canon Law have raised the question of the ecclesial status and authorization of Catholic theologians. Here the issues particularly concern the definition of "Catholic" theologians and the determination of their ecclesial status. Some of the problems anticipated for the application of *Sapientia Christiana* in the United States and Canada are reflected in the CTSA's statement on academic freedom and due process, passed at the Atlanta convention in 1979 (see *CTSA Proceedings* 34 [1979], 238).

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It is, of course, impossible to summarize in a few pages all the elements of this discussion. Perhaps it will be enough to point to some factors in the context within which the discussion takes place and then to suggest the questions that are central to it.

The debate occurs within the contemporary challenge of evangelization, i.e., of the preservation and communication of the faith in and to a world whose culture no longer provides the external support which the Church could once presuppose for its own task. Perhaps somewhat paradoxically, however, this wider context also includes a great interest on the part of the media in ecclesial and theological disputes. For good and/or ill, both the magisterium and the theologians find that their statements are spread most widely by instruments of communication which are beyond their control and which at times set the tone and direction of controversies. It thus appears increasingly urgent to find ways of working constructively with the media.

The intra-ecclesial context has also changed. The collapse of the Neo-Scholastic framework and the emergence of quite distinct theological schools pose problems of communication and interpretation uncommon before the Council. In addition, most theologians have become aware of the impossibility of any single person's fulfilling all the tasks once assumed by the Scholastic theologian. Theology has become a collaborative enterprise, requiring such a variety of technical skills that no one theologian can possess them all. Finally, at least in North America, many Catholic theologians no longer work within specifically Catholic institutions, but in non-Catholic colleges, universities, centers and institutes, where, often enough however, they are, and are considered to be, Catholic theologians.

A specifically theological element must also be mentioned, namely that historical consciousness which appreciates (1) the historical conditions and limitations not only of Scriptural statements but also of magisterial pronouncements, and (2) the necessity of critical historical inquiry in order to discover the meaning of such statements. One important feature of the relationship between magisterium and theologians is that the traditional mediation of the authoritative past by the official magisterium now takes place alongside a scholarly mediation of the same past by historians and theologians.

The questions most often agitated and which most need resolution include the following:

(1) What is a "theologian"? What training, expertise, accreditation, reputation, etc., must a person have in order to be considered a "theologian"?

(2) What is a "Catholic" theologian? What degree or kind of participation in the faith and life of the Church must a person display in order to be considered Catholic? May a person be considered a Catholic theologian without formal affiliation with a Catholic institution and without formal ecclesiastical accreditation?

(3) How are the requirements of membership in the scholarly community to be related to those of membership in the ecclesial community?

(4) How is the relationship between the magisterium and the Scriptures and Tradition to be defined? Is the magisterium the *regula fidei proxima*? If the magisterium is not above the Word of God, but its servant, how do the Scriptures and Tradition "regulate" it?

(5) What are the respective roles of the magisterium and of theologians in interpreting the Scriptures and Tradition? If the magisterium provides "authoritative" interpretation, does scholarly theological interpretation also have an "authority"?

(6) What is the relationship between the "formal" official authority of pope or bishop and the authority that resides in the truth as well as in their personal abilities and exercise of office?

(7) What is the relationship between (a) the "assistance" of the Holy Spirit promised to the whole Church and to the magisterium and (b) theological reasoning? What is the relationship between the judgments of the magisterium and the reasons offered in their defense?

(8) How broad is the scope of the magisterium's competence and authority? With what authority can it speak on various topics?

(9) What is the role of theologians with regard to magisterial statements, both in preparing them and in interpreting them? May they also criticize such statements? May they attempt to correct them? May they do so publicly?

(10) What are the pastoral roles and responsibilities of the theologian?

(11) Given Vatican II's understanding of the relationship between orders and jurisdiction, can the teaching role be conceived primarily in juridical terms? What are the theoretical and practical relationships between the bishop's teaching role and his other episcopal tasks?

(12) What kind of mutual criticism should theologians provide for each other's work? If such criticism is desirable, how can it be encouraged and promoted?

(13) What is the relationship between the bishop's teaching role and that of the whole episcopal college and its head? What does *communio* with the head and members of this college (LG 21) mean?

(14) How might local bishops best act to meet a problem posed by a theologian's work? What structures might be established in order to provide an intermediate and mediating process, before a difficulty is referred to Rome?

These questions require serious theological reflection. Appendix III presents a select bibliography of recent study relating to them.\* Collaborative enterprises involving both theologians and bishops will also be necessary and influential, and the committee was encouraged by its review of some significant steps that have been taken in this direction. In Appendix II we have collected instances of such cooperative work at various levels of the Church's life.\* There we also offer some reflections on factors affecting the quality and success of these efforts.

More immediately, however, your committee wishes to submit the following proposal.

### III. PROPOSAL FOR A JOINT STUDY

In our review of concerns and their underlying causes, a number of juridical questions have arisen. In considering these, it became apparent that they must be addressed from both a theological perspective and a canonical point of view. A joint effort by the CTSA and the Canon Law Society of America (CLSA) has been explored as one manner in which this could be done. Officials of the CLSA have been receptive to this idea and have expressed a readiness to cooperate in a joint venture.

After considering a number of alternatives, we submit as our considered proposal that a Joint Committee be established by the CTSA and the CLSA to develop a proposed set of norms to guide the resolution of difficulties which may arise in the relationship between theologians and the magisterium in North America. The Joint Committee would be expected to include in its final report supporting material from theological and canonical perspectives.

It is proposed that the Joint Committee complete its task within one year, that its report be submitted to the respective sponsoring societies for their consideration and adoption; that once adopted, the report be submitted to the Episcopal Conferences of the United States and Canada with a request that the proposed norms be adopted as particular law for those nations. It is understood that the approval of the Apostolic See is required to adopt such particular law. Precedents for this approach include the adoption of special procedural norms for tribunals in the United States and also in Canada, and the procedures for "Due Process" for the United States.

The option of a Joint Committee is proposed as the one most suited to achieve practical results within a reasonable period of time. It would draw on the resources of both societies and would provide the possibility of support from both societies for the results of its efforts. (A schema of projected issues the Joint Committee might consider is presented in Appendix IV.)\*

The committee hopes that this proposal may be acted upon as soon as possible and that its successful outcome may contribute to a more cooperative and collaborative relationship between theologians and the Church's teaching authority.

Respectfully submitted,

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## APPENDIX II OF THE REPORT: REVIEW OF CERTAIN KINDS OF COLLABORATION AND SEVERAL SPECIFIC EFFORTS

This appendix reviews some recent collaborative efforts at the level of the local Church, the State Bishops' Conference or Province, the National Conference of Catholic Bishops, and the universal Church. Finally, it presents some reflections on factors which affect the quality and success of cooperation at these various levels.

*A. The Local Church*

Most bishops turn to theologians for advice when they want to prepare formal statements on complex or controverted topics. These might be pastoral letters, representations of the Catholic position to civic leaders, diocesan guidelines on ecumenical affairs, and the like. In many instances, this advice is sought privately, without acknowledgement of the person who rendered assistance. In other instances, the bishop may identify his advisor(s). A number of dioceses have a theologian-in-residence, for example, Cleveland, Seattle, Philadelphia and Richmond. Job descriptions vary, but each brings a theological presence and influence to the diocese as a whole. Most bishops rely, instead, on several persons with various kinds of expertise.

Theologians are called upon to collaborate in the shaping of diocesan policy in a more indirect manner when they are invited to give lectures for priests' continuing education and other ministerial training programs, when they are asked to serve on diocesan advisory commissions (liturgy, social justice, marriage and family life, ecumenical and interreligious affairs, and so on), and when they are consulted through appointed committees on doctrine, medical ethics and the like. The archdiocese of Baltimore, for example, has a medical ethics committee which meets on a regular basis, often with the archbishop present. The Medical Moral Committee of the archdiocese of Newark also relies heavily on the assistance of theologians.

The involvement of theologians in the ongoing life of the Church at the diocesan level depends in large part on the disposition of the bishop, his interest in exploring ideas, his felt need for theological advice, his judgment regarding the wisdom of staking out a more explicit position in relation to the pastoral situation. It depends, too, on the availability of theologians.

Collaboration between bishops and theologians at the level of the local Church is fostered when theologians are invited to contribute to the analysis and development of a specific topic that requires a clear statement of position from the bishop. When the theological advisor is known, rather than anonymous, collaboration is more surely invited because the advisor's peers have the opportunity to engage the person in dialogue. On controverted questions, collaboration is best ensured by involving theologians of different opinions to participate in dialogue preparatory to the drafting of a statement. In such instances, the process is greatly enhanced when the original group of advisors is reconvened to consider a draft version of the statement and offer a critique of it.

There are many factors which frustrate this kind of collaboration. One is that many bishops are inclined to seek advice from those theologians who have maintained a style of method and discourse appropriate to an earlier style of seminary education. Perhaps without conscious reflection, such an approach absolutizes the theology that was learned in seminary as *the* correct Roman Catholic theology. Rather than making the effort to move into new ways of approaching familiar topics, one can depend too heavily on scholars who represent what is now only one school of thought among many. In particular, bishops may fail to consult respected theologians who are not clerics, or whose manner of theological training differs widely from their own. This may result in failure to draw upon available expertise. Scholars who are widely acknowledged as experts in their field may be bypassed in favor of a trusted advisor who lacks this competence.

A second factor which impedes collaboration is that it takes time, especially when more than one advisor is enlisted. Bishops may find it imperative to respond promptly to some pastoral concern. In this case, the time element precludes a patient inquiry into many points of view.

Third, the invitation to participate in a consultative process naturally raises certain expectations. The very fact of the consultation implies an openness to the consideration of new positions. The bishop may find himself unable to meet the expectations if he understands the advice of the theologians to be a departure from the official teaching or policy. Thus, for example, efforts at the diocesan level to develop pastoral guidelines regarding eucharistic sharing may leave advisors feeling thwarted. Whereas one of the roles of the theologian is to explore new possibilities, the bishop may be wary of the response of his fellow bishops, of upsetting a delicate pastoral balance, of the value of the advice he receives and so on.

#### *B. The State Bishops' Conference or Province*

Theologians may be invited to collaborate with bishops collectively, through participation in state or provincial meetings. This may be on a regular basis (as members of a standing committee) or an ad hoc basis. The theologians may be residents of the state or province or they may be visiting experts. In some instances, these theologians contribute in a general way through up-date lectures; in some cases, they are asked to serve as working members in the preparation of a formal statement of doctrine, pastoral or public policy.

To cite some examples: in Washington State all the Ordinaries recently had a fruitful discussion with a group of theologians on the relationship of theologians to the episcopal magisterium. Some years ago, the bishops of Ohio appointed some local theologians to work on the constitution of the state Council of Churches. The Washington State Catholic Conference has set up a moral advisory board composed of five members, three men and two women, chosen by a process that included inviting nominations of persons with stated theological competencies from the local universities and religious communities. The main function

of the board is to write position papers on moral questions that confront the bishops. A two-day workshop in Scripture is being sponsored by St. Patrick's Seminary, Menlo Park, for the bishops of Region 11, with Raymond Brown as the lecturer.

There are certain advantages to this form of collaboration over that experienced in the local Church. The larger forum provides the bishops with a peer group; depending on the circumstances, this may contribute to a greater readiness to deal with complex questions. If the theologians participate in such meetings on a regular rather than an ad hoc basis, there is the opportunity to build relationships of trust and mutual respect.

Again, conditions that promote collaboration on this level are: the inclusion of theologians of several points of view, the utilization of persons with recognized competency in the field in question (including non-clerics), and an opportunity for documents prepared after such consultation to be reviewed before publication by those involved in the process.

### *C. The National Conference of Catholic Bishops and its Committees*

Any number of theologians have been enlisted as consultants in the work of the standing and ad hoc committees of the NCCB. A review of the recent past would certainly highlight the kind of collaboration promoted by the Bishops' Committee for Ecumenical and Interreligious Affairs.

In the major bi-lateral consultations, co-sponsored by the BCEIA (with the Anglicans, Disciples, Lutherans, Methodists, Orthodox, and Presbyterian and Reformed Churches), bishops and theologians work together as partners. The bishops generally rely on the theologians for the necessary research papers. The Roman Catholics—bishops and theologians—are cast as working together rather than apart, by the nature of the dialogue design, even though they may espouse diverse views. The presence of counterparts from another Christian tradition makes possible and even essential the investigation of certain difficult questions which may not ordinarily be considered open to review within our communion, e.g., the exercise of authority, the nature of ordained ministry, the ordination of women, and—to a lesser degree—certain ethical questions. The context of bi-lateral dialogue invites a specific, more open style of inquiry. Bishops, along with the theological consultants, are required to formulate the classic positions in new categories.

Some drawbacks to this experience of collaboration may be noted. The process whereby theologians are nominated for service on these consultations is not public; potential candidates have no opportunity to request consideration. Theologians who have resigned from priestly ministry have been dismissed or excluded from participation. Certain bishop-participants have failed to engage as serious partners in dialogue. And there is no method yet available to obtain a response to or evaluation of the statements issued by the consultations from the bishops' conference.

Theologians have been invited to serve as consultants for various NCCB standing and ad hoc committees. Since the establishment of the Joint Committee of Catholic Learned Societies and Scholars (JCCLSS) in April, 1975, the relationship between bishops and theologians has received formal attention through this organ, and not (as before) simply through informal relationships between individual bishops and CTSA members.

The JCCLSS is composed of nine member societies (American Catholic Historical Association, American Catholic Philosophical Association, Canon Law Society of America, Catholic Biblical Association, Catholic Theological Society of America, College Theology Society, Fellowship of Catholic Scholars, Mariological Society of America, North American Academy of Liturgy). To date, the JCCLSS has (1) set up three standing committees (Church, Christian Life and the Family, Christian Witness in the World) charged with the task of specifying areas in which research is still needed; (2) compiled a comprehensive (biographic and bibliographic) inventory of Catholic scholars; (3) developed a process whereby scholars contributed to the pastoral, "To Live in Christ Jesus," drafted by the NCCB Ad Hoc Committee on Moral Values; (4) assisted the NCCB in research for topics covered in the Bicentennial and Call to Action Conference and for the National Catechetical Directory.

In July, 1976, Msgr. Richard K. Malone was appointed NCCB staff person for liaison with the JCCLSS. In October, 1978, the first in a series of colloquia on Scholarship in the Church was held, with representatives of the member societies (nominated by their societies) and members of the NCCB Committee on Doctrine present. The subject was "Authority and Knowledge." The second meeting, held in October, 1979, discussed "Unity and Pluralism in the Community of Faith." It is anticipated that the colloquia will lead to a white paper on scholarship in the Church.

The NCCB Committee on Doctrine has, in addition to this, invited six theologians to join its members in an ongoing discussion of magisterium. The results of the three meetings held so far were recently published in summary form (*Origins* 9, Feb. 7, 1980). According to the report, the NCCB Committee has as one of its chief goals "the effort to institutionalize ongoing collaboration between bishops and theologians."

#### *D. Participation by the U.S. Church in the Universal Church*

The single most successful model of collaboration between bishops and theologians in the recent past was that demonstrated at the Second Vatican Council.

Since then, some distinguished American theologians have been invited to serve as consultants on the International Theological Commission, the Pontifical Biblical Commission, and various international ecumenical consultations. It has been noted by various groups that the choice of *periti* for the Bishops' Synods might be made by some more adequate process.

*E. Some Final Reflections*

Some of the factors which affect the quality and success of efforts at collaboration between theologians and bishops may be noted here. Naturally they apply in different ways to the different instances and various levels of cooperation.

1. Theologians selected as consultants ought to be persons who have completed an advanced theological degree and who would be acknowledged by their peers as having a high level of competence, demonstrated by their publications in respected theological journals and the attention their views receive from other theologians.

2. The search for consultants might well be conducted in public fashion so that truly qualified persons would have the opportunity to request consideration. In some cases, it is appropriate to ask the directors of theological societies to nominate persons for service as advisors.

3. Fruitful dialogue is likely to occur when persons of several points of view are convened, provided they are equally competent.

4. Care must be taken that the same theologians are not repeatedly invited as advisors to the exclusion of other competent theologians, as this may prematurely close a dialogue within the theological community.

5. It is important that bishops themselves, and not simply their theological advisors, engage in the dialogue. Otherwise, it becomes a dialogue between certain theologians chosen to speak for the bishops and other theologians. Similarly, when the response of the bishops is called for, it must be their response. (It has happened that one and the same theologian was called upon to draft a position paper, engage in the discussion of it, and write a response on behalf of the bishops.)

6. When the outcome of consultation is to be a published document, those who participate in the consultation should also have the opportunity to review the final draft prior to publication, as a measure to avoid the anonymous exercise of editorial power, without accountability.