INFORMATION TO USERS

This manuscript has been reproduced from the microfilm master. UMI films the text directly from the original or copy submitted. Thus, some thesis and dissertation copies are in typewriter face, while others may be from any type of computer printer.

The quality of this reproduction is dependent upon the quality of the copy submitted. Broken or indistinct print, colored or poor quality illustrations and photographs, print bleedthrough, substandard margins, and improper alignment can adversely affect reproduction.

In the unlikely event that the author did not send UMI a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.

Oversize materials (e.g., maps, drawings, charts) are reproduced by sectioning the original, beginning at the upper left-hand corner and continuing from left to right in equal sections with small overlaps. Each original is also photographed in one exposure and is included in reduced form at the back of the book.

Photographs included in the original manuscript have been reproduced xerographically in this copy. Higher quality 6" x 9" black and white photographic prints are available for any photographs or illustrations appearing in this copy for an additional charge. Contact UMI directly to order.

UMI
A Bell & Howell Information Company
300 North Zeeb Road, Ann Arbor MI 48106-1346 USA
313/761-4700 800/521-0600
THE APPLICABILITY OF THE PRINCIPLE OF SUBSIDIARITY
ACCORDING TO THE CODE OF CANON LAW

by

Rachel Mary HARRINGTON, S.N.D.

A dissertation submitted to the Faculty of Canon Law,
Saint Paul University, Ottawa, Canada, in partial
fulfilment of the requirements for the degree of
Doctor of Canon Law

Ottawa, Canada
Saint Paul University
1997
The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of his/her thesis by any means and in any form or format, making this thesis available to interested persons.

The author retains ownership of the copyright in his/her thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced with the author’s permission.

L’auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de sa thèse de quelque manière et sous quelque forme que ce soit pour mettre des exemplaires de cette thèse à la disposition des personnes intéressées.

L’auteur conserve la propriété du droit d’auteur qui protège sa thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.
RESUMÉ

The principle of subsidiarity was originally formulated by a German theologian, a Jesuit, Gustave Gundlach, and introduced into Pius XI's social encyclical, *Quadragesimo anno*, by another German Jesuit, Oswald von Nell-Breuning, who was the real author of this document. Three principal aspects of subsidiarity are highlighted in this encyclical: first, the higher/larger body should not usurp tasks which can be performed successfully by lower/smaller bodies; secondly, the duty of the higher/larger body is to provide the best possible conditions for self-determination, offering help where this is necessary, so that its citizens, or members, may exercise their rights in freedom and develop their human potential to the fullest possible extent; and thirdly, that the competencies of each should be clearly defined. The principle, founded on the human dignity of each individual, respects each one's inalienable right to assume responsibility for his or her own actions. Subsequent social encyclicals - *Pacem in terris*, in particular - have continued to develop the Church's teaching in this respect arguing in favour of the individual against the various forms of totalitarian regimes.

Pius XII was the first pope to mention the principle of subsidiarity in the ecclesial context at a now famous consistory of new Cardinals in 1946. The pope said that the principle which was valid for civil society was also valid for the life of the Church, and added, "without prejudice to her hierarchical structure." During the Second Vatican Council the bishops, arguing against the centralising tendency that had begun to dominate the Church, apparently stressed the validity of this principle for all human societies, including the Church. For it to be one of the revision principles for the Code, the last document of the Council, seems entirely logical.

The parts of the Code selected for this study reveal an uneven implementation of the principle of subsidiarity. The canons on the whole did implement the principle in that they favour participative forms of government wherever possible and recommend consultation before major decisions. The implementation, however, is severely restricted, at least as far as the diocesan organisms are concerned. The canons on religious institutes offer the widest scope to a privileged group to assume control over their own lives in the Church; religious can elect their own leaders, and formulate their own laws through direct participation or through elected representatives.

The principle requires greater participation at all levels in the whole decision-making process within any human community. Despite the objections raised by some authors against the use of this principle in the Church, all evidence seems to favour its relevance and practical implementation in decision-making at all ecclesial levels. In other words, the principle of subsidiarity could serve as a procedural tool in structuring the *communio* of the Church, both local and universal.
# TABLE OF CONTENTS

**ACKNOWLEDGEMENTS** ................................................................. iii

**INTRODUCTION** ................................................................. 1

**CHAPTER ONE: THE PRINCIPLE OF SUBSIDIARITY ACCORDING TO CONCILIAR AND PAPAL TEACHING** ................................................................. 9

1. Introduction ................................................................. 9
   1. 1 - Conciliar Documents .................................................. 11
      1. 1. 1 - Lumen gentium .................................................. 12
      1. 1. 2 - Christus Dominus ............................................. 16
      1. 1. 3 - Gravissimum educationis ..................................... 21
      1. 1. 4 - Apostolicam actuositatem .................................. 22
      1. 1. 5 - Dignitatis humanae ........................................... 24
      1. 1. 6 - Ad gentes ..................................................... 26
      1. 1. 7 - Gaudium et spes .............................................. 28
   Conclusion ........................................................................... 32

1. 2 - Papal Encyclicals ......................................................... 34
   1. 2. 1 - Leo XIII: Rerum novarum ...................................... 34
   1. 2. 2 - Pius XI: Quadragesimo anno .................................. 36
   1. 2. 3 - John XXIII: Mater et Magistra ................................ 40
   1. 2. 4 - John XXIII: Pacem in terris .................................. 44
   1. 2. 5 - Paul VI: Populorum progressio ............................... 46
   1. 2. 6 - John Paul II: Centesimus annus ............................... 47
   1. 2. 7 - Pius XII: Mystici Corporis .................................... 50

1. 3 - Papal allocutions ........................................................... 55
   1. 3. 1 - Allocutions of Pius XII ......................................... 55
   1. 3. 2 - Allocutions of Paul VI .......................................... 61

Conclusion ........................................................................... 63

**CHAPTER TWO: THE PRINCIPLE OF SUBSIDIARITY IN THE LIGHT OF SYNODEAL DISCUSSIONS** ................................................................. 65

2. Introduction ................................................................. 65
   2. 1 - Synod 1967 ............................................................ 66
   2. 2 - Synod 1969 ............................................................ 71
   2. 3 - Synod 1971 ............................................................ 81
   2. 4 - Synod 1974 ............................................................ 94
   2. 5 - Synod 1977 ........................................................... 101
   2. 6 - Synod 1980 ........................................................... 107
2. 7 - Synod 1983  .................................................. 115
2. 8 - Synod 1985  .................................................. 118
2. 9 - Synod 1987  .................................................. 142
2. 10 - Synod 1990 .................................................. 147

Conclusion .................................................. 157

**CHAPTER THREE: THE IMPLEMENTATION OF THE PRINCIPLE OF SUBSIDIARITY IN THE 1983 CODE** .................................................. 159

Introduction .................................................. 159

3. 1 - The Obligations and Rights of All Christ’s Faithful, cc.208-223 .................................................. 165
3. 2 - The Obligations and Rights of the Lay Members of Christ’s Faithful, cc.224-231 .................................................. 169
3. 3 - Associations of the Christian Faithful, cc. 298-329 .................................................. 170
   Conclusion .................................................. 182
3. 4 - The Internal Ordering of Particular Churches .................................................. 183
   3. 4. 1 - The Diocesan Synod, cc.460-468 .................................................. 186
   3. 4. 2 - The Presbyteral Council, cc.495-501 .................................................. 192
   3. 4. 3 - The Diocesan Pastoral Council, cc.511-514 .................................................. 199
   Conclusion .................................................. 203
3. 5 - Institutes of Consecrated Life: Religious Institutes, cc.573-709 .................................................. 209

Conclusion .................................................. 220

**CHAPTER FOUR: POSSIBLE APPLICATIONS OF THE PRINCIPLE OF SUBSIDIARITY** .................................................. 223

Introduction .................................................. 223

4. 1 - Responses to Objections Raised Against the Principle .................................................. 223
4. 2 - Possible Applications of the Principle .................................................. 245
   4. 2. 1 - Synods of Bishops .................................................. 245
   4. 2. 2 - The Resolution of Conflict .................................................. 254
   4. 2. 3 - The Principle of Subsidiarity in the Process of Reception .................................................. 263

Conclusion .................................................. 270

**CONCLUDING REFLECTIONS** .................................................. 274

**BIBLIOGRAPHY** .................................................. 282
ACKNOWLEDGEMENTS

I wish to express my gratitude to my provincial superiors who held office during my time of study: Sisters Mary Josephine McCallum, Helen Murphy and Helen Darragh. Their interest and concern encouraged me greatly. The Sisters of the British Province of the Sisters of Notre Dame de Namur also sustained me during my long exile with letters and telephone calls. These links with home were highly prized.

My sincere thanks go to Professor John P. McIntyre, SJ, the director of this dissertation, for his constant encouragement and challenging guidance. I am also most grateful to the Dean and other members of the Faculty of Canon Law who were always ready to help. Their dedication to their work for the Church has been an inspiring example.

The library of Saint Paul University proved a great resource and I want to acknowledge gratefully the cooperation of the University Librarian, Mr Larry Eshelman, and his staff.

I owe many thanks also to Phillip and Joanne Seymour of Kemptville, ON, for their patience and skill in formatting and printing this study for me.

During my time in Canada I enjoyed all the facilities of Édifice Deschâtelets where I felt very much at home, thanks to the warm hospitality of Saint Joseph’s Province of the Oblates of Mary Immaculate.

I would also like to thank my family and friends, in Canada and elsewhere, for their loyal support. Finally, I dedicate this study to the memory of my parents, my first teachers.
INTRODUCTION

The principle of subsidiarity, an organisational principle for human societies, first developed in the social teaching of the Church as applicable to the state and civil societies in general, requires that decisions are made at the most appropriate level. The principle is based on the recognition of the dignity of each human being and on his or her right to assume responsibility for the decisions which will affect his or her life. It follows that higher/larger bodies should therefore not take over those areas of decision-making which lie within the capacity of the lower/smaller body but should, however, be ready to offer assistance (subsidium) when it becomes obvious that the lower/smaller body cannot provide for itself.

Popes Leo XIII and Pius XI encouraged the application of this principle in the state, which seemed to be gradually encroaching on the freedom of individuals. The popes were concerned, for example, that although parents should have the right to choose appropriate education for their children, nonetheless, the state should, from its own vaster resources, make such arrangements as would facilitate the fulfilment of this parental responsibility. Papal teaching opposed any form of totalitarianism or over-centralisation.

Pius XII first envisioned the application of the principle in the Church and so inaugurated the continuing debate as to its suitability in this unique society. Mentioned frequently during the Second Vatican Council, the principle of subsidiarity certainly influenced many of the conciliar documents, although the only three explicit references relate to civil society. Within the Church, it was advocated as a means of structuring decentralisation, of allowing bishops to function truly as vicars of Christ, exercising all the
"ordinary, proper and immediate power required" by this pastoral office. Such decentralisation of power would lead to greater inculturation and to the wider participation of lay people in the mission of the Church. In accordance with the principle of subsidiarity, religious congregations were encouraged to rewrite their constitutions in the light of their rediscovered charism. The conciliar documents repeatedly expressed appreciation of the rich diversity of nations, cultures and charisms with which the Church is gifted.

Although the Synod of Bishops in 1967 approved the principle of subsidiarity as one of the ten revision principles\(^1\) to guide the work of the Pontifical Commission charged with the revision of the Code of Canon Law, the Code, like the conciliar documents, makes no reference to the principle in relation to the Church. From the discussions reported in *Communicationes*, however, it becomes obvious that the members of the Commission, aware of the principle of subsidiarity, endeavoured to implement it in the canons. Meanwhile, the validity of the principle itself for the Church continues to give rise to debate at successive synods. Given this ambivalence, it seemed worthwhile to read the Code in the light of the fifth revision principle. In legislating for governance structures within the Church, do the canons reflect the values which, according to conciliar and papal teaching, subsidiarity safeguards?

Several canonical and theological authors have written on the topic. Wilhelm Bertrams encouraged the adoption of the principle in specific areas of ecclesial life.\(^2\) His

---

\(^1\)For the ten revision principles, see *Communicationes*, 1 (1969), pp.77-85. For the principle of subsidiarity in particular, see pp.80-82.

INTRODUCTION

conclusions now seem rather conservative in view of the effects of the Second Vatican Council and the deliberations of various synods of bishops. Bertrams sees the principle as essential to the life of the Church as a human society and recommends its application in such areas as allowing bishops more discretion in their dioceses, with as little as possible reserved to Rome. He mentions the freedom of the faithful to pursue their own perfection, their freedom to establish associations, and raises the question of decentralisation. In his opinion, there is no conflict between the application of the principle in the Church as a human society and its unique nature as also a supernatural society.

In a doctoral thesis, Joseph S. George traced the influence of the principle through the documents of the Second Vatican Council.² He began with a study of the principle in human society, then of its application in the Church. As had Bertrams, he concluded that “the dignity of the person in relation to the common good is still an important consideration and therefore his right to pursue his proper end when he is competent is paramount. This necessitates that the principle of subsidiary function be employed in the Church.”³

From there, he went on to demonstrate that what is true of the individual in his relations with the Church is also true of the communities within the Church in relation to the papacy. The second half of his thesis was a thorough examination of the documents of the Second Vatican Council which showed that the Church was moving towards a greater appreciation of the principle. He focused on the dignity of the individual bishops, the

---


⁴Ibid., p.49.
compentence of conferences of bishops and the establishment of the Synod of Bishops. In his opinion, there seems to be no doubt that what the Church recommends as a principle for society is equally applicable within the ecclesial community.

However, Cardinal Jerome Hamer⁵ and Professor Jean Beyer⁶ have argued consistently against its applicability to the Church. They believe that a principle of social philosophy has nothing to offer the Church as a supernatural society, that, on the contrary, its use in the Church will promote a national diversity in particular churches which will prove deleterious to the unity of the universal Church. Moreover, they maintain that the adoption of the principle will encourage the notion that “democratisation” is taking place to the extent of weakening the position of the Roman Pontiff.

Walter Kasper has provided theological responses to their objections.⁷ He bases his arguments first on those of Oswald von Nell-Breuning, the architect of Quadragesimo anno, the locus classicus of the principle.⁸ Following Nell-Breuning, Kasper recognises that, as a principle of social philosophy, the principle of subsidiarity can have only an analogous application in the Church. The principle does not contradict either the hierarchical structure of the Church or the primacy of the pope. Kasper argues that the principle is certainly

---


applicable within the Church because it is not only an organisational principle, nor even less only a democratic organisational principle, but rather a metaphysical principle very deeply rooted in the Christian understanding of the human person.

James A. Coriden, Thomas J. Green, James H. Provost and other canonists in various articles have repeatedly advocated the advantages of structuring dioceses and parishes in accordance with the principle of subsidiarity.\(^9\) Joseph A. Komonchak presented a comprehensive study of the status quaeestionis before a gathering of scholars assembled to discuss conferences of bishops.\(^10\) His analysis of the origins of the principle and its emergence in papal social teaching, in papal teaching on the nature of the Church, in the writings of canonists and theologians concludes that much of the discussion about the principle is based on divergent understandings of its meaning and on different ecclesiologies. Komonchak, however, warns that the principle itself cannot solve some of the problems that lead people to invoke it: “It is a formal or heuristic principle, defining goals, establishing criteria, and urging questions.”\(^11\)

Two theses have recently been published on subsidiarity. In the first, Ad Leys details the evolution of the principle and argues for its validity within the Church as a structural

---


\(^11\) Ibid., p.342.
principle for *communio*. His analysis does not include the principle's canonical aspects. The most recent major study, titled *Das Subsidiaritätsprinzip im kirchenlichen Recht* by Paul-Stefan Freiling, deals with the principle of subsidiarity from several perspectives. The principal themes which the author analyses in this book are: first, the use of subsidiarity as a "social organizational principle" within the human community with particular reference to the Church-State relationship and inter-states organisation in Germany; and secondly, subsidiarity as an organisational principle within the ecclesial community. The treatment of the latter subject matter is extensive as it examines several aspects of the Church's structures and legislation with particular focus on some selected areas of the 1983 Code, which will be partly covered in our study as well.

The topic continues to surface in the published talks and writings of individual bishops. Whether the principle will ever be in the peaceful possession of the Church remains to be seen.

The present study aims to show that the principle is valid for ecclesial structures, at least analogously, and that it has in fact received authoritative endorsement, not only in the documents of the Second Vatican Council and in papal teaching, but also in the revision of the Code of Canon Law.

---


13 P. -S. FREILING, *Das Subsidiaritätsprinzip im kirchenlichen Recht*, Essen, Germany, Ludgerus Verlag, 1995. This is the author's doctoral thesis defended in the Faculty of Legal Sciences of Albert-Ludwigs University, Freiburg, Germany.

INTRODUCTION

The methods basic to the study are historical and analytical. Since the concept originates in the social doctrine of the Church, the Church’s teaching, both conciliar and papal, will be analysed vis-à-vis the principle of subsidiarity. Since the principal focus of this study is the applicability of the principle to ecclesiastical legislation, certain sections of the 1983 Code of Canon Law will be subjected to a critical analysis to see whether the desire of the First General Synod of Bishops, which promulgated the ten fundamental principles guiding the revision of the Code, has been realised. Because the applicability of the principle to the Church’s functioning is not without its problems, canonists and theologians have put forward several arguments against the principle, arguments to which a response will be attempted.

In the first chapter, some of the documents of the Second Vatican Council will be analysed to see to what extent the Fathers approved the principle, and the contexts in which they expected to find it most useful for renewing the Church. Following this analysis, the development of papal teaching on the principle in encyclicals and allocutions addressing social and ecclesial issues will be examined in order to determine the scope of the principle in its civil and social application as well as its implementation in the Church.

Although the first synod of bishops, held in 1967, voted in favour of the principle of subsidiarity as a revision principle for the Code of Canon Law, it repeatedly surfaces at successive synods as a discussion point, even after the promulgation of the 1983 Code. The contexts in which the bishops request greater implementation of the principle in intra-ecclesial relations, the benefits which they see as likely consequences of its more widespread application, and the arguments they advance in favour of the principle provide the focus of the second chapter.
INTRODUCTION

In the third chapter, selected sections of the revised Code will be studied to see whether the principle really did influence at least some of the structures within the Church. The examination is limited to the opening canons of Book II, The Obligations and Rights of the Christian Faithful, The Obligations and Rights of the Lay Christian Faithful, since these are new in the revised Code. Then the canons on Associations of the Christian Faithful will be looked at, followed by some of the structures of the particular church, the Diocesan Synod, the Presbyteral Council, and the Diocesan Pastoral Council. The final focus of the chapter will be on the section on Consecrated Life.

Certain counter arguments are advanced against the applicability of the principle of subsidiarity in the Church. The question arises as to whether these are tenable in the light of the solid conciliar and papal teaching on the importance of the principle in social as well as in ecclesial life. The final chapter will first critically evaluate the premises underpinning these arguments in order to identify their strengths and weaknesses. Three areas of possible application of the principle of subsidiarity as an organisational, structural principle will then be examined: namely, in improving the synod’s role and its structures, in providing at least a process for the resolution of conflicts, and in offering a means of channelling the mutual exchanges between pastors and their people.

It is hoped that this study will reveal that the principle, as desired and mandated by the First General Synod of Bishops and subsequently endorsed by Pope Paul VI, has in fact been implemented in the Code. Since such endorsement attests to its validity for structuring relations within the Church, this awareness should also encourage further application to provide the means for communio theology to become incarnate.
CHAPTER ONE
THE PRINCIPLE OF SUBSIDIARITY
ACCORDING TO CONCILIAR AND PAPAL TEACHING

Introduction

When the members of the Commission for the Revision of the Code presented the ten principles that were to guide their work, they asserted: "The principles proposed in this present document ... are the fruit of careful study and attentive consideration given to the decrees of Vatican II."¹ Twice more before stating the principles, the Commission stressed their origin in the Second Vatican Council. First, they quoted Pope Paul VI: "Canon Law must be accommodated to the new manner of thinking, in accord with Vatican II, which stresses very much the pastoral ministry."² Secondly, they concluded their presentation with the sentence: "For the Code of Canon Law has the function of serving as a guide, while Vatican II presents the general plan of the new Code of Canon Law."³

¹ *Communicationes* (= Comm.), 1 (1969), p.77. The ten principles were presented by Cardinal Pericle Felici at the first session of the General Synod of Bishops held in Rome from 30 September to 4 October, 1967. The translation used here, and in the next three quotations, is from *Readings, Cases, Materials in Canon Law: A Textbook for Ministerial Students*, rev.ed., J.HITE and D.J.WARD (eds.), St. John's Abbey, Collegeville, Minnesota, 1990, p.84. For the sake of consistency, the spelling adopted in all translations and quotations is English, rather than American.


The Commission explained the fifth principle, the subject of this dissertation, as follows:

The function of this principle of subsidiarity is to strengthen and confirm legislative unity in all the fundamental and major pronouncements of law of any society that is complete and compactly structured within itself. This principle of subsidiarity also has the function of reasonableness or need especially of individual institutions to provide for their own advantage by particular laws enacted by themselves as well as by a reasonable amount of autonomous executive power and authority.\(^4\)

This description focuses on two important aspects of subsidiarity: first that it provides for legislative unity and secondly, that it respects individual autonomy.

After these assertions that the principles are rooted in the documents of the Council, it surprises the student to discover that this fifth principle is mentioned specifically only three times in these documents.\(^5\) Nonetheless, "the elements which demand the expression of subsidiarity are a major theme in their contents."\(^6\) Joseph S. George singled out one of these

\(^4\) Comm., I (1969), p.81. The original Latin text is as follows: "Principium confirmat unitatem legislativam quae in fundamentis et maioribus enunciationibus iuris cuiuslibet societatis complectae et in suo genere compactae servari debet. Propugnat vero convenientiam vel necessitatem providendi utilitati praesertim institutionum singularem tum per iura particularia ab iisdem condita tum per sanam autonomiam regiminis potestatis executivae illis recognitam."


CONCILIAR AND PAPAL TEACHING

elements as follows: "a renewed awareness of the excellence of liberty, of personal responsibility and dignity." In his survey of the documents he elected to omit the references to the dignity of the human person as too numerous. He did consider, however, that: "The greater responsibility and latitude for judgement given the bishops also witnesses to a more developed sense of the importance of subsidiary function and its increased operation in the Church."

1.1 - Conciliar Documents

In examining the documents for evidence of the values which the principle of subsidiarity protects, we have concentrated on two principal criteria: (1) those instances where the Council stressed the priority of the human person, a social being who realises himself in taking responsibility for his own self-realisation; (2) those examples where the documents provide for the regulation of competencies between higher/larger and lower/smaller communities. The survey is not meant to be exhaustive, but rather illustrative of the philosophy underlying the conciliar teaching. For this reason also, only those


7GEORGE, The Principle of Subsidiarity, p.86.

8Ibid. In "Subsidiarity, Order and Freedom in the Church," p.250, Basset, whose survey of the documents is clearly dependent on that of George, adds that "the rights and responsibilities of self-determination and freedom for persons and communities in the Church" are implicit in the responsibilities given the bishops.
documents relevant to the issues to be raised later have been studied. The documents include two constitutions, three decrees, and two declarations.

1. 1. 1 - Lumen gentium

The constitution on the Church emphasises the unique dignity of the human person as called to union with Christ. The Council, while describing the Church in scriptural imagery as a sheepfold, a cultivated field, the building of God, the spotless spouse of the spotless Lamb, concentrates particularly on developing the imagery offered by St Paul concerning the Mystical Body. Common to all these images, even the apparently static one of the building - which is composed of living stones - is the notion of growth and therefore of change. The breath of life comes from the Spirit.

Baptism incorporates people into this community. It establishes the fundamental equality of all the members of the People of God and consecrates them all in the common priesthood, requiring of them that they witness to Christ in the world and strive to bring about on earth the kingdom of God.

The hierarchical structure of the Church provides both for order and for the preservation and encouragement of diversity in this kingdom. The emphasis on authority

---


10LG, n.6.

11LG, n.7.

12LG, n.11.

13LG, nn.10, 13, 32 and the whole of Chapter III, nn. 18-29.
as service has proved, especially in the thirty years since the Council, one of its most significant teachings. Those entrusted with the task of building the kingdom in the world rely on the support, guidance, and example of those called to govern.\textsuperscript{14} The "bond of unity, charity and peace" between the bishops, their visible collegiality together with their head, the Supreme Pontiff, represents the communion which Jesus came to restore among all peoples.\textsuperscript{15} This same passage states: "This college, in so far as it is composed of many members, is the expression of the multifariousness and universality of the People of God; and of the unity of the flock of Christ, in so far as it is assembled under one head."\textsuperscript{16}

Collegiality, as can be seen from the above quotation, in no sense implies or requires uniformity. On the contrary, \textit{Lumen gentium} goes on to extol the variety of local churches. The proper authority of individual bishops within their dioceses to shepherd their flocks safeguards this diversity. The presence of the Spirit further contributes to the dynamism of the harmonious growth of the whole Church. The Spirit fosters both unity and diversity.\textsuperscript{17}

\textsuperscript{14}\textit{LG}, nn.18, 24, 27.

\textsuperscript{15}\textit{LG}, n.22. For a comment on this passage, see A.LEYS, \textit{Ecclesiological Impacts of the Principle of Subsidiarity}, Kampen, Uitgeverij Kok, 1995, p.158: where we read: "The text emphasises the subtle balance between papacy and bishops: to maintain that balance between two institutions of divine right an appeal is made to the Holy Spirit. Within the Church itself, as organisation, there is no ‘third’ or higher authority which can maintain or force such a balance: it can only be done because of the carefulness, which papacy and bishops must practise, not to enter into each other’s competency." The principle of subsidiarity would seem to offer a structure for this "carefulness".

\textsuperscript{16}\textit{LG}, n.22.

\textsuperscript{17}\textit{LG}, n.23. See J.FAMERÉE, "Collégialité et communion dans l’Église," in \textit{Revue théologique de Louvain}, 25 (1994), pp.199-203. Famerée argues that the extent to which \textit{Lumen gentium}, nn.22 and 23, have been implemented indicates the extent to which episcopal collegiality has been received in the Church. He concludes that the reception of \textit{LG}, n.22, despite its inadequacies, which he enumerates, has been global, but that of n.23 is less clear. He cites a letter from the Congregation for the Doctrine of the Faith, "Some aspects of the Church understood as Communion," in
Within the diocese, the bishop, solicitous for the welfare of his flock, must listen to them.\textsuperscript{18} The presbyterium “dedicated to a variety of duties” also provides a collegial model.\textsuperscript{19} The priests, called to preside and to serve, are encouraged to collaborate with the bishop in order to “eliminate division and dissension.”\textsuperscript{20} The interrelationship of the functions of bishop, priests, and deacons focuses on dedication to the People of God. Clearly, subsidiarity pertains to the presbyterium.

The laity, the point of unity between the Church and the world, “in their own way share the priestly, prophetic and kingly office of Christ.”\textsuperscript{21} The whole fourth chapter of \textit{Lumen gentium} celebrates the contribution made by the laity to the building up of the

\textit{L'Osservatore romano}, English edition, 17 June 1992, pp.8-9, which shows a curial, rather than an ecclesial acceptance of the Council, in that its conception of the Church is resolutely universalist: e.g., section 9 of the letter reads: “In order to grasp the true meaning of the analogical application of the term \textit{communion} to the particular churches taken as a whole, one must bear in mind above all that the particular churches, insofar as they are ‘part of the one Church of Christ’ have a special relationship of ‘mutual interiority’ with the whole, that is, with the universal Church, because in every particular church ‘the one, holy, catholic and apostolic Church of Christ is truly present and active.’ For this reason, ‘the universal Church cannot be conceived as the sum of the particular churches or as a federation of particular churches.’ It is not the result of the communion of the churches, but in its essential mystery it is a reality ontologically and temporally prior to every individual particular church.” Famerée maintains that the function of episcopal conferences as regards the promotion of diversity in unity has not been received, but that there is rather a great resistance to the development of regional churches - essential, in his opinion, for inculturation in response to the divine vocation and to ecumenical progress. He concludes: “La collégialité orientale offre donc une aire régionale de \textit{communio ecclesiarum}: aussi, dans une aire régionale ou patriarcale donnée, une réciprocité s'instaure-t-elle entre un primat et son synode.” The institution of synods seems to be regarded as the best means of preserving \textit{communio}.

\textsuperscript{18}\textit{LG}, n.27.

\textsuperscript{19}\textit{LG}, n.28.

\textsuperscript{20}\textit{LG}, n.28.

\textsuperscript{21}\textit{LG}, n.31.
CONCILIAR AND PAPAL TEACHING

The stress on harmony, diversity, common dignity and equality, on common activity and co-operation, on sharing in the priestly office highlights again the richness of the People of God. Anointed by the Spirit who transforms their "works, prayers and apostolic undertakings, family and married life, daily work, relaxation of mind and body ... the laity consecrate the world itself to God." The role of the Spirit appears also in the fifth chapter, "The Call to Holiness", again fostering a variety of gifts. The response to this call assumes innumerable forms, and all achieve sanctity through fulfilling the duties of their state, co-operating with others in different ways. Still the call to holiness essentially grounds the unique dignity of the person.

Certainly, there is nothing static about the language of this Constitution. The Church, guided by the Spirit and animated by his creativity, constantly grows and changes both horizontally and vertically.

---

22LG, nn.30-38.

23LG, n.32.

24LG, n.33.

25LG, n.34.

26LG, n.34.

27LG, n.41.

1. 1. 2 - Christus Dominus

Although the Decree, Christus Dominus, begins with the primacy of the Roman Pontiff, his position is immediately balanced with a statement about the role of each bishop as vicar of Christ for his diocese. The next section, moreover, describes the collegial nature of “the instruction and direction of the universal Church.” The rest of the document elaborates these three themes.

Indeed, the establishment of the Synod of Bishops witnesses to the Council’s concern for practical, visible, structural provision for collegiality. Such an institute enables the unity and diversity of the Church to be expressed. Individual bishops are responsible not only for their own dioceses, but also for the whole Church. The Synod, as well as facilitating communication from the dioceses, also serves as a means to promote this worldwide pastoral office. The following sections (CD, nn.8-10) give guidelines for determining roles and functions to ensure that uniformity is not imposed, but rather that every effort is made to enable a more universal spirit to breathe through the Church.

---


30CD, n.3.

31CD, n.5. The Synod was actually established by Pope Paul VI by the motu proprio, Apostolica sollicitudo, 15 September 1965, in AAS, 57 (1965), pp.775-780. For the background to this, see P.HEBBLETHWAITE, Paul VI: The First Modern Pope, London, Fount Paperbacks, 1994, pp.432-433.

32CD, nn.6, 7.

33CD, nn.8, 9, 10.
As vicar of Christ in his own diocese, a bishop works with the clergy, religious, and laity, caring for the flock committed to him.\textsuperscript{34} He sets the example of a holy life, teaches the truths of the faith, and offers his people the means to know and love the paschal mystery.\textsuperscript{35} In these inspiring sections of the Decree, the Council clarifies the role of the bishop in relation to the clergy and people of the diocese. The triple munera belong to him, but not exclusively. His is the task of initiating and co-ordinating where these skills are required, but he must also learn from his people.\textsuperscript{36}

The exercise of the teaching, sanctifying, and governing roles is directed towards the growth of the flock, the building of the kingdom. The Decree stresses this formation into Christ. To this end, one of the primary tasks for bishops necessitates the proclamation of the Gospel. “They should expound likewise the principles governing the solution of those very grave problems concerning the possession, increase and just distribution of material goods, concerning peace and war and the fraternal co-existence of all peoples.”\textsuperscript{37} The bishops must also “present the doctrine of Christ in a manner suited to the needs of the times, that is, so that it may be relevant to those difficulties and questions which men find especially worrying and intimidating.” They must also train lay people to safeguard, defend, and propagate this doctrine.\textsuperscript{38} Among the variety of means available for the formation of

\textsuperscript{34}CD, nn.11-21.

\textsuperscript{35}CD, n.15.

\textsuperscript{36}CD, nn.16, 17.

\textsuperscript{37}CD, n.12.

\textsuperscript{38}CD, n.13.
clergy and laity, bishops are encouraged to focus particularly on catechetical instruction and, almost as an afterthought, on the preparation of catechists. In promoting the sanctity of his people, the bishop is urged to respect the vocation of each, and so to live out his own life that a relationship of affection and trust exists between him and his priests.

"In exercising his ministry, he should ensure that the faithful are duly involved in Church affairs; he should recognise their right and their duty to play their part in building up the Mystical Body of Christ." Forming people as Christians forms them also as citizens of the earthly city and promotes "social and civil progress and prosperity." The Decree, therefore, recommends active and appropriate co-operation with public authorities, another instance of subsidiarity in action.

The bishop facilitates the interweaving of responses to the constant challenge of the Spirit to his people. He respects the uniqueness of each, promotes and co-ordinates initiatives, overseeing a harmonious growth. The Decree demands of the bishop, moreover, that he show special concern "for those members of the faithful who, on account of their way of life, are not adequately catered for by the ordinary pastoral ministry of the parochial clergy or are entirely deprived of it."

---

39 CD, n.13.

40 CD, n.16.

41 CD, n.16, 17.

42 Ibid.

43 CD, n.18.
CONCILIAR AND PAPAL TEACHING

For this to be possible the diocese must be of reasonable size, and to this topic the Decree turns next. It proposes three criteria. The first takes account of the "variety and composition of the People of God" and their links with "the civil offices and institutions which constitute their organic structure." The Council shows signs of an awakening sensitivity in the Church to national, psychological, economic, geographical, and historical diversity. The second criterion concerns the feasibility of effective management by the bishop of all the apostolic activities within the diocese, and of there being scope for the exercise of the energies of himself and his priests. Finally, the diocese should be such that "the nature of the Church be clearly manifested" in it. That is, those offices, institutions, and activities shown to be necessary to reveal the nature of the Church can, in fact, be provided. Recommendations regarding changes in diocesan boundaries are to be submitted to the Apostolic See, but the competent conference of bishops is charged with examining the question and the "views of the bishops of the provinces or regions involved should always be taken especially into consideration." Subsidiarity works for decision-making at the supra-diocesan level.

In every respect, the internal organisation of the diocese should model unity and order. The Decree stipulates that there should be councils and committees so that advice is always available to the bishop. Clergy, religious, and laity are repeatedly described as

---

44 *CD*, n.23.

45 *CD*, n.24.

46 *CD*, n.27. LEYS, *Ecclesiological Impacts*, pp.143-144 comments: "The task of the [Diocesan Pastoral] Council is limited, but within that limitation we find an extensive mandate: research, consultation, practical conclusions... But Vatican II was hardly finished and the motu proprio, *Ecclesiae sanctae*, emphasised the difference between the bishop and the other members. First of all,
collaborators of the bishop. One matter on which the bishop may act on his own authority, namely the erection and suppression of parishes, is notably singled out. The value upheld by the Decree is clearly that of maximum involvement on the part of all concerned. This is especially evident in the section of the Decree which deals with synods, councils, and conferences of bishops: “It is often impossible, nowadays especially, for bishops to exercise their office suitably and fruitfully unless they establish closer understanding and co-operation with other bishops.”

Finally, the Decree turns to the questions of boundaries, and of bishops who discharge an interdiocesan function. The concern expressed relates to clarity regarding rights, duties, privileges, and spheres of competence. At this level, subsidiarity operates as an instrument of the practical reason.

the council has (only) a ‘consultative voice’ which then the members offer the bishop... Ecclesiae sanctae emphasised the position of the bishop even more clearly where it said that the bishop chooses the members of the council: Christus Dominus left it completely in the open how the council was to be constituted! Why did they not give certain organisations the chance to propose members or to appoint the members or at least a number of them? ... If...consultation should help the reception of policy decisions and make them more easily realisable, a broad representation of what is alive in the diocese is even more important.”

47 CD, nn.27, 30, 34.

48 CD, n.32.

49 CD, n.37, but see also the context, nn.36-38, where the establishment of bishops’ conferences is encouraged.

50 CD, nn.39-43.
1. 1. 3 - Gravissimum educationis

As already stated, the Declaration on Christian Education explicitly mentions the principle of subsidiarity twice. It begins by emphasising the dignity of the human person and his or her inalienable right to an education adapted to ability, sex, and natural cultural traditions. The Declaration states: “True education is directed towards the formation of the human person in view of his final end and the good of that society to which he belongs and in the duties of which he will, as an adult, have a share.”\(^{51}\)

Such duties involve active participation in the life of the society in its various aspects, an openness to dialogue, and a readiness to work for the common good. The growth of the human person always leads to the growth of the Mystical Body.\(^{52}\) The primary responsibility for the education of their children rests with parents, but “in accordance with the principle of subsidiarity, when the efforts of parents and of other organisations are inadequate [civil society] should itself undertake the duty of education, with due consideration, however, for the wishes of the parents.”\(^{53}\) So the Declaration acknowledges civil rights.

The principle is invoked again later, with reference to the state’s promotion of the work of the schools: “In this, however, the principle of subsidiarity must be borne in mind, and therefore there must be no monopoly of schools which would be prejudicial to the natural rights of the human person and would militate against the progress and extension of education, and the peaceful co-existence of citizens. It would, moreover, be inconsistent with

\(^{51}\)GE, n.1.
\(^{52}\)GE, n.2.
\(^{53}\)GE, n.3.
the pluralism which exists today in many societies." The Council clearly regards the principle of subsidiarity as the protector of rights, the promotor of progress and harmony, and the safeguard of diversity in civil society.

1. 1. 4 - Apostolicam actuositatem

The principle of subsidiarity, though never explicitly invoked in the Decree on the Apostolate of Lay People, nonetheless informs it throughout. The Decree describes the scope of the lay apostolate, stressing its necessity. Although the Council commends initiative, still it repeatedly points out that the ecclesiastical hierarchy directs and co-ordinates the whole. Relationships between the hierarchy and laity should be characterised by mutual respect and esteem, each for the competence of the other. Lay persons can only grow into Christ when they exercise their Spirit-given gifts in the service of the apostolate.

The Decree expresses appreciation for the diversity of gifts and talents granted to the laity and seeks to provide the means for the laity to utilise these gifts in co-operation with the clergy. The laity exercise their apostolate both within the Church and in the world, where they endeavour "to infuse the Christian spirit into the behaviour, laws and structures

\[54\] GE, n.6.


\[56\] AA, n.2.

\[57\] AA, n.4.

\[58\] AA, n.10.

\[59\] AA, nn.10, 26.
of the community” in which they live. The hierarchy provide support, training, and encouragement. An awareness of the principle of subsidiarity orders the intermeshing of these activities. The creation of “a secretariat at the Holy See for the service and promotion of the lay apostolate” is advised, and explicitly given the mandate “to assist (adiuvare) the hierarchy and laity in the field of apostolic activities.” Earlier, the Decree, while commending the establishment of councils for co-ordination “of the various lay associations and undertakings,” adds the phrase “the autonomy and particular nature of each remaining untouched.”

Training for the apostolate, as described in the Decree, must take account of the “variety of circumstances, persons and duties” to which the apostolate will be directed, as well as respecting the society and culture from which the apostle comes. This section recognises the need for training to be on-going and asserts the need “to improve and perfect oneself by working with others” and for “continual adaptation.” Clearly the practical application of subsidiarity here presupposes and requires the Church’s teaching on the dignity of the person.

60 AA, n.13.
63 Ibid.
64 AA, n.28.
65 AA, n.29.
66 Ibid.
1. 1. 5 - Dignitatis humanae

As its *incipit* suggests, the Declaration on Religious Liberty makes frequent mention of the inviolable and inalienable rights of every human person - with particular reference to the right to practise religion freely. The Declaration opens the second chapter with the interesting statement that the demands of human dignity "have become more fully known to human reason through centuries of experience."67 References to daily growth in the knowledge of the truth, to the Gospel leaven working in the human mind, strengthen this theme of gradual awakening in Church and world to the splendour of the human vocation in Christ.68 While scope for further development and further awakening seems possible, the Declaration sees subsidiarity as a function of human dignity.69

Intrinsic to the principle of freedom, based on the very dignity of the human person, are other rights, namely the right to participate in God's law for the government of the human community, the right to free enquiry, and social communication - all directed towards the search for truth in which man pursues his highest calling.70 Religious communities, "a requirement of the nature of man and of religion itself...must be allowed to...help their

---


68*DH*, n.14, and cf. n.12.

69George also points to this evolution: "Now with the passage of time, men have come to recognise more widely their dignity as persons, and a conviction has grown stronger that in religious matters persons and societies are to be kept free from all manner of human coercion." See GEORGE, *The Principle of Subsidiarity*, p.110.

70*DH*, n.3.
members to practise their religion and strengthen them with religious instruction and promote institutions in which members may work together to organise their own lives."\(^{71}\)

Religious groups, while taking care not to infringe upon the rights of others, should not "be prevented from freely demonstrating the special value of their teaching for the organisation of human society and the inspiration of all human activity."\(^{72}\) In other words, the Church should set an example to civil governments on how to manage their affairs in accordance with the principles which the Church teaches.

The themes of personal and social responsibility recur,\(^{73}\) along with those of respect for the rights of others and the willingness to co-operate with them.\(^{74}\) The Declaration emphasises the Church's role in forming conscience. Joseph George interprets this passage as follows: "Lovers of true freedom will come to decisions on their own judgment, but will govern their activities in the light of truth with a sense of responsibility, joining with others in a co-operative effort. Religious freedom, then, has this further purpose and aim, that men come to act with greater responsibility in fulfilling their duties in community life."\(^{75}\)

\(^{71}\)\textit{DH}. n.4.

\(^{72}\)Ibid.

\(^{73}\)\textit{DH}. nn.7, 8, 9, 15.

\(^{74}\)\textit{DH}. nn.6, 7, 8.

1. 1. 6 - Ad gentes

The key words in the Decree on the Church’s Missionary Activity are undoubtedly “collaboration,” “co-operation,” and “co-ordination.” 76 In its approach to the evangelisation of peoples, the Council speaks reverentially, and frequently, of long-established traditions and customs to be respected by missionaries. 77 The teaching of the Christian faith is to be adapted to these. 78 As soon as possible, within the local church, “The faith should be imparted by means of a well-adapted catechesis and celebrated in a liturgy that is in harmony with the character of the people; it should also be embodied by suitable canonical legislation in the healthy institutions and customs of the people.” 79

The Decree recognises that neither individual missionaries, nor institutes, nor even the local church itself can supply for all the requirements, so a constant theme in this document is the assistance (subsidium) to be provided by the universal Church for the particular churches. The Decree defines the competent Congregation for the task of direction and co-ordination of missionary activity as “Propagation of the Faith” and adds the rider,

76 In the English translation “collaboration” occurs nine times; “co-operation”, as well as having an entire chapter, VI, devoted to it, occurs outside that chapter a further six times; “co-ordination” occurs five times. From a concordance of the Latin text of the documents of the Second Vatican Council, it appears that 13 of the 25 occurrences of the verb collabo and the noun collaboratio are in AG; of the 139 occurrences of co-operor and its cognate nouns, 24 are in AG; and of the 22 occurrences of co-ordino/co-ordinatio, 7 are in AG. See Concilium Vaticanum Secundum: Concordance, index, listes de fréquence, tables comparatives par P. DELHAYE, M. GUÉRET et P. TOMBEUR, Louvain, Publications du CETEDOC, Université Catholique de Louvain, 1974.


78 AG, nn.6, 10.

79 AG, n.19.
CONCILIAR AND PAPAL TEACHING

"the rights of the Eastern Churches must, however, be safeguarded." As described, this Congregation's role is undoubtedly "subsidiary" (in the sense of "helpful"). Collaboration with the Secretariat for the Promotion of Christian Unity is recommended with the object of "attaining and organising fraternal co-operation and harmonious relations with the missionary undertakings of other Christian communities."\(^{80}\) In its role as "an instrument of administration and an organ of dynamic direction" this Congregation, adopting modern methods, will be staffed by "selected representatives of all those who are engaged in missionary work." The Decree states that these representatives should have a deliberative vote. Even if there is no explicit mention of the principle of subsidiarity, still this requirement that the decisions be made by those most closely involved in implementing them signifies at least an implicit recognition of the principle.

Similarly, the stress on the organisation of the local church being such that "it is able to provide for its own needs as far as possible" shows the value attributed to self-determination, to independence within the hierarchical structure.\(^{81}\) The dependence of the entire Church on the Holy Spirit initiates this interrelatedness and interdependence. The Spirit "provides [the Church] with different hierarchical and charismatic gifts, giving life to ecclesiastical structures, being as it were their soul."\(^{82}\) The local churches, once established and flourishing, "contribute to the good of the whole Church."\(^{83}\)

\(^{80}\)AG, n.29.

\(^{81}\)AG, n.15.

\(^{82}\)AG, n.4.

\(^{83}\)AG, n.6.
The role of the conferences of bishops seems crucial to the adaptation, co-ordination, and collaboration required. All this concern for local decision-making, in tune with local cultural traditions, implements the principle of subsidiarity. Once again, it functions at the level of practical intellect.

1. 1. 7 - Gaudium et spes

The Pastoral Constitution on the Church in the Modern World, in the tradition of the great social encyclicals, although directed outwards towards the world, nevertheless highlights values intrinsic to the Church as a society, albeit a unique one. Human dignity realised in the fullest possible development of each person becomes a central theme. This development comes through a just sharing of the goods of the earth so that everyone has the freedom, the education, and the opportunity for self-determination. It meets the two criteria discussed above.

The Constitution repeatedly asserts the dignity of man. From this follows each person’s right to participate fully in the society to which he belongs, whatever and wherever it is. The Council bases this teaching on an interpretation of Jesus’ prayer to his Father, “that they may all be one...even as we are one” (Jn. 17:21-22). This prayer implies, say the Council Fathers, “a certain parallel between the union existing among the divine persons and the union of the sons of God in truth and love. It follows, then, that if man is the only

---


85 GS, nn.9, 12, 14, 16, 17, 19, 21 and passim.

86 GS, n.23.
CONCILIAR AND PAPAL TEACHING

creature on earth that God has wanted for its own sake, man can fully discover his true self only in a sincere giving of himself."\textsuperscript{87} Two consequences result.

First, the interdependence between personal betterment and the improvement of society, and secondly, "through his dealings with others, through mutual service, and through fraternal dialogue, man develops all his talents and becomes able to rise to his destiny."\textsuperscript{88} Once again, the Constitution links subsidiarity with personal dignity.

The Council praises those systems of government which "permit the largest possible number of the citizens to take part in public life in a climate of genuine freedom."\textsuperscript{89} It adds certain provisos - "the concrete circumstances of each people and the decisiveness required of public authority" - but the ideal of maximum participation is clearly upheld. The Church, believing "it can contribute much to humanising the family of man and its history,"\textsuperscript{90} sees its function as "opening up to man the mystery of God, who is the last end of man; in doing so it opens up to him the meaning of his own existence, the innermost truth about himself...and never ceases to encourage the employment of human talents in the service of God and man."\textsuperscript{91} In this, the Council teaches, lies true human autonomy. The laity,

\textsuperscript{87}GS, n.24.

\textsuperscript{88}GS, n.25. See also LEYS, Ecclesiological Impacts, p.89, where the author finds in this section of GS a discussion of "the content of the principle of subsidiarity and of solidarity in their mutual relationship [i.e., between man and society]."

\textsuperscript{89}GS, n.31.

\textsuperscript{90}GS, n.40.

\textsuperscript{91}GS, n.41.
as citizens of the world, are called "to shoulder their responsibilities" both in the world and in the Church.  

The first part of the document ends with an analysis of the reciprocity between the Church and the world: "The Church has a visible social structure, which is a sign of its unity in Christ: as such it can be enriched, and it is being enriched, by the evolution of social life - not as if something were missing in the Constitution which Christ gave the Church, but in order to understand this Constitution more deeply, express it better and adapt it more successfully to our times ... The Church is happy to feel that, with regard to the community it forms and each of its members, it is assisted in various ways by men of all classes and conditions." This section affirms the benefits to the Church of change and adaptation brought about by the prompting of the world and even that caused by "the opposition of its enemies and persecutors."

The second part of the Constitution focuses on "some more urgent problems." Once again, in the section dealing with the proper development of culture, the Council reiterates the high value to be placed on human achievements and the unique forms which these take in the rich diversity of civilisations. The civilising role of human beings acting freely and autonomously contributes to the unity of the world. In this process the Church must "enter into communion with different forms of culture, thereby enriching both itself and the cultures

---

92 GS, n.43.

93 GS, n.44.

94 GS, nn.53, 54.
themselves.” The aim is to enable all to contribute “in an authentically human way to the common good.” Education holds an important place in promoting the common good. When difficulties arise in “harmonising culture with Christian thought” such difficulties “do not necessarily harm the life of faith, but can rather stimulate a more precise and deeper understanding of that faith.” The faithful are encouraged, therefore, to “incorporate the findings of new sciences and teachings and the understanding of the most recent discoveries with Christian morality and thought.” Theological research, pursued even by lay people, should maintain contact with its own times. So theological reflection depends on practical subsidiarity.

In Chapter III, “Economic and Social Life,” the Council restates and develops the principles already proposed by several popes in their social teaching. We read, “It is only right, that in matters of general interest as many people as possible, and, in international relations, all nations, should participate actively in decision-making,” and, “All citizens should remember that they have the right and the duty to contribute according to their ability to the genuine progress of their own community.” The many references to previous papal and other documents in the footnotes to sections 68-71 on the workers’ right to participate actively in the administration of their businesses and institutions, show how important and constant has been the insistence on this point.

---

95 GS, n.58.
96 GS, n.60.
97 GS, n.62.
98 GS, n.65.
This theme continues in Chapter IV, "The Political Community." Implicit throughout this chapter are values protected by the principle of subsidiarity:

- the dignity of the human person;\textsuperscript{99}
- the right of all to participate in decisions affecting them;\textsuperscript{100}
- the role of authority in guiding the energies of all towards the common good;\textsuperscript{101}
- the danger of the higher/larger community depriving the lower/smaller community of the right to self-determination;\textsuperscript{102}
- the regulation of competencies.\textsuperscript{103}

Surprisingly in this Constitution, the principle of subsidiarity receives its only explicit mention in the section devoted to the fostering of peace and the establishment of a community of nations, as a "useful norm" for structuring international co-operation in economic matters. The context is the duty of the international community "to co-ordinate and stimulate development," but "without transgressing the principle of subsidiarity."\textsuperscript{104}

Conclusion

At the conclusion of his survey, which included Sacrosanctum concilium, Orientalium ecclesiarum, Unitatis redintegratio, Optatum totius and Inter mirifica, as well as the documents cited above, George wrote: "The implications of personal dignity and the principle of subsidiarity in both the ecclesiastical and the civil social order are expressed by the Council Fathers. Although both societies do not have the same end or purpose, the same

\textsuperscript{99}GS, n.73.
\textsuperscript{100}GS, nn.73.
\textsuperscript{101}GS, n.74.
\textsuperscript{102}GS, n.75.
\textsuperscript{103}GS, n.75.
\textsuperscript{104}GS, n.86.
CONCILIAR AND PAPAL TEACHING

truths which the Fathers point out for the civil order do have an application by analogy to ecclesiastical social order. The starting point is the same: man is created in the image of God.\textsuperscript{105}

The Constitutions, Declarations, and Decrees cited here as representative of the documents of the Second Vatican Council, emphasise the fundamental importance of this doctrine. From this comes the need to promote diversity, co-operation, inculturation, and personal initiative. The right to contribute appropriately to decision-making in both civil and ecclesial processes provides the best safeguard for all these values thematic in the documents of Vatican II.

These documents, however, constitute but one step in the Church’s developing recognition of the dignity, and therefore of the rights, of the human person. Gustav Thils cites papal and other authoritative pronouncements dating from 1888 which dismiss the “rights of man” as odious and dangerous. He refers his readers to L’Osservatore romano’s mixed reception even of the Universal Declaration of Human Rights in 1948.\textsuperscript{106} Nevertheless, the socio-political consequences of preaching that God created human beings in his own image led to a whole new category of papal teaching which began at the end of the nineteenth century.

\textsuperscript{105} GEORGE, The Principle of Subsidiarity, p.118.

1. 2 - Papal Encyclicals

Papal teaching relevant to the principle of subsidiarity began with teaching on social issues and only later began to apply to the Church such aspects of the teaching as appeared to be useful for relationships within the Church. The following survey of encyclicals written by six popes will suffice to illustrate this point.

1. 2. 1 - Leo XIII: Rerum novarum

Gaudium et spes, as has been said, was one in a series of documents which elucidated the Church's social teaching. The first in the series was Rerum novarum.\textsuperscript{107} This encyclical, although historically conditioned, is described as "the bedrock of modern Catholic social doctrine" and has decisively shaped the Church's social teaching almost to the present day.\textsuperscript{108} Leo XIII, an ardent admirer of Thomas Aquinas, adopted his natural law philosophy and argued that economic, political, and social life should be based on the moral law and reflect the dualistic nature of the person. Justice required that the common good of the community, rather than private profit, should prevail in the formation of economic policy, but that legitimate rights should be safeguarded. If Leo did not explicitly mention the principle of subsidiarity, in Rerum novarum he dealt with the connections between the state,


individuals, and smaller societies (for example, the family), and specified the priorities and prerogatives of these societies. In so doing, he enunciated certain values intrinsic to the principle of subsidiarity:

- the dignity of man who by nature has the right to provide for himself;\textsuperscript{109}

- the legitimate autonomy and consequent rights of the family, in which the state must not interfere except "justly and properly to safeguard and strengthen" these rights;\textsuperscript{110}

- the state’s duty to provide for the prosperity and well-being of all the citizens, acting with strict, that is distributive, justice towards every class;\textsuperscript{111}

- authority, as a gift from God, a participation in the highest of all sovereignties, should be exercised as God’s power is exercised. The law must do no more than is absolutely necessary.\textsuperscript{112}

- man’s natural right to form associations conditioned by culture.\textsuperscript{113}

\textsuperscript{109}RN, nn.4-8.

\textsuperscript{110}RN, nn.9-12.

\textsuperscript{111}RN, nn.25-27. The Pope adds here: "But although all citizens, without exception, can and ought to contribute to the common good in which individuals share so profitably to themselves, yet it is not to be supposed that all can contribute in the same way and to the same extent. No matter what changes may be made in forms of government, there will always be differences and inequalities of condition in the State. Society cannot exist or be conceived without them." For Leo XIII’s vision of the \textit{bonum commune}, see LEYS, \textit{Ecclesiological Impacts}, pp.42-43: "He did not give a definition but one can find elements for one in several places: morality, a well-ordered family life, maintaining the obligations of religion, justice so that people do not infringe on other people’s rights or on private property,... healthy citizens who can support and protect the state, public order and security... In Leo’s vision, the \textit{bonum commune} is about fairly general matters." Leys argues that, according to this Pope’s teaching, the God-given authority of the state is ordered to aiding the citizens to achieve the means for self-realisation: "The \textit{bonum commune}, however important it is, cannot be for Leo the goal to which private interest is basically subject: it is in service of the development of the individual person. So it is clear that the first basic idea of the principle of subsidiarity, namely the human person as the \textit{quid pro quo} of all collective activity, is present in Leo’s magisterial documents" (ibid., p.48).

\textsuperscript{112}RN, nn.28-34. Cf. LEYS, \textit{Ecclesiological Impacts}, p.45, footnote 15.

\textsuperscript{113}RN, nn.36-42.
Stated thus in "The Workers' Charter", these values, fundamental to the exercise of justice in society and in the state, foreshadowed the principle of subsidiarity as enunciated in the next social encyclical.

1. 2. 2 - Pius XI: Quadragesimo anno

Whereas Leo XIII had focused on the institutional aspects of the state, Pius XI in Quadragesimo anno sought to complement this doctrine with the doctrine of social and economic institutions.\footnote{Pius XI, Encyclical letter, Quadragesimo anno (= QA), 15 May 1931, in AAS, 23 (1931), pp.177-228. English translation in O'BRIEN and SHANNON, Catholic Social Thought, pp.42-80. The paragraph numbers are those of this translation. See also LEYS, "Quadragesimo anno and the Principle of Subsidiarity," in Ecclesiological Impacts, pp.58-85. Leys concludes, pp.84-85: "There has been a fundamental change in ecclesiastical thinking. The modern ideas about the value of the individual person characterise from now on the social doctrine of the church, starting from the irreplaceable value of the individual person and seeing in him also the final goal of society (GS, n.25). The position of political authority especially is really relativised in this encyclical in comparison to the political encyclicals of Leo XIII. The primacy of authority is replaced by the primacy of freedom. The strong ethical authority which in Leo was so needed to bring all to the common goal, finds in Pius its role in the support for the development of the individual person, who (in Härting's terminology) is 'morally mature'. In this way there is a distinction made between the ethical order and the legal order. That makes it possible for the free initiative of individual persons and associations to realise the moral and cultural goals of society on their own authority. In this way we can say that every social order is built on the awareness of the responsibility of the individual person, who can develop, in free self-determination, his own potential and talents, which are rooted in the security of his immediate surroundings." The bishops arguing at successive synods for freedom to "inculturate" seem to have understood this.}

He was clearly teaching Catholic doctrine.

He opened his letter with a lengthy preamble, summarising and appreciating his predecessor's achievement in Rerum novarum. On this, the fortieth anniversary, he intended

\footnote{This interesting innovation recognises the "faithful" as equal recipients with the hierarchy, presumably not, therefore, as passive.}
to clarify some issues and answer such doubts as had arisen. He also attempted to confront the evil of fascism.\textsuperscript{116}

Oswald von Nell-Breuning, in his book on the encyclical, explained that an over-emphasis on the individual which detached him from society - in the form of free associations, guilds, corporations, and other similar institutions - led to unlimited state authority: "The state undertakes ever more, and is in turn increasingly engaged in helping individuals. The scope of state activities thus increases without restriction."\textsuperscript{117} Once the smaller communities of life were destroyed, an emptiness resulted. The variety of these institutions had given richness to life. The state, finding a "shapeless, unformed monotonous mass," lacking "a well-arranged structure of members, skeleton, muscles, and skin" found it necessary to hold this together "by an iron band in order to give it, outwardly at least, some semblance of the form which it lacked from within."\textsuperscript{118} He asserts that in the civil order what often appear to be autonomous communities are in fact merely fulfilling governmental tasks in the interest of the state from whom they derive their authority.\textsuperscript{119}

The Church's response to this situation is formulated in \textit{Quadragesimo anno}:

\textsuperscript{116}O. von Nell-Breuning, who was largely responsible for drafting the encyclical, described, on the occasion of its fortieth anniversary, the process of its composition. See O. von NELL-BREUNING, "Octogesimo anno," in \textit{Stimmen der Zeit}, 189 (1971), pp. 289-296. With hindsight, he regarded himself as having been too gullible in accepting Pius XI's section on fascism. He questioned the Pope's understanding of this political dogma.


\textsuperscript{118}Ibid., p. 203.

\textsuperscript{119}Ibid., p. 204.
It is indeed true, as history clearly shows, that owing to the change in social conditions, much that was formerly done by small bodies can nowadays be accomplished only by large organisations. Nevertheless, it is a fundamental principle of social philosophy, fixed and unchangeable, that one should not withdraw from individuals and commit to the community what they can accomplish by their own enterprise and industry. So, too, it is an injustice and at the same time a grave evil and a disturbance of right order to transfer to the larger and higher collectivity functions which can be performed and provided for by lesser and subordinate bodies. Inasmuch as every social activity should, by its very nature, prove a help (subsidiarium) to members of the body social, it should never destroy or absorb them.

The State authorities should leave to other bodies the care and expediting of business and activities of lesser moment, which otherwise become for it a source of great distraction. It then will perform with greater freedom, vigour and effectiveness, the tasks belonging properly to it, and which it alone can accomplish, directing, supervising, encouraging, restraining, as circumstances suggest or necessity demands. Let those in power, therefore, be convinced that the more faithfully this principle of “subsidiarity” is followed and a hierarchical order prevails among the various organisations, the more excellent will be the authority and efficiency of society, and the happier and more prosperous the condition of the commonwealth.

This quotation has been given at length because it is regarded as the locus classicus of the principle. It expresses the interpretation of subsidiarity found in both Gravissimum educationis and Gaudium et spes. Nell-Breuning, the “writer” of the encyclical, attributes both the phrase “the principle of subsidiarity” and its formulation in this section, to Gustav

---

120 One commentator on this passage writes; “An injustice and a grave evil. Note that this is the general ‘principle of home rule,’ applicable not only to the State, but to any social body made up of various groups such as, for instance, a contracting company working on a project, or a modern University. It is an injustice to deprive the minor group or the individual of his function; for to take from anyone what belongs to him is injustice. And such interference is also a grave evil, or harmful to the order of the social body…” See R.J.MILLER, Forty Years After: Pius XI and the Social Order; A Commentary, St. Paul, Minnesota, Radio Replies Press, 1948, p.158.

121 4A, nn.79-80. For a detailed analysis of this section of the encyclical, see LEYS, Ecclesiological Impacts, pp.79-81. Those who seek a Scriptural basis for the principle of subsidiarity will notice a correspondence between the Pope’s advice here and the advice of Moses’ father-in-law, Exodus, 18:17-26. D’ONORIO, Le pape et le gouvernement, p.94, footnote 1, also recognises this scriptural example.
Gundlach: "The pertinent content was known earlier; nevertheless, Gundlach was the first
to formulate that primordial insight as the principle and to name it. Since then, under that
name, it became so famous and - hardly conceivable - it was subject to many misunderstand-
ings."¹²² Presumably, the recent teachings of the magisterium have helped to clarify this
doctrine of Christian action.

According to Nell-Breuning's analysis of the sociological system, there are two
dangers. The first conceives social activity as something that may or may not be present.
This leads to an individualistic system. The second regards society and its activity as prior
to the individual, in which case there follows a collectivist or universalistic organisation. The
truth expressed by Leo XIII is rather that "Man is older than the state" and "domestic
community by definition essentially precedes state community." The logical and natural
conclusion to this is the implementation of the principle of subsidiarity. The individual is not
the only beneficiary. As Nell-Breuning concludes: "The restriction of state activity to the
supreme governing of communities is quite to the advantage of state authority. Thereby it
will gain in power and resource, as well as in freedom and security. Mainly, however, such
moderation increases esteem and prestige. This is the reason for the demand of faithful
observance of the principle of subsidiarity."¹²³ From this analysis it appears that to label
"subsidiarity" simply as "decentralisation" trivialises its functions in the structuring of any

¹²² O. von NELL-BREUNING, quoted by J. SCHWARTE in Gustav Gundlach S.J. (1892-1963),
München, Schöningh, 1975, p.39. For this translation from the original German I am indebted to
W. KOWAL.

¹²³ NELL-BREUNING, Reorganisation of Social Economy, pp.208-209.
organisation.\textsuperscript{124} It surely safeguards the dignity of the individual and protects the rights of the community.

1. 2. 3 - John XXIII: Mater et Magistra

The fiftieth anniversary of \textit{Rerum novarum} did not pass unmarked. Pius XII addressed a radio broadcast to a world at war. Given the circumstances, few can have entertained any hope of the realisation of his exhortation that "every legitimate and beneficial interference of the state in the field of labour should be such as to safeguard and respect its personal character, both in the broad outlines and, as far as possible, in what concerns its execution."\textsuperscript{125} The next social encyclical in the series did not appear until John XXIII published \textit{Mater et Magistra} in 1961.\textsuperscript{126} In this encyclical, however, Pope John adopts a somewhat different attitude to the state. Whereas Leo and Pius XI had emphasised limiting the state’s activity, John saw the state as having an important role to play in the lives of its

\textsuperscript{124}Cf. D’ONORIO, \textit{Le pape et le gouvernement}, p.201: "Le principe de subsidiarité ne peut donc être transposé «sic et simpliciter» de la société politique à la société ecclésiale. D’autant qu’on pourrait s’interroger sur une telle opportunité dans les circonstances présentes: toutes les réclamations épiscopales en la matière visent un renforcement des compétences locales (diocèses ou conférences d’évêques) au détriment de celles du Saint-Siège. Or c’est oublier que subsidiarité et décentralisation ne sont pas exactement synonymes car le propre de subsidiarité est de jouer en avant comme en amont." This is an important point, but it does not include the origin of the principle in respect for the dignity of the individual.

\textsuperscript{125}PIUS XII, Discourse broadcast on Vatican Radio, 1 June 1941, Feast of Pentecost, in \textit{AAS}, 33 (1941), pp.216-227, p.223. The original was delivered in Italian, and then repeated in other European languages. The \textit{AAS} reference is to the English language version.

citizens, especially in matters of welfare. He also advocated worker participation in the management of industry.\textsuperscript{127}

After an historical overview of \textit{Rerum novarum} and \textit{Quadragesimo anno}, Pope John began his teaching with the primacy of private initiative, but, he continued, public authorities must then "take active interest, the better to increase the output of goods and to further social progress for the benefit of all citizens."\textsuperscript{128} John XXIII, showing real appreciation of the understanding of subsidiarity as taught by Nell-Breuning, asserted: "This intervention of public authorities that encourages, stimulates, regulates, supplements and complements is based on the principle of subsidiarity as set forth by Pius XI in \textit{Quadragesimo anno," from which he then quoted the relevant passage in full.\textsuperscript{129}

Both Leo XIII and Pius XI had upheld the right to private property. Faced with a very different world, Pope John qualified this right, subordinating it to the common good:

The Church of Vatican II is "inheriting" a society in process of radical transformation, compared with that of the past generation, because of socialisation, the multiplying complex of relationships, and interdependence among groups and nations.\textsuperscript{130}

National and world society, progressively socialised, requires increasing intervention by public authorities to promote the common good in keeping with the principle of subsidiarity. In Church teaching the \textit{common good} is not the glib phrase of a political campaign. It forms the bedrock of Catholic

\textsuperscript{127}MM, nn.91-103.

\textsuperscript{128}MM, nn.51-52.

\textsuperscript{129}MM, n.53. A further brief discussion of this passage may be read in P.RIGA, \textit{John XXIII and the City of Man}, Westminster, Maryland, Newman Press, 1966, pp.8-9.

\textsuperscript{130}Cf. MM, n.59.
social doctrine, more fundamental than property because its goal and measure is man and his perfection.\textsuperscript{131}

By relativising the common good the Holy Father emphasises human dignity. Joseph Greilmington points out a further aspect of the social teaching since the 1960s. He indicates the growing awareness within the Church of the diversity of the problems and therefore of possible solutions to these problems in the world beyond the industrialised West, solutions probably best devised by those closest to the issues. The Church's role is not to produce one universally applicable social teaching. The onus, rather, falls to the local churches, who "will constantly reflect on their Gospel role in terms of property, market, workers, and public authority proper to that region. Then the universal Church will probably speak more in universal terms, generally supportive of regional doctrinal and pastoral initiatives. It will take on a new transnational role of relating to the regions themselves - regions increasingly interdependent by reason of technology applied to economic power and by reason of Christ and his Church living in the world, serving all God's human family."\textsuperscript{132} Greilmington here propounds the positive aspect of the principle of subsidiarity, the duty of the higher/larger society to support the lower/smaller.

\textit{Mater et Magistra}, however, also contains a warning to the state against carrying public ownership too far in exercising its responsibility for the common good: "In this matter, the principle of subsidiarity, already mentioned above, is to be strictly observed. For it is lawful for states and public corporations to expand their domain of ownership only when


\textsuperscript{132} GREMILLION, \textit{The Gospel of Peace and Justice}, p.37.
manifest and genuine requirements of the common good so require, and then with safeguards, lest the possessions of private citizens be diminished beyond measure, or, what is worse, destroyed."  

"MM, n.117. Given the Gospel teaching that the true riches of humanity consist in the spiritual gifts of intellect and will, one expects to find the Church equally concerned for the free exercise and development of these, especially in promoting the kingdom of God.

134 "MM, n.152. The foundation of all this teaching is given in n.219: "The cardinal point...is that individual men are necessarily the foundation, cause and end of all social institutions. We are referring to human beings, insofar as they are social by nature, and raised to an order of existence that transcends and subdues nature."
1. 2. 4 - John XXIII: Pacem in terris

The encyclical Pacem in terris, like Quadragesimo anno, marked a new departure in papal teaching in that the Pope addressed it to "all men of good will."\textsuperscript{135}

The four major themes, (1) the rights proper to each individual, (2) the relation between authority and conscience, (3) disarmament, and (4) the development of the common good, flowed naturally from previous papal statements and foreshadowed the topics that would be covered by Vatican II. The extent of the Pope's defence of human rights marked a new emphasis in official Catholic teaching. As Michael Walsh remarks, "But Pope John was well aware that the exercise of rights on the part of some citizens might obstruct other citizens in the exercise of theirs. It was the duty of the state, he therefore wrote, to preserve a balance and not to be so concerned about the rights of one group that the rights of another might be sacrificed."\textsuperscript{136}

John XXIII cited the principle of subsidiarity in the fourth part of the encyclical on "The Relationship of Men and of Political Communities with the World Community." Pacem in terris reads: "Moreover, just as it is necessary in each state that relations which the public authority has with its citizens, families, and intermediate associations be controlled and regulated by the principle of subsidiarity, it is equally necessary that the relationships

\textsuperscript{135}JOHN XXIII, Encyclical letter, Pacem in terris (=PT), 11 April 1963, in AAS, 55 (1963), pp.257-304. English translation in O'BRIEN and SHANNON, Catholic Social Thought, pp.131-159. The paragraph numbers are those of the English translation.

which exist between the worldwide public authority and the public authorities of individual nations be governed by the same principle."¹³⁷ The economic, social, political, and cultural problems posed by the common good were seen to be so vast, complex, and urgent that they were beyond the competence of the individual state and were therefore the responsibility of the worldwide public authorities. The encyclical does not suggest that for the higher/larger society to assume this "subsidiary" role is to be in any sense inferior or subordinate to the lower/smaller society. "Subsidiary" has rather connotations of authority, of enablement, and of empowerment.¹³⁸

"With *Pacem in terris* and the Second Vatican Council, Catholicism was emerging into participation in the full human community. This encyclical was a fitting climax to Pope John's reign, offering a standard of human rights and world peace against which to measure the effectiveness of the changes initiated by the council. The standard of Catholic life could never again be simply the power and strength of the Church, for the Church itself would now be judged by the standards of truth, justice, charity, and freedom which Pope John set forth."¹³⁹

¹³⁷ *PT*, n.140.

¹³⁸ Cf. *PT*, n.141 which reads: "The worldwide public authority...is to create on a world basis, an environment in which the public authorities of each state, its citizens, and intermediate associations can carry out their tasks, fulfil their duties and exercise their rights with greater security."

¹³⁹ O'BRIEN and SHANNON, *Catholic Social Thought*, p.130. See also P.RIGA, *Peace on Earth: A Commentary on Pope John's Encyclical*, New York, Herder and Herder, 1964, where the author discusses the interventions of the public authority, its structure and operation on pp.92-96. The Foreword to this book, pp.11-23, is a statement by Cardinal Suenens, made on 13 May 1963, at the annual Conference on Non-Governmental Organisations of the United Nations. The Cardinal on p.13 quotes St.-Exupéry, "If respect for man is established in the hearts of men, men will succeed by establishing in return a social, political, and economic system that will enshrine that respect." One might ask whether the Church "enshrine[s] that respect" in its structures.
1. 2. 5 - Paul VI: *Populorum progressio*

Pope Paul VI produced two basic economic and social documents, the encyclical, *Populorum progressio*, and an apostolic letter, *Octogesima adveniens*. This Pope’s concern was to implement the teaching of the Second Vatican Council and to present to the world a loving, serving Church. He did not mention the principle of subsidiarity, but Gremillion’s assessment of his pontificate highlights an aspect of the principle which is relevant to this study. He described Pope Paul as:

Par excellence a man of the Church, of the institutional Church, the organised People of God with its diverse structures of community and ministry - whose basic corporate institution is the College of Bishops. So in implementing the collegiality stressed by Vatican II, Paul primarily expects and encourages the *episcopal bodies* to create the loving serving Church: three synods deal with the subject, 1969, 1971, and 1974; he encourages the new national and regional conferences of bishops to give the poor and oppressed central place in their pastoral concern; ... [he] establishes the Pontifical Commission for Justice and Peace... Encouraged by Paul some sixty conferences of bishops have formally established bodies or secretariats comparable to the pontifical commission... But there exist hundreds, even thousands, of less formal organisations and movements having national or continental impact...These are often the creation of lay leaders... They provide precious feedback of inspiration and openness and flexibility to the formal institutions of the Church.

To devolve this responsibility onto the conferences of bishops and to encourage the proliferation of less formal organisations implemented the understanding of subsidiarity displayed at and recommended by the Council. In *Octogesima adveniens*, Paul emphasised

---


the personal responsibility of every Christian individual and institution to act justly. Such a witness should lead to the creation of a society structured on principles of justice. Each local church had to analyse its own situation in the light of the Gospel and the teaching of the Church and thus develop a programme appropriate to its own circumstances.\textsuperscript{142} At this development, subsidiarity assumes a doctrinal importance.

1. 2. 6 - John Paul II: Centesimus annus

John Paul II reiterated and updated those themes already stressed by his predecessors. In the centenary year of \textit{Rerum novarum}, he addressed his encyclical \textit{Centesimus annus} simply to “Venerable Brothers, Beloved Sons and Daughters.” He emphasised the dignity of the human person, condemning political doctrines which reduced man “to a series of social relationships” and which caused the disappearance of “the concept of the person as the autonomous subject of moral decision, the very subject whose decisions build the social order.” He went on to present the Christian vision of the human person whose social nature “is not completely fulfilled in the state, but is realised in various intermediary groups beginning with the family and including economic, social, political and cultural groups which stem from human nature itself and have their own autonomy, always with a view to the common good.”\textsuperscript{143} Once again the Holy Father is looking to the call to holiness.

\textsuperscript{142}Cf. O'BRIEN and SHANNON, \textit{Catholic Social Thought}, p.363. For the background to the composition of this encyclical, see HEBBLETHWAITE, \textit{Paul VI}, pp.577-578. He describes it as original both in its perception of the complexity of situations and in its discrimination between the various “socialisms”. He writes: “Paradoxically, \textit{Octogesima adveniens} gained in authority by being less authoritative.” Pope Paul had learned from his experience at Medellin.

The Pope invoked the principle of subsidiarity twice in this encyclical. First, with reference to the state’s duty to contribute directly to improving the condition of workers.\textsuperscript{144} Secondly, after allowing the state a “\textit{substitute function} when social sectors or business systems are too weak or are just getting under way, and are not equal to the task at hand,” he insisted that “such supplementary interventions, which are justified by urgent reasons touching the common good, must be as brief as possible.” He went on to say, “Here again the \textit{principle of subsidiarity} must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good.”\textsuperscript{145}

Many more passages could be quoted from this encyclical to illustrate the consistency of the Church’s moral teaching on the dignity and rights of the individual person, including especially the right to participate in making decisions and in assuming responsibility for them.\textsuperscript{146}

The Pope also recognised the unique influence of culture on human activity. The Church, he said, makes a “\textit{specific and decisive}” contribution to true culture by giving human beings a true understanding of themselves and their destiny. But he also admitted that the Church will not be listened to, if the world cannot see that the principles she preaches are practised within her: “Today more than ever, the Church is aware that her social message

\textsuperscript{144} \textit{CA}, n.15.

\textsuperscript{145} \textit{CA}, n.48.

\textsuperscript{146} \textit{CA}, nn. 5, 6, 7, 9, 11, 16, 19, 22, 24, 25, 29, 32, 34, 36, 38, 41, 43, 45, 46, 47, 49, 53, 54, 59.
CONCILIAR AND PAPAL TEACHING

will gain credibility more immediately from the *witness of actions* than as a result of its internal logic and consistency." In other words, the Church must also implement this principle of subsidiarity wherever possible and desirable.

Gremillion tackles this theme, somewhat tentatively. He sees the challenge for the continuing transformation of Church structures as coming from synods of bishops. From the synods of 1971 and 1974 he isolates seven "major thrusts". He foresees:

- bishops, as *national and continental* leaders, will take more initiative in the transnational community;

- small and basic communities will provide the primary unit of God’s people in a much more self-conscious way;

- the structures of the universal Church will agglomerate around religio-cultural geopolitical regions; there will be a partial transfer of ecclesiastical authority from the papacy "outward and downward," and from diocesan and national conference "upward," to gradually form (*sic*) regional ecclesiastical jurisdictions. Ecumenical councils will meet more often, perhaps about every twenty or thirty years, with triennial and special synods, with growing authority keeping oversight of the universal Church during the intervals;

- ecumenical community and ministry among all Christians will increase from "below" in the local church and its basic groups, to guide and inspire the next stage toward Church unity at national, regional, and global levels;

- co-operation will increase markedly between the Christian Church and the dominant transcendental faith of each area;

- religious orders will reorient their apostolates to provide leadership and examples for this ministry and community of loving service, and to advance the transformation of Church structures;

- although the structures for the laity are less clear, they will certainly take leadership in the formation and direction of the small communities, function as chairpersons, and perhaps evolve into preachers, presiders over the liturgy, and community leaders. "If this role becomes permanent, they will really become ministers without benefit of sacred orders. Shall we see then a closer convergence

---

147 *CA*, n.57.
of clergy and laity?... Or will we see more laypersons as part-time ministers, and vice-versa?"  

As a practical principle, grounded in human dignity, subsidiarity necessarily meets the demands of a shrinking world. The principle of subsidiarity, as a fundamental principle of the Church’s social teaching, has thus received frequent and substantial support from the popes. Without actually applying it to the Church itself they declare its necessity to any society, and develop the values it upholds as consistent with the traditional teaching of the Church. It provides for an ordered structure, preserves the dignity and uniqueness of individual human persons and communities, and promotes true human development. Its theological authority, however, derives from the writings of Pius XII.

1. 2. 7 - Pius XII: Mystici Corporis

The encyclical Mystici Corporis gave new impetus to the Church’s growth in self-understanding. After the Reformation, the doctrine on the Church had developed along apologetic and defensive lines. Ecclesiology became, in fact, “hierarchology.” The visible society of the Church consisted of those who recognised the triple power of the hierarchy and submitted to it. In this theology there was no place for such ideas as the universal priesthood of the faithful, nor even for fundamental doctrines such as the Trinity, the Holy Spirit, or the Eucharist.

---

148 GREMILLION, The Gospel of Peace and Justice, pp.129-132. For these predictions he has drawn on the Synod documents: Justice in the World, produced by the Synod of Bishops, 30 November 1971, and The Evangelisation of the Modern World, produced by the Synod of Bishops, 26 October 1974. He gives the English texts of both these documents at pp.513-529 and pp.593-598 respectively.

Inspired by the liturgical movement, theologians began in the early years of this century to develop the doctrine of the Mystical Body. Counter-Reformation theology had largely ignored this teaching, despite its scriptural and patristic ancestry. The bonds which united the members of the worshipping community to Christ, and to one another, made them more aware of the life in Christ which they shared as members of the Church. The lay apostolate movement grew from this awareness, and the need for a theology which would help the laity live the "mystery" of the Church became apparent.

The doctrine developed pari passu, as it were, with the romantic reaction to the cold intellectualism of the Enlightenment. From the study of biology came the realisation that all life forms had an organic character: a multiplicity of organisms, each with a different structure and function, contributed to the life of the whole of which each was a part. Translated into the field of political philosophy, this insight led to a new appreciation of the individual and his role in the state.

Johann A. Möhler, captivated by the parallelism between this and the teachings of the Fathers, that the Church was a living organic community animated by the Spirit of Christ, elaborated and expounded the doctrine.\(^{150}\)

\(^{150}\)See *Cyclopaedia of Biblical, Theological and Ecclesiastical Literature*, edited by J.M'CLINTOCK and J.STRONG, 10v, Grand Rapids, Michigan, Baker Book House, 1969-1970, vol.6, p.429, where Möhler is described as "the greatest theologian the Roman Catholic Church has known since Bellarmine and Bossuet." DENAUX, in "L'Église comme communion," p.22, also pays tribute to the work of Möhler. Cf. LEYS, *Ecclesiological Impacts*, p.34, footnote 57, where he identifies Möhler as one of the influences on Ketteler, whose thought, in turn, influenced Leo XIII. Leys also, pp.34-35, gives Ketteler's arguments at Vatican I against papal infallibility. Cardinal J.Ratzinger, in a paper presented at a regional church conference at Foggia, Italy, 21 October 1985, also pays tribute to the work of Möhler: "J.A.Möhler was the great renovator of Catholic theology after the desolation of the Enlightenment." The Cardinal then quotes Möhler as follows: "A certain erroneous theology might be summed up in caricatured fashion in this statement: 'In the beginning Christ founded the hierarchy and in so doing provided sufficiently for the Church until the end of time.' But it must be said, in opposition to that, that the Church is the mystical body, that is, that
His expositions proved so influential that the truth of the Mystical Body as a first principle of the doctrine concerning the Church reached the first *Schema de Ecclesia Christi* which was distributed to the bishops assembling in Rome for Vatican I in January 1870. Of the 639 bishops who were present 230 commented on the *Schema*. Twenty-nine expressed reservations: four regretted the mention, considering the doctrine "vague, ill-understood, too mystical." The other twenty-five of these desired a "simpler, more practical definition." Émile Mersch is surely rather sanguine in attributing a favourable interpretation to the silence of the 400 who did not respond.  

151 A second *Schema* which took account of these criticisms and suggestions was never examined or discussed, but the doctrine did not fade into oblivion. After figuring in the teaching of Leo XIII  

152 and responding to the needs of the liturgical movement, the Pauline figure eventually reached its most influential expression in *Mystici Corporis*.  

153 The vision of the Church as the Body of Christ certainly proved inspiring: it opened up a new understanding of the members' common life in Christ and of his presence and activity in all the members of his Body. The image was not without its dangers; the possibility exists of exaggerating the identity of Christ with his members - an aberration

\[\text{Christ himself is its ever-new foundation, that he is never only its past, but is always and above all the present and the future.} \]


which could lead to the attribution to Christ of the sins of his members, quietism, and the depreciation of personal prayer.\textsuperscript{154}

Pius XII, aware of these dangers, devoted the third part of the encyclical to answering them.\textsuperscript{155} He taught that the Mystical Body was identical with the Roman Catholic Church, the Church visible and external, the social body.\textsuperscript{156} In the Church, however, there persists an interior divine element, the union of members in grace and love with Christ and with one another, due to the abiding presence of the Holy Spirit.\textsuperscript{157} The Spirit bestows on the members his "gifts, powers and extraordinary graces" which "are perfected day by day in these members according to the office they may hold in the Mystical Body of Jesus Christ."\textsuperscript{158}

The Pope made clear the necessity of exercising these gifts:

Because Christ the Head holds such an eminent position, one must not think that He does not require the Body's help...Christ requires His members...Our Saviour does not rule the Church directly in a visible manner, and so in carrying out the work of Redemption He wishes to be helped by the members of His Body. This is not because He is weak, but rather because He has so willed it for the greater glory of His unspotted Spouse.\textsuperscript{159}

\textsuperscript{154} LEYS, in Ecclesiological Impacts, pp.129-130, identifies another danger inherent in the metaphor: the predominant position of the head encourages a centralist tendency.

\textsuperscript{155} MC, nn.100-106.

\textsuperscript{156} MC, nn.15-31.

\textsuperscript{157} MC, nn.85-91.

\textsuperscript{158} MC, nn.92-93.

\textsuperscript{159} MC, nn.54-55 and cf. nn.16. and 72.
Moreover, the members' response to the gifts of the Holy Spirit in carrying out this
work of redemption, will always be free, and ordered.\textsuperscript{160} Émile Mersch described the
nature of the Church's governance as follows:

Christian authority, like Christian obedience or the Christian social organism,
is a thing apart, a thing that is new with all the newness of Christianity. ...
[W]e should avoid trying to fit them into ancient concepts or the simple
notions of natural ethics. We have to use natural concepts...but we also have
to surpass them. This is particularly true of ideas that connote a pagan
juridicalism too prone to disrespect human dignity, such as those expressed
by the words domination, imperium, subjection of persons, good pleasure,
and so forth. ... Whatever good may be found in any type of government,
is sure to be found in the Church of Christ. But the Church possesses such
good qualities in a different way, for the goodness of Christ is pre-emi-
nent.\textsuperscript{161}

He maintained that ecclesiastical government had all the advantages of monarchies, "unified
power, continuity of tradition, and the absence of clashes resulting from disagreement."

Moreover, the Church "is more monarchical than a monarchy" but "more democratic than
a democracy." He continued:

It does not stop with giving the people an element of sovereignty, but gives
them the whole sovereignty, for it declares that the Master is possessed
wholly by each of the faithful. It gives sovereignty not only to the entire
corporate body, but to each individual. Each one can say in Christ, "L'État
c'est moi." ...

Accordingly, if anyone should maintain that authority requires an absolute
separation between him who commands and him who obeys, he is ignorant
of the nature of authority in the Church. Christ is the only one in the Church
who guides His members, He does not shove them around like pieces of

\textsuperscript{160} MC, n.122.

\textsuperscript{161} É. MERSCH, \textit{The Theology of the Mystical Body}, translated by C. VOLLERT, St. Louis,
Missouri, B. Herder Book Co., 1951, pp.539-540.
luggage, but guides them and nourishes them and surrounds them with loving care; "for no man ever hated his own flesh." (Eph. 5, 29).  

This discussion reveals, however inchoatively, the connection between human dignity and subsidiarity, understood as the regal function.

1. 3 - Papal allocutions

Some of the more significant remarks about the principle of subsidiarity as applicable to the Church were made by Popes Pius XII and Paul VI not in encyclicals, but in the course of addresses to various groups of people. A brief analysis of these allocutions follows.

1. 3. 1 - Allocutions of Pius XII

Pius XII elaborated his understanding of the structure of the Church in a now famous allocution. It was delivered at a consistory of thirty-two new Cardinals. Just as Quadragesimo anno is cited as the locus classicus for the principle of subsidiarity, so quotations from this allocution occur in all discussions about applying the principle specifically to the Church.

Pope Pius began by establishing that the Church's main answer to those who questioned the part she had to play in the salvation of human society was "the unity and completeness of the Church, founded in God, and in Christ." This unity and completeness,

\[\text{\textsuperscript{162}}\text{Ibid., pp.540, and 544. Cf. MC, nn.73-79. Whereas this is a "traditional" exposition of authority/obedience, typically Ignatian in the development of its spirituality, Mersch (p.545), nonetheless, offered an understanding of active obedience on the part of the members as essential to the growth of the Church.}\]

\[\text{\textsuperscript{163}}\text{PIUS XII, Allocation at a Consistory of newly created Cardinals, 20 February 1946, in AAS, 38 (1946), pp.141-151. English translation in V.A. YZERMANS (ed.), The Major Addresses of Pope Pius XII, St Paul, Minnesota, North Central Publications, 1961, vol.1, pp.76-85. Yzermans, although he entitled the allocution, "The Function of the Church," says that the Italian title, "The Power and Influence of the Church in the True Restoration of the World," "better signifies its nature." He also asserts that the address was delivered in Latin, but the text in AAS is in Italian, without any title. The references are to the page numbers of the text of Yzermans.}\]
he said, exercised an influence on "the foundation, structure and activity of human society." He rejected any notion of the Church as an earthly empire:

Her development is before all else in depth, then in length and breadth. She seeks out above all man as such. Her study is to form man, to model and perfect in him the Divine Image. Her work is done in the depth of each man’s heart, but has its effects, extending throughout his life, in all his activities. Through men thus formed the Church prepares for human society a basis on which it can rest securely. By linking the Church’s action to perfecting the divine image of each person, Pius XII anticipates the later emphases of Vatican II.

No foundation, however, could support a structure which lacked cohesion and equilibrium. Developing his architectural metaphor, the Pope pointed out that the Church’s contribution to the cohesion and equilibrium of the social structure was internal. External props and buttresses could not support a tottering edifice. The Church, the Pope said, worked on what is most intrinsic to man’s being, “on man in his personal dignity as a free creature, in his infinitely higher dignity as a son of God. This man the Church forms and educates because he alone, complete in harmonious combination of his natural and supernatural life, in an orderly development of his instincts and inclinations, his rich qualities and varied reactions, is at the same time the beginning and the end of life in human society, thus also the principle of its equilibrium.”

The “interior strength of the jointed structure” enables a society to withstand the destructive hand of time. In this connection, Pope Pius XII quoted his predecessor Pius XI

\begin{itemize}
  \item[164] YZERMANS, The Major Addresses, p.78.
  \item[165] Ibid.
  \item[166] Ibid., p.79.
\end{itemize}
who, "in his encyclical *Quadragesimo anno* on social order, drew a practical conclusion from this thought when he announced a principle of general application, viz: that what individual men can do by themselves and by their own forces, should not be taken from them and assigned to the community."\(^1\)

Most significantly, Pius XII added the following comment: "It is a principle that also holds good for smaller communities and those of lower rank in relation to those which are larger and in a position of superiority. For - as the wise Pontiff said, developing his thought - every social activity is by its nature subsidiary; it must serve as a support to members of the social body and never destroy or absorb them. These are surely enlightened words, valid for social life in all its grades and also for the life of the Church without prejudice to its hierarchical structure."\(^2\) In the thought of Pius XII subsidiarity represents an ecclesial principle.

The next sentence assumes that this is both the doctrine and the practice of the Church - as contrasted with the tendencies of imperialism which evolve, the Pope argued, "in the direction of an ever-greater centralisation and more stringent uniformity. As a result, their equilibrium, their very cohesion, are maintained solely by force and by dominating material conditions and juridical experience, events and institutions, and not by the power of the conscientious assent of their intellectual convictions and readiness to take the initiative or assume responsibility."\(^3\)

\(^1\) Ibid.

\(^2\) Ibid., p.79.

\(^3\) Ibid., p.80.
CONCILIAR AND PAPAL TEACHING

The Pope then criticised the violation of equality and parity among men perpetrated by self-sufficient empires which disregarded those outside. By insisting on the centrality of man created in the image of God, the Church “can cure and heal such wounds.” The Church, said the Pope, “is ever bent intently over man, watching his every heart beat, she knows all his rich qualities, is alive to his inspirations, with that clear-sighted intuition and penetrating appreciation which can come only from the supernatural illumination of Christ’s teaching and the supernatural warmth of His divine charity.”\textsuperscript{170} From this vigilance come “the need and significance of her vital law of continuous adaptation,” for the Church forms men, elevated “to the perfection of [their] being and of [their] vitality in order to give them to human society.”\textsuperscript{171} The Pope singled out four types of men who would give human society its solid foundation and obtain for it security, equilibrium, equality, and normal development in space and time. These four types are: “men established in their inviolable integrity as images of God, men proud of their personal dignity and of their healthy freedom, men justly jealous of their equality with their fellows in all that touches the most essential basis of men’s dignity, men firmly attached to their land and traditions.”\textsuperscript{172}

The Church, therefore, must “live her... divinely appointed mission of forming the complete man, and thereby [collaborate] without rest in the construction of the solid foundations of society.” To succeed in this essential mission, the Church relies on the laity, who are, the Pope insists, “in the front line of the Church’s life; for them the Church is the

\textsuperscript{170} Ibid., pp.80-81.

\textsuperscript{171} Ibid., pp.81 and 82.

\textsuperscript{172} Ibid., p.82.
vital principle of human society. Accordingly they—especially they—must have an ever-closer sense not only of belonging to the Church, but of being the Church, the community of the faithful on earth under the guidance of the common head, the Pope, and of the Bishops in communion with Him. They are the Church; hence, from its earliest days the faithful, with the consent of their Bishop, have united in particular associations relating to the most diverse spheres of life. And the Holy See has never ceased to approve of and praise these associations.”\(^{173}\)

Commentators who would deny the applicability of the principle of subsidiarity to the Church tend to quote in isolation the paragraph in which the Pope mentioned it and to give particular emphasis to the final phrase of this paragraph, “without prejudice to its hierarchical structure.”\(^{174}\) The context, however, seems to indicate rather that the Pope had in mind the metaphor of a building in which all the interlocking parts of the structure contributed to the stability and grace of the whole. Starting from the context of the Pope’s statement, Joseph A. Komonchak asserts that:

\(^{173}\)Ibid., p.83.

\(^{174}\)Nell-Breuning commented on this phrase as follows: “As a matter of fact, opponents cling to this addition saying that it cancels the theoretical-abstract statement on the practical-concrete level, that it empties the statement of its concrete content and thus practically abolishes it. However, one should not deal so lightly with such a papal statement which so clearly is carefully thought through and formulated with equal care. Though I must confess that I, too, was struck by this addition when I first read it and I would have preferred to see the text without this addition. Yet then I realised that precisely this addition helps to give the papal statement its full weight. The addition cuts short the objection that the principle of subsidiarity is valid only for social structures of a democratic nature, and that the principle of subsidiarity and hierarchical structure are mutually exclusive. In opposition to this objection the Pope specifically states in the addition that subsidiarity and hierarchical structure can live with each other.” See O. von NELL-BREUNING, “Subsidiarität in der Kirche,” in Stimmen der Zeit, 204 (1986), pp.147-157, at p.150. For this and all subsequent translations from the original German, I am indebted to Dr. Marianne BURKHARD, OSB.
The application of the principle of subsidiarity within the Church is an integral part of the Pope's argument. He is not simply contrasting the social doctrine of the Church to the tendencies of modern imperialism; he is also contrasting the Church's practice of cultivating the inner dimensions of the person and of providing him opportunities for responsibility and initiative while modern empires deprive him of these by centralisation and uniformity. It is adult, solidly grounded, responsible individual citizens that the Church contributes to society; in fact they, particularly the laity, alone and in associations, are the Church in the world, the ones through whom the Church is society's "vital principle." That subsidiarity applies in the Church is thus clearly not an afterthought, much less a simple hypothesis, but a central point of the Pope's whole argument.\textsuperscript{175}

Indeed, Komonchak regards as conclusive the fact that Gundlach, whose formulation of the principle of subsidiarity appeared in \textit{Quadragesimo anno}, drafted this speech. The correspondence in thought, regarding the ordered working together of the various parts of a whole, between the encyclical \textit{Mystici Corporis} and the allocation also supports this interpretation.

Furthermore, Komonchak refers his readers to another allocation in which Pius XII appealed to the principle of subsidiarity. The Pope was addressing the Second World Congress on Lay Apostolate. After reminding them of his teaching in \textit{Mystici Corporis} on their vocation to collaborate in bringing the Body to perfection and speaking of the order to be observed between the various functions of priests and laity, the Pope stated that the community is at the service of the individuals, not the other way round. From the very origins of the Church the laity have had to lend their collaboration to the priests. This collaboration is all the more necessary at a time of great shortage of priests. In the work of \textit{consecratio mundi} which is essentially the work of the laity, the role of ecclesiastical

authority is to apply the principle of subsidiarity; to entrust to the lay person those tasks which he can accomplish as well as or even better than the priest, and, within the limits of his role and those which affect the common good of the Church, he should be able to act freely and to exercise his responsibility. The Pope went on to quote extensively from his February 1946 allocution to the Cardinals. The formation of responsible lay persons ready to take initiatives and assume responsibility was clearly an important theme in his teaching. In these ways, he prepares for the more official recognition of these themes in Vatican II.

1. 3. 2 - Allocutions of Paul VI

Paul VI twice referred to the relevance of the principle of subsidiarity in allocutions. On the first occasion, in an address given to the Presidents of the European Bishops’ Conferences, he seemed to take it for granted that subsidiarity serves as a principle of good government in the Church. He dismissed as vain the opinion of those who deny the Church any institutional character, maintaining that the structure of the Church was primary and took its origin from God. Equally, he rejected the idea that ecclesial government should be conformed purely and simply to the structures of civil societies where the higher ranks can absorb the lower and exert an imperious rule over them. By contrast, he said: “Not only does the principle of subsidiarity, so-called, provided it is rightly understood, counteract this, but the very nature of the Church is opposed to it. For us, the local church, constituted around its bishop who is bound to the whole Church and joined by communion to the Roman

---

176 PIUS XII, Allocution to Second World Congress on Lay Apostolate, 5 October 1957, in AAS, 39 (1957), pp.922-939, at pp.926-928. The original address was in French. Cf. also LEYS, Ecclesiological Impacts, pp.87-88.
CONCILIAR AND PAPAL TEACHING

Pontiff, provides the primary and cohesive structure of the Mystical Body.”

The Pope went on to speak of the communion that exists between the bishops as distinct from the foederatio which links civil institutions. He seems to be recommending the principle of subsidiarity, rightly understood, as a structure for communion within the Church.

Over a year later, addressing the Cardinals, the Pope expressed some fears about a misunderstanding of the Council leading to a “reinvention” (or a “rediscovery”) of the Church, the dissolution of ecclesiastical magisterium, a free interpretation of doctrine and an understanding of subsidiarity as autonomy, which leads to a vision of the local church as detached and self-sufficient. Here again, the principle of subsidiarity appears to be assumed as a good in itself, but like other, even essential, aspects of the Church susceptible to misinterpretations and distortions.

Pope Paul’s always cautious attitude, revealed both here and in his addresses to the 1969 Synod of Bishops, shows his fear of an incorrect understanding of the principle of subsidiarity. The synodal discussions, reported in the following chapter, show how well-


\[178\] PAUL VI, Allocution to the Cardinals bringing him greetings for his name-day, 23 June 1972, in AAS, 64 (1972), pp.496-505, at pp.498-499: “Da queste opposte tensioni deriva uno stato di disagio, che non possiamo e non dobbiamo nasconderci: anzitutto una falsa e abusiva interpretazione del Concilio, che vorrebbe una rottura con la tradizione, anche dottrinale, giungendo al ripudio della Chiesa pre-conciliare, e alla licenza di concepire una Chiesa «nuova», quasi «reinventata» dall’interno, nella costituzione, nel dogma, nel costume, nel diritto...Le reazioni negative a cui abbiamo accentato sembrano altresì aver di mira la dissoluzione del magistero ecclesiastico: sia equivocando sul pluralismo, concepito come libera interpretazione delle dottrine e coesistenza indisturbata di opposte concezioni; salla sussidarietà, intesa come autonomia; sulla Chiesa locale, voluta quasi staccata e libera, e autosufficiente...”
founded was this fear. Thomas De Koninck argues that the human mind grasps new concepts most easily by a process of rejection of the opposites. Gradually this refinement leads to a more precise formulation. The documents studied both in this chapter and in the next highlight misapprehensions of subsidiarity which distort its validity for ecclesial governance, as well as indicating aspects of the principle which recommend its use in the Church.

Conclusion

So far this study has examined the documents of the Second Vatican Council where the principle of subsidiarity, though rarely mentioned, is nonetheless implicit in many passages where the Fathers exhort the faithful and the world to act according to the values which the principle upholds. Then, the social teaching in the encyclicals and other pronouncements of Popes Leo XXIII, Pius XI, John XXIII, Paul VI, and John Paul II were studied to show the background against which these values emerged in the Church's teaching. Thirdly, the teaching of Pius XII in Mystici Corporis and two of his allocutions on the structure of the Church were used to show how the principle is valid for the life of the Church regarded both as a human society and as a divinely constituted means of leading human beings to their ultimate goal of being transformed into Christ. Finally, we looked at two allocutions of Paul VI also on the theme of subsidiarity as a structural principle for the Church.

\textsuperscript{179}T. DE KONINCK, \textit{De la dignité humaine}, Paris, Presses Universitaires de France, 1995. See especially pp.121-144. The argument on "Le dépassement des contraires," is too lengthy to quote in full, but the following brief quotation may serve to illustrate the point, p.124: "L'imparfait est pensable au moyen d'une forme achevée, qui se trouve en nous. Connaissant ainsi le contraire dans son contraire, notre intelligence se porte vers ce dernier comme vers quelquechose d'intelligible à partir de quoi elle passe à la connaissance de l'autre." The use of subsidiarity as a structural principle for communio becomes clearer as we confront and confound fears regarding an "unwise" and "imprudent" understanding. To some extent, the debates at the Synods of Bishops began this process.
From all these documents, there emerge the following themes:

- that the Church repeatedly teaches the unique dignity of the individual human person created in the image of God;

- that for this very reason each deserves a respect which recognises his right to participate in the decisions which affect his life. Neither state nor Church can usurp this inalienable responsibility;

- that within the Church each individual as a member of Christ's Body has both the duty and the right to participate in building up this Body;

- that the role of authority in the Church is to serve, to promote, to facilitate, to coordinate this activity in all its diversity;

- that, in this context, the principle of subsidiarity, developed in the Church's social teaching as a guide for the just structuring of civil societies, offers a means also of preserving unity while promoting legitimate diversity within the Church.

The next chapter examines the discussions at the ten Synods of Bishops held between 1967 and 1990 to see how often, and in what contexts the bishops either advocated the implementation of the principle of subsidiarity in the Church, or argued against its validity.
CHAPTER TWO

THE PRINCIPLE OF SUBSIDIARY

IN THE LIGHT OF SYNODAL DISCUSSIONS

Introduction

Despite the endorsements accorded to the principle of subsidiarity by successive popes, the prospect of implementing it in the Church required much discussion, and the topic figured largely on the agenda of several Synods of Bishops. The renewed awareness of such values as personal autonomy, human dignity, and freedom expressed at the Second Vatican Council guaranteed that, for the most part, the bishops would regard very favourably a principle which upheld these values. In general, this proved indeed to be the case.

Before the publication in 1983 of the revised Code of Canon Law,¹ two synods debated the principle of subsidiarity, those held in 1967 and 1969. The topic arose also in the discussions during the synods in 1971, 1974, and 1977. The Extraordinary Synod, held in 1985 to assess the impact of Vatican II on the life of the Church, again debated the extent to which this principle was being applied in the Church. Such deliberations inevitably led to further papal pronouncements, and even to the establishment, in 1985, of a commission to study “the major elements and ideas and to draw up a status quaestionis.”² A study of

---

¹Codex iuris canonici, auctoritate Ioannis Pauli PP.II promulgatus, Libreria editrice Vaticana, 1983 (= CIC/83).

the comments made by the bishops at these synods, and at those held in 1980, 1983, 1987, and 1990, reveals the varying levels of their enthusiasm for subsidiarity and the contexts in which they consistently recommend its implementation.\(^3\)

2. 1 - Synod 1967

The first Synod of Bishops met in Rome 29 September - 29 October 1967. The first item on the agenda was the reform of Canon Law, an undertaking viewed by some with a certain misgiving, lest the new law prove an even more authoritarian imposition than the previous Code. René Laurentin quoted a correspondent as saying, “This uneasiness tends to be accentuated by the fact that the modern man no longer accepts submission to a law in the absolute; he conceives law only as development and collaboration.”\(^4\) Cardinal Pericle Felici, president of the Commission for the revision of the Code since the death of Cardinal Ciriaci, presented the ten principles which were to guide the Commission’s work. As Laurentin reported, the reformers desired to create conditions “so that life could develop and

\(^3\)The following study of synodal debates has been limited to topics relevant to subsidiarity and has therefore not taken account of other issues such as, for example, the ultimately sterile discussions on the *Lex fundamentalis*, in the Synods of 1969 and 1971, or the important topic of World Justice debated in 1971. Cf. J.G.JOHNSON, “Subsidiarity and the Synod of Bishops,” in *The Jurist*, 50 (1990), pp.488-523. In this article, the author, after outlining the parameters of his study, writes: “A more serious limitation is that the official acts of the Synod are secret documents. Texts of some of them have found their way into print, but reports from episcopal conferences to the secretariat, oral and written interventions by the participants, amendments to the proposals, and materials sent to the pope (usually in the form of lists of propositions) are unavailable to the ordinary scholar. This study must therefore rely on secondary sources. It is possible that important facts have been filtered out of these materials. A third problem is that the synodal process does not always make clear what the ‘mind of the Synod’ was.”

the Christian 'energies' would be freed, according to a formula of John XXIII, whose technique of governing consisted in putting men in situations where the unexpected could come to birth.Only in such circumstances, they felt, could the Holy Spirit continue to give life to the Church. Flexibility should characterise the new Code:

It should be open to adaptations, and more profoundly to the continual springing forth which is the very law of the Gospel, and which is becoming a more urgent necessity in the accelerated evolution of our modern world. In keeping with this, the Council invites the Code of Canon Law to make room for organisms of adaptation and of diversification, notably conferences of bishops. It should also give scope to the initiatives and responsibilities newly recognised as belonging to the People of God. The Code should establish regulations for pilot-experiments which will be more and more necessary to adapt the Church to the evolving realities of the present day. To do so would be to return to very ancient usages, never codified, difficult to codify, perhaps, those which constitute the best part of the Church's patrimony.

Although not named here, the principle of subsidiarity clearly responds to these desires for flexibility, provisions for growth and for reviving the ancient practices of the Church.

After the Synod, Laurentin wrote another book describing what actually came of these hopes. With reference to the debate on the reform of Canon Law he wrote that the standard of discussion on the ten proposed principles was excellent, largely because so many of the

---

5LAURENTIN, L'Enjeu du Synode, p.151. "...selon une formule de Jean XXIII, dont la technique de gouvernement consistait à mettre les hommes dans des situations où l'inattendu pouvait naître."

6Ibid., p.151, "Il doit être ouvert aux adaptations, et plus profondément au jaillissement continu qui est la loi même de l'Évangile, et qui devient nécessité plus urgente dans notre monde en évolution accélérée. Dans cette ligne, le Concile invite le Droit canon à faire place aux organismes d'adaptation et de diversification que sont notamment les conférences épiscopales. Il faudrait aussi donner du champ aux initiatives et responsabilités nouvelles reconnues au peuple de Dieu. Il faudrait que le Droit canon parvienne à établir le statut des expériences-pilotes qui seront de plus en plus nécessaires pour l'adaptation de l'Église aux réalités évolutives d'aujourd'hui. Ce serait là revenir à des usages fort anciens, jamais codifiés, difficilement codifiables, peut-être, ceux qui ont constitué le meilleur du patrimoine de l'Église."
bishops were canon lawyers and "intimately familiar with the law through the daily practice of government." The voting figures reflect the high level of interest taken by the bishops. As Laurentin comments, the non-placet were rare that day (only 5 altogether), but the high number of placet iuxta modums (434) showed a remarkable lack of unanimity. Such a vote expressed agreement, but also a certain caution, and sent a message to the Commission to take note of the concerns expressed in the debate.

Chief among these was the question as to whether there should be but one Code for both the Eastern and the Latin Churches, or two Codes. Equally debatable was the nature and scope of a Lex fundamentalis. In the course of this Synod neither issue was resolved.

Both Gino Concetti and Laurentin present analyses of the main lines of the debate. Concetti's, the more concise, identifies the main themes as the primacy of the human person, liberty and authority, the principle of subsidiarity, the salvation of souls, and the pastoral nature of the new Code. He asserts that the principle of subsidiarity was favourably received by all.

---


9 LAURENTIN, Le premier Synode, p.87.

10 G. CONCETTI, Bilancio e documenti del Sinodo dei Vescovi; documenti ufficiale, commenti, dichiarazioni, echi della stampa sulla prima assemblea generale (29 settembre - 29 ottobre 1967), Milano, Massimo, 1968. For the discussion of subsidiarity, see pp.116-121, also see LAURENTIN, Le premier Synode, pp.88-91.

11 CONCETTI, Bilancio e documenti del Sinodo dei Vescovi, p.103, "Il principio sussidiarietà è accolto favorevolmente da tutti." The actual text on which the bishops voted was: "What has just been said pertains without doubt to the application of the principle of subsidiarity in Canon Law. Yet, what has been said above is still a far cry from the broader and more complete application of the same principle to church legislation. The function of this principle of subsidiarity is to strengthen and
Caprile’s account of the discussion on 2 - 4 October 1967 indicates that of the forty-nine speakers the eleven who mentioned the principle of subsidiarity did so approvingly.\textsuperscript{12} Their approval focused on the flexibility which the implementation of the principle would allow to the hierarchy in each country to formulate laws suitable for their unique circumstances.\textsuperscript{13} They looked to the principle to strengthen the law,\textsuperscript{14} to improve relationships between the hierarchy and the faithful, to make the apostolate of both laity and religious more


\textsuperscript{13}\textsc{Caprile}, \textit{Il Sinodo dei Vescovi, 1967}, see the interventions by Cardinal Urbani (Italy), p.95; Bishop Lourdousamy (India), pp.102-103; Cardinal Döpfner (Germany), p.106.

\textsuperscript{14}Ibid., see Bishop Quintero (Venezuela), p.96; Bishop Lourdousamy, p.103; Cardinal Quiroga y Palacios (Spain), p.105; Archbishop Nicodemo (Italy), p.120.
SYNDAL DISCUSSIONS

varied and efficient,\textsuperscript{15} to provide for unity and diversity,\textsuperscript{16} and to facilitate marriage procedures.\textsuperscript{17}

In his speech at the end of the debate, Cardinal Felici synthesised the responses and promised that the Code Commission would be guided at all times by Scripture, by tradition, the great \textit{fontes} of canon law, and by the teaching of Vatican II. He saw the principle of subsidiarity as applicable to every level of ecclesial government, stating that its application would not be arbitrary, but in fidelity to the spirit of the Council. The limits and methods of its implementation would become clear in the course of the work.\textsuperscript{18} The basis of this discussion appears to be an understanding of subsidiarity principally as a means of decentralising decision-making power in the Church, that is, from the pope (and curia) to the bishops.

As a result of this meeting of the bishops and their discussion of the revision principles for the Code, observers felt able to make confident prophecies about a new era

\textsuperscript{15}Ibid., see Cardinal Suenens (Belgium), p.107.

\textsuperscript{16}Ibid., see Bishop Hermaniuk (Canada [Ukrainian]), p.109.

\textsuperscript{17}Ibid., see Cardinal Roy (Canada), p.115.

\textsuperscript{18}Ibid., pp.130-133. Cf. JOHNSON, "Subsidiarity and the Synod," p.496: "The results of the vote are the only way in which one can determine how the assembly as a whole regarded the principle of subsidiarity. The texts of the written amendments, on the other hand, might indicate how what the participants heard in the hall might have modified what they originally thought. Those texts have never been published. After the voting, Cardinal Felici reported to the Synod on some of the \textit{animadversiones}. One section of his report pertained to the discussion of subsidiarity: [The following were clearly the comments of the voters.] The principle of subsidiarity should be applied at all levels of the governmental life of the people of God, whence it might appear \textit{how} everything is accomplished «in communion». Therefore it should not be limited but extended in such a way as to have an effect on the relationship between authorities and lay people."

For commentary on this synod, see also KOMONCHAK, "Subsidiarity in the Church," at pp.313-314, and LEYS, \textit{Ecclesiological Impacts}, pp.89-93.
dawning for ecclesial legislation: "What is most basic is the stress on the fact that it is no longer possible for the central authority of the Church to make detailed laws for the universal Church as it did in the past, that the need for pluralism is as pronounced in the Church as in the world...Everything points toward a fundamental law drafted in general terms, with authority vested in national and regional conferences of bishops to make the appropriate implementing legislation. By taking this direction, canon law will better fulfil its own function, while simultaneously helping to implement the doctrine of collegiality and promote the cause of Christian unity."\(^{19}\) Such high hopes failed to take account of the fifty eight \textit{placet iuxta modum} votes cast for the fifth revision principle. Bishops in the permissive sixties were witnessing an unprecedented reaction not only against authoritarianism, but even against authority of any kind in the secular sphere. While the Code Commission was deliberating, the Church itself was rocked by a similar challenge to its teaching authority.

2. 2 - Synod 1969

The circumstances surrounding the Extraordinary Synod of 1969, called to discuss the relationship between the Holy See and the conferences of bishops gave rise to expectations of fiery debate. The publication in July 1968 of \textit{Humanae vitae} had occasioned unprecedented expressions of defiance and disloyalty not only among lay Catholics, but even

\footnote{MURPHY and MacEOIN, \textit{Synod '67; A New Sound in Rome}, p.71.}
SYNODAL DISCUSSIONS

among clergy and bishops.²⁰ There was open debate about what was called the "crisis of authority" in the Church.

The preliminary schema circulated in May 1969 seemed to emphasise the unique position of the pope without according due weight to the role of the college of bishops.²¹ The responses sent in by the national conferences led to the modification of this original schema, as did Cardinal Seper's introduction to the debate at the synod itself.²² As can be seen from the section-headings of the schema and the Seper relatio, the topics of "Communion" and "Collegiality" are the major themes of both documents. In this context, the principle of subsidiarity, recognised as a sign of the times, is invoked as a means of regulating the relationships between local churches and the Holy See. Both the schema and

²⁰ Cf., for example, C. CURRAN and R. HUNT, Dissent in and for the Church: Theologians and «Humanae vitae», New York, Sheed and Ward, 1969: B. HÄRING, Crise autour de «Humanae vitae», Paris, Desclée, 1969: J. HORGAN (ed.), «Humanae vitae» and the Bishops: The Encyclical and the Statements of the National Hierarchies, Analytic guide by A. FLANNERY, Shannon, Irish University Press, 1972. HEBBLETHWAITE, in Paul VI, pp. 519-520 wrote: "Paul's position was that he expected to be criticised and misunderstood by the secular media, and by those in the Church suffering from what Hans Urs von Balthasar, the Swiss theologian, called 'anti-Roman prejudice'. Von Balthasar saw opposition to Humanae vitae as part of the general surge of criticism and protest that marked 1968. But from cardinals and bishops Paul VI expected loyalty to the hilt. Hence his pain when this manifestly did not happen."


²² CAPRILE, Il Sinodo dei Vescovi, 1969, pp. 467-473 for the Latin original, and pp. 70-71 for a summary in Italian. Harriott credits Cardinal Seper with defusing a potentially explosive argument: "By stating that the the bishops had rights which were not, so to speak, in the Pope's gift, and that the Pope himself could not exercise his primacy in a purely arbitrary way, in short by re-affirming the doctrine of Vatican I, the Seper relatio gracefully acknowledged the justice of the bishops' complaint. With that acknowledgement the heat went out of the argument...the primacy of the Pope as defined by Vatican I was not being challenged, only the way in which it is exercised: authority was not under attack, only the way in which it is experienced." See HARRIOTT, "The Second Synod: The Third Floor," p. 311.
the *relatio* set a high value on the diversity of local churches and on the preservation of unity in the Church. Consequently, as the subsequent discussion showed, the bishops felt the need for a deeper philosophical and theological study.\(^{23}\)

Seven conferences of bishops had asked for a discussion on the function of the principle of subsidiarity and “its description in the union and exercise of hierarchical power in the heart of the Church.”\(^{24}\) Of the speakers who addressed the general assembly, six mentioned the principle of subsidiarity - all favourably, linking it with respect for human dignity, co-responsibility, collegiality, and solidarity. An interesting observation was made by Bishop Carlo Colombo, present as a nominee of Pope Paul VI, when he asserted that, by its very nature pastoral activity was pedagogical and therefore should be adapted to the spiritual condition of the individual local church - best assessed by the vicars of Christ to whom this church had been entrusted. This, he felt, was the sphere in which subsidiarity could be exercised. In matters of doctrine, however, as regards revealed truth and divine

\(^{23}\)CAPRILE, *Il Sinodo dei Vescovi*, 1969, p.206. Cf. Latin text of original *schema*, ibid., at p.447, where we read “Desideratur proinde et sensus et transcendentia huiuscemsodi subsidiaritatis principii in relationibus inter Sedem Apostolicam et Episcoporum Conferentias penitus determinetur.” It seems the bishops may have expected a philosophical and theological study of subsidiarity to clarify for them the issue of collegiality. The danger in investing too much in a procedural principle is that when the matter becomes too weighty for the procedure to cope the principle itself is discredited. The need is rather for a theological and philosophical deepening of the understanding of collegiality. Subsidiarity will then facilitate the implementation of this understanding. Cf. JOHNSON, “Subsidiarity and the Synod,” pp.505-513, for an extended analysis of the discussion at this Synod. See also, LEYS, *Ecclesiological Impacts*, pp.93-96.

\(^{24}\)CAPRILE, *Il Sinodo dei Vescovi*, 1969, p.432, where they are named as the bishops’ conferences of Belgium, Germany, USA, Tanzania, Upper-Volta-Niger, New Guinea, and Scandinavia. Cf. pp.44-45 where Caprile gives the proposals from all the bishops’ conferences.
SYNODAL DISCUSSIONS

law, what is taught by the magisterium of the Church in the name of Christ is to be held by
the whole Church.\textsuperscript{25}

In his synthesis of the discussion, Caprile remarked on the bishops' desires to remain
faithful both to Vatican I and to Vatican II, to deepen their understanding of the supreme
authority of the successor of Peter, and of episcopal collegiality. The principle of
subsidiarity figured among issues such as the unity of the Church, the concept of
communion, the mission of the Pope and the bishops, affectus collegialis, particular churches,
and the need, nature, limits, and usefulness of collegiality - seen as confirming and sustaining
the authority of the Pope.\textsuperscript{26} Perhaps to state that the problem is really one of achieving a
balance between all of the above questions oversimplifies the issue, but the secretary, Father
Angel Anton, after summing up the key points, put before the Synod the proposition that the
doctrine of collegiality should be submitted to further theological exploration and

\textsuperscript{25}See ibid., p.127, "L'attività pastorale è per sua natura un’azione pedagogica e perciò va
adattata alle condizioni spirituali delle singole Chiese particolari: i primi e immediate giudici ne sono
dunque coloro che, come vicari e legati di Cristo, reggono le Chiese ad esse affidate. In campo
dottirinale, invece, si invertono i rapporti: la verità rivelata infatti e la legge divina è una sola nella
Chiesa, quella cioè che insegna l'autorità del magistero in nome di Cristo, che si estende alla Chiesa
intera, cioè il collegio dei vescovi sotto la guida del Romano Pontefice oppure lo stesso Romano
Pontefice che insegna personalmente in qualità di dottore e maestro della Chiesa universale. Perciò
l’ultimo giudizio sulla stessa dottrina o sulla pedagogia della fede e della legge morale, pur non
essendo sottratto all’autorità dei singoli vescovi, per natura sua rientra primo et per se nella
competenza della suprema autorità di magistero, il che va riconosciuto sia sul piano teorico sia su
quello pratico." Bishop Colombo's distinction here between the exercise of subsidiarity in the
pastoral and doctrinal spheres was made also by Pope Paul in his closing address to the Synod, 27
Subsidiaritätsprinzip in der Sozialehre der Kirche: Reflexionen zu einer Anfrage," in Gregorianum,
69 (1988), pp.413-433, where, after repeating this distinction between the Church and civil society,
the author maintains that the principle of subsidiarity is valid also for religious values which find their
meaning and framework in the Church which, as a divinely organised institution, has its competencies
and its constitutive elements which are not part of the subsidiary function.

\textsuperscript{26}CAPRILE, Il Sinodo dei Vescovi, 1969, pp.141-142.
clarification. The vote showed that there was overwhelming support for the proposal and for
its execution by the newly formed International Commission of Theologians.

An American journalist commenting on the significance of involving theologians in
this project added: “More significant, of course, is the fact that the Synod clearly recognised
the open character of doctrinal pronouncements from Vatican II. This marks a long step
away from the Counter-Reformation tendency to regard the teaching of the 16th-century
Council of Trent as a body of frozen dogma - an attitude that prevailed in many circles up
to and after Vatican I and one that threatened to take hold in some quarters after Vatican
II.”27 The recognition of evolution in Church structures proves rather more difficult to
achieve.28

Cardinal Marty introduced the next phase of the Synod with a report on two topics
requiring discussion - the relationship and the definition of competency between the confer-
ences of bishops and the individual bishops and the relationship between the bishops’
conferences and the Holy See.29 He did not hesitate to recommend the principle of
subsidiarity as an instrument of good government: “Accordingly, the principle of ‘subsidi-
arity’ rightly understood, by reason of the very nature of the Church is closely linked to the

---

27 D.R. CAMPION, “Letter from the Synod V: Balancing the Results,” in America, November

28 The [other] main lesson of the 1969 Extraordinary Synod was that the practice of collegiality
could not stand still. Collegiality was not an ‘achieved state’ so much as a ‘dynamic’ process like
riding a bicycle: the synod would fall over if it stopped moving forward” (HEBBLETHWAITE, Paul
V7, p.545). The author devotes almost the whole of Chapter 30, pp.527-546, to an account of the
tension caused at this Synod between the ‘centre’ and the ‘periphery’ by the Pope’s decision to publish
Humanae vitae without consulting the bishops.

29 CAPRILE, Il Sinodo dei Vescovi, 1969. For the original Latin of his report, see pp.474-482.
There is a summary given in Italian on pp.156-158.
principle of ‘solidarity’.\textsuperscript{30} It can therefore be said that the responsibility of the bishops to care for the good of the Church universal as well as of the particular churches is more effectively achieved by the correct application of the principle of subsidiarity.\textsuperscript{31} He went on to say that the new Code would give clear norms by which the principle could be effectively elaborated.\textsuperscript{32} The use of quotation marks and the stress on “recte” witness to the caution induced by the \textit{placer iuxta modum} votes at the 1967 Synod.

The principle of subsidiarity therefore headed the agenda for the \textit{circuli minores}.

Enthusiastic endorsement came from three groups: the first English language group, the

\begin{flushleft}
\textsuperscript{30}For a comment, see LEYS, \textit{Ecclesiological Impacts}, p.168: “The principle of solidarity and the principle of subsidiarity belong together. The first states that solidarity is not only an ethical attitude, but that it expresses an essential relationship: people are essentially (ontologically) united with each other in their social relationships and they are mutually obligated. These obligations demand an organisation in society in the sense of the principle of subsidiarity, that it is possible to fulfil the obligation while (in freedom) developing oneself. That is why one can call the principle of subsidiarity the principle of competency with regard to the principle of solidarity. It demands an adequate distribution of competencies in larger or smaller associations or in individuals. If necessary, the decision about this distribution belongs decisively to the competency-over-competencies: and that is to be found in the person or organ who (which) authoritatively decides about the distribution of competencies.” This clarifies the extent to which subsidiarity understood as decentralisation distorts the content of the principle.


\textsuperscript{32}Ibid., p.477: “Novi Codicis profecto erit in hac provincia praelertim certas tradere normas, quibus re vera principium ‘subsidiaritatis’ ad effectum deducatur.”
\end{flushleft}

Monsignor Gérard Philips (principal drafter of \textit{Lumen gentium}), reporting the discussion of the second French language group, said that the principle was difficult in practice because of its different meanings in civil and canon law: it was necessary to conserve the concept, but also to set limits. The Church exists in an order different from that of civil society and so articulation from level to level presents problems.\footnote{LEYs, in \textit{Ecclesiological Impacts}, p.108, summarises Bertrams, Metz, and Pampaloni, as also making this distinction between the tasks of the Church and those of civil society: “The fundamental problem for them lies in the very nature of the Church: it is a \textit{societas sui generis}. The initiative for the Church and the main lines of its (authority) structure are not dependent on the faithful: the initiative lies with God. The Church is at one and the same time a natural society of people and a supernatural society which exercises salvation/grace activity: something which a purely human society cannot do.

“The real difference with civil society and the state lies in the fact that the structural order, the hierarchical structure is a value \textit{per se} in the Church. Or, for these authors, it is definite that God wants \textit{this} ecclesiastical structure, but that he does not want any specific structure for society: that is a fundamental difference. Because the hierarchical structure is such a value in itself it cannot be reduced to the same subsidiary service function as the governmental functions in state and society.” To implement the principle of subsidiarity in the Church thus challenges the assumption that subsidiarity serves merely as a principle of decentralisation. The principle preserves other values enshrined in the Church’s teaching about human nature.} He spoke of the powers of the bishops as vicars of Christ, recognised by \textit{Christus Dominus}, n.8. He stressed the Pope’s right to reserve cases to himself whenever the common good of the Church requires it.\footnote{See CAPRILE, \textit{Il Sinodo dei Vescovi}, 1969, p.173: “Il principio di sussidiarietà è di difficile uso, giacché ha un diverso significato a seconda che se ne parli nel contesto del diritto civile o in quello del diritto ecclesiastico ... il passaggio da quel piano al piano ecclesiale non è senza
SYNODAL DISCUSSIONS

Although the second Spanish-Portuguese group accepted the principle of subsidiarity, they looked to the new Code to provide practical norms and suggested areas where these might be necessary. The Italian group seemed to be divided on the issue: some expressed fear and perplexity, whereas others said the principle of subsidiarity had already been accepted in the Code.

Caprile’s synthesis begins with the statement that there was unanimous support for the practical application of the principle of subsidiarity in the life of the Church, as being

inconvenienti, perché la realtà della Chiesa si colloca in un ordine diverso. Bisogna conservare il concetto, ma è proprio necessario insistere sul termine? ... ma anche rispetto ad essi il Papa può sempre riservarsi delle cause che, a suo giudizio, riguardano il bene comune della Chiesa universale. Su quanto detto fin qui s'è avuta l’unanimità."

36Ibid., pp.180-181, the administration of temporal goods according to the laws of each nation, dispensations in marriage cases and in cases involving priestly celibacy, the admission of religious and laity to the exercise of some ministries, and the organisation of tribunals, leaving only extraordinary cases to the Apostolic See.

37Ibid., p.183: “Non pochi hanno espresso timori e perplessità sull’applicazione del principio di sussidiarietà specialmente riguardo alle Conferenze Episcopali, con possibile danno del primato pontificio o dei singoli vescovi. Altrui tuttavia, facendo forza sul fatto che esso è stato accettato nella revizione del Codice e che è già stato applicato alle Conferenze in alcuni documenti postconciliari, pensano che si debba procedere per questa via, determinando chiaramente l’ambito delle competenze e sempre salvo il diritto di primato del Papa. Alla fine tutti sono stati d’accordo che esso è accettabile, tenendo analogamente presente la singolare costituzione della Chiesa ed il principio di solidarietà. In tale contesto si comprende meglio anche la reciprocità del medesimo principio: nelle missioni o nei paesi in cui la Chiesa è perseguitata, la maggiore ed a volte l’intera responsabilità delle Chiese particolari si riversa sulla Sede Apostolica.” This quotation has been given in full because it picks up a theme seemingly at odds with the discussion at an earlier stage in the Synod. This was the emphasis placed by Cardinals Wyszinski (Poland), and Zoungana (Upper-Volta), on the need experienced by persecuted or young churches for the unifying influence and support of a central authority whose embodiment is the Pope. See ibid., pp.75-76, and 82-83, and HARRIOTT, "The Second Synod: The Third Floor," p.313. These two interventions present the case for the implementation of the principle of subsidiarity as a means, not of weakening the power of the local church, nor of itself appearing merely in a “subsidiary” (=subordinate) role. Where the local church, for whatever reason, is weak, the central authority provides its strength. To do so in no way diminishes either the standing or the effectiveness of the central authority.
useful, fitting, and required by the times.\footnote{CAPRILE, Il Sinodo dei Vescovi, 1969, p.206: “A proposito del principio di sussidiarietà si puo dire unanime il parere che la sua concreta applicazione nella vita della Chiesa sia valida e perciò utile, conveniente e richiesta dai tempi.”} He added that an examination of the principle from the standpoints of both theology and philosophy seemed to be required. The voting figures on the principle of subsidiarity indicated support for a better determination of the competence of the bishops as pastors of the particular churches and the role of the Supreme Pontiff in deciding what matters required norms common to the entire Church.\footnote{Ibid., pp.216-217. The results were: Placet, 98; Placet iuxta modum, 37; Non placet, 7; Astenuto, 1. Only one other proposal received a lower number of placets and a higher number of non placets, namely the proposal that there should be expert consultants available to the bishops during the Synod, p.218. Komonchak writes of this vote: “At the end of their discussions, the members were asked to vote on the principle, and once again it received a very high majority of votes.” KOMONCHAK, “Subsidiarity in the Church,” p.317. This comment blurs the Synod’s obvious reluctance to commit itself to an unqualified implementation of a principle which many clearly felt they had not wholly understood. See also R.LAURENTIN, in Le Synode permanent: naissance et avenir, Paris, Éditions du Seuil, 1970, pp.190-193, where he writes: “Ce principe n’est pas une simple application à l’Église du schéma séculier que les encycliques pontificales rappelaient aux gouvernements temporels. Il est requis (et spécifié) par la nature même de l’église particulière où se trouvent intégralement donnés tous les principes d’une existence complète: l’Évangile, l’Eucharistie, l’Esprit, l’évêque.” The bishops’ caution is understandable.}  

Pope Paul VI attended almost every session of the Synod. In his opening address to the members, he referred to the principle of subsidiarity. The context was the bishops’ exercise of the powers recognised by Christus Dominus, n.8, as theirs by reason of their episcopal ordination and communio with the Apostolic See. The Pope, although he warned of the danger to the communio of the Church in the event of multiple and excessive forms of local autonomy, nonetheless asserted that, when the principle of subsidiarity was applied,
tempered with a humble and wise prudence, neither would the bishops’ powers be constrained nor would communio be broken.\(^4\)

After hearing the Synod’s discussions, in his closing address once again Pope Paul spoke of the principle of subsidiarity in a positive and hopeful way:

We are also very willing to respond to all legitimate desires to open the way for fuller concessions to local churches and to approve their proper character, specific needs and requests by means of a good and appropriate application to the matter of what they call the principle of “subsidiarity.” This principle, indeed, certainly requires deeper understanding and clarification both in theory and in practice, but precisely in its specific meaning we accept it. However, the principle cannot in any way be confused with a certain demand for that “pluralism” which would harm the moral law and the primary forms of sacramental, liturgical, and canonical discipline, especially to the extent that these preserve the unity necessary in the entire Church.\(^5\)

\(^4\)PAUL VI, Allocutio at the opening of the Second Synod of Bishops, 11 October 1969, in AAS, 61 (1969), pp.716-721, at p.719: “Nos diligenter curabimus, ut Nostris in episcopatu Fratribus aequiore ratiose agnoscamus eam privilegiorum et facultatum summam, quam iis tribuunt hinc sacramentalis character, quo ad pastoralia perfungenda munia in Ecclesia sunt vocati, hinc eorum germana cum hac Sede Apostolica communio. Neque huiusmodi norma coecri vel interscindi poterit, si pertinens ad ipsum principium <subsidiarietas>, cum in usum deductur, recte humili ac sapienti prudenti temperabitur, adeo ut nihil detrimento commune totius Ecclesiae bonum capiat ex multiplicibus nimiisve particularis autonomiae formis, quae uidem unitati et caritati obsunt, qua Ecclesia fieri debet cor unum et anima una, et favent ambitiosis semulandi cupiditatibus et immoferatis suarum tantum utilitatum studii.” It is worth noting that the Pope uses the present indicative in the clause “\textit{cum...deditur,}” and the future indicative for the verb “\textit{temperabitur;}” he seems to have no doubt that the principle will be applied prudently in the Church.

Cf. LEYS, Ecclesiological Impacts, p.94, where he comments: “If this is done prudently, the \textit{bonum commune} of the Church will not be damaged. There will not be too much autonomy nor will particular interests prevail, which could damage the unity. Pluralism, another principle than subsidiarity, needs, therefore, to be limited; faith itself does not leave room for pluralism and neither does the general discipline of the Church because pluralism affects the necessary awareness of norms of behaviour in the Church as also the necessary agreement on them, and in the same way it affects collegiality.”

\(^5\)PAUL VI, Allocutio at the closing of the Second Synod of Bishops, 27 October 1969, in AAS, 61 (1969), pp.726-730, at pp.728-729: “Itemque animo promptissimo sumus ad omnia legitima optata, quae patefiant, ut locorum Ecclesiis pleniorem in modum concedantur ac probentur propriae notae peculiaresque necessitates et postulata, bene aptaeque in rem deducto principio illo <subsidiarietas>, uti aiunt: quod sane principium postulat procul dubio ut cogitatione et re penitus usque intellegatur atque illustretur, Nosque idem in sua praecipua significacione prorsus admissimus. Attamen haudquaquam fieri potest, ut hoc principium cum quadam illius <pluralismi> postulatione confundatur,
SYNODAL DISCUSSIONS

This comment, reminiscent of the earlier reflections of Bishop Colombo, shows Pope Paul VI's acceptance of the principle of subsidiarity, but his acceptance is qualified. He repeats the now usual qualification that the principle be correctly (bene apteque) applied, and that further study be done. He includes a warning against "pluralism."

The tension seems to exist between allowing local churches to express their characteristic diversity, and preserving unity in essentials. A starting point for the resolution of this tension would be for the pope and all the bishops to agree on the precise identification of these essentials. The role of canon law in this definition should not usurp that of theology.

2. 3 - Synod 1971

Although the two main topics of the 1971 Synod, the Sacred Ministry and World Justice, did not give rise to a discussion of subsidiarity per se, nonetheless, reports of the debates on the first topic show the continuing concern in the Church for consultation, collaboration, equality, accountability, diversity, and a measure of sharing in decision-making. One writer described reporting this Synod as like "trying to eat jelly with a fork," and another as like "struggling with a peculiarly persistent octopus."42 Despite this, there is no shortage of information either about the preparations, the debates, or the sense of

________________________

qui Fidem, morum legem et primarias Sacramentorum, necnon liturgiae et canonicae disciplinae formas laedat, eo potissimum spectantes ut necessaria unitas in universa Ecclesia servetur." Pope Paul follows the convention of using the word subsidiarity in quotation marks, and adopts a spelling different from that employed elsewhere, "subsidiarietas" rather than "subsidiaritas."

disappointment that ensued when no newsworthy and dramatic announcement was made regarding the requirement of celibacy for priests in the Latin Church.\textsuperscript{43}

As reported in The Tablet, René Laurentin indicated eight modifications introduced into the synodal process. Several of these provided for wider consultation and thus for some share in decision-making:

- a permanent commission of bishops, elected by their colleagues throughout the world, took part in the preparatory work;

- the International Theological Commission was also involved in the preparations;

- the whole Church at every level had the opportunity to contribute to the discussion of the working papers;

- twenty-six priests, chosen by the Pope, were invited to attend the debate on the priesthood, and a number of lay people, including two women, were invited to take part in the discussion on Justice. Two female religious were also invited to be auditors;

- many of those involved in the preparatory work went to Rome for the Synod to maintain contact with the bishops.\textsuperscript{44}

\textsuperscript{43} Apart from G. CAPRILE, Il Sinodo dei Vescovi, seconda assemblea generale, 30 settembre - 6 novembre 1971, Roma, Edizioni "La Civiltà Cattolica," 1972, 2v. (= CAPRILE, Il Sinodo dei Vescovi, 1971), there are also: H. FESQUET, Le Synode et l'avenir de l'Église, Paris, Le Centurion, 1972, and R. LAURENTIN, Réorientation de l'Église après le IIIe Synode, Paris, Editions du Seuil, 1972. Origins began publication in May 1971 and carried accounts both of the preparations and the texts of some of the Synod speeches throughout the year. America, as well as asking several ecclesiastically prominent figures for their hopes and expectations, also provided a weekly "Letter from the Synod" written by the editor, D.R. CAMPION. In the United Kingdom, both The Tablet and The Month covered the proceedings. P. Hebblethwaite wrote for both, weekly in The Tablet, and for The Month he provided three substantial articles in December 1971, and in January 1972, two of them written with J. F. X. Harriott. CAPRILE, Il Sinodo dei Vescovi, 1971, also offers an extensive bibliography.

\textsuperscript{44} The Tablet, 2 October 1971, p. 961.
SYNODAL DISCUSSIONS

Addressing the Synod, mindful of the world-wide interest in the proceedings, Cardinal Dearden said, “The Christian community has truly exercised ‘shared responsibility.’”

Before the Synod, the very fact that there had been such widespread consultation had stirred hopes of change. One of the priests canvassed for an opinion by America reminded his readers that celibacy was a disciplinary rather than a doctrinal matter and expressed the hope that: “Questions of the lifestyle of the Catholic ministry should be solved by the Church on a regional and not on a world-wide basis. The chief function of the Synod should be to recognise this fact and point it out or at least to keep alive the hope that a reasonable subsidiarity and pluralism will eventually flourish in the Church.” Fears, as easily generated as hopes by such comments, provoke powerful reactions.

Cardinal Krol, an elected member of the Synod, considered that regular synods actualised collegiality. Another elected member, Bishop Carter, while acknowledging that “every time the bishops meet something happens,” seemed disappointed that the merely consultative function of the Synod did not fulfil the intention of Vatican II with regard to collegiality. In his opinion, the lack of a permanent structure to ensure a follow-up meant

---

45CAPRILE, Il Sinodo dei Vescovi, 1971, pp.146-147, “La comunità cristiana ha esercitato veramente una ‘responsabilità partecipata.’”

46J.C.CHATHAM, America, September 25, 1971, p.191. Cf. in the same issue P.M.BOYLE on p.203, and the Editorial of The Tablet, 2 October 1971, p.945. After the debate, Cardinal Dearden implied that his expectations had been along the same lines. See Origins, vol.1, no.17, October 21, 1971, p.301. CAPRILE, in an article, “Le Synode de 1971,” in Nouvelle revue théologique, 94, (1972), pp.43-64, on p.49, singled out the Canadian bishops as having expressed the positive value of change, “L’épiscopat du Canada, dans une prise de position de principe, souligne qu’aujourd’hui l’uniformité en matière de discipline n’est plus possible, et qu’elle n’est pas nécessairement une condition de l’unité; c’est un véritable enrichissement que pourrait représenter une diversification en ce domaine.”

that many fruits of the debates were lost. In a more realistic vein, however, Cardinal Dearden, after first explaining collegiality as shared responsibility, wrote: “The Synod cannot be seen as an isolated event in the life of the Church. It is part of a continuing process by which the Church seeks to define its role in light of both unchanging principle and changing circumstances. It is also part of a new, post-conciliar movement toward broader participation in the Church’s decision-making.” These three elected representatives focus on the concern for participation as one of the chief aspects of the synodal process, but none brought out the logic as clearly as another contributor to America’s canvass, Bishop J.W. Malone. His hope for the spirit of collegiality to prevail recognised that only then would the Synod’s recommendations be rooted in reality. He concluded his “hopes and expectations” with the remark, “Collegiality, candour and a receptiveness are indispensable elements, if the Synod’s deliberations are to have any worthwhile or lasting impact on a society in turmoil.” They equally stand for values upheld by the principle of subsidiarity.

Once the Synod opened, commentators reported the clash between two theologies or methods that surfaced in the initial debate. The supporters of what Cardinal Suenens called “the classical, Latin, scholastic method expected first a doctrinal, theological

---

48 Ibid., pp.196-197.


50 America, September 25, 1971, p.200.


52 Cardinal Suenens, in CAPRILE, Il Sinodo dei Vescovi, 1971, pp.166-169, on p.168. This comment was widely reported. See, for example, America, October 16, 1971, p.278, and The Month, December 1971, p.164.
SYNODAL DISCUSSIONS

theory on the basis of which they would construct a model of the priestly life.\textsuperscript{53} This
deductive method failed, in the opinion of those who favoured the inductive method, to take
account of "the signs of the times," of "the primacy of the experience of the Church in
which the ministries which are needed grow up under the influence of the Holy Spirit."\textsuperscript{54}
The recognition that the Holy Spirit may work through the needs of the modern world
constitutes the divisive issue.

Indeed, the very first speaker in the debate on 1 October 1971, the Patriarch Paolo
Pietro Meouchi, criticised the rigidity of Cardinal Höffner’s position, as expressed in the
report with which he had opened the proceedings, and accused him of referring only to the
structure of the Latin Church.\textsuperscript{55} Speaking on behalf of the Superiors General, Père
Lécuyer also pointed out the relativism of Church structures:

Recent and numerous studies, often undertaken in collaboration with
Protestant and Orthodox theologians, have shown in particular to what extent
the primitive era of the Church is still full of obscurity for us: the three
degrees of the episcopacy, the presbyterate and the diaconate do not appear
clearly in the New Testament, and it is only at the beginning of the eleventh
century that the documents describe them with clarity; one can therefore
wonder if there is not room to recognise the possibility of a difference in the
organisation of ministry in the diverse churches.\textsuperscript{56}

\textsuperscript{53}This was judged to be the rationale of Cardinal Höffner’s opening relatio. For the full Latin
text, see CAPRILE, Il Sinodo dei Vescovi, 1971, pp.638-654; for an abridged version in Italian, see
ibid., p.140, and in English, Origins, vol.1, no.17, October 21, 1971 pp.303-304

\textsuperscript{54}HEBBLETHWAITE, “The Synod on Priests,” p.165.

\textsuperscript{55}CAPRILE, Il Sinodo dei Vescovi, 1971, p.142: “La dottrina ecclesiologica del nostro testo
sembra ed è rigida, parlando unicamente della struttura della Chiesa Romana.”

\textsuperscript{56}Quoted in LAURENTIN, Réorientation de l’Église après le IIIe Synode, p.21: “Des études récentes et nombreuses, souvent faites en collaboration avec des théologiens protestants et orthodoxes,
on ont montré en particulier combien la période primitive de l’Église est encore pleine d’obscurité pour nous: les trois degrés de l’épiscopat, du presbytérat et du diaconat n’apparaissent pas clairement dans le Nouveau Testament, et ce n’est qu’au début du XIe siècle que les documents les décrivent avec
SYNODAL DISCUSSIONS

The very diffident tone at the conclusion of this intervention shows how cautiously speakers approach the prospect of organisational change.

Discussions in twelve circuli minores took place from 5th-7th October.\(^{57}\) The second French language group, whose relator was the aforementioned Père Lécuyer, suggested that relations between people and priests would be improved by involving lay people, but especially the clergy, in the election (elezione) of the bishop and other ministers. This group also recommended the gradual transformation of existing structures by ensuring that the presbyteral council really was the senate and council of the bishop and not the executive instrument of his will. They added to this point that there was need to develop a theology of authority. Finally, they highlighted the "absolute necessity" for subsidiarity and pluriformity in the structures of ministry, so that episcopal conferences could determine whatever was appropriate in and for their diverse territories.\(^{58}\)

By far the most significant contribution with respect to the principle of subsidiarity came from Cardinal Enrique y Tarancón, Primate of Spain, who opened the second week of clarté; on peut donc se demander s'il n'y a pas lieu de reconnaître la possibilité d'une différence d'organisation du ministère dans les diverses Églises.” CAPRILE, *Il Sinodo dei Vescovi, 1971*, on pp.161-162, gives the Italian version of this speech which was delivered in French.

\(^{57}\) The reports can be read in CAPRILE, *Il Sinodo dei Vescovi, 1971*, pp.267-289.

\(^{58}\) Ibid., pp.275-276. In his synthesis of this debate Caprile reports that five of the language groups spoke of relationships between bishops, priests, and laity, and three on the need for a theology of authority, ibid. p.292. In his article, “The Synod on Priests,” in *The Month*, December 1971, p.166, Hebblethwaite commented: “On these there is little to report except that the twenty-six representative (or symbolic) priests participated fully and that the election of the twelve chairmen and secretaries was the first sign of democratic procedure at the Synod.”
SYNODAL DISCUSSIONS

the Synod with a long report. Commentators remarked principally on the length of his speech - over two hours - and then on the debate which followed. Since the debate seemed to focus on the celibacy issue, what the Cardinal had to say about Church structures did not receive the attention it deserved. He began with the assertion that the Church is a unique society, “a communion with Christ and with one’s brothers.” Peter Hebblethwaite reported as follows: “Cardinal Tarancón stated a far-reaching principle, ‘The organisation of the Church and its juridical order have as their sole purpose to strengthen and protect the liberty of the children of God.’ He therefore encouraged those structures which involve people in the life of the Church, such as priestly councils and pastoral councils, and set a question-mark against others ‘which might obscure the image of Christ present in the Church and set an obstacle to preaching the Gospel.’” The point which the Cardinal is making is that


60 HEBBLETHWAITE, in The Month, December 1971, p.166. The passages which Hebblethwaite has paraphrased read as follows, first: “Tota Ecclesiae organisatio eiusdemque regimen iuridicum ad unum scopum tendunt, scilicet ut roboret et tueantur libertatem filiorum Dei, ita ut singuli, Dei vocati respondentes et propriis charismatibus fideles permanentes, conspicient ad aedificationem Populi sancti Dei, veritatem facientes in caritate (cf. Eph.4:6).” CAPRILE, Il Sinodo dei Vescovi, 1971, p.662. Secondly, as did Lécuyer, Tarancón also relativises structures: “Ecclesia, fidei mysterium, est pari tempore realitas visibilis quae exterius manifestatur ope institutionum seu structurarum concretarum quae adimpletionem eius missionis in mundo stabilem reddunt. Harum aliae sunt de iure divino aliae de iure ecclesiastico, ab ipsa Ecclesia iuxta diversarum aetatum necessitates instituet. Utrumque autem institutorum genus formas iuridicas et administrativas induit, quae natura sua sunt contingentes.

“Quam ob rem mirum non est quod nonnullae formae structurarum, tempore labente, factae sint quasi adherentiae inessentialiae quae eo usque quandoque pervenire possunt, ut imaginem Christi in Ecclesia praesentem obscurent ac de facto actioni evangelizatrici obstent.” See ibid., p.664-665.
the image of Christ appears more clearly in a Church whose members all participate actively in decision-making processes.

Cardinal Tarancón then quoted from Vatican II documents to remind the synod of certain principles:

- authority in the Church is ministry or service;
- priests and the faithful should be associated with the work of the bishop as much in decision-making as in execution;
- pastoral action should be common to all the people of God;
- priests are essentially providential or necessary cooperators with the episcopal order and in no way to be seen as merely subjects (cf. CD, n.28).\(^{61}\)

He supported all those groupings which promote communion in the Church. Without ever mentioning the principle of subsidiarity, the Primate of Spain was enthusiastically recommending everything that that principle endorses. He reminded priests and bishops that the laity had come of age and warned clerics, in keeping with Gaudium et spes, n.43, to respect the autonomy of the lay faithful.\(^{62}\)

Since speakers in the subsequent debate raised the issue of celibacy, it was this which captured the headlines, but they spoke also of co-responsibility and decentralisation, pluralism, diversity, and flexibility.\(^{63}\) Two speakers actually invoked the principle of


\(^{62}\)Ibid., p.668: "Maturitas ipsa laicorum sive eorum aetas adulta, in quantum membra Ecclesiae, praedita libertate, responsibilitate et facultate consilia inuendi, gignit difficultates in eorum relationibus cum presbyteris et etiam cum episcopis."

\(^{63}\)Ibid., pp.306-307 Cardinal Ricketts (Peru); p.308 Archbishop Plourde (Canada); pp.314-315 Bishop Soekoto (Indonesia); p.322 Cardinal Etchegaray (France); pp.323-324 Bishop Galvin (Philippines: as the man who helped to pin down the Pope's would-be assassin in Manila he was widely reported, cf. also Origins, vol.1, n.18, October 28, 1971, pp.314-315, and The Month,
subsidiarity, the Melkite Patriarch Hakim of Antioch and Bishop Gran from Oslo. The latter, representing the Scandinavian Conference of Bishops, introduced the topic in the context of co-responsibility and decentralisation, suggesting that, given diverse social and cultural circumstances, some problems could best be solved by conferences of bishops at the national level. He stated his opinion that the process of decentralisation, initiated by the Holy See after the Council, should be continued in accordance with the principle of subsidiarity, thus giving life to regional structures which should be able to take up all that does not require, per se, a uniform solution to preserve the unity of the Church. The unity of the Church would not suffer; on the contrary, freedom from disciplinary bonds, properly understood and respected, would help to set up true pluriformity in unity. The basic debate was not so much about celibacy, as about the freedom to choose, not yet for the individual priest, but for the conferences of bishops to work out a formula appropriate for their particular church.

December 1971, p.167); pp.329-330 Bishop Tepe (Brazil); and pp.337-340 Cardinal Alfrink (Netherlands).

64 For Patriarch Hakim's intervention, see CAPRILE, Il Sinodo dei Vescovi, 1971, pp.352-353.

65 Ibid.; for the whole of Bishop Gran’s speech, see pp.391-394. For the original of the paraphrase above, see pp.393-394: “Corresponsibilità e decentramento. Secondo lo spirito del Concilio sarebbe conveniente dare al laicato non solo uno statuto consultivo, ma una vera corresponsabilità nel governo della Chiesa, creando nuove strutture che promuovano la collaborazione. I soli criteri validi, in proposito, dovrebbero essere i bisogni della comunità; i vescovi opinano che, per la diversità di circostanze sociali e culturali, tali problemi si possono adeguatamente risolvere solo a livello regionale.

“Il processo di decentramento iniziato dalla S. Sede dopo il Concilio dovrebbero essere continuato, secondo il principio di sussidiarietà, dando vita a strutture regionali che potrebbero occuparsi di tutto ciò che non richiede, per sé, una soluzione uniforme propter unitatem Ecclesiae. Non ne soffrirebbe l'unità della Chiesa; al contrario, la liberazione da legami disciplinari non più compresi e stimati, aiuterebbe a costituire una vera pluriformità nell'unità.”
SYNODAL DISCUSSIONS

A further significant point is that like Bishop Gran, some speakers spoke on behalf of their entire conference or even, like the Canadians, who received much praise on this account, also on behalf of the priests and laity whom they had consulted widely before the Synod. Consequently, what Bishop Alexander Carter had to say expressed the considered opinion of the entire Canadian church. He was also careful to indicate minority views.

The other Canadians who spoke attracted the same attention. Archbishop Plourde offered the model Christ - Church - Ministries as an alternative to the proposed model, Christ - Apostles - Church, which appears to present the Church as the creation of the hierarchy.

Cardinal Flahiff made headlines with his intervention on the place of women in the Church. The shepherd who speaks on behalf of his flock speaks with more authority.

For this reason, many delegates were anxious that the voting should not be anonymous: it was important for the Holy Father to know the weight that was attached to the individual votes.

---


69CAMPION, “Synod Notebook VI,” p.391. P.HEBBLETHWAITE, “The Future of the Synod,” in The Month, January 1972, pp.6-7, quotes at length from a speech in which Cardinal Suinens expressed this view most clearly: “We must arrive at a vote that is without ambiguity...There are those among us who have prepared for the Synod by many large preliminary consultations, which were open and free, both of priests and the People of God; others have thought either that they could not or should not do this. There are those among us who actually experience these problems in their own countries, while others have no feeling for the urgency of these matters. Yet their vote could possibly decide other people's problems, without their having paid attention to actual cases.

“In loyalty towards the Pope to whom we should give the fullest and most exact information on the real ideas of our Churches, and in loyalty towards our respective Churches, towards other
Caprile in his "Panorama del dibattito" remarked that the bishops had affirmed that disciplinary uniformity was not only impossible in the Church today, but not even necessarily required. D.R.Campion, commenting on the celibacy debate, at a point when it still seemed that there might be some relaxation of the obligation to celibacy, wrote:

More important by far for the life of the universal Church, however, will be a decision on how the change should be introduced. Here the debate is back to the central issue of the 1969 Synod; the authority and responsibility of the Holy See. Again my impression is that the present Synod’s delegates more frequently talk the language of decentralisation and a greater sharing of effective responsibility on the part of the national conferences. In other words, a principal function of a Synod is to educate the Church at large to a new awareness of its true identity and complexity.

There have been several synods since this one, but the education of the “Church at large” proceeds slowly.

When the bishops separated for a second time into the circuli minores, co-responsibility in pastoral action was one of the topics on their agenda. One English-speaking group preferred the expression “shared responsibility,” arguing that the bishop’s responsibility is greater, and the priests are his collaborators. From the reports of the discussions it seems that the main focus of interest was on improving relationships between bishops and priests, principally through the practical use of the diocesan organisms recommended by the

Churches as well as our own - since they are our valued collaborators - we are obliged to say that a vote which does not take account of the different weight of each vote would be without any credibility.” This argument promotes the principle of subsidiarity in both its negative and positive aspects. See CAPRILE, Il Sinodo dei Vescovi, 1971, pp.935-936, for the Italian text. The Cardinal spoke in French.

70Ibid., p.492: "L’episcopato canadese ha affermato che l’uniformità disciplinare non è più possibile nelle Chiesa di oggi e neppure è necessariamente richiesta dall’unità."


SYNODAL DISCUSSIONS

Second Vatican Council. Some also requested that clear statutes should be provided so that competencies between the various organisms would be clearly defined.

Only one group expressly mentioned the principle of subsidiarity, asserting that co-responsibility was founded on this principle in virtue of which the authority of the bishop and the collaboration of his priests constituted a unique service to the advantage of the diocesan community.

The dissatisfaction of the media with this Synod appears due in part to the continued insistence on a universal rule of celibacy within the Latin Church, in part to unrealistic expectations, and in part to the practical difficulties inherent in producing any document accurately representative of such an event. Cardinal Krol struck a more positive note before the Synod when he pointed out that, as an organ for gathering information from all over the world, the Synod cannot fail. After the Synod, one editor wrote: "Better this

---


74Ibid., p.511 circolo inglese A; p.545 circolo italiano.

75Ibid., pp.547-550 circolo latino, on p.549: "La coresponsabilità si fonda sul principio di sussidiarietà in virtù del quale l’autorità del vescovo e la collaborazione dei sacerdoti costituiscono un servizio unico a vantaggio della comunità diocesana." It is worth noting that there were three Curial Cardinals in this group, Cardinals Felici, Samorè, and Seper.

76The Tablet, 20 November 1971, offered its readers a survey of critical comments from the newspapers of Italy, Germany and France. Cf. HEBBLETHWAITE, "The Future of the Synod," pp.3-8: "Even when recollected in tranquillity, the end of the Synod of 6 November was not a happy one. It ended on a note of considerable confusion and some bewilderment. Even what had happened was not altogether clear, though this did not deter some distant observers from writing it off as ‘a complete failure’ (‘Bishops’ Checkmate’, in The Guardian, 8 November 1971). I have myself described it as a ‘shambles’, while distinguishing between a ‘shambles’ and a ‘failure’ (‘Synod Chronicle - 5’. The Tablet, 13 November 1971)."

public, if sometimes humiliating, practical lesson in the exercise of collegial episcopal responsibility than a return to the secret manoeuvres of an unchallenged Roman curia. Our leaders, however painfully, have received in Rome one more lesson about the new Pentecost. And their very failure to arrive at clear policy directions for the universal Church only reinforces the conviction that most key developments and reforms today can only be initiated regionally, nationally or locally.\textsuperscript{78} The implementation of the principle of subsidiarity requires first a thorough schooling in the whole dynamic (or would the appropriate Greek word be rather kenosis ?) of listening, dialogue, waiting, and a readiness to accept what others may label failure. It would seem very fitting that the leaders of the Church experience this formation before initiating the rest of the Church!

The US bishops recognised this ideal when they concluded their evaluation of the Synod with the following pledge: "We pledge to work with all - our fellow bishops, our priests, religious and laity - to make the spirit of the Synod a living reality in the Church in the United States. The Synod is an expression of shared responsibility. This sharing of responsibility must increasingly become operative at all levels of the Church. That is our hope and our intention."\textsuperscript{79}

While far from blind to its weaknesses, Hebblethwaite resisted journalistic assessments of the Synod as a failure: "It is the only body in the Church which can off-set the centralising tendencies of the Roman Curia; it is also the only body in the Church which can off-set the centrifugal tendencies of the local churches. It provides a forum in which

\textsuperscript{78}Editorial comment in \textit{America}, December 4, 1971, p.473.

local needs can be defended, while re-asserting the true unity of the Church, which is a unity of communion. It must not be allowed to fail.”\textsuperscript{80} The criteria must not be set in terms of paper decrees or declarations, but rather in terms of the effect of the synodal experience on the participants. The more the bishops realise the importance of involving their clergy and people in the preparatory consultative process, the more the “Church at large” benefits by this recognition of their human dignity - the first requirement of subsidiarity.

2. 4 - Synod 1974

Evangelisation, the topic chosen for this Synod, provided ample opportunities for local churches to describe themselves in all their variety and uniqueness.\textsuperscript{81} The synodal Fathers repeatedly emphasised the need for decentralisation and for a degree of local autonomy. The motivation for decentralisation distinguishes the Church from other organisations whose main interests lie in increasing profits, promoting efficiency, and cutting bureaucratic costs.

The bishops focused rather on the need for decentralisation in order that the Church might remain true to itself as an agent of human development: by participating in the

\textsuperscript{80}HEBBLETHWAITE, “The Future of the Synod,” p.8. Cf. the comment of E. Schillebeecx on the 1971 Synod, quoted by G.G.HIGGINS, “The Extraordinary Synod II,” in America, September 28, 1985, pp.150-153: “The procedure at the Synod...made impossible a breakthrough in Christian pastoral work. Although it is not easy to devise another method of working, the procedure followed at the Synod makes everything a matter of numbers. There is no discussion. Arguments are put on the table, but they are never discussed, nor is their strength tested. An argument that is advanced a great many times wins through in the end, no matter what its intrinsic value. An argument of intrinsic value that is only presented once immediately gets discounted. The result of all this is that the editorial committee is given a position of virtual omnipotence...The fact that arguments produced in a discussion are not analysed or tested as to their value is fatal in a gathering of 200 bishops.”

\textsuperscript{81}For an account of how this topic was chosen, in preference to the other four proposed and against the wishes of Cardinal Karol Wojtyla, see HEBBLETHWAITE, Paul VI, pp.593-598. Hebblethwaite gives a brief account of the Synod itself on pp.626-627.
SYNODAL DISCUSSIONS

decision-making process, human beings attain their true dignity.\textsuperscript{82} The repeated emphasis on lay-involvement in evangelisation as both a duty and a right recognised this adult exercise of responsibility as integral to the very essence of the Church. In an address delivered before the opening of the Synod to 77 US bishops gathered in Rome for their \textit{ad limina} visits, Pope Paul, while reaffirming the hierarchical nature of the Church added: “In her unbreakable and harmonious unity, she demands a complex system of complementary functions - a system which indeed concerns us directly because of that work of service (\textit{Eph}.4:12) that has been specifically assigned to us as bishops of the Church of God.” He went on to meditate on the role of the shepherd whose power is at the service of the flock, but made clear that the “evangelical and ecclesial interpretation of (our) authority in the community of the faithful” did not mean that the Church would be governed by the faithful. He said: “The bishops are constituted by the Holy Spirit to shepherd the Church of God. To shepherd - \textit{poimainein} - this is a decisive word, a word that with the depth of its meaning links in a marvellous way the juridical charisma of authority with the sovereign charisma of love.”\textsuperscript{83} The search for structures to balance these two charisms concerns the whole Church.

\textsuperscript{82}Cf., for example, Paul VI’s opening address to the Synod, where he speaks of “a complementary relationship between evangelisation and human progress. While distinct and subordinate, one to the other, each calls for the other by reason of their convergence towards the same end: the salvation of man … The work of evangelisation today must be considered with a broad and modern outlook: in methods, in works, in organisation and formation of the workers of the gospel.” He denounces those methods which are in conflict with the spirit of the gospel, specifically “violence,” “revolution,” and “colonialism in any form.” See, for the English translation, \textit{Origins}, vol.4, no.16, October 10, 1974, pp.241-245 at p.245. For the original Latin version, see 27 September 1974, in \textit{AAS}, 66 (1974), pp.557-564, at p.563.

\textsuperscript{83}PAUL VI, 22 September 1974, in \textit{AAS}, 66 (1974), pp.545-549. The address was delivered in English.
SYNODAL DISCUSSIONS

The synod began with a series of panoramic views of the Church in the various continents. Archbishop Lorscheider (Brazil), whose overview of pastoral trends and problems in the Church was drawn from reports submitted by 54 national conferences of bishops, concluded with these words:

It appears that the Council has not yet had full effectiveness in the life of the Church with regard to its "interior renewal". The Council is being applied rather more in its exterior form than in keeping with its spirit. We must ask ourselves how far we have gone in aggiornamento of pastoral style in the spirit of the Council in preparing and adequately undertaking episcopal ministry...Also urged is a reassessment of relations between hierarchy and laity within the people of God. There is a need to study, develop and set in order their shared co-responsibility under the guidance of the hierarchy. This applies in all areas other than those of each party's specific mission. Laymen are very sensitive about effective participation in working out decisions. That does not exclude that authority has the final word, however. What is wanted is that opinions be arrived at and decisions taken by constant dialogue between bishops, priests, religious and lay people. If this is not done, even those who are now close will become alienated. The notion of a hierarchical church as the centre of all rights and power has done harm and continues to do harm to the extension of God's kingdom.84

The establishment of pastoral and presbyteral councils, although in keeping with the Second Vatican Council's directives, effects "interior renewal" only when these bodies prove themselves as fora where "shared co-responsibility" and "effective participation in working out decisions" are realised.

---

During the synodal deliberations, four delegates speaking on their own behalf and two as spokesmen for their *circuli minores* explicitly mentioned the principle of subsidiarity. The most forceful endorsement came from Archbishop Samuel Carter of Jamaica. After declaring that Vatican II clearly recognised the principle of subsidiarity, he said that it had been insufficiently implemented and pleaded for greater decentralisation and for an adaptation of canon law. He saw the current attempt to codify the law as betraying a static rather than a dynamic view of the Church: unless the law was open to further substantial adaptations to meet changing needs, it would be an obstacle to the preaching of the Gospel.

One of the Eastern Metropolitans, Bishop Varghese Thangalathil (India) saw the need to recognise “*una sana pluriformità*” and offered the example of the Eastern Churches where fruitful co-operation between clergy and laity followed the implementation of the principle of subsidiarity.

---

85 KOMONCHAK, “Subsidiarity in the Church,” p.318, writes: “An initial perusal of Capriile’s volume discovers that subsidiarity was invoked favourably at least five times.” In a footnote, he comments that the context was always that of decentralisation and co-responsibility. The citation he does not give is the intervention of Cardinal Cooray (Sri Lanka), in CAPRIILE, *Il Sinodo dei Vescovi, 1974*, pp.454-455. Perhaps he judged it unfavourable.

86 CAPRIILE, *Il Sinodo dei Vescovi*, 1974, p.187: “Nella riforma del codice sembra che il principio di sussidiarietà, ammesso dal Concilio, non sia stato sufficientemente... Anzi lo stesso tentativo di codificare le leggi riformate presenta la Chiesa come qualcosa di statico, dotata d’una mentalità essentialista più che esistenzialista. La disciplina della Chiesa è un mezzo di evangelizzazione, ma potrebbe diventare un ostacolo se si considera la legge riformata come un’opera completa e non più aperta agli ulteriori adattamenti richiesti dal mutare dei tempi.” A synopsis of this intervention is printed in Origins, vol.4, no.16, October 10, 1974, pp.246-248.

SYNODAL DISCUSSIONS

Father Tarcisio Agostoni, a representative of the Superiors General, spoke of the Lord’s generous provision for the needs of the Church which has to discern the infinite variety of complementary and interdependent ministries. Co-responsibility and subsidiarity do not detract from the powers of the hierarchy who remain at the centre, not at the head of the people of God.  

Bishop Worlock (England and Wales) reporting the discussions of his *circulus minor*, asserted that this group had seen the necessity for an opportune application of the principle of subsidiarity to all the problems concerning culture, customs, and traditions of the different peoples where a balance was required between the exercise of authority over the whole Church and the legitimate autonomy of the local church.  

A French-speaking *circulus minor* maintained that personal and community conversion should be based, among other things, on a sense of true freedom which presumes maturity and which expresses itself in responsible government of the diocese and in the concern to promote, at every level, the principle of subsidiarity and of personal and community responsibility.

---

88Ibid. p.309: “La corresponsibilità e la sussidiarietà non toglie nulla ai poteri della gerarchia che rimane in mezzo, non al vertice, del popolo di Dio.”

89Ibid., pp.341-344, at p.342: “Il Circolo ha rilevato la necessità di un’opportuna applicazione del principio di sussidiarietà a tutti i problemi inerenti la cultura, i costumi e le tradizioni dei diversi popoli da evangelizzare, facilitandola mediante un armonioso equilibrio tra l’esercizio dell’autorità in tutta la Chiesa e l’autonomia legittima della Chiesa particolare.”

90Ibid., p.349: “La conversione personale e comunitaria deve basarsi specialmente su questi punti: …senso di vera libertà che suppone maturità e che si esprime nel governo responsabile della diocesi e nella cura di promuovere, ad ogni grado, il principio di sussidiarietà e di responsabilità personale e comunitaria.” Bishop Matagrin, France, acted as the *relator.*
In a personal intervention, Cardinal Cooray (Sri Lanka) lamented the distorted interpretations of the Second Vatican Council, interpretations which constituted an obstacle to evangelisation. He struck the only note of caution regarding subsidiarity: he emphasised the need for clarity lest plurality and subsidiarity weaken unity. The tone of his brief speech reflects anxiety over new trends whose authenticity, he said, would depend on their acceptance by both the *Chiesa credente* and the *Chiesa docente*.

As Komonchak points out, the *relatio*, the synthesis of the synodal interventions, makes explicit reference to the principle of subsidiarity:

> The relationship between the local churches and the Apostolic See needs study. The universal Church is the communion of local churches, over which the Roman Church and its bishop presides as the principle of unity and bond of universal charity. The reality of the local church must be fully recognised and its legitimate authority needs to be acknowledged and promoted. This requires that the principle of subsidiarity be truly applied and that a decentralisation take place so that local bishops can actually assume the responsibility that belongs to them. Greater authority should also be granted to episcopal conferences so that they can make necessary decisions by themselves. In summary, what is needed is that the emphasis should pass from the centre to the local churches on a national, regional, and diocesan level.

Hardly surprisingly, at this Synod where the reality of the local churches received so much attention, examples abounded of episcopal pleas for pluriformity, for legitimate autonomy, for freedom to make local adaptations, for creativity and flexibility, for unity in diversity,

---

91Ibid., pp.454-455: "La distorta interpretazione che molti ignoranti e superficiali danno del Concilio costituisce un ostacolo all’evangelizzazione e alla predicazione di Cristo crocifisso. Ci vuole molta chiarezza affinché la pluralità e la sussidiarietà non indeboliscano l’unità...." Cardinal Cooray seems here to base his fears on an understanding of subsidiarity as independence or total self-determination. To confuse subsidiarity with pluralism is to ignore its close link with the principle of solidarity. Cf. LEYS, *Ecclesiological Impacts*, p.115, where he accuses Beyer of this same mistake.

92KOMONCHAK, “Subsidiarity in the Church,” p.318. We have changed Komonchak’s translation in only one respect; in the fourth sentence he translated “*locales Episcopi*” as “local churches.” The original Latin version is in CAPRILE, *Il Sinodo dei Vescovi, 1974*, pp.939-940.
SYNODAL DISCUSSIONS

for inculturation, for a recognition of the variety and richness of native culture, for indigenisation, for room to exercise initiative, pleas far too numerous to be cited here.93

Using all these different phrases, the bishops gave voice to the groundswell of belief that “the emphasis should pass from the centre to the local churches.” In other words, the bishops were asking for the implementation of the principle of subsidiarity.94

93 On the question of subsidiarity as “autonomy”, see LEYS, Ecclesiological Impact, p.115: “Yet, with Kasper, one can question whether it is sensible to bring into the discussion the term ‘autonomia’. It is originally a political, juridical, and above all, a philosophical concept with its own points of reference in which the idea of emancipation from given authorities is part and parcel.” Beyer regards this term, “autonomy”, with the qualifier “just”, as preferable to subsidiarity: see J.BEYER, “Principe de subsidiarité ou «juste autonomie» dans l’Église,” in Nouvelle revue théologique, 108 (1986), pp.801-822; and “Le principe de subsidiarité: son application en Église,” in Gregorianum, 69 (1988), pp.435-459.

94 These references are too numerous for citation here. CAPRILE, Il Sinodo dei Vescovi, 1974, in his index on p.1075, lists at least 50 under the heading Decentramento, maggiore autonomia nel rafforzamento dell’unità: rapporti con Roma. Translations or synopses in English of the most striking interventions are available in Origins for October and November 1974, vol.4, nos.15-20. T.Corbishley, writing in The Month, January 1974, pp.443-444, and December 1974, pp.793-795, comments on the preliminary instrumentum laboris and reflects on the whole synodal experience. Corbishley also sent weekly reports to The Tablet, from 5 October - 2 November 1974. An editorial in this paper on 9 November 1974, p.1074-1075, led to further comments in its pages, 16 November 1974, p.1105, and an exchange of letters in this same edition, pp.1112-1113, where both Bishop Worlock and Corbishley rejected suggestions that the Synod had failed, and noted favourably the Pope’s acceptance of the Synod’s documents. Three further less satisfied letters were published on 30 November 1974, p.1167.

In America, September 28, 1974, pp.146-147, J.M.Connors wrote of his hopes for the Synod and, on November 30, 1974, pp.346-348, expressed himself satisfied with the results. One comment from this latter article, p.347, bears quotation: “The stress upon subsidiarity, pluralism and indigenisation and the commitment to work for human promotion and liberation was strong and sustained.” D.R.Campion also sent weekly “Synod Jottings” to America for the issues from October 12 - November 9 1974.

2. 5 - Synod 1977

Subsidiarity received explicit mention at least four times in the documents of the 1977 Synod on "Catechetics in Our Time with Special Reference to the Catechesis of Children and Youth": twice in reports from the circuli minores, once in a written intervention, and once in the propositions submitted by the Synod to the Pope.

The first reference, in the report of an English-speaking discussion group, occurs in the context of the community dimension of catechesis.\(^{95}\) Human communities composed of sinners in need of conversion can never be perfect, but this does not excuse anyone from co-operating in the building up of the Church, that is, the Kingdom. In spite of the difficulties arising from social conditions, this group believed that the Synod would be able

---

(Central African Republic) (ibid., p.247).

From the synod documents handed to him, Paul VI eventually produced Evangeli nuntiandi, 8 December 1975, in AAS, 68 (1976), pp.5-76. Hebblethwaite makes three significant references to this Apostolic Exhortation in his book, *Paul VI*, where on p.599, he writes: "'Ministries may be committed to lay Christians. They are no longer to be regarded as reserved to candidates for the sacraments of orders.' This was the most 'revolutionary' utterance of Paul; and he reasserted it with some vigour in Evangeli nuntiandi of 1975." On p.9, he says, "His major literary work, the wonderful Evangeli nuntiandi of 1975 was the fruit of his mature reflection on the muddled and indecisive Synod of 1974." Finally, on pp.651-652, we read what is an appropriate testimony to the effectiveness and purpose of the muddle sometimes inherent in consultation procedures: "Evangeli nuntiandi is a work of discernment and synthesis. The Synod of 1974 left all its unsolved problems in a heap on Paul's desk. His response was a text that is at once synodal and papal and therefore deeply collegial. It was quite different from his encyclicals in which Peter spoke for himself. The encyclicals were solo performances while in Evangeli nuntiandi he acted as 'the chorus-leader of the Apostles'. The Synod provided the raw experience and many of the insights, while Paul articulated them using his 'charism of discernment'. It was a new way of relating to the Church, a novel and more effective form of the magisterium. ... Paul went on learning throughout his pontificate, in great measure thanks to the Synod." For a recent commentary, see A.DULLES, "Seven Essentials of Evangelisation," in Origins, vol.25, no.23, November 23, 1995, pp.397-400.

\(^{95}\) It is worth noting that the composition of both language groups which mentioned subsidiarity, the English and the French, reflects the universality of the Church. In both groups there were bishops from Asia, America, Africa, Europe and, in the case of the English-speaking group, also from Australia.
to perform a not inconsiderable service to catechesis. So it recommended a new impulse to promote the growth of these communities, based on the principle of co-responsibility and of subsidiarity, with a view to the better fulfilment of their catechetical task.⁹⁶

Archbishop Bernardin, in a written intervention submitted to the Synod, also stressed the absolute necessity of a community-environment for Christian formation. He asserted that in the past young people had often found the Church too removed from life, so the concern of catechesis now must be to involve them in service to others. In this context, he urged: “Structures must be designed to ensure that the principles of subsidiarity, shared responsibility and accountability are applied at all levels of Church life. As people share more in the decisions which affect their lives and learn from the results of these decisions the credibility and effectiveness of the Church will grow.”⁹⁷ The Archbishop clearly recognises that although not every result of every decision will prove palatable, each will nonetheless educate.

One of the French-speaking groups also mentioned subsidiarity in the context of catechesis founded on the life of an ecclesial community. It said that community life is


distinguished by three elements, a constant return to the sources of the faith, co-responsibility, and open-mindedness. Both of these last two elements relate to subsidiarity. In the first case, they declared that every member knows and wants to be responsible towards as many as seek life in the Church. This presupposes a certain subsidiarity, when those whose duty it is to educate in the faith (parents, for example,) cannot do it. They went on to speak of the diversity of gifts and charisms which require development in every aspect of life. Evangelisation depends on each member of the community: each is a witness to an incarnate faith as each assumes his proper responsibility in every field of his respective competence.\textsuperscript{98} This includes, of course, the responsibility of the bishop in communion with the pope and the episcopal college to guarantee orthodoxy.\textsuperscript{99} Accountability appears as the inseparable companion of subsidiarity, properly understood.

The final explicit mention of subsidiarity occurs in the propositions submitted to the Pope at the end of the Synod. The Synod members accord the local bishop the principal responsibility for catechesis in the local church: “He must maintain close relations with theologians, catechists, and specialists in the human sciences. As far as possible, he should apply the principle of subsidiarity and of co-responsibility. The more those who have some

\textsuperscript{98}See CAPRILE, Il Sinodo dei Vescovi, 1977, pp.272-280, at p.274: “La vita comunitaria è individuata da tre elementi: un costante ritorno alle fonti della fede...; la corresponsibilità: ogni membro sa e vuole essere responsabile verso quanti cercano la vita nella Chiesa. Ciò suppone una certa sussidiarietà, quando chi dovrebbe educare all fede (i genitori, per esempio) non possono farlo. Del resto i carismi sono diversi, e ciascuno deve sviluppare i talenti ricevuti in modo da metterli al servizio di tutti. Animo aperto in tre modi...; ogni membro sa e vuole essere, secondo i propri carismi e le proprie responsabilità, responsabile dell’annunzio del Vangelo con la testimonianza della vita e con la parola; i membri della comunità sono testimoni di una fede incarnata, assumendo le proprie responsabilità in ogni campo di rispettivi competenza.”

\textsuperscript{99}See ibid., p.276: “In questo ogni vescovo è responsabile in comunione col Romano Pontefice e col collegio episcopale, in forza della sua missione di garante dell’ortodossia.”
responsibility in diocesan catechesis share in the formulation of catechetical plans, the more the catechesis itself will be effective." Subsidiarity, far from being a mere technique of decentralisation, serves as an instrument of Christian formation.

Values and concerns germane to the principle of subsidiarity which had surfaced at previous synods proved thematic at this Synod also. The community dimension, so clearly dependent on an understanding of subsidiarity, recurred throughout the papers and oral interventions from the Pope's opening address to the final "Message to the People of God."  

Within the community, participation and the assumption of responsibility for the community recognise the gifts, duties, and rights of all the baptised. Again, diverse cultures require a diversity of community structures. Most importantly, the bishops stressed,

---

100 Ibid., pp. 573-588, at p. 587: "Nella Chiesa locale il ruolo principale nella catechesi spetta al vescovo...il vescovo deve avere frequenti rapporti con i teologi, coi catechisti e con gli esperti in scienze umane; spetta a lui creare in diocesi una comunità vitale in tutte le sue dimensioni. In quanto è possibile applichì il principio di sussidiarietà e di corresponsibilità, per rendere più efficace la catechesi." This is the only reference from the 1977 Synod cited by Komonchak in "Subsidiarity in the Church," at pp. 318-319, footnote 56. He thanks M. Simon for drawing his attention to the reference which he quotes in the translation given above from Réalités et avenir de la cathèse dans le monde: principaux documents du synode des évêques 1977, réunis et présentés par J. POTIN, Paris, Centurion, 1978, p. 214. No translator is named. While not disputing the sentiment of the final sentence of the translation, we consider it rather an interpretation.


102 For an emphasis on the cultural aspect of catechesis, see especially P. Arrupe, in CAPRILE, Il Sinodo dei Vescovi, 1977, pp. 146-147, English translation in Origins, vol. 7, no. 18, October 6,
catechesis must relate to the reality of the contemporary world as experienced variously by children, young people, and adults in modern society.\textsuperscript{103}

Although expressions of moderate satisfaction with the synod-experience continued, in so far as it proves an exercise of co-responsibility and of collegiality, calls for improvement in procedures appeared in journalistic assessments.\textsuperscript{104} Unlike the topics of previous Synods, however, catechesis did not attract much attention even in Catholic


SYNODAL DISCUSSIONS

publications. Two contrasting viewpoints come from experienced commentators. First, a negative appraisal:

This was the most modest, unadventurous, unnoticed, unnewsworthy, invisible and ignored synod there had so far been. Even Monsignor W.H. Paradis, an expert in Catechetics, confessed that most of the interventions were trite: “Many reflect things that have been said before, often in more appealing language. For the most part they were couched in stiff ecclesiastical language that means nothing to almost everyone except professional church people. The Bishops were talking to one another and not to the world.”

This criticism reflects the anxiety expressed by so many bishops lest the preaching of the Gospel today fail to make contact with “the joy and hope, the grief and anguish of the men of our time” (GS, n.1). More hopefully, another writer makes the same point: “The Synod of Bishops ... turned out to be the most convincing sign of the Church’s renewal since Vatican II and opened up new and (for many) undreamed of horizons. To start with, it spelled out the message loud and clear that disembodied catechetics, unmarried to tangible commitment, have nothing to say.” After referring to the pleas of Father Arrupe and Archbishop Nguyen van Binh “for Christians in Communist countries to describe their faith in Marxist societies, where Christ is entitled to be as much as anywhere else,” he concludes:

What, it will be asked, has Christianity to do with a socialism which denies the average man the status and protection (from a predatory state) of ownership, and his rightful share in the decision-making processes? The answer depends on what you mean by socialism, of course, and perhaps that answer has begun to emerge in the basic ecclesial communities which are shifting Christianity’s center of gravity from Europe to South-East Asia and South America. In these groupings, distinct from yet related to traditional Church structures, the social principles of the co-operative combine with the life of the liturgy to enshrine the creative rights of the individual which, however, he exercises only in the context of a living, close-knit community

---

SYNODAL DISCUSSIONS

like an extended family. This is perhaps the most authentic expression of "small is beautiful." 106

Unless the Church’s preaching about the human right to share in the decisions which affect the individual’s life, becomes evident in her own practice, the authority of her teaching will prove ineffective. 107

2. 6 - Synod 1980

At first glance, the 1980 Synod on the Family does not raise any expectation of debate on the issue of subsidiarity. The topic does, however, touch these modern concerns most intimately. After so many years of theoretical discussion, the time for practical implementation had, to some extent, arrived. Commentaries before, during, and after the Synod drew attention to the widespread consultation by the bishops of married people. 108

Needless to say, some of the commentators questioned the selection criteria for those lay people who actually attended the Synod, even unearthing the fact that most, if not all, belonged to groups or organisations which promoted natural family planning. 109

106 KAY, “After the Synod: A New Prophecy,”, p.3.
107 This is the view expressed by ZIZOLA, “The Synod of Bishops,” p.932, and by Cardinal Hume in his account of the Synod published in both The Times, 31 October 1977, and as “Cardinal Hume on the Synod,” in The Tablet, 5 November 1977, p.1066.
SYNODAL DISCUSSIONS

Writing before the Synod, one delegate identified as one objective for the meeting the formulation of the right questions for further study, “a most important element of growth in any Christian community. And in asking these questions the Synod needs to express the confidence that all the members of the Christian community can learn from each other in seeking to answer these basic questions in terms appropriate to our time and place.” He listed the issues - responsible parenthood, sexuality, mixed marriages, divorce, abortion, and sterilisation - and added, “In all these the Church has a responsibility to teach, but the teaching must flow from the reflection of the entire Christian community in applying the Gospel to the realities of our time.”

This, presumably, constitutes the pastoral responsibility of the Church.

Defining the word “pastoral”, one commentator asserted that it involved “paying attention to what is going on here and now, to what people are thinking, doing, worrying or puzzling over.” Another hoped that the Synod’s official pronouncements would be “a reflection of the rich and variegated experience of all the Church’s members. People can believe what is remote from their own experience, but they cannot believe what is false to their own experience.” There seemed to be lively hopes that the bishops would hear


the voices of the laity, of married people, of those who endorsed the teaching of *Humanae vitae*, and of those who either rejected it or found it problematic.

Two speakers who had certainly listened to a variety of voices spoke early in the debates. First, Archbishop Quinn (USA) "a moderate by American standards, was suddenly considered a flaming liberal in Rome simply because European reporters could not believe that Americans usually mean what they say and only what they say."¹¹³ Archbishop Quinn's contribution gave the percentage (80%) of those American Catholic women who used methods of contraception condemned by *Humanae vitae*, and the percentage (29%) of priests who believe that artificial contraception is intrinsically immoral.¹¹⁴ He asked for further discussion and for an improvement in the way in which such documents as *Humanae vitae* are written and communicated.¹¹⁵ That such a considered statement caused such a furore that the Archbishop felt compelled to issue a clarification, in itself indicates a strange fear of facts in an institution dedicated to the pursuit of truth.

Cardinal Hume (England and Wales) twice stressed the importance of dialogue between pastors and people, a necessary component of subsidiarity in practice. In his first intervention he quoted from the *Instrumentum laboris*, paragraph 48:


SYNODAL DISCUSSIONS

The prophetic mission of the family is related to the teaching office of the pastors in that the word of God forms the understanding of the faith of the people of God, which is expressed both in families and in pastors in a way that is proper to each. This prophetic mission of the family, and so of husbands and wives, is based on their experience as married persons and on an understanding of the sacrament of marriage of which they can speak with their own authority. This experience and this understanding constitute, I would suggest, an authentic fons theologiae from which we, the pastors, and indeed the whole Church can draw. Married couples have, then, a twofold title to a special authority in matters concerning marriage. First, they are the ministers of the sacrament, which enables them to participate in the love of Christ for his Church sacramentally. Moreover, if it is true, as is stated in Paragraph 50 of the working document that “parents themselves must commit themselves to the action of the Holy Spirit who also teaches them anew through their children,” then a fortiori it would seem that pastors should listen to the parents themselves. We have, then, another reason, the action of the Holy Spirit, in addition to the arguments outlined above.116

This acceptance of the theological authority of married people with regard to the sacrament of matrimony acknowledges their expertise in any dialogue on the subject. In previous synods the bishops had asked for a greater share in decision-making processes for themselves. At this Synod they were requesting that lay people be admitted to the process of formulating the Church’s teaching on the family, surely a remarkable development in their acceptance in practice of the principle of subsidiarity.117


SYNODAL DISCUSSIONS

Cardinal Hume’s dream, which he shared with the Synod in his second intervention, challenged the image of the Church as a fortress where soldiers with unquestioning obedience repelled invaders, and replaced this image with a vision of a pilgrim Church. The leaders of this Church, the Cardinal reflected, “are often themselves not always clear. They must sometimes coagonise with the other pilgrims. Co-responsibility will always involve coagonising. The fortress was a temple, but the pilgrims lived in a tent. It is sometimes better to know the uncertainties of Abraham’s tent than to sit secure in Solomon’s temple.” He went on to speak of the necessity of “repainting the signposts” with the right words. “We must never fail to listen to the other pilgrims and they need encouraging. We must speak gently, compassionately, coagonise with them, lead them gradually and speak a language which enables them to say, ‘Yes, that is right’.”118 The process of arriving at decisions, frequently gradual, often also proves time-consuming and agonising for all concerned. The role of pastors must not be to regiment or to rush the laity, but to search with them. Each can offer subsidium to the other in the quest for truth.

Father Pedro Arrupe proposed to the delegates the adoption of the principle of gradualism. As explained by one commentator, this means admitting “that the best is the enemy of the good, thus a tendency towards an ideal rather than its achievement is all that should be expected of frail mortals.”119 This principle did not recommend itself to Pope


119 For the text of his intervention, see CAPRILE, Il Sinodo dei Vescovi, 1980, pp.109-110, and for comments, see The Tablet, 1 November 1980, p.1059, no author is named. For a more developed treatment, see GROOTAERS and SELLING, The 1980 Synod of Bishops, pp.262-263.
SYNODAL DISCUSSIONS

John Paul II, who, in his closing address, denied its applicability: "Really the process of gradualness... cannot be applied unless someone accepts divine law with a sincere heart and seeks those goods which are protected and promoted by the same law."\textsuperscript{120} Father Arrupe had based his proposal on the greatest respect for man and on the immense patience of God.\textsuperscript{121} The theory certainly fits into the notion of a decision-making process, involving those most immediately concerned. The Pope objects to the application of the principle in the moral sphere, but the high profile given to the sensus fidelium in the moral issues involved in family-life stands out as the remarkable gift of this Synod to the Church.

The issue of inculturation, in this case most specifically the recognition and Christianisation of indigenous tribal marriage rites, also arose at this Synod.\textsuperscript{122}

A positive development occurred in the appointment of Bishop Agnellus Andrew, executive vice-president of the Pontifical Commission for Social Communication, as a member of the Synod's Information Committee. His request to the delegates to submit their


\textsuperscript{121}CAPRILE, Il Sinodo dei Vescovi, 1980, p.109: "Primo carattere del nostro intervento pastorale sarà il massimo rispetto verso l'uomo; chi si trova in determinate situazioni di crisi o di irregolarità esige comprensione e discrezione, umanità et gradualità (cf. AG, n.12)... Si ricordi pure l'immenza pazienza di Dio nel guidare il popolo eletto all'accettazione del suo messaggio."

\textsuperscript{122}Among those who raised this issue were: Archbishop Zubeir-Wako (Sudan), see CAPRILE, Il Sinodo dei Vescovi, 1980, pp.119-120, and Origins, vol.10, no.18, October 16, 1980, p.288; Cardinal Rugambwa (Tanzania), see CAPRILE, Il Sinodo dei Vescovi, 1980, pp.183-184, and Origins, vol.10, no.20, October 30, 1980, pp.310-311. For a comment, see REESE, "Reporting on the Synod," p.407. Origins, vol.10, no.20, October 30, 1980, pp.310-314, quoted the remarks made at a press conference by Cardinal Motunga (Kenya), and Archbishop Tadua (Ethiopia), also on this issue, and on pp.314-315 in a summary of the points on which the circuli minores reached consensus reported: "Bishops' conferences, especially in Africa, need greater flexibility in adapting marriage rites to local cultures."
interventions and summaries to his office for transmission to the press, met with mixed
response in practice. Nonetheless, the notion of openness had gained a foothold; only
those in possession of all the relevant facts can contribute validly to any decision.

This survey which has, for the most part, concentrated on the actual texts of the
debates, presents an optimistic view of the event. The delegates’ speeches represent a
development in the Church since the Second Vatican Council. The members of the Synod,
true to Gaudium et spes, show a willingness to take account of the life-experiences of all the
members of the Church, male and female, married, clerical, religious, single, from Europe,
Asia, Africa, America, and Oceania. The pastors quoted here have heard from their people
and express their desire to respond in terms that make sense to these same people, that show
understanding and compassion.

A much more detailed examination of the Lineamenta, the Instrumentum laboris, the
texts of the interventions, and of the 43 Propositions submitted by the Synod to the Pope,
carried out by two laymen, both well-qualified for the task, resulted in a much more
pessimistic assessment of that Synod in particular and of the synodal structure in gen-
eral. Grootaers and Selling compared all the above documents with one another and
with the Apostolic exhortation, Familiaris consortio, published as the fruit of the synodal

\[123\] CAPRILE, Il Sinodo dei Vescovi, 1980, p.79, gives only a brief summary of his appeal, but
the full text can be read in The Tablet, 4 October 1980, pp.979-980. Before detailing the practical
methods, Bishop Andrew said: “We should…remind ourselves that what these professionals seek from
us is simply - the truth. And the Church has nothing to fear from the truth.” For the response, see

\[124\] GROOTAERS and SELLING, The 1980 Synod of Bishops. For a review of the book, see
SYNODAL DISCUSSIONS

debates.\textsuperscript{125} The evidence that they adduce supports their conclusion that an essentialist, deductive, traditionalist theology pervaded both the \textit{Lineamenta} and the \textit{Instrumentum laboris}, whereas the delegates’ speeches and the text of the 43 Propositions exude a quite different spirit:

We find an open and searching attitude characterizing the Propositions which flowed quite naturally from the many discussions which had taken place among the bishops. The theology is fundamentally conciliar and seeks dialogue with the world. Furthermore,...the differences between the the first and final versions (of the Propositions) represent some real improvements. They are more social minded and preserve a nuanced, positive theology.\textsuperscript{126}

According to these two authors, Caprile was forbidden to publish the Propositions, so a comparison between them and \textit{Familiaris consortio} would not prove possible. The texts emerged, however, and the comparison was made. \textit{Familiaris consortio}, as foreshadowed in the Pope’s closing homily of the Synod, reflects the traditional lines of the \textit{Lineamenta} and the \textit{Instrumentum laboris}. In other words, the Apostolic exhortation could have been written without the Synod.

Grootaers and Selling suggest that the Synod has yet to reach its maturity as an institution of collegiality in the Church. They propose a number of conditions:

First, ... that its doctrinal foundation should finally receive a much broader base in the line of an ecclesiology of \textit{communio}. Then, there is the condition that the Synod should develop a more precise consciousness of the real demands that are placed upon it by such an ecclesiology. Finally, there is the condition that the institutional means, which should be made available to the world episcopacy, will be more in accord with the conscious, lived experience of collegiality. In a word, the Synod of Bishops will find the true


\textsuperscript{126}GROOTAERS and SELLING, The 1980 Synod of Bishops, p.263.
meaning of its existence and fully exercise its function, only when the ecclesiological problem of the post-Vatican II era has been solved.\textsuperscript{127}

The principle of subsidiarity goes to the heart of this problem; respect for human dignity demands that all have the right, in accordance with their respective levels of competence, to share in the decisions which affect them.

2. 7 - Synod 1983

By the time the bishops assembled in Rome for the 1983 Synod on Reconciliation and Penance in the Mission of the Church, both they and the canonists consulted about the revision of the \textit{Code of Canon Law} were aware of how the Code describes the Synod. The oft-repeated reminder of the Synod's consultative function, now reified in cc.342-343, clarified the role of this gathering for any who might have hoped for it to mature into a deliberative assembly.\textsuperscript{128} Even given this clarification, one writer began his report of this

\begin{flushright}
\footnotesize
\textsuperscript{127}Ibid., p.175.
\end{flushright}

\begin{flushright}
\footnotesize
\textsuperscript{128}Canon 342: The synod of bishops is a group of bishops selected from different parts of the world, who meet together at specified times to promote the close relationship between the Roman Pontiff and the bishops. These bishops, by their counsel, assist the Roman Pontiff in the defence and development of faith and morals and in the preservation and strengthening of ecclesiastical discipline. They also consider questions concerning the mission of the Church in the world.

Canon 343: The function of the synod of bishops is to discuss the matters proposed to it and set forth recommendations. It is not its function to settle matters or to draw up decrees, unless the Roman Pontiff has given it deliberative power in certain cases; in this event, it rests with the Roman Pontiff to ratify the decisions of the synod.


PAUL VI, through his motu proprio, \textit{Apostolica sollicitudo}, 15 August 1965, in \textit{AAS}, 57 (1965), pp.775-780, established the Synod with these words: "We erect and establish in this city of Rome a permanent consultative body of bishops for the universal Church subject directly and immediately to Our authority, and to be known as the Synod of Bishops." Under the heading "General and Special Ends", the Pope decreed, "From its very nature the Synod of Bishops has for its purpose to give information and counsel. It may also have deliberative power when this is given to it by the Sovereign Pontiff, to whom it shall pertain in such case to ratify the decision of the
assembly with the words: "The Synod of Bishops is a curious creature. Everybody knows it is important, but nobody knows quite why."\textsuperscript{129} It seems that six synods had failed to make an appreciable difference to the Church.

The publication of the Grootaers and Selling book, on the eve of the 1983 assembly, provoked a response from Archbishop Tomko, secretary of the Synod.\textsuperscript{130} For whatever reason, Pope John Paul II devoted several paragraphs of his closing homily at the 1983 Synod to praise of the synod as "a precious manifestation of the episcopal collegiality of the Church and one of its most effective instruments." While admitting the possible necessity of some improvement, he laid particular stress on the service which the Synod rendered. He added: "If, formally, the consultative character of its work prevails, it is difficult not to

\textsuperscript{129} R. SHAW, "The Synod in Search of a Subject," in \textit{America}, September 17, 1983, pp.325-328, at p.325.

\textsuperscript{130} GROOTAERS and SELLING, \textit{The 1980 Synod of Bishops}. For Archbishop Tomko, see P. HEBBLETHWAITE, "Bishops Round the Pope," in \textit{The Tablet}, 8 October 1983, pp.987-988.
SYNODAL DISCUSSIONS

perceive that this ‘counsel’ must at the same time carry great weight in the Church. It is, therefore, even more important that the documents which appear after the Synod, reflect the common thought of the synodal assembly and of the Pope who presides *ex officio.*" As long as the bishops maintained the practice of dispersing before agreeing on a document, the risk of an imbalance between the “synodal” and “curial” approaches remained.132

Although the related topics of “inculturation” and the rights of bishops’ conferences to decide whether or not to permit general absolution arose, the topic of subsidiarity itself did not figure in the discussions. The bishops, forced to take account of the *sensus fidelium,* expressed in this situation by the decline in the practice of private confession, also aired the problems of social, structural, or systemic sin. One bishop recommended that before addressing the world on reconciliation, the Church should attend to the unreconciled within its own ranks and suggested compassion for the divorced and remarried, for priests who had left the ministry, and for “pluralistic theologians.”133 The final message, however,

131 JOHN PAUL II, Homily at the close of the Synod, 29 October 1983, in *AAS,* 76 (1984), pp.281-289, at p.288. For the English translation, see *The Tablet,* 5 November 1983, pp.1089-1092, at p.1092. A more extended citation from this address will be given in the account of the 1990 Synod. See pp.155-156.


emphasised the "justice and peace aspect of reconciliation" and the bishops' propositions remained secret.\textsuperscript{134}

2. 8 - Synod 1985

1985 proved to be an eventful year in ecclesiastical terms. The announcement in January of an Extraordinary Synod to mark Vatican II's twentieth anniversary caused something akin to panic, since there followed shortly afterwards the publication, in book form, of an interview with Cardinal Ratzinger.\textsuperscript{135} Despite the Pope's own assertion of the entirely positive purpose of the Synod, the Cardinal's use of the word "restoration" led to


H.KÜNG published "a trenchantly critical 7,000 word analysis," in part as a response to Cardinal Ratzinger. Excerpts appeared as "Speaking out after Silence," in \textit{The Tablet}, 19 October 1985, pp.1109-1111. There, Küng is quoted as asking: "To what does this 'Report on the Faith' boil down?" He answers: "In terms of practical politics ... to one thing: the threatened power of 'Rome' (= the Church = Christ = God) over the souls of believers in dogma, morals and church discipline must, according to Ratzinger, be secured and reconsolidated by all means possible... Once this curial power and its centrally directed Roman system are secured, the Church will be saved." An editorial comment, "Hans Küng Returns to the Charge," in ibid., p.1087, dissociates the paper from some of Küng's positions: "We feel that Hans Küng focuses so much on the Pope and Cardinal Ratzinger as to understress the way that there is a check and counterbalance to the power of the centre in the reality of the life and communion of the local churches, and in the degree to which reception of teaching by all the faithful is increasingly acknowledged as a test of truth." Even Caprile deals with what he calls, "Il caso Ratzinger," see G.CAPRILE, \textit{Il Sinodo dei Vescovi: seconda assemblea generale straordinaria, 24 novembre - 8 dicembre 1985}, Roma, Edizioni "La Civiltà Cattolica," 1986 (= CAPRILE, \textit{Il Sinodo dei Vescovi, 1985}), pp.74-79.
SYNODAL DISCUSSIONS

rumours that "the Synod would be used by the Roman Curia to roll back the reforms of the Council." So pervasive did this rumour prove that, even when the Synod was already in session, the relator, Cardinal Danneels, had to reply to journalists' questions about it. From 7-11 October 1985, representatives of the bishops of Europe met in Rome for their regular Symposium. The timing of their meeting and the theme, "Secularisation and Evangelisation in Europe Today," arranged long in advance, in no way constituted the formation of a lobby group for the Synod. Inevitably, however, in reflecting on this theme, the bishops aired many of the topics that would soon surface again at the synod - the

---

136 The announcement was made at St Paul's-outside-the-walls on 25 January 1985 and reported in L'Osservatore romano, English edition, 4 February 1985, p.1, under the headline, "Pope Announces Extraordinary General Assembly of Synod of Bishops." There, the Pope gives as his purpose in summoning the Synod: "To revive the extraordinary atmosphere of ecclesial communion experienced at the Vatican Council; to exchange and examine experiences and information about the application of the Council at the level of the Universal and particular Churches; to promote the further study and the constant incorporation of Vatican II into the life of the Church in the light of new exigencies." Cf. T.J. REESE, "The Extraordinary Synod," in America, December 14, 1985, pp.415-416.

For Cardinal Ratzinger's own explanation of the meaning that he attached to the controversial word "restoration," see RATZINGER, The Ratzinger Report, pp.37-39: "'Restoration' - the search for a new balance after all the exaggerations of an indiscriminate opening to the world, after the overly positive interpretations of an agnostic and atheistic world, well, then a 'restoration', understood in this sense (a newly found balance of orientations and values within the Catholic totality) is altogether desirable and for that matter, is already in operation in the Church." This English edition was published after the word had excited comment in the Italian original, Rapporto sulla Fede: Vittorio Messori a colloquio con Joseph Ratzinger, Ciniselle Balsamo, Milano, Edizioni Paoline, 1985.

137 See "Cardinal Danneels Sets the Tone," in The Tablet, 30 November 1985, pp.1269-1270, where he replies that the Synod is about the Council, not about a book.


139 Bishop Vilnet made this clear in a footnote to "Voeux des évêques européens pour le synode sur Vatican II," in La documentation catholique, no.1907, 1 décembre 1985, p.1139. For a summary of Cardinal Hume's opening address to the symposium, see "Evangelising Europe," in The Tablet, 12 October 1985, p.1074-1075.
SYNODAL DISCUSSIONS

bishops’ duty to protect legitimate diversity and variety (LG, nn.13 and 23), collegiality, the Church as communio, ecumenism, and the role of women. The President of the European Conference of Bishops, Cardinal Hume, defined communio as “a communion in which each has his or her own responsibility and can rely on the support of others,... if we turn to technical language - dialogue, co-responsibility and diaconia.” The Cardinal then explained each of these terms. “Dialogue,” he said, “includes an authentic conversation and mutual respect within the Church itself.” His definition of co-responsibility describes the ideal of subsidiarity already in practice: “In the particular church, the bishop, as a source and minister of unity, and at the same time as a protector of diversity, should gather around him other ministers and ministries. The priests, religious and laity, around their bishop, are truly the Church of God in this particular place - accepting their specific responsibilities, exercising their specific ministries, working together for the coming of the kingdom.”

The Cardinal proves consistent in his recognition of the values of subsidiarity, and optimistic about the synod.

---

140 These two quotations, and the one in the following footnote, are from Cardinal Hume’s final address. See “Synthèse et signes d’espérance,” in La documentation catholique, no.1906, 17 novembre 1985, pp.1078-1082. A summary of the Cardinal’s address appears as “Task of Christians in Europe,” in The Tablet, 19 October 1985, pp.1103-1104.

141 HUME, “Task of Christians in Europe,” p.1082: “A Symposium, a Synod, they are like milestones along the way travelled by the Church in pilgrimage. They tell us where we are today. With the help, and under the guidance of God, we move along the way ahead in faith, confidence, and hope.” In his opening address, he had spoken of preparing for the Synod with “enthusiasm.” See the summary, “Evangelising Europe,” pp.1074-1075.
SYNODAL DISCUSSIONS

His positive approach was shared by the different language groups at the symposium who used the opportunity to underline the coming Synod's role as a celebration of Vatican II.142 The Italian- and German-speaking groups raised the role of women; the Spanish, the French and the German groups considered lay participation; the German and French groups also expressed a certain fear of adopting the language of democratic or bureaucratic models or methods. The English-speaking group alone explicitly mentioned the principle of subsidiarity. They did so in the context of affirming a vision of the Church as "communion of communions." "The quality of life in the Church," they said, "is itself the sacrament of hope which the Church can be for the world." Far from being a vague idealistic notion, the very structures of communication and dialogue within the Church incarnate this quality of life, so "this vision of the Church requires of the next Synod at once a generous acceptance of the principle of subsidiarity and a direction towards those essential objectives which should be attained by the particular churches, each in its own way, in order that they may truly become that which they ought to be."143 The visible daily practice of true community life evangelises the secular.

The week before the Synod began, the Cardinals met with the Pope to take decisions about updating the Apostolic Constitution on curial reform, Regimini Ecclesiae

---


SYNODAL DISCUSSIONS

Although the proposed reforms remained secret until the actual meeting, advance reporting proved, in some respects, remarkably accurate, and dismissive: "This scheme falls short of the reform we need. It would impose uniformity, not unity, and would impoverish the developing variety and pluralism of the Catholic Church today." The Cardinals apparently agreed; they postponed the reform. "All language groups agreed that it was necessary to make explicit mention of the theological basis for the curia and to show how it should be placed within the structure of the Church. This should appear as a preface to the reform." As became clear at the subsequent Synod, the bishops were reacting strongly against any weakening of the powers recognised by Christus Dominus, n.8. How remarkable that they did not perceive the Code of Canon Law as sufficient protection.

Each conference of bishops received a set of questions to aid their preparation for the Synod. The Bishops of England and Wales, among others, published their responses

\[144^\text{PAUL VI, Apostolic Constitution De Romana Curia, Regimini Ecclesiae Universae, in AAS, 59 (1967), pp.885-928. For Pope John Paul II's intention in calling a meeting of the college of Cardinals, see JOHN PAUL II, Allocution to the College of Cardinals, 21 November 1985, in AAS, 78 (1986), pp.412-419.}

\[145^\text{Editorial, “Not the Reform We Need,” in The Tablet, 2 November 1985, p.1147, and in the same edition, a correspondent’s report at p.1163, “Threat to Unity Secretariat.”}

\[146^\text{In one respect they went directly against the proposals in upgrading the Secretariat for Christian Unity to a Congregation, a fact on which some satisfaction at this defeat of the centralising tendency surfaced at the ensuing Synod, see CAPRILE, Il Sinodo dei Vescovi, 1985, by Bishop Gran (Norway), p.138, by Archbishop S.E.Carter (Jamaica), p.149, by Cardinal Tzadua (Ethiopia), p.162, and by Cardinal O’Fiaich (Ireland). pp.208-209. Bishop J.I.Lorscheiter, however, in his written submission to the Synod on the principle of subsidiarity, pp.299-301, remarks at p.299: “The proposed reform of the Roman Curia also took this principle into consideration.” For a report on the meeting, see “Cardinals Draw Back from Curial Reform,” in The Tablet, 30 November 1985, p.1269.}

\[147^\text{See CAPRILE, Il Sinodo dei Vescovi, 1985, pp.475-476, for the four general and nine more particular questions, in Latin.}
in full. They began by indicating that their responses had included a widespread consultation among their people. They acknowledged difficulties and failures, but also listed benefits, reflections and suggestions on the following four themes:

- the nature of the Church;
- pluralism in the Church;
- effective evangelisation;
- ministries in the mission of the Church.

Among the benefits, they noted that the deepening understanding of collegiality and co-responsibility had promoted sharing of responsibility and enhanced the laity’s sense of involvement in the wider mission of the Church. They developed at length the concept of koinonia:

This concept, signifying a relation between persons resulting from their participation in one and the same reality, when applied to the Church, makes clear that the union with God in Christ Jesus through the spirit is the heart of Christian koinonia...Within this concept of Church, each level of the Church needs the capacity to exercise sufficient responsibility for its life and ordering so as to develop its integrity as a community within the wider communion. In presenting the role of the bishops, as the visible foundation of unity, Lumen gentium states: “That office which the Lord committed to the pastors of his people, is, in the strict sense of the term, a service, which is called very expressively in sacred scripture a diakonia or ministry” (n.24). Similarly, at the first Vatican Council, in the final speech before voting, the doctrine of papal infallibility was presented as designed for the “conservatio veritatis in ecclesia” and as operating when individual bishops or provincial councils were unable to deal with divisions in matters of faith satisfactorily in their own right (Mansi, vol.52, no.1213). It is clear, then, that a vital

---

element in the exercise of the power of episcopal and papal authority is that it enables the lower levels of the Church to fulfil their proper functions and to develop in life and mission as true expressions of the Church of Christ. The principle of subsidiarity must give shape to the exercise of authority in the Church.\textsuperscript{149}

From the New Testament \textit{koinonia}, to the doctrines of both Vatican Councils, and their application in the principle of subsidiarity, seems a natural progression in the teaching of the English and Welsh Bishops. Moreover, they do not seem to regard \textit{subsidium afferre} as in any way to demean or degrade either the giver or the receiver.

Towards the end of their document, after praising the benefits of diversity and unity and viewing the tension there as creative, they turned to the enriched notion of ministry which gave rise to new patterns of consultation. They admitted weaknesses in this area and suggested the more speedy development of the necessary structures:

The Holy Spirit, “allotting his gifts according as he wills...makes them [the people] fit and ready to undertake various tasks and offices for the renewal and building up of the Church” (\textit{Lumen gentium}, n.12). This calls for systematic effort, at every level in the Church, for lay people to share visibly in the decision-making processes. Such a visible share requires an openness of communication so that the process of consultation can be observed, especially since the actual decision taken will not flow inevitably from the consultation received.\textsuperscript{150}

This reflection shows a realistic understanding of the dynamic involved in implementing the principle of subsidiarity. The publication of this document in a weekly paper, under lay control, with an international readership, served as an example of mature leadership, effected

\textsuperscript{149}See “Bishops for Renewal,” p.815.

\textsuperscript{150}Ibid., p.819.
SYNODAL DISCUSSIONS

what it taught, and provoked comment and debate.\textsuperscript{151} Two months later, however, \textit{The Tablet} reported that the Vatican Secretariat of State had asked the bishops' conferences not to publish their replies.\textsuperscript{152}

Komonchak has treated the 1985 Synod's discussion of subsidiarity very thoroughly, beginning with the denunciation of the principle by Cardinal Hamer.\textsuperscript{153} This took place, apparently, at the 21 November 1985 plenary session of the College of Cardinals. The Cardinal argued: "Concern that the particular church's sphere of competency be respected does not need to be based on a principle of social philosophy when the Council's teaching on the Church suffices." He pointed out two disadvantages to the principle of subsidiarity: its socio-political connotations and the fact that "it attributes to the universal Church a subsidiary role in relation to the particular church."\textsuperscript{154} The Cardinal concluded:

\textsuperscript{151}See Letters to the Editor, "Bishops for Renewal," in \textit{The Tablet}, 14 September 1985, p.953, where the then Assistant General of the Marist Fathers, G.A.ARBUCKLE, noted some weaknesses and oversights in the submission, most specifically the rather bland treatment of racism, but also praised "this most remarkable document" as "positive, concise, challenging, and inspiring." This opinion was shared by several of the ten prominent Catholics invited "to raise varied questions, proposals, reflections, hopes, and fears" for the Synod in \textit{America}, September 28, 1985, pp.148-174. See, for example, the contributions of HIGGINS, p.151, and DULLES, p.157 of "The Extraordinary Synod." For the influence thought to have been exercised by the response from the English and Welsh bishops, see O'CONNELL, "Turnabout to Jerusalem," pp.44-45.


\textsuperscript{153}KOMONCHAK, "Subsidiarity in the Church," pp.320-325.

\textsuperscript{154}LEYS, \textit{Ecclesiological Impacts}, p.183, writes: "That the application of the principle of subsidiarity in the Church would leave only a 'supplementary role' for the papacy, as Hamer says, has obviously no basis at all." He reasons as follows: "It is important to make clear that competencies are not demanded or given or denied arbitrarily. Whenever there is a difference of opinions or when such is possible, about which competency is competent, there is a need for someone who authoritatively decides, if dialogue does not offer a solution. The competency-over-competencies is the power to make that authoritative decision. And it belongs where the responsibility for the whole is situated. To give this the primacy seems to be an adequate explanation of Vatican II where
SYNODAL DISCUSSIONS

The appeal to this principle is unnecessary because the ecclesiology of Vatican II perfectly expresses why and how the proper competence of the particular church must be respected. It is enough to refer to *Lumen gentium*, n.27 on the ordinary and immediate power of the bishops responsible for particular churches and on its regulation. No model drawn from the civil community can take account of an ecclesiology such as that expressed in the following characteristic statements: “Individual bishops are the visible principle and foundation of unity in their particular churches, formed in the image of the universal Church, in which and out of which the one and unique Church exists” (*LG*, n.23); “A diocese is a portion of the People of God...so that...it might constitute a particular church, in which is truly present and active the one, holy, catholic and apostolic Church of Christ” (*CD*, n.11).

To answer Cardinal Hamer one might comment first, that repeated episcopal demands at successive synods for the principle of subsidiarity show quite plainly that, in practice, the mere reiteration of doctrinal statements on the Church changes nothing. Secondly, in an era when the Church is opening itself to the world both to teach and to learn, this assertion, that social philosophy can offer no insights, rings somewhat disharmoniously. For centuries, the government of the Church modelled itself much more on that of the secular realms than on the model of the New Testament. As a human society, it will always necessarily reflect, to some degree, its historical setting. Thirdly, none of those who promote the principle it says that the power which belongs to the bishop is ‘in its exercise ultimately regulated by the supreme authority of the Church and it can be limited in view of the advantage of the Church or of the faithful’ (*LG*, n.27; *CD*, n.8). That is a function which is understandable as a competency-over-competencies.” He cites as his authorities, Congar, Kasper, Kaufmann, and Nell-Breuning.


156Cf. L.ÖRSY, *Theology and Canon Law: New Horizons for Legislation and Interpretation*, Collegeville, Minnesota, A Michael Glazier Book, The Liturgical Press, 1992, p.51: “Religion is rooted in human nature. Therefore, not even Christian faith can be well understood if it is not put into the context of those sciences that enquire about human nature, such as philosophy (on a more abstract level), psychology, anthropology and sociology (on a more concrete level). Values recognised by Christian doctrine or sound philosophies must play their part in the understanding of
of subsidiarity ever envisages the relationship between the universal and the particular Churches in the way that the Cardinal describes as "simply substitutive."\footnote{For a more extended treatment of Cardinal Hamer's arguments against the principle of subsidiarity, see chapter 4, note 1.} Cardinal Hamer appears preoccupied with what his Dominican and, eventually, Cardinaliatial confrère, Yves Congar, once called "hierarchology."

Komonchak writes that at least eight of the submissions to the Synod from the bishops' conferences referred favourably to the principle of subsidiarity. He summarises: "It was used to criticise Roman centralisation and to support greater self-responsibility, autonomy and diversity in the local churches, to articulate the competency of episcopal conferences, and to promote a greater role for the laity."\footnote{KOMONCHAK, "Subsidiarity in the Church," p.321. Cf. Synode extraordinaire, p.71, where the North African bishops wrote: "The principle of subsidiarity has its full sense in the Church where it guarantees the dynamism of the Spirit who gives to each his proper responsibility." The Brazilian bishops asserted, pp.127-128, that the principle of subsidiarity should continue to be applied and a healthy decentralisation stressed: questions should be debated first by bishops' conferences and only then referred to Rome. The bishops of Scandinavia and Finland said, p.274: "The principle of subsidiarity, in our opinion, should be followed in a more consistent manner in the Church, in order that the local churches may be able to develop without being troubled by interventions from without (for example, by papal representatives). Likewise, recourse to Rome, in the sense defined by the Council, should be limited to what is strictly necessary. In general, we would like to underline that, for good relations, it is always important to have this confidence which should imbue the unity of the world-wide Church."} The principle of subsidiarity seems to have acquired a rather daunting versatility.

In the course of the debates, nine speakers mentioned the principle. Archbishop Hurley (South Africa), the first to do so, recommended it twice - in the context of determining competency between the Holy See and the local church, the role of the
conference of bishops and of other regional or continental groupings of bishops. He went on to point out that although the Holy See had confidence in each local church as regards the responsibility for a vast field of evangelisation, nonetheless when it came to minute questions of canon law or of doctrine, the same confidence in their competence was not so evident. He felt that the unfavourable publicity attracted by the silencing of Leonardo Boff could have been avoided, had the principle of subsidiarity been respected: “We ought to have more faith in the presence and power of Christ and of the Holy Spirit in all parts of the Church.”

A frequent critic of centralisation and ardent supporter of the principle of subsidiarity, Bishop Gran (Norway) spoke of it in the context of collegiality, participation, and co-responsibility in decision-taking (nel prendere le decisioni). Once power has been delegated, one must trust and intervene only to overcome initial difficulties or, obviously, to avoid dangerous aberrations.

After outlining the positive effects of the Council teaching in Brazil, Bishop Lorscheiter also admitted to certain deficiencies - superficiality, polarisation, and division.

---

159 CAPRILE, Il Sinodo dei Vescovi, 1985, pp.124-125. On these pages, Caprile provides footnote references for the Leonardo Boff controversy. Bishop J.I.Lorscheiter (Brazil) also submitted a written intervention on the subject of “Liberation Theology.” Caprile gives the text on pp.297-299. It can also be found as “Vatican II et la théologie de la libération.” in La documentation catholique, no.1913, 2 mars 1986, pp.273-274. There is a report on the “Liberation Theology Debate,” in The Tablet, 7 December 1985, p.1296. For Boff’s account, see chapter 4, note 57. P.HEBBLETHWAITE wrote an amusing report on the whole Synod using a musical metaphor, in which he contrasted the conflicting rhythms of Latin America and Rome. See “The Cracow Concerto,” in The Tablet, 7 December 1985, pp.1312-1313. Archbishop Hurley’s intervention is reported in the same issue, “Local Churches,” at p.1297. For an analysis of the links between the “liberation theology debate,” Cardinal Hamer’s comments, the role of the Curia, and the recommended study of subsidiarity, see P.HUIZING, “Subsidiarity,” in Concilium, Synod 85 - An Evaluation, 188/6 (1986), pp.118-123. D’Onorio regards the curial intervention in the case of Leonardo Boff as entirely appropriate, since, in his opinion, there had been a failure to deal with it on the part of the Brazilian bishops. See D’ONORIO, Le pape et le gouvernement, p.201.

He had hoped, however, that the Council would be considered as a light and not a limit (*lumen non limen*) to the future way, that wisdom be deepened and the opportunity and necessity for the principle of subsidiarity in the life of the Church be examined.  

Archbishop Hayes (Canada) spoke of the growth of communion in the Church due to the recognition in practice of the equal dignity of men and women and the consequent assumption of co-responsibility. In the field of ecumenism he considered that local bishops should be granted a certain measure of subsidiarity.

Bishop Ndingi Mwana 'A Nziki (Kenya) linked collegiality and subsidiarity as good fruits of the Council. In explanation, he added that the conference of bishops sustained and encouraged the individual bishops, gave the Church an identity on the national level, and put it in a better position to carry out its proper mission. At the diocesan level, different colleges of consultors were functioning, as were presbyteral and pastoral councils. He spoke of the need for generous directives from the Holy See which diocesan bishops could interpret, in order to achieve true inculturation.

In a comparatively lengthy intervention, Bishop Terrazas Sandoval (Bolivia) spoke eloquently of his understanding of collegiality. In this context he made some suggestions:

---

161Ibid., p.168. Bishop Lorscheiter also offered a written submission on the subject of subsidiarity, in ibid., pp.108-112.

162Ibid., pp.178-179. Komonchak seems to have missed this reference. The Canadian bishops' response to the questionnaire included the statement: "The principle of subsidiarity which is the hinge of the Church's social teaching should be applied much more efficaciously in the interior even of the ecclesial institution." See *Synode extraordinaire*, p.176.

163CAPRILE, *Il Sinodo dei Vescovi, 1985*, pp.183-185. Cf. "Local Churches," in *The Tablet*, 7 December 1985, p.1296: "Pleas for greater freedom for the local church came from third world bishops. It is known, for example, that some African and Asian bishops fear that the ban on further experimentation in the liturgy condemns their churches to be considered foreign in their own land."
that, on the part of the Holy See, there should be a greater acknowledgement of, and trust in, the relative autonomy of the local church; that the Holy See should recognise in the conferences of bishops a level of subsidiarity, and of discernment and decision which corresponded to their ecclesial responsibility. He also asked for the creativity and freedom of the laity to be respected.164

The sixth endorsement of the principle of subsidiarity came from Archbishop Rush (Australia) who admitted that collegiality and the relationship between the universal and the local church generated anxiety and dissipated energies owed to more important matters. Since the beginning of his pontificate, the Holy Father had shown his belief in the importance of collegiality. The diversity between the local churches and the principle of subsidiarity suggest that local solutions should be found for local problems, to the extent that these solutions do not compromise the unity of the local churches with and under the Supreme Pontiff.165

From his remarks, it seems that Cardinal Castillo Lara, President of the Pontifical Commission for the Authentic Interpretation of the Code of Canon Law, had been listening to his fellow bishops with some exasperation. He reminded them that in many cases, Vatican II had enunciated general principles, leaving it to the future Code to determine the manner of application and the general renewal of the internal discipline of the Church. He said that the Code showed both pastors and faithful the safe way to follow in the desired renewal. After the formulation of the Code, there is no more room for arbitrary experimentation, as


165 Ibid., pp.214-215.
SYNODAL DISCUSSIONS

if the laws did not exist. Rights and duties are well defined, the respective competencies are determined in a manner which proceeds wholly without arbitrariness, and with order. The faithful can know what their pastors should do, their powers and autonomy are neither absolute nor arbitrary. He added, "In this hall there has been talk of the principle of subsidiarity as if it were a novelty: now the Code has quite clearly defined the diverse competencies. It remains only to apply it.” ¹⁶⁶ He reiterated this plea at the close of his intervention, when he said that, according to c.392, §1, the bishops had a serious duty to defend the unity of the universal Church, above all in mediating the observance of ecclesiastical laws; this required that "the new Code be known, studied, and welcomed with due respect, and put into practice faithfully, with love.”¹⁶⁷ The attitude of knowing, studying, and welcoming the Code presumably requires also the same openness to the principles which guided the revision.

The last speaker to mention subsidiarity did so in an unusual context. Archbishop Yong Sooi Nghean (Malaysia-Singapore-Brunei) listed subsidiarity among the means at the Church’s disposal to lead people to God: the others listed were the Bible, Tradition, worship, sacraments, theology, canon law, churches and structures, the papacy, the Roman Curia, centralisation and decentralisation, collegiality, responsibility, and all the documents of

¹⁶⁶Ibid., pp.221-222. The Cardinal began, CAPRILE writes, after asking wittily for pardon for not using «lingua anglica, quae, ut videtur, quasi officialis est». In the course of his intervention, he spoke of the Council as having given to the Code its fundamental outlines so that it was not only, so to speak, «figlio del Concilio», but the authentic application and interpretation of the Council.

Vatican II. The inclusion of subsidiarity in this list doubtless made at least one curial cardinal uneasy.  

As at previous synods, so at this one, many speakers described the principle of subsidiarity in practice, but without identifying it. On this occasion, Komonchak singles out the intervention of Archbishop S.E. Carter (Jamaica), but just as significantly, Bishop Sudartanto Hadisumarta (Indonesia) argued that too much centralisation in the exercise of authority could prove an obstacle to the originality of the young churches and requested freedom to adapt in specific areas. Cardinal Lorscheider (Brazil) asked for greater decentralisation - without damaging the unity with the centre, and said that the Church of the future should be a model of communion and participation, by analogy with the Trinity.

Bishop Winning (Scotland) struck a practical note when he remarked that lay people who wanted to participate coresponsibly in the life of the Church would, in many cases, need formation. He recognised the fear of bishops and priests who felt threatened by genuine lay involvement. He identified the absence of diocesan and parish structures as a weakness; still the essentially hierarchical structure of the Church was not incompatible with the mission of the laity.

\[\text{\textsuperscript{168}}\text{CAPRILE, Il Sinodo dei Vescovi, 1985, pp.242-243.}\]

\[\text{\textsuperscript{169}}\text{Ibid.; for Archbishop Carter, see pp.147-149; for Bishop Sudartanto Hadisumarta, see pp.169-170. Specifically, he asked for the freedom to simplify Book VII, to dissolve \textit{ratum non consummatum} marriages, to laicise clergy, and to commission lay people to give homilies. He also requested that the local church and conference be more involved in the naming of bishops.}\]

\[\text{\textsuperscript{170}}\text{Ibid., pp.174-175.}\]

\[\text{\textsuperscript{171}}\text{Ibid., pp.179-181. His contribution was reported as “The Role of the Laity,” in The Tablet, 7 December 1985, p.1299.}\]
SYNODAL DISCUSSIONS

Cardinal Williams (New Zealand) spoke of the movement away from the clerical model of the Church, in which decision-making, at every level, belonged to clerics. The preconciliar Church had valued uniformity and immutability. An ecclesiology which saw the universal Church as a communion of local churches in union with that of Rome required practical expression in decentralisation. Tension naturally accompanied a movement from centralisation and uniformity to an ecclesial model characterised by pluralism in unity. The life and future structures of the Church should reflect the lessons of history and theology. In accordance with the principle of subsidiarity, he linked recognition of the dignity of persons with participation, local autonomy, and cultural diversity.\textsuperscript{172}

Cultural diversity concerned Archbishop Mataca (Fiji). He represented the bishops of the Pacific who felt, he said, that the Roman Congregations feared creativity and sought to control the life and creativity of the local churches. An overwhelming solicitude for unity does not leave a sufficient margin for essential differences, or for the growth of a church of a genuinely Christian pluralism incarnate in the living tradition of different peoples. Fear of abuses can suffocate good with evil, whereas a little ambiguity and error do not destroy the good. He listed some necessities - study, dialogue, patience, tolerance to achieve a greater discernment, growth, the maturity of a Christian community, the formation of a more adult faith "con un pizzico di umore."\textsuperscript{173}


\textsuperscript{173}Ibid., pp.275-276.
SYNODAL DISCUSSIONS

Among the four major themes that he singled out in his synthesis of the debates, Caprile listed "The Church as Communio."\(^{174}\) This topic embraced the unity and the pluriformity of the Church, the collegiality of the bishops and bishops’ conferences - all concerns which had surfaced at previous synods as in need of further understanding and realisation. Equally, all these concerns relate to the principle of subsidiarity.

Komonchak quotes at length from Bishop Lorscheiter’s written intervention which, as he says, provided the longest treatment of the principle of subsidiarity and developed a theological argument.\(^{175}\) The bishop argued that the universal Church is the communion of the local churches so that any supradiocesan ecclesial structure serves (\textit{subsidium afferre}) the universal Church to the extent that it also serves the particular churches. “Analogously, people are not Christians as isolated individuals, but only as members of a local community or particular church: on the other hand, the particular church is at the service of ‘the salvation of souls’, that is, the realisation of the mystery of grace, which is the communion of persons with God in Christ. Theologically, in short, it appears that the principle of subsidiarity can be applied to the Church.” Komonchak summarises the rest of Bishop Lorscheiter’s argument as follows: “After describing some of the difficulties in applying the principle, Lorscheiter proposed that the Synod reflect upon ways of applying subsidiarity in matters of liturgy and doctrinal disputes, and that it overcome the prejudice against decentralisation and the initiatives of local churches.” He mentioned specifically the question of selecting bishops.

\(^{174}\)Ibid., pp.277-278.

\(^{175}\)For Komonchak’s analysis, see “Subsidiarity in the Church,” pp.321-322. For the original text in Italian, see CAPRILE, \textit{Il Sinodo dei Vescovi}, 1985, pp.299-301.
SYNODAL DISCUSSIONS

Cardinal Danneels, who had omitted any mention of subsidiarity from his opening Relatio to the synod, admitted in the Relatio which summarised the first week’s discussion and oriented the circuli minores that the principle of subsidiarity applied to human society.\textsuperscript{176} He questioned, however, its applicability to the Church even in so far as it is a human reality. He thought, rather, that ecclesial communion depended first on Eucharistic theology. There can be no dispute on this point. The issue turns on whether the human reality of the Church acts as a Eucharistic community incarnate in society, and whether awareness and understanding of the principle of subsidiarity would facilitate the translation of doctrine into practice. To focus exclusively on the “mystery” of the Church to the extent of discounting the human reality is to fall into the fallacy of premature teleology and to risk the heresy of Manicheeism.

Komonchak makes two comments on Cardinal Danneels’ report: first that he questions whether the principle of subsidiarity applies in the Church, whereas none of the interventions had posed this as a question; and secondly, that his treatment oversteps the limits of a “report” in seeming to orient the discussion in a direction unfavourable to subsidiarity.\textsuperscript{177}


\textsuperscript{177} KOMONCHAK, “Subsidiarity in the Church,” p.323. T.J.REESE, “The Extraordinary Synod,” in America, December 14, 1985, pp.415-416, writes: “Cardinal Danneels was not as successful as he had been in his first relatio. He gave only one line to episcopal conferences and totally ignored the repeated interventions of the oriental churches. A number of participants and observers commented that the relatio could have been written before the synod started.” This sentiment was echoed by G.W.HUNT, “Of Many Things,” in ibid., December 21, 1985, pp.432-433:
SYNODAL DISCUSSIONS

The bishops met in nine *circuli minores* of which four specifically mentioned the principle of subsidiarity - one French, one English, the German, and the Latin.\(^{178}\) Hardly surprisingly, the French-speaking group which included both Cardinals Danneels and Hamer argued against its application as a false step (*una falsa pista*).\(^{179}\) They agreed with what Danneels had said in his *Relatio* regarding its usefulness as an anthropological principle at the level of social and political society, but said that in the Church it would bring back concepts of pyramidal authority; true ecclesial communion existed at the sacramental level; the principle of subsidiarity opposed the primacy and collegiality. One unidentified member of the group, however, asked that they remain open to the principle in relation to the life of the Church which is at once mystery, communion, and society.\(^{180}\)

---

"To most eyes this report bore little relation to many of the thorny issues raised and, to put it charitably, consternation was the general sentiment." Cardinal Danneels himself later wrote more optimistically of the whole Synod. See "Le Synode extraordinaire de 1985," in *Nouvelle revue théologique*, 108 (1986), pp.161-173: "Un synode n'est jamais un point final, mais une de ces heures privilégiées de la vie de l'Église où celle-ci s'arrête un moment pour faire le point et redire sa foi dans le contexte d'un monde qui bouge, afin d'être fidèle à sa mission de sacrement du Royaume. Le Synode de 1985 a fait du bon travail, dans un esprit de franchise et d'écoute. Il reste maintenant, pour les chrétiens, les communautés grandes et petites et l'Église universelle à tirer profit de l'événement, pour que l'Évangile soit vécu et annoncé en vérité dans le monde qui est le nôtre."


\(^{179}\) Their argument indicates that they understand subsidiarity as weakening the power of the pope and as therefore detrimental to collegiality, whereas the principle strengthens and unifies, since it depends on the collegial formation of decisions, by consultation and informed discussion. Authority is more truly pyramidal when individuals abrogate their own responsibility for decisions and appeal unnecessarily to higher levels. For further discussion of the possibly linguistic problem basic to this issue, see chapter 4, note 12.

\(^{180}\) CAPRILE, *Il Sinodo dei Vescovi*, 1985, p.341. The argument follows closely that used by Danneels. Caprile identifies Cardinals Lustiger and Hamer as opponents of the principle. An interesting insight into the group discussion is provided by another member of the *circulus*. See G.-M.GARRONE, *Synode 85: nouveau départ pour le Concile*, dossier présenté par J.VANDRISSE, Paris, Fayard, 1985, p.119. There, Cardinal Garrone recalls that they spent a long time on the problems of the Oriental Bishops who were numerous in the group. They also discussed, he
SYNODAL DISCUSSIONS

The German group, in their report, spoke of the expression of *communio* requiring the Pope to recognise the personal responsibility of local bishops in accordance with cc.381-402, and suggested further more precise research into how the principle of subsidiarity could express this proper form of the Church.181

The Latin-speaking group, which consisted of only five members, agreed unanimously on the ecclesial validity of the principle of subsidiarity, if well understood. Although they warned against misinterpretations which envisaged the particular church as completely independent of the Roman Pontiff. they did conclude that, if they translated unity into action remembered, episcopal conferences as requiring theological clarification, and that the discussion was extended to the principle of subsidiarity. There were twenty-three in the *circulus* of whom six were papal nominees to the Synod.

As regards the likely attitude of the “nombreux” Oriental Bishops, it is instructive to read what Cardinal J.Parecattil (India) said at the 1977 Synod. Speaking of progress in the attempts to codify the Oriental Canon Law, the Cardinal is quoted as “stressing the fact that the first principle of oriental law was ‘subsidiarity’.” See, F.X.MURPHY, “The Fifth Roman Synod,” in *The Tablet*, 29 October 1977, p.1046. Cf. CAPRILE, Il Sinodo dei Vescovi. 1977, p.360: “Tra i principi della revisione è da porre in luce soprattutto quello della «sussidiarietà» presente nelle tradizione orientale, anche se mai espressamente nominato.” See also p.55, where Cardinal Parecattil spoke of “una certa creatività, dinamismo, flessibilità” in liturgy. It is difficult to imagine the six Oriental Bishops in this *circulus* agreeing that subsidiarity was a false trail.

Cardinal Garrone, in a reply to a later question posed by his interviewer, refers to Cardinal Hamer’s opposition to the principle expressed before the Synod and concludes, “Mieux vaut prévenir le danger par une étude approfondie: un outil inadapté peut toujours créer des dommages.” See GARRONE, Synode 85, pp.136-137. For the background to Cardinal Hamer’s (the Curia’s?) opposition, see HUIZING, “Subsidiarity,” pp.121-122.

Komonchak does not mention the one dissenting voice, nor does Caprile identify who said: “che si reste aperti al principio di sussidiarietà in rapporto alla vita della Chiesa, che è, al tempo stesso, mistero, comunione, società.”

181CAPRILE, Il Sinodo dei Vescovi. 1985, p.350. Caprile provides footnotes with references to two articles in German by, respectively, O. von NELL-BREUNING, (“Subsidiarität in der Kirche,”) published in 1986, and W.KERBER, published in 1984. This latter, presumably the only one available to the bishops in 1985, argues that within the principle as articulated by Pius XI there is a dynamic which is critical of institutions. Although it is senseless to call all existing social structures into question, nonetheless, there is a sense in which the principle applies “completely and without limitation” to the structures of the Church as a visible society. See “Die Geltung des Subsidiaritätsprinzips in der Kirche,” in Stimmen der Zeit, 202 (1984), pp.662-672.
in a just way and considered that their primary task, they would be able to care well for the portion of the Lord's flock entrusted to them, and also to speak with integrity (rettamente) of the consequences of subsidiarity. It seems, they added, that the good of the Church requires it.\footnote{CAPRILE, Il Sinodo dei Vescovi, 1985, pp.364-366. Cf. KOMONCHAK, “Subsidiarity in the Church,” p.324. There were two curial Cardinals in this group, no papal nominees. All five members had been present at all sessions of the Council. G.W.HUNT, “Of Many Things,” in America, December 21, 1985, pp.432-433, said of this group “They sounded as though they had torn a page from Torquemada's diary.” The reactions to subsidiarity seem not to depend on a predisposition to one side rather than the other of the conservative/progressive divide.}

There were twenty-three in the first English-speaking group.\footnote{Cardinal Hume, the Moderator, was the only European.} Their report indicates divided opinions on the manner in which subsidiarity could be applied in the Church. Eight voted in favour of a recommendation that “In view of a more effective application of Church discipline and pastoral practice to local and regional conditions and to their cultural and pastoral practices, a study be made of the advisability of increasing the exercise of subsidiarity for submission to a meeting of the Synod of Bishops and to subsequent decisions of the Holy See.” Nine members voted against this proposal and one abstained.\footnote{CAPRILE, Il Sinodo dei Vescovi, 1985, p.374.} In the groups who did not specifically mention subsidiarity, English B, French B, and Spanish A in particular focused on open structures, communio, inculturation, and participation.\footnote{Ibid., English A, pp.336-338; French B, pp.344-347; Spanish A, pp.350-354. Cf. O'CONNELL, “The Final Report,” pp.171-172.}

After the reports from the circuli minores, two further references to subsidiarity occurred. Cardinal Law (USA) suggested that the final document of the Synod should
include some mention of the role of the laity, especially that of women, and a word on the
notion of doctrinal authority and subsidiarity. The other contribution came from
Cardinal Castillo Lara. He said that some questions on which study had been recommended
had already been adequately regulated by the Code, for example, the application of the
principle of subsidiarity. "If it is correctly applied, it tends to determine the scope of the
respective powers in the particular churches and in the Holy See. This has already been done
sufficiently. What, then, is the point of this proposal in the text? That we should change
the discipline of the Code, published only in 1983?" Neither doctrine, nor the Code,
nor even the invocation of the principle of subsidiarity seems able to resolve the tension
between the universal and the particular churches.

The suggestion in the Final Document remains: "It is recommended that a study be
made to examine if the principle of subsidiarity, in use in human society, can be applied in
the Church and to what degree and in what sense such an application can and should be made
(see Pius XII, AAS, 38 [1946] p.144)."


\[187\]Ibid., p.392. Cf. KOMONCHAK. "Subsidiarity in the Church," pp.324-325, footnote 70. For other references to the Cardinal's thinking, see chapter 3, notes 8, 9 and 11, and also chapter 4, notes 3, 13, 14 and 24.

\[188\]CAPRILE, *Il Sinodo dei Vescovi, 1985*, pp.553-570, at p.566. JOHNSON, "Subsidiarity and the Synod of Bishops," p.515: "Viewed even in isolation this statement is peculiar. It cites a papal answer to the very question it raises: Pope Pius XII had declared unambiguously though with qualifications that the principle of subsidiarity does apply to the Church. If no one else, Cardinal Tomko, the former Secretary General of the Synod, could have advised the assembly that the synod had no authority to reconsider papal pronouncements ... If Pius XII had authoritatively taught that, mutatis mutandis, subsidiarity applies to the Church, then the synod had no authority to call for further research into whether the principle applies. The most the synod could recommend was study of the further questions 'at what level and in what sense application could or ought to take place.'" Cf. the comments of KOMONCHAK, "Subsidiarity in the Church," p.326, and LEYS, *Ecclesiological Impacts*, pp.102-105.
SYNODAL DISCUSSIONS

Before, during, and after this Synod commentators, and at least one participant, again raised the question of the Synods’ becoming a deliberative assembly. One expressed disappointment with the canon law description of the Synod: “The Synod was set up by Paul VI to make collegiality permanent. But whereas he stressed that it was to offer him advice, the new Code of Canon Law only says that ‘the bishops, by their counsel, assist the Roman Pontiff.’ That could be interpreted as downgrading.”189 At the Synod, Metropolitan Hermaniuk (Canada) argued that the synod could only be truly collegial when the bishops had deliberative power. He asked for a permanent synod to be established, elected by the delegates at the current synod, with some appointed by the Pope. This permanent group would have the legislative power to decide with the Holy Father, and under his authority, all the questions in the life of the Church which are today decided by the Holy Father with the Roman Curia.190 Another commentator reflects what many believed “that as the synodal assemblies generated their own mechanism, they would gradually achieve the status of a deliberative body with and under the pope on the model of synodal rule in both the Orthodox


and Catholic Oriental churches. With extreme skill the Roman Curia has so far managed to head off that development."

This Synod did at least produce its own documents - a Message to the People of God and a Final Report. The drafters of this last document, however, appointed, not elected, none of them presidents of their respective conferences, first produced a document described by one bishop as “a good funeral oration.” The assembled bishops rejected it but applauded when they heard the Pope announce the publication of the second and more optimistic version.

Singling out the theme of koinonia/communio, Cardinal Hume reported back to the people of England and Wales that this concept meant “that structures in the Church and relationships should reflect and express this communio. They should protect the unity of faith and charity, while at the same time promoting the diversity which arises from the richness and profusion of the gifts of the Holy Spirit to the baptised. Unity and diversity should characterise every level of the Church’s life and activity. This profound concept of the Church gives a new meaning to the College of Bishops and to structures like parish councils, diocesan pastoral councils and senates of priests.” The Cardinal appreciates the value of subsidiarity as the structural principle for communio in practice.

---


2.9 - Synod 1987

One of the great weaknesses perceived in the *Code of Canon Law* and in the actual practice of the Church, is the absence of any means for the laity to make their voices heard.\(^{193}\) The Synod on the laity at least provided for the bishops an opportunity to discuss the laity. Consultation took place in most dioceses, and representative lay people even attended the synod, although the often unclear bases of their representation led to much questioning of the selection process.\(^{194}\)

None of the reports on the 1987 Synod mentions the principle of subsidiarity.\(^{195}\)


\(^{195}\) P. Hebblethwaite, "Gone are the Days of Answering Questions posed from the Synod Floor," in *The National Catholic Reporter*, October 30, 1987, p.5: "There have been three interim reports made by the Curia to the Synod on work in progress: on how the Apostolic exhortation *Reconciliatio et Penitentia*, based on the 1983 Synod was received; on the study of the status of episcopal conferences asked for by the 1985 Extraordinary Synod, and on the universal catechism that same body requested. There is one curious blank. The Extraordinary Synod asked for a 'clarification' on whether the idea of 'subsidiarity' applied to the life of the Church... Archbishop Jan Schotte, synod secretary general, explained: 'The problem is a difficult one, but some progress has been made toward defining the nature of the question, the *status quaestionis*.' Otherwise there is nothing to report." Cf. LEYS, *Ecclesiological Impacts*, p.104, footnote 81, where he writes that the last mention he knows of is that of Archbishop Schotte (cited by Hebblethwaite above). Leys quotes as his source *L'Osservatore romano*, *Wochenausgabe in Deutscher Sprache*, 16 October 1987, nr.42,5. Hebblethwaite repeated his comment in "That Universal Catechism," in *The Tablet*, 21 November 1987, p.1260, where he calls subsidiarity "a not very fashionable notion at the moment." Pope JOHN PAUL II, in an Allocation to the Cardinals and to the Roman Curia, 28 June 1986, in *AAS*, 79 (1987), pp.189-200, mentioned that the work had begun and asserted that a report would be made to the next assembly of the Synod Council, i.e. in the autumn of 1986. The Pope seems to equate subsidiarity with the socio-political philosophy of democracy, to which, he maintains, the Church remains a stranger, "for belonging to the Church as to the People of God derives from a particular call from God, united to the salvific action of grace." At the 1990 Synod both Cardinal
The discussion, however, highlighted related topics - communio, collaborative ministry, co-discipleship, participative leadership, and the importance of the parish as the point of convergence for all these manifestations of laity-clergy co-operation.196 Another issue, the appointment of women to decision-making roles, repeatedly raised, although subject to

Gantin and Cardinal Ratzinger once again gave progress reports on the study of Bishops’ Conferences and the Universal Catechism respectively: see L’Osservatore Romano, English edition, 29 October 1990, p.8, and pp.6, and 7-10. No mention was made of the study commission on subsidiarity.


For “collaborative ministry,” the phrase used by Miss Jones, a lay audior from Liverpool, England, see “Mobilising the Laity,” in The Tablet, 17 October 1987, p.1111, and “Bishops Cautious on Women’s Role,” in ibid., 31 October 1987, p.1189. Cf. P. HEBBLETHWAITE, “One Heart: Two Minds,” in The Tablet, 26 September 1987, p.1022, for the address made to the Pope during his visit to the USA in September 1987, by Archbishop Weakland who said that the educated Catholics in the USA “wish to be able to contribute through their own professional skills to solving the issues” facing the Church. This demands, he said, “a new kind of collaboration on the part of the teaching office of the Church.”


For “parishes”, see, for example, Archbishop May (USA), “Parishes in the Laity’s Life”; “Mobilising the Laity”: Cardinal Cè (Italy), and Mr Turowicz, from Krakow, Poland, quoted in “Debate on Movements and Ministries,” in The Tablet, 17 October 1987, p.1131; P.R.DIVARKAR, “A Letter from Rome: On the Synod of Bishops,” in America, November 14, 1987, pp.349-350 wrote: “Less forceful, but quite persistent, was the call to affirm and strengthen the parish structure as the normal context of ordinary Christian life. Other present-day realities, such as basic communities, specialized movements, the needs of urban and mobile societies, should somehow be articulated in terms of the parish.” For an early application of the principle of subsidiarity to the parish, see M.KAISER, “Das Prinzip der Subsidiarität in der Verfassung der Kirche,” in Archiv für katholisches Kirchenrecht, 133 (1964), pp.3-13, at pp.10-11.
some editing in the text of the final propositions, eventually figured both there and in *Christifideles laici*, the Pope’s Apostolic Exhortation, published over a year later.  

Perhaps the most controversial discussion focused on the New Movements, perceived by some as divisive, by others as evidence of the Spirit’s moving among the laity. The bishops sought principles for discernment and encouraged the spread of these movements only in so far as they did not lead to parallel churches. Associations which reflect a “participative understanding of the ecclesiology of communion,” which promote greater involvement in the parish, received commendation.

Protests about secrecy made about previous synods faded by comparison with the outrage which punctuates all the reports and commentaries on this Synod.  

---


In his initial *relatio*, Cardinal Thiandoum (Senegal-Mauritania) reported, “In the replies to the *Instrumentum laboris* there had been a ‘total acceptance’ of the modern movement for the liberation and promotion of women. But recognition of equal rights and responsibilities did not mean ignoring the differences that exist between people. In dealing with this most ‘sensitive problem’ the synod would have to read ‘the signs of the times’ while maintaining a healthy respect for tradition.” See “Life and Mission of the Laity,” in *The Tablet*, 10 October 1987, p.1098, where Cardinal Danneels (Belgium), Bishop Bullet (Switzerland), Archbishop Weakland (USA) are also quoted on the same “problem.” See also Bishop Hamelin (Canada), “Debate on Movements and Ministries,” in ibid., 17 October 1987, p.1130 and the editorial, “The Church and the Cause of Women,” in ibid., 31 October 1987, pp.1171-1172. Cf. Cardinal Decourtray (France), Bishop Schwenzer (Norway), Archbishop Weakland (USA), Bishop Gomez (Colombia), Cardinal Primacosta (Argentina), Bishop Reece (Antilles), Archbishop Dery (Ghana), Bishop Cleary (Gambia, Sierra Leone and Liberia), Bishop Guevara (Philippines), and Cardinal O’Fiaich (Ireland) as reported by O’CONNELL, “The Synod on the Laity: Riches in Diversity,” in *The Month*, May 1988, pp.696-699.


SYNODAL DISCUSSIONS

expectations of the Synod, heightened by its postponement, perhaps contributed to the sense of disappointment and anti-climax expressed in every book and article written about it. The widespread consultation of the laity led to the natural supposition that they would read what their bishops reported, discussed, and proposed about and for them. The circulation of information both ad intra and ad extra has serious repercussions on the implementation of the principle of subsidiarity in the Church. Sincere consultation requires that all possess the necessary materials on which to base a judgement. To pursue a policy of concealment leads to distrust, disaffection, speculation, invention, and the alienation of those perhaps best fitted to offer wise counsel. In this respect, the gap between the theory and the practice of communio, the assertions about the activity of the Spirit in all the baptised, and the recognition of what follows from this, seems to be widening, ironically just as modern technology, as a means of cooperating in the divine work of creation and conservation, facilitates universal communication.²⁰⁰


²⁰⁰ PONTIFICAL COUNCIL FOR THE INSTRUMENTS OF SOCIAL COMMUNICATION, Communio et progressio, n. 7, Pastoral Instruction on the Means of Social Communication, 29 January 1971, in AAS, 63 (1971), pp. 593-656. English translation in FLANNERY 1, pp. 293-349. In this same document, n. 121, we read “The spiritual riches which are an essential attribute of the Church demand that the news she gives out of her intentions as well as of her works be distinguished by integrity, truth and openness. When ecclesiastical authorities are unwilling to give information or are
SYNODAL DISCUSSIONS

The bishops produced "Propositions" for the Pope, a Message to the People of God, but no final document. *Christifideles laici*, a "masterly synthesis of what was often a confused debate," when it did appear, bore "the Pope's personal stamp, reflecting his characteristic style and approach and his leading ideas." But he insists that this 'is not something in contra-distinction to the Synod, but is meant to be the faithful and coherent expression of it.' The claim is true." This document went some way towards assuaging the fear that consultation of the laity would prove fruitless.

unable to do so, then rumour is unloosed, and rumour is not a bearer of the truth but carries dangerous half-truths. Secrecy should therefore be restricted to matters that involve the good name of individuals, or that touch upon the rights of people whether singly or collectively." This document was quoted both before and during the Synod. See, for example, A.FILIPPI, "The Place of Public Opinion in the Church," in The Tablet, 10 October 1987, p.1078.

Perhaps due to the extraordinary news blackout, the only account by the indefatigable G.Caprile that I have been able to find is a comparatively brief summary, "Il Sinodo dei Vescovi, 1987," in La Civiltà Cattolica, 5 December 1987, pp.481-491. The nearest equivalent seems to be, V.LEONZIO, La missione del laico: documenti ufficiali della settima assemblea generale ordinaria del Sinodo dei Vescovi sul tema «Vocazione e missione dei laici nella Chiesa e nel mondo a venti anni dal Vaticano II». Sintesi originali degli interventi con il testo integrale delle «Proposte» dei Padre sinodali, Roma, Edizioni Logos, 1987, which is a synopsis of the interventions and propositions only. Brief summaries of some of the interventions appeared in L'Osservatore romano, English edition, as follows: 12 October 1987, pp.9-17; 19 October 1987, pp.3-17; 26 October 1987, pp.3-8, 13-17; 1 November 1987, pp.3-5; 9 November 1987, pp.4-5. A summary of the propositions, by Archbishop Eyt, also appeared in ibid., p.8.

The clearest and most comprehensive account in English of the synod seems to be that of G.O'CONNELL, in The Month, February, March, May and August/September 1988.

---


SYNODAL DISCUSSIONS

2. 10 - Synod 1990

Although the acceptance of the principle of subsidiarity could have provided structures, or, at the least, guidelines for discussion of “The Formation of Priests in the Circumstances of the Present Day,” the topic of this synod, no mention of the principle occurs in the reports. The “circumstances of the present day” vary so much from country to country, that any attempt to prescribe a universal system of training could only result in vague generalisations. Recognising this, the bishops tended to speak about different aspects of the “crisis” - involving more lay people in the ministry, employing lay people, even women, as seminary staff, improving morale among priests, caring for psychosexual development, academic training in universities, stressing the importance of prayer - uncontro-
versial approaches already in place. Proposals to reconsider the requirement of

203 Bishop Burke (Bahamas), after criticising the detailed legislation of c.253, suggested that the Synod issue general guidelines and let episcopal conferences elaborate these in accordance with their experiences, necessities, and the actual culture. He warned against the temptation to centralisation. See, G. CAPRILE, Il Sinodo dei Vescovi, 1990, ottava assemblea generale ordinaria, 30 settembre - 27 ottobre 1990, Roma, Edizioni “La Civiltà Cattolica,” 1991, (= CAPRILE, Il Sinodo dei Vescovi, 1990), pp.121-122: “Dal sinodo si attendono anche indicazioni sufficienti, ma non troppo particolareggiate, per giungere a inculcare questa visione del sacerdozio. Non si può avere una legislazione troppo particolareggiata da applicare in tutto il mondo; bisogna lasciar alle conferenze episcopali il compito di elaborare una Guida rispondente alle esperienze, necessità, e culture concrete. Benché sia più facile raggiungere l’unità attraverso l’uniformità, la Chiesa oggi è chiamata all’unità attraverso la legittima diversità. Evitare la tentazione della centralizzazione; la storia della Chiesa insegna che i compiti del vescovo e dei sacerdoti hanno seguito lo sviluppo dei bisogni della popolazione.”

204 These were recurrent themes, and references abound. The following are for example only. On “collaborative ministry,” see Cardinal Lorscheider (Brazil), Bishop Brewer (England and Wales), and Bishop Coomans (Indonesia), in CAPRILE, Il Sinodo dei Vescovi, 1990, pp.108-109, pp.189-190, and pp.234-235; cf. “The Bishops’ Mosaic,” in The Tablet, 13 October 1990, p.1314.

On the contribution of lay people, even women, to seminary training, see Cardinal Decourtray (France), and Bishop Loft (Solomon Islands), in CAPRILE, Il Sinodo dei Vescovi, 1990, pp.91-93 and pp.173-174; for an English translation of Cardinal Decourtray’s intervention, see “Roles for Women in Priestly Formation,” in Origins, vol.20, no.20, October 25, 1990, p.332. This idea was also mentioned in the reports from the circuli minores, see CAPRILE, Il Sinodo dei Vescovi,
SYNODAL DISCUSSIONS

celibacy, to ordain *virī probati*, raised and duly reported ultimately came to nothing.\textsuperscript{205}

\textsuperscript{205} In his initial *Relatio*, in CAPRIILE, *Il Sinodo dei Vescovi*, 1990, pp.635-668, Cardinal Moreira Neves (Brazil) ruled out of order the most controversial subjects: “Quoniam accurata selectio huius specifici argumenti - *Formatio sacerdotum* - necnon vastitas et implexitas materiae, tempus non sufficiens relinquent ad alia tractanda argumenta cuiusmodi sunt coelitibus presbyterorum in Ecclesia latina, sacerdotium foeminarum, ordinatio praesbyteralis virorum uxoratorum, et functiones tribuendae presbyteris iam a ministerio dispensatis: quae temata iam pertractata sunt, et quaedam ex illis modo definitivo in aliiis seditibus - haec Relatio sibi proponit exponere, circa argumentum, suum modestum munus.” Even so, Bishop Burke (Bahamas), and Bishop Coleman (South Africa) did raise the question of mandatory celibacy; see ibid., pp.121-122, and pp.197-198.

The most outspoken supporter of the ordination of *virī probati* was Bishop Tepe (Brazil), who made almost the same speech that he had made at the 1971 Synod. See ibid., pp.81-83; for an English summary, see “Different Approaches to a Crisis,” in *The Tablet*, 6 October 1990, pp.1283-1285. For a comment on this subject and on the Pope’s reaction to it, see “A Door That Could be Opened,” Editorial, in *The Tablet*, 27 October 1990, p.1363. The Pope made his reaction plain in his closing address to the Synod, 27 October 1990, in *AAS*, 83 (1991), pp.494-499: “Verum est alias extare quaestiones, et quidem graves, cum sacerdotum inopia tragica quadam ratione percipitur, sicut exempli gratia coram acerbo ostento progressiosis quorumdam sectarum. Percontati sunt quidam num oportet, his in adiunctis, de viris probatis ordinandis quaestionem ponere. Eiusmodi solutio non est recensenda, atque propositae rogationes respondendum est aliiis modis. Sicut omnes noverunt, facultas provocati ad viros probatos saepius commemoratur in descriptione cuiusdam dispositae suasionis, sacerdotali caelitibus infestae. Suasius haec adiumentum contagionemque quorumdam instrumentorum communicationis socialis reperit.” English translation in *L’Osservatore romano*, English edition, 5 November 1990, pp.7-8.

Several speakers advocated a more positive approach to celibacy. See, for example, in CAPRIILE, *Il Sinodo dei Vescovi*, 1990, Bishop Barquero Arce (Costa Rica), pp.221-222; Bishop
Evidence of the diversity, flexibility, and creativity possible when local churches take initiatives surfaced in the contributions of some speakers who were seeking approbation for their ideas.\textsuperscript{206}

\textsuperscript{206}For example, see Bishop Pain Ratu (Indonesia), in CAPRILE, \textit{Il Sinodo dei Vescovi, 1990}, pp.241-242; for the English, see “Priestly Formation and Inculturation,” in \textit{Origins}, vol.20, no.21, November 1, 1990, pp.340-341. Bishop Pain Ratu said: “Imposing a foreign system or method in the priestly formation which is bound to a certain culture will mean putting the will of Christ in the prison of a certain culture.”


The frequency of the insistence on inculturation can be judged from the following list of bishops who each advocated that priests be immersed in the culture of their people. The page references are to CAPRILE, \textit{Il Sinodo dei Vescovi, 1990: Cardinal Cordeiro (Pakistan), pp.90-91; Archbishop Mathias (India), pp.104-105; Archbishop Gnadickam (India), pp.148-149; Archbishop Toppo (India), pp.162-163; Bishop N’Garteri Mayadi (Chad), p.183; Cardinal Padiyara (India), pp.201-202; Bishop Bala (Cameroon), pp.231-233; Archbishop Obeso Rivera, (Mexico), pp.298-299; and Bishop Cabrera Ovalle (Guatemala), pp.314-316. From a different perspective, both Cardinal Danneels (Belgium), pp.203-204, and Archbishop Worlock (England and Wales), pp.102-103, similarly required that future priests know and appreciate their own culture, not making a false distinction between the sacred and the secular. The topic was also emphasised in the reports from the \textit{circuiti minores}, pp.447-448.

There was also an insistence on the more traditional forms of seminary training. See, for example, Cardinal Falcao (Brazil), pp.83-84, and in the reports from the \textit{circuiti minores}, pp.450-452. It should perhaps be mentioned that, in this edition, Caprile, to save repetition, combined the reports of the \textit{circuiti minores}, using a simple code to differentiate where necessary.
SYNODAL DISCUSSIONS

In his contribution, specifically directed to the topic of the debates, Bishop Goudreault, speaking on behalf of the Canadian bishops, advocated the training of priests "for the multiple collaborative endeavours of the apostolate." The Council had not employed the term "co-responsibility": yet this key principle, deriving from the Council, had come to assume great importance in the life of the Church. He explained further:

This notion contains within itself profound pastoral consequences whose breadth we have not yet fully grasped. Co-responsibility is a "differentiated" concept. That is, it implies different functions that complement one another, are coordinated with each other, and in their harmony, contribute to the growth of the body of Christ. Co-responsibility cannot mean that all, without distinction, do the same thing in the Church... In practice, priests have to engage in the difficult apprenticeship of interacting and being interdependent with new collaborators, men and women, in the spheres of catechetics, pastoral and liturgical animation, adult faith development, spiritual guidance... In actual fact, the ordained ministers are more and more becoming facilitators of shared church responsibility. (This has implications for formation). Being initiated to teamwork seems to be an imperative. The priest should no longer appear to be a one-man orchestra as he has so often been in the past. The lay faithful should not be treated as executors or as "those helped," but rather as brothers and sisters who are in solidarity with him in the one common mission. Different ministries, when carried out cooperatively, are riches benefiting the church's activity.207

They also mould the ministers and so build up the body of Christ. Moreover, the duty to promote and the right to experience communio belong to all states of life in the Church -

207CAPRILE, Il Sinodo dei Vescovi, 1990, pp.246-247. For the English translation, see "Coresponsibility of Priests and Laity," in Origins, vol.20, no.20, October 25, 1990, pp.329-330. Two other bishops made the point about training priests for the community dimension of their future work, Bishop Abastoflor Montero (Bolivia), and Bishop Diarra (Mali): see CAPRILE, Il Sinodo dei Vescovi, 1990, pp.240-241, and pp.242-243. Bishop Thatho Bitsosane (Lesotho) also insisted on formation for community, adding the requirement that candidates be trained in dealing with the mass media: see ibid., pp.248-249. The need for this specialised training had also been raised by Archbishop Foley, President of the Pontifical Council for Social Communications, and by Cardinal Tzadua (Ethiopia): see ibid., pp.93-94 and pp.133-134. These suggestions are significant because of previous criticisms of the Synod, and because of the importance of communication for the successful implementation of the principle of subsidiarity.
SYNODAL DISCUSSIONS

bishops, presbyterate, laity, and religious. Teamwork, collaboration, co-responsibility, in a diocese or a parish, offer a microcosm of the collegial/synodal experience.

To mark the twenty-fifth jubilee of *Apostolica sollicitudo*, this Synod opened with contributions from Cardinals Willebrands, Cordeiro, Lorscheider, Zoumgrana, and Clancy representing respectively Europe, Asia, the Americas, Africa, and Oceania. Each Cardinal reflected on the synod-experience, emphasised the benefits to the participants, to the universal Church and to the particular churches in their part of the world. As well as indicating weaknesses in the synodal procedures, each also made constructive suggestions for the improvement of the process.

Cardinal Lorscheider singled out for criticism two particular aspects which caused, he said, disillusion (*deceptio*) and frustration on the part of the bishops. The first, the method used to formulate the propositions, led bishops to complain that “the propositions do not come through as originally intended (*non semper fideliter tradit*), especially those which have to do with matters still under discussion in the Church or affecting certain sensitivities... In this context there is talk of short-circuiting.” Secondly, the Cardinal reported on the Synod’s communications service:

This is not considered up to the task of providing news regarding what is taking place in the Synod. What is communicated is little enough. But what is more, it does not offer an accurate picture of the Synod and gets out too late for those who are really interested; namely the Christian people and public opinion. The diffusion of news about what is transpiring in the Synod should be improved, keeping in mind that this is very important. For only

---

by good coverage can the synod’s activities come alive in the particular or local churches throughout the world. According to many bishops, this matter ought to be examined seriously. Otherwise, the response of the media will be silence about the Synod, as experience has already shown.\textsuperscript{209}

The crucial role of communications in the implementation of subsidiarity has already been emphasised.

Cardinal Lorscheider made two other points relevant to the principle of subsidiarity. He related that his survey of his fellow-bishops revealed that they considered one of the principal benefits of the Synod derives from the month-long residence in Rome:

What deserves mention in this context is the experience of communion with the pope and with other brothers in the episcopate... Bishops are enriched by this contact, which enables them to come to a better understanding of different cultures. The faith can be thought and lived in different cultural expressions. Furthermore, this contact with bishops of other countries provides the occasion for examining and discussing openly other questions than those dealt with by the synod. This examination and the discussion which follows from it have, without doubt, great value for the whole life of the Church.\textsuperscript{210}

The time spent in consultation, listening, and discussion of important matters demonstrates respect for others’ views, educates all honest participants, enhances communio, and results in informed decisions.

The Cardinal made several suggestions to improve synods which, he said, “kept alive the Council’s spirit and proposals ... did not allow Vatican II to be turned into something static ... again and again nourished the Council’s dynamism ... and afforded frequent opportunities to apply the Council’s theology very fruitfully to different fields of pastoral activity which are of great importance for the life of the Church.”


\textsuperscript{210}Ibid.
He asserted that several bishops would like to see the synod take on a deliberative character and become a collegial action in between one ecumenical council and another. “In this way, the Synod of Bishops would have to be seen as an intimate and ongoing participation of the delegates of the college of bishops in the ministry of solicitude which is exercised for the universal Church along with and under Peter.” He also proposed a greater involvement of laity and questioned whether “there would be a new and vital ecclesial structure close to the pope, a structure that is as fully catholic as it is necessary for our time. The time has come to take another look at the goals of the synod and to raise again the fundamental question. What have these assemblies given the pope and the bishops at a time when the Church is trying to meet and reply to the vital questions which the world of our day is posing to it? Is a permanent synod possible, one that might meet each year?”

The image behind the Cardinal’s comments seems collegial. He focuses on the exchanges and the group-dynamics among the bishops (including the pope) as fitting them better for the task of governing their dioceses and the Church. The papacy, the competency-over-competencies, to use Leys’ phrase, listens, considers the good of the whole, and proclaims teachings to be interpreted locally in accord with the common mind.

On the role of the laity, Cardinal Willebrands said that their increasing involvement in the Church came as a direct result of the Synods. He added:

This “intra-ecclesial” activity of laymen is multiple and numerous. The People of God “in their totality” offer the Eucharistic celebration. The universal communion of the faithful is infallible “in believing.” The basic community can carry out a role of development in our understanding of revealed doctrine. The Holy Spirit imparts Its (sic) charism to numerous

---

SYNODAL DISCUSSIONS

laity. A praeter legem custom may be introduced by the community of the faithful. Lay faithful, without being endowed with a "governing" power may enjoy a power of direction in the Church. Associations may be directed by lay people alone.²¹²

All five cardinals clearly appreciated the opportunities afforded by the synods to discuss issues faced by the Church all over the world.

In his closing address to the synod participants, Pope John Paul II spoke about Pope Paul’s "providential act" in establishing the Synods. At the end of the 1983 Synod, he had said:

The Synod of Bishops is a particularly precious manifestation of the episcopal collegiality of the Church, and one of its most effective instruments. Perhaps this instrument could also be improved. Perhaps collegial pastoral responsibility could be expressed in the Synod even more fully. Nonetheless one must note that, in the form in which it exists and presently operates (in the year of our Lord 1983), it renders an enormous service to the Church. This service is important from the point of view of the life of the Church, of its self-realisation. It is important from the point of view of our pastoral ministry, of our ministry which is precisely collegial ministry.

The structure of the Synod permits us to obtain in a relatively brief period of time, a synthetic and at the same time sufficiently differentiated image of a specific problem, and arrive at conclusions, important for the action of the Church. The Synod is, one might say, an instrument that is humble and at the same time sufficiently effective.

If, formally, the consultative character of its work prevails, it is difficult not to perceive that this "counsel" must at the same time carry great weight in the Church. It is therefore even more important that the documents, which appear after the Synod reflect the common thought of the synodal assembly and of the Pope who presides over it ex officio.²¹³


SYNODAL DISCUSSIONS

On this occasion, his closing address to the Synod gives a deeper insight into the effectiveness of this institute in the Church. He said:

The Synod of Bishops responds to the needs of the Church when the successor of Peter, with the aid of his brother bishops, has to carry out tasks which emerge from his apostolic mandate...In this way the Synod constitutes a realisation and an illustration of the collegial nature of the order of bishops (cf. *LG*, nn.22-23, *Nota Praevia*, and *CD*, nn.4-10)....With respect to the duties of a Council, those of a Synod are more limited by their very nature. But counterbalancing that is the Synod’s more flexible structure. The current world situation at times demands a presence and action by members of the College which, as the successor of the College of the apostles, has received the mission to teach and govern in the Church. The Synod is capable of supplying an answer to these needs.\(^{214}\)

As had Cardinal Lorscheider, the Pope seems to value the flow of information, insights, and inspiration that comes to the centre, through the Synods, from the whole People of God. He went on to speak of the many crucial problems faced and answered in a collegial manner through the voice of the Church herself. He spoke of the Synod as being “at the service of the unity of the Church, the mystery of *communio*, reflecting within herself the Trinitarian mystery of God Himself.” He continued: “The Synod constitutes a unique experience on a universal basis of episcopal communion, which strengthens the sense of the universal Church and the sense of responsibility of the bishops towards the universal Church and her mission, in affective and effective communion around Peter.”\(^{215}\) The Pope here seems to be describing the effects of subsidiarity in practice.


SYNODAL DISCUSSIONS

This becomes clearer with the following analysis which the Pope makes of the developing role of the synod, even allowing it a certain deliberative function. He said:

By its nature the synod carries out a consultative role. Still, in certain circumstances, a deliberative power can be conferred on it by the Sovereign Pontiff, who must ratify its decisions (cf. Apostolica sollicitudo, and CIC/83, c.343). The experience of previous synods makes clear the meaning of this distinction between consultative and deliberative. The extensive consultation which the synod structure allows for during every assembly has never failed to yield results and decisions as well. Given the way they function, synods are never able to immediately publish (sic) a document which takes on a deliberative form. That notwithstanding, the post-synodal document takes its inspiration from and, one might say, contains, what was planned out in common. It therefore can be asserted that a synod’s proposals indirectly assume the importance of decisions. For, when following the synod, the Sovereign Pontiff publishes the corresponding document, he takes great care to express the full wealth of the reflections and discussion which led up to the synodal propositiones, as well as the views of the synodal assembly, as much as possible.\footnote{Ibid. The Apostolic exhortation, Pastores dabo vobis, published as a result of this Synod, 3 August 1992, is in AAS, 84 (1992), pp.657-804.}

Without fully accepting the principle of subsidiarity, without even fully understanding it, the bishops nonetheless seem to act as if it were in place. Their widespread consultations in their dioceses show their respect for the duties, rights, and dignity of their people. Faithfully reported at the synod, this sensus fidelium both forms the synod participants and gives shape to the final document which the Pope issues. Ideally, this final document should also come from the synodal assembly, but realistically, given the constraints of time, and the difficulties inherent in achieving the consensus of approximately 200 people on such a document, until the synod has developed a permanent, elected council to work with the Pope, the present system suffices. As the Cardinals and other commentators have mentioned, an even closer
involvement of truly representative lay people in the Synod itself would be yet another possible development.

None of the fears expressed about subsidiarity seems to have materialised as the synods put it into practice. The primacy and the particular churches both give and receive "subsidiary": no confusion of roles occurs, neither experiences any diminution of prestige; the spectre of pluralism lacks concrete form. The process, although far from perfect, nevertheless provides for the regular exchange of information essential to wise decision-making.

Conclusion

Given the very narrow focus maintained throughout this survey of the ten Synods of Bishops held between 1967 and 1990, no synthesis could do justice to the richness and variety of the debates; indeed, any synthesis risks the charge of distortion and oversimplification. However, the five themes isolated at the end of the first chapter recur throughout the synodal discussions. As the bishops repeatedly base their requests for change on these same themes - human dignity which requires respect and the right to participation in decision-making within the Church, all served, promoted, facilitated and co-ordinated by the structures of authority within the Church - a certain dissatisfaction with the status quo becomes evident, which not even the publication of the new Code, supposedly incorporating the theology of Vatican II and based on the ten principles accepted by the 1967 Synod, alleviates.

With hindsight, the gradual evolution in the synod-experience itself highlighting the values of preparation, consultation, communication, open debate, first at the local level and
then the rich interchange of cultural diversity at the Synod, reveals that all these often confusing, muddled, imperfect methods produce incalculable, long-term effects.

A positive reading of the documents recognises the constant stress on the need to develop *communio* as a challenge for the future - a challenge that requires authority figures in the Church to set free the creativity and dynamism of the Holy Spirit present in all the members.

As a structural principle for *communio*, the principle of subsidiarity offers means for the consultation, participation, and shared responsibility that are intrinsic to promoting human dignity. When provision exists for each member of the Church to contribute to the decision-making process at the appropriate level, then the *communio* experienced by the bishops at successive synods will become more palpable throughout the Church. The reality of the Eucharistic mystery, visibly manifest in the members, will witness to and effect the kingdom of God on earth.
CHAPTER THREE

THE IMPLEMENTATION OF THE PRINCIPLE OF SUBSIDIARITY

IN THE 1983 CODE

Introduction

The principle of subsidiarity, taught by popes as a guiding principle for human society, admitted by Popes Pius XII and Paul VI as applicable to the Church, accepted as a revision principle for the Code of Canon Law, requested repeatedly at synods of bishops as essential for a right ordering of relationships within the Church, nonetheless remains a controversial issue, provoking both adherents and opponents, study commissions, conferences, articles, books and theses.1 One writer comments:

SUBSIDIARY IN THE 1983 CODE

At the Theological-canonical conference held at Salamanca in 1988, the group of German language participants was "unanimous in accepting the principle of subsidiarity as legitimate because its application serves the mission of the Church," but it was incapable "of agreeing on more precise arguments on which to base its legitimacy in the bosom of the Church." That is to say, ... that they affirmed something without being able either to explain it or to justify it. This curious conclusion was a startling proof of the profound theological divergences and of the immaturity of reflection on the matter.²

As regards the applicability of the principle of subsidiarity to the Church, confusion certainly exists.

After his analysis of papal, conciliar and synodal contributions to the debate, Komonchak concludes:

Three popes have either explicitly (Pius XII and Paul VI) or implicitly (John XXIII) stated that the principle of subsidiarity does apply within the Church under certain conditions. Its validity in the Church was often proposed in the debates at the Second Vatican Council, but it was never explicitly applied to the Church in any of the conciliar documents. At three assemblies of the Synod of Bishops it was widely recommended, and at two of them it was formally proposed, accepted and used in the revision of the Code of Canon Law. In all of these moments it was often remarked that the principle can only be applied analogously to the Church; but it was only at the 1985 Synod that the question was raised not only of how, but also of whether it applies in the Church.³

To some extent the problem is rooted in the as yet unresolved question of the relationship between the primacy of the pope and collegiality. It is also related to the still evolving


³KOMONCHAK, "Subsidiarity in the Church," p.326. This article was one of the papers read at the Salamanca conference.
ecclésiologie of the Church as communio. Moreover, there are different understandings of what the principle means for the Church. Those who oppose its implementation in the Church seem to do so on the premise that in some way it will diminish, degrade or inhibit the pope’s “supreme, full, immediate and universal ordinary power in the Church” which he can always freely exercise (c.331).

On the other hand, those who affirm the principle of subsidiarity recognise it as an operational principle which provides for flexibility in applying the universal law to local circumstances: they see this capacity for healthy adaptation as a strength. In any organism, when each part fulfils its role, the whole functions more effectively. In the Church, a correct understanding and practice of this principle could provide for an improved experience of communio.

The Church embodies a mystery: it conforms to no recognised pattern of secular society, for its self-understanding is constantly developing under the guidance of the Spirit.

---


5 See, for example, Cardinal B. Hume who warned after the Extraordinary Synod of Bishops in 1985: “Those who dislike the word ’subsidiarity’ - meaning that what can be done at a lower level should not be transferred to a higher level - are getting dangerously near to the conception of the Church as constructed like a pyramid instead of like a circle as conceived by Vatican II,” in The Tablet, 14 December 1985, p.1322. See also Archbishop J. QUINN, “Considering the Papacy,” in Origins, vol.26, no.8, July 18, 1996, pp.119-128: “Large segments of the Catholic Church as well as many Orthodox and other Christians do not believe that collegiality and subsidiarity are being practised in the Catholic Church in a sufficiently meaningful way. The seriousness of our obligation to seek Christian unity sincerely means that this obstacle to unity cannot be overlooked or dismissed as if it were the quirk of malcontents or the scheme of those who want to undermine the papacy.” (This is the text of a lecture given in Oxford, England, on 29 June 1996, to mark the hundredth anniversary of Campion Hall). It is surely significant that many of those who oppose the notion of subsidiarity in the Church are “Roman” academics, like Cardinal J. Hamer and Professor J. Beyer, whereas the support for the principle comes from N. Europe (cf. “The Cologne Declaration,” in Origins, vol.18, no.38, March 2, 1989, pp.633-634), and from N. America.
SUBSIDIARY IN THE 1983 CODE

If Vatican II ecclesiology accepted that it is a communio, still it is not possible to reject utterly the traditional understanding of the Church as a societas since it exists as visible, incarnate in the world as a society. In the Church whether as society, in the secular understanding of that term, or as a communio, where each member helps and is helped by the others, the principle of subsidiarity can apply. The Church is a supernatural society in which human beings relate to one another for the common good in response to the call of God. When the Church teaches that in all other societies these relationships must be governed by a principle which accords to each person his or her natural dignity, it cannot deny the same rights to its own members among whom there also exists this supernatural bond.\(^6\) The members of the Church are called to be formed and to form one another in Christ. All the more reason then, that the laws governing their relationships, their communio, should be based on and should implement the principle of subsidiarity - properly understood.

The acceptance of the principle of subsidiarity as a revision principle for the Code of Canon Law would seem to indicate that this document at least should offer some guidelines as to the proper understanding of the principle and provide for its implementation in the life

---

\(^6\)Cf. R.P. McBRIEN, Catholicism, rev.ed., San Francisco, HarperSanFrancisco, 1994, pp.1006-7, quotes and comments on the US Bishops Pastoral Letter (1986), “Economic Justice for All,” as follows: “Government action, to be sure, must be guided and restrained by the principle of subsidiarity, but this does not mean that ‘the government that governs least governs best’... Perhaps the most significant portion of the whole pastoral letter is its application of its moral principles to the Church itself: ‘All the moral principles that govern the just operation of any economic endeavour apply to the Church and its agencies and institutions; indeed the Church should be exemplary.’ Although the pastoral letter does not appeal explicitly to the principle of sacramentality, it is that principle that theologically undergirds its position. This means that the Church must put into practice what it urges upon government, business, labour ...” It is surely of paramount importance in recognising individual human dignity and allowing for the free exercise of autonomy.
of the Church. Since the term itself appears nowhere in the Code, the search for the principle is necessarily conducted in terms of whether recognised elements of subsidiarity are, or could be, implicit in the canons. The basis of the principle, the dignity of the human person with all that this implies for personal autonomy, forms one of these elements as does the most frequently cited aspect - namely, clearly defined competencies between higher and lower authorities, so that the higher or larger body should not supplant the lower or smaller body, but rather should support its exercise of autonomy and supply for any deficiencies.

Those canons which legislate for decision-making will most likely reveal whether the principle of subsidiarity fulfils in the Church that function which papal social teaching ascribes to it for human society. Book II of the Code of Canon Law, "The People of God," by its position, title and content shows the remarkable evolution in self-understanding which has occurred within the Church during this century. By providing for the involvement of lay people in decision-making in the Church, the canons seek to dispel the false division which had arisen between clergy and laity, and to offer to lay people the opportunity to make their distinctive contribution to building up the Body of Christ.\(^7\)

\(^7\)Cf. J.H.PROVOST, "The Nature of Rights in the Church," in CLSA Proceedings, 53 (1991), pp.1-18, at p.7: "To affirm the fundamental equality of all the baptised is a revolution compared to the views held on a very official level earlier this century, but such is the effect of Vatican II in our Church today. It will take some time for us to work out the full implications of this changed focus, but let me suggest two areas which may help us explore these implications in our canonical practice: participation in church life, and the criteria used in making decisions." The difficulty in shaking off the "views held on a very official level earlier this century" is alluded to by another author who writes: "The sections of the Code... on 'The Obligations and Rights of all Christ's Faithful' (cc.208-223) and on 'The Obligations and Rights of Lay Members of Christ's Faithful' (cc.224-231) are interesting in this regard. Most of the obligations listed have always been recognised and insisted upon, but the rights concern matters that have not always been recognised and hence needed to be expressed in these canons, for they require the changing of inherited attitudes." See G.J.ROBINSON, "The Challenge of Justice," in CLSA Proceedings, 55 (1993), pp.1-16, at p.9.
The opening canon of this book, canon 204, describes the Christian faithful as “those who, since they are incorporated into Christ through baptism, are constituted the people of God. For this reason they participate in their own way in the priestly, prophetic, and kingly office of Christ.” The qualification “in their own way” serves to point the implementation of that aspect of subsidiarity which defines competencies. The canon continues, carefully repeating the qualification: “They are called, each according to his or her particular condition, to exercise the mission which God has entrusted to the Church to fulfil in the world” (c. 204, §1). The second part of the canon says that the governance of the Church is entrusted to the “successor of Peter and the bishops in communion with him.” Thus, this one canon defines competency three times: not all the Christian faithful share in the kingly office of Christ to the same degree. Subsequent canons specify more closely the areas proper to “both groups”, called “sacred ministers” and “laity” (c. 207, §§1 and 2).
3.1 - The Obligations and Rights of All Christ’s Faithful, cc.208-223

The canons of this title legislate for the dignity and freedom of the individual within the Church.\textsuperscript{8} The opening canon of this section presents us immediately with two indications of how the Code Commission incorporated the fifth revision principle into the Code. This canon recognises the “genuine equality of dignity and action” that exists “flowing from their rebirth in Christ” among all the Christifideles, on account of which “they all contribute, each according to his or her own condition and office, to the building up of the Body of Christ.”

\textsuperscript{8}Referring to these canons Pope John Paul II has said: “The Church has always affirmed and promoted the rights of the faithful, and in the new Code, indeed, she has promulgated them as a fundamental charter (cf.cc.208-223). She thus offers opportune juridical guarantees for protecting and safeguarding adequately the desired reciprocity between the rights and duties inscribed in the dignity of the person of the Christian faithful (christifidelis).” (JOHN PAUL II, Allocution to the Roman Rota, 26 February 1983, in AAS, 75 [1983], pp.544-559, English translation in W.H.WOESTMAN [ed.], Papal Allocutions to the Roman Rota, 1939-1994, Ottawa, Saint Paul University, 1994, pp.176-180). For an analysis of the canons in the light of the Council, see J.HERRANZ, “The Juridical Status of the Laity: The Contribution of the Conciliar Documents and the 1983 Code of Canon Law,” in Comm., 17 (1985), pp.287-315. In this text of a presentation made to the Canadian Canon Law Society, the author, then the Secretary of the Pontifical Commission for the Authentic Interpretation of the Code of Canon Law, emphasised that “these norms will come alive to the extent that sacred ministers fulfil their duty of recognising and promoting ‘that mission which lay persons exercise in their own way in the Church and in the world (c.275, §2).’” For an authoritative history of the title, see R.J.CASTILLO LARA, “Some General Reflections on the Rights and Duties of the Christian Faithful,” in Studia canonica, 20 (1986), pp.7-32. For a recent philosophical analysis of this “breakthrough of great importance,” see J.P.McINTYRE, “Lineaments for a Christian Anthropology: Canons 208-223,” in Periodica, 85 (1996), pp.249-276, where the author’s footnotes provide references for further research. L.ÖRSY, in From Vision to Legislation: From the Council to a Code of Laws, Milwaukee, Wisconsin, Marquette University Press, 1985, p.16, remarks on a “serious omission” in that there are no provisions to protect these rights. In a note, p.54, he comments: “Side by side with the declaration of the rights of the faithful there are also statements that express a fear that lay persons may not be as wise and prudent as they should so they are cautioned severally,” e.g., in cc.212 and 227. For “an essentially negative response” to this title, see J.A.CORIDEN, “What Became of the Bill of Rights?” in CLSA Proceedings, 52 (1990), pp.47-60. After quoting Pacem in terris, n.63: “It is agreed that in our time the common good is chiefly guaranteed when personal rights and duties are maintained,” the author argues that the common good is a principle of inclusion, of equality, of participation and of co-ordination. Under this last heading, he urges “those with the power of governance … to observe the principle of subsidiarity” (p.55).
The reiteration of this balance between equality of dignity and action and competence, noted in canon 204, distinguishes the principle of subsidiarity as applied in the Code. The share that all the Christifideles have in the functions of Christ is determined by their condition - clerical or lay - and is subject always to the hierarchical constitution of the Church, governed as a society in this world. Successive canons in this title articulate the delicate equilibrium required between the exercise of rights and the responsibilities of hierarchical office. This cautious explication reveals the analogous nature of the principle of subsidiarity as applied within the Church.

Cardinal Castillo Lara seems to assume that nothing but a full implementation of the principle is possible with a consequent weakening of the authority of the Roman Pontiff and the transformation of the Church into a federation of national churches.⁹ He therefore now

---
⁹See R.J.CASTILLO LARA, "La sussidiarietà nella dottrina della Chiesa," in Salesianum, 57 (1995), pp.443-463, at p.460 where he writes: "La conseguenza di tutto ciò sarebbe un permanente e progressivo allentamento del Primato del Romano Pontefice e la riduzione della sua capacità di intervento, avvicinandosi la sua funzione ad un primato di onore e assimilando la Chiesa universale ad una federazione di Chiese nazionali." The cautious approach here shows a marked change of heart from his earlier enthusiasm: cf. "Some Reflections on the Proper Way to Approach the Code of Canon Law," in Comm., 17 (1985), pp.267-286. In this article, the text of his address to the Canon Law Society of America, the Cardinal singles out the principle of subsidiarity several times and writes: "Obviously, unitas disciplinae is not to be confused with uniformity. There exists in the Church a legitimate diversity of discipline in the various particular churches, increased in the new Code by the abundant application of the principle of subsidiarity" (p.276). After extolling the theological nature of Books II, III and IV, which "contain an ecclesiology in the language and categories proper to law, the Cardinal goes on to explain that "two qualifying principles of this ecclesiology must be kept particularly in mind: communio, which permeates all the structural and relational fabric of the Code ... and participation which springs as a right-duty from the very nature of being a christifidelis and which is at the very root of one's every juridically relevant attitude" (p.279). The Cardinal also regards with favour the legislative moderation which characterises the new Code and which "corresponds to the principle of subsidiarity ...In other words decentralisation is put into effect. Many competencies pass from the centre to the periphery, reserving to the centre, however, what is considered necessary or useful to ensure unity. At the same time, the centre, subsidiarity, remains available to help lower jurisdictions in the exercise of their authority" (p.283, emphasis added). For the Cardinal's enthusiasm at the 1985 Synod, see chapter 2, pp.130, 139. For his current reflections, see chapter 4, notes 3, 13, 14, and 24.
rejects the validity of the principle of subsidiarity for the Church. The unique nature of the Church, however, surely permits an analogous or limited application of certain principles of social philosophy: developments in ecclesiology depend to some extent on a healthy interaction between theology and the secular sciences. This section of the Code, so reminiscent of the *United Nations Declaration of Human Rights*, shows most clearly how this interaction has occurred. The fundamental ecclesiological fact remains the radical equality of the Christian faithful (c.208).^{10}

Because all the faithful share this common dignity, all are bound to participate in the threefold office of Christ - each according to his or her particular vocation. This mission is not carried out in isolation, but in communion with the Church (c.209). The faithful are called "to promote the growth of the Church" (c.210) and to work for the spread of the kingdom in obedience to the sacred pastors (c.212, §1). Just as power in the Church is ordered towards the salvation of souls, so these obligations and rights have this same end.

To this effect, Cardinal Castillo Lara has written:

Active participation in the life of the Church...can never be reduced simply to being inscribed in a baptismal register. It must rather be expressed by a full participation and responsible assumption of one’s proper role...The rights listed in this title do not have the primary purpose of guaranteeing a place for the freedom and the individual autonomy of the Christian faithful, because they are not goals in themselves. These rights are rather instruments and directions to achieve the supernatural purposes to which the juridical canonical structure is ordered. These rights are not intended to protect and to satisfy individual interests but rather to serve collective interests, such as

---

^{10}The source for this canon is *LG*, n.32, where we read: "There is a common dignity of members arising from their rebirth in Christ, a common grace as sons, a common vocation to perfection, one salvation, one hope and undivided charity. In Christ and in the Church there is, then, no inequality arising from race or nationality, social condition or sex."
that of announcing salvation, of apostolic action and of the right to associate.\textsuperscript{11}

This conclusion is clear from canon 215 which acknowledges that “Christ’s faithful may freely establish and direct associations which serve charitable or pious purposes or which foster the Christian vocation in the world.” The canon occurs in the section on the obligations and rights of the Christian faithful and so has particular force in emphasising the equality of all members of the Church in this respect. The positive phraseology encourages initiative and the assumption of responsibility. The reference to “the Christian vocation in the world” challenges especially those whose baptismal consecration is lived “in the world.”

Already it is clear from this enumeration of rights and the emphasis on equality that the dignity of the human person remains central. The contextual canons implement another aspect of the principle of subsidiarity, namely that the Church provide its members with the support and formation necessary for all of them to fulfil their obligations as responsible Christians (cc.213, 214, 217 and 218). Canon 216 introduces a third element by adding two provisions - first, that whatever the faithful do must be done “according to their state and condition” and that “No initiative. . . . can lay claim to the title Catholic without the consent of the competent ecclesiastical authority.” Such provisions determine competencies and fix limits to protect subsidiarity.

3. 2 - The Obligations and Rights of the Lay Members of Christ’s Faithful, cc.224-231

Canons 224 - 231 focus on the lay Christian faithful. Their special vocation is “to permeate and perfect the temporal order of things with the spirit of the Gospel” (c.225, §2) “as individuals or in associations” (c.225, §1), and to strive for the building up of the people of God through their marriage and their family” (c.226). Moreover, canons 228, 230 and 231 can be read as a call to lay people to use their initiative and offer their services “being admitted by the sacred pastors” to certain ecclesiastical offices, functions and ministries to supply for the needs of the local church. The canons clarify the limits of competency and phrases such as “in accordance with the law” (cf. c.230, §2) uphold the balance always required when the principle of subsidiarity is invoked: no-one should act outside predeter- mined limits, and the competent authority should set these as widely as possible.

As in the previous section, the Church offers *subsidium*. Canon 229, §§1 and 2 states: “Lay people have the duty and the right to acquire the knowledge of Christian teaching … and to acquire that fuller knowledge of the sacred sciences which is taught in ecclesiastical universities or faculties or in institutes of religious sciences, attending lectures there and acquiring academic degrees.” Since few lay persons are likely to read this canon, the onus falls on the diocesan bishop to ensure that structures in the diocese facilitate the fulfilment of this obligation and right.\(^\text{12}\) Even a cursory glance at the *fontes* for canons 204 - 231 reveals the interesting fact that the main sources of inspiration for this entire section appear to be twentieth century papal teaching and the documents of the Second Vatican

\(^{12}\)For the role of the canonist in education in the rights of persons in the Church, see J.J.CUNEO, “Education in the Rights of Persons at Canonical Training Workshops,” in *CLSA Proceedings*, 53 (1991), pp.98-123.
Council. The novelty and originality of setting out obligations and rights in the Church in this way owe much to the secular movements promoting human dignity which the Church eventually encouraged and adopted. To be sure, Scriptural insights enriched and refined the political and sociological theories expressed in the great encyclicals noted in the first chapter of this study.

3. 3 - Associations of the Christian Faithful, cc. 298-329

The canons on "Associations of the Christian Faithful" had an interesting and significant history, for they were transplanted at the very last minute from being an appendix, as it were, to the canons on the consecrated life. The parallels are obvious, in that many congregations began as associations of the lay faithful. Gianfranco Ghirlanda treats of both as charismatic movements and uses the canons in the section on the consecrated life to interpret those in this section. He writes: "Fidelity to the charism on the part of those who have received it and respect for it on the part of all - as a gift for the whole Church - must, together with charity, be the principles governing the integration of movements into the life

---


of the Church and their relation with other ecclesial orders in the concrete life of the Church as manifested especially on the level of the particular and local church, so that their harmonised activity can show what the Church of Christ in fact is: communion in the Son between the children of the one Father, through the operation of the Spirit."\(^{15}\)

He continues by detailing the bishop’s duty to discern and protect the various services present in his church. He must base his ministry on the principles of: “the unity of faith and governance, the division of apostolic tasks and offices, sincere mutual assistance and complementarity … These principles must be made present in the church through clear and precise legislation.”\(^{16}\)

Although Ghirlanda does not mention the principle of subsidiarity, his emphasis on respect, integration, communion, mutual assistance, complementarity, harmony and order - all aspects of the principle - indicate that these represent the values of the canons which provide for these associations. Roch Pagé also draws attention to the contribution made by \textit{Christifideles laici} to the understanding of this section of the Code.\(^{17}\) His commentary highlights the interplay between the vigilance exercised, the guidance offered, by the Supreme Pastor, and the freedom enjoyed by the competent authority at the local level to determine whether or not a given association meets the criteria for ecclesiality elaborated in


\(^{16}\text{Ibid., p.52.}\)

the apostolic exhortation. It would appear that the papal document offers *subsidiium* in this area.

The general nature of these canons (cc.298-329) gives flexibility and adaptability, further characteristics of the principle of subsidiarity, which develop when smaller/lower bodies are allowed rightful autonomy. According to the published records of the Code Commission, the members had the principle in mind while drawing up the canons in this title. They recognised the need to provide for some decentralisation, but not at the expense of legislative unity. As they refined the texts of what became cc.298-311, the secretary reminded the consultors of this principle in particular. At the conclusion of a discussion about co-ordination between associations, the consultors voted and concluded that they should not legislate for this so that the freedom of the associations should not seem to be suffocated and the principle of subsidiarity should not be put at risk. The Commission later assessed

---


19 See *Comm.*, 18 (1986) p.281: “Em. mus Praeses adiungit mentem quod ea quae pertinere possunt ad Conferentias Episcopales esse ut opportuna habeatur decentralisatio, quamvis cavendum est ne unitas legislativa Ecclesiae - quantum ipsa necessaria est - frangatur. Hac in re principium subsidiarietatis, inter Principia quae Codicis recognitionem dirigant a Synodo Episcoporum sancitum. Cum his dictis ab Exc. mo Praesidente et a Rev. mo Secretario Adiuncto omnes concordant Consultores.”

20 Ibid., p.306: “Examine canonum «De consociationibus fidelium» ita expleto, Rev. mus Secretarius Adiunctus Consultores rogat ut suas quisque propositiones exponat, si novos canones forte redigendos esse censeat: attento quidem principio subsidiarietatis in Synodo Episcoporum pro recognitione Codicis iuris canonici approbato.”

21 Ibid., p.309: “Maioritati Consultorum placet ut de hac co-ordinatione nihil per legem statuatur: ne suffocari videatur libertas consociationum neque principium subsidiarietatis in discriminem ponatur.”
the text of c.305, §1 in terms of the principle of subsidiarity and agreed that the provisions of this canon did indeed conform closely to the principle. 22

The concern of the Commission for the values preserved by a correct implementation of the principle of subsidiarity appears even without explicit mention of the principle, as, for example, in their discussion of the text for canons 321-326. They recognised that to attempt co-ordination was to run the risk of imposing on private associations a uniformity, or levelling which would be to attempt to stifle the inspiration of the Holy Spirit. 23

Canon 299, §1 recognises the right of the Christian faithful to establish associations to attain the variety of aims mentioned in c.298. Since this provides a wide charter, diversity becomes the likely result. Such diversity shows a sign of a healthy assumption of responsibility as Christians respond to the call of the Spirit and use their initiative in the local church to answer its particular needs.

Once feared, diversity is now promoted as a sign of growth: “In the Church we meet with a diversity that does not cause divisions and oppositions, but that rather creates and promotes reciprocity and co-ordination: we meet also with a complementarity that does not

22Ibid., p.339: “Quaerit Rev. mus Consultor, cui et alii Consultores accedunt, ut §1 huius canonis aptius concorditur cum principio subsidiarietatis.”

23Ibid., pp.239-240: “Co-ordinatio enim numquam intelligi potest - hoc quidem esset abusus auctoritatis - sicut quaedam «uniformatio» vel «planificatio» apostolatus. In vita Ecclesiae pluralitas viget apostolica, ex diversitate charismatum promanans...” They go on to quote from LG, n.32 to the effect that variety in the Church is of divine institution, and from AA, n.3: “Ex horum charismatum, etiam simpliciorum, acceptione, pro uno quoque credentium ius et officium oriius eadem in bonum hominum et aedificatione Ecclesiae exercendi in Ecclesia et in mundo, in libertate Spiritus Sancti qui ubi vult spirat.” Another reference to the principle of subsidiarity in relation to the work of this Commission occurs in a brief overview which they give of their labours. Their concern here seems to be to avoid over-legislation in the Code. See Comm., 6 (1974), pp.50-52, at p.52: “Mentre, in applicazione del principio di sussidiarietà le ulteriori determinazioni più particolaraggiate vengono rimandate ai singoli statuti, da sottoporre alla competente autorità ecclesiastica (Vescovo diocesano, Conferenza Episcopale o Santa Sede).”
mean a levelling-down, nor, even less, negation of the unique and unrepeatable character of
the individual member of the Church (or of individual groups, associations, movements and
many other realities present and active in the Church). It is not uniformity, but pluriformity
that characterises the Church in what it is and does, a pluriformity destined to guarantee and
promote communion and unity."

These words addressed to the laity in the spirit of the Code show how these canons,
in implementing Apostolicam actuositatem have provided for vigorous new life in the Church
and a novus habitus mentis.

The recognition of the right to found associations and the provision of canons to
regulate its exercise in themselves implement the principle of subsidiarity which a philosopher
of law working in Britain describes as a principle of justice. On associations he writes:
"[The principle of subsidiarity] affirms that the proper function of association is to help the
participants in the association to help themselves, or, more precisely, to constitute themselves
through the individual initiatives of choosing commitments (including commitments to
friendship and other forms of association) and of realising these commitments through
personal inventiveness and effort in projects (many of which will, of course, be co-operative
in execution and even communal in purpose)."

After the affirmative tone of the first section of the first canon in the section (into
which can be read much of the above), the second paragraph and the following canons, being
juridic in character, come as a disappointment. The CLSA commentator, Ellsworth Kneal,

---

24 D. TETTAMANZI, "The Church: Mystery, Communion, Mission: The Structure of
Christifideles laici," in Bulletin, p.27.

finds in c.298, §2 “a guarded uneasiness regarding membership in any association that has not been granted endorsement by competent ecclesiastical authority.” There needs to be a balance maintained between control and vigilance.

Another commentator, John Amos, remarks on the positive tone even in these juridic canons (cc.299-304), in that they provide greater flexibility in the kinds of association that may be founded. The law differentiates only between public and private associations neither limiting initiatives to clerics nor ends to those specified.

Although these canons determine guidelines, they allow for variations “paying due regard to what is necessary or useful in the circumstances of the time and place” (c.304, §1).

These provisions are wholly in accord with the principle of subsidiarity which, in the

---


28Cf. Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae auctoritate promulgatus, (= CIC/17), Romae, Typis polyglottis Vaticanis, 1917, c.685, which limited associations to three ends, fostering spiritual perfection, performing works of piety or charity, and promoting public worship.
ecclesial setting, recognises that the competent ecclesiastical authority “is to ensure that integrity of faith and morals is maintained in them (i.e. in the associations) and that abuses in ecclesiastical discipline do not creep in” (c.305, §1).29

Phrases such as “what is necessary or useful in the circumstances of the time and place” leave much to local initiative and discretion and so leave scope for the dynamism of the Spirit’s charisms, for flexibility and growth.30 In every age, all the people of God must read the signs of their times, discern the appropriate action and proceed accordingly. Canons which allow for such development are implementing the principle of subsidiarity. Canon 315

---

29See R. PAGÉ, “Associations of the Faithful in the Church,” in The Jurist, 47 (1987), p.178: “The Church’s mission is to lead all human persons to unity, to build up the body of Christ. While awaiting that this end be definitively attained, the Church is the sacrament of that unity to which humanity is called. Church leaders are particularly sensitive to anything that expresses the communion of the faithful ... The competent authority has the right and duty in virtue of its mission to exercise vigilance in the Christian community.” Amos considers that c.305 is incomplete: “The second limitation ... which makes associations subject to the vigilance and governance of the Holy See and the diocesan bishop. This seems inconsistent with other canons which give the episcopal conference the same responsibilities over national associations as the Holy See for universal and international associations and the diocesan bishop for diocesan associations.” See AMOS, “Associations of the Christian Faithful,” p.134. To omit a level of competence infringes the principle of subsidiarity.

30For an example of how the Code manifests sensitivity to cultures, cf. c.787: “By the testimony of their words and of their lives, missionaries are to establish a sincere dialogue with those who do not believe in Christ, so that, taking their native character and culture into account, ways may be opened up by which they can be led to know the message of the Gospel.” An anecdote reported in America, March 19, 1988, p.282, about Cardinal Hume at the 1987 Synod illustrates an often ignored aspect of cultural disparity: “Cardinal Hume told all those assembled, ‘I had a terrible dream the other day. I was worried in Westminster about these women bringing up the cruets, women who are taking more and more part in the church. And there are people who are disturbed about it. I thought I’d talk to the nuncio about this. I called up the nuncio, but she wasn’t at home - and I talked to her husband, and he said she was over in church preparing her Scripture reading for Sunday. So I went back to sleep, and I was terribly disturbed about what’s going on. Then I woke up - I woke up in a country where a woman runs the government, where a woman is leading company after company, and where a woman is doing this and this ... Now you have all talked about your culture, and some of the countries of the world have said if we grant all these rights to women, it will be against their culture, it will tear up the life of the church in their culture. Well I say we have a culture too, and our culture tells us different things.”
offers another example, this time encouraging spontaneity: "Public associations can, on their
own initiative, undertake projects which are appropriate to their character, and they are
governed by the statutes, but under the higher direction of the ecclesiastical authority
mentioned in c.312, §1."\(^{31}\) As always, any encouragement of initiative is balanced by the
requirement that it be subject to the competent authority.\(^{32}\)

In a Church characterised by **communio** such direction and vigilance on the part of
the ecclesiastical authorities need not seem menacing, but as another aspect of the Church
offering **subsidiary.**\(^{33}\) That this is offered in a variety of ways is clear from the following:
"In the very fact of recognising an association, the episcopate exercises the role of vigilance
by a means which is proper to it. From the side of the association, recognition brings with
it a supplementary support to its validity, and sometimes will constitute an element which

---

\(^{31}\)This is one of the two places in this section of the Code where A. McGrath, the commentator
in *Letter and Spirit*, para. 659, indicates the implementation of the principle of subsidiarity. His other
reference highlights a rather unusual occurrence where the initiative is taken by the competent
authority when existing associations have failed to provide for a need. See ibid., para. 631, the
commentary on c.301, §2.

\(^{32}\)Cf. Pagé, "Associations of the Faithful," p.185, where in his commentary on c.315, the
author gives the three parameters for this "right of initiative" which "must be exercised in conformity
with their proper character, in 'accord with their statutes,' and 'under the further direction of
ecclesiastical authority.'" This careful articulation is entirely in accord with the principle of
subsidiarity. The principle always requires accountability to the Spirit-given charism, to agreed
norms and to the competent authority.

regendi ad Hierarchicam pertinens intelligi non debet tamquam rigida vigilantia quae suffocet, quia
pars praecipua huius munetis regendi est actusitas tendens ad impellendas, stimulandas ac favendas
initiatives associationum, necnon ad observandum iustam libertatem quae iisdem competit etc. His
assentiunt Consultores."
reassures the faithful desiring to join it. Of course, recognition provides a voice for the association."

Canon 309 provides a good example of how the Code expresses the principle of subsidiarity in legal language: "Legitimately constituted associations have the right, in accord with the law and the statutes, to issue particular norms respecting the association itself, to hold meetings, to designate moderators, officials, other officers and administrators of goods."

Once formed, the association is free to determine its own direction and development within the agreed limits of its constitutions. Not even the "competent ecclesiastical authority" is free to interfere unless there is grave reason - such as financial mismanagement, or danger to the common good as a result of injudicious public utterances. Kneal comments: "This canon is a bulwark against the intrusion of that authority into the legitimate autonomy of the association." It should also be pointed out that this throws the responsibility for all this juridical and administrative activity onto the association in accord with an ancient legal adage: "De minimis non curat praetor."

The canons governing the designation of moderators and chaplains, the administration of property, and suppression are equally phrased in accord with the principle of subsidiarity. The statutes of the association must determine precisely the competencies involved and the members, and the ecclesiastical authorities must be aware that there are legal limits set to their interrelationships. Canon 320, on suppression, reveals, as Kneal comments, "subsidiarity in reverse."

---

34See PAGÉ, "Associations of the Faithful," p.200.
SUBSIDIARITY IN THE 1983 CODE

Canons 317, §1, 318, §2 and 320, §3 incorporate norms of the canons on the rights of all the Christian faithful (enumerated in cc.220 and 221). All the canons which require that the competent authority "hear" the views of others before making a decision must be interpreted in the light of canon 127. In canon 317 the phrases "where this is expedient" weakens the officials' right to be heard, but the language of canon 320, §3 is quite emphatic that an association must not be suppressed unless the officials have been heard.

Although private associations are allowed a considerable freedom, yet they too are "subject to the vigilance of ecclesiastical authority" (c.323). As has been said, this vigilance on the part of the diocesan bishop is not to be perceived as intrusive, for it reveals an aspect of the role of the pastor in relation to his flock. In accordance with the principle

35Canon 127, §1 - When the law prescribes that, in order to perform a juridical act, a Superior requires the consent or the advice of some college or group of persons, the college or group must be convened in accordance with Can.166, unless, if there is question of seeking advice only, particular or proper law provides otherwise. For the validity of the act, it is required that the consent be obtained of an absolute majority of those present, or that the advice of all be sought.

§2 - When the law prescribes that, in order to perform a juridical act, a Superior requires the consent or advice of certain persons as individuals:

1° if consent is required, the Superior's act is invalid if the Superior does not seek the consent of those persons, or acts against the vote of all or any of them;

2° if advice is required, the Superior's act is invalid if the Superior does not hear those persons. The Superior is not in any way bound to accept their vote, even if it is unanimous; nevertheless, without what is, in his or her judgement, an overriding reason, the superior is not to act against their vote, especially if it is a unanimous one;

§3 - All whose consent or advice is required are obliged to give their opinions sincerely. If the seriousness of the matter requires it, they are obliged carefully to maintain secrecy, and the Superior can insist on this obligation.

36Amos asserts that a suppression without due attention to c. 320, §3 would be invalid. See AMOS, "Associations of the Christian Faithful," p.132.

37On this vigilance, see PAGÉ, "Associations of the Faithful," p.195: "This vigilance is applied to three major areas which sum up well all the aspects of ecclesial Christian life: faith, morals, and discipline."
of subsidiarity, the higher authority is to provide the conditions, help, stimulus, space, and 
challenge necessary for these associations to achieve the “self-constitution” of their members 
in promoting the common good of the local and universal Church. As Pagé so rightly 
indicates:

An association makes it possible to pursue objectives which individual 
persons or at least some of them could not attain if they remained by 
themselves ... Such associations can take on works or commitments as 
groups, and often reveal charisms among other faithful in a kind of chain 
reaction. The members of such associations achieve their own end even 
while working for the purposes of the association. Does not canon 329 invite 
the moderators of lay associations to see to it that their members are duly 
formed for the exercise of the apostolate proper to the laity?38

Once formed, such members will look for a certain freedom of exercise for their skills.

At the end of his lengthy study of this section of the Code, Amos concludes: “The 
potential uses of cc.298-329 are unlimited ... The new Code is so flexible and offers so many 
opportunities to help various members of the Church work together (e.g., bishops, religious, 
and laity) that it would seem these laws ought to be given a fair trial before they are 
dismissed. Anything that enhances the communion of the Church is worthwhile.”39 In his 
presentation to the Canon Law Society of America, Amos singles out flexibility, adaptability 
and sensitivity to the rights of the people of God as among the most significant innovations 
in these canons. Pagé highlights the scope for initiative, respect for autonomy and the 
opportunity for the flowering of charisms. All of these innovations result from the 
implementation of the principle of subsidiarity.

38 Ibid., pp.198-199.

After the 1987 Synod on the Laity, Pope John Paul II issued the Apostolic Exhortation, *Christifideles laici*, on the vocation and mission of the lay faithful in the Church and in the world. Interestingly, he quotes from the famous allocution of Pius XII in which that pope endorses the principle of subsidiarity in the Church. The present pope, however, quotes, not the section on subsidiarity, but a different passage: "The faithful, more precisely the lay faithful, find themselves on the front lines of the Church's life; for them the Church is an animating principle for human society. Therefore, they in particular ought to have an ever clearer consciousness not only of belonging to the Church, but of being the Church ... the community of the faithful on earth under the leadership of the pope, the head of all, and of the bishops in communion with him."\(^{40}\) This strongly affirms the role of the laity.

The rest of the document refers frequently to conciliar texts in elaborating the nature of this role. There are no fewer than ten references, to the *Code of Canon Law*, often citing several canons in support of the argument. Given the originality and significance of this section of the Code, on the Obligations and Rights, and on Associations of the Faithful, it is rather strange to note that only one reference is made to all these canons, namely to canon 317, §2: "... there is a natural transition from an effective involvement of the lay faithful in the liturgical action to that of announcing the word of God and pastoral care."\(^{41}\)

It seems a missed opportunity, to say the least, especially as the working paper (*Instrumentum laboris*) which preceded the synod recognised the potential of these canons: "A new flowering of associations characterises the life of the laity in these days. A great

\(^{40}\)JOHN PAUL II, *Christifideles laici*, n.9.

\(^{41}\)Ibid., n.23.
many associations, groups and movements have been formed in the past few years on the
 provision of the right of free association in the Church.\textsuperscript{42} This statement bears witness
to the fact that the laity have found in this section of the Code the empowerment to act
without waiting for the hierarchy to take the lead. The fruits of the canons appear in this
exercise of subsidiarity.

Conclusion

In acknowledging the right of Christ’s faithful to found and belong to associations
“which serve charitable or pious purposes or which foster the christian vocation in the
world” (c.215), the Code provides for the exercise of initiative with its necessary
consequences, diversity and flexibility. The canons on associations (cc.298-329) represent
the \textit{subsidiarium} which the Church then offers these associations in exercising vigilance,
defining and protecting rights and providing for responsible collaboration. Established in
accordance with the law, such associations give living witness to the Church’s respect for
human dignity, the promotion of which enhances \textit{communio}. Within the hierarchical
structure of the Church, the principle of subsidiarity here serves to clarify the competencies
involved. Despite certain limitations, already indicated, the canons display an openness to
the dynamism of the Spirit \textit{qui ubi vult spirat} (Jn.3:8, and cf. footnote 23!).

3. 4 - The Internal Ordering of Particular Churches

The importance of the local church and its relationship with the universal Church has proved to be one of the richest insights to emerge from Vatican II. Gifts emerge first in the local churches, inspired and formed by widely differing cultures and, after being tried and tested, contribute to the diversity of the whole Church. Walter Kasper emphasises the reciprocity of this movement:

The term *communio sanctorum* basically describes that community which shares in the *sancta*, in the Gospel as well as the sacraments, especially the sacraments of baptism and the Eucharist. By this common participation, the members of the Church are in communion with Christ as well as with each other. According to the biblically founded vision of the Council, they form one people of God, a great pilgrim community of brothers and sisters with manifold charisms, offices, and forms of service. Any given local *communio* of the Church must beware of erecting an impenetrable barrier; it must rather remain in *communio* with all those other local church communities that equally share the same baptism and participate in the same Eucharist. It must think and act in terms of world-wide catholicity. On the other hand, the universal Church ... consists of and exists in the form of “local churches.” Thus, *communio* incorporates both unity and plurality. As plurality in unity, the Church serves both as a symbol and as an instrument of the unity of mankind where the plurality of nations, cultures, and generations are not obliterated, but are reconciled in a new just order and in a civilisation of love.44

*Communio* ecclesiology respects the dignity and equality of each church as well as of each member of the Church and recognises the unique Spirit-inspired contribution that each can

---

43Cf. W. AYMANS, “Ecclesiological Implications of the New Legislation,” in *Studia canonica*, 17 (1983), pp.63-94. The author claims to have been one of the first to recognise the importance, and analyse the text of *LG*, n.23: “The individual bishops are the visible source and foundation of unity in their own particular churches, which are constituted after the model of the universal Church; it is in these and formed out of them that the one and unique Catholic Church exists.” He describes this as “ecclesiologically ... a highly significant expression which has a much more fundamental importance than the conciliar text seems to suggest.”

make to its life and mission. As a “principle of unity in catalyzing the ministerial resources of the Church in service to the world,” the diocesan bishop has the responsibility to ensure that *communio* is realised in his local church. One way of doing this is by implementing the principle of subsidiarity.

Kasper indicates the direction which plans should take:

The Church as *communio* is also to be understood as one body whose varied members cooperate and complement each other in diverse ways for the good of the whole. All - lay people, religious, and the ordained - have their own tasks and carry responsibility in their own state in life. A properly understood *communio*-ecclesiology puts an end to all one-directional conceptions of pastoral care. *Communio*-ecclesiology aims at a Church in which all will become subjects.

Becoming a subject in this sense surely means that each member of the Church has the opportunity to influence decisions that affect his or her life. Book II of the Code provides in law for the structures of consultation required by the conciliar and post-conciliar documents. For the purpose of this study, three only will be considered here: “The Diocesan Synod.” (cc.460-468), “The Presbyteral Council,” (cc.495-501), and “The Diocesan Pastoral Council,” (cc.511-514). To the extent that each of these structures exhibits a lawful

---

45 Cf. L. ÖRSY, “New Era of Participation in Church Life,” in *Origins*, vol.17, no.46, April 28, 1988, pp.796-800, among the theological reasons for the increased practice of participation the author gives at p.799: “To be baptised into the Christian communion is to be baptised into participation. We usually conceive baptism as an individual act: the person becomes an adopted child of God. But that is a one-sided description. The newly baptised becomes the member of a body. Like any member, it cannot exist outside of the body, but the body cannot exist without its members either. Every new member brings new balance into the body with its own qualities which are irreplaceable - they do not exist anywhere else. Hence, without participation the body is not whole, the body does not have its integrity.” The author argues in the same vein with regard to the other sacraments of initiation.


competence, a concern for the person, and allows a just autonomy, they each represent in varying degrees the principle of subsidiarity in practice.
3. 4. 1 - The Diocesan Synod, cc.460-468

The Diocesan Synod is an ancient institute in the Church. The revised Code describes the synod as "an assembly of selected priests and other members of Christ’s faithful of a particular Church which, for the good of the whole diocesan community, assists the

---

diocesan Bishop in accordance with the following canons” (c.460). No longer exclusively clerical, the synod helps the bishop in his legislative office, in contributing to the formation of particular law for the diocese.

Although canons 466 and 467 presume that declarations and decrees will result from the synodal discussions, by not mentioning the legislative function of the synod, the phrasing of canon 460 leaves the purpose of the synod more flexible. However, the presumption remains that the primary functions of the synod will be those set out in Ecclesiae imago, the

Directory on the Pastoral Ministry of Bishops:

The diocesan synod, which is convoked and moderated by the bishop and to which the clergy, religious and laity are summoned according to the norms of law, is the assembly in which the bishop - using the help of experts in theology, pastoral and law, and drawing upon the advice of the diocesan community’s various associations - officially fulfils his function and ministry of feeding the flock entrusted to him, by adapting the laws and norms of the universal Church to local conditions, by pointing out the policy and programme of apostolic work in the diocese, by resolving problems encountered in the apostolate and administration, by giving impetus to projects and undertakings, and by correcting errors in doctrine and morals if any have crept in.  

---

49 CONGREGATION FOR BISHOPS, Directory on the Pastoral Ministry of Bishops (= Ecclesiae imago), Ottawa, Canadian Catholic Conference, 1974, n.163, p.83. The original Latin version of this document is not in AAS, but can be found in X.OCHOA, Leges Ecclesiae post Codicem iuris canonici editae (= Leges Ecclesiae), Rome, Commentarium pro Religiosis, 6 vv., v.5, 1980, n.4174, pp.6462-6539. The members of the Code Commission obviously regarded the synod as a legislative event and for this reason insisted on retaining the flexibility as regards the frequency of its celebration. See Comm., 12 (1980), p.315: The question of the purpose of the synod is of great significance. COLLINS, “The Diocesan Synod,” p.409, warns of a “tension between a legislative and an educative synod.” He continues: “Formerly, synods were primarily held to produce a product, namely diocesan laws and structures. Today a synod may more properly be concerned with experiential education as its primary goal. As an experience of shared responsibility, a synod will teach what Vatican II’s vision of the Church is: the people of God exercising co-responsibility in proclaiming, realising, and serving the Kingdom of God. As a process, it will teach this better than any textbook or theological article.” There may be a hidden presumption here. All the participants must see themselves as learners, even the bishop. The phrase “for the good of the whole diocesan community,” c.460, receives a profound interpretation in the writing of one commentator. See B.FRANCK, “Les expériences synodales après Vatican II,” in Communio, 3 (1978), pp.64-78:
The ordering of the various activities deemed appropriate for the synod clearly gives priority to that of adapting universal laws and norms, as does the later emphasis in the Code (c.466), on the bishop’s role as sole legislator.

Whereas CIC/17, c.356, §1 had mandated a synod every ten years - a mandate which was largely ignored - the revised Code leaves the bishop free to decide when and how frequently to celebrate the event.¹⁰

In canon 463 the Code lists various categories of people whom the diocesan bishop must or may summon to the diocesan synod. A visionary bishop may find such canons liberating, but in this less than perfect world some of the choices left to the diocesan bishop could appear arbitrary.⁵¹ Variations on the phrase “in the manner and the number to be determined by the diocesan Bishop” occur three times in this canon. Clearly, the power of the diocesan bishop to determine membership is considerable. The persons called are obliged

---

“Pourtant cet esprit (synodal) doit prendre chair et corps, il doit se concrétiser dans des «règles de jeu» qui préservent de l’arbitraire et de la prééminence des uns, de la prééminence des autres. Le droit et les institutions n’ont d’autre but ultime que de mettre la force au service du faible, de garantir efficacement sa liberté, de sauvegarder sa dignité, de faire respecter la justice.”

⁵⁰JENNINGS, “A Renewed Understanding,” p.343, regards this freedom to decide on the timing as an application of the principle of subsidiarity. He sees the same principle in operation also in the flexibility allowed the bishop in determining both the agenda and the composition of the synod, pp.342, 346. It certainly represents an example of decentralisation from Rome to the particular church. Within the diocese, however, the possibility of centralisation remains.

⁵¹See GREEN, “Persons and Structures,” p.54, where he reports on the fears of some during the revision process that “some norms seemed to personalise the synod as an instrument of the bishop rather than viewing it as an assembly of the people of God in which the bishop assumes a preeminent apostolic leadership role.” Cf. Archbishop R.WEAK-LAND, “Local Implementation - Ecclesial Life under the 1983 Code,” in CLSA Proceedings, 46 (1984), pp.12-23, where the author comments: “The Code is wonderful in this respect. It tells you almost nothing, is very flexible about how to do a synod.” The Code Commission dismissed two suggestions that would have ensured a majority membership for the clergy. See Comm., 14 (1982), pp.210-211: “... quia intelligi posset quasi suspicio quod Episcopus non sit prudent, vel quod laici sint periculosi.”
to participate: they have to exercise their rights in the Church. Ideally the latitude offered both by canon 460, "other members of Christ's faithful," and by this canon, 463, both focusing on persons, will result in a membership truly representative of the communio of the local church, and function in a manner that builds up this communio.54

52 See MORROW, "The Diocesan Synod," p.57: "The conciliar-inspired ecclesiological concept of Christifideles provides a rich matrix for both the common and particular contribution to the mission of the church that is rendered by the presbyterate, religious and laity alike. In the context of the particular church the diocesan synod is a significant focal point for this. It is in this same institution that all enjoy equally the consultative vote in rendering assistance to the bishop."

53 From the discussions of the Code Commission it appears that this term means "Roman Catholics" since the Code cannot bind members of other churches. See Comm., 14 (1982), p.157.

54 Once again the purpose of the synod surfaces as an important consideration. See CORIDEN, "The Diocesan Synod," pp.65-93: also PRATICO, The Purpose and Function of the Diocesan Synod. Clarity regarding the aims and objectives of the exercise prevents dissatisfaction with the outcome. Commentators indulge in somewhat idealistic expectations. Cf. G.CORBELLINI, "Il sinodo e la comunità diocesana," in Monitor ecclesiasticus, 116 (1991), pp.456-461, where the author writes, p.456: "Innanzitutto il sinodo in quanto tale, per sua stessa natura - definita dal suo fine essenziale - è un evento di speciale importanza, non solo teologica e giuridica, ma anche pastorale e quindi di vita concreta di chiesa, che pone in un particolare rapporto di comunione il vescovo con la sua chiesa diocesana e tende a coinvolgere l'intera comunità diocesana." I.FÜRER, "De synodo dioecesana," in Periodica, 62 (1973), pp.117-131, raises the interesting question as to whether the synod can discuss matters that lie beyond the legislative competence of the diocesan bishop and concludes in the affirmative (pp.129-130). He also isolates three purposes: "de elaborandis regulis pro actione pastorali; de aedificatione populi Dei; de promulgatione doctrinae et disciplinae Concilii Vaticani secundi." This last point is made forcefully by CONGAR, Lay People in the Church, p.251. See also S.O'CONNOR, The Structure of a Post-conciliar Diocesan Synod in the USA, Washington, DC, Catholic University of America, Canon Law Studies, 473, 1970, Ann Arbor University Microfilms International, 1988, where the author speaks, p.134, of fostering the "sense of brotherhood" and the "koinonie principle," but also sets out, pp.10-11, a very clear list of objectives for the synod which he sees as an instrument of the principle of subsidiarity, p.135. This seems to have been the intent of Pope Paul VI in the motu proprio, Ecclesiae sanctae I, 6 August 1966, in AAS, 58 (1966), pp.757-775, at p.767: "The bishops shall also see that all the councils of the diocese are co-ordinated as well as possible, through precise definition of their competence, mutual participation of their members, through common or continuing sessions or by other means." In Ecclesiae imago, n.164, the suggestions for the agenda are extremely practical, but there is also an emphasis on the liturgical celebrations that should accompany the event at every stage, nn.163-165. The choice of the word "celebretur," c.461, is a reminder of the synod’s role in building up the sense of communio in the diocese.
The autonomy of the synod depends to a large extent on the membership, but also on the measure of control exercised by the diocesan bishop while it is in session.\footnote{55} Canon 465 requires "free discussion of the agenda."\footnote{56} Interpretation will take account of canons 212, 217, 218, 220 and also the ancient canonical principle: "quod omnes tangit, ab omnibus tractari et approbari debet."\footnote{57} The Code frequently affirms that the bishop is the sole legislator in the diocese, and canon 466 emphasises his unique role four times.\footnote{58} Canon 468 provides for cessation which can occur at the bishop's discretion, but the phrase

\footnote{55}For the necessity of the bishop maintaining a lasting interest in the results of the synod, see BEYER, "Il sinodo diocesano," pp.381-395. The author, who uses the example of a specific synod, that of the diocese of Lodi, recommends, at p.386: "Ideale per l'applicazione dei decreti sinodali rimane la presenza del vescovo che l'ha iniziato, ispirato e guidato. Si può auspicare questa presenza per una sua migliore, più decisa e consapevole applicazione." Beyer also stresses the importance of the liturgical context.

\footnote{56}One writer warns of the danger of creating unrealistic expectations. See ROSS, Diocesan Synods: The Application of the Law, p.207: "In the event that the diocesan synod does become a more frequent event, or even perhaps a permanent institute, the possibility for some sustained tension arises in the particular church. If the recommendations of the participants are regularly not respected, or, in most cases, followed, the result could be apathy or disillusion at best. The experience of some diocesan pastoral councils may attest to this. Even though the synodal members recognise the consultative character of the assembly, if they devote significant time and talent to the endeavour, many will expect to be more than heard. At the same time, if the laity are not given an important role in the synodal process, it could well prove to be a useless experience. A service would be done if one would more fully research the possibility and ramifications of the synod becoming a deliberative body in the future." The Church could benefit from the expertise of management consultants if the frustration of the bishops with their own synodal processes is not to be repeated in every diocese.

\footnote{57}See J.A.ALESANDRO, "The Internal Ordering of Particular Churches," in CLSA Commentary, p.381: c.212, the right to make one's opinion known; c.217, the right to be educated in the faith; c.218, the right to freedom of enquiry; c.220, the right to one's good reputation. Cf. D.M.ROSS, "Participation in the Synod," in Monitor ecclesiasticus, 116 (1991), pp.462-482.

\footnote{58}Canon 466 - The diocesan Bishop is the sole legislator in the diocesan synod. Other members of the synod have only a consultative vote. The diocesan Bishop alone signs the synodal declarations and decrees, and only by his authority may these be published (emphasis added). This insistence is to preserve legislative unity.
"prudent judgement" implies that he must have a just cause. Nevertheless this institute provides for a measure of subsidiarity at local church level.

59See MORROW, "The Diocesan Synod," p.77: "Although (this) is entirely consistent with the fundamental premise in this Code that the diocesan bishop is the constitutive principle of the synod, such a course of action would indeed have to be based on most grave and pressing reasons. Without any provision for a just cause or mandatory consultation as regards suspension or dissolution, this canon prompts the concern in certain quarters that the Code again in reference to the diocesan synod, affords too much to an already relatively unchecked exercise of episcopal discretion." Cf. GREEN, "Critical Reflections," pp.272-273.

60The requirement in c.467 that the bishop "is to communicate the text of the declarations and decrees of the synod to the Metropolitan and to the Bishops' Conference" is "an expression of the wider communion to which the particular church belongs." See LETTER AND SPIRIT, para.932. Cf. COMM., 14 (1982), p.212, where the Code Commission resisted the notion that all texts should be sent to Rome: "Cum nimiam centralizationem secumferret obligatio transmittendi omnes textus synodi ad Sanctam Sedem et haec praeterea obligatio in CIC/17 non imponatur, textus sic emendandus censeatur." The fears occasioned by allowing the laity a say in the government of the diocese appear in the text of Code Commission's discussions. See, for example, COMM., 14 (1982), pp.209-210: "Eae Synodi ex traditione erant instrumenta in manu Episcopi ad bonum animarum promovendum, fidem firmandam, disciplinam corroborandam. At tempore praesentii, sicut pro Concilii particularibus eventi, etiam Synodi dioecesanae factae sunt possibilis occasio perturbationis et damnii pro regimine Ecclesiae, quibus codex, quantum fieri potest, occurrere debebit." This reactionary view did not prevail because: "... hi possibiles abusus non proveniunt ex ipsa Synodi natura," and because it was thought that the diocesan bishop had the means at his disposal to forestall and ward off such "possibiles abusus." For an account of an apparently successful implementation, see P. VALDRINI, "La synodalité dans l'église: l'expérience française depuis le Concile Vatican II," in STUDIA CANONICA, 26 (1992), pp.5-24. See also G. ROUTHIER, "La synodalité de l'Église locale," in ibid., pp.111-161, where the author argues for both the concept and the term "synodalité" as being true to the tradition of the Church, p.127: "Si le langage utilisé par l'Église suggérait sa démocratisation et si la réalité contredisait le discours, on n'engendrerait que la confusion, ou du moins une insatisfaction profonde et une grande déception ... Nous [affirmons] que le renouveau de la pratique synodale doit s'enraciner dans la tradition originale forte et longue de l'Église plutôt que de s'aligner sur des modèles démocratiques encore récents. De là, la nécessité d'utiliser un vocabulaire qui renvoie à cette tradition, ou qu'il l'évoque davantage, plutôt qu'une terminologie qui induit des confusions par sa parenté avec les modèles institutionnels séculiers de la tradition démocratique occidentale. Bref, il s'agit d'adopter une terminologie qui indique clairement la spécificité de la -participation- ecclésiale." What Routhier describes accords well with the principle of subsidiarity in that he envisages a gathering in which competencies are well defined, p.147: "Non seulement la synodalité propose un modèle d'échange et de concertation, mais surtout elle permet à chacun de participer, selon son rang, à une œuvre commune. Ce concept assure donc une participation ordonnée et organique, tout en prenant en compte la diversité des fonctions, ce que la coresponsabilité n'assure pas alors que la synodalité le mérite de faire droit à la participation de tous dans la diversité et l'originalité des dons et des services. De manière plus spécifique encore, la synodalité exprime le statut de chacun, statut issu des sacrements: baptême-confirmation et ordre. A travers la synodalité de l'Église locale s'exprime visiblement l'union organique et l'interdépendance
3. 4. 2 - The Presbyteral Council, cc.495-501

The Presbyteral Council, like the Diocesan Synod, has a long history in the Church, for it is rooted in the priesthood which priests and bishops share.\textsuperscript{61} The revival of this structure, mandated in the revised Code, represents an effort to ensure that all the priests of the diocese share to some degree in its governance (c.495, §1). Several aspects of the legislation require comment in relation to the principle of subsidiarity.

First, the Code, in line with \textit{Presbyterorum ordinis} and \textit{Ecclesiae sanctae I}, makes the establishment of such a council mandatory. The canons constrain the bishop to benefit from the wisdom and experience of his priests “so that the pastoral welfare of that portion of the people of God entrusted to the Bishop may be most effectively promoted” (c.495, §1). The conciliar and post-conciliar documents which refer to this institute, compiled after widespread consultation, base the necessity of the council not on efficient management procedures, but on the \textit{communio} which already exists between the bishop and his priests as members of the one priesthood.\textsuperscript{62}

\begin{footnotesize}
\begin{itemize}
\item[] \textsuperscript{62} The principal post-conciliar documents which refer to the Presbyteral Council are: SACRED CONGREGATION FOR THE CLERGY, Circular Letter, \textit{De consiliis presbyteri-alibus}, 10 October 1969, in \textit{AAS}. 62 (1970), pp.459-465. This document is available in French in \textit{La documentation...}
\end{itemize}
\end{footnotesize}
SUBSIDIARY IN THE 1983 CODE

Secondly, the Code requires that the council be representative (cc.497 and 499), especially as regards the diverse ministries and regions of the diocese. *Ecclesiae imago* had suggested also that there might also be some representation of the different age-groups among the clergy. Proposals that more than half the members should be elected by the priests do not appear in canon 497, 1°, which states only that "about half" should be elected and leaves the bishop free to name others to represent such areas, groups, needs, or ministries as are not met by the already elected members.63

Thirdly, the Code makes plain the consultative, rather than deliberative, role of the council, but other canons oblige the bishop to consult the council in particular situations:

---

63 On representation, *De consiliis* states, n.6: "Si quaedam in Consilio ita componendo difficultas exoriatur, praeferenda videtur repraesentatio proportionata per praecipua sacerdotum ministeria." On the balance of elected and appointed members, the same document says, n.7: "Consilii sodales designandi ratio commissa est Episcopis. Il vero, ut ex ipsorum responsionis patet, consensu fere unanime statuerunt ut notabilius sodalium pars eligeretur libero sacerdotum suffragio. Patribus autem Plenariae placuit propositum ut maior pars sodalium seligeretur per suffragium omnium sacerdotum." The object of leaving the bishop free to appoint certain members seems to be to secure a true representation of the diocese; see ibid.: "Haece compositio ... securitatem tribuit Episcopo ad servandum aequilibrium et possibilitatem praebet indolem repraesentativam eiusdem Consilii aliquando melius exprimendi."
whether or not to hold a diocesan synod (c.461);  
erecting, modifying and suppressing parishes (cc.515, 518, 520);  
determining the disposition of the “parochial fund” (c.531);  
deciding whether or not to make parish councils mandatory (c.536);  
authorising the building of a new church (c.1215);  
converting an existing church building to secular purposes (c.1222);  
imposing a tax on the faithful and on public juridical persons (c.1263).  

_Ecclesiae imago_ also offers examples of “matters of more serious moment” (c.500, §2), such as: “… the holiness of life, sacred science, and other needs of the priests, or the sanctification and religious instruction of the faithful, or the government of the diocese in general … It is the task of this council, among other things, to seek out clear and distinctly defined aims of the manifold ministries in the diocese, to propose matters that are more urgent, to indicate methods of acting, to assist whatever the Spirit frequently stirs up through individuals or groups, to foster the spiritual life, in order to attain the necessary unity more

---

64 See _Letter and Spirit_, para.995, n.1, where the commentator, G.READ, refers to the question whether or not a bishop could approve statutes which would give “a deliberative vote to his council of priests.” He writes that this point “was discussed by the Revision Commission and rejected (_Comm._, 13 [1981], pp.131-133 at Can.314; _Comm._, 14 [1982], p.217, at Can.420). However, since the canon speaks only of ‘the cases expressly defined in the law,’ making no reference to whether the law in question is universal only or also particular, the possibility would appear to remain that, in given circumstances, the Bishop might voluntarily bind himself to seeking the consent of his council.” It would seem advisable for the national conference of bishops to have some guidelines on what issues lend themselves to this type of decision-making. The only canon which appears to require consent is c.1742, §1 on the selection of the group “stably established by the council of priests” who will aid the bishop when there is question of the removal of a parish priest: see ALESANDRO, _CLSA Commentary_, p.405. Cf. J.DENIS, “Voix consultative, voix délibérative: avenir du conseil presbytéral,” in _Revue théologique de Louvain_, 5 (1974), pp.198-218; R.PAGÉ, _Les églises particulières: t.1, leurs structures de gouvernement selon le code de droit canonique de 1983_, Montréal, Éditions Paulines & Médiaspaul, 1985-1989, 2v, Ch. III, pp.115-153, at p.146.
The concern of the bishop and the presbyteral council is to be for the enhancement of *communio* in the diocese, the enhancement of persons.

The canons fulfil the intent of the Council to involve the priests with the bishop in the government of the diocese. The decision-taking remains the responsibility of the bishop, but only after he has listened to the advice of those who will be involved in its implementation. The provision of canon 501 for renewing and revitalising the membership

---

65 Ecclesiae imago, n. 203, b. See also PAGÉ, *Les églises particulières*, where the author deals at length, pp.145-9, with the provision of c.500, §2, that "the council of priests has only a consultative vote." He points out that the bishop must follow the spirit of c.127, and adds, "Il existe une pression morale sur l'Évêque qui, s'il peut faire ce qu'il veut lorsque le conseil n'a que voix consultative, ne peut pas ne pas tenir compte indéfiniment des opinions de ceux avec qui il a accepté le soin pastoral d'une portion du peuple de Dieu." See also PASSICOS, "Reflexions sur le conseil du presbyteryum," pp.153-156, where the author argues that consultation undertaken seriously, is an exercise in coresponsibility for the government of the diocese. For a thorough discussion of the possible applications of c.127 to the presbyteral council, see R.R.CALVO, *Consultation and the Presbyteral Council: New Emphasis on the Ratio Legis*, Romae, Pontificia Studiorum Universitas a St.Thoma Aqu. in Urbe, 1986, especially pp.205 ff. He writes, p.228: "This provision (c.127) indicates that the freedom of the superior must not be interpreted against the importance of consultation in the Church. The reason for this is not because consultation temperrates (sic) the exercise of a monarchical government ..., but because any arbitrary use of power is repugnant to the children of God. Consultation is persuasive on the basis of shared responsibility, the presence of the Holy Spirit active in all the members of the Church, and the recognition of charisms." See also NCCB, "United in Service," p.415. There is a high expectation that the expression of opinion be completely free. This is clearly stated in c.127, §3. Writing before the publication of the Code, Beyer, in "De consilio," foresaw a possible conflict of interest if the same priests were on both the pastoral and presbyteral councils: "Cum ambo [the presbyteral and pastoral councils] agant de eadem re. bonum pastorale dioecesos, unum sub aspectu regimenis, alterum sub aspectu collaborationis activae, haec praeprimis sunt notanda: melius est ut duplex Consilium sit autonomia praeditum; praeter Episcopum membra eorum sint diversa; quae tractanda ambobus proponuntur, primo in Consilio pastorali, postea in Consilii presbyteri si sint disceptata ut ipsa Episcopus quae discernenda et statuenda sint definit." Such an arrangement might not be possible in smaller dioceses.

66 Pagé in *Les églises particulières*, pp.123-124, emphasises that the purpose of the council is very practical. While undoubtedly facilitating relations between the bishop and his priests as they engage in dialogue about the "bien-être des prêtres sous ses diverses formes," nonetheless this growth in *communio* will prove futile without some action for the people: "En somme, le dialogue, tout comme le bien-être spirituel, intellectuel et matériel des prêtres peut bien faire partie des objectifs du conseil presbytéral, mais pourvu qu'il serve lui aussi à promouvoir le plus efficacement possible le bien pastoral du peuple de Dieu confiée à l'Évêque, dans l'exercice de sa fonction de gouvernement." As was also seen to be the case with the Diocesan Synod, the purpose of the institute must never be
SUBSIDIARITY IN THE 1983 CODE

indicates a concern that as many priests as possible should have the experience of contributing to the bishop’s pastoral decisions. Moreover, by not legislating in detail for the council, the Code allows each diocese to establish its own procedures in accordance with its own unique character and needs. This implementation of the principle of subsidiarity ensures flexibility, autonomy, and allows for the exercise of a certain dynamism in response to local needs.

forgotten. On this point, see also the conclusion of CALVO, Consultation and the Presbyteral Council, pp.292-293: “The overall finality of the consultative function of the presbyteral council is the promotion of the mission of the Church. Its immediate and mediate finality is dual: the effectiveness of a decision and the fostering of the relationship between the diocesan bishop and the presbyterate. This finality shifts the focus of assessing the presbyteral council’s influence from the question of the distribution of power to that of the quality of the decisions rendered and the ability of consultation itself to advance the mission of the Church. In summary, in the ratio legis for the presbyteral council’s consultative function the emphasis is not on actions that bind but on the strength of the bond for action and the quality of decisions.”

67 For the importance of this experience for the education of the clergy, see PAGÉ, Les églises particulières, at p.151: “Le renouvellement des membres pourra favoriser le renouvellement des idées, des expériences et des approches des questions discutées, sans compter qu’après un certain nombre d’années, beaucoup de prêtres auront eu l’occasion de connaître de l’intérieur l’exercice du gouvernement diocésain et ainsi d’avoir une vision plus large des questions pastorales.”

68 For the present Pope’s assumption that local councils will lead to more awareness of their uniqueness on the part of the local churches, see JOHN PAUL II, Encyclical letter, Redemptor hominis, 15 March 1979, in AAS, 71 (1979), pp.257-324. The English translation is available in Origins, vol.8, no.40, March 22, 1979, pp.625, 627-644. The Pope writes, n.5: “It was the Council’s idea, an idea consistently put into practice by Paul VI, that structures of this kind (synods), with their centuries of trial by the Church, and the other forms of collegial collaboration by bishops, such as the metropolitan structure - not to mention each individual diocese - should pulsate in full awareness of their own identity and, at the same time, of their own originality within the universal unity of the Church. The same spirit of collaboration and shared responsibility is spreading among priests also, as is confirmed by the many councils of priests that have sprung up since the Council.” It is worth noting that the Pope began here by talking about synods, i.e., legislative assemblies.

For a discussion of some of the questions that arise from the Code’s silence on certain issues, such as, for example, the interpretation of the bishop’s “prerogative ... to preside over” the council, see PAGÉ, Les églises particulières, pp.142-144. Pagé also questions the role in the council of the bishop’s “vicars,” pp.137-140, and highlights the possibly embarrassing situation that could arise when the vicars, after expressing their opinion freely, find they disagree with the bishop and the matter comes to a vote: “Rien n’empêche un Évêque qui s’en abstiendrait d’inviter ses Vicaires à faire de même, ou dans certains cas ou en tous. Le vote sera toujours nécessaire dans les cas de
However, the canons also enable the bishop to exert considerable control over the presbyteral council. The diocesan bishop approves the statutes (c.496), determines the membership (c.497), convokes the council, decides on the agenda, and alone divulges what was discussed (c.500, §1). Local statutes could so interpret these canons as to ensure maximum participation, regularly scheduled meetings, and committees to prepare both the agenda and reports of the discussions. How the diocesan bishop exercises his role could prove crucial for the expression of *communio*.\(^{69}\)

The conciliar understanding of authority as service was emphasised in the context of the bishop’s powers by Julian Herranz, who served on the Code Commission, when he said:

“The bishops know well that in the Church the greatest dignity of power is because *salus* consentement à donner. Et comme le consentement a une portée juridique beaucoup plus grande que l’opinion, il sera important que la possibilité de s’abstenir de voter pour l’Évêque et ses Vicaires soit examinée avec soin, indépendamment bien sûr de celle qu’ils ont naturellement, comme tous les membres.” The Synod of Bishops recognised in 1971, in *Ultimis temporibus*, p.919: “Navitas huius Consilii lege plene definiti non potest; eius efficacia pendet praesertim ex iterato conamine omnium opiniones audiendi, ut ad consensum perveniatur cum Episcopo, cuius decisionem finalem ferre.” These words accept both the possibility of local variations and the recognition that the final decision rests with a higher level.

\(^{69}\)On the apparently dominant role of the diocesan bishop, see ALESANDRO, *CLSA Commentary*, p.405: “Canon 500 might seem overly restrictive if one thinks of the presbyteral council as separate from the diocesan bishop. Such an image may arise from the civil model of government in which a ‘balance of powers’ is struck to protect and promote the common good. The canon in fact is not based on such a secular model but on the uniqueness of the Church as a hierarchical communion. The unity of priests and bishop should make the debate over consultative and deliberative vote an academic issue, at least in the best of circumstances. The norms are meant to stabilise the relationship of the bishop and council and foster their harmonious collaboration for the overall pastoral good of the diocese.” Cf. PASSICOS, “ Reflexions sur le conseil du presbyterium,” p.154, where the author also refers to the danger of seeing the Church too much in terms of civil government: “Il s’agit du caractère original du gouvernement de l’Église: en termes classiques, on dirait que l’Église ne connaît «la séparation des pouvoirs» à l’instar des régimes démocratiques; mais elle connaît un «aménagement des pouvoirs», une séparation toute relative mais néanmoins réelle (ainsi de l’exercice du pouvoir judiciaire).” Cf. NCCB, “United in Service,” pp.418-419: “The presbyteral council must not view itself as the ‘loyal opposition’ or the ‘minority party.’ The language of confrontation, power tactics and intimidation are out of place in the council.”
animarum is its supreme goal and because it is conferred and exercised in nomine Christi Capitis. From this comes the profound theological and pastoral necessity that they feel of exercising their personal power as pastors justly and prudently, not in an arbitrary manner or in a way which would be a renunciation of their proper rights and duties.”

If this is the case then the statutes which the bishop approves for the presbyteral council will reflect his desire to ensure that the various diocesan structures which help him in governing are "adequate instruments for fostering exchange of insights, for gathering broad information, for articulating policy options and diocesan goals, for judging which option is advisable in a given set of circumstances and even for forming a prudent personal judgement about eventual norms of a legislative nature." Pagé draws attention to the shift in PO, n.7, where the enumeration of the tria munera changes regendi to pascendi thus serving as a reminder of the bishop's pastoral role.

As a natural consequence of its existence as an expression of the presbyterium in the diocese, the presbyteral council ceases when the see is vacant (c.501, §2). The requirement, also in canon 501, §2, that a new bishop must establish a presbyteral council within a year of taking possession of the diocese, emphasises the importance attached by the Code to the

---

70 J. HERRANZ, "The Personal Power of Governance of the Diocesan Bishop," in CLSA Proceedings, 49 (1987), p.34. We find the same emphasis on authority as service in Ultimus temporibus, where the Synod of Bishops wrote, p.919: "Servitium auctoritatis, ex una parte, et exercitium oboedientiae non mere passivae, ex altera parte, in spiritu fidei, mutua caritate, filiali atque amicali fiducia, constanti et patienti dialogo fieri debent, ita ut sociata opera et responsabilis cooperatio presbyterorum cum Episcopo sincera, humana simulque supernaturalis evadat." Similarly, the NCCB devotes considerable attention to this reality in "United in Service," at p.414.


72 PAGÉ, Les églises particulières, p.121.
role of the council and to the value of participatory decision-making at diocesan level (c.501, §2). Similarly, the bishop can dissolve the council (c.501, §3), but his power to do so is strictly controlled by the wording of this canon and the requirement that he consult with an ecclesiastical superior, and he is bound to reconstitute the council within a year.

As a member of the college of bishops, each diocesan bishop has a responsibility not just for his own diocese but for the universal Church. All the members of the local church have a mission by reason of their baptism and confirmation to the Church universal. A major function of the leaders of the local church is to call their members out of isolation into a broader sense of mission.  

3. 4. 3 - The Diocesan Pastoral Council, cc.511-514

The Diocesan Pastoral Council owes its presence in the Code to the evolving theology of the laity in the course of this century.  

---


74 One of the most significant contributions to this was CONGAR’s Lay People in the Church, but see also the works cited in footnotes on Diocesan Synods.
where their secular involvement qualifies them to make that contribution unique and irreplaceable. \(^{75}\)

Canon 511, however, despite the undoubted encouragement offered by repeated references to the council in official Church documents, does not mandate a diocesan pastoral council, but, in accordance with the principle of subsidiarity, leaves it to the diocesan bishop to decide whether or not it is necessary "in so far as pastoral circumstances suggest." \(^{76}\)

The canon mandates the diocesan pastoral council to investigate, evaluate, and propose

---


\(^{76}\) See T.J. GREEN, "Persons and Structures in the Church," in *The Jurist*, 45 (1985), pp.24-94, at pp.56-57 where he writes: "Such councils were not mandatory but rather facultative, and unfortunately their desirability was expressed much less forcefully than in other noteworthy conciliar and postconciliar documents. Furthermore, the norms made no mention of episcopal responsibility to foster the creation of such councils. It may be unrealistic to expect that a similar structure for diocesan pastoral councils could be required throughout the Church, given differences in local pastoral needs and resources. However, universal law could certainly specify at least a general expectation that in every diocese there be institutionalised some way of facilitating the expression of the voice and charisms of the faithful at large in diocesan decision-making."
practical conclusions about the pastoral activity in the diocese.\footnote{For a comparative study of the roles of the Diocesan Synod, the Presbyteral Council and the Diocesan Pastoral Council, see FRATICO, The Purpose and Function of the Diocesan Synod, pp.137-150, where the author concludes: "The pastoral council is a body which advises the bishop in a broad and general way: consultation with this council concerns the overall picture of the diocese. Unlike the council of priests, the pastoral council should not be involved with the ordinary or regular administration of the diocese, nor should it be the highest 'court of appeals' to co-ordinate the overall pastoral work of the diocese. My sense of c.511 sees the role of the pastoral council as a kind of loosely defined diocesan 'think-tank' by which the remote and general discussion of issues and needs can be addressed by the diocesan bishop. For specific matters, the pastoral council could be given a more precise role such as co-ordinating the preliminary plans for a diocesan synod, setting up a consultation or study process for a determined pastoral problem, etc." Such a general and rather negative remit risks reducing the pastoral council to no more than a "talking shop" with consequent frustration and disillusion on the part of those involved. In "De consilio pastorali adnotationes," Beyer proposes a more positive role, p.34: "Finis consilii pastoralis est manifestatio caritatis, quae, vi publicae institutionis, tum necessitudines Populi Dei, tum eiusdem adiutorium in missione Ecclesiae prosequenda patefaciat. Quae participatio sollicitudinis et actionis pastoralis propria ratione hic subsidiaria est cum actionem sacerdotum Episcopi et presbyterorum, proprio munere sustineat et adiuvet." He adds: "Consilium pastorale est, ad imaginem Ecclesiae, participatio unius sacerdotii communis et unius missionis Ecclesiae" which appears to recognise the important role of the council in empowering lay people to take their rightful part in the decision-making process. However, he draws this distinction, p.35: "Pastorale opus aliud est pastoris, aliud est gregis cuius munus est collaborandi et sustinendi, non dirigendi et ducendi. Ipsa autem collaboratio Christifidelium alia est cooperationis, alia simplicis testimonii vitae associativa vel personaliter expressi."} These concerns focus on \textit{communio}.

Commentaries on the role of the diocesan pastoral council reflect the still continuing debate on lay jurisdiction. The Code Commission clearly distinguishes between it and the presbyteral council by removing from the pastoral council any say in the administration of the diocese.\footnote{See Comm., 24 (1992), p.79: "Munus eius praeterea respicit opera pastoralia dioecesis, exclusis questionibus quae ad dioecesis regimen pertinent." Cf. ibid., p.82: "Consilium presbyterale in tractandis causis quae ad regimen spectant operum pastoralium rationem habeat earum quae consilium pastorale de operibus pastoralibus perponderit atque proposuerit." It is probably fair to assume that the Commission's use here of the word "regimen" is closely linked to its cognate verb "regere." For their earlier discussions on the diocesan pastoral council, see Comm., 13 (1981), pp.138-146; 14 (1982), pp.219-220. The latest published are in Comm., 24 (1992), pp.79-82, 124, 129.} James Provost defines the pastoral council's responsibilities as follows:

If a distinction can be drawn between the presbyteral council and the diocesan pastoral council it would seem to be that the pastoral council is concerned
with long-range planning and pastoral development in the diocese, while the presbyteral council is to focus on more specific governance issues within that long-range planning. It is not a question of one body being more powerful than the other, but of their responsibilities being addressed toward diverse dimensions of the development of life within the diocese. Both should be concerned about the welfare of the full diocese rather than any one particular group within it; each should express its concern with a particular expertise, whether of planning or of effective governance. ... The advantage of involving presbyteral councils and diocesan pastoral councils, the pre-eminent consultative bodies in a diocese, in drafting local legislation is that they represent broad cross-sections of the Church. Particularly if both bodies are involved there is the potential of an integrated approach toward both long-range and short-range decision making, careful respect for the authority of the bishop while involving adequate participation by representative members of the people of God.79

Provost’s vision corresponds closely with that outlined in Omnes christifideles, n.9, whereas Pagé finds this document somewhat vague in distinguishing between the fields of competence of the presbyteral and pastoral councils and understands that of the pastoral council as pastoral action broadly conceived and as a practical implementation of the church’s mission by the action of all the members.80

Canon 512 lays emphasis on the need for “especially lay people” to be involved in the pastoral council and for the membership to be truly representative of the various regions of the diocese. The model of civil government does not offer a suitable parallel. Representatives are representative of the whole people of God, but not of any particular constituency.81 A key episcopal responsibility lies in creating a climate in which the


80PAGÉ, Le conseil diocésain de pastorale, pp.187-188.

diverse gifts of the Spirit can be exercised and in which the fundamental, substantive and procedural rights of believers are protected.\textsuperscript{82}

Canons 511, 512, and 513 severely circumscribe the autonomy of the diocesan pastoral council. The diocesan bishop determines its necessity, competence, membership and duration. In other words, the legislation does not seem to have advanced \textit{pari passu} with the theology.\textsuperscript{83}

Conclusion

The gradual shift to more participative methods of governing within the Church since Vatican II is particularly evident in the establishment in the diocese of so many consultative bodies, three of which have been examined here: the diocesan synod, the presbyteral council, and the diocesan pastoral council.\textsuperscript{84} There is much to commend in the legislation. Nevertheless, some inadequacies also appear.

The Code attempts to give new life to the ancient institutes of the diocesan synod and the presbyteral council. The prominent position accorded the former indicates its importance.


\textsuperscript{83}This seems to be the lament of W.KASPER, \textit{Theology and Church}, Selections translated by M.KOHL, London, SCM Press, 1989, p.163: “At present it is obvious that something has gone very wrong with Vatican II’s great idea, the \textit{communio fidelium}. In this situation, the first task of the Church’s ministry and its service for unity seems to me to be to restore dialogue and communication, and to introduce the binding doctrine of the Church, as far as possible by means of reasoned argument, into the process of communication within the Church, in order to build up once more a full and undivided \textit{communio} and \textit{communicatio fidelium}.” Kasper sees the resulting tension as indicative of a living communion that ideally should build up truly ecclesial congregations of priests and lay people.

\textsuperscript{84}The others are: the episcopal council, c.473, §4; the finance council, cc.492-494; the college of consultors, c.502; in certain instances, the chapter of canons, cc.503-510.
but by omitting to require the celebration of this event, the Code risks depriving laity and clergy of the opportunity to collaborate in formulating diocesan legislation. Although in leaving to the diocesan bishop, after consultation with the council of priests, the decisions about whether and when to hold the synod, the Code moves these decisions from the centre, it could still be argued that in this situation the common good requires the subsidium that a more precise imposition would give. Moreover, the canons leave unchecked the bishop’s power over the synod. Some accountability of the bishop to “the portion of the people of God entrusted to him” (c.369) would redress this imbalance and show greater respect for the charisms present among them.

Similarly, the bishop’s control over the presbyteral council, evident, for example, in canon 497, 1° which stipulates the free election only of “about half” the members, could stifle that organ’s potential. One reading of canons 497 and 500 could see them as liberating the bishop to draw up statutes appropriate to the circumstances of his diocese. However, the same canons render possible an authoritarian reading focused on the letter rather than on the spirit of the new law.

The optional nature of the diocesan pastoral council makes this the weakest of the three institutes. The diocesan pastoral council, the only means offered to the laity regularly to interact with the bishop, clergy, and religious in examining and providing for the pastoral needs of the diocese, requires firmer foundation in law. Even where it is established, the diocesan bishop, as in the cases of the diocesan synod and the presbyteral council, can exert control over membership, agenda, frequency of meetings and the action which ensues. The Code certainly implements the principle of subsidiarity in enhancing the decision-making power of the diocesan bishop, but does not legislate for the requisite balance to this in
requiring the consultation, participation and collaboration of all who will be affected by such decisions. If "those members of Christ’s faithful who are outstanding in firm faith, high moral standards and prudence" (c.512, §3) are in practice denied the means to serve the diocese, the whole Church will be the poorer.

The diocesan synod, the presbyteral council, and the diocesan pastoral council, in so far as they prove representative of the entire diocese, truly consultative, in that the members, fully informed on the issues to be debated, are able to speak freely, and effective in that the bishop obviously heeds their advice and suggestions, to that extent these institutes implement the teaching of Vatican II, respond to the challenges of the modern world and maintain the flexibility that results from good legislation.

The statutes of each institute must, therefore, in accordance with the principle of subsidiarity, clearly establish the limits of the competency of each. The law in each case leaves great scope to the particular diocese to draw up statutes which best suit its situation, personnel, and needs. As early as 1987, Provost reported on a wide variety of interpretations in the USA. Such plurality manifests a healthy sign of the presence and implementation of the principle of subsidiarity.

The structures are there for the bishop to implement as he sees fit. Referring to convocation, the canons include phrases such as "when ... circumstances suggest it" (c.461) and "according to the needs of the apostolate" (c.514), but the possibility exists for the diocesan bishop to determine these very narrowly. Similarly, with the statutes, agenda, and membership, the power accorded to the diocesan bishop is remarkable. As an example of

---

the implementation of the principle of subsidiarity, understood as the decentralisation of
decision-making from Rome to the local churches, the provisions for these consultative
bodies make a welcome break with the traditions of the recent past. The danger remains,
however, that the implementation will stop there without further recognition by diocesan
bishops that priests and people have a right and a duty to make genuine contributions to
decisions at the diocesan level.

Thomas Green has written: “The respect for legitimate diversity integral to the
principle of subsidiarity is operative not simply in Rome-particular church relationships; it
is also a vital legal pastoral imperative throughout the individual particular church.”
Green consequently urges canonists to encourage bishops to take advantage of the latitiude
and flexibility allowed by the law - with appropriate accountability controls. Since most
diocesan decisions are administrative, rather than legislative or judicial, there is a great need
for the diocesan bishop to ensure that the competencies of the various bodies are, in accord
with the principle of subsidiarity, clearly defined and respected. The existence of any
confusion or overlapping as seems to be the case with the presbyteral council and the
diocesan pastoral council will prove a counter-witness to that unity towards which the Church
directs her mission. These words of Cardinal Bea are an apposite reminder of the principle:

---

86 GREEN, “Rights and Duties of Diocesan Bishops,” p.28.

87 In Ecclesiae imago six General Principles of Pastoral Rule are given, nn.93-98. The fourth of
these is The Principle of Subsidiarity, n.96: “The bishop takes care that he does not ordinarily take
upon himself what can well be done by others; rather he carefully respects the legitimate competencies
of others and also gives his co-workers the powers they need and favours the just initiatives of
individual believers and groups.” The other five principles (of the Common Good, of Unity, of
Responsible Cooperation, of Coordination, and of Placing the Right People in the Right Places) could
well be subsumed under this heading.
"As in any society, so also in the Church it is not the role of authority to substitute itself for individual members in matters which they can accomplish by themselves. It can help them and see to it that the activity of the various members is coordinated and directed to the good of the whole."\(^{88}\) Professor Beyer, although he foresees that a multiplication of councils, commissions and committees without proper coordination could lead to the detriment rather than the improvement of pastoral action, nonetheless admits that the difficulties are not insurmountable.\(^{89}\) The implementation of the principle of subsidiarity could facilitate the articulation of norms for each of these bodies.

At the heart of the Church lies a tension between primacy and collegiality, hierarchy and communion. Subsidiarity appears as collegiality or communion in practice. Its implementation indicates that authority is fulfilling its true role in service to those subject to it, liberating them to assume responsibility for their decisions and their lives. Authority as service proved a key conciliar theme and remains therefore basic to the understanding of the exercise of authority in the Code.\(^{90}\) In the local church the diocesan bishop is responsible for creating a climate in which all the people feel free to speak openly, confident that they will be taken seriously when they present their concerns to their pastors.

The phrase "only consultative" occurs in canons 466, 500 and 514 on the authority of each of the institutes studied here. Archbishop Weakland admits that this phrase gives the

---


\(^{89}\) BEYER, "De consilio pastorali adnotationes," pp.45-46.

\(^{90}\) Cf. GREEN, "Rights and Duties of Diocesan Bishops," p.28.
impression that consultation is nothing so the theology behind it requires exploration and explication. According to Sidney Marceaux the problem lies in the mystery of the Church’s constitution in that the Church is neither a democracy nor a monarchy. In the context of either of these two forms of government “only consultative” could well be meaningless and suggestive of no authority: “In the ecclesial setting, which espouses such values as shared responsibility and hierarchical communion, consultation is not trivialised but assumes a value all its own.” Moreover, the phrase must be interpreted in the light of canon 127, §2, 2°, which reveals the mind of the legislator on this issue. Green also points


92 S.J.MARCEAUX, “Presbyteral Councils,” in CLSA Proceedings, 44 (1982), pp.204-205. Cf. L.ÖRSY, The Church: Learning and Teaching: Magisterium, Assent, Dissent, Academic Freedom, Wilmington, Delaware, Michael Glazier, 1987, where the author writes, p.42: “A well informed laity can direct the attention of the episcopate to current problems, they can help the bishops to formulate the questions correctly before an answer is attempted; more importantly, when the official response is given, they can evaluate it.” The significance and importance of baptism is a major theme in Örsy’s commentaries on the Code. See also “Structures for the Vision,” in America, October 7, 1995, where he is quoted, p.12: “Remember, the people of God is one. We are all Christians before we can speak of any division or distinction among us ... Because the laity belongs to the ‘chosen people, the royal priesthood, a nation set apart’ (1 Pt.2:9), they are the Church, and therefore they also have a sacred mission within the Church. For the time being we have no channels, no institution, to take advantage of their gifts within the Church. The most they can do is give advice, or 'cooperate,' as canon law now puts it, but it is always up to the cleric to decide whether or not he will heed that advice or even accept their cooperation ... They can say something, they even have a right to, but there is no way of making sure that they will be listened to ... The practice ... is not to admit the laity into any kind of decision- making processes, and consequently not to use the sacra potestas that is given to the people of God at large by the Holy Spirit and that every single Christian shares.” Örsy argues cogently in favour of a return to “synodality” as a means of channelling the immensely rich gifts that the Spirit gives to all the people of God. Cf. G.B.WILSON, “‘The Church isn’t a Democracy’ - Meaning?” in America, September 22, 1990, pp.157-159, at p.159: “If it remains true that there are certain senses in which ‘the Church is not a democracy’ can be true it is also true that the Church is ever called to become more democratic.” The author gives as an example the long tradition which recognises the sensus fidelium as a significant “font” for discovering the belief of the Church and concludes that the Church is therefore committed to implement processes which will facilitate listening to the faithful.
out the tendency to focus on the decision alone, whereas there is a much broader procedural context:

creative idea-production
factual data-gathering
making a decision
implementation of the decision

To the extent that all the members of the local church are involved in this whole process as bishop, priest or lay person, exercising their share in the \textit{tria munera} in accordance with the principle of subsidiarity, to that extent the local church becomes a \textit{communio}.

\textbf{3. 5 - Institutes of Consecrated Life: Religious Institutes, cc.573-709}

The sub-commission for the section of the Code which deals with religious institutes, finding the ten basic principles of revision insufficiently precise to guide their work, adopted a further five, including the principle of subsidiarity.\footnote{For a guide to the Code Commission’s discussions on cc.573-746 published in \textit{Communications}, see J.FOX, “A General Synthesis of the Work of the Pontifical Commission for the Revision of the Code of Canon Law,” in \textit{The Jurist}, 48 (1988), pp.800-840. The references are too numerous to be given here and continue in \textit{Comm.}, 25 (1993), pp.230-326; 26 (1994), pp.32-74, 171-233; 27 (1995), pp.32-174, 213-329; 28 (1996), pp.33-165. The principles are explained in \textit{Comm.}, 9 (1977), pp.52-61, where the benefits of a generous and prudent application of the principle of subsidiarity are highlighted as flexibility and diversity, p.57: “Flexibilitas huius propositae legislationis clare elucscit ex ampla applicatione secundi principii directivi [on preserving the spirit and charism of the founder] quae necessario secum trahit amplam simulque prudentem applicationem principium subsidiarietatis ... Conffert etiam flexibilitati huius legislationis notabilis reductio casuum in quibus necessarium erit recurrere ad auctoritatem hierarchicam externam ad actum aliquem ponendum ... Ut dictum est supra, propter maximam varietatem Institutorum vitae consecratae et consequenter propter diversitatem exigentiarum horum Institutorum in canonibus huius Schematis non multa statui possunt quoad repreaestionem et cooperationem omnium sodalium in regimine exercendo et in decisionibus ferendis. Hoc tamen non obstante, quaedam media proponuntur quibus Schema in tuto ponere intendit illam participationem in regimine et in decisionibus ferendis de qua Patres Concilii locuti sunt (cf. \textit{PC}, nn.3, 14).” Participatory decision-making follows logically from the implementation of the principle and is seen to be entirely in the spirit of Vatican II. For further}
requires proper law specification in seventy-four of the one hundred and fifty three canons that apply to religious institutes. In other words, in nearly half of the canons concerning religious, the institute itself must or may determine specific elements of the life of its members, both individually and collectively."\(^{95}\) The Commission, faced with the multiple forms of religious life, recognised that the principle of subsidiarity would be an essential instrument for their work.\(^{96}\) The consequent provision for the proper law of each institute to make so many determinations represents the most striking implementation of subsidiarity in the whole of Book II. In large measure, this provision indicates the Church's concern to preserve the uniqueness of the charism of each religious institute, but equally the Church, comment on these principles, see K.D.O'ROURKE, "The New Law for Religious: Principles, Content, Evaluation," in Review for Religious, 34 (1975), pp.23-49, at pp.24-26, where the author lists them as the principles of spirituality, individuality, subsidiarity, shared responsibility, and equality. He explains, pp.26-27, that these principles enshrine respect for the activity of the Holy Spirit, for suitable autonomy, for the theological element, for maturity, and for the rights of the Church. Cf. F.G.MORRISON, "Introduction," in A Handbook on Canons 573-746, rev.ed., J.HITE, S.HOLLAND, D.WARD (eds.), Collegeville, Minnesota, The Liturgical Press, 1990, pp.13-30, at pp.17-19.


SUBSIDIARITY IN THE 1983 CODE

guided by the Council’s vision of the human person and his or her dignity, recognised the need to adapt the existing structures of religious life to contemporary cultures which emphasise coreponsibility, collegiality, collaboration and participation.  

The introductory canons of this section repeatedly stress that this form of life is a gift to the Church, freely received by some of the members. The gift is given, however, in the form of a call to a specific religious institute - a point made in various ways in canons 573-578. These canons, among the most inspirational in the whole Code, seem to revel in this diversity and emphasise that the responsibility of protecting the uniqueness of each gift belongs not just to the members of the institute, but to all - hence the freedom granted by the universal law.

---


98 This freedom was not granted without some qualms on the part of the Code Commission. See, for example, the discussion recorded in Comm., 10 (1978), pp.162-163, pp.171-172, where recognition of the charism struggles with the desire for control: “Chiede inoltre se, al di fuori del Codice, esisteranno o meno altre norme di rango inferiore: perché i Capitoli Generali debbono sapere con precisione quali sono i limiti entro i quali possono prendere decisioni ... L’Ecc.mo Segretario suggerisce che il criterio potrebbe essere quello di seguire una via di mezzo: non stabilire cioè una legislazione comune troppo stretta, che potrebbe soffocare i carismi dei singoli Istituti e, contemporaneamente, evitare un diritto generale insufficiente. Su questo criterio tutti si dicono d'accordo.” Somehow the tone of the request that General Superiors should know the exact limits of their powers suggests a fear lest they presume too much rather than a care that competencies should be clearly defined. However, in the records of a later meeting, Comm., 28 (1996), pp.109-110, we read: “Ceterum, Institutia perfectionis omnia ... ius habent ad vitam suam normaliter et pacifice agendam. Auctoritas alior illa quae intra Institutum habetur abstinere debet a qualibet actione quae vitam internam Institutii tangit, nisi sit necessarium vel admodum utile pro ipso Instituto aut pro Ecclesia. Hoc postulat principium subsidiarietatis cuius applicatio non modo admissa est sed et commendata et etiam imposita. Dicitur enim in principio 5 ...•Propugnat [principium subsidiarietatis] vero convenientiam vel necessitatem providendi utilitati praesertim institutionum singularium tum per iura particularia ab istdem condita tum per sanam autonomiam regiminis potestatis executiva eillis recognitam (Comm., 1 [1969], p.81). Quapropter unus canon in hunc titulum introducens est quo ista autonomia Institutorum sanctur et in tuto ponitur.” The canon referred to is canon 586.
Canon 587, §1 directs each institute “to protect more faithfully [its] particular vocation and identity” by drawing up its own “fundamental code.” The Church fulfils its role by providing in the Code norms to be common to all institutes of consecrated life regulating the erection and suppression of institutes, their relationship to ecclesiastical authority and the evangelical counsels - a mere thirty canons (cc. 573-602). More detailed legislation follows for religious institutes covering the erection and suppression of houses, governance, temporal goods, the admission and formation of members, religious profession, obligations and rights, apostolate, and separation. These canons (cc. 607-704) offer to religious institutes a base on which to establish their own constitutions.

Canon 670 lays on each religious institute the obligation to “supply the members with everything that, in accordance with the constitutions, is necessary to fulfil the purpose of their vocation.” The minimum regarded as necessary would be:

- sound, complete, approved proper law,
- structural provision for general chapters, superiors and councils,
- systematic formation,
- stable community life,
- suitable options for apostolic action or internal work in accord with the institute’s mission, and
- appropriate material goods and opportunities for ongoing formation, work and renewal.  

The first of these essentials correlates again with the Church’s obligation to approve the proper law. This offers another example of the Church’s providing *subsidiarium*, just as the bishop exercises vigilance. The Latin verb used for the Church’s protection of this gift

---

is tueri, to watch over, gaze upon, defend, support (c.586). Other verbs which express this relationship are fovere, to keep warm, cherish, assist (c.574), promovere, to move forward, advance (c.574), curare, to be solicitous for (c.576), and servare, to keep unharmed, preserve (cc.578 and 586). The nuances of this vocabulary reveal the principle of subsidiarity very clearly.

The approval of constitutions, however, does not occur frequently in the life of a religious institute. In day to day affairs the relationship of religious to the diocesan bishop is, to quote Elizabeth McDonough again, a much more likely “flashpoint.” She writes: “Opposition and conflict, indeed utter conflagrations at times have been regrettable and are 

---

100 For an explanatory note on this canon, see Comm., 28 (1996) pp.113-114: “Canon iste magni momenti est pro Institutis perfectionis cuiusvis generis et potissimum pro iis quae exemptionem aeqpta non sunt. Sicut quaelibet associatio inter homines, ita etiam, et forsan magis propter totalem dedicationem sodalium servitio Dei et Ecclesiae, Instituta perfectionis indigent illa interna libertate vel autonomy qua vitam et activitatem suam ordinare possunt sicut postular a propria peculiari indole, a proprio fine, a propriis consuetudinibus et traditionibus atque a peculiarius adunctis in quibus sodales vitam agere et operari debent. Etiam in hac parte, ex applicatione principii subsidiarietatis, fluit quod Institutum liberum debet relinquui ut suam vocationem adimpleat modo suo. Auctoritas altior non solum non debet, per indebitas ingerentias illud impedere vel evolutionem et actionem suam retardare, sed illud adivvare ut melius et celerius ad perfectionem pertingat et missionem suam in Ecclesia compleat.” The whole Church will be impoverished if the gifts unique to each institute are not allowed to flourish. Cf. T.MOORE, Care of the Soul, New York, Harper Collins Publishers, 1992, p.126: “In general, we keep our power when we protect the power of others.” Power here is understood as autonomy and maturity. The rewriting of religious constitutions and the struggle to have them approved by the variously named Congregation for Religious dominated religious life in the 1970’s and 80’s. For a brief discussion of the problems involved, see O’CONNOR, Witness and Service, pp.31-47. Cf. also I.MACPHERSON, The Exercise of Authority in Apostolic Religious Institutes of Women according to the 1983 Revised Code of Canon Law, Doct. diss., Ottawa, Saint Paul University, 1984. The author considers, pp.110-250, the principles and exercise of authority from both external and internal “superiors,” and concludes, p.257: “The exercise of authority is a service rendered by external and internal superiors ‘to facilitate an orderly development in the life both of the ecclesial society and of the individual persons who belong to it.’” The quotation is from JOHN PAUL II, Apostolic Constitution, Sacrae disciplinae leges, 25 January 1983, in AAS, 75, special ed. (1983), pp.vii-xiv, English translation in Letter and Spirit, p.xiv.
certainly not to be excused, but in the interaction of religious charism and ecclesial institution they will always be potentially present."101

Mutuae relationes offers guidelines for this at times delicate relationship and so provides a background for the interpretation of canon 586.102 If the diocesan bishop has a much closer connection with institutes of diocesan right (c.594), still the institute retains its autonomy.

The major superiors of clerical religious institutes enjoy greater autonomy, as do exempt institutes where these continue to exist. Most commonly, the definitions of competency are required for the relations between diocesan bishops and lay institutes of pontifical right. Canon 678 is the relevant law here:

§1 In matters concerning the care of souls, the public exercise of divine worship, and other works of the apostolate, religious are subject to the authority of the Bishops, whom they are bound to treat with sincere submission and reverence.

§2 In the exercise of an external apostolate towards persons outside the institute, religious are also subject to their own Superiors and must remain faithful to the discipline of the institute. If the need arises, Bishops themselves are not to fail to insist on this regulation.


102CONGREGATIONS FOR RELIGIOUS AND BISHOPS, Directives, Mutuae relationes, in CLD, vol.9, pp.296-339. The potential for misunderstandings still persists. Cf. R.McDERMOTT, “The Fruits of Consultation: The 1994 Synod’s Instrumentum laboris,” in Review for Religious, 54 (1995), pp.180-191, where the author shows how the worldwide consultation on the Lineamenta for this synod brought about significant changes in the Instrumentum laboris. For example, p.185: “The Lineamenta (§§34-41)... presented the relations of institutes and members of consecrated life with the hierarchy from a rather rigid authoritarian perspective. It seemed to overlook what had been requested of the bishops and members of consecrated life in Mutuae relationes. Words and phrases such as ‘submission,’ ‘subjection,’ and ‘total and ready acceptance of directives’ lacked the collaborative and cooperative qualities encouraged between bishops and religious in the document on mutual relations (§36).”
§3 In directing the apostolic works of religious, diocesan Bishops must proceed by way of mutual consultation.

One commentator, Enid Williamson, explains that the consultation mentioned in the last section of this canon "will include discussions between individual Bishops and religious Superiors, as well as contacts between Bishops' Conferences and Conferences of Major Superiors."¹⁰³

In an atmosphere of mutual trust, where communication is good and all the participants imbued with the evangelical desire to promote God's kingdom and not their own, the various clauses of this canon cause no friction. To the extent that clashes of competencies arise, to that extent within the diocese and/or within the religious institute the principle of subsidiarity has not been implemented. In handing over the governance of the diocese to the diocesan bishop as the Vicar of Christ, and to religious their rightful autonomy, the Code implicitly requires that all structure their relationships in those areas in which interests, obligations, rights and duties coincide as members of a *communio*, that is, according to the principle of subsidiarity. It is an area in which canonists can profitably offer advice and interpretation, if the various parties are agreed that subsidiarity is the principle by which they should function together. As Francis Morrissey has written: "What is important is the mentality in which such norms are prepared, promulgated and implemented. Mentalities vary. We are still in a period of shifting values in the Church, as we continue to move from a Church centred on hierarchy to one founded on communion, from a Church of uniformity

¹⁰³ *Letter and Spirit*, para.1363. Cf. *CLSA Commentary*, p.509, where the parties to the discussions are not so precisely named. The commentator in *CCLA*, pp.461-462, refers readers also to *Ecclesiae sanctae* I, nn.22-40, and to *CD*, n.35.
to a Church of unity in pluralism, from a Church identified with structures to a Church centred on the human person and his or her dignity as an adopted child of God. 104

Commentators recognise the potential for conflict in this area. 105 What remains therefore remarkable is the restraint of the Code in not attempting to legislate for every possible eventuality. The challenge now rests with the diocesan bishops and the competent authorities of the various institutes (cf. cc.680-682).

The 1917 Code reserved to the Apostolic See a whole series of processes now left to particular law. Religious institutes can now control exclaustration, election procedures, organisational structures, enclosure, terms of office, visitation, and the use and administration of goods. Joan Chittister, a writer who is certainly not enthusiastic about the 1983 Code, comments: "In other words, subsidiarity is a very real dimension of a law framed in the spirit of Vatican II." 106

She continues by remarking that the right to suppress or divide sections or units gives the institute flexibility and permits long range planning and so a sense of control over its future, and it is her opinion that this local control could provide the key to the revitalisation of religious life. Her next comment brings out the link between subsidiarity and communio: "The fact that leaves of absence, exclaustrations, transfers and even dispensations to a certain


degree are also now given to the local level to grant gives a clearer picture of the relationships involved ... The new Code reflects the realisation that bonds forged in the community ought to be dissolved there, so that everyone concerned realises that the rupture is personal rather than simply legal. In this capacity then, the new law is indeed a truer and clearer image of the theology of community itself."^{107}

The Code’s norms on government (cc.617-633) offer perhaps the most striking example of the importance attached to subsidiarity. The very first of these canons, canon 617, hands over to the institute itself the responsibility for defining the role of the superiors “in accordance with the norms of the universal law and of their own law.” Canons 618 and 619, blending spiritual and juridic language, communicate the themes of individual human dignity, of participation, consultation, and mutual support. All three elements of the principle are present in these canons:

superiors are to govern those subject to them as children of God (c.618)
without prejudice to the superiors’ authority to decide and to command what is to be done (c.618) and
superiors are to give the members opportune assistance in their personal needs (c.619).

The work of building community appears as a joint enterprise and the balance of authority and individual liberty is expressed as coresponsibility for the life of the institute and for its mission.

^{107}Ibid., p.118. See also G.LESAGE, The Principle of Subsidiarity: A New Way of Governing: A Psycho-canonical Study, Ottawa, Canadian Religious Conference, 1974, p.11: “Since personal development and blossoming forth is to be pursued in the ecclesial state of consecration, by means of the community, each one must contribute to it a worthwhile share. This effective concern for the common good that is known as participation, results from both personalisation or the answering for oneself with an enlightened, upright conscience; and from socialisation or steadfast commitment to mutual fraternal aid.”
The structuring, and even the naming, of authority within each institute is left to proper law; the Code confines itself to defining the roles and terms of major superiors (c.620), provinces (c.621), Supreme Moderators, and other superiors (c.622). It guards against abuses by requiring definite terms of office, but it also leaves each institute free to determine both these and election procedures for offices and chapters. The canons require that the proper law provide for a council (c.627, §1) and determine cases when consent or counsel are necessary (c.627, §2). Communication and availability act as priorities for the relationship between superiors and members (cc.628-629) as is also respect for persons (c.630).

The legislation on chapters elaborates these priorities further. The Code prescribes that the chapter: “is to be composed in such a way that, representing the whole institute, it becomes a true sign of its unity in charity” (c.631).\(^{108}\) The following canons (cc.632 and 633) presume that “other chapters and other similar assemblies of the institute,” other “participatory and consultative bodies” are in place.\(^{109}\) The Code expects that the proper law will provide the means for ensuring that the principle of subsidiarity is implemented.

Nonetheless, this section of the Code provokes criticism. Chittister, for example, writes that the hierarchical theology of the 1917 Code remains basic, although she agrees that

---

\(^{108}\) The conciliar source for these canons is PC, n.14, further elaborated in Ecclesiae sanctae II, n.18. For the Code Commission’s discussion, see Comm., 26 (1994), pp.43-44.

\(^{109}\) J.F. HITE, “Religious Institutes,” in CLSA Commentary, pp.483-484, sees provision in these canons on chapters for the principles of participation, representation, and subsidiarity. He explains the cautionary note in c.633, §2 as “urged because institutes have had varying degrees of success in employing different means of participation and consultation.” The commentator in CCLA, writes on p.439: “It was advisable to maximise the principle of subsidiarity in view of the fact that although there are many forms of participation, not all are equally suitable to all the institutes.”
the assumption that consultative and participatory bodies exist shows an advance. She adds:

“But a wise discernment is to be observed in their establishment and use (c.633, §2). The feeling is that such groups are normative, but suspect, rather than necessary, or even of the essence of Christian leadership. The strong call for participation and personal responsibility that might be expected both from the Acts of Apostles as well as Vatican II and contemporary culture is absent from any discussion of authority in this Code.”

This is a rather selective reading of the canons since many of those in the section on religious institutes presume personal responsibility in the choice to respond to the call of Christ. Moreover, the term “Christian leadership” needs definition in the context of the service of authority and the vow of obedience. One former Supreme Moderator who served on the Code Commission, Mary Linscott, has written: “Leadership is a charism, a spiritual reality given freely by God to individuals for some special purpose in a community; authority

---

110 CHITTISTER, “The New Code and the Development of Religious Life,” p.118. Enid Williamson, the commentator in Letter and Spirit, also detects, approvingly, para.1257, “an implied warning that such groups should not be established rashly, lest a multiplicity of them might simply produce a stultifying effect on good and clear government. When bodies of this kind are established, their terms of reference should be laid down accurately in writing, and it should always be made clear that they do not enjoy any decision making status. At all times they are to operate in accordance with ‘the character and purpose of the institute’ and for ‘the good of the whole institute or community’.” “Good and clear government” that fails to take account of the creativity of the “governed” also has a stultifying effect - on the members and on the Spirit.
SUBSIDIARITY IN THE 1983 CODE

in religious institutes is a canonico-juridical as well as a spiritual reality." Leaders in religious communities do not all hold recognised positions or offices.

Conclusion

These pages have done little more than outline significant areas in which subsidiarity is implemented in the one hundred and thirty one canons affecting religious institutes: the insistence on the importance of proper law, *ius proprium*, the Church’s obligation to protect the charism, the procedures removed from Rome’s control and handed back to the institutes and the assumption that within religious institutes participatory structures provide for subsidiarity at every level - all exemplify the application of the principle.

So obvious then is the principle of subsidiarity in the section of the Code dealing with religious institutes that this section acts as a foil to the other sections studied where structures in the diocese depend entirely on the diocesan bishop.


\[\text{\footnotesize 112}\] See MORRISEY, "Introduction," p.25: "When the remarks on the 1977 draft canons on consecrated life were examined by Paul VI he is alleged to have exclaimed: 'This draft is fascinating; it was not understood; perhaps it was ahead of its time'." The quotation is from J.BEYER, "Le deuxième projet de droit pour la vie consacrée," in *Studia canonica*, 15 (1981), p.127. Morrisey continues: "The 1977 draft indeed appeared to be quite radical, even though it simply applied the vision of the Council. It seems that many people were afraid that too much was left to each institute and that the principle of subsidiarity was applied too readily. Once the principle was applied extensively in consecrated life, they thought, there would be little reason why subsidiarity could not also be applied in the particular churches, and even in the parishes." The revised 1980 draft, which was largely the version promulgated, was, he explains, "a work of compromise." However, the reliance on the proper law of each institute was not sacrificed, but the general or common law was given priority. Cf. GREEN, "Subsidiarity during the Code Revision," p.784.
privileged position in the following respects: members have the benefit of a formation that leads them to expect to share in the government and direction of their lives in the Church, and for the most part they are organised into units where sharing in decision-making proves a real possibility. Furthermore, accountability, a necessary consequence of the implementation of the principle of subsidiarity, appears clearly in the exercise of authority in religious institutes. First, the Supreme Moderator of each institute must provide regular reports not only for the Apostolic See (c.592, §1), but also, in many cases, in accordance with the proper law, for the institute’s own members. These evaluations are often compiled from data submitted by the lower levels. Secondly, and perhaps most importantly, the universal law (c.624) requires that no one person remains too long in a position of authority. Fixed terms of office act as safeguards against authoritarianism.

Formation is clearly an area which dioceses need to take seriously before bishop, clergy, and laity can act on the challenges and opportunities offered by the Code and work together towards the decisions that will shape the local church as it responds to diverse needs.

---

113 According to two writers the reason given for the more liberal application of the principle of subsidiarity in this section of the Code is “Because people in institutes of perfection have answered God’s call to vocation and should have greater maturity and responsibility.” See O’ROURKE, “The New Law for Religious,” p.25; M.SAID, “Particular Law of Institutes in the Renewal of Consecrated Life,” in Review for Religious, 36 (1977), pp.924-947, at p.936. Even twenty years ago, when these articles were written, the implications of such a comment would have been obvious. O’Rourke’s article prompted a heated debate between J.Murphy-O’Connor and his fellow Dominican, M.Said, who was the relator for the sub-commission on religious life. Their articles are available as follows: J.MURPHY-O’CONNOR, “The New Law versus the Gospel,” in Review for Religious, 34 (1975), pp.873-887; M.SAID, “The New Law versus the Gospel: Some Considerations,” in ibid., pp.888-900. All three articles were reprinted in Supplement to Doctrine and Life, vol.14, no.63 (1976), pp.3-37, pp.38-57, and 58-68, with a further riposte from MURPHY-O’CONNOR, “Reflections on Father Said’s Response,” pp.69-77. The main criticism Murphy-O’Connor levelled against the draft canons is that they do not reflect an evangelical community that has as its raison d’être being rather than doing. This summary obviously oversimplifies the disputation.
The communio ecclesiology of Vatican II has to be internalised by the members of the Church so that all can reach their full potential. The local church and the Church universal will be best served by mature Christians who take seriously their baptismal consecration - and that of others.\textsuperscript{114} Reception of the Code means implementing the principle of subsidiarity as fundamental to the ways in which members of the Church relate to one another. The Synod of 1967 authorised subsidiarity as a principle for the revision of the Code. The canons in Book II of the revised Code are indeed based on it, to varying degrees, and it is up to canonists to reveal the underlying principle so that the structures of the diocese and of the religious community can best serve to promote that maturity which the principle upholds. As we read in the \textit{Letter to the Ephesians}: “Speaking the truth in love we must grow up in every way into him who is the head, into Christ from whom the whole body, joined and knit together by every ligament with which it is equipped, as each part is working properly, promotes the body’s growth in building itself up in love” (\textit{Eph. 4:15-16}).

\textsuperscript{114}Reporting on the 1994 Synod of Bishops, P. HEBBLETHWAITE, “Conservative Agenda Shelved as Synod Closes,” in \textit{The Tablet}, 5 November 1994, pp. 1419-1420, quoted Cardinal V. Fagiolo as saying that subsidiarity should not be confused with “the spirit and practice of civil democracy.” Meanwhile, after conducting interviews with some of the female religious allowed to be observers and non-voting participants of the Synod, M. HEBBLETHWAITE, “Hear it from the Women,” in \textit{The Tablet}, 29 October 1994, pp. 1393-1395, concluded: “While women have been excluded from positions of leadership in the hierarchical structures, they have found room for their gifts in the religious congregations, and this has come about through just the means that some synod bishops have treated as problematic during this last month - through the ‘democratic mentality,’ - through a system of organisation parallel to that of the local Church, and through a theological formation that is an alternative to the diocesan seminaries.”
CHAPTER FOUR

POSSIBLE APPLICATIONS OF THE PRINCIPLE OF SUBSIDIARITY

Introduction

It seems clear from the preceding analysis that, in response to the synodal mandate to incorporate the principle of subsidiarity into the new ecclesiastical legislation, the revised Code has indeed offered to all the Christifideles, clerics and lay people, at least a limited opportunity to share in the governance of their local churches. There are of course, several areas where further implementation of the principle is possible and would be desirable. The revision process and its results have certainly confirmed that the principle of subsidiarity has been most readily appropriated by institutes of consecrated life, where systems of formation and accountability, already in place, facilitate the practice of participative governance. For there to be a wider application of the principle in the local churches, at the national, regional and diocesan levels, similar provisions are required. Such structures, in so far as they support initiative, encourage shared responsibility, promote collaboration, and invite creative thinking, incarnate the communio ecclesiology endorsed by the Second Vatican Council.

4. 1 - Responses to Objections Raised Against the Principle

Before outlining some examples of the possible application of the principle of subsidiarity, other than those already indicated in the areas of the Code studied in the last chapter, it remains to examine the most frequent objections to the implementation of the principle in the Church. These objections appear to rest on certain apprehensions, valid or not, about the likely effects its application might occasion. In general, it can be said that
those who argue against subsidiarity give it a power much greater than it, in fact, enjoys as an organising principle for human societies.

The objections are basically four:

that subsidiarity is a principle of social philosophy and as such has no relevance for the Church, which is a society *sui generis*;

that the application of subsidiarity to the Church will inhibit the right of all to appeal directly to the pope;

that the implementation of the principle in the Church will weaken the power of the papacy and lead to the formation of national churches;

that because the principle is based on the premise that power comes from below, from the people, it disregards the immanence of the universal Church in the particular church.

That the principle has been one of those regarded as fundamental to the law of the Church in the thirteen years since the promulgation of the Code, quite apart from the centuries old tradition of subsidiarity in the Oriental Churches, without dire consequences for its unity, holiness, catholicity and apostolicity. should assuage some of the anxieties of those who posit these objections. The problem, however, seems to be basically a problem of the perception: the principle appears as somehow in itself effective, requiring nothing less than full acceptance and total adherence, even to the point of dismantling the divinely given hierarchical structure of the Church. To say that this is not the case, need not be so, and that its application in the Church can be analogous, clearly does not suffice as a response to the objections given above. Each will be handled separately, but fairly briefly since acceptance of the balance of arguments for and against the principle proves its strongest defence.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

a) As a principle of social philosophy the principle of subsidiarity has no relevance for the Church which is a society sui generis.

This objection elicits three responses. First, over the centuries the Church has proved itself remarkably permeable to a number of organising principles, most obviously the monarchical, perhaps, because to some extent it still endures. The Roman Empire

---

1 This objection seems to have been voiced first by Cardinal J. Hamer. (For a brief refutation of his arguments, see chapter 2, pp. 125-127). See J. Hamer, "Discours à la réunion plénière des cardinaux," in Synode extraordinaire, pp. 598-604, at p. 603: "Je ne vois pas pourquoi l'on devrait, pour cela [the sphere of competence proper to the particular church should be respected], faire appel à un principe de philosophie sociale. La doctrine sur l'Église, celle qui, précisément, a été enseignée par le Concile Vatican II, peut suffire. C'est généralement dans le cadre de la communauté politique que ce principe est appliqué." The Cardinal then quotes, in full, the locus classicus from Quadragesimo anno. At the conclusion of his address, he states: "Le recours, en ecclésiologie, au principe de subsidiarité, présente des inconvénients: pour beaucoup, il garde ses connotations socio-politiques." Since these connotations are wholly positive, it is difficult to understand his reaction. The Cardinal's opinion (it is hardly an argument since he merely repeats the well-known fact of the principle's origins in the social teaching of the popes) was communicated to a much wider audience by a canon lawyer, see Beyer, "Principe de subsidiarité ou «juste autonomie» dans l'Église," at pp. 801-802, and again in "Le principe de subsidiarité: son application dans l'Église," at pp. 438, 453-458. In this latter article, Beyer does argue the point at length, concluding that the conciliar documents, especially Lumen gentium and Christus Dominus, offer more theological bases for decentralisation. This is not the issue. The Council's formulation of these documents undoubtedly owed much to the pressure from the bishops for the implementation of the principle of subsidiarity. The dynamic of the interaction between the political philosophy (based on biblical values) and the theological formulation demonstrates the usefulness of the principle. For a contrary view, doubtless influenced by the address given the previous year by Hamer, see John Paul II, Allocution to the Roman Curia, 28 June 1986, in AAS, 79 (1987), pp. 189-200, at p. 198-199. This text is in Italian. For a French translation, see La documentation catholique, 10-24 août 1986, no. 1923, pp. 765-769, at p. 769. For the English text, see Origins, vol. 16, no. 10, August 19, 1986, pp. 191-195, at p. 195. The Pope says here: "The Council and then the Code while avoiding use of the term subsidiarity, encouraged participation and communion among the Church's bodies. As can be seen, it is not just a question of terminology but also of concepts." He continues by explaining that the 1985 Synod asked for a study of the principle and that the first results would be examined that autumn. He ended his comments on subsidiarity: "The ecclesiology of Vatican II, in its various aspects (communio, mystery, collegiality, charisms, collaboration), remains unrelated to the philosophical-political principle of democracy, since 'membership (in the Church) has for its source a particular call, united with the saving action of grace' (Redemptor hominis, 21)."

2 See, for example, R. McBriEN, The Remaking of the Church: An Agenda for Reform, New York, Harper and Row, 1973, where the author indicates several presumptions operative in the Church based on the supposition that the Church is a monarchical society. Cf. H. KüNG, "Participation of the Laity in Church Leadership and in Church Elections," in A Democratic Catholic
providentially, some would say, offered the Church a ready-made structure on which to
model itself, and the means of widespread evangelisation. The modern era has provided
the bureaucratic model for administration, elements of democracy, which now appear as a
return to the roots of the synodal structures of the early Church, and advancements in
technology which can be harnessed to spread the Gospel. In all these instances, the
structures, the models, the theories and elements of human government serve the mission.

Church: The Reconstruction of Roman Catholicism, E.C.BIANCHI and R.R.RUETHER (eds.), New
York, Crossroad, 1992, pp.80-93, at pp.81-82: “Some of those who today reject joint decision
making with the laity in the Church earlier rejected on the same basis any serious participation
through collaboration and advising in the Church. And some of those who protest today against a
democratisation of the Church and against any translation of secular sociological models to the Church
not too long ago accepted without reflection the secular sociological model of the monarchy for the
Church, and even in practice did nothing against the monarchisation of the Church.” Küng concludes
from this that it is better in the Church to speak of “democracy” because “Only in this way can we
show that joint decision making and regulation on the part of the laity is not only a timely concession
to modern democratic developments, but is a move thoroughly rooted in the Church’s own origins.”
It is not without irony that the adoption of the monarchical form of government was only granted to
the Israelites, who wanted to be like other nations, after negotiations with God (see 1 Sam.8:4-19),
yet the imagery which it has inspired is among the richest in the Bible as, for instance, the psalms
exemplify. No human system or philosophy can thwart God’s power for good.

3Hindsight permits us to appreciate the way in which this pagan empire facilitated the spread of
Christianity. We should, therefore, be cautious before dismissing the possibilities offered by secular
systems. Cf. CASTILLO LARA, who gives a very pessimistic view of the contributions of “secular”
che l’inconveniente grave non si deve vedere soltanto nella provenienza dalla filosofia sociale. Nella
storia della Chiesa ed in particolare nella storia del Diritto Canonico si trovano molti concetti o
nozioni presi dal diritto romano o da quello germanico, che poi, ove occorreva, sono stati adattati
all’indole particolare dell’ordinamento canonico. Il problema pertanto non è la ‘provenienza
estranea,’ quarto l’eventuale incompatibilità, inadattabilità, o forse, la superfluità.” It is one of the
great strengths of the Church that it does prove possible for it to adapt itself to time and place,
periodically ridding itself of outmoded accretions. See the next footnote for the insights of Paul VI
on this matter.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

By its adoption and adaptation of the means used in secular administration, the Church always maintains the freedom to promote the kingdom of God. 4

4 Cf. PAUL VI, Allocation to the Auditors of the Roman Rota, 28 January 1971, in AAS, 63 (1971), pp.135-142, at pp.139-140: "It cannot be denied that the Church, in the course of her history, has taken from other cultures some norms for the exercise of her judicial power - Roman law is a well-known example - but it is not the only one. It is unfortunately true that the Church, in the exercise of her power, whether judicial (procedural) or coercive (penal), has in the course of the centuries borrowed from civil legislations certain serious imperfections, even methods which were unjust in the true and proper sense at least objectively speaking. While there is great cause for rejoicing in the great progress made in that respect regarding sensitivity and methods, it must be recognised that the Church - insofar as Roman law is concerned - did well to accept its inspiration, when that law (ius) recommended itself through wisdom, balance, and a just appraisal of human affairs. The Church discovered in the body of ancient positive civil law not only the will of a gifted legislator, but also that right reason conforming to nature (recta ratio naturae congruens, CICERO, De rep. III, 22), which confers on law the prestige of just and human reasonableness. Nor should it be forgotten that the norms of Roman and civil law have undergone profound modifications in the course of time. This is due not only to the influence of other cultures and legislations, but also - and perhaps above all - to the influence that Christian teaching has had upon them through that most interesting phenomenon known as the common law (diritto comune). This has influenced subsequent legislation both canonical and civil, right down to the legal codes of modern times. It has likewise had an influence in the formulation of human rights, which are universally proclaimed today. Little wonder then that the codifiers of the first Code of Canon Law were inspired to a certain extent by the wisdom of the ancient and secular law, even in the section dealing with judicial processes." The English translation is from The Pope Speaks, 16 (1971-1972), p.76. The attitude to the "world" that pervades these sentiments is much more indicative of an incarnational theological standpoint than the more fearful reaction to "principles of social philosophy." See also A.GAUTHIER, Roman Law and its Contribution to the Development of Canon Law, Ottawa, Faculty of Canon Law, Saint Paul University, 1996, where the author writes, p.15: "The influence of Roman law on the Code of Canon Law of 1983 may appear to be less visible than was the case in 1917. Nevertheless, not only does the Code retain a number of Roman traits of the former Code, it has also used Roman concepts and terminology in a number of important cases ..." [some examples follow] ... "We are confronted with a principle developed by the civilian tradition working with Roman sources. It is remarkable that the legislator in such important issues has made use of Roman concepts (or of concepts developed from Roman sources), not assuredly with the mind of an antiquarian, but simply because the concepts did appear suited for the aggiornamento of the Code." When concepts developed from secular sources can serve the Church so well, we can surely expect no less from those developed from papal social teaching. See also G.ALBERIGO, "Ecclesiology and Democracy: Convergences and Divergences," in Concilium, (1992/5), pp.14-26, where the author asserts, pp.14-15: "The Church and democracy have a history extending over centuries, even millennia ... The Church has had no difficulty in presenting itself as a monarchy ... has reflected the hierarchical structure of feudal society, and has joined forces with the communes, the upper classes and with absolutism ... In the various historical cycles so far it has been the experience of the Church that it constitutes a 'model' for political societies ... However, the most fruitful elements of this relationship have always been characterised by indirect transpositions and analogies, whether from the Church to society or vice versa."
Secondly, as a principle of social philosophy, the principle of subsidiarity has much to commend it. It is based on respect for the human dignity of each individual, recognises personal responsibility, encourages personal initiative, provides for openness to change, flexibility, and dynamism, and supports the hierarchical communio model of the post-Vatican II Church. By requiring accountability, the principle could facilitate the inculturation, or “evangelisation of cultures,” so frequently demanded at synods of bishops. The history of the principle indicates clearly how admirably it serves to promote Gospel values.

Thirdly, what the principle does not require is an implementation which perverts the very nature of the Church. Although the principle has been used above as the active subject of the verbs, the application depends rather on intelligent human subjects seeking to promote not just efficiency, but rather salus animarum. As Paul VI cautioned, within the Church, the application of the principle should be such that it does not lead to “a ‘reinvention’ of the Church from within, in its constitution, dogma, customs, and law ... nor to the dissolution of ecclesiastical magisterium; nor should it be regarded as equivocal to pluralism, conceived as free interpretation of doctrines and the undisturbed co-existence of opposing concepts.”

Of itself, the principle could not bring this about. Intelligent and accountable adaptation of the insights given by the application of the principle to human societies will preserve the unity of the Church and lead to the enrichment from which the Church has always benefitted through interaction with secular society.

---

5 Paul VI, Allocution to Cardinals bringing him greetings for his name day, 23 June 1972, in AAS, 64 (1972), pp.498-499. See chapter 1, note 178 for the original Italian text.

POSSIBLE APPLICATIONS OF SUBSIDIARITY

Precisely because the Church is a society sui generis, of divine origin, it has the capacity to adopt and adapt the structures, systems, philosophies, techniques and insights of secular societies. As a principle founded on the unique dignity of each human being, the principle of subsidiarity seems particularly apt for use in the Church. No obligation exists it in almost all aspects of human life. He makes two points relevant to the objection to subsidiarity as a principle of social philosophy. First, he contends that the origin of the principle was biblical, p.576: "Les chrétiens penseront sans doute spontanément aux fondements bibliques: «Justice et paix s'embrassent» (Ps.84:11), texte que Saint Paul a repris comme signe du «règne de Dieu dans l'Esprit-Saint» (Rm.14: 17), et à la charité, le charisme suprême qui porte la communauté (1 Co.13)." Of the quotation from Ephesians with which we concluded the last chapter he says it is "comme une circonscription biblique du principe de subsidiarité." This exegesis leads him to a conclusion almost diametrically opposite to that of Hamer and Beyer when he writes: "On comprend que le principe de subsidiarité églési@ n'aït pu être transposé à la société civile qu'en faisant les adaptations nécessaires." Tot homines, quot causae!

Secondly, he writes, p.578: "En soi, cependant, le principe de subsidiarité n'est qu'un principe abstrait; comme tel, il ne dit encore rien de la manière concrète selon laquelle les rapports mutuels de la personne et de la société sont à établir dans l'ordre naturel et surnaturel. D'où les variations de l'histoire et de l'économie du salut. Le Seigneur a fondé son Église sur le principe structural de la coordination réciproque qu'il y a entre le troupeau et le pasteur, mais il ne lui a pas donné d'indications détaillées sur la manière de la réaliser. Les variations historiques dans les rapports des provinces éclésiastiques et du Siège de Pierre, par exemple, sont bien grandes! Pour bien réaliser les «mises à jour» selon les conditions de l'époque présente, «condiciones huius temporis» (prologue LG, n.1) le Concile implore le secours subsidiare, du Saint-Esprit." One could question whether the biblical image of the shepherd and flock has much meaning today in predominantly urban settings. The extent to which the Church, with its huge and necessary bureaucratic structure, reflects this divinely inspired image is yet another question. It is stating the obvious to assert that no one image, metaphor, philosophy, or model can adequately express the mystery for all times and places. To do so is the responsibility of the Christifideles.

7This precise point is made by the most competent exponent of the principle, Oswald von Nell-Breuning, who wrote Quadragesimo anno. In an article published fifty-five years after the encyclical, he wrote: "What is valid of social structures as such is valid of the Church as a social structure only in a particular way, characteristic for the Church alone. Consequently, we can say with full certainty: what is valid of social structures as such is with conceptual necessity also valid for the Church." He adds two points: first, that the application to the Church is specific to the Church, and secondly, "It is necessary to observe carefully the distinction between the Church as social structure (ecclesia ut societas) and the Church inasmuch as she is more than a mere social structure, and thus to avoid the mistake of extending and transferring to the Church as mystery (ecclesia ut mysterium) that which is valid for the ecclesia ut societas. By definition, the principle of subsidiarity concerns exclusively the ecclesia ut societas; this does not exclude the possibility that implications or analogous aspects of this might not also apply to the ecclesia ut mysterium." See NELL-BREUNING, "Subsidiarität in der Kirche," at pp.148-149.
to implement the principle to the point of dismantling those divinely given elements of the Church's structure which promote the good of all.

b) The application of the principle of subsidiarity in the Church will inhibit the right of all to appeal directly to the pope.8

The response to this objection appears relatively simple. In approving the principle of subsidiarity as a revision principle for the Code, the Synod of Bishops in 1967 asserted:

This principle confirms the legislative unity in all the fundamental and major pronouncements of the law of any society that is complete and compactly structured within itself. This principle of subsidiarity also has the function of reasonableness or need especially of individual institutions to provide for their own advantage by particular laws enacted by themselves as well as by a reasonable amount of autonomous executive power and authority.9

Book VII of the Code of Canon Law legislates for the conduct of all trials in the Church. In accordance with the principle of subsidiarity, the canons of this book clarify the competent forum for each type of case. Canon 1417, §1 safeguards the right of appeal to the Roman Pontiff as follows:

Because of the primacy of the Roman Pontiff, any of the faithful may either refer their case to, or introduce it before, the Holy See, whether the case be contentious or penal. They may do so at any grade of trial or at any stage of the suit.

The insertion of this canon at once removes the imagined problem of restricting the right of the faithful to approach the pope. Once again the difficulty seems to lie in the perception of subsidiarity as of itself effective, whereas in practice the exercise of the principle is at the service of the subject, whether as legislator, as here, or as Christifidelis involved in any judicial, administrative, or penal procedure.


POSSIBLE APPLICATIONS OF SUBSIDIARYITY

However, although the principle of subsidiarity in no way restricts the right of appeal, reciprocally it requires of the Holy See that it not encourage the practice of by-passing the local structures.\textsuperscript{10} The development of legitimate, local judicial and/or administrative procedures, even if these are adapted to the legal system in that culture, need not result in a breakdown of legislative unity. The function of the primacy must be to strengthen the efficacy of local tribunals, while retaining its own position as ultimate court of appeal.\textsuperscript{11}

When they voted to adopt the principle of subsidiarity as a revision principle for the Code, the bishops recognised its function in strengthening legislative unity. This function

\textsuperscript{10}Cf. P. GRANFIELD, \textit{The Limits of the Papacy: Authority and Autonomy in the Church}, New York, Crossroad, 1987, p.132: “Roman acceptance of subsidiarity, which encourages local resolution of problems, would help avoid the unwelcome practice of those who bypass the local bishop and the episcopal conference and go directly to Rome with their complaints.” In situations which have already reached trial status, canon 1417, §2 does legislate as follows: “Apart from the case of an appeal, a referral to the Apostolic See does not suspend the exercise of jurisdiction of a judge who has already begun to hear a case. The judge can, therefore, continue with the trial up to the definitive judgement, unless the Apostolic See has indicated to him that it has reserved the case to itself.”

\textsuperscript{11}The Holy See fulfils its obligation to provide \textit{subsidiary} for local tribunals by laying down strict guidelines for the officers of those tribunals. Cf., for example, c.149, §§1 and 2, which require that for promotion to an ecclesiastical office a person “must be in communion with the Church” and “possessed of those qualities which are required by that office by universal or particular law.” Canons 1420, §4, 1421, §3, and 1435 prescribe the qualities and qualifications expected of the Judicial Vicar, the associates, the judges, the promotor of justice and the defenders of the bond. John A.Barry, the commentator in \textit{Letter and Spirit}, writes, para. 2867, note 2: “All of this reflects an obviously laudable attempt by the legislator ... to maintain a high level of canonical expertise among those who administer justice in the Church. It must, however, be recognised that in current circumstances, in some parts of the Church particularly, it is not always possible to achieve the ideal of merely academic qualification: there is still a case to be made for those who, in the terms of the 1917 Code, are ‘otherwise expert.’ Such situations do require the authorisation of the Apostolic Signatura (c. 87, §1; cf. \textit{Comm.}, 16 [1984], p.55, at c.1373, §3) which, it has to be said, has shown itself to be understanding of and sympathetic to submissions in this regard. In this difficult jurisprudential situation, the best way forward would appear to be by way of a mutually trusting cooperation between local tribunals and the Apostolic Signatura.” Without mentioning subsidiarity, this comment expresses how the principle is in fact practised in the Church. By setting these standards for the officers of its courts, the Church is protecting the rights of all the \textit{Christifideles}. For the legislation on the role of the Apostolic Signatura, see JOHN PAUL II, Apostolic constitution, \textit{Pastor bonus}, 28 June 1988, in \textit{AAS}, 80 (1988), pp.841-924, Articles 121-125, of which Article 124 is the one most relevant here. An English translation of this text is available in \textit{CCLA}, pp.1166-1261.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

operates here in clarifying the distinctive roles of the papacy and the local tribunals. As the support of the local structures of government, the primacy gains in prestige and influence, to the extent that the next objection seems ill-founded.

c) The application of the principle of subsidiarity in the Church will weaken the power of the papacy and lead to the formation of national churches

When discussing the derivation of the word "subsidiarity," writers cite its origins in the technical language of Roman military terms, where *subsidiun* as a force in the third line of battle undoubtedly appears less important than the main force.12 Interesting though this

---

12See G. LESAGE, "Le principe de subsidiarité et l'état religieux," in Studia canonica, 2 (1968), pp.98-101. Of its Latin origins, Lesage summarises, p.100: "L'adjectif latin *subsidiarius* conserve le même sens général [a secondary force *quod postea supervenit*] et se dit, au sens strict, des militaires qui au moment de la bataille sont placés derrière l'armée pour secourir au besoin les combattants laissés et les défaillants. Dans un sens dérivé, on nomme subsidiaire les plantes laissées par les viticulteurs au cas où les vignes adultes ne porteraient pas de fruit. De même, en droit, une action subsidiaire est prévue contre les magistrats qui auraient assigné, à des mineurs, des tuteurs inaptes." He cites as his authority A. FORCELLINI, Lexicon totius latinitatis, t.4, Patavii, Typis Seminarii, 1940, pp.553-554. On its French etymology, he concludes, p.100: "Subsidiarité signifie donc, au sens originel, une suppléance, un appui en quelque sorte accidentel à un agent principal qui fait défaut." His French sources are: «Subsidiare,» in E. LITTRÉ, Dictionnaire de la langue française, Édition intégrale, t.7, Paris, Gallimard-Hachette, 1958, p.500; «Subside,» in P. ROBERT, Dictionnaire alphabetique et analytique de la langue française, t.6, Paris, Société du Nouveau Littré, 1962, p.563. This etymology makes the negative reactions to the term on the part of the French-speaking Beyer and Hamer more comprehensible. Lesage concludes with what he regards as the "signification réelle" which differs, he says, from both complementarity and instrumentality, p.101: "Le moyen subsidiaire est une réalité extérieure à l'agent principal, dont l'appui est requis en raison de l'insuffisance de celui-ci; c'est un pis-aller dont l'utilisation doit être minimale et transitoire, jusqu'à ce que l'agent principal soit en état de reprendre par lui-même une action efficace. La subsidiarité se rapproche donc singulièrement de la suppléance; elle assure un secours extérieur à la personne qui ne peut atteindre, comme elle le devrait normalement, sa perfection connaturelle." Even Nell-Breuning admits that the word is unfortunate. See NELL-BREUNING, "Subsidiarität in der Kirche," pp.147-157, at p.147: "The knowledge expressed in the principle of subsidiarity is ancient insight of reason and experiential wisdom of humanity; yet the expression 'principle of subsidiarity' is of very recent origin and obviously not a fortunate choice since it occasions - at least in our language - an altogether ineradicable misunderstanding. To the adjective 'subsidiary' we usually give a pejorative meaning of makeshift replacement, of stopgap measure, and thus one believes to hear this meaning also in the phrase 'principle of subsidiarity'. Yet the very opposite is true. The principle proclaims that it is the duty of the community to help its members (*subsidiarium officium*) and requires furthermore that this help be true help, helpful help, that it not be tutelary for the community
fact is, especially to classicists, there is no logical obligation on us to continue to use the word today in its original, and now outdated meaning. A supplementary force, held in reserve, may well in ancient Rome have been considered inferior troops, but when the popes in their social encyclicals cautioned higher/larger bodies against usurping the responsibilities of lower/smaller ones, while basing their teaching on the primacy of the individual human person, they were not simultaneously advocating anarchy. When the higher/larger body accords the lower/smaller body its autonomy and so strengthens it, this decentralisation does not necessarily lead to the weakening of the power of the higher/larger authority. On the

members and not declare them as incapable, but rather help them to develop their God-given talents and strengths.”

13 Cf. CASTILLO LARA, “La sussidiarietà nella dottrina della Chiesa,” p.460: “Prestiamo infine attenzione al termine ‘sussidiarietà’ che qualifica il principio. Esso è legato all’idea di aiuto, ma più ancora a quella di sostituzione in caso di assenza della persona principale e porta con sé una inevitabile connotazione di accessorio o secondario.” The Cardinal is clearly understanding the term “subsidiarity” in a pejorative sense, and not in the sense in which the popes employed it first (influenced by both Gundlach and Nell-Breuning) in the social encyclicals and then in reference to the Church.

14 This does indeed seem to be the fear of Cardinal Castillo Lara. Cf. ibid., p.460: “La conseguenza di tutto ciò sarebbe un permanente e progressivo allentamento del Primato del Romano Pontefice e la riduzione della sua capacità di intervento, avvicinandosi la sua funzione ad un primato di onore e assimilando la Chiesa universale ad una federazione di Chiese nazionali.” This passage has already been quoted on in chapter 3, note 9. See also BEYER, “Subsidiarité ou juste autonomie,” p.447: “L’Église est ... présente, vivante, active en chaque église particulière. Cette présence essentielle du tout dans les parties situe le ministère de Pierre en chaque église particulière, diocésaine ou assimilée. Elle n’est pas, à vrai dire, une aide subsidiaire; elle est une élément essentiel, premier, selon sa fonction et son autorité. L’intervention de Dieu ne peut être considérée comme «subsidiaire», si elle est fondamentale.” In normal parlance, surely, the position of the person who helps or offers assistance to another is regarded as superior. We find, in LG, n.23, bishops exhorted to “come to the aid of the missions,” and “of other churches especially neighbouring ones and to those in most need of help.” There is no suggestion here that offering aid subordinates one to the other. Cf. also NELL-BREUNING, “Subsidiarität in der Kirche,” p.156: “The highest authority of the competence-over-competence in the Church is institutionalised by divine right, by the institution of the primacy by divine right. Actually the principle of subsidiarity does not even need to be ‘applied’ to the Church; the Church herself is built according to it, and it is among her fundamental structural laws.”
POSSIBLE APPLICATIONS OF SUBSIDIARITY

contrary, the more responsible, autonomous, creative, flexible, dynamic the lower/smaller community, the more the whole state/Church benefits.\textsuperscript{15}

Decentralisation, the recognition of the just autonomy of the lower/smaller body, appears as but one aspect of the application of the principle of subsidiarity, and does not deprive the pope of his right and duty to come to the assistance of any particular church that experiences the need of it.\textsuperscript{16} The uniqueness of the Church’s constitution and of the

\textsuperscript{15}Cf. NELL-BREUNING, Reorganisation of Social Economy, pp.208-209: “The restriction of state activity to the supreme governing of communities is quite to the advantage of state authority. Thence it will gain in power and resource, as well as in freedom and security. Mainly, however, such moderation increases esteem and prestige. This is the reason for the demand of faithful observation of the principle of subsidiarity.” This passage has been quoted already in chapter 1, p.39.

\textsuperscript{16}Beyer reiterates the right of the pope to undertake such intervention. See “Subsidiarité ou juste autonomie,” pp.803, 810-811: “Subsidiarité: son application,” pp.442-443, 444, 451, 452. He is concerned that the reciprocal right and duty on the part of the higher/larger authority will be forgotten in the implementation, pp.442-443: “Bien compris, le principe de subsidiarité n’est pas un principe de décentralisation, mais plutôt un principe de stabilisation entre deux pouvoirs, celui des citoyens et celui des gouvernants. Il favorise une décentralisation équilibrée; bien plus, il établit entre diverses autorités une hiérarchie entre pouvoir central, régional, provincial et communal … Cette décentralisation équilibrée n’est cependant pas son premier but. Ce principe exige et justifie l’intervention de l’autorité là où restent en défaut l’initiative, l’action et les efforts des citoyens.” Beyer is quite correct to remind us of this aspect of the principle. It is one reason why it seems so very appropriate to the Church where the pastoral role of the pope can require this intervention. As already noted (chapter 3, note 31), there is a reference to the competent authority supplying for deficiency by the commentator, Aidan McGrath, in Letter and Spirit, para. 631. See also D’ONORIO, Le pape et le gouvernement, p.204: “Le pape a lui aussi une mission propre d’ordre universel qui est de veiller au bien commun de toute l’Église. Sa responsabilité, première et divine, de la communauté des croyants se traduit par un droit et un devoir de surveillance générale qui peuvent, le cas échéant, devenir un droit et un devoir d’intervention directe pour remédier aux défaillances éventuelles des autorités subordonnées …” For an example of papal intervention conducted in accordance with the principle of subsidiarity, see J.G.JOHNSON, The Synod of Bishops: An Analysis of Its Legal Development, Canon Law Studies no.518, Washington, DC, Catholic University of America, 1986, Ann Arbor University Microfilms International, 1988, pp.194-210, 215-216. Johnson reports, p.195: “Cardinal Willebrands has stated that as early as February of 1972 the Dutch bishops were interested in papal intervention in their problems.” In May 1979, the pope decided to hold a particular synod of the Dutch Church “to provide the bishops with an opportunity of discussing their problems freely in an atmosphere free from ideological pressures and propaganda.” The object of the synod was to restore communio within the Dutch Church. The pope, in this instance, was offering subsidiuum to the smaller/lower group to enable them to make their own decisions. That the synod is generally
relationships within it, expressed since the Council by the increased use of the term *communio*, provide the pastoral context for the exercise of this right and duty.\(^{17}\) The

\(^{17}\) As regards the issue of safeguarding the pope's right to intervene, see also G. GHIRLANDA, "Universal Church, Particular Church, and Local Church at the Second Vatican Council and in the New Code of Canon Law," in Vatican II: Assessment and Perspectives: Twenty-five Years After (1962-1987), R. LATOURELLE (ed.), New York, Paulist Press, 1988, pp.233-271, at p.269: "While always safeguarding the just autonomy of individual social groups, it is more necessary in the Church than in civil society for higher authority to intervene in matters to be dealt with by lower authority, in order to safeguard and nourish the holiness and unity of the Church, whether universal, particular or local. Indeed, the Church is not made up of a confederation of particular churches but of communion between the churches, in such a way that the one, holy, catholic, and apostolic Church is present in each particular church (cf. LG, nn. 23a, 26a). This explains the power of the Roman Pontiff and the college of bishops over all the particular churches." Such assertions as intervention in the Church being "more necessary" require explanation. One would also question whether "intervention" is the only method by which the unity, holiness, catholicity and apostolicity of the Church can be safeguarded and nourished. The formation of pastors, the articulation of good laws, the provision of means for the *Christifideles* to win redress for their grievances and to share their insights with their pastors all spring to mind as equally, if not more efficacious, in this respect. The objection about the immanence of the universal Church in the local church seems also to relate to this point. See D'ONORIO, Le pape et le gouvernement, p.204: "C'est donc bien le primat pontifical qui est en question dans le débat sur la subsidiarité. C'est pour le garantir que Pie XII et Paul VI avaient fait les restrictions que l'on sait. Le Code post-conciliaire rappelle clairement que le Pontife romain possède le pouvoir sur l'Église tout entière mais aussi la primauté du pouvoir ordinaire sur toutes les églises particulières et leurs regroupements (c.333, §1), c'est-à-dire tout autant les diocèses que les provinces ecclésiastiques ou les conférences d'évêques. C'est pourquoi tous les clercs sont tenus d'obéir aussi bien au Souverain Pontife qu'à leur propre Ordinaire (c.273); ... Le Souverain Pontificat n'est donc pas universel vaguement ni globalement, mais réellement et juridiquement: le successeur de Pierre est vraiment présent et agissant dans toute l'Église comme dans chaque église particulière; il n'y est pas à titre subsidiaire mais à titre essentiel puisque fondement de l'Église et de son unité." Apart from his use of "subsidiary" as "subsidiary," presumably in the sense of "secondary," as opposed to "supportive," there is nothing in this argument which is not compatible with the principle of subsidiarity. For a treatment of the "intervention" of the pope from an ecumenical standpoint, see J.-M.-R. TILLARD, The Bishop of Rome, Wilmington, Delaware, Michael Glazier, 1983, pp.123-191. In a chapter headed, "The Servant of Communion," he writes in favour of employing the word "synergy," pp.188-191: "If the position of the see of Rome is effectively recognised in what makes it distinctive - its place in the preservation of the unity of faith and communion between the churches - this distinctiveness must be very deeply imprinted on two fundamental solidarities or areas of interdependence. It should be inseparable from the solidarity of the bishop of Rome with other apostolic sees and his solidarity with the authority of the great ecumenical councils. This is a matter of genuine ‘synergy’. That term has on the whole richer overtones than subsidiarity, being less juridical and more theological ... If the Roman Catholic Church were to define her mission in terms of *synergy* and at a juridical level to develop *subsidiarity* in her relations with other sees, would this obscure her deep conviction about the function of the Roman 'primate'?” Tillard goes on to enquire
greater the effective collegiality of the bishops with the pope, the stronger the bonds between the churches will become and the likelihood of this extraordinary ministry proving necessary will diminish.

Successive documents issued by the Holy See, culminating in the conciliar Decree, Christus Dominus, did not silence the demands for inculturation repeatedly made at the Synods of Bishops.\textsuperscript{18} These demands made by the bishops faced daily with immediate pastoral problems, the recognition that a Roman-style Christianity will not prove viable except perhaps in Rome, the questions about the role of conferences of bishops, the dissatisfactions expressed about the “merely consultative” role of synods and councils at all levels of the Church, in tension with fears that any further decentralisation will result in the total disintegration of the entire edifice, could give rise to a debate open to pertiti in many different disciplines.\textsuperscript{19} Such tension is indicative of life and growth: the fear voiced by


\textsuperscript{19}For one example of the tension between conferences of bishops and a Roman Congregation, see HEBBLETHWAITE, \textit{Paul VI}, where the author recounts the effects of the interventions of the Congregation for Divine Worship, pp.647-649, and the objection raised by Bishop E.Carter, (London, Canada) chairman of ICEL, who “with his customary frankness ... wrote to Cardinal J.Knox deploiring the way the Vatican was increasingly taking decisions that had been delegated to episcopal conferences or groups of them. The effectiveness of liturgical reform, he said, had depended in large measure on the decentralising initiatives of the old liturgical Consilium. ‘I understand the principle of subsidiarity to mean,’ wrote Carter, ‘that when a legitimate authority is already in the field, a superior authority does not intervene.’”
POSSIBLE APPLICATIONS OF SUBSIDIARITY

Pope Paul that “national churches” may see themselves as “free, detached and self-sufficient,” is more likely to be realised if this tension is not resolved.20

The implementation of the principle of subsidiarity will certainly produce national diversity as people the world over bring their cultural heritage, their current concerns, and their future aspirations to the interpretation of the Gospel for their time and place. Such diversity need not be frightening. Awe-inspiring, maybe, as the stable structures of the past confront and embrace the challenges of adaptation. Built, however on the firm foundation of the Word, the Church has proved flexible in the past, has changed, has recognised that “if this plan or this undertaking ... is of God” (Acts. 5:38-39) then it will not fail. The *communio* of the Church, therefore, as Walter Kasper envisions it, fulfils the plan of the Creator:

God does not love anthropological abstractions, but rather concrete people of flesh and blood. The New Testament speaks for this reason of the mixed and manifold wisdom of God, which has appeared in Jesus Christ (Eph. 3:10-19). Accordingly, the Church must not appear monotonous, monolithic and boring, but rather diverse, colourful, and imaginative. Only through such diversity is the Church a sign of the freedom and universality of the Gospel, and of her independence from any particular culture or political system - a sign also of the worth and dignity of the freedom of every individual person and of the various cultures. The Church must, therefore, like the Apostle, be all things to all people (1 Cor. 9:20-23); she must examine everything and keep the best (1 Thess. 5:21). In this sense she must realise herself in the various local churches, according to the givens of history and culture, in diverse forms of proclamation, liturgy, piety, theology, canon law, societal and political engagement, social service, customs and traditions. Such a

---

20For this cautionary note, see PAUL VI, Allocution, 23 June 1972, in AAS, 64 (1972), p.498-499. The original Italian text is given in chapter 1, note 178. The pope is here talking not so much about subsidiarity *per se*, as about local churches separating themselves from *communio*, and also about subsidiarity - misunderstood as autonomy. Cf. BEYER, “Subsidiarité ou juste autonomie,” p.802, where he admits that greater autonomy for particular churches is in keeping with the teaching of Vatican II, but warns that this autonomy could develop to the point of their becoming “églises nationales.” He returns to the same theme in the later article, “Subsidiarité: son application,” p.451.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

diversity - of local churches, of their traditions, rites and ordinances, of
charisms and roles in the one Church - is an expression of richness and
fulness, of catholicism in the original meaning of the word (see LG n.13).\textsuperscript{21}

Such a Church could not but prove attractive, since the more people are encouraged to
celebrate what it is that makes them distinctively themselves the more they correspond to the
will of the Creator.\textsuperscript{22}

In the Church, then, the two aspects of the principle of subsidiarity, first that what
smaller and subordinate entities can do and accomplish is not to be done by higher entities,
and secondly that these latter should assist the former when the former fail or lack the
necessary resources, tend neither to the weakness of the papacy nor to the separation of the

\textsuperscript{21}W. KASPER, "The Church as Sacrament of Unity," in \textit{Communio}, 14 (Spring 1987), pp.4-11, at p.7.

\textsuperscript{22}Cf. W. KERBER, "Die Geltung des Subsidiaritätsprinzips in der Kirche," at p.670: "Ecclesial
community is, at least for the normal cases, necessary for attaining salvation. This, however, results
in a conclusion that is normative for the organisational constitution of the Church, namely that the
Church must develop and offer forms which make it possible for individuals to participate in the
Church's life. People have a legitimate claim to find in the Church as the community of the faithful
the help which they need for their Christian life. This too arises from the principle of subsidiarity.
This help must not be tied to conditions which are unattainable for individuals or for entire cultures
and ethnic groups. This results in an immediate claim for inculturation, that is, the possibilities of
personal realisation of a Christian life in the language and expressions of the respective culture."
POSSIBLE APPLICATIONS OF SUBSIDIARITY

particular churches from Rome. On the contrary, both benefit from adherence to the principle. If this is recognised, then the fourth objection also has less force.

d) The principle of subsidiarity, based on the premise that power comes from below, from the people, disregards the immanence of the universal Church in the particular church

The response to this objection must take into account first its presuppositions, and secondly the attribution of power to the principle itself.

The objection is founded on the perception that the principle of subsidiarity, effective in and of itself, requires nothing less than a completely rigorous implementation in the Church. That this is not the case, that the principle, like any other organisational theory or model, can be applied only analogously to the Mystical Body, the people of God, the communio, appears a rather facile response. From what has been seen of its implementation in the Code (of which Cardinal Castillo Lara until recently approved), the very obvious bias in favour of participative decision-making, rather than a complete abrogation of responsibility, indicates an intelligent adaptation.

23 Cf. W. Onclin, “The Power of Decision in the Church at the Supra-Diocesan Level,” in Comm., 2 (1970), pp. 197-212. This is the text of a talk delivered by Professor Onclin at the Annual General Meeting of the Canadian Canon Law Society, in Ottawa, in 1970. Professor Onclin spoke favourably of the principle of subsidiarity, seeing no contradiction between its implementation in the Church and the power of the pope. He writes, p. 201: “The supreme authority in the Church holds plenary and supreme power, but only within the limits of its mission. The power is certainly extended to all matters related to the end that the Church has to attain, but only in as much as is required by the task of the supreme authority, for this cannot hinder the exercise of the pastoral mission which the bishops must exercise in their dioceses; nor, at least in principle, may it substitute itself for the government of the dioceses entrusted to the bishops’ care.” It is fortunate that Professor Onclin, with this understanding of subsidiarity, was for so long a member of the Code Commission.

24 See CASTILLO LARA, “La sussidiarietà nella dottrina della Chiesa,” p. 460: “Se il principio di sussidiarietà fosse veramente valido per la vita della Chiesa queste competenze possibili dovrebbero trasformarsi in reali, perché il principio di sussidiarietà esige la sua coerente applicazione e non dovrebbe essere soggetta a temperamenti in base ad altri criteri. La Quadragesimo anno è categorica al riguardo.”
POSSIBLE APPLICATIONS OF SUBSIDIARITY

The immanence of the universal Church in the particular church is a theological insight, freshly minted at Vatican II.\textsuperscript{25} The word *communio* while expressing the reality of this relationship founded on the Eucharist nonetheless requires structural support if it is not to remain in the realm of ideas.\textsuperscript{26} The principle of subsidiarity does not of itself

\textsuperscript{25}LG, n.23. Cf. Y.-M.-J. CONGAR, *I Believe in the Holy Spirit*, translated by D. SMITH, vol. 1, London, G. Chapman, 1983, p.171, where the author writes: “Karl Rahner was of the opinion that the most valuable new element introduced by the Council was the idea of the local church as the realisation of the one, holy, Catholic and apostolic Church. It was defined as such by the Council (*LG*, n.26; *CD*, n.11) and both these definitions include an affirmation that the people of God called and gathered together in this way is in fact called ‘in the Holy Spirit’. The Church as a whole is presented as a communion of churches, with the Holy Spirit as the principle of that communion.” The immanence is dependent then on the presence in both of the Holy Spirit, the same Spirit who breathes over the whole of creation in all its diversity, maintaining it in unity.

\textsuperscript{26}For an authoritative view of the relationship between the universal Church and the local churches, see CONGREGATION FOR THE DOCTRINE OF THE FAITH, "Some Aspects of the Church Understood as Communion," in * Origins*, June 25, 1992, vol.22, no.7, pp.108-112. The letter is signed by Cardinal Ratzinger and stresses the eucharistic basis of the communion between the churches. He sees the universal Church as, p.109: “a reality ontologically and temporally prior to every individual particular church ... the mother and not the offspring of the particular churches.” He writes, p.110, of the “Petrine ministry, which is a foundation of the unity of the episcopate and of the universal Church [bearing] a profound correspondence to the eucharistic character of the Church,” so any “self-sufficiency” on the part of the local churches based on their celebration of the Eucharist is impossible. For an examination of the issues raised by this document, see E.J. YARNOLD, “The Church as Communion,” in *The Tablet*, 12 December 1992, pp.1564-1565. Yarnold writes of the passage quoted above: “Accordingly the universal Church ‘becomes present ... with all her essential elements’ in local churches ... The document thus reaffirms the teaching of Vatican II that ‘the Church’ is ‘in and formed out of the (local) churches’ (*LG*, n.23). At the same time, however, on the authority of an address by Pope John Paul to the Curia in 1990, it turns this principle inside out, adding a second to the effect that ‘the churches’ are ‘in and formed out of the Church’, so that there exists ‘a special relationship of mutual interiority.’” In expounding this view the Congregation puts forward an interpretation of the First Vatican Council which may cause surprise. The passage in question is Vatican I’s declaration that the pope’s jurisdiction over each and every local church is ‘immediate’... TheCongregation for the Doctrine of the Faith ... takes this term as evidence for its teaching that the papal ministry is ‘interior to each particular church.’” Yarnold sees this as indicative of an “anxiety” in the Congregation lest the “communion which is the life of the Church ... be interpreted in merely functional and sociological terms and not as a reality in the order of grace which is prior to any of the Church’s structures.” Yarnold goes on to indicate some different understandings of the relationships between Rome and the particular churches held by the Congregation and Catholic theologians (such as TILLARD in *Church of Churches: The Ecclesiology of Communion*). Whether these differences are fundamental, or matters of terminology or emphasis remains to be seen, he hopes, in on-going debate. Yarnold reports that commentators on the work of the Anglican-Roman Catholic International Commission suggested the use of the principle of
overthrow this concept and replace it with a structure based on any power coming from below. That this pertains to its relevance in civil society in no way obliges the Church to employ it in the same way.\textsuperscript{27} Certainly, by starting from the premise that each individual human being has a unique dignity and a unique contribution to make to Church/society, the principle recognises each one’s role but, as Professor Beyer repeatedly reminds us, it does not by that fact remove from the higher/larger body the right and the duty to intervene, when necessary.\textsuperscript{28}

\footnotesize

subsidiarity to describe relations between the primacy and local churches. For another critical analysis of this document, see FAMÉRÉE, “Collegialité et communion,” cited in chapter 1, note 17. On the relationship between the universal Church and the local church, see ALBERIGO, “Ecclesiology and Democracy,” p.23: In the Church the real point of reference is above all the eucharistic community, i.e., the local church, and not just the universal Church. Moreover, the Eucharistic community is an essential factor in Christian ecclesiology, and therefore an abuse of subsidiarity on the part of the wider authorities is not only a functional vulnus, a wound, but also disrupts the fundamental economy of the Church.”

\textsuperscript{27}Cf. D’ONORIO, \textit{Le pape et le gouvernement}, p.205: “Le débat doctrinal se poursuivra encore, mais peut-être en sera-t-il de la subsidiarité comme de la collégialité: elle aura dans l’Église un sens particulier, différent de celui de son étymologie. On parlera alors d’une subsidiarité «ecclesiale» pour en souligner implicitement l’originalité propre à l’ecclesiologie catholique... Cette nouvelle problématique ecclesiale suppose donc un certain style de relations institutionnelles fondées sur la confiance réciproque du Pape et des évêques.” D’Onorio, who supports Beyer’s contention that “just autonomy” is more appropriate in the Church, considers that centralisation occurred as a result of danger threatening the Church from without so that, in an era when episcopal power is more assured, a balance returns “vers un certain équilibre institutionnel” without the need for any such principle as subsidiarity.

\textsuperscript{28}See JOHNSON, \textit{The Synod of Bishops}, where he quotes Pope John Paul’s homily at the opening Mass of the Dutch Synod, p.201: “This principle of the reciprocal penetration of the universal Church and the local church is expressed in a special way in this synod. The Church of Jesus Christ, thanks to the Spirit which is the soul of the whole body and all its members, is fulfilled in these two dimensions. It is universal and at the same time is composed of diverse parts. It is universal and local. The goal of our meeting is to manifest the coherence of these two dimensions and to consolidate them.” As has already been said, the cooperation between the higher and lower bodies in summoning the Dutch Synod exemplifies the principle of subsidiarity, showing here that the immanence of the universal Church is not put at risk when the principle is applied. For the original of pope’s homily on 28 June 1980, see \textit{AAS}, 72 (1980), pp.647-648; English translation in \textit{The Pope Speaks}, 25 (1980), p.256. One of the early proponents of the principle of subsidiarity in the Church emphasises that the right and the duty of the higher/larger is to aid, but not to interfere with, the
As an organising principle, subsidiarity does not interfere with the "vie plus profonde" of the Church. Rather it provides for a greater degree of openness to the gifts of the Spirit, by allowing each group a limited area for self-determination in those areas which are not fundamental to the constitution of the Church.\textsuperscript{29} The Oriental Churches are a living witness to the viability of the principle:

It has come about through divine providence that, in the course of time, different Churches set up in various places by the apostles and their successors, joined together in a multiplicity of organically united groups which, whilst safeguarding the unity of the faith and the unique divine structure of the universal Church, have their own discipline, enjoy their own liturgical usage and inherit a theological and spiritual patrimony. Some of these, notably the ancient patriarchal Churches, as mothers in the faith, gave birth to other daughter-Churches, as it were, and down to our own days, they are linked with these by bonds of a more intimate charity in what pertains to the sacramental life and in a mutual respect for rights and obligations. This multiplicity of local Churches, unified in a common effort, shows all the more resplendently the catholicity of the undivided Church.\textsuperscript{30}

Far from leading to the dismemberment of the Church, in the view of the Council, the organisational structures of these particular Churches contribute rather to the advantage of the universal Church.

For the Latin Church, Walter Kasper argues that the principle of subsidiarity preserves a unity in diversity intrinsic to the very nature of the Church:

\textsuperscript{29}See NELL-BREUNING, "Subsidiarität in der Kirche," p.153: “A social scientist can confirm for theology that the ‘rediscovery’ of the particular churches, for which the Council was praised, and the conclusions drawn from it in the new Code represent a truly epochal progress for the principle of subsidiarity.” Cf. KERBER, “Die Geltung des Subsidiaritätsprinzips in der Kirche,” at p.670, where the author argues for the right of individuals to find it possible to live as members of the Church within their own culture.

\textsuperscript{30}\textit{LG}, n.23.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

Subsidiarity does not denote a purely external, alternative and temporal intervention of the higher instance; rather it denotes a total responsibility for the unity which is not external, but essential to each individual who is by his/her very nature ordered towards community; this total responsibility, however, is to be practised in such a way that freedom and the rights of individuals are preserved, so that through this a unity in freedom is created which is truly worthy of human beings. A principle of subsidiarity understood in this manner does not support a unilateral decentralisation, but rather a real equilibrium between unity and plurality, and thus this principle certainly can fully safeguard the immanence of the universal Church in the particular church. ... There is also the danger of misunderstanding and misusing the Church's unity in the sense of seeing it as a deadly uniformity and monotony which does not do justice to the various and diverse pastoral needs in the Church. 31

The more such institutions as the general Synod of Bishops, and the various continental synods, of European, African and American bishops, assemble to debate their various pastoral challenges, the more the vision of unity in diversity will be realised. The open communication at such meetings promotes the equilibrium and immanence of which Kasper speaks here.

These four objections, on the one hand, serve to clarify the limits of the principle of subsidiarity and, on the other, point to areas where the principle might still prove useful in defining levels of competence or facilitating decision-making procedures in the Church. Already, as a revision principle for the Code, the principle of subsidiarity has served a certain function. Walter Kerber wrote of it:

This principle of subsidiarity contains a dynamic principle which is critical of institutions, and it is probably only today that we are able to appreciate fully this critical principle of which Pope Pius XI, conservative in his orientations, was probably not fully aware: All social regulations which claim

POSSIBLE APPLICATIONS OF SUBSIDIARITY

to be binding, any authority which proposes to speak or to act in the name of a social totality, all social institutions, regardless of how venerable and proven through centuries [they may be], can and may be questioned with regard to whether they truly serve the personal welfare of the persons bound into a social entity.\textsuperscript{32}

Discussion of the principle has certainly highlighted anew the urgent need for theologians to resolve at least some of the tensions between primacy and collegiality, to continue to elaborate the theology of the local church and for canon lawyers to work at structures which will support and enhance the \textit{communio} theology of Vatican II. The uses of the principle for the structures of the Church lie most particularly in those areas where the possibility of arbitrary decisions still exists. In view of the limited scope of this study, only three such areas will be considered here: synods of bishops, the resolution of conflict and the process of reception.

\textsuperscript{32}KERBER, "Die Geltung des Subsidiaritätsprinzips in der Kirche," p.665.
4.2 - Possible Applications of the Principle

4.2.1 - Synods of Bishops

In the course of the study outlined in chapter 2 several criticisms were reported of the way in which synods operated.\(^{33}\) An examination of the canons legislating for such synods reveals the limited implementation of the principle of subsidiarity in this title of the Code. Future legislation based more confidently on the principle could improve the usefulness of the synods and mitigate the frustrations which are to some extent inevitable in any large gathering which attempts to come to a decision. Canons 334, 342-348 translate into legal language the provisions of the Apostolic constitution, *Apostolica sollicitudo*, with which Paul VI established Synods of Bishops. The Pope had expressed his need for the assistance of the bishops in the governance of the Church, just as the bishops were repeatedly requesting a greater say not just in the decisions of the Holy See which impacted on their governance of their dioceses, but also a more effective role in the governance of the entire Church. John G. Johnson describes the interaction as follows:

The synod of Bishops came into being in the midst of a dialogue between Pope Paul VI and the Second Vatican Council. During the preparatory period and during the discussion of *De Ecclesia* many bishops had indicated their interest in assuming a broader role vis-à-vis the Church as a whole, a role which was their right and duty as individual bishops and as members of the episcopal college. The pope responded to these comments with hints that he would welcome their suggestions about how they might lighten the burdens

\(^{33}\)In addition to the material cited in chapter 2, pp.82, 105, 113, 153, 140, see also JOHNSON, *The Synod of Bishops*, pp.5-239. The author discusses the synods up to and including that of 1983, as well as the Ukrainian and Dutch synods. He concentrates more on the methodology than on the content. In the second half of his thesis he focuses on the documents which have legislated for the synod, gradually changing or adapting the procedures to minimise the frustrations experienced. For an earlier critique of the institute and of the 1967 synod, see D.R.FOLEY, *The Synod of Bishops: Its Canonical Structure and Procedures*, Canon Law Studies, no.481, Washington, DC, Catholic University of America, 1973, Ann Arbor University Microfilms International, 1988.
of his office. Interpreting these remarks as an invitation, the Fathers proposed the establishment of some kind of council of bishops to help oversee the Curia, to make accessible information on the social and cultural contexts in which the particular churches were living, to assist the pope in making major decisions about the governance of the universal Church. Though many bishops spoke in favour of such an institute, they did so from differing points of view. Some wanted only to help the pope. Others wanted to provide the necessary organs for collegiality to become a fact of the Church’s governmental life. Still others were somewhere in between. ... There was a consistency in the pope’s language both before and after his creation of the Synod: he always discussed it within the context of his own burdensome duties and the assistance the bishops could offer him in discharging them. The pope gave life to the Synod and he did so in order to make his own ministry more effective.\footnote{JOHNSON, The Synod of Bishops, pp.493-494. For a survey of the preconciliar requests for a debate on collegiality, see FOLEY, The Synod of Bishops, pp.44-60. The bishops expected from such a debate that there would be more autonomy for them in their diocese and that the missionary work of the Church would be helped and that progress towards Christian unity would accelerate. The possibility of including even lay people in the debate also surfaced. The research of these two authors reveals that the controlling role of the Curia was a source of dissatisfaction. For the use of the principle of subsidiarity in resolving this tension, see A.ANTON, “Episcoporum synodus partes agens totius catholici episcopatus,” in Periodica, 57 (1968), pp.495-527, at p.521: “Cum unum institutum ab altero diversum sit, utrumque tamen bono Ecclesiae universae sub principio subsidiaritatis, atque in servitio auctoritatis primatialis ipsius Ecclesiae unitatem firmantis, est.”}

In theory, the institution of the regularly held, elected assemblies of bishops from all over the world should be able to fulfil both the function of offering assistance to the pope and affording a means for the pope with the bishops to act collegially.\footnote{One of the most prominent supporters of the principle of subsidiarity sees the synod as fulfilling precisely this function. See W.BERTRAMS, “De synodi episcoporum potestate cooperandi in exercitio potestatis primatialis,” in Periodica, 57 (1968), pp.528-549, where he concludes at p.549: “Itaque plures sunt modi cooperationis collegialis corporis episcoporum cum exercitio potestatis in totam Ecclesiam ex parte suprmi Pastoris. Synodus episcoporum talem modum cooperationis, nostro tempori congruentem, constituit, quatenus repraesentantes totius corporis episcoporum, collegialiter exercentes munus «edocendi et consilia dandi», influxum realem et efficacem in exercitium potestatis suprmi Pastoris in totam Ecclesiam habent. Hac ratione corpus episcoporum potestatem a Domino sibi concreditam in bonum totius Ecclesiae, per synodum exercet, quatenus synodus partem habet in pascenda Ecclesia per supremum eius Pastorem.” The proponents of subsidiarity propose it always as clarifying relationships and competencies, as providing for coordination and cooperation, never as replacing the authority of the pope.} As Johnson points out,
however, neither the canonical provision nor the practice has measured up to the latter expectation, and the synod, at least as described in cc.334, 342-348, is very much the instrument of the pope:

Both in history and in law the synod has been surrounded by papal prerogatives. The pope summons the assembly whenever and for whatever purpose he pleases. Despite the consultation that has recently preceded the selection of the theme, it is he who determines the topic the synod will discuss. His approval is required before the Secretariat can consult the episcopate for their opinions about that topic and before the Secretary General can supply the participants with their working document. He ratifies the election of the members. He appoints the presiding officers, those who guide the discussions, and the experts whose opinions the Fathers may need in order to understand the theme adequately. The participants can express their opinions freely, but they cannot vote on any proposals without the pope’s sanction; and the final product of their labours is essentially a private communication to him. He may choose - he regularly has chosen - to publish the deliberations of the synod in some form; but he is under no obligation to do so. He may accept the recommendations with little or no qualification: the proposals of the 1967 synod concerning mixed marriages, the proposals of the 1969 synod concerning the structures of the synod itself, and the conclusions of the 1971 synod concerning mandatory celibacy. On the other hand, the pope has occasionally distanced himself from certain remarks made in synod: one thinks, for example, of Pope Paul VI’s cautious attitude towards inculturation at the end of the 1974 synod and of Pope John Paul’s remarks at the end of the 1980 synod. Papal freedom in the face of the synod’s conclusions is evidence of the purely consultative character of the institute.36

36JOHNSON, The Synod of Bishops, pp.494-495. For the same conclusion, see FOLEY, The Synod of Bishops, for example, p.163: “Christus Dominus took up the collegial principle and applied it. But, like the principle itself, the application was deceptive. The synod of bishops was to be the acting force of the world’s episcopate. Yet the actions of the synod, as indeed was the case with the whole constitution of this new institute, were entirely under the care of the pope.” And again, we read, p.183: “The principle of collegiality is not mentioned specifically in Apostolica sollicitudo. There and in the Ordo (Synodi episcoporum celebrandae), the synod machinery appears designed to increase the efficiency of the use of papal power. All facets of the synod’s operation are subject to the pope’s approval, if not totally dependent on his initiative.” Although Foley was writing before the publication of CIC/83, his remarks still seem to have some validity.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

Johnson's analysis, which ends with the 1983 synod, reveals that the synods operated more smoothly once "they accepted their function of communicating information and advice to the pope." Nevertheless, he quite rightly questions the value of "smoothness" in operation and suggests that "the orderly routine of more recent synods is evidence that the institute might be losing dynamism." Undoubtedly, the topic, the constant changes in the participants, the continued use of experts and the active involvement of auditors, will all contribute to the "dynamics" of any particular synod, so some variations in the success (however one might decide to measure this) of each gathering are only to be expected.

Nonetheless, even assessed just as a means of "communicating information and advice to the pope," the institution of the synod exemplifies at least one aspect of the principle of subsidiarity. As a result of his presence at the synods the pope comes "face to face with

---

37JOHNSON, The Synod of Bishops, pp.5-239.

38Ibid., p.495.

39Ibid., p.496.
fresh and vital information about the real-life situations of the particular churches."

Therefore, as Johnson writes:

On matters on which he consults the synod the pope is able to know far more about the potential impact of his decisions than he could have known beforehand. He also has access to the collective and, in some sense, at least, the Spirit-enlightened judgement on those issues on the part of those whom their peers consider to be the best-informed and most prudent. Access to more and better data and the support of good advice do not guarantee wise decisions, but a pope who takes advantage of the synod will probably avoid ignorant and misguided ones. Even as it now exists, therefore, the synod is of great value in enhancing the effectiveness of papal decision-making.

In offering a means for the entire Church to become involved in papal decision-making, the synod exemplifies the principle of subsidiarity, albeit in a rather limited respect.

Canon 343 limits the competency of the synod as follows:

---

40Ibid., p.496. Cf. FOLEY, The Synod of Bishops, p.232: "The synod of bishops, conceived as a way in which the college could govern the Church effectively, appears more as a useful tool for the pope to employ in the primatial office." In welcoming the bishops as representatives of their conferences of bishops to the first synod, Pope Paul VI expressed his hopes that the unity of the Church would be strengthened by the diversity of the local churches. See PAUL VI, Allocution at the Opening of the First Synod of Bishops, 30 September 1967, in AAS, 59 (1967), pp.969-975, where he says, at p.970, that the role of the bishops' conferences is "ad fovendam quandam formarum multiplicitatem in vita Ecclesiae exprimenda, quae Ecclesiae loci traditionem et indolem plane addeceat, ita pariter conferant ad firmandam illum recte ordinatae compaginis unitatem, quae Christi Ecclesiae propria est nota." Later, in the same allocution, the pope emphasised the importance of the synod's consultative role, p.971: "Si officium a vobis in hac synodo episcoporum excludendum suapte natura est consultivum, illud tamen magnum pondus et momentum habet, sive apud Nos, qui ad hanc consultationem vos advocavimus, quiue in quibusdam casibus suffragiis vestris vim deliberativam tribuemus, sive etiam apud Ecclesiam universam, quae vos agnoscit magistros, testes et pastores populi Dei in gravissimis et peculiaribus adiunctis celsissimi vestri ministerii."

41JOHNSON, The Synod of Bishops, pp.496-497. For the tradition of participative decision-making in the Church, see FOLEY, The Synod of Bishops, pp.3-38. From his study of consistorial history the author concludes, p.229: "The history of the Catholic Church contains, in the origins of consistorial practices, a striking example of participated central government. ... Enough instances of the cardinals' involvement in the exercise of papal governing authority have been adduced to substantiate an assertion that shared responsibility is entirely in line with the traditions of Western Catholicism." In the history of the Church not all cardinals have been bishops.
POSSIBLE APPLICATIONS OF SUBSIDIARITY


to discuss the matters proposed to it and to set forth recommendations. It is not its function to settle matters or to draw up decrees, unless the Roman Pontiff has given it deliberative power in certain cases; in this event it rests with the Roman Pontiff to ratify the decisions of the synod.

From the reactions of those who have taken part in synods there seems to be a degree of frustration experienced in the practice of this canon. Initial annoyances with a cumbersome method of repetitive speeches have been overcome by a greater use of the *circuli minores*, and the preparation for the synods has improved. As reported in chapter 2, however, the handling of recommendations has come in for criticism. This constitutes a most serious charge, since the point of the whole exercise is precisely to arrive at an improved understanding of the topic under discussion.

There seems to be agreement that Pope Paul’s original intention was eventually to make the synod a deliberative body. ⁴² Although the canon allows for this, in certain circumstances, it seems, however, that any implementation could prove difficult since the members’ representative standing requires some clarification. When the conference of bishops of a particular nation hesitates to impose legislation on all the bishops of that nation, the problems faced in providing for all nations could result in total inaction. To require the pope’s ratification implements the principle of subsidiarity in placing the final decision at the

---

⁴²See chapter 2, p.153, where Cardinal Willebrands voices a hope for this development, and also Pope John Paul II’s comments, quoted in chapter 2, p.156. Cf. HEBBLETHWAITE, *Paul VI*, p.433: “As envisaged by *Apostolica sollicitudo*, the synod was not a completely toothless and spineless creation. Though not a decision-making body, there was the hope that it might become one some day: ‘By its very nature the task of the synod is to inform and give advice. It may also have deliberative power, when such power is conferred upon it by the Sovereign Pontiff.’ Further, its elective system guaranteed a relative autonomy, and its purposes could not be ensured without some freedom of speech. Paul VI in *Apostolica sollicitudo* produced a diplomatic compromise designed to satisfy the bishops at the Council without offending the Roman Curia too much. ‘The synod,’ he remarked wistfully, ‘like all human institutions, can still be more perfected with the passage of time.’” For this to occur, some experimentation would appear to be essential.
appropriate level, but only after a thorough, informed debate on all the implications, as canon
344, 3° seems to expect:

The synod of bishops is directly under the authority of the Sovereign Pontiff, whose prerogative it is:

3° at a suitable time before the celebration of the synod, to prescribe the outlines of the questions to be discussed, in accordance with the special law.

If this procedure is followed and ample time is allowed, everyone who will be affected by the synodal decisions has the opportunity to influence the discussions by providing information, insights, particular talents or gifts, and responsible counsel. Every possible means of ensuring that the Spirit’s voice is heard must be safeguarded.

The canons certainly indicate a move in the direction of shared responsibility, but much depends on the style in which the papal power over the synod is exercised: this defies legislation. Similarly, while providing for wide representation from the universal Church, the canons stop short of requiring those elected to the synod to profit from the available expert advice and counsel which would ensure that their role was more truly representative of the particular churches from which they come. Nor do the canons legislate for the attendance at synods of observers, auditors, experts - although their presence has become customary.43 Suggestions for lay participation at the synod of bishops meet with

---

43Before the 1994 Synod on the Consecrated Life, there was considerable opposition to the idea that the world’s religious women should have representation there at the synod of bishops. Eventually, the women’s congregations were invited to elect auditors who also had voice, but not vote. As a result, wrote the editor of The Tablet, 29 October 1994, p.1367: “The synod has exercised a certain sovereignty because almost half of the participants are themselves living in the consecrated state ... In this synod consecrated women, granted an unprecedented level of participation in the synodal hall, have stood shoulder-to-shoulder with consecrated men religious. All alike face the same task, of relating the service of the local church to the service of the universal Church. This solidarity should be more embodied in status and practice than it is.”
POSSIBLE APPLICATIONS OF SUBSIDIARITY

considerable opposition; legislation would forestall the need for repeated discussion about the presence of non-episcopal experts and observers.

The canons also fail to acknowledge the importance of communication. At least in the developed world, the state of communications technology is so advanced that a failure on the part of the Church to employ the best means available at every stage in the synodal process can only appear as nostalgic. Criticisms about apparently unnecessary secrecy have surfaced at some synods: the *arcana imperii* impart a flavour of authoritarianism and are surely out of place in the *communio* that is the Church.44

---

44 For the importance of communication, see chapter 2, pp.112, 144, 151. See also FOLEY, *The Synod of Bishops*, pp.192-193, 197-198, and p.233: “The synod’s potential has proved to be limited … Secrecy requirements impaired the preparations for the (1967) assembly. Few of the synod members had anything to say about the agenda or the preparation of working papers … Since the synod of 1967, some changes have been effected which give hope for the future of the synod … The secrecy rule has been relaxed somewhat.” Cf. JOHNSON, *The Synod of Bishops*, pp.407-408: “Officials who took part in [Vatican] Council sessions were required to take an oath of secrecy … Even these rules did not prevent a great deal of material from becoming public … and eventually the Acta *Synodalia* made accessible the information scholars find indispensable in analysing the development of the conciliar texts. A similar body of information is not available for the synod. Arguments could be made in favour of secrecy. It fosters, for example the free expression of opinions that might not be popular, but might nonetheless be of considerable weight. It avoids placing the pope in the invidious position of provoking discontent when he acts against the recommendations of the synod. As Cardinal Willebrands argued one year after the Dutch Synod, however, the less the people of God know about the dynamics of a given synod, the less able they will be to identify with its conclusions. Furthermore, a press that thrives on information can manufacture and disseminate misinformation if kept on too scatty rations.” For the views of a journalist, see A.WOODROW, “Free Speech in the Church,” in *The Tablet*, 26 August 1995, pp.1093-1095. The author reports on a conference at which the role of the laity in the Church was discussed. One speaker, Christian Duquoc, is reported as saying, p.1093: “The hard reality is the stability of the Church as institution and a return to a centralised, authoritative government. The culprit is Vatican II itself … for it represented the new vision of the Church as ‘people of God’, but failed to provide the means to realise the vision or to transform the institution.” A second speaker, Daniel Cadrin, agreed, p.1094: “As for the … laity, they have no recognised forum in which to express their opinion. The promises of Vatican II have not been fulfilled.” Woodrow himself offered the conference “Ten Commandments of the Religious Journalist.” They are, pp.1094-1095: Independence, Competence, Openness, Truthfulness, Freedom, Respect for the Media, Honesty, Fairness, Equal-handedness and Humility. Under the third of these he writes: “Like all authoritarian and non-democratic institutions, the Catholic Church loves secrecy … The journalist has a duty to break down these taboos, in the interest of the Church itself.”
POSSIBLE APPLICATIONS OF SUBSIDIARITY

Johnson concludes his study with a hope for the future of the synod:

The theology of the synod of bishops has to be worked out somewhere within the context of the interaction between the pope and the college of bishops. The context is still foggy. ... Once the Church achieves an understanding of collegiality that answers more of the fundamental questions and is more widely accepted, the synod of bishops may take on a different aspect and require different regulation. Both in the ius vigens and in its most recent actions the synod has appeared to be a papal institute. Theological development could change its features almost completely.

Theological development has certainly enhanced the role of the Christifideles, but although the canons respect to some extent the values of the principle of subsidiarity in providing for greater participation in decision-making, this participation appears to be limited to the level of the bishops - just as is the case in the title on the internal ordering of the particular church. The legislation does not create channels for other Christifideles to express their views on the decisions which will affect their lives in the Church. Since researching opinions has become a highly specialised science in the modern world, the Church could certainly employ these techniques in the pursuit of truth.45

45 Cf. M. NORRIS, “Consulting the Laity,” in The Month, June 1986, pp.205-207, where the author “warns against amateurism in the sounding of lay opinion” in preparation for synods: “Attempts to discover the opinions of the laity and the clergy will lack credibility if sound methods are not used ... Any information used to guide decision-making by the bishops should be at least as reliable at that regarded as acceptable for ... lay purposes ... Research is a ... skilled professional occupation ... In planning for the future, accurate knowledge is a vital element. If participation by and consultation of the laity is ever intended, this is an area where their expertise should be recruited at an early stage.”
4. 2. 2 - The Resolution of Conflict

Another area in which the principle of subsidiarity might usefully be employed is in the resolution of conflict in the Church, such as occurs, for instance, when theologians express "dissent".46 In recent years there have been several instances of theologians being disciplined by the Congregation for the Doctrine of the Faith for teaching views held to be contrary to those propounded, even non-infallibly, by the magisterium.47 Indeed,

46Since this whole issue is immensely complicated, the treatment here focuses solely on the possible use of the principle of subsidiarity in structuring a process which would be respectful of the rights not just of the theologian or teacher involved, but also of the Church, both local and universal.

For a discussion on the use of this word "dissent," see L.ÖRSY, "Magisterium: Assent and Dissent," in Theological Studies, 48 (1987), pp.473-497, at pp.490-494. This article seems to be an abbreviated version of the author's book, The Church Learning and Teaching, Wilmington, Delaware, Michael Glazier, 1987, where the third chapter is devoted to the theme of "Aassent and Dissent." See also F.A.SULLIVAN, Creative Fidelity: Weighing and Interpreting Documents of the Magisterium, New York, Paulist Press, 1996, pp.24-26, where the author explains the specific meaning given to this word by the Congregation for the Doctrine of the Faith (= CDF). He quotes Cardinal Ratzinger, commenting on the Instruction on the Ecclesial Vocation of the Theologian, as follows: "The Instruction distinguishes between healthy theological tension and true dissent, in which theology is organised according to the principle of majority rule, and the faithful are given alternative norms by a 'counter-magisterium.' Dissent thus becomes a political factor, passing from the realm of thought to that of a 'power game.' This is where a theologian's use of the mass media can be dangerous." Sullivan finds evidence in the Instruction that only "indiscreet" or "untimely" expression of views contrary to those of the magisterium is discouraged. Moreover, the Instruction presumes that theologians will exchange ideas in scholarly journals and at conventions. Conflict arises when it appears that the theologian has gone beyond these parameters.

discussion continues regarding the relative weight to be attributed to the many documents that emerge from the "magisterium", and the corresponding response of faith required from the *Christifideles.*

Saint Anselm defined theology as "fides quaerens intellectum," a definition that, in its use of the present participle, points to the constant search for truth characteristic of mature reflection on the faith. Precisely in this constant effort to interpret the faith in various historical and cultural contexts, conflict occurs between the *magisterium*, that is, the pope and the bishops, and academic theologians teaching in Catholic universities and colleges, or preaching in the name of the Church. The need to resolve such conflicts with minimum disturbance requires a process respectful of the rights and dignity of all involved.

---

48 For recently published discussions, see, for example, A.NAUD, *Un aggiornamento et son éclipse*, Montréal, Fides, 1996; and SULLIVAN, *Creative Fidelity*. Sullivan offers a definition of *magisterium* as follows, p.1: "In modern Catholic usage, the term 'magisterium' has come to be associated almost exclusively with the teaching role of the hierarchy. An even more recent development is that 'magisterium' is now often used to refer not to the teaching office as such, but to those who exercise it, namely, the pope and bishops."

49 See SULLIVAN, *Creative Fidelity*, pp.5-7, for a helpful explanation of this phrase. He stresses the cultural context of the search. In his balanced statement concerning the "Küng controversy, Cardinal G.Emmett Carter writes: "The fact that we seek the truth means that, in a way, we have found it. But, having found it a little, means only that we must seek it much more. The Church has the right and the duty to tell a theologian that he/she has erred. The Church can never tell a theologian or all theologians to stop searching." See G.EMMETT CARTER, "Regarding the Küng Controversy," in USCC, *The Küng Dialogue*, pp.204-205.

50 In 1969, the Canon Law Society of America (= CLSA) submitted to the National Conference of Catholic Bishops (= NCCB) a report entitled *On Due Process*, suggesting model procedures for the resolution of conflict in local churches. Since the promulgation of *CIC/83* this report has been revised. See CLSA, *Protection of Rights of Persons in the Church: Revised Report of the CLSA on the Subject of Due Process*, Washington, DC, Catholic University of America, 1991. In a commentary on the original report, reprinted in the revised edition, reference is made to the protection offered by a known procedure to both bishops and people. See R.T.KENNEDY, "Commentary," in *CLSA, Protection of Rights*, pp.45-53, where the author writes, pp.46-47: "The problem we face with regard to human rights and freedom in the Church is not so much injustice as it is *supposed* injustice. What we are seeking in introducing notions of due process into the
POSSIBLE APPLICATIONS OF SUBSIDIARY

The Code legislates for the role of the diocesan bishop as teacher and defender of the faith in canon 386, which states:

§1 The diocesan bishop is bound to teach and illustrate to the faithful the truths of faith which are to be believed and applied to behaviour. He is himself to preach frequently. He is also to ensure that the provisions of the canons on the ministry of the word, especially on the homily and catechetical instruction, are faithfully observed, so that the whole of Christian teaching is transmitted to all.

§2 By whatever means seem most appropriate, he is firmly to defend the integrity and unity of the faith to be believed. However, he is to acknowledge a just freedom in the further investigation of truths.\textsuperscript{51}

Despite this example of the principle of subsidiarity enshrined in the Code, since “dissent” often involves a university lecturer in a theology faculty of a Catholic university, the most

\textsuperscript{51}For an impressive explication of the bishop’s responsibilities in this area, see U.S. BISHOPS, “The Teaching Ministry of the Diocesan Bishop: A Pastoral Reflection,” in Origins, vol.21, no.30, January 2, 1992, pp.473, 475-492. There is considerable stress in this document on the need for the bishop to keep himself up to date with current theological thinking. Given the very demanding administrative and pastoral role expected of modern bishops, to keep abreast of the vast amount of theological literature currently being published, demands great and consistent effort. Cf., on a specific case, HÜNERMANN, “Bishops and Theologians,” p.1450: “In the eyes of the public the bishop has no special theological skill or competence. Indeed, because of his other pressing tasks, it is impossible for him to keep up with the most recent developments in theology or to have studied with any thoroughness the voluminous works of the theologian he is judging.” For this very reason, the need for a commission becomes apparent.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

appropriate level at which to resolve the problem might not, in this case, be the local one, in the sense of the local diocese, for the following reasons.\textsuperscript{52}

First, the "dissent" might be no more than a misunderstanding, or misrepresentation of the teaching by sensation-seeking media, or by ill-informed listeners. As the canon cited above reads, all, not just teachers, have a "just freedom in the further investigation of truths."\textsuperscript{53} Fully to appreciate the limits of this freedom, the enquiry into any deviation, real or only apparent, has to take into account the current state of the question in academic circles, so the involvement of other universities would seem to be indicated. Secondly, no one diocese is likely to have all the necessary resources for such an appraisal. Thirdly, the

\textsuperscript{52}For a further considered treatment of the different degrees of "dissent," see U.S.BISHOPS, "The Teaching Ministry," pp.486-490, where the bishops distinguish between "deficient reception," "heresy," "error," "non-acceptance of non-definitive teaching," "withholding of assent," "private dissent," and "public dissent," and offer suggestions on how each should be handled.

\textsuperscript{53}Writing to the German bishops, about the case of Hans Küng, Pope John Paul II acknowledged the role of all the faithful in the "infallibility" of the Church, as follows: "The Church must be, moreover, very humble and at the same time secure in remaining in the same truth, in the same doctrine of faith and morals which it received from Christ, who in this sphere gave it the gift of a specific 'infallibility.' Vatican II inherited from the first Vatican Council the doctrine of tradition in this regard, and it confirmed it and presented it in a more complete context, that is in the context of the mission of the Church, which has a prophetic character, thanks to its participation in the prophetic mission of Christ himself. In this context, and in strict connection with the 'way of faith,' in which all the faithful participate, this 'infallibility' has a character of gift and of service." See JOHN PAUL II, "Letter to the West German Bishops' Conference," 15 May 1980, in USCC, The Küng Dialogue, pp.184-189. The original of this letter, in German, is in AAS, 72 (1980), pp.385-393.
issue may not hinge solely on the questioning of doctrine. Prudence suggests that the adjudicators be seen to be impartial and therefore at a remove.

The local cultural context, however, remains an important factor in the judgement. Indeed, the International Theological Commission seems to acknowledge this aspect. The responsibility for preserving unity rests not just with the pope and the bishops, but also with each and every member of the Christifideles, as we read in canon 209:

§1 Christ’s faithful are bound to preserve their communion with the Church at all times, even in their external actions.

§2 They are to carry out with great diligence their responsibilities towards both the universal Church and the particular church to which they belong.

The handling of a situation where the teachings of a theologian are questioned obviously calls for great tact and sensitivity and offers an area where thought should perhaps be given to the implementation of the principle of subsidiarity, in order to achieve a balance between the

---

54 This point is made in reference to the Curran case. See B. HÄRING, “The Curran Case: Conflict Between Rome and a Moral Theologian,” in Readings in Moral Theology, No. 6: Dissent in the Church, C.E. CURRAN and R.A. MCCORMICK (eds.), New York, Mahwah, Paulist Press, 1988, pp.370-386, at p.371, where the author indicates that there had been opposition to Curran’s tenure on the part of “conservative bishops on the Board of Trustees” long before the conflict that led to his dismissal. The constitution of the commission/tribunal which enquires into the case should preclude any suspicion of a vendetta, real or imagined.

55 See INTERNATIONAL THEOLOGICAL COMMISSION (=ITC), “On the Interpretation of Dogmas,” English translation in Origins, vol.20, no.1, May 17, 1990, pp.1,3-14. This document appears to accept and endorse the development of doctrine as explained by J.H. Newman, J. Pelikan and J.H. Walgrave. Recognising that “cultural upheavals” have an effect on evangelisation the commission asserts that the Church is able to join itself to the historical and universally open nature of human reason and goes on to say, p.4: “In order to achieve inculturation the original meaning of the dogma must be brought to understanding anew in a different cultural context.” The judgement then as to how this is being done should surely rest, at least to some extent, with those working in the same cultural context. Cf. U.S. BISHOPS, “The Teaching Ministry,” p.477: “If the Church did not ceaselessly transpose the Gospel into contemporary idioms, it could not teach. The inculturation of the Gospel demands its translation into new languages, new images or concepts, and new modes of living and worship ... As the social and cultural situation of believers changes, so is it necessary to situate this timeless revelation within the modes of a new civilisation.”
POSSIBLE APPLICATIONS OF SUBSIDIARITY

obligations and rights of all those involved - the theologian, the local bishop, the institution, not forgetting the local church. As the International Theological Commission writes:

In a pluralistically structured society and in a Church shaping itself in different ways, the magisterium increasingly fulfils its pastoral office through persuasive argumentation. In this situation, the legacy of the faith tradition can only be transmitted fruitfully if the magisterium and other bearers of pastoral and theological responsibility are prepared for collaboration involving argument, especially prior to definitive decisions on the part of the Church’s magisterium. In view of the scientific and technological research of recent times, it seems advisable to avoid premature determinations and rather to favour decisions which offer direction and are finely differentiated.56

This statement appears to envisage more than a lone theologian summoned to Rome to defend his thesis before a Roman “court” out of touch with the cultural context of his teaching, which is often the image presented by the media.57 Respect for the principle of subsidiarity


57For an example of this, see BOFF, Je m’explique, p.85, where Boff describes arriving for a dialogue with Cardinal Ratzinger with his own Archbishop, Monsignor Ivo Lorscheiter, and two Brazilian Cardinals, Arns and Aloisio Lorscheider. Cardinal Arns suggested at the meeting that a document on “liberation theology” should be prepared “in consultation with the ‘engineers’ of that theology, the theologians who for years have been constructing this theological current; second that it should be prepared in consultation with the episcopate, as it is they who perform the pastoral activity among the people, walking with the oppressed along the highways and byways of liberation, so that the ecclesial and pastoral dimensions of this new theological current could enjoy adequate emphasis in the new document; and third, that the document should actually be prepared in the Third World, in Africa or Latin America, for instance, amidst the actual reality of the poverty and oppression in which the theology of liberation has its point of departure since this would tend to bring the text of the new document straight to the heart of things and do justice to the cause of the oppressed.” See BOFF, Liberation Theology, pp.86-87. Boff comments, pp.87-88: “The major significance of the presence of the two Brazilian Cardinals was, surely, that of testifying to the ecclesial character of the theology being developed in Brazil.” Boff says, in Je m’explique, p.88: “Il existe un conflit latent entre les vieilles églises européennes et les nouvelles églises répandues dans le monde. Les nouvelles églises vivent un Christianisme enraciné dans les cultures d’Afrique, d’Asie, d’Amérique latine avec leurs défis propres. Ainsi apparaissent de nouveaux visages du Christianisme, des visages qui ne sont pas occidentaux, blancs, européens, romains. Les églises centrales sont héritières d’une tradition liée à la culture dominante. Elles gardent le pouvoir institutionnel, académique, économique et continuent à imposer leur conception traditionnelle et conservatrice. Elles excluent les pôles périphériques. L’Église n’a jamais été catholique, elle a toujours été romaine.” Boff speaks here of the content of theological teaching, but the cultural context is as significant in the way in which an apparently dissenting teacher is treated. The principle of subsidiarity indicates that
would suggest that perhaps each conference of bishops should develop a strategy for handling
such a crisis, a strategy which would be open, just, and academically respectable.\footnote{For an alternative suggestion, see G. GRIZEZ, "How to Deal with Theological Dissent," in Readings in Moral Theology, pp.463-472. Grizez suggests using the synod of bishops as a forum for the discussion of "new" ideas. See also the suggestion of HÜNERMANN, in "Bishops and Theologians," p.1451: "The German bishops should unanimously - and therefore bindingly - set up a two-level procedure for conflicts of a doctrinal nature. On the first level they would set up two committees, one for north Germany and the other for the south. At the head of each committee should be a theologically qualified bishop. The committees would be made up of six theology professors from different disciplines and two lay people, with a five or six year term of office." For a comprehensive treatment of the question, see Cooperation Between Theologians and the Ecclesiastical Magisterium: A Report of the Joint Committee of the CLSA and the Catholic Theological Society of America, L.J. O'DONOVAN (ed.), Washington, DC, CLSA, 1982. In a section entitled "Appropriate Subsidiarity," pp.141-143, P. Granfield writes: "Subsidiarity is also applicable to the dialogue between the magisterium and the theologians. It would mean that doctrinal conflicts should, if possible, be solved at the local level and only if necessary referred to a higher body ... The following four-step process is suggested." Briefly, the four steps are first, "a friendly dialogue between the theologian and the Ordinary, or someone appointed by him." Secondly, if necessary, a meeting between the theologian and the diocesan, or inter-diocesan, or regional, committee on doctrine. Again, only if it is judged necessary, thirdly, the theologian would be allowed to participate in a hearing before a national theological commission established, in this instance by the NCCB. There could be two hearings or reviews before this commission before proceeding to the fourth step, "if all efforts at reconciliation had failed," the intervention of the Congregation for the Doctrine of the Faith. Granfield concludes by insisting that both the theologian and the bishop have rights which must be protected: "The theologian, at every level of resolution, should be allowed to be heard and, if necessary, to appeal to the next higher stage. Second, the bishop, in view of his over-sight function in exercising his teaching authority, has the responsibility both of determining when the discussion has reached a suitable conclusion or an impasse and of making a decision." The principle of subsidiarity, since it defines competencies, protects the bishop's

local churches have rights in this area too. That the respect paid to "the right of the local churches
to individuality and the importance of this both for themselves and for the Church as a whole" was
little more than lip-service was recognised twenty-five years previously by K. RAHNER, "Schism in
the Church?" in Faith in Question, P. HEBBLE-THWAITE (ed.), Douglas, Isle of Man, Times
Longbooks, 1969, pp.9-29, at pp.16-17: "The tendency towards a more pronounced individual life
and towards a more clearly-defined independence of the local churches is then something whose
recognition by Vatican II is purely theoretical and something in which there lurks material for many
conflicts and even dangers of schism. But this tendency is in itself legitimate and should not be
suspected in advance of being schismatical. It naturally runs up against the opposition of the existing
widespread uniformity of the Western Church. If one sets off from the presumption that every
tempt to give a definite individual character to the local churches should only take place within the
hitherto existing uniform structure, then this tendency would right from the beginning be emasculated
into a purely theoretical ideal." In the local churches of democratically constituted societies there is
a widespread expectation that dissent in the Church will be handled at least as fairly as it is in the
secular domain.
institution founded on the Word of Truth, protected by the Spirit of Truth, the Church should have nothing to fear from such a process which is in accordance with the tradition of "cheerful disputation." 59

In the modern world, seemingly authoritarian pronouncements remain unconvincing, especially to an increasingly well-educated and theologically literate laity who are accustomed to subjecting to critical analysis the arguments of academics and politicians as presented by the media. The work of such organisations as *Amnesty International* and the *Catholic Institute for International Relations*, to say nothing of local, church-based Justice and Peace Commissions, has heightened awareness of the human right to a fair trial and has promoted a healthy suspicion of any apparently arbitrary denial of this. However unpopular the views in question may be, in the contemporary world the right to express them is probably among the most sacrosanct, and nothing excites more opposition than a suggestion that the right to

right to make this decision.

59 In a talk, "The Theological Task of Canon Law," given to the Annual Convention of the Canon Law Society of America, in St Louis, Missouri, on 10 October 1996, Ladislas Órsy said: "In their work [canon lawyers] need the guidance and the support of the magisterium, but, by divine disposition, the teaching authority cannot be at its best unless it listens devotedly to the conversations in the community and makes an effort to collect all the fragments of truth possessed by the faithful. All need freedom to function well. Perhaps we should revive the ancient custom of disputations. They played a large role in the intellectual life of the middle ages - even beyond. Popes and kings, bishops and princes, ministers and minstrels, not to mention the university folk of all ages and grades, loved to watch them. Nothing could excite people so much as 'disputed questions.' Today, in our post-conciliar Church, we often are compelled to listen to bitter exchanges but are rarely invited to attend cheerful disputations. Could they be reintroduced? How fitting they would be, say, in the beginning of an episcopal synod or at the meeting of an episcopal conference. This is not to imply that we never need strong affirmations; we do. Otherwise, how could we say we believe? But there is a measure in all good things. Once the parameters of beliefs are drawn, we need the liberating force of - yes, cheerful disputations - to learn more about the riches of the mysteries and to find the right structures and norms to accommodate them in our midst." The quotation is taken from the text, pp.20-21, of the talk to be published in *CLSA Proceedings*, 58 (1996), and kindly offered by the author.
freedom of expression has been curtailed.\footnote{Cf. P. HEBBLETHWAITE, "Human Rights in the Church," a paper delivered at the International Colloquium on Authority in the Church held in Leuven, Belgium, 1981, and published in \textit{Authority in the Church and the Schillebeeckx Case}, L. SWIDLER and P. F. FRANSEN (eds.), New York, Crossroad, 1982, pp. 190-201, at p. 199: "It is already evident that human rights, vis-à-vis the state, are one of the major themes of this pontificate, and that they have been emphasised as never before. At the same time, there has also been a restriction of free debate within the Church; hence, the problem becomes more acute than ever, and the contradiction between the exhortations to the world and the actual life of the Church becomes glaring, even dramatic."}

It is important in this context to remember that the magisterium also has rights, and indeed the duty to preserve the integrity of doctrine. See, for instance, J. H. MANSFIELD, "A Bill of Rights for the Church: Relevance of the Anglo-American Experience," in \textit{The Case for Freedom: Human Rights in the Church}, J. A. CORIDEN (ed.), Washington, DC, Corpus Books, 1969, pp. 129-161, at p. 154: "One thing is clear. If the members of the Church have a right of free speech, so does the Church itself. She must be free to preach the Gospel and to combat, by her teaching, beliefs that threaten the transformation of the Church by error. This right of the Church derives from her divine constitution and from the impartial application of the norm of free speech itself. The Church as an institution is free to speak even though her utterances, including her condemnations, may result in serious consequences to individuals." The CDF exercises this right in the publication of such documents as the "Declaratio circa Catholicae Doctrinae de Ecclesia contra nonnullos errores hodiernos tuendam," \textit{Mysterium Ecclesiae}, 11 May 1973, in \textit{AAS}, 65 (1973), pp. 396-408; and \textit{Instructio de ecclesiis theologi vocatione}, 24 May 1990, in \textit{AAS}, 82 (1990), pp. 1550-1570. In this latter document, there is a discussion of "dissent," pp. 1562-1569, nn. 32-41.

\footnote{See chapter 3, note 30. As a result of his experiences Charles Curran highlighted some of the deficiencies of the Roman system as compared with what are regarded as normal juridical practices in his cultural context. See CURRAN, \textit{Faithful Dissent}, p. 67: "In addition there is need for juridical structures which better safeguard justice and the rights of all concerned. Some of the problems with the present procedures of the Congregation have already been pointed out in the correspondence. The Congregation, in a letter to me, has defended its procedures because the \textit{Ratio Agendi} is not a trial but rather a procedure designed to generate a careful and accurate examination of the contents of published writings by the author. However, since the process can result in severe punishment for the person involved, it seems that such a process should incorporate the contemporary standards of justice found in other juridical proceedings." Curran then lists some areas where the contrast is most apparent: "The Congregation is the prosecutor, the judge, and jury. Some people have objected strongly to the fact that the Cardinal Prefect has commented publicly on the present case and disagreed in the public media with my position while the case has been in progress. Problems have also been raised against the existing procedures from the viewpoints of the secrecy of the first part of the process, the failure to allow the one being investigated to have counsel, the failure to disclose the accusers and the total record of the accused, and the lack of any substantive appeal process." For an alternative version of Curran's case, see "The Curran Case: CON," in \textit{Readings in Moral Theology}, pp. 498-508. Many of the same charges were made against the CDF in the case of Hans}
subsidarity to procedures for responding to dissent would both acknowledge the Church’s real acceptance of cultural differences and protect the rights of all those involved.

4. 2. 3 - The Principle of Subsidiarity in the Process of Reception

Although from the abundance of articles written on the topic, the notion of the “Church’s ancient concept of Reception”62 would appear to be in peaceful possession in the Church, the Code barely acknowledges its importance.63 Reception, far from being a

62 This is the expression used by Cardinal J.BERNARDIN, “Called to be Catholic: Church in a Time of Peril,” in Origins, vol.26, no.11, August 29, 1996, pp.165, 167-170, on p.169: “An essential element of Catholic leadership must be wide and serious consultation, especially of those most affected by Church policies under examination. The Church’s ancient concept of reception reminds us that all the faithful are called to a role in grasping a truth or incorporating a decision or practice into the Church’s life.” Amazingly, three of the four American Cardinals who criticised Cardinal Bernardin’s paper mentioned this, implying in their critiques that reception involved a sort of poll of Catholics to test the viability of magisterial teaching, whereas this is certainly not suggested in Cardinal Bernardin’s description. See Cardinal LAW, “Response to ‘Called to be Catholic,’” in ibid., pp.170-171; Cardinal MAIDA, “Reaction to the Catholic Common Ground Project,” in Origins, vol.26, no.13, September 12, 1996, pp.200-201; Cardinal HICKEY, in ibid., pp.202-203. For an answer to their objections, see Bishop K.E.UNTENER, “How Bishops Talk,” in America, October 19, 1996, pp.9-15. In his commentary on the responses both to Cardinal Bernardin and to Archbishop Quinn’s lecture in Oxford (see chapter 3, note 5), Bishop Untener, defines reception as follows: “Reception has to do with the Church, the Body of Christ, incorporating a teaching into its own being ... bringing something from the outside to the inside. Our teachings are not dead letters, museum pieces. They live in the community. Reception is the process by which they take root, come alive. The local churches or individuals receive the faith of the whole Church into their lives, even when it may be difficult to do. It is part of the struggle of faith. In the last century Cardinal John Henry Newman criticised those ‘who will believe anything because they believe nothing,’ or who ‘think that to believe is as easy as to obey.’”

passive process of assent to the decisions of the magisterium, requires of all the Christifideles an active response. Francis A. Sullivan describes it as follows:

More recent studies of the notion of reception of magisterial decisions on the part of the faithful pay more attention to the activity of the Holy Spirit in stirring up and maintaining the “supernatural sense of the faith,” by which believers recognise the truth-content of what is authoritatively proposed for their belief. The role of the faithful is seen to be not merely passive obedience to formal authority, but an active sharing in the process by which the whole People of God “clings without fail to the faith once delivered to the saints, penetrates it more deeply by accurate insights, and applies it more thoroughly to life” (LG, n.12). 64

The Church’s laws should surely embody some system whereby this active sharing, inspired by the Holy Spirit, can contribute to magisterial decisions at every stage in their formulation. The principle of subsidiarity requires that as far as possible a decision should be taken by those who will have the responsibility of implementing it. It follows, therefore, that the Code, revised in accordance with this principle, should provide for the involvement in the legislative process of all who are to be affected by the laws. Only by making this provision can the legislator ensure that the laws which he makes will be received. The participation of the community in formulating and implementing its own legislation builds communio. Giuseppe Alberigo offers an enlightening insight:

The sensus fidei of the people of God in all its complexity above all constitutes a crucial link which has still not been analysed sufficiently.

---

particularly in connection with the emphasis put on the *magisterium*. In ecclesial physiology it is the *sensus fidei* above all which plays a decisive and creative role, whereas the *magisterium* has to be limited to the responsibility for authentication, for confirmation in the faith. The profession lived out in faith by some of the faithful, their orthopraxis which constitutes the 'concrete catechism,' is the constant and irreplaceable testimony to and representation of the Gospel for all humanity. In more recent centuries, the scope of the *sensus fidelium* has become increasingly circumscribed, to the point that it has almost become an abstraction. Too many people accept its importance only in terms of 'reception,' i.e., of consent which is given after the event (and often passively, as a matter of duty) to conclusions arrived at previously by the authorities. The scholastic model of bourgeois society, entirely dominated by an exclusively 'descending' sense, has profoundly influenced this tendency to reverse the roles between the *sensus fidelium* and the *magisterium*. ... It is correct, but also too easy to stress the difficulties inherent in the criteria for accepting the consensus of the majority; it remains true that on the historical occasions on which it has been necessary, the discernment of the Church has been effective.\(^{65}\)

The language of canon 212, §1 speaks, however, of the obedience of Christ’s faithful rather than of their active cooperation in the declarations and prescriptions of the “sacred Pastors”:

Christ’s faithful, conscious of their own responsibility are bound to show Christian obedience to what the sacred Pastors, who represent Christ, declare as teachers of the faith and prescribe as rulers of the Church.

This canon, in the title headed “The Obligations and Rights of all Christ’s Faithful” nonetheless seems to make a clear distinction between the “sacred Pastors” as teachers and rulers, and the *Christifideles*.

The canon continues:

§2 Christ’s faithful are at liberty to make known their needs, especially their spiritual needs, and their wishes to the Pastors of the Church.

§3 They have the right, indeed at times the duty, in keeping with their knowledge, competence and position, to manifest to the sacred Pastors their views on matters which concern the good of the Church. They have the right also to make their views known to others of Christ’s faithful, but in so doing

POSSIBLE APPLICATIONS OF SUBSIDIARITY

they must always respect the integrity of faith and morals, show due reverence to the Pastors and take into account both the common good and the dignity of individuals.

This canon, together with canons 215 and 216 which refer to the right to establish associations and to promote, support and even initiate apostolic action, although providing for a limited “response” on the part of the Christifideles, does not establish any means for the vast majority of the Christifideles, the laity, to exercise the rights accorded them here.66 Aidan McGrath, the commentator in Letter and Spirit points to “the various structured forms of consultation set out in the Code” - the presbyteral council, the diocesan pastoral council, the diocesan finance council, the parish finance committee, the parish council, etc. - but of these the finance councils are the only ones involving the laity which are obligatory.67 Without some structured method of determining the views of the Christifideles, it is difficult to understand how priests can represent their people, and their fellow presbyters to their bishops, or bishops their dioceses at conferences of bishops or synods of bishops, and so determine the degree of reception of either laws or teachings.68

66 It would be unrealistic to expect detailed legislation from the universal law on the means appropriate for exercising these rights, since these will obviously vary from place to place. Acknowledgement of the principle of subsidiarity will facilitate the establishment of structures apt for both the issue and the subjects.

67 See Letter and Spirit, para. 446.

68 For the expression of a similar view specific to the conferences of bishops newly established by the revised Code, see L.ÖRSY, “Episcopal Conferences: Their Theological Standing and Their Doctrinal Authority,” in America, November 8, 1986, pp.282-285, at p.285: “As historically conditioned expressions of the communion of bishops, [bishops’ conferences] are bound to have built-in limitations. These originate in the fact that the institutional structures of the conferences are not open to others besides bishops. I say, the ‘institutional structures’ because the members can do much, collectively and individually, to be open to the people at large by soliciting advice, by requesting help and so forth. Thus, practice can remedy the lack of a legal provision. At any rate here are some examples of this lack: The diocesan clergy, who are the presbyterate around the bishop in every diocese and, as a rule, are in direct contact with the bishop’s people have no ways or means to bring
POSSIBLE APPLICATIONS OF SUBSIDIARITY

No-one appears to deny the importance of the exchanges which would be necessary to the process of reception. Yves Congar writes: "The Church’s concrete regime is traditionally one of councils, not of solitary personal decisions," and that the role of the laity in these councils has traditionally been one of information and advice, of consent and publicity.\footnote{See CONGAR, \textit{Lay People in the Church}, pp.250-269. He says, p.258: "Throughout this present book we have tried to show the necessity of a twofold consent in the Church: the radically necessary consent of life to incorporate itself in the structure, lacking which we run in vain and life is not the life of the Church; and the consent of the structure to welcome life’s needs and developments, lacking which the bases remain firm but there is no movement at all, and the Church, while faithful to her fundamental constitution, fails to fulfil her mission." This sentence describes the process of reception very well. For Congar the place where this reciprocal movement of reception takes place is most likely to be a council or a synod. Such are rare events in the lives of most people.} Further, he describes the active cooperation of the laity in the regulation of its life as taking place in the evolution of custom and of initiatives taken from below: "The Church is not only an institution wherein the faithful simply receive the objective means of grace; she is also a community actively formed by its members on the basis of their baptismal engagement; and this community takes part in the creation of law, for law is often simply a formulation of tradition and custom."\footnote{CONGAR, \textit{Lay People in the Church}, p.256. Congar returns to the theme in \textit{I Believe in the Holy Spirit}, vol.2. See especially pp.30-32, where the author writes, p.31: "These ‘signs of the times’ are not always clearly defined, but they are sufficiently clear. They are to be found in the situation in which the Church, as the people of God, has to carry out its mission. This situation somehow conveys the presence and plan and therefore the activity of God." Congar goes on to explain that the interpretation of these "signs of the times" is the responsibility of all Christians in the light of the Gospel.} Congar admits that traditionally for any of their concerns before the conferences as such. Religious institutes, which through their educational apostolate often have an immense and important share in the pastoral work of the dioceses, have no assured access to the conferences. When the bishops of a conference deliberate and decide about the life of the Church, they are not bound to hear any voices other than their own. The temptation to believe they are ‘the Church’ can be very real, and this is a temptation, not only for them, but even more for the people outside, who can perceive themselves as being called to be mere passive spectators in God’s kingdom." Cf. TILLARD, \textit{Bishop of Rome}, pp.170-171.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

customs to have obligatory or legal worth they must be ratified by the approval of lawful superiors, but he argues that the existence of this tradition “shows the reality of a source from below in the life of the Church.” No canonical provision exists for such an evolution in the present law of the Church.\footnote{See ÖRSY, \textit{From Vision to Legislation}, where the author writes, pp.43-44: “For a book of laws to be a good instrument of order and peace in a continuously developing community, two conditions must be fulfilled. One, it must be friendly to changes and flexible enough to accommodate them; two, it must offer some good mechanism for orderly transitions... The very idea of having one Code of laws covering virtually all the aspects of the life of the Church is conducive to a rigidity that hampers growth.” A theologian writing on “The communion of the faithful as the participation and co-responsibility of all,” concludes that the Code fails to provide for this co-responsibility. See KASPER, \textit{Theology and Church}, pp.161-163: “Substantially speaking, this meaning of \textit{communio} is fundamentally part of the doctrine about the common priesthood of all the baptised, which was revived by the Council (\textit{Lumen gentium} n.10), and the \textit{actuosa participatio} of the whole people of God, which is based on that common priesthood (\textit{Sacrosanctum concilium} n.14 and frequently). This does not apply merely to the liturgy. It affects the whole life of the Church. Of especial importance here is the doctrine about the \textit{sensus fidei} or \textit{sensus fidelium} (\textit{Lumen gentium} n.13, 35; \textit{Gaudium et spes} n.43; \textit{Apostolicam actuositatem} n.2f.). Unfortunately the new \textit{Codex Iuris Canonici} has passed over this final aspect in complete silence.” The provision of councils and synods, at least as described in the Code, seems not quite to meet the needs of the contemporary Church.}

To accord the \textit{Christifideles} a role in the formulation of the Church’s legislation in no way threatens the whole fabric of the institution, but rather contributes to its dynamism. As Congar writes:

The Church is constructed hierarchically; the life through which she fulfils her mission presupposes the cooperation of the faithful. From the point of view of eucharistic worship, for example, we have seen that to make the presence, participation (communion) and consent (“Amen”) of the faithful a condition of valid consecration would be to overturn the Church’s structure; while to posit the bare structure of worship, its bare reality juridically constituted and valid, without participation and consent by the people, is to disregard the order of life and to fail to forward the Church’s mission. In the same way, to make an act of the body of the faithful the condition for validity of an hierarchical operation, whether of magisterium (dogma) or government (decree), is likewise to overturn the structure; and to give no place to the
cooperation and assent of the whole body is to ignore something in the order of life.  

When Cardinal Danneels, during the 1985 Synod, dismissed the idea of subsidiarity as inappropriate and unnecessary in the Church construed as an ecclesial communion based on Eucharistic theology, he would appear to be ignoring the necessity of incarnating this theology into “the order of life,” life here on earth.  

The Church has to provide some mechanism first to elicit a response from the intelligent and free beings who are the Church and, secondly, to channel this response as effectively as possible.  

The present Code does not do this. Örsy writes:

The Code does not offer any good machinery for handling legislative changes. Some kind of constitutional organ is needed to assess new needs, to propose new laws, especially since needs arise and challenges come not only from within the ecclesial community, but from the world itself that the community is called to serve. There is really no provision for such a task in our legal system, a serious deficiency within the structure of a world-wide organisation. There is again a small but significant clue why the Church can be slow to respond to new needs, should they arise from within or without the community. If there is any provision for such a task, it is only implicit in the Code and is left to the particular initiative of the various Roman offices. Since they are not, and cannot be, in direct contact with far-away regions, and have little or no experiential knowledge of distant situations, new needs may go unnoticed, or remain misunderstood, and in one way or another damage follows.

---

72 CONGAR, Lay People in the Church, p.262.

73 See chapter 2, p.135.

74 In an address, “Dirons-nous: «Infaillible»?,” delivered to the Canadian Canon Law Society in Quebec, on 22 October 1996, André Naud drew attention to the need for such a process when he questioned whether there was in fact consensus among the bishops of the world on the issue of reserving priestly ordination to men: “Comment vérifier aujourd’hui s’il y a un consensus actuel, au sens de contemporain, des évêques dispersés? La réponse à cette question est tellement facile que je me contente de la laisser à votre méditation…”

75 ÖRSY, From Vision to Legislation, pp.45-46.
Orsy suggests that the Synod of Bishops might eventually evolve into a constitutional organ to fulfil this task. Whatever the means employed, the principle of subsidiarity could prove a useful instrument in structuring the interaction between the "sacred Pastors" and "Christ's faithful" to facilitate reception vis-à-vis ecclesiastical legislation and promote the dynamic of life in the Spirit with which all are gifted.

Conclusion

Any human organisation or community, faced with serious consideration of introducing new structures or processes, is likely to encounter favourable as well as unfavourable responses from those most likely to be affected by the changes. This natural phenomenon occurs also in the human community of the Church. Therefore, the views of those who express guarded approval of the application of the principle of subsidiarity, while deserving respect, certainly do not seem justifiable in view of the well-founded theological and canonical arguments supporting it.

When the bishops agreed to employ the principle among those guiding the revision of the Code, they were, one assumes, acting under the guidance of the Spirit. From the lengthy exchanges about the possible use of this principle in the Church, the presence of the Spirit would appear to be encouraging bishops, pastors and people to move further in the...

---

76 See CONGAR, I Believe in the Holy Spirit, vol 1, pp.171-172: "The whole people of God knows that it has the task of building up the Church and that lay people have to contribute their gifts or charisms to this task. The local churches are still looking for ways of life that are peculiar to them. The chapter on conciliarity that was opened by Vatican II has not yet been brought to an end ... The entire life of the Church is unfolding in the breath of the Spirit of Pentecost. Pneumatology, like ecclesiology and theology as a whole, can only develop fully on the basis of what is experienced and realised in the life of the Church. In this sphere, theory is to a great extent dependent on praxis." To a very great extent the praxis is that of the laity in the local churches. Channelling their involvement is a major challenge for their pastors.
direction of decentralisation - a decentralisation based on the recognition of the Spirit's activity in all the members. Whether the name given to this movement is the implementation of the principle of subsidiarity, the granting of just autonomy, or the creation of more synodal structures, seems irrelevant. The debates on the principle have drawn attention to values which the modern world expects the Church to uphold - appreciation of diversity and flexibility, the encouragement of dynamism and initiative.

The *communio* theology of the Church, based on the Church as a Eucharistic community, also requires a human structure that translates and incarnates its values. The principle of subsidiarity can be adapted to supply this need. Kerber comments:

> A widespread opinion says that the observance of the subsidiarity principle in the Church is not in very good shape. The reasons for this ... do not lie in the area of principal theological or philosophical thinking. ... What are the real reasons why Church officials do not perceive the contradiction between the doctrine they proclaim and their own way of acting? The reasons might be the very same which also create and favour centralist structures outside the Church: striving for power, fear of what is uncontrolled and uncontrollable, overestimation of one's self, lack of trust in people and their capability and readiness for appropriate actions.  

While arguing in favour of the principle of subsidiarity as applicable to the Church, the author does not claim that "the legal structures would be the sum total of the nature of the Church ...", but he does point out that the visible sign must be capable of referring to that which is signified. A community restrained by laws based on the reasons listed above would fail to serve the people of God in this way.

---


78Ibid., p.667.
POSSIBLE APPLICATIONS OF SUBSIDIARITY

If implementation of the principle of subsidiarity is to prove successful, then there must be in place a system of formation adapted to the specific needs of each particular church, of each particular member of that church, so that levels of competency are clearly defined and understood. As far as possible, all those who will be affected by a decision should be involved at some stage in making that decision. For the counsel and advice to be sound, there should be a free exchange of all the relevant information with those consulted. The opportunities for "cheerful disputation" must be created. Kasper also argues for this:

At present it is obvious that something has gone very wrong with Vatican II's great idea, the communio fidelium. In this situation, the first task of the Church's ministry and its service for unity seems to me to be to restore dialogue and communication, and to introduce the binding doctrine of the Church, as far as possible by means of reasoned argument, into the process of communication within the Church, in order to build up once more a full and undivided communio and communicatio fidelium - communion and communication among the faithful. The ideal of this communion is not harmony without tension. All life moves in tension, as J.A.Möhler showed; where tension ends there is death. And we have no desire for a dead Church. We want a living one! But a distinction must be made between genuine tensions where the poles are related to one another in a complementary way, and unconnected, indeed irreconcilable differences, which shut themselves off mutually and exclude one another, both in logic and in attitude. As Möhler again showed, in the communion of the Church neither one nor all can be everything. 'Only everyone together can be everything, and the unity of all can only be a whole. That is the idea of the Catholic Church.'

Furthermore, a system of accountability should be operative, so that decisions are explained, especially when they go counter to the advice given.

At present, such fora as are available for the free exchange of opinion in the Church manifest only limited implementation of the principle of subsidiarity. To prevent unnecessary public controversy in the media when there is conflict or dissent, local, regional or national

79See KASPER, *Theology and Church*, p.163. Kasper quotes frequently from Möhler, the theologian credited with developing the doctrine of the Mystical Body, propounded by Pope Pius XII.
arrangements need to be in place. The process of reception requires a similar structure, so that the role of all the Christifideles in contributing to the formulation of law and its translation into practice is seen to be treated with the seriousness which this process deserves.
CONCLUDING REFLECTIONS

As originally formulated by Pope Pius XI, the principle of subsidiarity was intended to define competencies within the civil society, so that the state did not take from its citizens responsibilities that were properly theirs but provided for any necessities which they could not by themselves successfully obtain. The principle is founded on recognition of the dignity of each human being who therefore has an inalienable right to self-determination. To limit this right to decisions in the secular sphere, to deny to intelligent, free, responsible and baptised men and women a real role in the functioning of the Church, in the building up within their parishes, dioceses and nations of the communio held to characterise the post-Vatican II Church, appears to go counter to the best interests of the Church as a whole.

It has become obvious in the course of this study that the principle of subsidiarity as an organisational principle has strong support in the Church’s teaching. The conciliar documents, in keeping with one strand of papal teaching, explicitly mention the principle in relation only to the state and its responsibilities towards its citizens. Ample evidence exists, however, of the influence exerted by the principle in the conciliar documents, even in defining intra-ecclesial relations. The emphasis on collegiality, on the local churches, the recognition of the position of the bishop in his diocese as vicar of Christ, of the role of national conferences of bishops, of the need for greater participation by the laity in the mission of the Church - all these exemplify the move towards decentralisation, inspired by respect for the dignity and rights of the individual. Reiteration of the principle of subsidiarity in the Church’s social teaching, revealed its possible application in these aspects of ecclesial life.
Papal approval of the principle as applicable to the Church appears qualified and warns against the dangers of any imprudent implementation. A sort of “unilateral declaration of independence” on the part of the particular churches seems to be the main fear voiced by Popes Paul VI and John Paul II. Stronger collegial activity, more frequent dialogue and communication between the bishops in national conferences and synods at various levels, would serve to obviate this risk.

Flexibility, adaptation, dynamism, diversity - all appeared as values advocated by the bishops at successive synods in their requests for greater decentralisation. All characterise the implementation of the principle of subsidiarity: all indicate the presence of the Spirit bestowing his charisms in the local churches. Since communio requires a living and visible witness, the Code should offer the means to channel these energies and the initiatives which flow from them, by encouraging the establishment at local level of such structures as are appropriate.

In the course of the ten synods held between 1967 and 1990, the bishops repeatedly requested further implementation of the principle. Even during the Council, Pope Paul VI had seen fit to recognise many powers belonging to diocesan bishops. Not even these efforts at decentralisation satisfied the needs reiterated at successive synods. The bishops discussed many issues at length in Rome but remained unable to put their aspirations into effect in their own dioceses without first seeking at least recognitio from a central authority. The process of inculturation, or rather “the evangelisation of cultures,” therefore remains painfully slow. Seminary training, for example, as legislated in the Code, does not really respond to the needs of many local churches.
CONCLUDING REFLECTIONS

Although the 1967 Synod adopted it as a revision principle for the Code of Canon Law, even after the publication of the Code, the synodal discussions returned to the theme of further implementation. The principle was invoked as essential for promoting inculturation, co-responsibility and participation of the laity. The bishops spoke of the values of dynamism and diversity, of flexibility and adaptability, characteristics of a lively response to the Spirit working in the particular churches, seen to be the fruits of the application of this principle. Properly applied, the principle, while recognising the individual dignity of each member of the Christifideles, certainly fosters initiative, frees people to exercise their charisms in the service of the Church and promotes communio.

Since there is no explicit mention in the Code of the principle of subsidiarity, one might conclude that as a revision principle it had little or no effect. Nonetheless, it appears that certain sections at least in Book II do, in fact, show evidence of the implementation of the principle, whereas other sections give only very limited evidence that the principle informed the revision process. Such councils as exist in the diocese, for example, remain firmly under the control of the diocesan bishop: application of the principle of subsidiarity stops short of empowering other Christifideles, clergy and laity, in any meaningful way.

The canons governing the Institutes of Consecrated Life, however, show the greatest degree of implementation of the principle of subsidiarity, not only in permitting to the institutes the freedom to draw up their own constitutions in accordance with their unique charism, but also in recommending patterns of participative governance within the institutes.

The viability of the principle of subsidiarity in religious congregations shows the conditions necessary for it to become workable within the Church as a whole. In this section of the Code the many canons which allow the final decision on a multitude of issues to the
proper law, determined by the religious themselves as a result of consultations and discussions, demonstrate the Church's capacity to provide in its legislation for flexibility and diversity. In addition to a system of accountability, well-established in religious communities, and a system of communication designed to encourage openness and mutual support, the members all benefit from a formation which leads them to expect a role in government, and they are organised into groups where this becomes possible. Further, no one person can remain in power for too long. In such circumstances the principle of subsidiarity works well as an instrument for structuring government.

Some objections to the principle have been explained and an attempt made to show that the arguments of those who reject subsidiarity as valid for the life of the Church are based on a possibly exaggerated view of what is no more than an organisational model, a possible structural pattern, which can be adapted for use in the Church which is a unique human society albeit of divine origin. Three areas were then singled out as examples of further possible uses of the principle.

The reluctance to loosen the centralising tendencies which characterise the Latin Church seems to be based at least in part on the possibly destructive force of diversity. Yet, without noticeable harm, the Catholic Church has embraced diversity for centuries in the Eastern Catholic Churches. The pattern of government there, where synods are the accepted form, and subsidiarity is a well-established and revered principle offers possibilities to the Latin Church.

The principle of subsidiarity, however, requires certain supports. For it to prove an effective tool in providing for a measure of participation in Church, diocesan or local parish governance, there must be an established system of accountability. Since all decisions
CONCLUDING REFLECTIONS

impinge on others, all should be at the service of the communio. Moreover, those who take decisions should, therefore, be prepared to report on them, when necessary, to the appropriate and competent authority whose ultimate responsibility it is to oversee the community.

Perhaps most importantly, the principle assumes that there is already in place a system of communication which will facilitate the flow of information and response between all the members of the community. Many of the bishops at the synods repeatedly requested better systems of communication within the Church and between the Church and the world. The present (God-given) advances in communications technology are offering the Church previously undreamed of opportunities for spreading the Word and hearing the responses of the nations.

A long time supporter of the principle of subsidiarity, Cardinal Bernardin, referred to it in response to one of the last questions in his final interview a month before his death in November 1996. The last exchanges were as follows: Asked “What are the issues you think the next Pope will have to face?” Cardinal Bernardin replied:

Two come to mind. The first is what should be the relationship between the centre and the periphery. The Second Vatican Council highlighted the notion of collegiality. And strictly speaking, that refers to the relationship between the Pope and the bishops. We need the Pope. He is the symbol and also the human instrument of unity. But the bishops have a responsibility for the well-being of their dioceses. So, how do these two work in tandem? I see the same thing in the local church. We have to have a central administration, but how pervasive should it be? To what extent can it become overbearing so that it undermines creativity? The other issue has to do with the notion of subsidiarity; that you shouldn’t insist that a higher level do something that can be done or should be done at the lower level. Sometimes we don’t give enough freedom to people at a lower level.

Q: If we started to do that the Church would be very different, wouldn’t it?
A: Yes.
Q: Do you think that’s going to happen?
CONCLUDING REFLECTIONS

A: I think it has to be resolved.¹

Maybe reliance on the principle of subsidiarity will not resolve the issue, but it has at least focused attention on the tensions.

Eminent though he was, Cardinal Bernardin’s word may not prove sufficiently weighty. Pope John Paul II, however, speaking to the Bishops of the Philippines, also seems to be approving of the principle:

This new and deeper evangelisation calls for dedicated and expert leadership. A bishop has a personal responsibility to teach the faith of the Church. He therefore needs time to read, study and prayerfully assimilate the contents of the Church’s tradition and magisterium. Many time-consuming demands are made on you in the fulfilment of your prophetic, priestly and pastoral roles, and I am fully aware of the generous way in which you respond. In this respect, the evaluation which the Apostles made of their activities - “It is not right that we should give up preaching the word of God to serve tables” (Acts 6:2) - serves as a guideline to their successors in every age, reminding them that certain fundamental duties and far-reaching priorities must be pursued with wise determination. Administrative and social engagements, however unavoidable, must be harmonised with more basic tasks. Bishops also need to practise a subsidiarity which leaves ample room for the cooperation of priests and qualified lay persons in activities not strictly related to their pastoral office.²

This harmonises well with the canonical principle De minimis non curat praetor and, as bishops themselves, future popes may also in their practice of subsidiarity provide more room for the cooperation of priests and qualified lay people in the governance of the Church.


²JOHN PAUL II, Allocution to the Bishops of the Philippines on the Occasion of Their ad limina visit, 24 April 1990, in AAS, 82 (1990), pp.1396-1400, at pp.1398-1399.
CONCLUDING REFLECTIONS

When the study commission, mandated by the 1985 Synod, does eventually produce its report, it may decide that the disadvantages of employing the term "subsidiarity" for the Church as a whole outweigh the benefits. Perhaps "synodality" would serve better to describe the relationships desired.

Canonists could profitably study several other areas of ecclesial life where the possibility exists for implementing the principle of subsidiarity. Such possibilities appear, for example, in the field of ecumenical dialogue, in the arrangements for the selection of bishops, in structuring the relationships between the particular churches and the state, and in the evolving role of conferences of bishops. The need for inculturation, however, as repeatedly requested by bishops at the synods, must be ranked as one of the most important directions for future study. In this respect, more perhaps than in any other, the usefulness of the principle of subsidiarity should become evident as the particular churches themselves are invited to set up such structures as are proven by their experiences and correspond to their cultures and their needs. The whole mission of the Church demands the evangelisation of cultures.

As an organisational principle, subsidiarity has the support of papal approval, unequivocal at least as far as civil society is concerned, qualified in that its application within the Church must be analogous. Although further implementation may ease rather than solve the tensions presently felt, appropriate recognition of the "just autonomy" of particular churches, of parishes, of each of the Christifideles would promote the Church's mission as a witness to human dignity. The principle of subsidiarity offers no more than a possible means of empowering people to assume such responsibility as will prove formative of Christ in them and in their communities.
The *communio* theology of the Church, although based on the Church as a Eucharistic community, also requires a human structure that translates and incarnates its values. The principle of subsidiarity can be adapted to supply this need. For its successful implementation there must be in place a system of formation adapted to the specific needs of each particular church, of each particular member of that church, so that levels of competency are clearly defined and understood. As far as possible, all those who will be affected by a decision should be involved, in appropriate ways, at some stage in making that decision.

As a principle requiring that the Supreme Pontiff safeguards the unity of the whole flock of God, that pastors listen to their people, that all members of the people of God take an active role in the building of the kingdom of God here on earth, the principle of subsidiarity offers a structure for ecclesial *communio*. 
BIBLIOGRAPHY

SOURCES


BOOKS


———, Theology and Church, [Theologie und Kirche], [Introduction and Parts II and III], translated by M. KOHL, London, SCM Press, 1989, x, 231p.


BIBLIOGRAPHY


BIBLIOGRAPHY


BIBLIOGRAPHY


ARTICLES


BIBLIOGRAPHY


BIBLIOGRAPHY


KASPER, W., “The Church as Sacrament of Unity,” in Communio, 14 (Spring 1987), pp.4-11.


BIBLIOGRAPHY


BIBLIOGRAPHY


BIBLIOGRAPHY


ONCLIN, W., “Considerationes de iurium subjectivorum in Ecclesia fundamento ac natura,” in Ephemerides iuris canonici, 8 (1952), pp.9-23.
BIBLIOGRAPHY


PRINCIPE, W., "The Dignity and Rights of the Human Person as Saved, as Being Saved, as To Be Saved by Christ," in *Gregorianum*, 65 (1984), pp.389-430.


BIBLIOGRAPHY


BIBLIOGRAPHY


BIBLIOGRAPHY


BIBLIOGRAPHY


BIOGRAPHICAL NOTE

Rachel Mary Harrington was born on 24 July 1943 in Manchester, England. She received her education first at Saint Clare's Primary School and then at Notre Dame High School, Manchester. In September 1961, she entered the novitiate of the Sisters of Notre Dame de Namur and made her first profession on 11 April 1964. For the next four years she studied at the University of Liverpool, graduating in 1967 with a first class honours degree in Classics and then receiving a first class Post-Graduate Certificate in Education in 1968. Sister Rachel began her teaching career in Notre Dame High School, Sheffield, Yorkshire, where she taught Latin and Scripture from 1968 until 1974. While there, she made her final profession on 16 August 1969. Appointed Head of Classics in Notre Dame High School, Plymouth, Devon, she taught there from 1974 until 1978 when she went to the University of Oxford. After obtaining a Master of Science degree from that university, for ten years she held the position of Senior Teacher in Saint Julie’s High School, Woolton, Liverpool. She returned to Oxford in 1990 to study theology at Blackfriars, the Dominican House of Studies. In 1992, her superiors sent her to Saint Paul University, Ottawa, Canada, to study canon law. She obtained the J.C.L. in 1994 and began her doctoral studies in the autumn of that year.