AN ANALYSIS OF PARTICIPATIVE STRUCTURES IN SELECTED PARTICULAR CHURCHES IN EASTERN AFRICA IN LIGHT OF THE 1983 CODE OF CANON LAW

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ABSTRACT

This thesis analyses participative structures in selected particular Churches in the AMECEA[1] region and proposes some concrete means through which active participation of the Christian faithful may be fostered in the participative structures of these Churches. Structures of participation are means whereby a *communio* ecclesiology finds expression. The 1983 Code provides for a greater number of participative structures in a particular Church in order to reflect *communio*. This study focuses on five of these participative structures: the diocesan synod, the diocesan finance council, the presbyteral council, the college of consultors, and the diocesan pastoral council, treating their nature, purpose, composition, functions, and cessation.

Pope Francis emphasizes the principle of synodality, a constitutive element of the Church, as offering the most appropriate interpretative framework for understanding the Church. For synodality to be a reality, there is an urgent need for the renewal of participative structures. Areas of renewal include: the training of bishops, presbyters, and the laity in servant-leadership skills; intensification of ongoing formation of presbyters; revamped seminary formation programmes based on the *Ratio fundamentalis institutionis sacerdotalis*, 2016; a greater use of the deliberative vote in participative structures; identifying the purposes of the participative structures and making the best use of them.

[1] AMECEA stands for "Association of Member Episcopal Conferences in Eastern Africa."

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ABBREVIATIONS

AA	SECOND VATICAN COUNCIL, Decree on the Apostolate of Lay People *Apostolicam actuositatem*
AAS	*Acta Apostolicae Sedis, Commentarium officiale*
ADCPBT	*Acta et Decreta Concilii Plenarii Baltimorensis Tertii*
AG	SECOND VATICAN COUNCIL, Decree on the Church's Missionary Activity *Ad gentes*
AMECEA	Association of Member Episcopal Conferences of Eastern Africa (After November 1964)
AS	CONGREGATION FOR BISHOPS, Directory for the Pastoral Ministry of Bishops *Apostolorum successores*, 22 February 2004
c.	canon
cc.	canons
CCCB	Canadian Conference of Catholic Bishops
CCEO	*Codex canonum Ecclesiarum orientalium, autoritate Ioannis Pauli PP.II promulgatus, fontium annotatione acutus*
CCLA	E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*
CCLS	Canadian Canon Law Society
CD	SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church *Christus Dominus*
CDF	CONGREGATION FOR THE DOCTRINE OF THE FAITH
CIC/17	*Codex iuris canonici, Pii X Pontificis Maximi iussu digestus*
CIC	*Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus*
CLD	*Canon Law Digest*
CLSA Comm1	J.A. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*

CLSA Comm2	J.P. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*
CLSAP	*Canon Law Society of America Proceedings*
CLSGBI Comm	G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit*
CM	Congregation of the Mission of St. Vincent de Paul
DH	SECOND VATICAN COUNCIL, Declaration on Religious Liberty *Dignitatis humanae*
DPC	Diocesan Pastoral Council
EI	CONGREGATION FOR BISHOPS, Directory on the Pastoral Ministry of Bishops *Ecclesiae imago*, 22 February 1773
EM	CONGREGATION FOR THE CLERGY et al., Instruction *Ecclesia de mysterio*, 15 August 1997
ES	PAUL VI, Apostolic Letter *motu proprio*, *Ecclesiae sanctae*, 6 August 1966
Exegetical CommII/2	A. MARZOA, J. MIRAS, R. RODRÍGUEZ-Ocaña (eds.) and E. CAPARROS (gen. Ed. Of English translation), *Exegetical Commentary on the Code of Canon Law*
FLANNERY1	A. FLANNERY (gen. ed.), *Vatican Council II: The Conciliar and Post Conciliar Documents*, vol. 1
FLANNERY2	A. FLANNERY (gen. ed.), *Vatican Council II: More Post Conciliar Documents*, vol. 2
GS	SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church in the Modern World *Gaudium et spes*
ITEBEA	Interterritorial Episcopal Board of Eastern Africa (Changed to AMECEA in 1964)
LG	SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*
OE	SECOND VATICAN COUNCIL, Decree on the Catholic Eastern Churches *Orientalium Ecclesiarum*

OT	SECOND VATICAN COUNCIL, Decree on the Training of Presbyters *Optatam totius*
PO	SECOND VATICAN COUNCIL, Decree on the Ministry and Life of Presbyters *Presbyterorum ordinis*
RFIS	CONGREGATION FOR THE CLERGY, Directory on the Life and Ministry of Presbyters *Ratio fundamentalis institutionis sacerdotalis*
SCB	Sacred Congregation for Bishops
SC	SECOND VATICAN COUNCIL, Constitution on the Sacred Liturgy *Sacrosanctum concilium*
SCC	Sacred Congregation for the Clergy
SCCs	Small Christian Communities
StC	*Studia canonica*
UR	SECOND VATICAN COUNCIL, Decree on Ecumenism *Unitatis redintegratio*
USCC	United States Catholic Conference (prior to 1 July 2001)
USCCB	United States Conference of Catholic Bishops (since 1 July 2001)

GENERAL INTRODUCTION

Sometimes, it is said that the future of the Catholic Church is in Africa. Whereas, in other parts of the world, the number of Church attendees has been going down, in Africa the number is on the rise. Many are the baptisms and receptions into the Church on a daily basis across the sub-Saharan Africa;[2] ordinations to the diaconate and priesthood are a common feature; and, professions of temporary vows and perpetual vows are numerous.[3]

Unfortunately, this growing Church is a one that in some places is still rooted in the pre-Vatican II ecclesiology of the "perfect society" introduced by missionaries. It is a Church understood as pyramidal in which all power is seen as descending from the pope through the bishops and presbyters, while the lay faithful play a passive role and seem to have a lower position in the Church.[4] Indeed, active participation of the laity in the leadership of the Church is, in many ways, a foreign concept. As a result, the canonical participative structures in some particular Churches in the AMECEA region are dysfunctional.

In my home diocese, structures of collaboration are either nonexistent or weak at best. There has not been a diocesan synod since the diocese was created thirty years ago. The members of the college of consultors have remained the same for the last thirty years—and there have been no replacements when vacancies occur. The presbyteral council is

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[2] The AMECEA region forms the larger part of the sub-Saharan Africa.

[3] The statistics in regards to the growth of the Catholic Church in sub-Saharan Africa are taken from www.catholic-hierachy.org (22 May 2016).

[4] Cf. A. DULLES, *Models of the Church*, 2nd edition, New York, Doubleday & Company, 1988, 39 (=DULLES, *Models of the Church*, 2nd edition). Dulles uses the words of Bishop De Smeldt at Vatican I to explain his point.

dead—the bishop dissolved it several years ago without constituting another one in its place. In place of the presbyteral council, the bishop decided that he would meet with all presbyters of his diocese once a year. This too stopped three years ago when, during the last meeting, the presbyters had more questions for the bishop than he could answer. This state of affairs has affected very much the morale of the presbyters. This low morale and lack of enthusiasm among the presbyters has seeped into the spiritual life and pastoral involvement of the other faithful of the diocese.

The story is, however, different in a diocese several kilometers away. There has been a diocesan synod in this diocese every ten years. The college of consultors is functioning effectively and so is the presbyteral council. This diocese has a functioning tribunal for over thirty years now. It is a diocese that has really valued the structures of collaboration envisaged in the documents of the Second Vatican Council and in the 1983 Code of Canon Law. In fact, this diocese reflects the words of Pope Saint John Paul II in his apostolic letter *Novo millenio ineunte* of 6 January 2001. In this apostolic letter, the Pope wrote:

> To this end the structures of participation envisaged by canon law, such as the council of presbyters and the pastoral council, must be ever more highly valued…. While the wisdom of the law, by providing precise rules for participation, attests to the hierarchical structures of the Church and averts any temptation to arbitrariness or unjustified claims, the spirituality of communion, by prompting a trust and openness wholly in accord with the dignity and responsibility of every member of the people of God, supplies institutional reality with a soul.[5]

[5] JOHN PAUL II, Apostolic Letter *Novo millenio ineunte*, 6 January 2001 (*NMI*), no. 45, in *AAS*, 93 (2001), 298–299. "Hunc ad finem melius usque adhibeantur est necesse illa participationis instituta quae iam Ius Canonicum praevidet, qualia sunt Consilia presbyteralia et pastoralia…. Si igitur iuridicialis prudentia, qua certae circumscribuntur participationis regulae, compagem Ecclesiae hierarchicam ostendit repellitque invitamenta ad proprium arbitrium aut iniustas postulationes, communionis aliunde spiritualitas suam confert animam corpori institutionis

Our principle question in this study shall be: how can the particular Churches within the AMECEA region utilize the canonical resources identified in the teachings of the Church and articulated in the 1983 Code of Canon Law to augment the participation of the faithful in the life of the Church? We will respond to this main question by trying to find answers to the following four questions which will constitute substantive material of four interconnected chapters. First, what is the present situation of canonical structures in selected particular Churches within chosen countries of the AMECEA region? Second, how does the conciliar concept of *communio* provide a solid theological basis for the canonical participative structures within a particular Church? Third, what are the structures of participation to be constituted in a particular Church in light of the Church's teaching and the canons of the 1983 Code of Canon Law? Finally, how can we apply the canonical principles governing participative structures to the situation currently existing in the selected particular Churches within the AMECEA region? The ultimate goal of our study is to find both theoretical and practical answers to the questions and problems related to participative structures we encounter in the AMECEA region.

The principal sources of our study will be pertinent documents of the Second Vatican Council, the Holy See, the Code of Canon Law of 1983, the post-synodal exhortation *Ecclesia in Africa*, and pertinent AMECEA documents. Because our study concerns a region that has its own socio-cultural uniqueness, we will utilize the sources relevant to this aspect of our study.

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indicatque fiduciam illam ac mentem apertam quae dignitati prorsus respondet ac responsalitati cuiusque sodalis Dei apud Populum." English translation in *Origins*, 30 (2001), 503.

To the best of our knowledge and research, to date there has not been any major work focusing specifically on the subject matter of our study. There is one study of a theological nature which analyses Messages of the AMECEA Bishops Plenary Assemblies in light of the Second Vatican Council. This study may provide some general information on the particular Churches within the countries which constitute AMECEA.

Our project includes an examination of five selected canonical structures and their concrete application in some particular Churches within the chosen AMECEA countries. There are several major studies on each one of these structures: a) diocesan synod; b) diocesan finance council; c) presbyteral council; d) college of consultors; and e) diocesan pastoral council. We will draw upon these major studies on each of the canonical structures as we develop the principal topic of our dissertation.

We will structure our dissertation in four chapters. The subject matter of the first chapter will include a brief description of the present condition of the selected participative structures in the chosen particular Churches within the selected countries of the AMECEA region. This will include a brief historical and socio-cultural background of the AMECEA region. Then, we will examine the current situation vis-à-vis the canonical participative structures within the select particular Churches. We will identify what structures are presently active in those particular Churches and offer suggestions for the constitution of additional participative structures.

The second chapter will study the principle of *communio* as the basis for constituting participative structures which will ensure active participation of all the faithful in the mission of the Church. This will provide a theological foundation for the participative canonical structures.

The third chapter will present a canonical analysis of selected canonical participative structures. The foundational sources of this analysis will be the canons of the 1983 Code of Canon Law and other magisterial documents. Through this chapter we hope to establish salient canonical principles for constituting participative structures in the particular Churches.

The final chapter will carefully consider the application of the findings of the three preceding chapters to the situation in the particular Churches within the selected countries of the AMECEA region.

Because the Church in the AMECEA region is predominantly Latin, we will base our study principally on the 1983 Code of Canon Law. We will, however, point out noteworthy differences between the Latin Code and the 1990 Code of Canons of the Eastern Churches. Since our research requires analysis of some concrete data on the functionality of the participative structures in the selected particular Churches, we will use the material obtained from the AMECEA offices in Nairobi and the information we gathered from interviews with several bishops and presbyters from the AMECEA region.

CHAPTER ONE

CANONICAL PARTICIPATIVE STRUCTURES IN SELECTED PARTICULAR CHURCHES WITHIN THE AMECEA REGION

Introduction

This chapter will give the historical, political, social, religious, and cultural reasons as to why the structures are not functioning as they should in the AMECEA region. The principal aspect of this chapter is thus showing the interplay between culture, theology, and canon law which has shaped the canonical participative structures as we have them today in the AMECEA region.

Since our study is about the canonical participative structures in particular Churches in the AMECEA, it is important to know what AMECEA is all about. Indeed, we will first look at the social heritage of the people of the AMECEA before we deal with the question of the impact of the missionary approach in the spread of Christianity in Eastern Africa and how some particular Churches have maintained the *status quo* which diminishes the importance of active participation by the faithful in the mission of the Church. The aspects of the social heritage of the people of AMECEA that have a bearing on our study include: the concepts of kinship, family, patriarchy, politics, social order, and conflict resolution. We will then explore in detail the current situation of participative structures in selected particular Churches in the AMECEA region.

1. 1 THE AMECEA

The AMECEA comprises the following eight countries: Eritrea, Ethiopia, Kenya, Malawi, Sudan, South Sudan, Tanzania, Uganda, and Zambia. Somalia and Djibouti are

affiliate members.[6] The Association began in 1961. It is important to note from the very beginning that AMECEA,[7] as an association, is not a juridic person. Its canonical foundation is to be traced in canon 459, §1, which states: "Relationships are to be fostered between the bishops' conferences, especially neighboring ones, in order to promote and defend whatever is for the greater good."[8]

1.1.1 The Socio-Cultural and Political Context of the AMECEA Region: Past and Present

When the people of the AMECEA first came in contact with Christianity, they were not a *tabula rasa*; they had a heritage. The question that we ask ourselves is: how have theology and canon law interacted with the people of the AMECEA in shaping the structures as we have them today? To understand and appreciate the answer to this question, we will take a look at the past and present of the people of the AMECEA.

1.1.1.1 The Historical, Cultural, and Religious Heritage of the People of the AMECEA

[6] AMECEA, *Pastoral Mission of Evangelization in Solidarity 1961-2011*, 1.

[7] In this section, we use AMECEA in several senses, that is, as a region, the people of the region and as an association whose members are the heads of particular Churches in the AMECEA region.

[8] *Codex iuris canonici, auctoritate Ioannis Pauli PP. II Promulgatus fontium annotatione et indice analytico-alphabetico* auctus, Libreria editrice Vaticana, 1989, English translation *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, DC, Canon Law Soceity of America, 1999, canon 459, §1. "Foveantur relationes inter Episcoporum conferentias, praesertim viciniores, ad maius bonum promovendum ac tuendum." All references to the canons of the 1983 Code will be styled "c." for canon and "cc." for canons, followed by the canon number (s).

Here, our first task is to show that the people of the AMECEA countries share the same social heritage. The Eastern African countries that form the AMECEA region and sub-Saharan Africa in general have a rich heritage of what past generations of African peoples thought, did, experienced, and passed on to their children.[9] From studying the languages, human features, and habits of life, we can piece together both the history and the manner of life of the people of the AMECEA and conclude that they have a common origin.[10]

The peoples of Eastern Africa have lived for hundreds of years, and continue to live, in units of clusters commonly referred to as tribes. Each people has its own distinct language, not simply a dialect. These languages are related to one another. They fall under the four main linguistics, that is, Bantu, Semitic, Sudanic, and Nigritic.[11]

Across the region, the many tribes that form the region have similar cultural practices. Members of the same tribe share a common history, which is often traced at least mythologically either to the first man created by God or to national leaders responsible for establishing a particular structure of the society concerned. The common culture expresses itself in the form of common customs, morals, ethics, social behaviour, and material objects like musical instruments, household utensils, foods, and domestic animals.[12]

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[9] J. S. MBITI, *Introduction to African Religion*, New York, Praeger Publications, 1975, 2 (=MBITI, *Introduction to African Religion*).

[10]Ibid., 4.

[11] J.S. MBITI, *African Religions & Philosophy*, New York, Frederick A. Praeger Publishers, 1969, 101 (=MBITI, *African Religions & Philosophy*).

[12] Ibid., 103.

Each tribe has its own distinct social and political organization. The family, age groups, special persons in society, marriage customs, traditional forms of government, political personages and the like are points of distinction and convergence at the same time. Some societies have regional chiefs or headmen who rule or ruled portions of the tribe with hereditary or non-hereditary offices; and others delegated their political authority to age groups or elders, both men and women.[13]

The deep sense of kinship, with all it implies, has been one of the strongest forces in traditional African life. Kinship is reckoned through blood and betrothal (engagement and marriage). It controls social relationships between people in a given community, governing marital customs and regulations and determining the behavior of one individual towards another.

> Indeed, this sense of kinship binds together the entire life of the tribe, and is even extended to cover animals, plants and non-living objects through the totemic system. Almost all the concepts connected with human relationships can be understood and interpreted through kinship system. This it is which largely governs the behaviour, thinking and whole life of the individual in the society of which he is a member.[14]

As regards the religion of the people of Eastern Africa, it is part of their cultural heritage. It is by far the richest part of the African heritage. Indeed, religion is found in all areas of human life. It shapes the peoples' cultures, their social life, their political organizations, and their economic activities.[15] Religion is the product of the thinking and experiences of the forefathers. They formed religious ideas, they formulated religious

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[13] Cf. M. FORTES and E. EVANS-PRITCHARD (eds.), *African Political Systems*, London, Oxford University Press, 1940, xiii (=FORTES and EVANS-PRITCHARD, "Introduction").

[14] Cf. MBITI, *African Religion & Philosophy*, 103.

[15] Ibid., 9.

beliefs, they observed religious ceremonies and rituals, they told proverbs and myths which carried religious meanings, and they evolved laws and customs which safeguarded the life of the individual and the community.[16]

Since African religion developed together with all the other aspects of the heritage, it belongs to the people; it belongs to each tribe in which it has evolved. It is African religion which gives its followers a sense of security in life. Within that religious way of life, they know who they are, how to act in different situations, and how to solve their problems. Because religion provides for them answers and direction in life, people are not willing to abandon it quickly even in the contemporary society characterized by secularism and atheism.[17] African religion functions more on a communal than on an individual basis. Its beliefs are held by the community; therefore it does not matter whether or not the individual accepts all these beliefs.

Thus, African religion is an essential part of the way of life of each tribe. Its influence covers all of life, from the womb to the tomb. People find it useful and meaningful in their lives, and therefore they let it spread freely. They teach it informally to their children through conversation, proverbs, and myths, as well as through practice. Young people also learn about it through participating in religious activities such as ceremonies, festivals, rituals, and so on.[18]

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[16] MBITI, *African Religion & Philosophy*, 13.

[17] Cf. L. MAGESA, *African Religion: The Moral Traditions of Abundant* Life, Maryknoll, NY, Orbis Books, 1997, 4–5 (=MAGESA, *African Religion*).

[18] MBITI, *Introduction to African Religion*, 15.

Let us now consider in detail some specific aspects of the heritage that are of particular importance to us in this study. These aspects include the concepts of family, patriarchy and social order.

1.1.1.2 The Concept of Family

For the African peoples, the family has a much wider circle of members than the word suggests in other parts of the world.[19] In traditional society, the family includes children, parents, grandparents, uncles, aunts, brothers, and sisters who may have their own children and other immediate relatives.[20] The family also includes the departed relatives who are referred to as the living-dead. These are, as the name suggests, alive in the memories of their surviving families and are thought to be still interested in the affairs of the family to which they once belonged in life.[21] People give offerings of food and libation to the living-dead because they are still part of the family. The food and libation so offered are tokens of the fellowship, communion, remembrance, respect, and hospitality being extended to those who are the immediate pillars or roots of the family. The living-dead solidify and mystically bind together the whole family.[22] The African concept of family also includes unborn members who are still in the loins of the living. They are the buds of hope and expectation, and each family makes sure that its own existence is not

[19] The African concept of family was adopted by the African Synod of 1994 as the model of Church for Africa.

[20] MBITI, *African Religions & Philosophy*, 106.

[21] Ibid., 107.

[22] Ibid., 108.

extinguished. The family provides for its continuation and prepares for the coming of those not yet born.[23]

In the African family, the individual does not and cannot exist alone but only in a community.[24] He[25] owes his existence to other people, including those of past generations and his contemporaries. He is simply part of the whole. The individual's worth is therefore measured against the community and its values. Physical birth is not enough; the child must go through rites of incorporation so that he becomes fully integrated into the entire society. These rites continue throughout the physical life of the person during which the individual passes from one stage of communal existence to another.

Thus, it is only with other people that the individual becomes conscious of his own being, duties, privileges, and responsibilities towards himself and others. When he suffers, he does not suffer alone but with the community at large; when he rejoices, he rejoices not alone but with his kinsmen, his neighbours, and his relatives, whether living or dead. Thus, whatever happens to the individual happens to the whole group; and whatever happens to the whole group happens to the individual. The individual can only say: "I am because we are; and since we are, therefore I am." This is the cardinal point in the understanding of the African view of man.[26]

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[23] Cf. MAGESA, *African Religion*, 83.

[24] Cf. MBITI, *African Religions & Philosophy*, 107.

[25] In many African languages, the word for person is *mundu*, which is used for both male and female. The use of pronouns for male and female is absent in these languages. Writing about these languages in English forces us to use the English pronouns for sexes. The "he" in African languages would thus refer to a man or a woman.

[26] Cf. MBITI, *African Religion & Philosophy*, 109. This point is not only important in understanding man in the community. Community works as a unit. The individuals in the community work in harmony with each other in order to build each other and thereby build a strong

A community, in the African sense, does not imply a mere co-existence between self-sufficient individuals or between groups of people or spirits. It implies a union of intelligent beings who have a common link (e.g., common ancestral origin and blood relationship of a clan), as well as a common goal in life (common good of a tribe). This brings us to the conclusion that, to the African mind, the establishment of a human society is only a means to an end—which is not in a material production but in the realization of all that to which man is destined—happiness here and the hereafter. In the community of the hereafter, "a person enjoys the fellowship and assistance of spiritual entities headed by an Absolute Being, the author of life…."[27]

1.1.1.3 The Notion of Patriarchy

Collins English Dictionary & Thesaurus defines patriarchy as "a form of social organization in which a male is the head of the family and descent, kinship, and title are traced through the male line."[28] *Longman New Universal Dictionary* defines patriarchy as "a system or an instance of social organization marked by the supremacy of the father in the clan or family, the legal dependence of wives and children, and the reckoning of descent and inheritance in the male line."[29] Patriarchy is therefore a social structural phenomenon in which males and especially the head of the family have privileges of dominance over

community. Thus, every member of the community is called upon to participate actively in the building of the community.

[27] Cf. MBITI, *Introduction to African Religion*, 184.

[28] J.M. SINCLAIR (General Consultant), *The Times English Dictionary & Thesaurus*, 2nd ed., New York, Harpercollins Publishers and Times Books, 2001, 862.

[29] P. PROTECTOR (Editor-in-Chief), *Longman New Universal Dictionary*, Essex, G & C Merrian Company and Longman Group Limited, 1982, 709.

females and children. This phenomenon is manifested in values, attitudes, customs, expectations, and institutions in the society, and it is maintained through the process of socialization. Here, dialogue is absent and decision-making is solely the preserve of the head of the family.[30]

The existence of patriarchy in Eastern Africa and the rest of Africa may be traced back to the years before Christ. The notion of paternal superiority was upheld by the primitive revelation which was introduced into Africa by the Palestinian migrants.[31] Its contents were transmitted as folk tales from tribe to tribe and from generation to generation. Paternal superiority was also sustained by positive revelation which the Jewish Diaspora felt their duty to propagate. The Semites of later arrival in Africa kept to the biblical regard for a *paterfamilias*. Indeed, the history of the Semitic migrations to Africa and their influence on various tribes in Egypt and Rhodesia brought to the fore the social importance of the father's role in the family. Indications of Christian influence abound in the region around Darfur in Eastern North Eastern Africa and further South and West of the Continent.[32]

It is also important to note that the change from matrilineal institutions to patrilineal ones in the regions to the north of the equator was largely due to the Islamic conquests in the fifteenth century. Most of the Sudanese, the Tuaregs, and even the Berbers who once

[30] This was my own experience as a child.

[31] Whereas the concept of family would add value to active participation in collaborative structures, patriarchy would stifle such participation.

[32] P. AKOI, *Religion in African Social Heritage: A Handbook on African Mystical Sociology*, Rome, Pontifical Urban University, 1970, 149 (=AKOI, *Religion in African Social Heritage*).

populated the strongly matrilineal regions of the Sudan and the Sahara are now strong adherents of the Islamic patriarchal social organization. The spread of Christianity in Eastern Africa in modern times (commencing in the nineteenth century) cemented the idea and practice of patriarchy in traditional societies that accepted Christianity.[33]

1.1.1.4 Politics, Social Order, and Conflict Resolution

In Eastern Africa and in Africa in general, there was no single political system in the traditional societies. The political systems varied from societies with complex institutions, such as the Asante of Ghana, or Zulu of South Africa, or Buganda of Uganda, to those with looser systems such as the hunters and gatherers generally referred to as stateless societies.[34]

It is important to note that, in traditional Africa society, there was generally no specific political structure that was distinct from the social and religious structures of society.[35] This is because the major values of good government were incorporated in, and actually seen to be from, the value of good company with neighbours and with the Creator. It was the requirement of good company that linked the political system to the religious vision and made moral demands on it.

Meyer Fortes and Evans-Pritchard identify three types of political systems in Africa.

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[33] This is dealt with in detail under the role of the missionaries in Eastern Africa in the modern times under section 1.1.1.6.

[34] A. CHIMA, "Leadership in the African Church," in *African Ecclesial Review*, 26 (1984), 333 (=CHIMA, "Leadership in the African Church").

[35] MAGESA, *African Religion*, 5.

> Firstly … those very small societies [whose members] are united to one another by kinship, so that political relations conterminous with kinship relations and the political structure and kinship organization are completely fused. Secondly … societies in which a lineage structure is the framework of the political system, their being a precise co-ordination between the two, so that they are consistent with each other, though each remains distinct and autonomous in its own sphere. Thirdly … societies in which an administrative organization is the framework of the political organization is the framework of the political structure.[36]

In whichever political system, there was a ruler, those who helped him rule, and the ruled. The rulers could be "king, chief, queen, rainmakers, or priests."[37] The ruler's kingship or chieftainship was linked by myth and legend to God. The rulers were in many ways the symbols of their people's health and welfare. They also symbolized unity and common tradition. They were responsible for the security and safety of their people.[38] Indeed, a ruler was "not to his people merely a person who can enforce his will on them. He is the axis of their political relations, the symbol of their unity and exclusiveness, and the embodiment of their essential values…; his credentials are mystical and are derived from antiquity."[39]

Authority was invariably based on descent, whether within the family, the village, the district, or the nation, and the chief of the tribe combined executive, ritual, and judicial functions according to the pattern of leadership in each constituent kinship unit. "The hierarchy of the Bantu, Nilotes and Cushites of Eastern Africa allowed only one type of authority, one basis of power, and one set of attributes in its leaders."[40]

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[36] FORTES and EVANS-PRITCHARD, "Introduction," 7.

[37] MBITI, *Introduction to African Religion*, 161.

[38] Ibid., 162.

[39] FORTES and EVANS-PRITCHARD, "Introduction," 17.

[40] A.I. RICHARDS, "The Political System of the Bemba Tribe—North-Eastern Rhodesia, in M. FORTES and E.E. EVANS-PRITCHARD (eds.), *African Political Philosophy*, Rome, Pontifical

It is important to note, however, that the powers of the ruler, whether king or chief, were not absolute. Rulers and chiefs ruled by consent.[41] Indeed, a ruler's subjects were as fully aware of the duties he owed to them as they were of the duties they owed to him, and they were able to exert pressure to make him discharge these duties.[42] Besides, there were other institutions that counterbalanced the powers of the king or the chief. These included the king's council (also referred to as council of elders), sacerdotal officials who had a decisive voice in the king's investiture, rain-makers, queen mother's courts, and other institutions that worked for the protection of law and custom and the control of centralized power.[43]

Of the above-mentioned institutions, the council of elders deserves a more detailed explanation of its role, given its relevance to our study here. The council of elders acted as an advisory body to the ruler.

> The divine king, if he acted like a demi-god, could be unbearably autonomous. Yet, for supernatural reasons, even in such circumstances, it was unusual in the history of Africa for a ruler to act without consulting elders…. Before any major national move, the ancestors and the gods had to be consulted, and so were the elders of the "state."[44]

Urban University, 1970, 83 (=RICHARDS, "The Political System of the Bemba Tribe—North-Eastern Rhodesia").

[41] Cf. I. SCHAPERA, "The Political System of the Ngwato of Bechuanaland Protectorate," in M. FORTES and E.E. EVANS-PRITCHARD (eds.), *African Political Philosophy*, 72 (=SCHAPERA, "The Political System of the Ngwato of Bechuanaland Protectorate").

[42] Cf. FORTES and EVANS-PRITCHARD, "Introduction," 12.

[43] Ibid., 11.

[44] AKOI, *Religion in African Social Heritage*, 248.

Thus, decision-making by the chief or king involved the "council" in one form or another, "operating at all levels, from clan to village, right up to the central authority, where this exists."[45] Besides advising the chief, the council was responsible for mediating conflict, governing the village and making all important decisions in the community. For many tribes, a person would be initiated into the group through a ceremony. Two main qualities for a person to be initiated were that the person was of age and that the person had wisdom from experience.[46]

There were two types of councils: inner council and council of elders. The most common one for most of the tribes was the council of elders.[47] Some communities had both councils. In some cases, a decision to be reached by the king or chief would not only require the counsel of the inner council and the council of elders but also the village assembly. There was a process of consultation involving the king/chief, the inner council, the council of elders, and the village assembly.

The Inner Council. This was a small group of advisors close to the chief or king that assisted him in governing. Even though there were no criteria for becoming a council member, the council was generally comprised of the chief's relatives, personal friends, and influential members of the village.[48] The role of the inner council served as a first step for legislation. Thus, for any decisions related to the administration of the tribe, the chief would

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[45] CHIMA, "Leadership in the African Church," 333.

[46] Cf. RICHARDS, "The Political System of the Bemba Tribe—North-Eastern Rhodesia," 106.

[47]Ibid., 108.

[48] K. OBERG, "The Kingdom of Ankole in Uganda," in M. FORTES and E.E. EVANS-PRITCHARD (eds.), *African Political Philosophy*, 139.

first address his council to discuss the issues. He would also consider the opinion of his inner council advisor(s)[49] before taking the issue to council of elders and then eventually to all people in the village assembly.

Meetings were held in private at the chief's residence or in some secluded spot after dusk to avoid their publicity or interruption. In theory, the chief was not obliged to follow the council's advice, but he could not easily ignore their advice because of the potential negative implications, including the withdrawal of support, especially moral and material support. The inner council apparently played a large role in preventing despotism by keeping the chief in touch with the reality of the tribe as well as by keeping a check on his behaviour. Consequently, if the chief's ruling on an issue was found detrimental, the people would reproach the inner council for failing to act responsibly.[50]

The Council of Elders. The decision-making process was not limited to the inner council and advisors. In fact, the chief, after consulting with the inner council and his advisors, would also consider taking the issue to the council of elders for further consultation. The council of elders was a much wider and more formal body comprised of all the hereditary headmen of the wards or lineages. It was considered a wider body because the elders represented the commoners. The village council represented the fountainhead of common life, and its determination found expression in the popular opinion.[51]

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[49] The council was an entity. Besides the council the ruler had an advisor(s) who was either independent from the council or part of the council but a close confidant to the ruler.

[50] FORTES and EVANS-PRITCHARD, "Introduction," 12.

[51] Cf. RICHARDS, "The Political System of the Bemba Tribe—North-Eastern Rhodesia," 119-120.

As its name reveals, this council was primarily comprised of elders. For decisions of certain social magnitude, the chief consulted with all the members of the council of elders. Such decisions included additional tributes, market tolls, proposed new laws, declarations of war, and serious interpersonal disputes or conflicts. More specifically, the role of the council of elders was to advise and assist the chief in the administration of the tribe and also to prevent the chief from abusing his power.[52]

The council of elders voiced its dissatisfaction, criticized the chief, and kept him under necessary control. Depending on the nature and complexity of the issue, decisions were usually resolved by acclamation. First, the chief would inform the council of elders of the issue in question. Those wishing to debate the issue would be free to do so before a decision was adopted by acclamation. For complex issues, the chief would not acknowledge a final decision until a debate was conducted and the council reached a unanimous decision. In general, the rest of the tribe easily accepted decisions made unanimously because council members were influential members of their communities.[53]

During the debate, the role of the chief was to lead, not to influence. He was generally silent as he prepared to assemble all views presented by the council members, do an assessment, and lead the team to reach a consensus. At no time was the chief to impose his decisions on the council, since this was contrary to the purpose of the debates. In short, the chief's role was not to dictate but to assess the council of elders' opinions.

[52] FORTES and EVANS-PRITCHARD, "Introduction," 12

[53] Ibid., 72.

The relationship between the chief and the council of elders was prevalent in most African societies. More than anything else, unanimity was the cornerstone of indigenous African political systems. Debate was a fundamental element of traditional African political systems. It brought the unanimity essential to the survival of the society.[54]

The Village Assembly. When agreement over an issue, even after lobbying efforts, was impossible, the chief had to call a village assembly. The issue was then submitted to a public debate to get a final binding opinion from the people. During the assembly meeting, the chief would thoroughly explain the purpose of the consultation and present the facts for discussion. To avoid influencing the debate, he would not announce his council's opinion. After explaining the purpose of the meeting and presenting the facts, the chief would open the debate to his advisors and then to the elders. Finally, the meeting was opened to arguments or questions from the public.[55] When all speakers had concluded their remarks, advisors and headmen would sum up and express their opinions after which the chief would announce his decision. If consensus had been reached, the majority decision would be adopted.[56]

In many communities across Eastern Africa and Africa in general, the council of elders also acted as the judicial body of the group. As we saw earlier, the relationship between the individuals and communities formed the basis of the African conception and practice of law. The elders carried on the process of adjudication. Central to the judicial

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[54] Cf. SCHAPERA, "The Political System of the Ngwato of Bechuanaland Protectorate," 65.

[55] Ibid.

[56] Cf. G. WAGNER, "The Bantu of Kavirondo," in M. FORTES AND E.E. EVANS-PRITCHARD (eds.), *African Political Philosophy,* 219 (=WAGNER, "The Bantu of Kavirondo").

process was the act of listening by those whose task was to make the judgement between the accuser and the accused. A successful judgement was one that brought about concurrence and reconciliation between the affected parties.[57] In assemblies of clan or tribe council, there was no hereditary or formally appointed chief judge or leading sub-clan. The community accepted the judgement of strong personalities who had gained prestige as warriors and of authorities whose opinion carried more weight than that of the ordinary elders.[58]

The sanction which supported the legal decision given by the elders of the clan or the tribe or by the larger *ad hoc* assembly of the whole clan or tribal elders was the solidarity of the members of the respective groups in backing the decisions. Indeed, whenever the verdict was supported by all or great majority of the elders, the accused would not dare to oppose and/or appeal to the higher authority.[59]

The procedure of law was designated to offset social disintegration in the societies. Law provided a motive for greater social identification and cohesion. Law and conflict resolution were closely related to the whole system of morality/ethics of African religion. It was difficult to separate law in African tradition from custom, taboos, divination, mediumship, ordeals, and the expectations of sharing, harmony, play, and good company. Indeed, "it was difficult to separate it from the structures of family, lineage, clan, and the various sodalities."[60]

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[57] MAGESA, *African Religion,* 273.

[58] Cf. WAGNER, "The Bantu of Kavirondo," 221.

[59] Ibid.

[60] MAGESA, *African Religion,* 269.

In short, the African political system, legal system, moral system, and religious system were inseparable. They were founded on kinship, lineage, and clan relationships. Their purpose was the same: to protect and enhance the power of life in the universe. Similarly, resolution of conflict was connected to the religious system and inseparable from it. To speak of law and reconciliation in African traditional societies was to speak of morality and ritual at the same time.[61]

1.1.1.5 Theology in Context

The interplay between culture, theology, and canon law is key to the understanding of the workings of the canonical participative structures in the AMECEA. A good canon law relies on good theology, and a good theology is one that is contextual. Steven Bevans, in *Models of Contextual Theology*, writes: "There is no such thing as "theology"; there is only *contextual theology*…. The contextualization of theology—the attempt to understand Christian faith in terms of a particular context—is really a theological imperative."[62]

How is contextual theology relevant to our study here? The task of analyzing the socio-cultural and political situation, both past and current, in the AMECEA region is to place the Church's development in African structures and to interpret the role of the Church as it speaks the new, and indeed foreign, idiom for a Church that is truly African and truly

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[61] MAGESA, *African Religion*, 273.

[62] S. BEVANS, *Models of Contextual Theology*, rev. ed., Maryknoll, NY, Orbis Books, 2002, 3 (=BEVANS, *Models of Contextual Theology*).

universal.[63] The local Churches ought to develop new trends of teaching their peoples the essence of Christianity within the local context by using the structure, personnel, and policies already existing in the local Church.[64] As their cultural and historical context play a part in the construction of the reality in which they live, so their context influences the understanding of their faith.[65]

Contextual theology takes into account the experience and contexts of the past. It is authentic theology only when what has been received is appropriated, made one's own. For that to happen, the received tradition must of course pass through the sieve of their own individual and contemporary-collective experience, for they cannot give it, profess it as theirs, unless such a process occurs.[66] Indeed, "personal or communal experience is possible only within the context of a culture," that is, a "system of inherited conceptions expressed in symbolic forms by means of which people communicate, perpetuate, and develop their knowledge about and attitudes toward life."[67] Therefore we must take seriously human experience, social location, particular cultures, and social change in those cultures in Eastern Africa.[68]

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[63] B. SUNDKLER, "African Church History in a New Key," in K.H. PERTERSEN (ed.), *Religion, Development and African Identity*, Seminar Proceedings no. 17, Uppsala, Scandinavian Institute of African Studies, 1987, 27.

[64] V. CANON YAKUBU, "Contextual Theology: A Basic Need within the Church in Africa Today," in *African Ecclesial Review*, 38 (1996), 137 (=YAKUBU, "Contextual Theology").

[65] Cf. BEVANS, *Models of Contextual Theology*, 4.

[66] Cf. Ibid., 5.

[67] Ibid., 6.

[68] Ibid., 15.

As we have stated above, a good understanding of canon law presupposes a good understanding of the theology of the Church, especially the theology of Vatican II Council. In *Sacrae disciplinae leges*, the Apostolic Constitution promulgating of the Code of Canon Law of 1983, Pope John Paul II writes:

> I must recognize that this Code derives from one and the same intention, which is that of renewal of the Christian life. From such an intention, in fact, the entire work of the Council drew its norms and its direction…. Therefore the Code, not only because of its content but also because of its very origin, manifests the spirit of the Council, in the documents of which the Church, the Universal "sacrament of salvation" (cf. Dogmatic Constitution on the Church, *Lumen gentium*, nos. I, 9, 48), is presented as the People of God and its hierarchical constitution appears based on the College of Bishops united with its Head.[69]

Unfortunately, when the missionaries came to Eastern Africa in the nineteenth century, the theology and canon law in vogue were considerably different from that expressed here by the pope.

1.1.1.6 The Missionaries to Eastern Africa

As we shall see below, the missionaries, like their contemporaries, were steeped in a "perfect society" ecclesiology and a heavily "juridicized" Church. Consequently, the missionaries overlooked the importance of the heritage of the people to whom they were ministering, and they devalued the traditional African way of life. (This heritage included

[69] JOHN PAUL II, JOHN PAUL II, Apostolic Constitution, *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75 (1983), viii–ix. "Haec vero nota collegialitatis, qua processus originis huius Codicis eminenter distinguitur, cum magisterio et indole Concilii Vaticani II plane congruit. Quare Codex non modo ob ea quae continet, sed etiam iam in suo ortu prae se fert afflatum huius Concilii, in cuius documentis Ecclesia, sacramentum salutis, tamquam Populus Dei ostenditur eiusque hierarchica constitutio in Collegio Episcoporum cum Capite suo nixa perhibetur." English translation in *Code of Canon Law: Latin–English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, DC, CLSA, 1999, xxviii (=JOHN PAUL II, *Sacrae displinae leges*).

a system of governance in the African societies that was participatory and inclusive.) There was little difference between the attitudes of the colonialists and the missionaries towards the Africans. "In the colonial system, a chief was no longer for the people, but was subordinate to the colonial government, was restricted to what the government allowed him, and to what the government demanded that he did—seeing to it that the people paid taxes or did state labour, reporting them if they broke the law, etc."[70] The unfortunate result was that the chief became more powerful and, as result, he felt free to act without the council's check on his power. The infamous "divide and rule" method was devised by the colonialists that eventually created a wall between the leaders and those being led.[71]

The Church was no different from the political regimes of the time in their attitude toward African cultures. Indeed, the missionaries had a strong belief that all things European were superior to all things African. The missionaries felt that it was their mission to do anything necessary to convert the Africans who were viewed as uncivilized and barbaric.[72] The effect was that Christianity did not penetrate sufficiently deeply into African religiosity. Indeed, for the Africans, Christianity came to mean simply a "set of rules to be observed, promises to be expected in the next world, rhythmless hymns to be sung, rituals to be followed, and a few other outward things."[73]

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[70] CHIMA, "Leadership in the African Church," 334.

[71] Cf. RICHARDS, "The Political System of the Bemba Tribe—North-Eastern Rhodesia," 119.

[72] Cf. H.F. HINFELAAR, "Evangelization and Inculturation," in *African Ecclesial Review*, 36 (1994), 2 (= HINFELAAR, "Evangelization and Inculturation").

[73] MBITI, *African Religion & Philosophy*, 233.

The Church that was preached to the African converts was the Church that had the *societas perfecta* ecclesiology and jurisdiction as its cornerstone. "Perfect society" meant that the Church (and any other society that claims to be perfect) is "subordinate to no other and lacks nothing required for its own institutional completeness."[74] This institutional model gave strong support to the missionary effort by which the Church went out to non-members seeking "to save their souls precisely by bringing them into the institution."[75]

The powers and functions in the Church were generally divided into two unequal spheres: a Church teaching and the Church taught; a Church sanctifying and the Church sanctified; and a Church governing and a Church governed.[76] As teacher, the Church was therefore the unique type of school—one in which the teachers had the power to impose their doctrine with juridical and spiritual sanctions. As sanctifiers, the popes and bishops, assisted by presbyters and deacons, were like engineers opening and shutting the valves of grace. As governor, the Church was in the hands of the hierarchy who ruled in their own name. "They governed the flock with pastoral authority, and as Christ's vicegerents imposed new laws and precepts under pain of sin."[77]

The Church was considered as one in which the fullness of power was concentrated in the hands of a ruling class that perpetuated itself by cooption. The Church was thus essentially pyramidal in which "all power is conceived as descending from the pope

[74] DULLES, *Models of the Church*, 34.

[75] DULLES, *Models of the Church*, 42.

[76] Ibid., 37.

[77] Ibid., 38.

through the bishops and presbyters, while at the base the faithful people played a passive role and seemed to have a lower position in the Church."[78] Thus, the institutionalized Church encouraged clericalism,[79] "which tends to reduce the laity to a condition of passivity, and to make their apostolate a mere appendage of the apostolate of the hierarchy…."[80]

In the perfect society model, the diocesan bishop, while remaining the central diocesan pastoral leadership figure, came to function more as a delegate of the Roman Pontiff and somewhat less as the father and pastor of the diocese. Indeed, even though the bishops enjoyed immediate power in their own diocese, that authority was to be exercised under the authority of the Roman Pontiff.[81]

In short, the Church was the perfect society, possessing all the power that it required to function, mediated through its monarch, the pope,[82] who, through canonical mission,

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[78] Ibid., 39.

[79] Besides clericalism, Bishop Emile De Smedt at Vatican II also identified juridicism and triumphalism as effects of the perfect society ecclesiology. For more information on this, see DULLES, *Models of the Church*, 39.

[80] DULLES, *Models of the Church*, 43.

[81] Ibid.

[82] *Codex iuris canonici, Pii X Maximi iussu digestus, Benedicti Papae XV auctoritate promulgates*, Typis polyglottis Vaticanis, 1917, English translation E.N. PETERS (ed.) *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001, canon 218. "Romanus Pontifex, Beati Petri in primatu Successor, habet non solum primatum honoris, sed supremam et plenam potestatem iurisdictionis in universam Ecclesiam tum in rebus quae ad fidem et mores, tum in iis quae ad disciplinam et regimen Ecclesiae per totum orbem diffusae pertinent." All references to the canons of the 1917 Code will be styled "*CIC/17*, cc." for canon, followed by the canon number (s).

transmitted some of these powers to the bishops as his delegates.[83] Through the jurisdiction given to them by the diocesan bishop, presbyters then provided for the care of souls on an individual basis, having received the power of orders through ordination.

The perfect society ecclesiology found its way into the Vatican I teachings, and Vatican I teachings found their way in the 1917 Code of Canon Law. Indeed, the ecclesiological thought of Vatican I was basically monarchical in structure, as seen in the constitution *Pastor aeternus*:

> We teach and declare, accordingly, that by the disposition of the Lord, the Roman Church possesses pre-eminence of ordinary power of jurisdiction of the Roman Pontiff, which is truly episcopal, is immediate. This power obligates shepherds and faithful of every rite and dignity, both individually and collectively, to hierarchical subordination and true obedience, not only in matters pertaining to faith and morals, but also in those pertaining to the discipline and government of the Church throughout the world; so that maintaining with the Roman Pontiff unity of communion in the profession of faith, the Church of Christ may be one flock under one supreme shepherd.[84]

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[83] Even though a good number of authors caution against exaggerating the effects of the distorted "perfect society" ecclesiology, the words of Pope Pius XII show that, in practice, the bishops were not as independent as the some decrees of Vatican I would want to portray them to be. "Yet in exercising this office of feeding the local Church, the bishops are not altogether independent, but are duly subordinate to the authority of the Roman Pontiff; though their jurisdiction is inherent in their office, yet they receive it directly from the same Supreme Pontiff." See PIUS XII, Encyclical Letter *Mystici corporis Christi*, in *AAS*, 35 (1943), no. 42. "Id tamen dum faciunt, non plane sui iuris sunt, sed sub debita Romani Pontificis auctoritate positi, quamvis ordinaria iurisdictionis potestate fruantur, immediate sibi ab eodem Pontifice Summo impertita. Quaproter, ut Apostolorum ex divina institutione successores…." English translation from www.vatican.va (10 March 2016).

[84] VATICAN I, constitution *Pastor aeternus*, 18 July 1870, chapter 3, no. 2, in M. CONRAD, *Omnium Concilii Vaticani quae at Doctrinam et disciplinam pertinent Documentorum*, Paderbornae, F. Schoeningh, 1873, 17. "Docemus proinde et declaramus, Ecclesiam Romanam disponente Domino super omnes alias ordinariae potestatis obtinere principatum, et hanc Romani Pontificis iurisdictionis potestatem, quae vere episcopalis est, immediatam esse: erga quam cuiuscumque ritus et dignitatis pastores atque fideles, tam seorsum singuli quam simul omnes, officio hierarchicae subordinationis, veraeque obedientiae obstringuntur, non solum in rebus, quae ad fidem et mores, sed etiam in iis, quae ad disciplinam et regimen Ecclesiae per totum orbem diffusae pertinent; ita ut custodita cum Romano Pontifice tam communionis, quam eiusdem fidei professionis unitate, Ecclesia Christi sit unus grex sub uno summo pastore." English translation in

When the 1917 Code of Canon Law was written, it was not only the ecclesiology of the Church but also the civil law of most European countries that cemented the theory and practice of monarchy. The drafters of the 1917 Code of Canon Law, spearheaded by Cardinal Gasparri, seemed to have had a profound admiration of European civil codes, for example, the Swiss Code (1881-1907) and the German Civil Code (1896) that advocated for the centralization of power in a monarch.[85]

Consequently, centralization of Church authority along with the codification of Church legislation according to the lines of European civil statutes seemed to diminish the bishop's pastoral governance role.[86] The bishop often needed to make recourse to the Apostolic See for guidance and for some faculties needed for the governance of his diocese.[87] Power in the 1917 Code emanated from the top down, with members lower on the hierarchical ladder carrying out ordinances.[88]

J.F. BRODERICK (trans.), *Documents of Vatican I*, Collegeville, MN, The Liturgical Press, 1971, 57–58.

[85] J.A. BRUNDAGE, "Canon Law as an Instrument for Ecclesial Reform: An Historical Perspective," in *CLSA Proceedings,* 45 (1983), 11 (= BRUNDAGE, "Canon Law as an Instrument for Ecclesial Reform").

[86] Cf. *CIC/1917*, c. 329, §1. "Episcopi sunt Apostolorum successores atque ex divina institutione peculiaribus ecclesiis praeficiuntur quas cum potestate ordinaria regunt sub auctoritate Romani Pontificis."

[87] Cf. J.M. HUELS, *Empowerment for Ministry: A Complete Manual on Diocesan Faculties for Priests, Deacons, and Lay Ministers*, New York/Mahwah, NJ, Paulist Press, 2003, 7 (=HUELS, *Empowerment for Ministry*).

[88] Huels cautions that the significance of the distorted pyramidal ecclesiology should not be exaggerated because, even under the 1917 code, the bishop had many powers in law and by holy orders that did not need delegation by the Holy See. See HUELS, *Empowerment for Ministry*, 6.

The pattern of relations and practices that culminated in the 1917 Code of Canon Law was intended to affirm and maintain the sacramental and institutional mediation of faith. Brad Hinze writes:

> Central to this effort was an apologetic and polemical approach to the identity and mission of the Church advanced by the means of papal, episcopal, and clerical authority. The result was a paternalistic and frequently defensive and protective approach to communication. Internally, the Church's organizational structure emphasized a one-way mode of communication. Information and directives flowed from centralized higher levels of authority, from Rome to local Churches, from bishops to clergy, and from clergy to laity. The pope, bishops, and presbyters were viewed as the teaching Church, the trusted fathers who delivered God's clear message as the active representatives of Christ to the laity. The laity, on the other hand, were the docile children, the learning and obedient Church.[89]

The 1917 Code was thus "based upon the belief that it was useful, even essential, for the Church to centralize and consolidate its legal system."[90] Its major goals were "to secure a systematized jurisprudence (in place of the canonistic chaos of the nineteenth century) and to centralize juridical processes and authority of the Church."[91] John Beal says:

> The 1917 Code enunciated the doctrine on the power of jurisdiction that had by then become traditional in a highly juridic form within the context of the Church conceived as a "perfect society." The powers of orders and jurisdiction were seen as related but distinct powers. Despite the uniqueness of the power of orders and its indispensability for the Church's fulfillment of its sanctifying mission, it was the possession of a true and independent power of jurisdiction that constituted the Church as a *societas perfecta* autonomous from its traditional rival the state. Restriction of the possession and exercise of power of jurisdiction to clerics was motivated partly by the sometimes close connection between the powers of orders and jurisdiction but also by the historically justified fear of encroachments on the independence of the Church by secular powers.[92]

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[89] B.E. HINZE, *Practices of Dialogue in the Roman Catholic Church: Aims and Obstacles, Lessons and Laments*, New York, Continuum, 2006, 3 (=HINZE, *Practices of Dialogue in the Roman Catholic Church*).

[90] BRUNDAGE, "Canon Law as an Instrument for Ecclesial Reform," 12.

[91] Ibid., 13.

[92] J.P. BEAL, "The Exercise of the Power of Governance by Lay People: State of the Question," in *The Jurist*, 55 (1995), 10 (=BEAL, "The Exercise of the Power of Governance by Lay People").

Hinze argues that the 1917 Code's structure of ordained and non-ordained came to be instantiated in paternalistic and polemical hierarchical modes of relation and communication that resulted in minimizing participation in the administration of the Church, especially by the laity.[93] The structures of participation in the diocese in the 1917 Code were therefore weak, and some, as we have them today, were non-existent. Those that existed included: the diocesan synod,[94] the diocesan finance council,[95] the chapter of canons,[96] and the board of consultors.[97] The 1917 Code revised the laws governing a cathedral chapter and gave formal recognition to a body called "diocesan consultors."[98] Consultors were to be appointed in a diocese where there was no cathedral chapter.[99]

The perfect society ecclesiology and the 1917 Code of Canon Law on power and governance in the pre-Vatican II Church has been summed up in three words: clericalism, juridicism, and triumphalism.[100] It is this theology and canon law that were brought by the missionaries to Eastern Africa. Unfortunately, despite Vatican II, the "perfect society"

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[93] HINZE, *Practices of Dialogue in the Roman Catholic Church*, 3.

[94] *CIC/1917*, cc. 356-362.

[95] *CIC/1917*, cc. 1520-1521.

[96] *CIC/1917*, cc. 39-422.

[97] *CIC/1917*, cc. 423-428.

[98] P.S. BRENNAN, "Collaboration, Consultation, and *Communio* between Bishops and Priests" Structures and Issues," in *CLSA Proceedings*, 58 (1996), 90 (=BRENNAN, "Collaboration, Consultation, and *Communio* between Bishops and Priests").

[99] *CIC/1917*, canon 423. "In quibus dioecesibus nondum constitui potuit restitutive cathedrale canonicorum Capitulum, instituantur ab Episcopo, salvis peculiaribus Apostolicae Sedis praescriptis, consultores dioecesani, hoc est sacerdotes pietate, moribus, doctrina ac prudentia commendati."

[100] Refer to footnote 83.

ecclesiology and that of the 1917 Code still seem to be embraced by some heads of particular Churches in the AMECEA region.

1.1.2 A Brief History of the AMECEA

In dealing with the current situation of the participative structures in the AMECEA, we first outline what AMECEA entails. This is because AMECEA is the context in which we study the selected canonical structures in selected particular Churches. Our assumption,[101] based on the canonical foundations of such an association like the AMECEA, is that AMECEA can provide a forum for heads of particular Churches to influence each other for the growth of the Church in Eastern Africa. Indeed, there are already success stories in regards to the participative structures in some particular Churches which should be a source of learning and encouragement for those particular Churches in which the participative structures are non-existent or dysfunctional.

The idea of starting an association for collaboration among the bishops of Eastern Africa[102] was first broached at the Tanganyika Episcopal Conference (TEC) meeting held in June 1960.[103] After the meeting, the bishops expressed this idea to the apostolic delegate,[104] Archbishop Guido Del Mestri, who resided in Nairobi but served the whole of

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[101] Supra diocesan structures for cooperation have no juridic personality and cannot interference with the legislative, executive, and judicial power of a head of a particular Church in his territory. However, canon 459 encourages conferences of bishops to form associations for enhancement of the mission of the Church.

[102] This was before any of the East African countries had gotten independence from the colonialists. They were still referred to as British Protectorates.

[103] J. KELLY, "AMECEA's Forward-looking Charism," in *African Ecclesial Review*, 28 (1984), 12 (=KELLY, "AMECEA's Forward-looking Charism").

[104] The present day office holder is a nuncio.

Eastern Africa.[105] He embraced the idea and started to contact other episcopal conferences in Eastern Africa for the possibility of starting the association.[106] The apostolic delegate was of the view that this association should be extended even to cover Central African countries.

These efforts bore fruit in the first meeting which took place in Dar es Salaam, Tanganyika 17-26 July, 1961, at which the association was formed.[107] Forty-seven heads of particular Churches representing five countries attended the meeting.[108] The five countries were Kenya with ten representatives, Tanganyika (now Tanzania) with twenty members, Northern Rhodesia (now Zambia) with eight, Nyasaland (now Malawi) with four, and Uganda with eight representatives; the head of a particular Church from Sudan attended the meeting as an observer.[109] At this meeting, the heads of the particular Churches representing the five countries decided to form an association for collaboration in pastoral issues, and a board of six members called the International Episcopal Board for Eastern Africa (ITEBEA) was formed. The Assembly stipulated that "ITEBEA would pool

[105] Eastern Africa included Kenya, Uganda, Tanganyika (now Tanzania), Northern Rhodesia (now Zambia), and Nyasaland (now Malawi).

[106] The apostolic delegate was not only liaison between the different episcopal conferences of these countries but also with the Holy See. It is through him that the Holy See gave permission for the creation of the Association.

[107] AMECEA, *Evaluation of AMECEA Pastoral Mission of Evangelization in Solidarity 1961-2011*, Nairobi, AMECEA Secretariat, 2011, 2.

[108] They included heads of particular Churches and delegates of heads of particular Churches. Cf. AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*, Nairobi, AMECEA Secretariat, 2011, 2 (=AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*).

[109] Cf. KELLY, "AMECEA's Forward-looking Charism," 12.

views and actions of the five conferences, carry out projects of common interest and seek solutions to common problems, when so requested by the member conferences."[110]

From the onset, ITEBEA[111] was not to be a permanent structure but rather a study forum where bishops could meet from time to time and together reflect on the pastoral issues of common interest within the region. In August 1964, a decision was passed to establish a permanent office in Nairobi for the General Secretariat.[112]

In November 1964, while at Vatican Council II, the members of ITEBEA met in Rome, reviewed the draft constitution of the organization, and approved it. It was also at this meeting that the name of the organization was changed from ITEBEA to AMECEA—Association of Members of Episcopal Conferences of Eastern Africa[113] (which later came to be referred to as Association of Member Episcopal Conferences in Eastern Africa).[114]

Sudan retained observer status until December 1973. In the December Plenary meeting held in Nairobi, Sudan was granted full membership. At this same meeting, the episcopal conference of Ethiopia (which included Eritrea) submitted a request to initiate contact with the association. It was not until 1979 that Ethiopia was granted full

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[110] Ibid., 14.

[111] ITEBEA is used in two senses: first, the Executvie Board and, second, all the heads of particular Churches of the five founding countries. The sentence above refers to the second meaning of the term.

[112] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*, 3.

[113] As with ITEBEA, initially, AMECEA meant both the Executive Board running the affairs of the Association and the whole body of members. This changed with the creation of the General Secretariat in Nairobi. It is now clear that when we talk of AMECEA, we refer to the whole body comprised of the episcopal conferences that form the Association.

[114] KELLY, "AMECEA's Forward-looking Charism," 14.

membership during the plenary meeting held in Malawi.[115] Even though Eritrea became an independent country in 1993, its membership in the AMECEA has remained tied to Ethiopia (usually referred to in the AMECEA as The Catholic Bishops' Conference of Ethiopia and Eritrea). In 1997, Somalia and Djibouti became affiliate members of the AMECEA.

To date, AMECEA has had eighteen general assemblies.[116] The themes are indicative of the purpose and the objectives of the Association. The following is the order of the meetings and their respective themes.

1961. The first ITEBEA Plenary[117] Assembly held in Dar es Salaam, Tanzania, whose theme was *The Future of the Church in Africa.*

1964. 2nd Plenary Assembly in Rome, Italy, theme: *Study, Discussion and Approval of the Constitution.*

1967. 3rd Plenary Assembly in Nairobi, Kenya, theme: *Pastoral Perspectives in Eastern Africa after Vatican II.*

1970. 4th Plenary Assembly in Lusaka, Zambia, theme: *The Priest in Africa Today.*

1973. 5th Plenary Assembly in Nairobi, Kenya, theme: *Planning for the Church in Eastern Africa in the 1980s.*

1976. 6th Plenary Assembly in Nairobi, Kenya, theme: *Building Small Christian Communities in Eastern Africa.*

1979. 7th Plenary Assembly in Zoma, Malawi, theme: *The Implementation of AMECEA Bishops' Pastoral Priority of Building Small Christian Communities: An Evaluation.*

1982. 8th Plenary Assembly in Nairobi, Kenya, theme. *Families: Truly Christian and Truly African.*

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[115] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011,* 7.

[116] See http://www.amecea.org/#!about-amecea/cws1 (2 May 2016).

[117] AMECEA literature uses the term "plenary" for the general meetings of the bishops of AMECEA. To avoid confusion with the plenary council stipulated in canon 439 of the 1983 Code, the appropriate term to be used should be "general assembly."

1986. 9th Plenary Assembly in Moshi, Tanzania, theme. *Families: Truly Christian and Truly African.*

1989. 10th Plenary Assembly in Kampala, Uganda, theme: *Youth on the Move towards the Year 2000.*

1992. 11th Plenary Assembly in Lusaka, Zambia, theme: *Evangelization with its Central Issues: Inculturation, Small Christian Communities, Priestly Religious and Christian Formation.*

1996. 12th Plenary Assembly in Mangochi, Malawi, theme: *The Role of Church in Development in Light of the African Synod.*

1999. 13th Plenary Assembly in Nairobi, Kenya, theme: *Formation of Agents of Evangelization.*

2002. 14th Plenary Assembly in Dar es Salaam, Tanzania, theme: *Deeper Evangelization in the New Millennium.*

2005. 15th Plenary Assembly in Mukono, Uganda, theme: *Responding to the Challenges of HIV/AIDS in AMECEA Region.*

2008. 16th Plenary Assembly in Lusaka, Zambia, theme: *Reconciliation through Justice and Peace.*

2011. 17th Plenary Assembly in Nairobi, Kenya, theme: *AMECEA Family of God Celebrating the Golden Jubilee of Evangelization in Solidarity.*

2014. 18th Plenary Assembly in Lilongwe, Malawi, theme: *New Evangelization through New Conversion and Witnessing Christian Faith.*

It is also important to note here that the Symposium for Episcopal Conferences of Africa (SECAM) is the brainchild of AMECEA.[118] The decision to found SECAM was reached at in a meeting of AMECEA in Kampala, Uganda, in 1969.

[118]In 1969, Paul VI sketched out the tasks of SECAM to the SECAM bishops: to assume responsibility for growth and maturing of the Church of Africa; to form pastoral ministers and strengthen lay participation; inculturation; and evangelization of persons and society. In many ways, SECAM is an extension of the AMECEA. For more details, see I. FÜRER, "Episcopal Conferences in their Mutual Relations," in *The Jurist*, 48 (1988), 164.

After establishing the General Secretariat in Nairobi in August 1964, AMECEA expanded its operations by creating departments to work with the Secretary General and the Chairman of AMECEA to meet the needs of the Church in the region.[119] The following are some of the structures (departments and institutions) that AMECEA has developed:[120] Social Communications Department (1968); Department of Research (1968); Department of AMECEA Gaba Publications (1968) in Kampala, Uganda, which later was moved to Eldoret, Kenya, in 1976; Department of Documentation Services (1973) which was later merged with the Department of Social Communication in 2002 and the Apostolate to the Nomads (ANA) (1976) and which was, in 2008, incorporated into the Pastoral Department as a Desk. Institutions that AMECEA has established include: AMECEA Pastoral Institute (API) in Kampala, Uganda (1967) which was later moved to Eldoret, Kenya in 1976, and has become a Campus of CUEA since 2008; Catholic Higher Institute of Eastern Africa (CHIEA) in Nairobi, in 1984, which later become Catholic University of Eastern Africa, Kenya; Accountancy Course at Nyegesi Social Training Institute (NSTI) in Mwanza, Tanzania, now integrated in programmes of Saint Augustine University of Tanzania (SAUT); AMECEA Pastoral Department (1994); Blessed Bakanja AMECEA College, an AMECEA Regional Theological Seminary attached to CUEA (1998); and the Justice and Peace Desk (2002) under the Pastoral Department and the Council of Laity (COLEA) in 2002.

1.1.3 The Nature and Purpose of AMECEA

[119] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*, 8.

[120] See AMECEA, *Evaluation of AMECEA Pastoral Mission of Evangelization in Solidarity 1961-2011*, 3.

AMECEA is of a pastoral nature. It facilitates common pastoral approaches to issues of common regional interests. It thus fosters collaboration and solidarity among bishops for the advancement of the common good within the region of the AMECEA.[121] AMECEA is not a juridic person. Its canonical foundation is to be traced in canon 459, §1, which states that "Relationships are to be fostered between the bishops' conferences, especially neighboring ones, in order to promote and defend whatever is for the greater good."[122]

Indeed, AMECEA and other similar supra-national conferences of bishops were foreseen by Vatican II in *Christus Dominus* and in the legislation of Paul VI in *Ecclesiae sanctae*. *Christus Dominus*, no. 38, §5, states: "When the special circumstances require it, bishops of different countries may, subject to the approval of the Apostolic See, establish one joint conference. Moreover, contacts between episcopal conferences of different countries are to be encouraged for the promotion of the common good."[123]

Paul VI's motu proprio *Ecclesiae sanctae* indicated that episcopal conferences, especially those of neighbouring countries, can establish relations with one another in

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[121] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011,* 22.

[122] *CIC*, c. 459, §1. "Foveantur relationes inter Episcoporum conferentias, praesertim viciniores, ad maius bonum promovendum ac tuendum."

[123] SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church *Christus Dominus,* 28 October 1965 (*CD*), in *AAS*, 58 (1966), *no*. 38, §5, 694. "Ubi peculiaria adiuncta id postulant, Episcopi plurium nationum, Apostolica Sede approbante, unam poterunt Conferentiam constituere. Foveantur insuper relationes Conferentias Episcopales diversarum nationum ad maius bonum promovendum ac tuendum." English translation in *FLANNERY1* (gen. ed.), *Documents of Vatican II*, vol. 1, new revised edition, Northport, Costello Publishing Company, 1992, 587.

suitable and opportune ways through the secretariats of these conferences[124] regarding the following matters among others:

a) communicating the principal decisions, especially in pastoral life and action;

b) sending texts or reports of the decisions of the conference or the acts and documents by the bishops collectively;

c) reporting the various apostolic enterprises proposed or recommended by the episcopal conference which could be of use in similar circumstances;

d) proposing those questions of grave import which in our times and in particular circumstances seem of the greatest importance;

e) indicating the dangers or errors making ground in their own country which might also creep into other nations, so that suitable means should be taken in good time to prevent them or remove or confine them. [125]

AMECEA does not in any way diminish the competencies of the different national conferences, nor does it interfere with the competencies of individual bishops in their particular Churches (in the areas of legislation, administration, and judicial process). Given that the bishop has full legislative, executive, and judicial powers in his own diocese,[126] the bishop is not bound by the decisions of such an organ. At best he can only be persuaded

[124] Cf. PAUL VI, Apostolic Letter motu proprio *Ecclesiae sanctae*, 6 August 1966 (*ES1*), no. 41, §4, in *AAS*, 58 (1966), 774. "Conferentia Episcopales plurium nationum seu internationals possunt constitutui tantummodo Apostolica Sede approbante, cuius est peculiares normas statuere. Quoties autem actiones aut rationes a Conferentiis ineuntur formam internationalem praeseferentes, Sancta Sedes praemoneatur oporte." English translation in *FLANNERY1*, 609.

[125] *ES1*, no. 41, §5, in *AAS*, 58 (1966), 774. " a) communicare praecipuas agendi rationes praesertim in re et actione pastorali; b) transmittere scripta vel folia, quae decisiones Conferentiae referant vel acta seu documenta, quae ab Episcopis commune consilio edantur; c) significare varia apostolatus incepta, a Conferentia Episcopali proposita vel commendata, quaeque utilia esse possint in casibus similibus; d) proponere graviores quaestiones quae, hodiernis temporibus et in particularibus adiunctis, maximi momenti esse videantur; e) indicare pericula vel errores in propria natione serpentia, quae in alios etiam populos irrepere possint, ita ut apta et opportuna subsidia adhibeantur ad illa praecavenda vel auferenda, vel coarctanda, et his similia." In *FLANNERY1*, 609.

[126] Cf. *CIC*, c. 381, §1.

by them. Of course, in the spirit of communion, the bishops can learn from each other for the good of the Church. Thus, those bishops in whose particular Churches the participative structures are not functional have something to learn from those bishops in whose particular Churches the participative structures are alive and functional. Indeed, the very reason for the existence of AMECEA is that AMECEA is meant to be a regional forum for the collaborative study of and reflection on pastoral issues of common regional interests.[127] From the very beginning, the heads of particular Churches of AMECEA wanted to have study sessions for the exchange of ideas in their search for guidelines to help the bishops to adopt uniform pastoral policies and methods of action in the region.[128] The first General Assembly of the AMECEA had its title: "The future of the Church in Africa: looking towards an indigenous Church in independent African States with a pluralistic society, and considering fields of cooperation between hierarchies, as well as the Church's special interest in education."[129]

The heads of particular Churches were well aware of the challenges ahead of them and saw the need for collaboration in their search for guidelines to help them to adopt uniform pastoral policies and methods of action in the region.[130] Indeed, the issues dealt

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[127] AMECEA, *Evaluation of AMECEA Pastoral Mission of Evangelization in Solidarity 1961-2011*, 1.

[128] J.M. MBINDA, "AMECEA Bishops' Consultation," in *African Ecclesial Review*, 28, (1986), 17 (= MBINDA, "AMECEA Bishops' Consultation").

[129] KELLY, "AMECEA's Forward-looking Charism," 12.

[130] MBINDA, "AMECEA Bishops' Consultation," 17.

with at the first general assembly are instructive of the purpose of the Association.[131] The issues included the African diocesan priest; the Church and other religions; the Church and the school; the Church and the teacher; the Church and social justice; the Church and mass media; fields for cooperation between hierarchies; and others.[132]

Today, remaining true to its original mission and vision in Eastern Africa, AMECEA strives to:

a) share best practices of the pastoral activities among dioceses and national episcopal conferences in the region;

b) plan for effective implementation of past and future magisterial documents from the Holy See, SECAM and AMECEA itself;

c) explore present and future challenges facing AMECEA national episcopal conferences and dioceses *ad intra* and *ad extra*;

d) foresee and strategize new approaches to mutual collaboration and actions of solidarity among AMECEA bishops; and

e) find ways and means of strengthening effective deployment of the various ministries and apostolates of presbyters, religious and lay faithful within the AMECEA region.[133]

1.1.4 The Membership

AMECEA is an association of national episcopal conferences of eight Eastern and Central African countries. The eight countries include: Eritrea (1993), Ethiopia (1979), Kenya (1961), Malawi (1961), Sudan (1973), Tanzania (1961), Uganda (1961) and Zambia

[131] Even as the different issues and challenges emerge for AMECEA, AMECEA refines its purpose as it remains faithful to its reason for existence.

[132] KELLY, "AMECEA's Forward-looking Charism," 13.

[133] AMECEA, *Evaluation of AMECEA Pastoral Mission of Evangelization in Solidarity 1961-2011*, xv.

(1961). Djibouti (1995) and Somalia (1995) are affiliate members of the Association.[134] Southern Sudan is still part of the Sudan Catholic Bishops' Conference (which is comprised of Sudan and South Sudan).[135]

1.1.5. The Structure of the Association

The ultimate authority as regards the establishment, nature, and direction of an association like AMECEA lies with the Holy See through the Congregation for Evangelization of Peoples. Internally, the ultimate authority over all the AMECEA's activities rests with the General Assembly in which all the heads of particular Churches of the AMECEA participate. In between the General Assemblies, the Executive Board takes the necessary decisions, according to the AMECEA priorities. The day-to-day decisions are taken on behalf of the Chairman of the Board by the Secretary General who also coordinates the AMECEA departments.[136]

The cardinals in the AMECEA region are considered, by virtue of their dignity, as honorary patrons of the Association. As mentioned earlier, the General Assembly is the supreme authority of the Association, and all office bearers and other bodies of the association are ultimately answerable to this authority.

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[134] AMECEA, *AMECEA Statutes and the By-Laws and Terms of References for Commissions of the Association of Member Episcopal Conferences in Eastern Africa*, AMECEA, Nairobi, 2006, 28 (=AMECEA, *AMECEA Statutes and the By-Laws*).

[135] Cf. http://amecea.blogspot.co.ke/2016/01/vatican-pope-francis-meets-with.html (8 February 2016).

[136] Cf. http://www.amecea.org/ (10 February 2016).

Those who have a right to attend the General Assembly and vote are:[137] all members of the episcopal conferences who enjoy full membership; all members of associate episcopal conferences; heads of particular Churches affiliated to the Association, and all cardinals in or from jurisdictions in AMECEA countries. Papal representatives of the member episcopal conferences attend the Assembly as observers. The General Assembly takes place every three years. The Executive Board or a majority of the full member conferences of the Association can, however, convene an extraordinary Assembly whenever it is necessary.[138]

The Executive Board is composed of the Chairman, the Vice Chairman, one designated representative or his substitute from each full and associate member episcopal conference, cardinals in the AMECEA region, and the Secretary General as the secretary of the Board.[139] The Chairman and his Vice Chairman are elected at the General Assembly.[140] Individual conferences hold their elections for their representative to the Board. The Chairman, the Vice Chairman, and the other representatives in the Board serve for a term of three years.[141]

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[137] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*, 15.

[138]AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*, 15.

[139] Ibid.

[140] This has been the tradition of the Association in the election of the Chairman and Vice Chairman since the inception of the Association. See ibid., 20.

[141] This is our interpretation of what is written about the membership of Executive Board on the AMECEA website. On the website, it is written: "The members of the Executive Board and their substitutes are elected by their respective Episcopal Conferences to serve for a three year term, from one ordinary Plenary Assembly to the next." See http://www.amecea.org/#!about-amecea/cws1 (10 February 2016).

The Secretary General is appointed at the General Assembly for a term of three years and is eligible for renewal for not more than four terms.[142] The Secretary General works in close collaboration with the Chairman of the Board, implementing the mandates of the General Assembly and the Board. He maintains contacts with all involved in the work of the AMECEA Departments and Institutions which have been established to meet the requirements mandated by the bishops.[143]

AMECEA departments and institutions are created by the General Assembly and the Executive Board for the furtherance of the goals of the association. Today, the departments include: Social Communications, Department of Research, Religious Education Department, Pastoral Department and Gaba Publications. Institutions include: Catholic University of Eastern Africa, Gaba University Campus, Nyegesi Social training Institute and Blessed Bakanja AMECEA College. As mentioned above, the departments and institutions of the AMECEA are administered under the direction of the Secretary General on behalf of the Executive Board and the General Assembly.[144]

1.1.6 The Statutes (Constitution) of the Association

In the AMECEA literature, there is no clear indication of the exact date as to when the statutes of the Association were approved by the Holy See.[145] In 1964, ITEBEA had a General Assembly in Rome where the name of the Association was changed to

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[142] AMECEA, *AMECEA Statutes and the By-Laws*, art. 16, no. 3, 7; By-laws, no. 10, 19.

[143] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*, 21.

[144] Cf. Ibid., 7–12.

[145] AMECEA literature uses "constitution" and "statutes" interchangeably. As an association in the Catholic Church, we think the appropriate term should be "statutes" (cf. *CIC*, c. 304).

AMECEA.[146] The members reviewed the statutes, approved the changes, and forwarded them for confirmation by the Holy See in the same year.[147]

The statutes outline the mission and the nature of the Association at its time of formation as fostering a collegial spirit (*affectus collegialis)* for a common pastoral approach to issues of common regional interests. The mission is therefore to foster collaboration and solidarity among bishops for the advancement of the common good within the region.[148] AMECEA therefore has a pastoral nature. It does not have juridic personality.

The purposes of the Association, according to its statutes are:

a) promotion of unity, justice, peace, and solidarity in the region through spearheading deeper evangelization, constant conversion, and prayer;

b) inculturation;

c) ecumenism and inter-religious dialogue;

d) relevant formation of all agents of evangelization;

e) revitalizing and continued emphasis on the role of the Small Christian Communities in evangelization;

f) preferential option for the poor, oppressed and marginalized; empowering the laity and the religious men and women to play their active role in the Church and society;

g) self-reliance in personnel and finances at all levels;

h) networking, effective communication and advocacy and poverty eradication, sustainable development and relevant response to all issues affecting God's family.[149]

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[146] AMECEA, *AMECEA, 50 Years of Evangelization in Solidarity 1961-2011*, 4.

[147] Cf. AMECEA, *AMECEA Statutes and the By-Laws*, art. 16, no. 6, 8.

[148] AMECEA, *AMECEA Statutes and the By-Laws*, 22.

[149] Ibid., 28.

The Statutes outline the principle objectives of the Association as:

> a) practicing a spirit of collaboration and sharing among its members;
>
> b) maintaining a spirit of liaison and promoting mutual relations among its members;
>
> c) promoting inter-communication and co-operation among local Churches primarily in the countries of Eastern Africa which are members of the Association;
>
> d) studying ways and means of promoting the apostolate in the light of official documents and according to the needs of the Catholic Church in Eastern Africa;
>
> e) helping study problems of common interest to the Catholic Church in Eastern Africa and to suggest possible solutions and co-coordinated actions furthering the dynamic presence of the Catholic Church in the integral development of the people of God in Eastern Africa; and,
>
> f) mandating and setting terms of reference for structures of administration in the Association.[150]

The objectives of the Association are achieved through the decisions and actions taken by the General Assembly, the Executive Board, the Secretary General, and the different departments and institutions of the Association and, above all, the individual heads in their particular Churches.[151]

The General Assembly is the main consultative, policymaking, and representative organ of the Association. All the members of the Association form the General Assembly, namely, both full and affiliate members and cardinals and apostolic delegates in the region. It is convoked by the Chairman of the Executive Board after thorough consultation with all the members. The Chairman of the Executive Board presides over the assembly. The

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[150] AMECEA, *AMECEA Statutes and the By-Laws*, art. 5, 2.

[151] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011*, 22.

decisions concerning important issues affecting the Association are reached by secret ballot with a two-thirds majority of the Assembly.[152]

It is at the General Assembly that the Chairman and Vice Chairman of the Executive Board are elected and the representatives of the conferences confirmed.[153] It is also at the General Assembly that the Secretary General of the AMECEA Secretariat is appointed.[154] The term of office for both the Chairman and the Vice Chairman is three years, and each is eligible for re-election for one more term. The other elected members also have a term of three years and are eligible for another term of three years depending on whether they are re-elected by their respective conferences. The cardinals and apostolic delegates have no term limits.[155]

The statutes are reviewed and amended at the General Assembly, but the amendments need the approval of the Holy See to take effect. AMECEA works in conjunction with SECAM and other supra-national associations.

1.2 Selected Canonical Structures in Three AMECEA Dioceses

We stated earlier that the people of AMECEA share the same social and cultural heritage. We also stated that they received Christianity from the missionaries from Europe

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[152] AMECEA, *AMECEA Statutes and the By-Laws*, art. 17, no. 2, 8; by-laws, nos. 11-13, 20-21.

[153] Each conference elects its own representative who is confirmed at the General Assembly. See also AMECEA, *AMECEA Statutes and By-Laws*, arts. 18 & 19, 9.

[154] AMECEA, *50 Years of Evangelization in Solidarity 1961-2011,* 21.

[155] By virtue of their office, cardinals and apostolic delegates are part of the General Assembly and they remain so as long as they hold their offices. See AMECEA, *AMECEA Statutes and By-Laws*, art. 12, nos. 4 & 5, 6.

at the beginning of the nineteenth century and onwards. Likewise, we stated that AMECEA provides a forum for the bishops and the people of AMECEA to share ideas and actions for the promotion of the mission of the Church. Indeed, the very reason for the creation of AMECEA was the awareness of the challenges ahead of the bishops and therefore the need for collaboration in their search for guidelines to help them to adopt uniform pastoral policies and methods of action in the region.[156] Here, the key words are challenges and action.

In 1986, when AMECEA celebrated its silver jubilee, the celebration provided a unique opportunity for the members to reflect on its achievements since the association's inception and to outline its priorities and challenges for its future. A seminar involving members of staff and students was held at the Catholic University of Eastern Africa, then referred to as Catholic Higher Institute of Eastern Africa (CHIEA), and several priorities and challenges were raised.[157] Among the challenges outlined was the participation of the laity in the mission of the Church in the AMECEA region.

> Although there has been a noticeable improvement in the participation of the laity in the Church life and work, there remains much to be done if the AMECEA Church is to fully utilize this dynamic source of energy, the laity. This priority requires the creation of the necessary structures for an open and effective dialogue between the bishops-presbyters and the laity. Diocesan synods and pastoral councils, with representatives from categories of the faithful, are a necessity for

[156] MBINDA, "AMECEA Bishops' Consultation," 17.

[157] Our interviews with a number of bishops and priests in the AMECEA region, in the summer of 2016, pointed to the reality that a number of particular Churches in the AMECEA have embraced the canonical teachings on participative structures. In these particular Churches the structures of participative are active and functioning well. The contrary is true for the particular Churches that have not embraced the canonical teachings on participative structures. Indeed, a good number of particular Churches have never held a diocesan synod, a good number of them do not have mandatory participative structures like the presbyteral council and the diocesan finance council, and a good number of them do not have a diocesan pastoral council.

> real diocesan development. Lay ministries should be created to respond to the manyfold needs of the People of God….[158]

Since the members in the group came from all over AMECEA, the views they expressed were representative of the whole region. Thus, the local Churches of the AMECEA have common experiences with respect to the participation of the faithful in the governance of a particular Church. It is for this reason that we have selected three representative particular Churches for our study of five participative structures: the diocesan synod, diocesan finance council, presbyteral council, college of consultors, and diocesan pastoral council. The three particular Churches we have selected are among the very few that have functioning participative structures in the AMECEA region. Besides, they have adequate information in books, booklets, and websites that are the source of our study for these particular Churches. Since our study is focused on the participation of the people of God in the governance of a particular Church, the five participative structures that we have selected are a perfect avenue for that participation—for the bishop, the clergy and the laity.

As mentioned above, the sources of information on the selected particular Churches are: the books and booklets published by respective dioceses, the official websites of the particular Church, the AMECEA, the Holy See, and unofficial interviews with individuals from these particular Churches. Due to the sensitive nature of the topic, especially as regards the functioning or dysfunctioning of participative structures in the selected particular Churches, the names of those particular Churches are not disclosed.

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[158] CHIEA COMMUNITY, "AMECEA Priorities and Challenges," in *African Ecclesial Review*, 28, no. 1 (1986), 34.

1.2.1 Diocese A, Kenya

Diocese A was erected as a diocese in 1959 by Pope John XXIII. Since it is still considered as a mission territory, the diocese depends on the Congregation for Evangelization of Peoples. Geographically, it covers a radius of 9,254 square kilometers. It is made up of seven deaneries with (currently) a total of forty-two parishes. As per the 2009 census, the population of people in the diocese stood at 2,169,000, of which 23% were Catholic faithful. The diocese has as its mission as: commitment to evangelization, multicultural cohesiveness, Christian stewardship and integral human development.

1.2.1.1. The Diocesan Synod

The first diocesan synod took place in 2001, five years after the diocesan pastoral council was established. Indeed, it was at the diocesan pastoral council that the decision to hold a diocesan synod was reached. The theme of the synod was *communion and evangelization*. One hundred and twelve members participated in the synod, that is, the bishop, thirty-six presbyters, six deacons, fourteen members of religious institutes, and fifty-six lay faithful from the parishes and diocesan offices. The synod lasted for four days.

It took two years to prepare the synod. The bishop appointed a preparatory committee that comprised thirteen members (from the laity, religious, and diocesan clergy) who chose themes that were sent to parishes for discussion. The themes were youth, evangelization, catechesis, ongoing formation of adults, being Church, and relationship, organizational leadership/communication, mission and ministry of the Church and family and social issues. The feedback from the discussions on the parish and deanery levels was the basis of the formation of the themes for discussion at the synod, namely:

1) mission, sub themes: mission, ministry, evangelization and spiritual movements;
2) youth and family life, sub themes: youth and family;
3) forming faith communities, sub themes: catechesis, adult formation, and liturgy;
4) Church and world, sub themes: social and welfare issues, justice and peace and ecology;
5) leadership, sub themes: co-responsible leadership and communication.

Five commissions were set up at the synod to deal with each of these issues. Each commission was further divided into two. The outcome of each commission was documented and presented at the large group with all the members present for deliberation. The final document adopted by the synod included the following topics: leadership – organization and communication; Church in the world – reconciliation, inculturation, ecological awareness, welcoming displaced people and broad-based education; family life – the promotion of sanctity of marriage, diocese support for family life, clergy in support of family life ministry, family life formation, family as domestic Church and parish-based family support groups; youth – policy, evangelization, developing a sense of belonging and value (service, liturgy and ministries, spirituality, and communication and marketing); mission – mission and ministries; forming faith communities – catechesis, renewal of family prayer, deeper spirituality and liturgy.

The final document adopted by the synod was referred to as “Pastoral Plan” and was presented to the bishop for approval. The bishop approved it and set up a Pastoral Plan Implementation Board to implement the Plan. The Board included lay, religious and clerical members. The Board was accountable to the bishop and the vicar general. The Plan is still being implemented today.

1.2.1.2 The Presbyteral Council

The diocese has a presbyteral council consisting of thirteen members. Five are elected by the presbyters and confirmed by the bishop for a term of three years with the possibility for re-election for not more than three terms. Five members are directly appointed by the bishop and also serve for a term of three years with the possibility of reappointment for not more than three terms. The other three members serve by virtue of their offices: the vicar general, episcopal vicar for religious, and bishop's secretary.

The council is advisory to the bishop on all issues concerning parish life and on major issues pertaining to the operation of the diocese. The council functions as a "senate" of the bishop (cf. c. 495).

The council normally meets four times a year. Besides the four designated meetings, the bishop can convoke more meetings when need arises. The four meetings are also an occasion for the council to prepare the agenda for what they call the "presbiterium." This is the meeting of the whole body of presbyters under the chairmanship of the bishop. The Presbiterium also meets four times a year. In the Presbiterium, normally the bishop gives some input, the presbyters ask questions, the initiatives of the diocese are discussed, and the calendar of the Church feasts is planned. It is also in these meetings that the moderators of associations give their reports.

1.2.1.3 The College of Consultors

The diocese has a college of consultors. Currently the total number of consultors is eight. A member is appointed to the college by the bishop for a term of office of five years and is eligible for reappointment for more terms as the bishop wishes. The statutes of the

college outline its canonical duties as: (i) to advise the bishop on the appointment or dismissal of the diocesan financial administrator (c. 494); (ii) to consent or not to acts of extraordinary administration (c. 1277) and (iii) the alienation of certain ecclesiastical property (c. 1292, §1). The college also advises the bishop on matters relating to the seminarians, deacons, and presbyters, not only with regard to making appointments but also their circumstances and care, whether in full time appointments or not. Normally, the college meets four times a year. However, the bishop can convoke a meeting for the consultors whenever need arises.

1.2.1.4 The Diocesan Finance Council

The diocese has a functioning finance council chaired by the bishop himself. The council has experts in law and financial management. It meets every first Monday of the month. The diocese has a diocesan financial administrator commonly known as procurator. The procurator wields a lot of powers and the finance council is subordinate to him. Interestingly, he is also a member of the finance council.

1.2.1.5 The Diocesan Pastoral Council

The diocesan pastoral council has been intermittently active and inactive since its inception forty years ago. The most recent activity was fifteen years ago in which the vision and the mission statement of the diocese were composed. The members at the meeting included a representative from each parish (parish pastoral council chairperson or his/her delegate), a representative from each diocesan office, five members of the presbyteral council, and three members of the college of consultors. The meeting was chaired by the bishop.

The bishop's address to the members at the opening of the meeting emphasized the importance of a diocesan pastoral council as a central forum for exchange of information and ideas on a diocesan-wide level and as a means of strengthening the bonds of communication and communion between the bishop and the parishes. The main agenda[159] of this meeting was discussion of the vision and mission statement of the diocese. In addition, specific issues on self-sustenance, parish support to the diocese, development projects, Catholic education, finances, development of vocations and lay apostolate, allocation of Church personnel resources, diocesan family day, associations of the Christian faithful, among others, were also discussed. At the end of the meeting, the vision of the diocese was stated as being "an instrument of God's love, peace, and reconciliation in the society." The mission of the diocese was articulated as being "committed to evangelization, multicultural cohesiveness, Christian stewardship, and integral human development." It was also at this meeting that a decision was made to convoke the first diocesan synod in the diocese. The synod took place five years after the diocesan pastoral council meeting.

1.2.2. Diocese B, Uganda

The diocese was erected in 1968 by Pope Paul VI. It covers an area of 3,500 square miles (8,837 square kilometers) with forty-three parishes that form ten deaneries. As of

[159] The agenda was formulated by the diocesan Pastoral Council Executive with the bishop.

2014, the total population in the territory of the archdiocese stood at 3,928,600 of which 20.8% were Catholic.[160]

1.2.2.1 The Diocesan Synod

There has only been one diocesan synod since the inception of the diocese forty-seven years ago. The synod took place in the year 2000. The synod was initially meant to take place a year earlier but, because the time allocated to the preparatory committee was not enough, the bishop postponed the synod. The preparatory committee took one year to prepare for the synod. It sent out topics to the parishes to be discussed. The feedback of these discussions at the parish and the deanery level formed the basis of the themes that were discussed at the synod. The synod lasted five days.

The participants at the synod included the deans and delegates to the presbyteral council and all presbyters working in the diocese; one representative of the clerical religious institutes; a representative of each religious institute working in the diocese;[161] a lay man and woman from every parish; a catechist from each deanery; and one youth representative from each deanery. A representative from each suffragan diocese in the ecclesiastical province was present as an observer.

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[160] The statistics are taken from http://www.catholic-hierarchy.org/diocese/dtoug.html (17 February 2016).

[161] The representative of all clerical institutes was to represent the interests of all clerics both secular and religious while the representative of each religious institute working in the diocese was to represent the interests of that particular institute (whether lay of clerical or both) working in this diocese.

The theme of the synod was: *Marching in Faith, Hope and Charity into the Year 2000 — Celebrating Sacramental Life*. The agenda of the synod was based on the questionnaire that had been sent to parishes before the synod. The topics in the agenda of the synod were: the sacrament of baptism and confirmation; the sacrament of Eucharist; the sacrament of penance/reconciliation; the sacrament of marriage; the sacrament of anointing of the sick; parish administration, and parish councils.

The bishop opened the synod with an address; the members voted to adopt his address and voted also to adopt the agenda. The speakers then gave presentations on the above mentioned topics, after which there was open discussion and recommendations by the synod which were drafted and presented to the bishop for approval and implementation.

1.2.2.2 The Presbyteral Council

Even though the presbyteral council is mandated by canon law (canon 495, § 1) and even though the presbyteral council exists in this diocese, it exists only on paper. The only time it is reported to have met is the time prior to the synod for the preparation of the synod. There was a clergy meeting one month after the diocesan pastoral council meeting which is said to have been organized by the presbyteral council.[162] The most recent quinquennial report has a list of names as members of the council, members who have never met has a council. Their role in the diocese has instead been given over to the college of consultors.

1.2.2.3 The College of Consultors

[162] Most of the priests who attended this meeting were at the diocesan pastoral council meeting.

The college of consultors is the most active body in the archdiocese. It is composed of ten members appointed by the bishop for a term of five years. As the appointing authority, the bishop has liberty to renew the membership of a member indefinitely.[163] Some members have been in the college for more than twenty years. The bishop also can remove a member from the college whenever he deems it necessary.

Normally, the college meets four times a year. Whenever there is the need, in the judgement of the bishop, he can convene a meeting of the college in addition to the four ordinary meetings. As mentioned earlier, the college is the most active body assisting the bishop in the governance of the diocese. It is with this body that the bishop makes appointments and transfers presbyters. In the absence of an active presbyteral council, the college of consultors has assumed responsibilities that are proper to it, for example, consultation for the creation or suppression of parishes.

1.2.2.4 The Diocesan Finance Council

The diocese does not have a finance council even though it is mandated by canon law. In most cases, it is the college of consultors that does the work of the finance council. On a day to day basis, it is the bishop himself and the accounting staff that do the job. The accounting staff report to the bishop directly.

1.2.2.5 The Diocesan Pastoral Council

The first diocesan pastoral council was established in 1973. The bishop appointed members from the pastoral commissions, representatives of religious institutes working in

[163] Cf. *CIC,* c. 502, §2.

the diocese, and observers from Church personnel engaged in post-primary education. The pastoral council, as a consultative body and headed by the bishop, set itself the task of implementing pastoral renewal in the diocese as suggested by Vatican II. The specific issues discussed at this meeting were to be taken up in another diocesan pastoral council meeting twenty years later.[164]

At the opening of the 1993 diocesan pastoral council meeting, the bishop acknowledged that the diocesan pastoral council was moribund; therefore, this pastoral council of 1993 was a revival of the first one. The proceedings from the council meeting do not indicate the number and ministry of participants. In the bishop's address, the bishop mentions the participants by quoting canon 512 of the 1983 Code of Canon Law.

> A pastoral council is composed of members of Christ's faithful, who are in full communion with the Catholic Church. This group includes clerics, members of the institutes of consecrated life, and especially lay people. These people are designated by the diocesan bishop and are to reflect the population of the entire diocese. These Pastoral Council members must be outstanding in firm faith, high moral standards and prudence.[165]

The bishop pointed out in his address that the main purpose of this particular diocesan council was to deliberate on the revival of the diocesan pastoral council and on how to become more self-ministering, supporting and propagating the people of God under bishop's guidance.

After a lengthy discussion, the deliberations of the council meeting were summarized under twelve headings.

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[164] The bishop mentions in his opening address that the agenda of the first ever diocesan pastoral council meeting in 1973 is reflected in the agenda of the diocesan pastoral council of 1993.

[165] *CIC*, c. 512, §1. "Conilium pastorale constat christifidelibus qui in plena communione sint cum Ecclesia catholica, tum clericis, tum membris institutorum vitae consecratae, tum praesertim laicis, quique designantur modo ab Episcopo diocesano determinato."

1. **The diocesan administration**: the structure of diocesan administration (the Holy See, the bishop, the deanery, the parish, the out-station and the Small Christian Communities); the need for transformation, self-reliance, a growing Church; Church support: material resources, Church support historically, Church support today, and proposals and limitations.

2. **The role of communications media in the work of the diocese:** how the centre plays its part, the printing press, publications, radio and television, the public address system, the Christian literature shop, and library services.

3. **Vocations in the diocese:** the Christian vocation, religious vocation, marriage, catechists, the religious in the diocese, seminarians, diocesan presbyters, and requirements for candidates for the major seminary.

4. **Liturgy:** the nature of liturgy, forms of prayer, how to prepare and perform liturgy, achievements in the diocese in the implementation of Vatican II liturgical recommendations: liturgical committee, bible translations, and liturgical music.

5. **Lay apostolate in the diocese:** apostolate of the faithful, the twelve and the apostolate, the unique case of St. Paul, meaning of apostolate, role of the laity, various methods of lay apostolate, fields of lay apostolate, and lay apostolate in the diocese: procedure of coordination, feedback from parishes, achievements, women in the apostolates, the youth and apostolates: aspirations and obstacles.

6. **Social services:** a babies' home, home for disabled; medical: community based health care, natural family planning, HIV/AIDS programmes, and hospitals and clinics.

7. **Social services and development department:** planning; programmes and projects: development awareness, sustainable agricultural programmes, water supply programme, medical services, women and child development, the youth, credit facilities, the national Catholic Church manpower training programme, Caritas; infrastructure development and rehabilitation; visits and cooperation with other dioceses and constraints.

8. **Education:** the diocesan education office, education department, establishment of a diocesan education commission, contributions towards the Catholic University, seminars and meetings, problems encountered, future plans, and religious education.

9. **Religious education department:** accomplishments, observations about Christian Religious Education (C.R.E.), in schools, recommendations for improving C.R.E., points of further consideration and suggestions.

10. **The Pontifical Mission Society (P.M.S)**: the Pontifical Society of the Propagation of Faith, the Pontifical Society of Saint Peter the Apostle, the Pontifical Society of Holy Childhood, and the Pontifical Missionary Union of Presbyters, Religious, and Laity.

11**. Justice, peace and human rights as the centre of Christianity.** There were no sub topics under this heading.

12**. Diocesan Pastoral Council resolutions:** the diocesan organization, self-reliance, social communication media, vocations, the liturgy, lay apostolate, social services, development, education and religious and pastoral issues.

1.2.3. Diocese C, Tanzania

Diocese C was erected in 1963 by Pope John XXIII. The diocese covers an area of 26,010 square miles (67,340 square kilometers). According to the 2013 statistics, the population in the territory of the diocese stood at 2,552,853. The number of Catholics was about 500,000. The diocese has five deaneries and forty-three parishes.[166]

1.2.3.1 The Diocesan Synod

The diocese held its first diocesan synod in the year 2000. A synod committee had been formed two years prior to its celebration. The committee of fifteen members was comprised of religious, diocesan clergy, and laity. The synod committee sent out topics to parishes for discussion in preparation for the synod. A total of eleven themes were deliberated on at the synod.

1) the Church as family of God,

2) Christian life based on Small Christian Community experience,

3) meaningful liturgy as expression of acculturation in Jesus Christ,

4) integral evangelization,

5) fostering Christian vocation as laity,

[166] The current number of the parishes is as per the statistics on the diocesan website.

6) religious and diocesan clergy,

7) mass media and communication facilities,

8) justice and peace endeavours,

9) gender/women development,

10) youth,

11) enculturation.

These eleven themes were adopted by the synod and approved by the bishop. A committee was set up by the bishop for the implementation of the resolutions. At the end of the year 2000, the bishop promulgated a synodal document comprising eleven resolutions, and it was launched for implementation by the bishop at the end of the year 2000. It was at this same function that the committee for implementation was commissioned.

1.2.3.2 The Presbyteral Council

The diocese has had a stable presbyteral council since it was created as diocese. It is one of the few dioceses in the AMECEA with a functioning presbyteral council that has its own statutes. In the statutes, the purposes of the council are stated as: 1) being an advisory body to the bishop who gains from its wisdom for the good of the diocese; 2) exercising a consultative, non-deliberative role on all affairs of great importance in the life of the diocese (c. 502, §2); 3) aiding the bishop in the governance of the diocese according to the norms of law so that the pastoral welfare of the people entrusted to the bishop with the cooperation of the presbyterate may be carried forward effectively (c. 495); and, 4) providing a forum for discussion of other pastoral concerns proposed by the bishop or

admitted by him for consideration. Thus, it is in the presbyteral council meetings that programmes, policies, and principles are shared by presbyters and resolutions made for effective solidarity in pastoral action for the people of God in the diocese.

The membership of the council consists of the diocesan bishop, auxiliary bishop, the vicar general, the presbyters elected by the presbyterate and those appointed by the bishop. Those elected by the presbyterate are five—one from each deanery. Religious clerical institutes working in the diocese elect from among them one to represent them on the council. The bishop appoints five other presbyters of the diocese to the council. The rectors of the minor and major seminaries, whether diocesan or religious presbyters, are also members of the council. Membership is for five years, and one is eligible for re-election[167] or reappointment for one other term. The bishop confirms those who are elected to the council. The council meets four times a year.

1.2.3.3 The College of Consultors

The literature of the diocese provides an executive summary of the nature and purpose of the college of consultors. It states that the college of consultors is an institute established by the canon law and is presided over by the bishop. The membership is constituted by no less than six nor more than twelve members appointed by the bishop from among those serving in the diocese for a term of five years, and they are eligible for reappointment for another term. The functions of the college are those outlined by the Code as it pertains to the governance and administration. The statutes also add that the college provides counsel to the bishop on specific matters of pastoral concern at his request.

[167] Re-election does not apply to the ex-officio members.

It is the last-mentioned function that the college is actively involved in, for the most part. Indeed, the college that has the ear of the bishop when it comes to the appointments of the personnel in the diocese. The college meets four times a year. The dates of the meetings are close to those of the presbyteral council.

1.2.3.4 The Diocesan Finance Council

The diocesan has a functioning finance council. Members of the council are appointed by the bishop for a term of four years, renewable for not more than two terms. There are 12 members on the council. It is the diocesan bishop or his delegate that chairs the meetings. Meetings are ordinarily held four times a year.

1.2.3.5 The Diocesan Pastoral Council

The diocesan pastoral council is a very active organ in the life of the diocese given that three of the five deaneries are in nomadic areas where first evangelization is a priority. The guidelines of the diocesan pastoral council state that the council plans and coordinates activities in order to meet the pastoral needs in all families which are to be evangelized. The primary function of the council is therefore to act as a conduit between the people of the deaneries and parishes and the bishop. Under the bishop or his delegate, the council is involved in providing leadership to the people in the continuing development of the pastoral plan for the diocese.

The council works in close liaison with the lay apostolate department, the various diocesan commissions, associations and other planning groups on all aspects of diocesan pastoral plan. The council also plays its part in supporting the work of new parish structures and ministries in the diocese.

The diocesan pastoral council is made up of all the members of the parish pastoral councils as well as representatives of lay associations of the diocese. The diocesan bishop, the auxiliary bishop, vicar general, diocesan pastoral coordinator, diocesan youth chaplain, the chairperson of the diocesan pastoral council, and all chairpersons of the deanery pastoral councils form the executive committee of the council. Executive meetings, which take place four times a year, are the main method of communication with the bishop. Once every other year, a general assembly is held for which all members of the council are expected to attend and participate. The general assembly reviews the diocesan pastoral plan and adopts the manner of its implementation.

Conclusion

The people of the AMECEA region have much in common. A study of their history shows they share the same origin and have a common culture. The common culture expresses itself in the form of common customs, morals, ethics, and religion. At the centre of the socio-cultural, religious, and political philosophy of the people of the sub-Saharan Africa are the concepts of family, kinship, and social order with their direct link to the Creator.

Though ruled by chief/king as head of the respective community who was believed to be divinely instituted, the leadership of the community was never absolute and dictatorial. Rulers and chiefs ruled by consent.[168] Indeed, a ruler's subjects were as fully aware of the duties he owed to them as they were of the duties they owed to him, and they

[168] SCHAPERA, "The Political System of the Ngwato of Bechuanaland Protectorate," 72.

were able to exert pressure to make him discharge these duties.[169] Besides, there were other institutions that counterbalanced the powers of the king or the chief.

Thus, decision-making by the chief or king involved the "council" in one form or another, "operating at all levels, from clan to village, right up to the central authority, where this exists."[170] Besides advising the chief, the council was responsible for mediating conflict, governing the village and making all important decisions in the community. Sometimes, the king/chief not only sought the advice of his advisors and the council but also engaged the whole community in village assembly before he could make a very important decision that affected the whole community. Participation in the governance of the community was therefore key to the success of the leadership of that particular community. Unfortunately, this participative type of leadership in traditional African societies would slowly give way to the new dictatorial regimes under the colonialists who preferred the 'divide and rule' method that set apart the kings/chiefs from their own people and especially from the councils that had provided counsel to them.

In the Church, things were no different under the missionaries who were interested in inculcating in the Africans the European culture, which they believed was superior to the African. The missionaries thought that it was their mission to convert the Africans who were viewed as uncivilized and barbaric.[171] The effect was that Christianity did not penetrate sufficiently deeply into African religiosity. Indeed, for the Africans, Christianity

[169] See footnote 42.

[170] CHIMA, "Leadership in the African Church, 333.

[171] HINFELAAR, "Evangelization and Inculturation," 2.

came to mean simply a "set of rules to be observed, promises to be expected in the next world, rhythmless hymns to be sung, rituals to be followed and a few other outward things…."[172]

The Church that was preached to the African converts was the Church that had the *societas perfecta* ecclesiology and jurisdiction as its cornerstone. "Perfect society" meant that the Church (and any other society that claims to be perfect) is "subordinate to no other and lacks nothing required for its own institutional completeness."[173] This institutional model gave strong support to the missionary effort by which the Church went out to non-members seeking "to save their souls precisely by bringing them into the institution."[174]

The "perfect society" ecclesiology characterized by its clericalism, triumphalism, and juridicism is what the present Church in Africa has inherited and in many places has maintained. This has meant that Church leaders, including the presbyters and bishops, are like demi-gods. The presbyters are answerable to the bishop and the bishop is answerable to the pope. The laity are to be seen and not to be heard. In this context, dialogue is a non-issue. This may be the reason why the canonical participative structures, though articulated in the Code of Canon of 1983, are dysfunctional in some regions of the AMECEA.

But has not the Vatican II *communio* ecclesiology rectified the "perfect society" ecclesiology? The next chapter will attempt to show that *communio* ecclesiology is an answer to the problems created by the "perfect society" ecclesiology in the Church in

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[172] MBITI, *African Religion & Philosophy*, 233.

[173] DULLES, *Models of the Church*, 34.

[174] Ibid., 42.

relation to the participation of the faithful in the mission of the Church in a particular Church.

CHAPTER TWO

THE *COMMUNIO* ECCLESIOLOGY ANIMATING THE CANONICAL STRUCTURES WITHIN A PARTICULAR CHURCH

Introduction

In 1985, Pope John Paul II convoked an extraordinary Synod of Bishops to celebrate the 20th anniversary of Vatican II Council. One of the highlights of the final report of this synod was its declaration that the ecclesiology of communion is the central and fundamental idea in the documents of the Council.

> The ecclesiology of communion is the central and fundamental idea in the documents of the Council. *Koinonia/communio*, founded on the scripture, have been held in great honour in the early Church and in the Oriental Churches to this day. Thus, much was done by the Second Vatican Council so that the Church as communion might be more clearly understood and concretely incorporated into life….[175]

On his part, John Paul II, when promulgating the 1983 Code, in his Apostolic Constitution *Sacrae disciplinae leges*, also articulated the centrality of the ecclesiology of communion in Vatican II Council and tried to show how it was translated into canonical language in the new Code. He wrote:

> Among the elements which characterize the true and genuine image of the Church we should emphasize especially the following: the doctrine in which the Church is presented as the people of God (cf. dogmatic constitution *Lumen gentium*, chapter 2) and hierarchical authority as service (cf. ibid., chapter 3); the doctrine in which the Church is seen as a *communion* and which therefore determines the relations which are to exist between the particular Churches and the universal Church, and between collegiality and the primacy; likewise the doctrine according to which all the members of the people of God, in the way suited to each of them, participate in the threefold priestly, prophetic and kingly office of Christ, to which the doctrine is also linked that which concerns the duties and rights of the faithful and particularly the laity, and finally, the Church's commitment to ecumenism.[176]

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[175] EXTRAORDINARY SYNOD of 1985, "The Final Report," in *Origins*, 15 (1985), 448 (=EXTRAORDINARY SYNOD, "The Final Report").

[176] JOHN PAUL II, *Sacrae disciplinae leges*, in *AAS*, 75 (1983), xii. "Ex elementis autem, quae veram ac propriam Ecclesiae imaginem exprimunt, haec sunt praecipue recensenda: doctrina qua Ecclesia ut Populus Dei (cfr. Const. *Lumen Gentium*, 2) et auctoritas hierarchica uti servitium

This demonstrates how the ecclesiology of communion is central to understanding not only the theology of the Church but canon law also. Indeed, the significance of communion ecclesiology to the 1983 Code of Canon Law is the reason we will devote this whole chapter to explaining how the communion ecclesiology animates the participative structures in a particular Church.

Our treatment of ecclesiology of communion shall start in the New Testament, especially in the Pauline and Lukan accounts. We will then treat in detail the notion of communion ecclesiology in Vatican II. Here, we will rely heavily on the exposé by the Congregation for Doctrine of Faith on some aspects of ecclesiology of communion in Vatican II documents. We will then discuss the teachings of Popes John II and Benedict XVI on their understanding of ecclesiology of communion.

After laying down the ecclesiology of communion in the Vatican II documents (and specifically *Lumen gentium*) which animates participative structures in a particular Church, we will turn our attention to a detailed exposition of the selected participative structures in the conciliar documents and post conciliar documents. We shall show how some of the post conciliar documents are not only pastoral but legislative in nature.

2.1 The Notion of *Koinonia/Communio*

proponitur (*ibid.,* 3); doctrina praeterea quae Ecclesiam uti « communionem » ostendit ac proinde mutuas statuit necessitudines quae legialitatem ac primatum intercedere debent; item doctrina qua omnia membra Populi Dei, modo sibi proprio, triplex Christi munus participant, sacerdotale scilicet propheticum atque regale, cui doctrinae ea etiam adnectitur quae respicit officia ac iura christifidelium, ac nominatim laicorum; studium denique ab Ecclesia in oecumenismum impendendum." In *Code of Canon Law: Latin-English Edition*, xxxiii.

Before we treat in detail the *communio* ecclesiology in *Lumen gentium*, it is worthwhile treating the meaning of the word *communio* itself. The Extraordinary Synod of 1985 which declared ecclesiology of communion as the central and fundamental idea in the Vatican II documents, defined *communio* in the following words:

> Fundamentally, it is a matter of communion with God through Jesus Christ, in the Holy Spirit. This communion is had in the Word of God and in the sacraments. Baptism is the door and foundation of communion in the Church. The Eucharist is the source and the culmination of the whole Christian life (cf. LG. 11). The communion of the eucharistic Body of Christ signifies and produces, that is, builds up, the intimate communion of all the faithful in the Body of Christ which is the Church (1 Cor 10:16). For this reason, the ecclesiology of communion cannot be reduced to purely organizational questions or to problems which simply relate to powers. Still, the ecclesiology of communion is also the foundation for order in the Church, and especially for a correct relationship between unity and plurality in the Church.[177]

Even though the Synod intended this to be a definition, it is rather a description of the term. Some authors like Dennis Doyle and Patrick S. Brennan (and others) have praised the Synod for not giving a precise definition of the concept. What is important to us, however, is the fact that the Synod's description of the term *communio* points to the New Testament in which the term has its roots.

Indeed, in choosing the term *koinonia* to express the image of the Church, Vatican II harkens back to the image of the Church as presented in the New Testament. The Greek word *koinonia* is derived from *koinos*, meaning fellowship (bond of common purpose and

[177] EXTRAORDINARY SYNOD, "The Final Report," 448.

devotion that binds people together) and/or close relationship.[178] "In the New Testament, it is used to emphasize 'sharing' (1 Cor 10:16) or 'participation' (2 Cor 8:4; Phil. 3:10)."[179]

Koinonia was Paul's favourite word to describe a believer's relationship with the risen Christ and the benefits of salvation which come through Him.[180] The word appears twenty times in the New Testament. The first occurrence of *koinonia* is in Acts 2:42, in which the Christians "devoted themselves to the Apostles' teaching and to fellowship, to the breaking of bread and to prayer." In this sense, common sharing, participating and possessing of things for the good of the whole community are key ingredients of *koinonia*.

In the New Testament, therefore, *koinonia*/*communio*/fellowship is the "interrelationship among persons of the Trinity, between a believer and God, and among those who hold a family relationship by virtue of a common faith bond in Christ (1 Jn. 1:3)."[181]

Koinonia is often translated in Latin as *communio* or communion in English.[182] According to Avery Dulles:

> The Latin term *communio*, like its Greek equivalent, *koinonia*, is a very rich concept, only feebly captured by our English word "communion." Koinonia has significance for almost every aspect of the Christian life. All believers are called into communion with Christ through faith, baptism, and sacramental life. Their joys and sufferings, taken up into Christ's passion and resurrection, are transformed by him so as to lead into fellowship with the Father, the Son, and the

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[178] H.W. HOLLOMAN, *Kregel Dictionary of the Bible and Theology*, Grand Rapids, MI, Kregel Publications, 2005, 152 (=HOLLOMAN, *Kregel Dictionary of the Bible and Theology*).

[179] HOLLOMAN, *Kregel Dictionary of the Bible and Theology*, 152.

[180] C. BRAD, et al. (eds.), *Holman Illustrated Bible Dictionary*, Nashville, TN, Holman Bible Publishers, 2003, 564.

[181] HOLLOMAN, *Kregel Dictionary of the Bible and Theology*, 151.

[182] P. GRANFIELD, "The Church Local and Universal: Realization of Communion," in *The Jurist*, 49 (1989), 450 (=GRANFIELD, "The Church Local and Universal").

> Holy Spirit. On earth we enjoy a pledge and foretaste of the intimate union with God that is our final destiny. Seen in its full range, communion has anthropological, Eucharistic, cosmic, and eschatological dimensions.[183]

Indeed, as also described by the 1985 Extraordinary Synod, *koinonia* captures both the vertical and horizontal dimensions of relationships in the Church. Fundamentally, *koinonia* is communion with God through Jesus Christ, in the Holy Spirit. Thus, in its primary sense, it means a common participation in the gifts of salvation won by Jesus Christ and bestowed by the Holy Spirit. This union in the life of the triune God is possible only through faith and although it is partially present now, it will be fulfilled only in the future when we will see God face to face (1 Thessalonians 4:17).[184] It is through baptism that Christians are brought into fellowship with the Spirit and participate in the divine nature (2 Peter 1:4). "Sharing in the life of the Spirit is a mark of Christians and experienced in a special way in the Eucharist."[185]

Ladislas Örsy points out that it is through our faith that we come to understand the mystery of God, that is, the internal reality of *communio*. He says:

> Of course, around a mystery we can see only with the eyes of faith, but through them we have a perception that we can articulate. Thus, in the inner life of God we discover communion: he is one in divinity and three in persons. In him, there is unity in diversity, or diversity in unity. We can say "In the beginning" (cf. John 1:1) there was the indivisible one Divinity, and there were three Persons, each unique and diverse. This eternal pattern speaks of the very nature of communion: it tells us that no person can exist without being in unity with other persons. In the divine "model," mysterious as it is, we find the clue for achieving some

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[183] A. DULLES, "*Forward*," in KASLYN, "*Communion with the Church" and the Code of Canon Law: An Analysis of the Foundation and Implications of the Canonical Obligation to maintain Communion with the Catholic Church*, Lewiston, The Edwin Mellen Press, 1994, iv.

[184] GRANFIELD, "The Church Local and Universal," 451.

[185] Ibid.

> understanding of what *communio* among human beings ought to be, in particular in God's fledgling kingdom that is the Church….[186]

The horizontal dimension of *koinonia* is in the relationship among believers in the visible Church in which members are gifted differently but all working for the accomplishment of the mission of Christ—communion at the table of the Lord in the Eucharist and in other sacraments and the communion for order in the Church and unity in the universal Church.

Dennis Doyle argues that the notion of *communio* is an expansive and rich notion that will not be confined to a single definition.[187] Patrick Brennan agrees with Dennis Doyle on the difficulty of having a precise definition of *communio*. He, nevertheless, points to essential elements that should form the basis of understanding the concept of *communio* and, therefore, ecclesiology of communion. He suggests that

> … an ecclesiology of communion emerges from the interplay of three theological principles. The first is that our *communio* with each other is related to the *communio* present in the Trinity. Second, because we are created in the image of the Trinity, we are fundamentally relational beings. And, third, our relationality has both a vertical and horizontal dimension. We share communion with God through Christ and in the Holy Spirit. And we share communion with our brothers and sisters because they, too, share in this same communion with God. As Pope John Paul II has said so beautifully, "A spirituality of communion also means an ability to think of our brothers and sisters in faith within a profound unity of the mystical body and therefore as "those who are part of me."[188]

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[186] L. ÖRSY, "The Church of the Third Millennium. An Exercise in Theological and Canonical Imagination: In Praise of *Communio*," in *Studia canonica*, 38 (2004), 13 (=ÖRSY, "The Church of the Third Millennium").

[187] D.M. DOYLE, *Communio Ecclesiology*, Maryknoll, NY, Orbis Books, 2000, 19 (=DOYLE, *Communio Ecclesiology*).

[188] P. BRENNAN, "Collaboration, Consultation, and *Communio* between Bishops and Priests: Structures and Issues," in *CLSA Proceedings*, 68 (2006), 92 (=BRENNAN, "Collaboration, Consultation, and *Communio*").

Like the Extraordinary Synod of 1985, Brennan adds that the communion of the Church is strengthened and preserved by the celebration of the sacraments, especially the Eucharist, and it is lived out day-to-day in our good relationships with each other. The visible unity of the Church is an important dimension of communion ecclesiology, and each of us must work to maintain that unity according to our various roles in the Church.[189]

It is with this understanding of the concept of *communio* that we venture into exposing the ecclesiology of communion of Vatican II Council as found, for the most part, in *Lumen gentium*.[190]

2.2 *Communio* Ecclesiology in *Lumen gentium*

Vatican II Council used the word "communion" in various senses. Thus, the "Council expressed a many-layered vision that avoided pitting against each other things that are potentially complementary."[191] These many-layered visions of the Church as communion are captured well in the letter to the bishops on some aspects of the Church understood as communion by the Congregation for the Doctrine of Faith, in 1992.[192] The Letter, signed by the then Cardinal Ratzinger, the Prefect, presents the different levels of communion as: the Church as a mystery of *communio;* the communion of the universal

[189] BRENNAN, "Collaboration, Consultation, and *Communio*," 93.

[190] Though the ecclesiology of Vatican II Council is not found only in *Lumen gentium* (can also find it in *Gaudium et spes*) almost all of it is found there and that is the reason we limit ourselves to *Lumen gentium*.

[191] DOYLE, *Communio Ecclesiology*, 74.

[192] CONGREGATION FOR THE DOCTRINE OF FAITH, Letter to the Bishops of the Catholic Church on Some Aspects of the Church Understood as Communion *Communionis notio*, 28 May 1992, in *AAS*, 85 (1993), 838–850, English tranlation in *Origins*, 22 (1993), 108–112 (CDF, *Communionis notio*).

Church and particular Churches; communion of the Churches, Eucharist and episcopate; unity and diversity in ecclesial communion; and ecclesial communion and ecumenism. We will follow this outline in presenting the teaching of the Church on the *communio* ecclesiology of Vatican II in *Lumen gentium*.[193]

2.2.1 The Church as the Mystery of Communion

The concept of *communio* lies at the heart of the Church's self-understanding insofar as it is the mystery of the personal union of each human being with the divine Trinity and with the rest of humankind, initiated with the faith (1 Cor 1:9), and having begun as a reality in the Church on earth, as directed towards its eschatological fulfillment in the heavenly Church (cf. Phil 3:20-21; Col 3:1-4).[194] The concepts of the Church as the mystery of salvation, Church as the Body of Christ, and Church as the People of God are, therefore, intertwined.[195]

As mentioned earlier, a proper understanding of *communio* has to be within the teaching of the Bible and the patristic tradition, in which *communio* always involves a double dimension: the *vertical* (communion with God) and the *horizontal* (communion amongst people). Indeed, *communion* is above all a gift from God, a fruit of God's initiative carried out in the paschal mystery. The new relationship between human beings and God that has been established by Jesus Christ and is communicated through the sacraments also

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[193] The content of this section is, for the most part, drawn from the Letter of the Congregation for Divine Faith on the aspects of the notion of *communio*.

[194] SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964 (=*LG*), no. 48, in *AAS*, 57 (1965), 53–54, English translation in *FLANNERY1*, 407–408.

[195] CDF, *Communionis notio*, no. 3, in *Origins*, 22 (1993), 108.

extends to a new relationship of people among themselves.[196] As a result, the concept of *communio* should be such as to express both the sacramental nature of the Church and also the particular unity which makes the faithful into members of the same body, the mystical body of Christ, an organically structured community,[197] a people brought into one by the unity of the Father and of the Son and of the Holy Spirit,[198] and endowed with suitable means for its visible and social union.[199]

The Church *communion* is, therefore, at the same time both *invisible* and *visible.* As an invisible reality, it is the communion of each human being with the Father through Christ in the Holy Spirit, and with others who are fellow bearers in the divine nature (cf. 2 Pt. 1:4), in the passion of Christ (cf. 2 Cor 1:7), in the same faith (cf. Eph 4:13), in the same Spirit (cf. Phil 2:1). In the Church on earth there is an intimate relationship between this invisible communion and the visible communion in the teaching of the apostles, in the sacraments, and in the hierarchical order. By means of these divine gifts, which are very visible realities, Christ carries out in different ways in history his prophetic, priestly, and kingly *functions* for salvation of humankind. This link between the invisible and the visible elements of ecclesial communion constitutes the Church as the *sacrament* of salvation.[200]

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[196] CDF, *Communionis notio*, no. 3, in *Origins*, 22 (1993), 108.

[197] *LG*, no. 11, in *AAS*, 57 (1965), 15. "Indoles sacra et organice exstructa communitatis sacerdotalis et per sacramenta et per virtutes ad actum deducitur…." In *FLANNERY1*, 361.

[198] Ibid., no. 4, 6. "Sic apparet universa Ecclesia sicuti de unitate Patris et Filii et Spiritus Sancti plebs adunata." In *FLANNERY1*, 352.

[199] Ibid., no. 9, 14. "Aptisque mediis unionis visibilis et socialis instruxit." In *FLANNERY1*, 360.

[200] CDF, *Communionis notio*, no. 4, in *Origins*, 22 (1993), 108.

Thus, the Church is not a reality closed in on herself. Rather, she is permanently open to missionary and ecumenical endeavour, for she is sent to the world to announce and witness, to make present and spread the mystery of communion which is essential to her, and to gather together all people and all things into Christ,[201] so as to be for all an "inseparable sacrament of unity."[202]

Ecclesial communion, into which each individual is introduced by faith and by baptism (Eph 4:4-5; cf. Mk 16:16), has its roots and centre in the Holy Eucharist.[203] Indeed, baptism is an incorporation into a body that the risen Lord builds and keeps alive through the Eucharist, so that this body can truly be called the body of Christ. The Eucharist is the creative force and source of *communion* among the members of the Church, precisely because it unites each one of them with Christ himself. "Really sharing in the body of the Lord in the breaking of the Eucharistic bread, we are taken up into communion with him and with one another. 'Because the bread is one, we, though many, are one body, all of us who partake of the one bread' (1 Cor 10:17)."[204]

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[201] *LG*, no. 9, in *AAS*, 57 (1965), 13. "Pro toto tamen genere humano firmissimum est germen unitatis, spei et salutis. A Christo in communionem vitae, caritatis, et veritatis constitutes, ab Eo etiam ut instrumentum redemptionis omnium adsumitur, et tamquam lux mundi et sal terrae (cfr. Matth. 5. 13-16), ad universum mundum emittitur." In *FLANNERY1*, 359.

[202] St. Cyprian, *Epistle ad Magnum*, 6: *PL 3*, 1142.

[203] CDF, *Communionis notio*, no. 5, in *Origins*, 22 (1993), 108.

[204] *LG*, no. 7, 9. "In fractione panis eucharistici de Corpore Domini realiter participantes, ad communionem cum Eo ac inter nos elevamur. « Quoniam unus panis, unum corpus multi sumus, omnes, qui de uno pane participamus » (1 Cor 10, 17)." In *FLANNERY1*, 355.

The Church is a *communion of saints*.[205] The common visible sharing in the goods of salvation, especially in the Eucharist, is the source of the invisible communion among the sharers (the saints). This communion brings with it a spiritual solidarity among the members of the Church, insofar as they are members of one same body (1 Cor 12:25-27; Eph 1:22-23; 3: 3-6), and it fosters their effective union in charity by constituting them "one heart and soul" (Acts 4:32). Communion tends also towards union in prayer (Acts 2:42) inspired in all by one and the same Spirit, the Holy Spirit "who fills and unites the whole Church (cf. Rom 8:15-16, 26; Gal 4:6)."[206]

The Church is a People of God. It exists and develops within human history in the context of the history of salvation. We can only fully understand the Church's essential being in the context of God's purpose, which is the mystery that is unifying. The concept of the people of God includes an idea of a structured community. The duty of the People of God is to form and establish a community which will transcend all natural boundaries. This mission of the Church should be directed to bringing all things under Christ. We must understand that the unity of the People of God is not supposed to diminish the natural differences but to gather them up to form a unity in diversity. In this context the role of the

[205] CDF, *Communionis notio*, no. 6, in *Origins*, 22 (1993), 109.

[206] *LG*, no. 4, in *AAS*, 57 (1965), 6–7. "Opere autem consummato, quod Pater Filio commisit in terra faciendum (cfr. *Io.* 17, 4), missus est Spiritus Sanctus die Pentecostes, ut Ecclesiam iugiter sanctificaret, atque ita credentes per Christum in uno Spiritu accessum haberent ad Patrem (cfr. *Eph.* 2, 8). Ipse est Spiritus vitae seu fons salientis in vitam aeternam (cfr. *Io.* 4, 14 ; 7, 38-39), per quem Pater homines, peccato mortuos, vivificat, donec eorum mortalia corpora in Christo resuscitet (cfr. *Rom.* 8, 10-11). Spiritus in Ecclesia, et in cordibus fidelium tamquam in templo habitat (cfr. *1 Cor.* 3, 16; 6, 19), in eisque orat et testimonium adoptionis filiorum reddit (cfr. *Gal.* 4, 6; *Rom.* 8, 15-16, et 26)." In *FLANNERY1*, 351–352.

Apostolic See is to guarantee the unity of all diverse situations.[207] The People of God is a call to a universal gathering of different people.

While baptism incorporates everyone into the People of God, it also confers on each person the office of a royal priesthood making him or her part of a priestly people.[208] Therefore, the image of the Church as the people of God presents the baptized as a priestly people. The People of God are said to be a priestly people because in baptism they share in the three-fold *munera* of Christ which are: priestly, prophetic, and kingly offices. The pope, the bishops, presbyters, religious, lay people, all gathered together to form the People of God, share the common priesthood through baptism.[209]

The concept of the People of God leads to the question of the relationship between the ministerial priesthood and the common priesthood in the Church. The Council Fathers were clear that the first and the main priesthood in the People of God is that of all the baptized. It is this priesthood by which all are joined into the People of God.

Lumen gentium declares that the New Testament priesthood is a share in the one priesthood of Christ: The common priesthood and the ministerial or hierarchical priesthood differ from one another in essence and not only in degree, but are nonetheless interrelated.

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[207] SECOND VATICAN COUNCIL, Decree on Ecumenism *Unitatis redintegratio*, 21 November 1964 (=*UR*), no. 19, in *AAS*, 57 (1964), 90–112, *FLANNERY1*, 452 – 563; See also SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church *Christus Dominus*, 28 October 1965 (=*CD*), no. 11, in *AAS*, 58 (1966), 673–701, *FLANNERY1*, 569; See also SECOND VATICAN COUNCIL, Decree on Catholic Eastern Churches *Orientalium Ecclesiarum*, 21 November 1964 (=*OE*), no. 14, in *AAS*, 57 (1964), 76–85, in *FLANNERY1*, 446.

[208] Cf. B. PENNINGTON, *Vatican II: We've Only Just Begun*, New York, The Crossroads Publishing Company, 1994, 25.

[209] Cf. J.H. PROVOST, *Code, Community, Ministry: Selected Studies for the Parish Minister Introducing the Revised Code of Canon Law*, Washington, DC, Canon Law Society of America, 1983, 19.

"Though they differ essentially and not only in degree, the common priesthood of the faithful and the ministerial or hierarchical priesthood are nonetheless ordered one to another; each in its own proper way shares in the one priesthood of Christ."[210] Most important is that in the People of God there is fundamentally only one priesthood, that of Christ in which the Church as a whole shares. Different people within the People of God participate differently in the priesthood of Christ, which of course does not make them superior to one another but enables them to exercise a different role in the service of the People of God. Each and every one of His members is a priest. In sharing in the common priesthood every member is in communion with each other and shares in the mission of the whole Body which is the mission of Christ Himself—that is, salvation of all humankind.

In its invisible elements, this communion exists not only among the members of the pilgrim Church on earth, but also between these and all who, having passed from this world in the grace of our Lord, belong to the heavenly Church or will be incorporated into her after having been fully purified.[211] This means, among other things, that there is a *mutual relationship* between the pilgrim Church on earth and the heavenly Church in the historical-redemptive mission. Hence, there is the ecclesiological importance not only of Christ's

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[210] *LG*, no. 10, in *AAS*, 57 (1965), 14. "Sacerdotium autem commune fidelium et sacerdotium ministeriale seu hiearchicum, licet essentia et non gradu tantum differant, ad invicem tamen ordinantur; unum enim et alterum suo peculiari modo de uno Christi sacerdotio participant." In *FLANNERY1*, 361.

[211] *LG*, no. 49, 54. "Nam in patriam recepti et praesentes ad Dominum (cfr. *2 Cor.* 5, 8), per Ipsum, cum Ipso et in Ipso non desinunt apud Patrem pro nobis intercedere, exibentes merita quae per unum, Christum Iesum (cfr. *1 Tim.* 2, 5) in terris sunt adepti, Domino in omnibus servientes et adimplentes ea quae desunt passionum Christi in carne sua pro Corpore Eius quod Ecclesia (cfr. *Col.* 1, 24). Eorum proinde fraternal sollicitudine infirmitas nostra plurimum iuvatur." In *FLANNERY1*, 410.

intercession on behalf of his members (Heb 7:25) but also of that of the saints and, in an eminent fashion, of the Blessed Virgin Mary.[212] Devotion to the saints, which is such a strong feature of the piety of the Christian people, can thus be seen to correspond in its very essence to the profound reality of the Church as a mystery of communion.

2.2.2 Universal Church and Particular Churches

The Church of Christ,[213] which we profess in the Creed to be one, holy, catholic, and apostolic, is the universal Church, that is, the worldwide community of the disciples of the Lord (cf. Mt 16:18; 1 Cor 12:28), which is present and active amid particular characteristics and the diversity of persons, groups, time, and places. Among the manifold particular expressions of the saving presence of the one Church of Christ, from the time of the apostles, there have been those entities which are in themselves *Churches* (cf. Acts 8:1; 11:22; 1 Cor 1:2; 16, 19; Gal 1:22; Rev 2:1, 8) because, although they are particular, the universal Church becomes present in them with all her essential elements. They are therefore constituted "after the model of the universal Church,"[214] and each of them is "a portion of the People of God entrusted to a bishop to be guided by him with the assistance of the clergy."[215] Thus, from the Church, which in its origins and its first manifestation is

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[212] *LG*, no. 50, in *AAS*, 57 (1965), 55. "Apostolos autem et martyres Christi, qui sui sanguinis effusione supremum fidei et caritatis testimonium dederant, in Christo arctius nobis coniunctos essse Ecclesia semper credidit, eos simul cum Beata virgine Maria et sanctis Angelis peculiari affect venerate, eorumque intercessionis auxilium pie imploravit." In *FLANNERY1*, 410.

[213] CDF, *Communionis notio*, no. 7, in *Origins*, 22 (1993), 109.

[214] *LG*, no. 23, 27. "Ad imaginem Ecclesiae universalis formatis, in quibus et ex quibus una et unica Ecclesia catholica exsistit." In *FLANNERY1*, 376.

[215] *CD*, no. 11, in *AAS*, 58 (1966), 677. "Dioecesis est Populi Dei portio, quae Episcopo cum cooperatione presbyterii pascenda concreditur…." In *FLANNERY1*, 569.

universal, have risen the different local Churches, as particular expressions of the one unique Church of Christ. Arising within and out of the universal Church, they have their ecclesiality in her and from her. Hence, the formula of the Second Vatican Council: *The Church in and formed out of the Churches (Ecclesia in et ex Ecclesiis),* is inseparable from this other formula: *The Churches in and formed out of the Church (Ecclesiae in et ex Ecclesia).* In this sense, without imposing on the necessary relations regarding juridical dependence, whoever belongs to one particular Church belongs to all the Churches, since belonging to the *communion*, like belonging to the Church, is never simply particular but by its very nature is always universal.

2.2.3 Communion of the Churches, Eucharist, and Episcopate

Unity or communion between the particular Churches in the universal Church is rooted not only in the same faith and in the common baptism but also the Eucharist and the episcopate.[216] It is rooted in the Eucharist because the Eucharistic sacrifice, while always offered in a particular community, is never a celebration of that community alone. In fact the community, in receiving the Eucharistic presence of the Lord, receives the entire gift of salvation and shows, even in its lasting visible particular form, that it is the image and true presence of the one, holy, catholic, and apostolic Church.[217]

The unity of the Church is also rooted in the unity of the episcopate. Of the unity of the episcopate, as also of the unity of the entire Church, "the Roman Pontiff, as the

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[216] CDF, *Communionis notio*, no. 11, in *Origins*, 22 (1993), 110.

[217] *LG*, no. 26, in *AAS*, 57 (1965), 31. "In his communitatibus, licet saepe exiguis et pauperibus, vel in dispersion degentibus, praesens est Christus, cuius virtute consociatur una, sancta, catholica, et apostolica Ecclesia." In *FLANNERY1*, 381.

successor of Peter, is the perpetual and visible source and foundation."[218] This unity of the episcopate is perpetuated through the centuries by means of the *apostolic succession*, and is also the foundation of the identity of the Church of every age with the Church built by Christ upon Peter and upon other apostles.[219]

The unity of the Eucharist and the unity of the episcopate with Peter and under Peter are not independent roots of the unity of the Church, since Christ instituted the Eucharist and the episcopate as essentially interlinked realities.[220] The episcopate is one, just as the Eucharist is one: the sacrifice of the one Christ, dead and risen. The liturgy expresses this reality in various ways, showing, for example, that every celebration of the Eucharist is performed in union not only with the proper bishop but also with the Pope, with the episcopal order, with all the clergy, and with all the entire people. Every valid celebration of the Eucharist expresses this universal communion with Peter and with the whole Church, or objectively calls for it, as in the case of the Christian Churches separated from Rome.[221]

2.2.4 Unity and Diversity in Ecclesial Communion

[218] *LG*, no. 23, in *AAS*, 57 (1965), 27. "Romanus Pontifex, ut successor Petri, est unitatis, tum Episcoporum tum fidelium multitudinis, perpetuum ac visibile principium, et fundamentum." In *FLANNERY1*, 376.

[219] Ibid., no. 20, 23. "Inter varia illa ministeria quae inde a primis temporibus in Ecclesia exercentur, teste traditione, praecipuum locum tenet munus illorum qui, in episcopatum constitute, per successionem ab initio decurrentem, apostolici seminis traduces habent." In *FLANNERY1*, 371.

[220] Cf. Ibid., no. 26, 32. "Omnis autem legitima Eucharistiae celebratio dirigitur ab Episcopo, cui officium commissum est cultum christianae religionis Divinae Maiestati deferendi atque administrandi secundum praecepta Domini et Ecclesiae leges, eius particulari iudicio ulterius pro dioecesi determinatas." In *FLANNERY1*, 382.

[221] CDF, *Communionis notio*, no. 17, in *Origins*, 22 (1993), 111.

The universality of the Church involves, on the one hand, a most solid unity, and on the other hand, a plurality and diversification, which do not impede unity but rather confer upon it the character of 'communion.' This plurality refers both to the diversity of ministries, charisms and forms of life and apostolate within each particular Church, and to the diversity of traditions in liturgy and culture among the various particular Churches.[222]

Fostering a unity that does not inhibit diversity, and acknowledging and fostering a diversification that enriches it, is a fundamental task of the Roman Pontiff for the whole Church.[223] Furthermore, without prejudice to the general law of the Church, it is the task of each bishop in the particular Church entrusted to his pastoral ministry to do likewise.[224] But the building up and safeguarding of this unity, on which diversification confers the character of communion, is also a task of everyone in the Church.

2.2.5 Ecclesial Communion and Ecumenism

[222]Cf. *LG*, no. 23, in *AAS*, 57 (1965), 28. "Divina autem Providentia factum est ut variae variis in locis ab Apostolis eorumque successoribus institutae Ecclesiae decursu temporum in plures coaluerint coetus, organice coniunctos, qui, salva fidei unitate et unica divina constitutione universalis Ecclesiae, gaudent propria disciplina, proprio liturgico usu, theologico spiritualique patrimonio…. Quae Ecclesiarum localium in unum conspirans varietas indivisae Ecclesiae catholicitatem luculentius demonstrate." In *FLANNERY1*, 377–378.

[223] Cf. Ibid., no. 13, 18. "Inde etiam in ecclesiastica communione legitime adsunt Ecclesiae particulares, propriis traditionibus fruentes, integro manente primate Petri Cathedrae, quae universo caritatis coetui praesidet, legitimas varietates tuetur et simul invigilate ut particularia, nedum unitati noceant, ei et temporalia subsidia." In *FLANNERY1*, 365.

[224] *CD*, no. 8, in *AAS*, 58 (1966), 676. " a) Episcopis, ut Apostolorum successoribus, in dioecesibus ipsis commissis per se omnis competit potestas ordinaria, propria ac immediata, quae ad execitium eorum muneris pastoralis requiritur, firma semper in omnibus potestate quam, vi muneris sui, Romanus Pontifex habet sibi vel alii Auctoritati causas reservandi." In *FLANNERY1*, 567.

"The Church knows that she is joined in many ways to the baptized who are honoured by the name of Christian, but who do not however profess the Catholic faith in its entirety or have not preserved unity or communion under the successor of Peter."[225] Among the non-Catholic Churches and Christian communities, there are indeed to be found many elements of the Church of Christ, which allow us, amid joy and hope, to acknowledge the existence of certain communion, albeit imperfect.[226] This communion exists especially with the Eastern Orthodox Churches which, though separated from the See of Peter, remain united to the Catholic Church by means of very close bonds, such as the apostolic succession and the valid Eucharist, and therefore merit the title of particular Churches.[227]

Since, however, communion with the universal Church, represented by Peter's successor, is not an external complement to the particular Church but one of its internal constituents, the situation of those venerable Christian communities also means that their existence as particular Churches is wounded. The wound is even deeper in those ecclesial communities which have not retained the apostolic succession and a valid Eucharist. This in turn injures the Catholic Church, called by the Lord to become for all "one flock" with "one shepherd" (Jn 10:16).

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[225] *LG*, no. 15, in *AAS*, 57 (1965), 19. "Cum illis qui, baptizati, christiano nomine decorantur, integram autem fidem non profitentur vel unitatem communionis sub Successore Petri non servant, Ecclesia semetipsam novit plures ob rationes coniunctam." In *FLANNERY1*, 366.

[226] Cf. *UR*, no. 3, *AAS*, 57 (1965), 93. "Hi enim qui in Christum credunt et baptismum rite receperent, in quadam cum Ecclesia catholica communione, etsi non perfecta, constituuntur." In *FLANNERY1*, 455.

[227] Cf. *UR*, no. 15, 102. "Cum autem illae Ecclesiae, quamvis seiunctae, vera sacramenta habeant, praecipue vero, vi successionis aplostolicae, Sacerdotium et Euchastiam, quibus arctissima necessitudine adhuc nobiscum coniunguntur, quaedam communicatio in sacris, datis opportunis circumstantiis et approbante auctoritate ecclesiastica, non solum possibilis est sed etiam suandetur." In *FLANNERY1*, 465.

This situation seriously calls for ecumenical commitment on the part of everyone, with a view to achieving full communion in the unity of the Church, that unity which Christ bestowed on his Church from the beginning. This unity subsists in the Catholic Church as something she can never lose, and which should continue to increase until the end of time.[228]

The above exposition of the ecclesiology of communion of Vatican II Council by the Congregation for the Doctrine of the Faith is comprehensive. We consider it to be the official position of the Church on the understanding of *communio* ecclesiology.[229] Below, we consider in brief the understanding of this notion of *communio* by the two popes, that is, Pope John Paul II and Pope Benedict XVI,[230] who were both present at the Council and have been supreme legislators of the Church.

2.3 Pope John Paul II and Vatican II Council *Communio* Ecclesiology

John Paul II was an ardent believer and supporter of Vatican II Council teaching on ecclesiology of communion. John Renken comments that the "*communio* of the Church is one of the great themes repeated by Pope John Paul II throughout the more than twenty-

[228] Cf. *UR*, no. 4, in *AAS*, 57 (1965), 95. "Ut hac via paulatim, superatis obstaculis perfectam communionem ecclesiasticam impedientibus, omnes Christiani, in una Eucharistiae celebration, in unius unicaeque Ecclesiae untatem congregentur quam Christus ab initio Ecclesiae suae largitus est, quamque inamissibilem in Ecclesia catholica subsistere credimus et usque ad consummationem saeculi in dies crescere speramus." In *FLANNERY1*, 457.

[229] The teachings of the popes on *communio* ecclesiology below corroborate this teaching.

[230] We will treat Pope Francis in chapter four.

five years of his ministry as Universal Pastor."[231] Renken lists John Paul's writings in which are found the notion of *communio*.[232]

In *Tertio millennio adveniente* (1994),[233] John Paul II says, "The best preparation for the new millennium, therefore, can only be expressed in a renewed commitment to apply, as faithfully as possible, *the teachings of Vatican II to the life of every individual and of the whole Church*."[234]

When promulgating the 1983 Code of Canon Law, John Paul II pointed out the direct link between Vatican II Council and the Code through the theology of communion ecclesiology. He identified four important elements in the Council's teachings that would find their way in the Code. These elements included: 1) the Church seen as the people of God and hierarchical authority as service, 2) the Church seen as *communion*, 3) the participation of all the members of the people of God in the threefold priestly, prophetic and kingly office of Christ, and 4) the Church's commitment to ecumenism.

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[231] J.A. RENKEN, ""*Duc In Altum!*" *Communio*: Sources and Summit of Church Law," in *The Jurist*, 63 (2003), 23 (=RENKEN, *Communio*).

[232] The list includes John Paul's numerous writings—including his general audiences and in post-synodal exhortations such as *Christifideles laici* (December 30, 1988), *Pastores dabo vobis* (March 25, 1992), *Ecclesia in Africa* (March 25, 1995), *Vita consecrate* (March 25, 1996), *Ecclesia in Asia* (November 6, 1999), *Ecclesia in Oceania* (November 22, 2001), and *Ecclesia in Europe* (June 28, 2003). Cf. RENKEN, *Communio*, 35.

[233] JOHN PAUL II, Apostolic Letter on Preparation for the Celebration of the Third Millennium *Tertio millennio adveniente*, 24 November 1994 (*TMA*), in *AAS*, 87 (1995), 5–41, English translation in *Origins*, 24 (1995), 401–416.

[234] *TMA*, no. 20, in *AAS*, 87 (1995), 17. "Optima igitur occasionis bismillesimae apparatio necessario declarabitur renovato officio applicandae quam fidelissime Concilii Vaticani II doctrinae ad cuiusque personae omnisque simul Ecclesiae vitam." In *Origins*, 24 (1995), 407.

In response to the 1987 synod of bishops which studied the vocation and mission of the laity in the Church and in the world, Pope John Paul II issued his apostolic exhortation *Christifideles laici*[235] in which he further explicates an ecclesiology of communion.

> The *communio* of Christians with Jesus has the *communio* of God as Trinity, namely, the unity of the Son to the Father in the gift of the Holy Spirit, as its model and source, and is itself the means to achieve this *communio*: united to the Son in the Spirit's bond of love, Christians are united to the Father.
>
> From the *communio* that Christians experience in Christ there immediately flows the *communio* which they experience with one another: all are branches of a single vine, namely, Christ. In this *communio* is the wonderful reflection and participation in the mystery of the intimate life of love in God as Trinity, Father, Son and Holy Spirit as revealed by the Lord Jesus. For this *communio* Jesus says: "that they may all be one; even as you, Father, are in me, and I in you, that they also may be in us, so that the world may believe that you have sent me" (Jn 17:21). Such *communio* is the very mystery of the Church.[236]

The pope points out that Vatican II Council uses biblical images to illustrate *communio* ecclesiology with its two inseparable dimensions: the *communio* of each Christian with Christ and the *communio* of all Christians with one another. The reality of the Church as a *communio* is the central content of the mystery which is the divine plane of salvation. The Pope says:

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[235] JOHN PAUL II, Post-synodal Apostolic Exhortation on the Vocation and Mission of the Lay Faithful in the Church and in the World *Christifideles laici*, 30 December 1988 (*CL*), in *AAS*, 81 (1989), 393–521, English translation in *Origins*, 18 (1989), 561–595.

[236] *CL*, no. 18, 421–422. "Christianorum cum Christo communio habet, velut prototypum, fontem, scopum, eandem illam communionem quam Filius ipse, in dono Spiritus Sancti, habet cum Patre; christiani ergo, cum uniuntur Filio in amoris vincula ipsius Spiritus, Patri Uniuntur…. Ex hac igitur christifidelium in Christo communion exoritur christianorum inter sese communio, cum omnes palmites sint unius Vitis, qui Christus est. Atque in hac fraternal communion Dominus Iesus ostendit et mirabilem imaginem et arcanam participationem in illa intima dilectionis vita Patris, Filii et Spiritus Sancti. Pro hac communione precem Iesus effundit : « Ut omnes unum sint, sicut tu, Pater, in me et ego in te, ut et ipsi in nobis unum sint: ut mundus credit quia tu me misisti » (Io 17, 21)." In *Origins*, 18, (1989), 565.

> *Communio* and mission are profoundly connected with each other, they interpenetrate and mutually imply each other to the point that *communio* represents both the source and the fruit of mission and mission is accomplished in *communio*. It is always the one and the same Spirit who calls together and unifies the Church and enables her to preach the Gospel "to the ends of the earth" (Acts 1:8).[237]

In his Apostolic letter *Novo millennio ineunte*[238] of 2000, Pope John Paul II revisits the issue of communion and defines it in the context of the celebration of 2000 years of Christianity and of the challenge of making the "Church a home and school of communion"[239] which calls for commitment and planning on the part of the universal Church and the particular Churches.

> The domain of communion (*koinonia*), which embodies and reveals the very essence of the mystery of the Church. Communion is the fruit and demonstration of that love which springs from the heart of the eternal Father and is poured out upon us through the Spirit which Jesus gives us (cf. Rom 5:5) to make us all "one heart and one soul" (Acts 4:32). It is in building this communion of love that the Church appears as "sacrament," as the "sign and instrument of intimate union with God and of the unity of the human race.[240]

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[237] *CL*, no. 32, in *AAS*, 81 (1989), 451–452. "Communio et missio penitus inter se coniuguntur, ac ita inter se perfundunutr atque obstringuntur ut *ipsa communio fons missionis et fructus habenda sit, ac propterea ita communio missionaria est sicut et missio ad communionem destinatur*. Unus est idemque Spiritus qui Ecclesiam convocat et unit idemque eam ad praedicandum Evangelium « usque ad ultimum terrae » (Act 1, 8) mittit." In *Origins*, 18 (1989), 576.

[238] JOHN PAUL II, Apostolic Letter *Novo millennio ineunte*, 6 January 2001 (*NMI*), in *AAS*, 93 (2001), 266–309, English translation in *Origins*, 30 (2001), 489–508.

[239] Cf. *NMI*, no. 43, in *AAS*, 93 (2001), 296. "Ex Ecclesia *domum scholamque communionis* exstruere...." In *Origins*, 30 (2001), 502.

[240] Ibid., no. 43, 297. "Videlicet *de communion* (*koinonia*) quae in se concorporat simulque essentiam ipsam Ecclesiae mysterii demonstrate. Fructus enim communio est ac patefactio illius amoris qui, ex aeterni Patris exortus corde, per Spiritum in nos effunditur quem nobis tribuit Iesus (cfr *Rom* 5, 5) ut ex nobis efficiatur « cor et anima » (*Act* 4, 32). Hanc proinde amoris communionem in actum deducens Ecclesia sese exhibebit « sacramentum » seu « signum et instrumentum intimae cum Deo unionis totiusque generis humani unitatis." in *Origins*, 30 (2001), 502.

John Paul II argues that in order to understand and appreciate the horizontal communion dimension, we must appreciate and "promote the spirituality of communion, making it the guiding principle of education whenever individuals and Christians are formed, whenever ministers of the altar, consecrated persons, and pastoral workers are trained, whenever families and communities are being built up."[241] The pope expounds on the notion of spiritual communion in the following words:

> A spirituality of communion indicates above all the heart's contemplation of the mystery of the Trinity dwelling in us and whose light we must also be able to see shining on the face of the brothers and sisters around us. A spirituality of communion also means an ability to think of our brothers and sisters in faith within a profound unity of the mystical body and therefore as "those who are a part of me." This makes us able to share their joys and sufferings, to sense their desires and attend to their needs, to offer them deep and genuine friendship. A spirituality of communion implies also the ability to see what is positive in others, to welcome it and prize it as a gift from God: not only as a gift for the brother or sister has who received it directly, but also as a "gift for me." A spirituality of communion means, finally, to know how "to make room" for our brothers and sisters, bearing "each other's burdens" (Gal. 6:2) and resisting the selfish temptations which constantly beset us and provoke competition, careerism, distrust and jealousy.[242]

[241] *NMI*, no. 43, in *AAS*, 93 (2001), 297. "*Promoveri* quam certa ineantur incepta. Illa namque spiritualitas extollenda et christianus, uti educandi principium omnibus iis locis, ubi homo efformatur et christianus, ubi altaris comparantur ministri, consecrati homines ac pastorales operarii, ubi familiae instituuntur et communitatis." In *Origins*, 30 (2001), 503.

[242] Ibid. "Communionis spiritualitatis is primis significat animum in mysteium Trinitatis intra nos habitantis intentum, cuius praeterea lux precipiatur necesse est in fratrum sororumque vultibus nos circumsistentium. Significat insuper communionis spiritualitas facultatem persentiendi fratrem in fide intra profundam Corporis mystici unitatem veluti « unum ad me quoque pertinentem », ut cum eo partiri sciamus propria gaudia ac dolores, ut eius capere valeamus optata eiusque curam gerere necessitatum, spiritualitas secum infert potestatem discernendi ante omnia id quod positivum est in proximo, ut suscipiatur illud et tamquam Dei donum aestimetur : « donum pro me » non solummodo pro fratre qui recta via id accepit. Communionis denique spiritualitas scire signficat fratri « spatium concedere », dum « alter alterius onera portamus » (cfr *Gal* 6, 2) atque invitations omnes repudiare quae nobis insidiantur ac pariunt competitionem, cupiditatem proprii curriculi, diffidentiam, invidiam."

John Paul II insists that it is the spiritual communion that is the foundation of the physical communion of the body of Christ. He says, "… unless we follow this spiritual path, external structures of communion will serve very little purpose. They would become mechanisms without a soul, "masks" of communion rather than its means of expression and growth."[243] It is in this context that John Paul presents his understanding of the structures of participation in the Church. He says:

> Communion must be cultivated and extended day by day and at every level in the structures of each Church's life. The relations between bishops, presbyters, and deacons, between pastors and the entire people of God, between clergy and religious, between associations and ecclesial movements must all be clearly characterized by communion. To this end the structures of participation envisioned by canon law, such as the council of presbyters and the pastoral council, must be ever more highly valued. These of course are not governed by the rules of parliamentary democracy because they are consultative rather than deliberative, yet this does not mean that they are less meaningful and relevant. The theology and spirituality of communion encourage a fruitful dialogue between pastors and faithful: on the one hand uniting them a priori in all that is essential and on the other leading them to pondered agreement in matters open to discussion.[244]

2.4 Pope Benedict XVI and Vatican II Council *Communio* Ecclesiology

[243] *NMI*, no. 43, in *AAS*, 93 (2001), 297. "Sine hoc spiritali itinere perpaulum proficient exteriora communionis instrumenta. Apparatus enim evadent sine anima, larvae et personae communionis potius quam eius viae sese exprimendi atque crescendo." In *Origins*, 30 (2001), 503.

[244] Ibid., no. 45, in *AAS*, 93 (2001), 298. "Communionis spatia cotidie colenda sunt necnon amplificana, in omni vitae ordine, in vitae contextu cuiusque Ecclesiae. Effulget communio oportet in necessitudinibus inter Episcopos, presbyteros, diaconos, inter Pastores universumque Dei Populum, inter clericos ac religiosos, inter consociationes et motus ecclesiales. Hunc ad finem melius usque adhibeantur est necesse illa participationis instituta quae iam Ius Canonicum praevidet, qualia sunt *Consilia presbyteralia et pastoralia*. Ut patet, non diriguntur ea normis popularis regiminis, quandoquidem per viam consulendi operantur non autem decernendi; non tamen idcirco vim suam amittunt aut significationem. Thelogia communionis et spiritualitas videlicet mutuam provehunt efficientemque audientiam inter Pastores ac fideles, dum ex una parte eos retinent coniunctos *a priori* in omnibus quae sunt necessaria et ex altera pellunt illos ut plerumque consentiant in rebus opinabiibus ad optiones bene ponderatas ac participatas." In *Origins*, 30, (2001), 503.

There are two important points that are key to grasping Benedict XVI's understanding of *communio* ecclesiology of Vatican II: 1) he himself was present at Vatican II as a prominent theologian and one who, as Avery Dulles says, "belonged to the inner circle of theologians whose thinking prevailed at Vatican II;"[245] 2) he was a close confidant to Pope John Paul II especially while working as Prefect of the Congregation for Divine Faith. This was made manifest when the Congregation issued a circular letter on the meaning of *communio* ecclesiology according to Vatican II Council.

Like John Paul II, Benedict XVI was present at all four sessions of the Second Vatican Council from 1962 to 1965. Whereas Karol Wojtyla took part as a bishop, the young Joseph Ratzinger did so as a theological expert. In his many publications after the council, Joseph Ratzinger continued to debate questions that arose during the council and in some cases expressed dissatisfaction with the council's documents. In this respect he differs from Pope John Paul II, who consistently praised the council and never publicly critiqued it.[246]

On *Lumen gentium*, Avery Dulles says of Joseph Ratzinger:

> Over the years Ratzinger has had a great deal to say about the dogmatic constitution on the Church. In his earliest observations he contends that it did well to subordinate the image of the Mystical Body to that of the People of God. The Mystical Body paradigm, much in favour under Pius XII, makes it all but impossible to give any ecclesial status to non-Catholics and leads to a false identification of the Church with Christ her Lord. The image of People of God, he contends, is more biblical; it gives scope for recognizing the sins of the Church, and it indicates that the Church is still on pilgrim under the sign of hope. For similar

[245] A. DULLES, "From Ratzinger to Benedict," in *First Things*, 160 (2006), 25 (=DULLES, "From Ratzinger to Benedict").

[246] DULLES, "From Ratzinger to Benedict," 24.

> reasons he supports the theme of Church as sacrament. As a sign and instrument, the Church is oriented to a goal that lies beyond herself.[247]

Avery Dulles says that Joseph Ratzinger is not opposed to the ecclesiology of communion but is weary of the many different definitions of the term "communion," some of which are erroneous. He says of Joseph Ratzinger's stand on communion: "Thanks to the Eucharist, the Church is communion with the Body of Christ…. But … 'communion' has become, in some measure, a buzz word, and it is frequently distorted by a unilateral emphasis on the horizontal dimension to the neglect of the divine. Indeed, it is also misused to promote a kind of egalitarianism within the Church."[248]

Given Joseph Ratzinger's support for strong episcopal authority, Avery Dulles says:

> In his early commentaries Ratzinger shows special interest in episcopal collegiality. The apostles, he believes, constituted a stable group under Peter as their head, as do the bishops of later generations under the primacy of Peter's successor. Collegiality, in his view, favours horizontal communication among bishops. Behind collegiality lies the vision of the Church as made up of relatively autonomous communities under their respective bishops. The rediscovery of the local Church makes it clear that multiplicity belongs to the structure of the Church. According to the New Testament, Ratzinger observes, the Church is a communion of local Churches, mutually joined together through the Body and the Word of the Lord, especially when gathered at the Eucharist. Bishops, as heads of particular Churches, must collaborate with one another in a ministry that is essentially communal. Not all initiative has to rest with the pope alone; he may simply accept what the body of bishops or some portion of it decrees.[249]

As a result of this belief in episcopal authority, it seemed difficult for Joseph Ratzinger to appreciate the role of the laity in the governance of the Church. An excerpt

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[247] DULLES, "From Ratzinger to Benedict," 28

[248] Ibid.

[249] Ibid.

below, from his book *Principles of Catholic Theology*, shows the struggles in Joseph Ratzinger's understanding of collegiality and the participative structures in the Church.

> One of the words of Vatican II was collegiality. Its immediate meaning was that the episcopal ministry is a ministry with others. It is not that a particular bishop succeeds a particular apostle, but rather that the college of bishops is the continuation of the college of apostles. Thus one is not alone as bishop but essentially with others. That is true also of the priest. One is not alone as a priest; to become a priest means to enter into the priestly community that is united to the bishop. Ultimately, a basic principle of Christianity itself is evident there: it is only in the community of all the brothers and sisters of Jesus Christ that one is a Christian. The Council tried to convert this basic principle into a practical reality by forming organizations by means of which the insertion of the individual into the whole became the basic rule of all ecclesial action. In place of the informal meetings of bishops that had taken place up to that time, for instance, a strictly juridical and carefully organized bureaucracy, the episcopal conference, was created. The synod of bishops, a kind of council with regular meetings, was created to express the solidarity of all episcopal conferences. The national synods met and declared their intention of developing into permanent organizations of the Church in their respective countries. Councils of presbyters and pastoral councils were formed in the dioceses and community councils in the parishes. No one will deny that the basic concept was a good one and that community realization of the Church's mission is necessary. Nor will anyone deny that much good was accomplished as a result of these organizations. But neither will anyone doubt that their uncoordinated multiplication led to an excess of duplication, to a senseless mountain of paper work and too much wasted time during which the best efforts were consumed in endless discussions that no one wanted but that seemed inevitable in view of the new forms….[250]

One can, therefore, conclude that, because of his strong belief, support, and "defense of the hierarchical, centralized authority in the Catholic Church as the medium for transmitting and conveying the truth of tradition already established…,"[251] it was hard for Benedict XVI

[250] J. RATZINGER, *Principles of Catholic Theology: Building Stones for a Fundamental Theology*, trans. Mary Francis McCarthy, San Francisco, Ignatius Press, 1987, 375.

[251] B.E. HINZE, *Practices of Dialogue in the Roman Catholic Church: Aims and Obstacles, Lessons and Laments*, New York, Continuum International Publishing Group Incanon, 260–261.

to fully embrace the idea of strong participation by the lay faithful in the governance structures of a particular Church.[252]

2.5 *Ecclesia in Africa* and the Church as Family of God

In his Post-synodal Apostolic Exhortation *Ecclesia in Africa*,[253] John Paul II contextualizes Vatican II communion ecclesiology and makes a connection between the mission of the Church and the agents of evangelization in the context of Church as Family of God. According to him, the *Church as Family of God* is an expression of the Church's nature particularly appropriate for Africa.

> For this image emphasizes care for others, solidarity, warmth in human relationships, acceptance, dialogue, and trust. The new evangelization will thus aim at *building up the Church as Family*, avoiding all ethnocentrism and excessive particularism, trying instead to encourage reconciliation and true communion between different ethnic groups, favouring solidarity and the sharing of personnel and resources among the particular Churches, without undue ethnic considerations….[254]

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[252] Hinze observes that it is a mixed bag when it comes to whether John Paul II or Benedict XVI have advocates and models of participatory governance. It is a mixed bag because these "popes were elected and solemnly vowed to implement the council, which included teachings on synods and pastoral councils, but on balance I am inclined to judge that these popes and significant curial officials associated with their pontificates have not been effective advocates of participatory structures especially in local and parochial Churches and have limited the effectiveness of the structures at the episcopal level…." See HINZE, "The Reception of Vatican II in Participatory Structures of the Church: Facts and Friction," 28.

[253] JOHN PAUL II, Post-synodal Apostolic Exhortation *Ecclesia in Africa*, 14 September 1995 (*EA*), in *AAS*, 88 (1996), 5–82, English translation in *Origins*, 25 (1996), 249–276.

[254] *EA*, no. 63, in *AAS*, 88 (1996), 39–40. "Effert enim imago illa curam alterius de altero, humanam necessitudinem, fervidam dolem reationem et receptionem hominum, dialogum ac fiduciam. Eo igitur evangelizatio tendet ut *Ecclesiam tamquam familiam extruat*, omni ethnocentrismo amoto immodicoque particularismo, et contendet ut conciliationem provehat veramque diversas inter stirpes communitatem, favendo nerium Ecclesiarum, sine ulla indebita ordinis ethnici consideratione…." In *Origins*, 25, (1996), 261.

A true understanding and appreciation of the Church as *Family of God* in the African context presupposes a profound study of the heritage of Scripture and Tradition which the Second Vatican Council presented in *Lumen gentium*. The pope says that *Lumen gentium*

> expounds the doctrine on the Church using images drawn from Sacred Scripture such as the Mystical Body, People of God, Temple of the Holy Spirit, Flock and Sheepfold, the House in which God dwells with man. According to the Council, the Church is the Bride of Christ, our Mother, the Holy City and the first fruits of the coming kingdom. These images [are] to be into account when developing, according to the Synod's recommendations, an ecclesiology focussed on the idea of the Church as the Family of God.[255]

It is in this Family of God (i.e. the Catholic Church) and beyond this family that evangelization is to be carried out. Evangelization is to be carried out by the members of the Church. Therefore, it shall be the concern of the local Church, entrusted to the responsibility of the Bishop, to coordinate the commitment to evangelization by gathering the faithful together, confirming them in the faith through the work of the presbyters and catechists and supporting them in the fulfillment of their respective tasks.

> In order to accomplish this, the Diocese is to establish the necessary structures for getting together, dialogue and planning. By making use of these structures the Bishop will be able to guide in a suitable manner the work of presbyters, religious and laity, welcoming the gifts and charisms of each one, in order to put them at the service of an updated and clear-sighted plan of pastoral action. The different Councils provided for by the current norms of Canon Law are to be considered a great help in contributing to this end.[256]

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[255] *EA*, no. 63, in *AAS*, 88 (1996), 40, "proponit adhibens imagines ex Sacra Scriptura excerptas, quales sunt Corpus mysticum, Dei populus, templum Spiritus, grex et ovile, domus in qua cum hominibus deversatur Deus. Sponsa Christi est Ecclesia, secundum Concilium, nostraque mater et civitas sancta ac venturi Regni primitiae. Ratio habeatur certe oportebit harum imaginum fervidarum dum, secundum Synodi monitiones, enodabitur ecclesiologia posita in notione Ecclesiae-Familiae Dei…." In *Origins*, 25, (1996), 261.

[256]Ibid., no. 88, 90. "Hunc ad finem, dioecesis necessarias instituet structuras congressionum, colloquiorum consiliorumque capiendorum. Earum auxilio Episcopus opportune diriget operam presbyteris, religiosis et laicis navandam, cuiusque dona accipiendo et charismata, quae profectui

2.6 Synthesis

The concepts of the Church as the mystery of salvation, the Body of Christ, and the People of God are most appropriate in presenting the Second Vatican Council's ecclesiology of *communio*. The three images present the Church as a community but also emphasize that the Church is more than a mere institution or a visibly organised society—it is a communion of people with a triune God and of people with each other.

These images also address a longstanding problem of relationships in the Church: the relationship between lay members of Christ's faithful and the clergy, and the relationship with those Christians who are not in full communion with the Catholic Church. These images are inclusive in their understanding of the Church of Christ. They present each member as having equal dignity and having a right to participate in the mission of the Church. These images therefore present the Church as a community of mutual service in which every member is there to serve others. The images shift the emphasis from a clerical and hierarchical Church to a *communio* in which the baptized have a voice, rights, and obligations. It is in this context that participative structures find meaning in a particular Church.

2.7 Selected Participative Structures in Conciliar and Post-Conciliar Documents

After treating the Church's nature as a *communio*, Vatican II attempted in several documents to draw up the theology and practice of specific participative structures in a

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renovati et efficacis operis pastoralis suppeditet. Magnam utilitatem hoc sub aspectu afferent varia Consilia de quibus vigentes Iuris Canonici normae loquuntur." In *Origins,* 25, (1996), 266.

particular Church. The post-conciliar documents expounded on the conciliar documents. Some of the post-conciliar documents are juridical in nature.

2.7.1 Vatican II Documents

The promulgated work of the Second Vatican Council comprise four constitutions, nine decrees, and three declarations—usually referred to as conciliar documents.[257] The conciliar documents that specifically deal with our selected participative structures include: *Lumen gentium*, *Christus Dominus*, *Presbyterorum ordinis*, *Optatam totius*, *Ad gentes*, *Apostolicam actuositatem*, and *Gaudium et spes*. We will explore the selected participative structures as presented in these documents.

2.7.1.1 The Diocesan Synod

There is no explicit mention of diocesan synods *per se* in the Vatican II documents. The only reference in the documents of the council is to be found in *Christus Dominus*, no. 36,[258] which highly recommends the practice of synods and councils in the Church. The context is the collaboration between bishops by way of synods and councils in episcopal conferences. Thus, it is only by the broadest interpretation that one can include the diocesan

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[257] A. FLANNERY, "Vatican Council II," in M. GLAZIER and M.K. HELLWIG (eds.), *The Modern Catholic Encyclopedia*, Collegeville, MN, Liturgical Press, 2004, 860.

[258] *CD*, no. 36, in *AAS*, 58 (1966), 692. "Inde a prioribus Ecclesiae saeculis Epicopi, peculiaribus quidem Ecclesiis praepositi, communion fraternae caritatis atque studio permoti universalis missionis Apostolis traditae, vires ac voluntates suas consociaverunt ad bonum tum commune tum singularum Ecclesiarum provehendum. Hac ratione sive Synodi, sive Consilia provincialia, sive demum Consilia plenaria constituta fuerunt in quibus Episcopi aequalem pro variis Ecclesiis statuerunt rationem sevandam tum in fidei veritatibus docendis tum in disciplina ecclesiastica ordinanda. Exoptat haec Sancta Oecumenica Synodus ut veneranda Synodorum et Consiliorum instituta novo vigeant robore, quo aptius et efficacius fidei incremento disciplinaeque conservationi in variis Ecclesiis, pro temporum adiunctis, provideatur." In *FLANNERY1*, 586.

synod in this conciliar text. Joseph Galea-Curmi argues that such an interpretation is dubious. He, however, points out that "although the Council did not study it explicitly, nevertheless the experience itself of the Council and many elements of the teaching of the Council helped create a renewed understanding and, to a certain extent, a re-interpretation of the diocesan synod."[259]

2.7.1.2 The Diocesan Finance Council

The Second Vatican Council does not treat specifically the finance council but, nevertheless, lays down principles that would affect radically the administration of ecclesiastical goods—the supervision of which is the main duty of the finance council under the authority of the bishop. The Council, especially in *Gaudium et spes*, lays down principles that should guide the acquisition, retention, administration, and alienation of ecclesiastical goods.

Gaudium et spes starts by treating the basic relationship that should exist between the Church and the temporal order. The mission of the Church is neither political, economic, nor social, but rather religious. In fact the impact the Church can have on modern society should consist of her effective living of the faith and love and not in any external power exercised by purely human means—be it political, economic, social, etc.[260] Imitating the apostles in their use of temporal goods as mere instruments to achieve their ends, their

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[259] J. GALEA-CURMI, *The Diocesan Synod as a Pastoral Event: A Study of the Post-Conciliar Understanding of the Diocesan Synod*, Rome, Lateran Pontifical University, 2005, 43 (=GALEA-CURMI, *The Diocesan Synod as a Pastoral Event*).

[260] Cf. SECOND VATICAN COUNCIL, Pastoral Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965 (*GS*), in *AAS*, 58 (1966), 1061, English translation in *FLANNERY1*, 942.

successors should, in propagating the faith, use only those means appropriate to the Gospel message.[261] Temporal goods are thus mere instruments of the Church and should always be used as such.

The Council brought in another important principle that would affect radically the administration of ecclesiastical goods, that is, the cooperation of the laity in the administration of ecclesiastical goods. According to the Council, "the laity are called to participate actively in the whole life of the Church; not only are they to animate the world with the spirit of Christianity, but they are to be witnesses of Christ in all circumstances and at the very heart of the community of humankind."[262] This is unlike what is found in the 1917 Code which had stipulated that the cooperation of the laity in the administration of ecclesiastical goods could only be employed if they acquired this right by the title of foundation or erection or by the will of the local ordinary.[263]

2.7.1.3 The Presbyteral Council and College of Consultors

Vatican II introduced a new senate group and enjoined it with the two existing ones: "also included among the bishops' cooperators in the administration of the diocese are the

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[261] Cf. *GS*, no. 76, in *AAS*, 58 (1966), 1099. "Apostoli ipsorumque successores et horum cooperators, cum mittantur ut hominibus Christum mundi Salvatorem annuntient, in suo apostolatu execendo Dei potentia innituntur, qui persaepe in testium infirmitate virtutem Evangelii manifestat. Quicumque enim Dei verbi ministerio se devovent, utantur oportet viis et subsidiis Evangelio propriis, quae in pluribus a terrenae civitatis subsidiis different." In *FLANNERY1*, 984–985.

[262] Cf. ibid., no. 43, 1063. "Laici vero, qui in tota vita Ecclesiae actuosas partes gerendas habent, non solum mundum spiritu christiano imbuere tenentur, sed etiam ad hoc vocantur ut in omnibus, in media quidem humana consortione, Christi sint testes." In *FLANNERY1*, 944

[263] Cf. *CIC/17*, canon 1521, §2. "Quod si laicis partes quadam in adminstratione bonorum ecclesiasticorum vel ex legitimo fundationis seu erectionis titulo vel ex Ordinarii loci voluntate competant, nihilominus universa administratio nomine Ecclesiae fiat, ac salvo iure Ordinarii visitandi, exigendi rationes et praescribendi modum administrationis."

presbyters who form his senate or council. Such are the cathedral chapter, the board of consultors, or other committees according to the circumstances or ethos of different areas. These institutions especially the cathedral chapters, should be reorganized, so far as necessary, to meet modern needs."[264] The documents of Vatican II devote more time and space on the presbyteral council than they do on the cathedral chapter and the board of consultors. This may be because the presbyteral council is a new creation by the Council itself. Besides, the other two are already in the law of the Church in the 1917 Code (i.e. cc. 391-422; cc. 423-428, respectively).

The documents that directly deal with the question of the presbyteral council are: *Lumen gentium*, *Christus Dominus* and *Presbyterorum ordinis. Lumen gentium* starts by explaining how the presbyters who comprise the *presbyterium* help the bishop in the governance of the diocese. It presents the ministerial priesthood as a participation in the priesthood and mission of Jesus Christ and relates it to the ministry of the college of the bishops.

> Christ, whom the Father hallowed and sent into the world (Jn 10:36), has, through his apostles, made their successors, the bishops, namely, sharers in his consecration and mission; and these, in their turn, duly entrusted in varying degrees various members of the Church with the office of their ministry. Thus the divinely instituted ecclesiastical ministry is exercised in different degrees by those who even from ancient times have been called bishops, presbyters and deacons.[265]

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[264] *CD*, no. 27, in *AAS*, 58 (1966), 687. "Inter Episcopi cooperators in regimine dioecesis, illi presbyteri quoque enumerantur qui eius senatum consiliumve constituunt, ut sunt capitulum cathedrale, consultorum coetus vel alia consilia, secundum diversorum locorum circumstantias vel indolem. Haec instituta, praesertim capitula cathedralia, novae ordinationi, quatenus opus sit, necessitbus hodiernus aptatae, subiciantur." In *FLANNERY1*, 579.

[265] *LG*, no. 28, in *AAS*, 57 (1965), 33–34. "Christus, quem Pater sanctificat et misit in mundum (Io. 10, 36), consecrationis missionisque suae per Apostolos suos, eorum seccessores, videlicet Episcopos participes effect, qui munus ministrii sui, vario gradu, variis subiectus in Ecclesia legitime tradiderunt. Sic ministerium ecclesiasticum divinitus institutum diversis

Lumen gentium, no. 28, makes it clear that it is through the sacrament of orders that presbyters are consecrated to the three *munera* of Christ. Since bishops and presbyters share in the same priesthood of Christ: "the Presbyters, prudent cooperators of the episcopal college and its support and mouthpiece, called to the service of the people of God, constitute, together with their bishop, a unique sacerdotal college (*presbyterium*) dedicated it is to a variety of distinct duties."[266]

Lumen gentium also places the relationship between the bishop and the presbyters within the broader context of the diocese and the universal Church, a relationship of communion with the aim of building up the entire body of Christ. Of the presbyters, it says:

> In each local assembly of the faithful they represent in a certain sense the bishop, with whom they are associated in all trust and generosity; in part they take upon themselves his duties and solicitude and in their daily toils discharge them. Those who, under the authority of the bishop, sanctify and govern that portion of the Lord's flock assigned to them render the universal Church visible in their locality and contribute efficaciously towards building up the whole body of Christ (cf. Eph 4:12).[267]

After having laid the foundation for communion in *Lumen gentium*, the Council Fathers in the decree *Christus Dominus* repeatedly emphasized the mutual dependency and

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ordinibus exercetur ab illis qui iam ab antique Episcopi, Presbyteri, Diaconi vocantur…." In *FLANNERY1*, 384.

[266] *LG*, no. 28, in *AAS*, 57 (1965), 35. "Presbyteri, ordinis Episcopalis providi cooperatores eiusque adiutorium et organum, ad Populi Dei inserviendum vocati, unum presbyterium cum suo Episcopo constituunt, diversis quidem officiis mancipatum…." In *FLANNERY1*, 385.

[267]Ibid. "In singulis localibus fidelium congregationibus Episcopum, quocum fidenti et magno animo consociantur, quodammodo praesentem reddunt eiusque munera et sollicitudinem pro parte suscipiunt et cura cotidiana execent. Qui sub auctoritate Episcopi portionem gregis dominici sibi addictam sanctificant et regunt, Ecclesiam universalem in suo loco visibilem faciunt et in aedificando toto corpore Chrisit (cf. Eph 4, 12) validam opem afferunt." In *FLANNERY1*, 385–386.

unity that should characterize the episcopal-presbyteral relationship.[268] *CD*, no. 16, says: "He [the bishop] should regard them [presbyters] as sons and friends. He should always be ready to listen to them and cultivate an atmosphere of easy familiarity with them, thus facilitating the pastoral work of the entire diocese."[269] *CD*, no. 28 goes further.

> The relations between the bishop and the diocesan clergy should be based before all else on supernatural charity, so that their unity of purpose will make their pastoral activity more effective. Therefore, to ensure an increasingly effective apostolate, the bishop should be willing to engage in dialogue with his presbyters, individually and collectively, not merely occasionally, but if possible, regularly.[270]

Presbyterorum ordinis contains a detailed treatment of the presbyteral council. It starts by reemphasizing some of the basic issues regarding ministerial priesthood earlier mentioned in the previous documents (*LG* and *CD*), namely, through ordination and mission, presbyters are given some share in the threefold functions of Christ as priests, prophets, and kings; and the sacrament of orders joins the ministerial priesthood to the episcopal order and differentiates it from the universal priesthood of all the faithful.[271] *PO*,

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[268] J. OKOSUN, The Collaborative Role of the Presbyteral Council in the Governance of a Diocese, JCD diss., Ottawa, Faculty of Canon Law, Saint Paul University, 2012, 40 (=OKOSUN, The Collaborative Role of the Presbyteral Council).

[269] *CD*, no. 16, in *AAS*, 58 (1966), 680–681. "Eosdem ut filios et amicos habentes ideoque ad eos audiendos parati atque confidenti cum eisdem consuetudine, integrum opus pastorale totius dioecesis promovere student." In *FLANNERY1*, 573.

[270] Ibid., no. 28, 687. "Necessitudines Episcopum inter et sacerdotes dioecesanos vinculis potissimum supernaturalis caritatis inniti debent, ita quidem ut sacerdotum voluntatis consociatio cum Episcopi voluntate pastoralem eorumdem actionem reddat uberiorem. Quare, ut animarum servitium magis magisque promoveatur, Episcopus sarcedotes ad colloquium, commune quoque, de re praesertim pastorali, vocare velit, non tantum data occassione, sed etiam, quantum fieri possit, statis temporibus." In *FLANNERY1*, 580.

[271] Cf. *PO*, no. 2, in *AAS*, 58 (1966), 992. "Officium Presbyterorum, utpote Ordini episcopali coniunctum, participat auctoritatem qua Christus Ipse Corpus suum exstruit, sanctificat et regit. Quare sacerdotium Presbyterorum initiationis christianae Sacramenta quidem supponit, peculiari tamen illo Sacramento conferetur, quo Presbyteri, unction Spiritus Sancti, speciali charactere

no. 7, also reemphasizes the fact that "all presbyters share with the bishops the one identical priesthood and ministry of Christ. Consequently, the very unity of their consecration and mission requires their hierarchical union with the order of bishops."[272]

Presbyterorum ordinis, like *Christus Dominus*, affirms that: "bishops, therefore, because of the gift of the Holy Spirit that has been given to presbyters at their ordination, will regard them as their indispensable helpers and advisers in the ministry and in the task of teaching, sanctifying and shepherding the people of God…. On account of this common sharing in the same priesthood and ministry then, bishops are to regard their presbyters as brothers and friends."[273] Hence, bishops "should be glad to listen to their presbyters' views and even consult them and hold conferences with them about matters that concern the needs of pastoral work and the good of the diocese."[274]

Such a relationship between the bishops and his presbyters calls for cooperation and dialogue. Cooperation should not simply be passive, that is, presbyters should not simply be seen as those who carry out the decisions of the bishop. Rather, the cooperation involves the active participation of presbyters in the decision-making process of the bishop.

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signantur et sic Christo Sacerdoti configurantur, ita ut in persona Christi Capitis agere valeant. " In *FLANNERY1,* 865

[272] *PO,* no. 7, in *AAS,* 58 (1966), 1001. "Presbyteri omnes, una cum Episcopis, unum idemque sacerdotium et ministerium Christi ita participant, ut ipsa unitas consecrationis missionisque requirat hierarchicam eorum communionem cum Ordine Episcoporum…." In *FLANNERY1*, 875.

[273] Ibid. "Episcopi igitur, propter donum Spiritus Sancti quod Presbyteris in sacra Ordinatione datum est, illos habent ut necessarios adiutores et consiliarios in ministerio et munere docendi, sanctificandi et pascendi plebem Dei.... Propter hanc ergo in eodem sacerdotio atque ministerio communionem, Episcopi ut fratres et amicos suos habeant Presbyteros...."

[274] Cf. ibid. "Eos libenter audient, immo consulant et cum eis colloquantur de iis quae ad necessitates operis pastoralis et ad bonum dioecesis spectant." In *FLANNERY1,* 876.

Dialogue demands from both the bishop and the presbyters the sharing of ideas and the enabling humility and openness on both sides to accept those ideas which best promote the good of the diocese and the universal Church.[275] With this understanding, *PO*, no. 7 declares, "But for this to be reduced to practice, a group or senate of presbyters should be set up in a way suited to present-day needs and in a form and with rules to be determined by law. This group should represent the body of presbyters and by their advice could effectively help the bishop in the management of the diocese."[276]

2.7.1.4 The Diocesan Pastoral Council

The diocesan pastoral council has no precedence in the 1917 Code. It is a new creation of the Second Vatican Council. The Council presents the notion of the diocesan pastoral council in *Christus Dominus* and *Presbyterorum ordinis*. The basis of the creation of the diocesan pastoral council is the *communio* ecclesiology in which the participation of the faithful in the ministry and pastoral activity of the Church is paramount. *Christus Dominus*, no. 27, states:

> It is highly desirable that in every diocese a special pastoral council be established, presided over by the diocesan bishop himself, in which clergy, religious, and laity specially chosen for the purpose will participate. It will be the function of this council to investigate and consider matters relating to pastoral activity and to formulate practical conclusions concerning them.[277]

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[275] OKOSUN, The Collaborative Role of the Presbyteral Council, 43.

[276] *PO*, no. 7, in *AAS*, 58 (1966), 1002. "Ut vero id ad effectum deducatur, habeatur, modo hodiernis adiunctis ac necessitatibus accomodato, forma ac normis iure determinandis, coetus seu senatus sacerdotum, Presbyterium repraesentatium, qui Episcopum in regimine dioeceseos suis consiliis efficaciter adiuvare possit…." In *FLANNERY1*, 876–877.

[277] *CD*, no. 27, in *AAS*, 58 (1966), 687. "Valde optandum est ut in unaquaque dioecesi peculiare instituatur Consilium pastorale, cui Episcopus dioecesanus ipse praesit, et in quo clerici, religiosi et laici, specialiter delecti, partes habeant. Huius Consilii erit, ea quae ad pastoralia opera

In *Presbyterorum ordinis*, the diocesan pastoral council is contrasted with the presbyteral council. The document points out that the "senate of presbyters" is a different body to the pastoral council. It says: "Clearly this group of presbyters differs from the pastoral council spoken of in the Decree *Christus Dominus*, n. 27, which includes laymen and whose function is confined to investigating questions of pastoral activity."[278]

2.7.2 Post Conciliar Documents

Post conciliar documents are those documents issued by the Holy See after Vatican II Council for the implementation of the Council teachings up to the 1983 Code of Canon Law. The documents are the basis for the actual synodal and post conciliar structures. According to Hinze, "synodal and post conciliar structures can be understood as giving concrete shape to the teachings of Vatican II on the collegiality of bishops, the full and active participation of all the faithful in the pastoral life and mission of the Church, the legitimate diversity of local, regional, and national Churches, and the call to foster ecclesial communion. Their implementation is undoubtedly one of the most important achievements in the Church during the post conciliar period."[279]

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spectant investigare, perpendere atque de eis practicas expromere conclusiones." In *FLANNERY1*, 580.

[278] *PO*, no. 7, footnote 41, in *AAS*, 58 (1966), 1002–1003. "Uti patet, huiusmodi Coetus Presbyterorum differt a Consilio pastorali de quo in Concanon Vat. II, Decr. *Christus Dominus*, de pastorali Episcoporum munere in Ecclesia, 28 oct. 1965, n. 27, cui pertinent etiam laici, et cuius est tantumodo pervestigare quae ad pastoralia opera spectant." In *FLANNERY1*, 877.

[279] B. HINZE, "The Reception of Vatican II in Participatory Structures of the Church: Facts and Friction," in *CLSA Proceedings*, 70 (2008), 28 (=HINZE, "The Reception of Vatican II in Participatory Structures of the Church").

The following are the documents that we will treat here: *Ecclesiae sanctae*,[280] *Presbyteri sacra*,[281] *Ultimis temporibus*,[282] and *Ecclesiae imago*.[283] Unlike what we did with the conciliar documents, here we will headline the documents and then deal with the selected participative structures as presented in the said document.

2.7.2.1 Motu proprio *Ecclesiae sanctae*

As mentioned earlier, *Ecclesiae sanctae* is an apostolic letter issued motu proprio[284] by Pope Paul VI, on August 6, 1966, giving norms by which four decrees of the Second Vatican Council are to be implemented, namely, *Christus Dominus* (Pastoral Office of Bishops), *Presbyterorum ordinis* (Ministry and Life of Presbyters), *Perfectae caritatis* (Renewal and Adaptation of Religious Life) and *Ad gentes divinitus* (Missionary Activity of the Church). Accordingly, the decree for the promulgation of the document reads:

> Having given the matter mature consideration, of our own volition (*motu proprio*) and with our apostolic authority, we decree and promulgate the following norms for the implementation of the following conciliar decrees: *Christus Dominus* (On

[280] PAUL VI, Apostolic Letter motu proprio *Ecclesiae sanctae I*, 6 August 1966 (*ES I*), in *AAS*, 58 (1966), 757–775, English translation in *FLANNERY1*, 591–610. Whereas *Ecclesiae sanctae* I is for particular Churches not in mission territories, Ecclessia sanctae III implements the Decree on missionary activities *Ad gentes divinitus* in mission territories.

[281] SACRED CONGREGATION FOR THE CLERGY, Circular Letter on the Presbyteral Council *Presbyteri sacra*, 11 April 1970 (=*PS)*, in *AAS*, 62 (1970), 459–465, English translation in *CLD*, vol. 7, 383–390).

[282] SYNOD OF BISHOPS, document *Ultimis temporibus*, 30 November 1971 (=*UT*), in *AAS*, 63 (1971), 897; English translation in *CLD*, vol. 7, 342–365.

[283] SACRED CONGREGATION FOR BISHOPS, Directory for the Pastoral Ministry of Bishops *Ecclesiae imago*, Vatican City, Typis Polyglottis, 1973 (=*EI*), English translation by the Benedictine Monks of the Seminary of Christ the King, British Colombia and published in Ottawa by Publications Service of the Canadian Catholic Conference, 1974. English version will be referred to as Directory (1973).

[284] As a motu proprio, it is a legislative document issued by the supreme legislator of the Church.

> the Pastoral Office of Bishops in the Church), *Presbyterorum ordinis* (On the Life and Ministry of Presbyters), *Perfectae caritatis* (On the Up-to-date Renewal of Religious Life), *Ad gentes divinitus* (On the Missionary Activity of the Church). We order that they be observed on an experiential basis—until, that is to say, the new Code of Canon Law shall be promulgated, unless the Holy See should decide otherwise in the meantime.[285]

As seen in the above quotation, the norms were promulgated on an experimental basis until the new Code of Canon Law was promulgated. What is important, however, is the fact that this document canonizes the theology of the Second Vatican Council on very important areas of the Church's life, that is, episcopacy, priesthood, religious life, and missions. It is in this context too that the participative structures find their place. We will discuss in detail the contents of *Ecclesiae sanctae* on the selected participative structures in chapter three.

2.7.2.2 *Ecclesiae imago*

The Sacred Congregation for Bishops issued the Directory on the Pastoral Ministry of Bishops *Ecclesia imago* on 31 May 1973. Though not a legislative document, this Directory is a combination of theological principles of Vatican II and practical application of those principles. Indeed, *Ecclesiae imago* aimed at crystallizing the theological principles of Vatican II into various practical directives. Based upon the conciliar theology and subsequent experience, *Ecclesia imago* formulated more clearly how the diocesan bishop is to utilize consultative persons and groups in a particular Church in his sanctifying,

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[285] *ES I*, Intro., in *AAS*, 58 (1966), 758. "Itaque, re mature perpensa, motu proprio atque apostolica Nostra auctoritate normas, quae sequuntur, ad exsequenda Concilii Decreta a verbis incipientia: *Christus Dominus* (de pastorali Episcoporum munere in Ecclesia), *Presbyterorum Ordinis* (de Presbyterorum ministerio et vita), *Perfectae caritatis* (de accommodata renovatione vitae religiosae) et *Ad gentes divinitus* (de activitate missionali Ecclesia) decernimus ac promulgamus, easque ad experimentum observari praecipimus, interdum ab Apostolica Sede aliter providendum sit." In *FLANNERY1*, 592.

teaching, and governing roles. It also gave an indication of the pillars upon which the revision of the Code of Canon Law was being erected.[286] Thus, up to 2004 when a new Directory was issued, this Directory was able to be used as an interpretive tool for the 1983 Code of Canon Law, unless certain norms of the Directory were contrary to or completely re-ordered by the revised Code.

The document explains in detail the different participative structures in a particular Church. It establishes the fundamental reason for consultation in the following words:

> The first law and the criterion for programs of action and for consultation in an ecclesial community is the salvation of souls; and the exercise of authority must also obey this law…. The bishop, therefore, does his best to enlist the cooperation of others, sets forth the objectives of the pastoral program step by step, and on a broad and unrestricted basis approaches and listens to presbyters, religious and laity.[287]

This has the implication that consultative leadership and participation of all in the Church flows from the very nature of the Church as a community and the mission of the Church to announce salvation. Number 4 of the document states that "every member with differing roles and in differing ways takes his own part along with others in the work of the Church, especially with those who have been appointed by the Holy Spirit to rule the Church of

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[286] Indeed, much of what is in the 1983 Code on participative structures is contained in the Directory.

[287] *EI*, no. 33, 38. "Summa lex certusque canon rerum agendarum consiliique capiendi in communitate ecclesiali est salus animarum: cui legi etiam exercitium auctoritatis oboedire debet.... Hinc Episcopus pro viribus sociam aliorum esposcit operam, per gradus fines actioni pastorali proponit, expedite et effuse presbyteros, religiosos ac laicos adit et audit." In Directory (1973), 22.

God."[288] Participative structures are thus essential to the furtherance of the mission of the Church.

a) **The Diocesan Synod**

On the diocesan synod, the Directory treats the following themes: the nature and purpose of the synod, convocation, membership, preparation, celebration, and communication.

I. **Nature and Purpose**

The Directory states that a diocesan synod

> is an 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 fulfills 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.[289]

The diocesan synod is a consultative gathering or assembly. In and through a synod, the bishop solemnly exercises the office and ministry of shepherding the flock. A synod is therefore a suitable means by which to apply and adapt the laws and norms of the universal Church to a particular situation of the diocese. It indicates the methods to be adopted in

[288] *EI*, no. 4, 17. "Hinc omnia membra, diverso quidem titulo et modo, officium suum in labore Ecclesiae harmonice sociant cum onere aliorum, praesertim eorum qui a Spiritu Sancto positi sunt regere Ecclesiam Dei." In Directory (1973), 12.

[289] Ibid., no. 163, 159–160 "Est congregatio, in qua Episcopus, auxilio usus peritorum scientiae theologicae, pastoralis ac iuridicae, atque consiliis fruens diversorum coetuum communitatis dioecesanae, sollemni modo fungitur officio ac ministerio pascendi gregem sibi commissum, leges et normas universalis Ecclesiae adiunctis localibus aptando, via ac rationes laboris apostolici in dioecesi indicando, apostolatus, ac regiminis difficultates solvendo, opera et incepta generalia instimulando, errores in doctrina et moribus, si qui sepant, corrigendo." In Directory (1973), 83.

diocesan apostolic work, overcomes difficulties arising in the apostolate and governance of the diocese, inspires activities and initiatives of a general nature, proposes sound doctrine, and corrects any errors of faith or morals that might exist. In addition to these aims, the paragraph concludes by stating that the "synod also offers an occasion for some sacred celebrations which do very much to arouse or renew faith, piety and apostolic zeal throughout the entire diocese."[290]

II. Convocation

The Directory reemphasizes that it is only the bishop (including others equivalent to him in law and those with mandate) who legitimately convokes a synod. While the 1917 Code mentioned presiding in connection with convocation, the Directory states that the synod is moderated by the bishop.[291]

III. Membership

Given the theology of *communio* of Vatican II, the Directory expands the membership of the diocesan synod as found in 1917 Code. The synod should now include not only clerics but the religious and laity too, summoned by the bishop according to the prescripts of the law. Number 163 also states that the bishop will rely on the help of the experts in theology and law and will draw on the advice of the diocesan community's various associations. The Directory is silent on whether the experts and community's various associations are part of the synod as members or not.

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[290] *EI*, no. 163, 160. "Occassionem quoque Synodus praebet sacras celebrationes peragendi, quae maxime proficient ad fidem et pietatem et apostolatus stadium excitanda vel noviter instauranda in universa dioecesi." In Directory (1973), 83.

[291] Ibid., nos. 163, 159, "Synodus dioecesana, quam convocat et moderator Episcopus." In Directory (1973), 83.

IV. **Preparation**

Number 164 speaks about the preparatory commissions which should be set up by the bishop well in advance. It also mentions the important place of publicity in order to stimulate public opinion and the consciences of the faithful. These commissions should be composed of diocesan clergy, religious, and the lay faithful. They are to study, from various aspects, the questions which will be proposed to the synod and, then, they are to draw up schemata of the decrees, resolutions, suggestions, and any other proceedings. These are then to be presented to the bishop who studies them with the priest's council and, if he chooses, with the pastoral council. From these considerations will emerge the actual agenda for the synod. The faithful are to be involved in the preparations through sermons and discussions and other spiritual exercises like retreats at the parish level. All these preparations are to foster a sense of communion and cooperation among all the faithful of the diocese.[292]

V. **Celebration**

Number 165 treats the actual celebration of the diocesan synod. It begins by emphasizing the need for the synodal body to express and experience the communion

[292] *EI*, no. 164, 160. "Synodus, ut rite peragatur et communitatis progressui revera prosit, accurate est praeparanda sive res pertractandas componendo, sive publicam opinionem et fidelium conscientias per aptam notitiarum evulgationem erigendo. Tempestive Episcopus praeparatorias Commissiones condat, quae non solum e clericis, sed etiam e religiosis et laicis opportune delectis constent, et sive in urbe dioecesis capite sive in singulis foraniis student quaestionibus Synodo proponendis, varias illarum rationes—ad theologiam, liturgiam, ius canonicum, actionem socialem-caritativam, varias apostolatus species, vitam spiritualem pertinentes – considerent et schemata conficiant decretorum, votorum, consultuum etcanon, quae Episcopus cum Consilio Presbyterali et etiam cum Consilio Pastorali, si ei placuerit, perpendet et universo Synodi coetui exhibenda decernet." In Directory (1973), 83.

which is of the essence of the synod. This is to occur principally in liturgical celebrations, especially the Eucharist (by instructions or sermons).

In the sessions of the synod, the topics are to be studied and discussed freely by the members of the synod in the presence of the bishop. Rules of order should be drawn up prior to the synod for proper and orderly conduct.

From the proposed schemata of the commissions and the synodal discussions, the bishop draws up conclusions and puts them into the form of laws or decrees since he alone is the legislator who gives the synod's acts the legislative force. He also defines the force of this legislation and decides the time and manner of promulgation.[293]

b) **The Diocesan Finance Council**

The Directory expounds on the diocesan finance council based on the 1917 Code and the teaching of Vatican II as found in *Gaudium et spes*. After stating that the council for administration of temporal goods is to be established in every diocese, in the parishes and other public institutions, the Directory states that such a council, where possible,

[293] *EI*, no. 165, 161–162. "Sensus communionis adunati coetus in celebrationibus liturgicis, in Eucharistia praesertim, primum exprimitur et declaratur, eaeque proinde veluti Synodi centrum sunt et a fidelibus quam plurimis participari debent. Liturgia verbi sollemnibus his ritibus propius convenit; proinde opportunae habentur homiliae, quae Synodi significationem et ordinem explicare valeant. Allocutions etiam, quae fundamenta illustrent doctrinae et actionis pastoralis ad Synodi labores attinentia, ad populum in divina liturgia adunatum haberi posunt. Studia et disceptationes de propositis schematibus ad synodalis coetus membra spectant, sub Episcopi actuosa praesentia. Conventibus omnes iure fruentes actuose intersunt, iuxta normas antea editas ad rectum et ordinatum sessionum cursum. Amplam et liberam facultatem dari decet propriam sententiam proferendi singulis sodalibus, qui, iuxta Synodi normas, id postulant. Synodi conclusiones e conlatis Commissionum et Coetus sessionum sententiis ab Episcopo deducuntur et ad legis formam rediguntur, cum ipse solus eis legum vel decretorum vim tribuere valeat…." In Directory (1973), 84.

should be composed of clerics, religious, and lay persons chosen for their expertise, honesty, and zeal for the Church and the apostolate.[294]

With the council, the bishop is to examine the programmes of activities, the order of expenditure, the budgets, and other related activities and shall take decisions in accordance with the law.

> At the end of each year, or on the completion of a project, he [the diocesan bishop] is to see to it that a financial account, checked by the council [the diocesan finance council], is made public, unless prudence dictates otherwise. These same procedures are carried out, under the watchful care of the bishop, by parish councils and councils of other organizations.[295]

Such accountability, both to legitimate superiors and to the faithful, is another example of the renewal in Vatican II which takes seriously the basic concept of the people of God. Those who contribute to the upkeep of the Church have a right to some form of accounting, indicating the uses to which their contributions were put.[296] Indeed, the council and the post-conciliar documents present a vision of the Church in which the involvement by other members of the diocese in the bishop's administration of its temporal goods is a necessary element.

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[294] *EI*, no. 135, 132. "Episcopus Consilia bonis administrandis in dioecesi, in unaquaque paroecia aliisque dioecesanis Institutis et Operibus constituenda curat, iisdemque etiam laicos, quatenus fieri possit, cum clericis adnumerat, selectos inter viros rei administrandae peritos atque probitate et Ecclesiae apostolatusque studio praeditos." In Directory (1973), 69.

[295] Ibid. "Una cum Consilio dioecesano Episcopus perpendit proposita opera et expensarum ordines et pecuniarias rationes et cetera huiusmodi, atque consilia capit ad normam iuris. Quoquo exeunte anno, vel opera completo, rationum summas, a Consilio recognitas, publicas faciendas curat, nisi aliud prudentia suadeat."

[296] FARRELLEY, The Diocesan Finance Council, 116.

c) **The Presbyteral Council**

Before the Directory was issued in 1973, there were two important documents that were issued regarding the presbyteral council that are worthy of mention here, that is, the circular letter of the Sacred Congregation for Clergy, *Presbyteri sacra,* issued in 1970, and the synodal document on the ministerial priesthood, *Ultimis temporibus*, issued in 1971.

The 1970 letter was a response to the feedback received from the worldwide episcopal experience following the implementation of *Ecclesiae sanctae*.[297] The 1971 synodal document came in response to the crisis experienced by many priests after Second Vatican Council.[298] It focussed on several issues, among which is the relationship between bishop and presbyters in the diocese. This topic brought out the importance of the presbyteral council.[299]

The circular letter reiterates the theological underpinning of the presbyteral council in the following words: "Presbyters called to the service of the people constitute one presbyterate with their bishop although, of course, it takes in different duties. As a result, in every diocese there exists between the bishop and all the presbyters a hierarchical

[297] Cf. *PS*, no. 4, in *AAS*, 62 (1970), 461. "A Praefatae legis promulgatione tertio labente anno, S. Congregatio pro Clericis, cuius est invilare Consiliis Presbyteralibus, circulares litteras die 15 ianuarii 1969 misit ad Praesides Conferentiarum Epsicopalium ad mentem ipsius legis, rogans ut Episcopi suas animadversiones adnotationesque de experimentis ad hoc novum organum quod spectat eidem S. Congregationi exhiberent. Cum vero responsiones, una cum Statutis Consiliorum, e proviniciis ecclesiasticis iuris communis fere omnibus ad S. Congregationem pervenissent, idem S. Dicasterium, auditis suis Consultoribus, die 10 octobris 1969 Plenariam Congregationem habuit, ut de maioribus quaestionibus dicti coetus consultivi disceptaretur, cuius placita heic breviter enucleantur." In *CLD*, vol. 7, 386.

[298] *UT*, Introduction, in *AAS*, 62 (1970), 898, in *CLD*, vol. 7, 343.

[299] OKOSUN, The Collaborative Role of the Presbyteral Council, 50.

communion which joins them closely and makes them one family in which the father is the bishop."[300]

Number 5 of the letter states that, from "the hierarchical communion which exists between the bishop and the presbyters, there necessarily follows the scope and function of the presbyters' council which, to be sure, somehow manifests in an institutional manner that very communion. As a result, the establishment of this kind of council, to be carried out in each diocese in accord with the *motu proprio, Ecclesiae sanctae*, is prescribed as obligatory."[301]

The document is certain and clear that the presbyters' council is a special consultative organ. It is called consultative because it does not possess a deliberative vote. Consequently, it is not competent to make decisions which bind the bishop unless universal law of the Church provides otherwise or unless the bishop in individual cases believes it appropriate to give the council a deliberative vote.[302] Though it is a consultative organ, "by

[300] Cf. *PS*, no. 1, in *AAS*, 62 (1970), 459-460. "Presbyteri ad populi inserviendum vocati *unum presbyterium* cum suo Episcopo constituunt, diversis quidem officiis mancipatum. Proinde in qualibet dioecesi inter Episcopum et omnes presbyteros communio hierarchica exstat, quae eos arcte coniungit eosque efficit unam familiam, in qua pater est Episcopus." In *CLD*, vol. 7, 384.

[301] Ibid., no. 5, 461, "Ex Communione hierarchica, quae exstat inter Episcopum et presbyteros, necessario sequitur scopus et munus Consilii Presbyteralis quod quidem ipsam communionem aliquo modo institutionaliter manifestat. Quare institution huiusmodi Consilii per Mp. *Ecclesiae Sanctae* in qualibet dioecesi peragenda obligatorie praescribitur." in *CLD*, vol. 7, 386.

[302] Ibid., no. 9, 463. "Consilium Presbyterale est organum consultivum peculiar. Consultivum dicitur, quia voto deliberative non gaudet; ideoque eidem non competit decisiones ferre quae Episcopum obstringant, nisi ius universal Ecclesiae aliter providerit vel Episcopus in singulis casibus vocem deliberativam Consilio tribuere opportunum censuerit." In *CLD*, vol. 7, 388.

its nature and its procedural process it is preeminent among other organs of the same kind."[303]

According to number 8, "the competence of the presbyters' council is to assist the bishop by its counsel in the government of the diocese. Therefore, questions of major moment, whether they pertain to the sanctification of the faithful or the doctrine to be given to them or to the general administration of the diocese, should be treated by the council, if, that is, the bishop proposes them or, at least, admits them for consideration."[304]

Number 5 reiterates that the purpose of the presbyters' council is for common consultation and dialogue. It says that through the presbyters' council

> contact [of the bishop] with the presbyters is made easier; their views and desires are better known; again, more accurate information on the state of the affairs in the diocese can be derived; mutual experiences can be more fittingly communicated; the needs of the pastors and of God's flock are more clearly apparent; apostolic enterprises accommodated to today's circumstances are harmoniously undertaken; finally, through shared labor difficulties are adequately resolved or, at least, explained.[305]

Number six of the letter examines the composition of the council. It says that the presbyters' council should express the whole presbyterate of the diocese. "Consequently,

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[303] *PS*, no. 9, in *AAS*, 62 (1970), 463. "Quia natura sua et suo procedendi modo inter alia organa eiusdem generis eminet." In *CLD*, vol. 7, 388.

[304] Ibid., no. 8, 463, "Competentia Consilii Presbyteralis est Episcopo adsistere consiliis in regimine dioecesis. Quare quaestiones maioris momenti, quae sive ad sanctificationem fidelium sive ad doctrinam ipsis tradendam, sive ad moderamen dioecesis in genere spectant, pertractantur a Consilio, si nempe Episcopus eas proponat vel saltem admitat pertractandas." In *CLD*, vol. 7, 388.

[305] Ibid., no. 5, 462, "nam contactus cum sacerdotibus fit facilior; melius cognoscuntur eorundem mentes et optata; mutuae experientiae opportunius communicantur; necessitudines pastorum et gregis Dei evidentius apparent; cohaerenter suscipiuntur incepta apostolica adiunctis hodiernis accommodate; in communi labore demum adaequate solvuntur vel, saltem, explicantur diffcultates." In *CLD*, vol. 7, 386.

the representative character of the council is effected if, in as far as it is possible, the following are represented within its make-up: (a) the different ministries (pastors, assistants, chaplains, etc.); (b) the regions or pastoral zones of the diocese; (c) the different age groups or generations of presbyters."[306] To be included also are the "religious who exercise the care of souls in the diocese or give themselves to the works of the apostolate under the jurisdiction of the bishop."[307]

The majority of the members of the council are to be selected by vote of all the presbyters; other members are to be designated directly by the bishop or to be declared to be members by the very fact that they hold an office which should be represented in the council (e.g., vicar general, rector of the seminary, etc.).[308] This kind of representation is meant to foster the confidence of the presbyters who feel that they are represented in the council as well as giving the bishop assurance of maintaining a balance and at times affords the possibility of better expressing the representative character of the council.

Number 9 goes on to say that, since the presbyteral council is a sign of hierarchical communion, of its nature demands that consultations be entered into for the good of the diocese in union with the bishop and never without him. This demands on both sides that their mind be aptly prepared and receptive to profound change of views in humility and

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[306] *PS*, no. 6, in *AAS*, 62 (1970), 462. "Quare indoles repraesentativa Consilii efficitur, si in sinu eiusdem, quantum fieri potest, repaesentantur: a) varia ministeria (parochi, cooperatores, cappellani, etcanon); b) regiones seu pastorales diocesis zonae; c) variae sacerdotum aetates seu generationes." In *CLD*, vol. 7, 387.

[307] Ibid., "Religiosi quoque, qui curam animarum in dioecesi exercent vel operibus apostolatus sese dedicant sub iurisdictione Episcopi, inter membra Consilii cooptari poterunt."

[308] Ibid., no. 7, 463. "Ceteri autem sodales designantur directe ab Episcopo aut ipso facto declarantur sodales ut officium quod gerunt (e.gr. Vicarius Generalis, Rector Seminarii, etc.) repraesentent in Consilio." In *CLD*, vol. 7, 387.

patience. "When this joint effort has been completed, the decision then belongs to the bishop who is bound by personal responsibility to the section of the People of God entrusted to him. Consequently, the diligence of the council is a help to and not at all a substitute for the bishop's responsibility."[309]

Number 10 of the letter declares that it is only the presbyters' council that is to be referred to as the senate of the bishop. Thus, "the title and function of the bishop's senate in the government of the diocese belongs only to the presbyters' council. However, with regard to the earlier senate of the bishop, that is, the cathedral chapter where it exists, and the board of consultors where that is had … the said institutions should retain their own proper functions and competency until they are revised."[310]

The presbyteral council ceases when the episcopal see is vacant and the cathedral chapter or group of consultors proceed to elect a vicar capitular in accord with canons 477 and 429-444 of the Code of Canon Law which are still in effect, that is, the 1917 Code of Canon Law.

Ultimis temporibus came in response to the crisis experienced by many priests after Second Vatican Council. The 1971 Synod of Bishops in its document on the ministerial priesthood in the section, "Priests in the Communion of the Church," under the subheading

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[309] *PS*, no. 9, in *AAS*, 62 (1970), 464. "Quo labore communi peracto, decisio iam spectat ad Episcopum qui responsabilitate personali tenetur erga portionem Populi Dei sibi commissam, ideoque responsabilitas Episcopi navitate Consilii adiuvatur, minime substituitur." In *CLD*, vol. 7, 389.

[310] Ibid., no. 10, in *AAS*, 62 (1970), 464. "Titulum nempe et munus « senatus Episcopi in regimine dioecesis » uni Consilii Presbyterali competere. Relate vero ad antiquum senatum Episcopi, id est ad Capitulum cathedrale ubi exsistit, et Coetum Consultorum ubi habetur... ut eadem instituta proprium munus propriamque competentiam servent, donec recognoscantur." In *CLD*, vol. 7, 389.

"Relations between Presbyters and Bishop," addressed not only the nature of the council of presbyters but also its scope and the spirit that should guide its functioning. According to the document,

> the presbyters' council, which is of its nature something diocesan, is an institutional manifestation of the brotherhood among presbyters which has its basis in the sacrament of Orders. The activity of this council cannot be fully shaped by law. Its effectiveness depends especially on a repeated effort to listen to the opinions of all in order to reach a consensus with the bishop, to whom it belongs to make the final decision.[311]

If this is done with the greatest of sincerity and humility and if all one-sidedness is overcome, it will be easier for the council and the bishop to provide for the common good. Thus, the goal of the council is to promote the mission of the Church. Accordingly, "the Presbyters' council is an institute in which presbyters recognize, at a time when variety in the exercise of their ministry increases every day that they are mutually complementary in serving one and the same mission of the Church."[312] To achieve this goal, the council is to focus on some specific objectives: "it is the task of this council, among other things, to seek out clear and distinctly defined aims, to suggest priorities, to indicate methods of acting, to assist whatever the Spirit frequently stirs up through individuals or groups, and to foster the spiritual life, whence the necessary unity may more easily be attained."[313]

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[311] *UT*, II, 1, in *AAS*, 63 (1971), 919. "Fraternitatis inter sacerdotes in sacramento Ordinis fundatae, Concilium Presbyterale, quod natura sua est dioecesanum, quaedam forma est *institutionalis* manifestationis. Navitas huius Consilii lege plene definiri non potest; eius efficacia pendet praesertim ex iterato conamine omnium opiniones audiendi, ut ad consensum perveniatur cum Episcopo, cuius est decisionem finalem ferre." In *CLD*, vol. 7, 362.

[312] Ibid., "Consilium Presbyterale est institutio, in qua presbyteri, crescente in dies varietate in exercitio ministeriorum, agnoscunt sese invicem compleri in serviendo uni eidemque Ecclesiae missioni."

[313] *UT*, II, 1, in *AAS*, 63 (1971), 919. "Ei completit inter alia investigare fines certos et distincte circumscriptos, prioritates proponere, rationem agendi indicare, quidquid Spiritus per

The synod document also stresses the need for the religious presbyters to collaborate with the bishop. It says, "supportive work on the part of religious presbyters with the bishop in the presbyterate is necessary, even though their activity provides mighty help to the universal Church."[314]

Ecclesiae imago was issued two years after *Ultimis temporibus*. The highlight of *EI* is its furtherance of the specific nature of the council of presbyters. Although the Directory does not add anything new to the evolving discipline on the role of the presbyteral council, it reemphasizes those issues mentioned in previous documents as a reminder to the bishops of the indispensable collaborative role of this council in the diocesan governance. Number 203 addresses the following issues.

> The hierarchical communion of the bishop and his presbytery, founded on the unity of the ministerial priesthood and mission, manifests itself in some way, i.e., in an *institutional* form and works for the welfare of the diocese through the [presbyteral council].
>
> The council which is diocesan in nature and must be established in each diocese (cf. *Presbyterorum ordinis* 7) is "the assembly or senate of presbyters, representing the presbytery, which can with its advice assist the bishop effectively in the government of the diocese" (*Presbyterorum ordinis* 7).
>
> The presbyters' council is a consultative body only, since it does not enjoy a deliberative vote; but it is special in that by its very nature and manner of procedure, it has a higher place than other bodies of the same kind.
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> The council will have a representative character if, in as far as possible, the various ministries, regions and pastoral areas of the diocese are represented, as well as the various age-groups of the presbyters. The majority of its members are elected by

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singulos et coetus excitare solet, adiuvare, vitam spiritualem fovere, ut necessaria unitas facilius attingi posit."

[314] *UT*, II, 1, 920. "Presbyterorum religiosorum adiutrix opera cum Episcopo in Presbyterio necessaria est, etiamsi eorum actio Ecclesiae universali validum adiutorium praestat." In *CLD*, vol. 7, 329.

> the vote of all presbyters, using the procedure prescribed by the council's statutes.[315]

The Directory adds that the council or senate of presbyters is to have its own constitution and rules determined by law subject to the approval of the bishop, after taking into account what the Apostolic See and the episcopal conference have said in this matter. Finally, *Ecclesiae imago* re-echoes the call to the episcopal conference to form common plans and formulate guidelines which each bishop will follow and adapt to his own diocese on matters relating to the presbyteral council, the pastoral council, their mutual relationships and cooperation with other consultative bodies.[316]

d) **The College of Consultors**

The Directory gives a synopsis of the diocesan consultors and the cathedral chapter in number 205. It says that the cathedral chapter and the diocesan consultors are among the bishop's closest collaborators in the government of the diocese.

The bishop is to ask opinions of the canons or consultors in cases prescribed by universal law, particularly regarding financial affairs. The bishop, as a father, is to show

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[315] *EI*, no. 203, 103–104. "a) Communio hierarchica inter Episcopum et eius presbyterium, in unitate sacerdotii ministerialis et missionis fundata, aliquot modo, id est *institutoria forma* manifestatur et in bonum dioecesis vertitur per Consilium Presbyterale. b) Hoc Consilium, qoud est natura sua dioecesanum et necessario in unaquaque dioecesi constituendum, est « coetus seu senatus sacerdotum, Presbyterium repraesentatium, qui Episcopum in regimine dioeceseos suis consiliis efficaciter adiuvare possit ». c) Consilium Presbyterale est organum consultativum tantum, quia voto deliberativo non gaudet, se peculiare, quia natura sua et suo modo procedenti inter alia organa eiusdem generis eminet. d) Indoles repraesentativa Consilii servatur, si in sinu eiusdem, quantum fieri potest, repraesententur varia ministeria, regiones seu pastorales dioecesis plagae, variae presbyterorum aetates et generationes. Maior sodalium pars seligitur per suffragium omnium presbyterorum, modo procendi adhibito, quem statuta Consilii praescripserint." In Directory (1973), 103–104.

[316] *EI*, no. 203, e, 199, in Directory (1973), 105.

them kindness and respect, receiving their advice gratefully, willingly using their help in special business. He is to entrust to the canons of the chapter the worthy and holy celebration of the liturgy for the cathedral Church.[317]

e) **The Diocesan Pastoral Council**

The Directory was preceded by a circular letter *Omnes christifideles* of the Congregation for the Clergy[318] which is worth mentioning here. The letter, devoted only to the pastoral councils, was addressed to the bishops all over the world. *Omnes christifideles* defined further the teaching and principles contained in *Christus Dominus* (*CD* 27) and *Ecclesiae sanctae* (*ES* I, 16 – 17) on the diocesan pastoral council. The letter discussed five areas pertaining to the pastoral council, that is, the character of the pastoral council, its competence, the convocation and duration of the council and, lastly, other councils similar to the pastoral council.

The letter reiterated the nature and purpose of the pastoral council using the words of *Ecclesiae sanctae* and the 1971 Synods of Bishops.

> The pastoral council, in which the clergy, religious and laity who are chosen to take part, is to offer after study and consideration, its conclusions as to what is necessary for the diocesan community to organize the pastoral work and to execute it efficiently. The more important it daily becomes for bishops and presbyters to cooperate in their mutual responsibility, especially through the Presbyters' Council, the more desirable it is that in each diocese a pastoral council be established.[319]

As regards the membership, as indicated in the quote above, the pastoral council should be composed of diocesan clergy, religious, and laity truly representative of the entire diocese,

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[317] Cf. *EI*, no. 205, 202, in Directory (1973), 106.

[318] SACRED CONGREGATION FOR THE CLERGY, Circular Letter on Pastoral Councils *Omnes christifideles*, 25 January 1973 (*OC*), in *EV*, vol. 3, 1196-1211, in *CLD*, vol. 8, 280–288.

[319] *OC*, no. 4, in *CLD*, vol. 8, 283.

taking into consideration the different regions, social conditions, and professions, as well as the parts which individuals and associations have in the apostolate. All members should be in full communion with the Catholic Church, and most of them should be lay people. The number of people on the pastoral council should not be too great so that it may effectively carry out its work. Although the pastoral council has only a consultative vote, the bishop should greatly esteem its suggestions and proposals and seriously consider the judgements on which they agree.[320]

Number 9 speaks of issues to be treated by the pastoral council as well as issues not to be treated by the council. The issues proper to the council include: the missionary, catechetical, and apostolic undertakings within the diocese; the doctrinal formation and sacramental life of the faithful; pastoral activities to help presbyters in different social and territorial areas of the diocese; and public opinion on matters pertaining to the Church in the present time. Questions not to be treated by the pastoral council are general questions bearing on faith, orthodoxy, moral principles, and laws of the universal Church.[321]

As regards convocation, the letter repeats that it is the diocesan bishop's right to convene the pastoral council according to diocesan needs, adding that the bishop himself, or his delegate, by law is to preside over the council. When the see is vacant, the pastoral council ceases to exist; however, the diocesan administrator may still seek the advice of the members of the council as individuals or in small groups, but not as a council.[322]

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[320] *OC*, no. 8, in *CLD*, vol. 8, 285.

[321] Ibid., no. 9, 286.

[322] *OC*, no. 11, in *CLD*, vol. 8, 287.

Number 12 of the letter states that, while there is nothing wrong with parochial and regional councils, it is not yet opportune to have pastoral councils on inter-diocesan, provincial, national, or international levels.[323]

Ecclesiae imago, issued the same year as *Omnes christifidele*s, included further directives that would affect the development of the diocesan pastoral council. In section II, on Structures of the Particular Church, no. 204, the Directory speaks of the pastoral council as highly recommended, although not mandatory. It restates the nature and purpose of the pastoral council.

> The pastoral council is a body set up to investigate and carefully consider whatever pertains to diocesan pastoral activities and to arrive at practical conclusions to help the people of God pattern their lives and actions more closely on the Gospel (CD 27; ES 1, 16). By its study and reflection, the council furnishes the judgements necessary to enable the diocesan community to plan its pastoral programme systematically and to fulfill it effectively.[324]

The pastoral council has only a consultative vote. Although it is only consultative, the bishop should greatly respect its recommendations since they offer him the serious and settled cooperation of the ecclesiastical community.[325]

The pastoral council is to be made up of clergy, religious, and laity, specifically chosen by the bishop. To make the council's work more effective, the bishop can order parish pastoral councils to be set up and aligned to the diocesan pastoral council. These

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[323] Ibid., no. 12, 287–288.

[324] *EI*, no. 204, 201. "Concilium Pastoral est coetus ad id constitutus, ut omnia, quae ad opera pastoralia dioecesana spectant, investiget, perpendat atque de eis conclusiones practicas expromat, ita ut vitae et actionis Populi Dei congruentia cum Evangelio promoveatur. Suo studio et cogitatione Consilium iudicia praebet quae sunt necessaria, ut communitas dioecesana munus pastorale tum organice praemoliri, tum efficaciter persolvere possit." In Directory (1973), 105.

[325] *EI*, no. 204, 202, in Directory (1973), 105.

parish pastoral councils, grouped together according to areas, could choose their representatives to serve on the diocesan council, so that the whole diocesan community may feel that it is offering its cooperation to its bishop through the diocesan council.[326]

In order that the council may actually achieve this goal of cooperation with the bishop on the pastoral life of the diocese, it is important that a study precede their common deliberation; "and if the case warrants, the help of institutes or offices that work in the field may be used (*ES* I, 16; III, 4), as for example, the office for socio-religious activities, the office for the means of social communication, etc."[327]

Conclusion

John Paul II, when promulgating the 1983 Code, said that the Code was not just a revision of the 1917 Code but a new Code. The newness of the Code was based on the fact that Vatican II, which shaped the Code in many ways, was new also. It was new especially because it had embraced the *communio* ecclesiology that was replacing the "perfect society" theology that had greatly shaped the 1917 Code. The "perfect society" theology had emphasized the hierarchical nature of the Church in which the pope had absolute powers and the bishops shared a little in it through their canonical missioning. The laity were passive recipients of the grace of God through their submission to their leaders. In contrast, the *communio* ecclesiology brought in the element of the centrality of the baptism

[326] *EI*, no. 204, 202, in Directory (1973), 105.

[327] Ibid. "Si casus ferat, Institutorum seu Officium, quae in hunc finem allaborent, uti v.g. officium sociale-religiosum, officicium de instrumentis communicationis socialis, etc."

of all which is not only the basis of membership in the community but also the basis of participation of each member of the community in the mission of Christ and his Church.

But was *communio* ecclesiology really a new discovery of Vatican II? The answer is yes and no. It is yes because of what we have just said above, and it is no because *communio* ecclesiology has its roots in the Bible. The 1985 Extraordinary Synod, which declared that the ecclesiology of communion was the central and fundamental idea in the documents of the Council, also declared that this concept of *communio* was founded on the scriptures and has been held in great honour in the early Church and in the Eastern Churches to this day. What Vatican II did therefore was to rediscover the significance of this concept for the Church in the modern world.

It was for this reason that the Council devoted a lot of time and space in its documents, especially *Lumen gentium* and *Gaudium et spes*, to espouse an ecclesiology of communion as the foundation of the Church. After having outlined the ecclesiology of communion, what followed was the exploration of the concrete ways in which this theology was to be applied.

The structures of participation were one of the ways in which this ecclesiology was to find expression. The declaration by the Council, that baptism is the basis of our membership in the Church and the basis of our participation in the mission of Christ and Church, meant that the structures of participation had to be reinterpreted and expanded. They were no longer to be purely clerical, triumphalist, and juridical—the role of the laity was to be more articulated.

Where the conciliar documents were brief and not clear on the structures of participation, the post conciliar documents would help fill in the gap. The post conciliar

documents therefore helped implement the Council teachings in the conciliar documents. Besides, the two popes, John Paul II and Benedict XVI, who earlier were themselves part of the Council, later as supreme legislators of the Church played a key role in implementing the Vatican II ecclesiology of communion.

The culmination of the teachings of the Council and post conciliar teachings on *communio* ecclesiology was in their incorporation into the 1983 Code of Canon Law. From just a handful of participative structures in the 1917 Code (that is, the diocesan synod, the council of administration, the cathedral chapter, and the diocesan consultors), nine structures of participation are provided in the 1983 Code (that is, the diocesan synod, the diocesan finance council, the episcopal council, the presbyteral council, the cathedral chapter, the college of consultors, the diocesan pastoral council, the parish finance council, and the parish pastoral council).

As we explore the participative structures in the 1983 Code in the next chapter, we continue to pay attention to their theological foundation in the *communio* ecclesiology. John Paul II enumerates beautifully what is in the Council that finds its way in the Code.

> Among the elements which characterize the true and genuine image of the Church we should emphasize especially the following: the doctrine in which the Church is presented as the people of God (cf. dogmatic constitution *Lumen gentium*, chapter 2) and hierarchical authority as service (cf. ibid., chapter 3); the doctrine in which the Church is seen as a *communion* and which therefore determines the relations which are to exist between the particular Churches and the universal Church, and between collegiality and the primacy; likewise the doctrine according to which all the members of the people of God, each in their own way, participate in the threefold priestly, prophetic and kingly office of Christ, to which the doctrine is also linked that which concerns the duties and rights of the faithful and particularly the laity, and finally, the Church's commitment to ecumenism.[328]

[328] Refer to footnote 176.

This is the context in which to understand the theology of communion of Vatican II as translated into canonical language in the 1983 Code of Canon Law. Pope John Paul II points out that the translation of the communion ecclesiology into canonical language may not be perfect, but theologians and canonists should, nevertheless, strive to find harmony.

CHAPTER THREE

SELECTED PARTICIPATIVE STRUCTURES WITHIN A PARTICULAR CHURCH ACCORDING TO THE 1983 CODE

Introduction

Given that "every legal system is historically conditioned culturally, socially and politically,"[329] a good analysis, critique, and interpretation of the law must consider the context in which that law emerges and operates. In Chapter Two, we saw how the "perfect society" ecclesiology and the monarchical model shaped the law in the 1917 Code. In that Code, the Church was considered as a society in which the fullness of power was concentrated in the hands of a ruling class that perpetuated itself by cooption. The Church was thus essentially pyramidal in which all power is conceived as descending from the pope through the bishops and presbyters, while at the base the lay faithful played a passive role and seemed to have a lower position in the Church. Thus, the institutional Church could be characterized by clericalism, triumphalism, and juridicism, which tended to reduce the laity to a condition of passivity, and to make their apostolate a mere appendage of the apostolate of the hierarchy.[330]

This changed with the Vatican II ecclesiology of *communio* as we saw in Chapter Two. As John Paul II put it, the main elements of *communio* ecclesiology which characterize the true and genuine image of the Church that would eventually find their way in the 1983 Code of Canon Law include the doctrine in which the Church is presented as the people of God (cf. dogmatic constitution *Lumen gentium*, chapter 2) and hierarchical

[329] T.J. GREEN, "Selected Legislative Structures in Service of Ecclesial Reforms," in *The Jurist*, 71 (2011), 422 (=GREEN, "Selected Legislative Structures in Service of Ecclesial Reforms").

[330] See footnote 84.

authority as service (cf. ibid., chapter 3); the doctrine in which the Church is seen as a *communio* and which therefore determines the relations which are to exist between the particular Churches and the universal Church, and between collegiality and the primacy; likewise the doctrine according to which all the members of the people of God, in the way suited to each of them, participate in the threefold priestly, prophetic, and kingly office of Christ, to which is also linked the doctrine which concerns the duties and rights of the faithful and particularly the laity, and finally, the Church's commitment to ecumenism.[331]

Communio ecclesiology therefore is at the heart of the participative structures in the 1983 Code which is under consideration in this current chapter. As John Paul II said, the Code is the canonical expression of the Vatican II theology.[332] It is because of the influence of the *communio* ecclesiology that the 1983 Code takes the members of the Church seriously. Indeed, unlike the 1917 Code, "the 1983 Code focuses on the Christian Faithful and keeps their concerns in the forefront. It pays much more attention to the laity

[331] JOHN PAUL II, *Sacrae disciplinae Leges*, in *AAS*, 75 (1983), xii. "Ex elementis autem, quae veram ac propriam Ecclesiae imaginem exprimunt, haec sunt praecipue recensenda: doctrina qua Ecclesia ut Populus Dei, et auctoritas hierarchica uti servitium proponitur; doctrina praeterea quae Ecclesiam uti communionem ostendit ac proinde mutuas statuit necessitudines quae inter Ecclesiam particularem et universalem, atque inter collegialitatem ac primatum intercedere debent; item doctrina qua omnia membra Populi Dei, modo sibi proprio, triplex Christi munus participant, sacerdotale scilicet propheticum atque regale, cui doctrinae ea etiam adnectitur, quae respicit officia ac iura christifidelium, ac nominatim laicorum; studium denique ab Ecclesia in oecumenismum impendendum." In *Code of Canon Law: Latin – English Edition (New English Translation)*, 2012, xxx.

[332] Ibid.

and, for the first time, it articulates the rights and duties of all the members of the Church."[333]

From *LG* number 6 came the title of Book II of the *Code of Canon Law*, "*De populo Dei*." Book II opens with description of the Christian faithful in its first canon, canon 204, §1.

> The Christian faithful are those who, inasmuch as they have been incorporated in Christ through baptism, have been constituted as the people of God. For this reason, made sharers in their own way in Christ's priestly, prophetic, and royal function, they are called to exercise the mission which God has entrusted to the Church to fulfill in the world, in accord with the condition proper to each.[334]

This people of God have a specific characteristic. All the Christian faithful are sons and daughters of one God and each has a responsibility to take part in mission of the Church. Baptism is new birth and infuses in all the members the duty and privilege of active participation in the mission of the Church.[335] It is for this reason that "all Christ's faithful have the duty and right to work so that the divine message of salvation more and more reaches all people in every age and in every land."[336]

LG number 9 explains that Christ constituted this new people of God as a "communion of life, love, and truth." The Church is therefore a community of believers

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[333] J.A. CORIDEN, "The Diocesan Synod: An Instrument of Renewal for the Local Church," in *The Jurist*, 34 (1974), 44 (=CORIDEN, "Highlights of the Revised Code").

[334] *CIC*, c. 204, § 1. "Christfideles sunt qui, utpote per baptismum Christo incorporate, in populum Dei sunt constitute, atque hac ratione muneris Christi sacerdotalis, prophetici et regalis suo modo participes facti, secundum proprium cuiusque conditicionem, ad missionem execendam vocantur, quam Deus Ecclesiae in mundo adimplendam concredidit."

[335] ARRIETA, *Governance Structures within the Catholic Church*, 3.

[336] *CIC*, c. 211. "Omness christifideles officium habent et ius allaborandi ut divinum salutis nuntium ad universos homines omnium temporum ac totius orbis magis magisque perveniat."

who stand in solidarity and consensus with each other. This community originates in baptism.[337] This theological insight is captured in canon 205 which says: "Those baptised are fully in the communion of the Catholic Church on this earth who are joined with Christ in its visible structure by the bonds of the profession of faith, the sacraments, and ecclesiastical governance."[338] The sacraments, instituted by Christ, are essential aspects of the goods shared by the Christian people who share also structural elements of the ecclesial community. Indeed, "the ecclesial society is distinguished from civil society by the structural character of the sacraments that perpetuate the foundational will of Christ."[339]

In short, there is a direct link between Vatican II and the 1983 Code of Canon Law. When promulgating the Code, in 1983, Pope John Paul II saw the Code as a translation of the conciliar doctrine into the canonical language. He was well aware of the challenges for such a project.

> If, however, it is impossible to translate perfectly into canonical language the conciliar image of the Church, nevertheless, in this image there should always be found as far as possible its essential point of reference…. Hence it follows that what constitutes the substantial *newness* of the Second Vatican Council, in line with the legislative tradition of the Church, especially in regard to ecclesiology, constitutes likewise the *newness* of the Code.[340]

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[337] ARRIETA, *Governance Structures within the Catholic Church*, 3.

[338] *CIC*, c. 205. "Plene in communione Ecclesiae catholicae his in terris sunt illi baptizati, qui in eius compage visibili cum Christo iunguntur, vinculis nempe professionis fidei, sacramentorum et ecclesiastici regiminis."

[339] ARRIETA, *Governance Structures within the Catholic Church*, 4.

[340] JOHN PAUL II *Sacrae disciplinae leges*, in *AAS*, 75 (1983), xii. "Hinc sequitur, ut fundamentalis illa ratio **«** novitatis **»**, quae, a traditione legifera Ecclesiae numquam discedens, reperitur in Concilio Vaticano II, praesertim quod spectat ad eius ecclesiologicam doctrinam, efficiat etiam rationem **«**novitatis **»** in novo Codice." In *Code of Canon Law: Latin – English Edition*, xxx.

According to Myriam Wijlens, Pope John Paul II emphasizes in *Sacrae disciplinae leges* the four new elements in Vatican II, which he sees being reflected in the 1983 Code of Canon Law:[341]

1) the doctrine in which the Church is presented as the People of God (cf. *Lumen gentium*, no. 2) and hierarchical authority as service (cf. ibid., no. 3);

2) the doctrine in which the Church is seen as a "communion," and which, therefore, determines the relations which are to exist between the particular Churches and the universal Church, and between collegiality and the primacy;

3) the doctrine according to which all the members of the People of God, in the way suited to each of them, participate in the threefold priestly, prophetic, and kingly office of Christ. With this teaching there is also linked to that which concerns the duties and rights of the faithful, and particularly of the laity;

4) the Church's commitment to ecumenism.

It is this theology of Vatican II, summarized above and expressed in the canons cited earlier, that forms the background of the participatory structures in the 1983 Code of Canon Law. The 1983 Code requires that certain participative structures be established in each diocese to assist the bishop in the governance of the diocese and in his pastoral ministry to the local Church. These are the presbyteral council, c. 495; the college of consultors, c. 502; the diocesan finance council, c. 492; and the parish finance council, c. 537). The Code leaves to the determination of the diocesan bishop the establishment of other structures such as the diocesan synod, cc. 460–468; the episcopal council, c. 473;[342] the diocesan

[341] M. WIJLENS, '"The Newness of the Council Constitutes the Newness of the Code' (John Paul II): The Role of Vatican II in the Application of the Law," in *CLSA Proceedings*, 70 (2008), 293–294.

[342] According to Arrieta, for the most efficacious pastoral governance and the best coordination of activity of the different sectors of the curia, the bishop can constitute a diocesan episcopal council, composed of all those who stably exercise general executive power in the diocese. Indeed, canon 473 § 4, states in part, "where the bishop judges it useful for the better

pastoral council, cc. 511– 514; and parish pastoral councils, c. 536.[343] Our focus is on five selected participative structures in a particular Church: the diocesan synod, the diocesan finance council, the presbyteral council, the college of consultors, and the diocesan pastoral council.

This chapter has six sections. Each of the first five sections will treat a particular selected structure employing the following themes: the antecedents to the said structure, its nature and purpose, its composition, its functions, and its cessation. Section six will deal in brief with the principal juridic documents that treat to a greater or lesser extent the selected participative structures that have been issued by the Holy See since the promulgation of the 1983 Code.

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promotion of pastoral action, he can establish an episcopal council, comprising the vicars general and episcopal vicars." Arrieta goes on to say that the type of coordination to be realized by the council, provided for by canon 473, can be deduced from the text of § 2 which, in attributing the entire function of direction to the bishop, places that council in a subordinate position. It is an optional entity, whose composition does not seem to be peremptorily reserved to ordinaries alone, but which possesses flexibility permitting adjustment to the varying needs of different dioceses. See J.I. ARRIETA, *Governance Structures within the Catholic Church*, Montréal, Wilson & Lafleur Ltée, 2000, 225. The following are also participative structures in the Code, in a particular Church, the council of priests in vicariates and prefectures: "In vicariates and prefectures apostolic, the vicar or prefect is to appoint a council composed of at least three missionary priests, whose opinion, even by letter, he is to hear in the more serious affairs," (c. 495, §2); the diocesan tribunal, wherein judicial power is exercised, is part of the diocesan curia and therefore, a participative structure in a particular Church. See J. RENKEN, *Particular Churches: Their Internal Ordering, Commentary on Canons 460-572*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011, 59 (=RENKEN, *Particular Churches, 460-572*). Sharon Euart also draws a list of what she calls "other consultative structures," including boards, commissions, and committees which advise the bishop on important diocesan ministries and issues facing the diocese. See S. EUART, "Structures of Participation in the Church," in *Origins*, 35 (2005), 23 (=EUART, "Structures of Participation in the Church").

[343] EUART, "Structures of Participation in the Church," 17.

3.1 The Diocesan Synod

Introduction

Canons 460 – 468 of the 1983 Code regulate the diocesan synod in its nature and purpose, composition, functions, and cessation. The diocesan synod "is the highest of all diocesan structures of participation in the Bishop's pastoral governance."[344] A synod is both an act of episcopal governance and an event of communion, and thus it expresses the character of hierarchical communion that belongs to the nature of the Church.[345] Indeed, "The diocesan synod is the occasion for the Christian faithful to build up the Body of Christ (c. 208), to strengthen *communio* (c. 209, §1), to promote the growth of holiness of the Church (c. 210), to evangelize (c. 211), to express their needs and desires (c. 212, §2), to express their informed opinion on matters pertaining to the good of the Church (c. 212, §1), to express their opinion on matters of their expertise (c. 218)."[346] According to Thomas Green, the 1983 Code reaffirms certain 1917 Code provisions about the notion, consultative nature, and the essential structure of the synod, but it notably expands its membership and representative character.[347]

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[344] CONGREGATION FOR BISHOPS, Directory for the Pastoral Ministry of Bishops *Apostolorum successores*, 22 February 2004 (*AS* or Directory [2004]), in *AAS*, 96 (2004), Vatican City, Libreria editrice Vaticana, 2004, no. 166, 184.

[345] Ibid., no. 168, 184.

[346] RENKEN, *Particular Churches*, 460-572, 17.

[347] T. GREEN, "Selected Legislative Structures in Service of Ecclesial Reform," in *The Jurist*, 71 (2011), 441 (=GREEN, "Selected Legislative Structures in the Service of Ecclesial Reform").

3.1.1 Antecedents to the Diocesan Synod of the 1983 Code

In the history of the Church,[348] the word "synod" has never been particular to the diocese. Giorgio Corbellini says:

> Etymologically speaking, "synodus," a word of Greek origin, indicates a road travelled together, a common road and, therefore, in the reality of the life of the Church, the group of various people *in unum* to carry out together certain goals. It is a rather generic term, used in the past to indicate various kinds of assemblies of people belonging to the Church (in general only to clerics and lay faithful together) to study problems relative to ecclesial life. Presently, it is used technically—at least in the law of the Latin Church—when referring to assemblies of bishops, regulated in cc. 342– 48 ("synodus Episcoporum"), and, when it refers to the diocesan assembly ("Synodus dioecesana") ….[349]

Pierre Joannou says that "synod" and "council" were interchangeable during the first centuries of the Church's history, although the ecumenical gatherings beginning with Nicaea in 325 are called councils, whereas gatherings of bishops from a province or region, as well as gatherings of the bishop and the clergy of a diocese, were usually referred to as synods.[350] Thus, the evolution of the diocesan synod is not an incident isolated from the rest of the "synods." Indeed, even before a diocesan synod took shape in the history of the

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[348] Since there are already detailed studies of the development of participative structures, our study of the development of the diocesan synod and the other selected participative structures will be a brief one.

[349] G. CORBELLINI, "The Diocesan Synod," in Á. MARZOA et al. (eds.), *Exegetical Commentary on the Code of Canon Law*, vol. II/2, Montréal, Wilson & Lafleur, 2004, 1041 (CORBELLINI, "The Diocesan Synod").

[350] P. JOANNOU, "Synods, Early Church," in *New Catholic Encyclopedia*, vol. 13, Washington, DC, The Catholic University of America, 2003, 694.

Church, other assemblies of bishops[351] had been taking place.[352] Since our focus is the diocesan synod, we will limit ourselves to the origins and development of the diocesan synod.

3.1.1.1 The Early Church

The first mention of diocesan synod[353] occurs toward the end of the fourth century in the canons of the Council of Hippo (393).[354] The Synod of Macon[355] (585), the Synod of Auxerre[356] (585), the Fourth[357] (633) and Sixteenth Councils of Toledo[358] (693) speak undoubtedly about diocesan synods, for instance, a diocesan synod "which Bishop Annacharius held, with seven abbots, thirty-four presbyters, and three deacons of his diocese. Bishop Annacharius, who was present at the Synod of Macon, held a diocesan

[351] Other assemblies here refer to the provincial councils and plenary councils and even ecumenical councils before they were determined so at the Council of Nicaea. For more information, see also B.F. DONNELLY, The Diocesan Synod: An Historical Conspectus and Commentary, Canon Law Studies no. 74, Washington, DC, The Catholic University of America, 1972, 4-5 (=DONNELLY, The Diocesan Synod).

[352]DONNELLY, The Diocesan Synod, 7.

[353] The above mentioned are diocesan synods to the extent that they were held in a particular Church with the bishop as the head to discuss matters pertaining to the welfare of the particular Church.

[354] Cf. C.J. HEFELE, *A History of Councils of the Church from Original Documents*, vol. 3, English translation by W.R. WILLIAMS, Edinburgh, T & T. Clark, 1886, 394–402 (=HEFELE, *A History of Councils of the Church from Original Documents*).

[355]Ibid., vol. 4, 1895, 406–409.

[356]Ibid., 409–415.

[357] Ibid., 449–459.

[358] Ibid., vol. 5, 1896, 244–246.

Synod in his episcopal city, soon after the close of that one, in order to introduce its ordinances into his diocese and draw up others for special purposes."[359]

As diocesan synods continued to take shape, they came to be held regularly in dioceses, usually once a year. They often occurred after the provincial council in order to implement the legislation enacted by the province. Canon 7 of the Council of Toledo states that "six months after holding of a provincial Synod, every bishop assembles the abbots, clergy, and laity of his diocese, in order to communicate to them the decrees."[360]

It is evident from the above canon that the bishop was the one to convoke the synod. It was therefore the bishop's duty of having the clergy and abbots present, since the very nature and purpose of the synod demanded their presence, that is, to acquaint themselves with the provincial council decrees. Besides, they were to report to the bishop how they were carrying on their work in the ministry.[361] With time, the diocesan synods became popular and were held in many parts of Europe and North Africa.

While in many areas the diocesan synod was directly related to the provincial council, in other areas the synod was to be held without any apparent connection with the provincial council. Besides, while the legislation envisioned that there be a regular celebration of the synod, the prescribed frequency varied with the locality and the needs of the different regions.[362]

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[359] HEFELE, *A History of Councils of the Church from Original Documents*, vol. 4, 409.

[360] *Council of Toledo* (693), canon 7, in C.J. HEFELE, *A History of the Church Councils from the Original Documents*, vol. 5, 245 (=*Council of Toledo*).

[361] *Council of Toledo* (693), canon 7.

[362] Cf. DONNELLY, The Diocesan Synod, 16.

3.1.1.2 The Middle Ages

Even though the diocesan synods were held in many parts of the world, they were never a requirement by universal law until the 13th century. Canon 6 of the Lateran Council IV legislated:

> In order that this may be done more effectively, let them appoint for each diocese suitable persons, that is to say prudent and honest persons, who will simply and summarily, without any jurisdiction, throughout the whole year, carefully investigate what needs correction or reform…. Let them [bishops] see to the observance of the things that they decree, publishing them in episcopal synods which are to be held annually in each diocese. Whoever neglects to carry out this salutary statute is to be suspended from his benefices and from the execution of his office, until his superior decides to release him.[363]

As a requirement of the universal law, convoking the diocesan synod by a bishop was not an option. The participants in the diocesan synod and the nature of the synod were well articulated in the canon.

The Council of Trent, in dealing with the question of frequency of the diocesan synod and the persons to attend the synod, stated:

> Diocesan synods, too, should be held every year, and attendance at these is obligatory on all, even those who are exempt and would be bound to attend if their exemption ceased, and who are not subject to general chapters. For the sake of parochial or other Churches of seculars, even those attached to another Church, all who are in charge of them must attend the synod, whoever they are. And if

[363] LATERAN COUNCIL IV, canon 6. "Ut autem id valeat efficacius adimpleri, per singulas dioeceses statuant idoneas personas, providas videlicet et honestas, quae per totum annum simpliciter et de plano, absque ulla iuridictione sollicite investigent, quae correctione vel reformatione sint digna… et quae statuerint, faciant observari, publicantes ea in episcopalibus synodis, annuatim per singulas dioeceses celebrandis. Quisquis autem hoc salutare statutum neglexerit adimplere, a suis beneficiis et executione officii suspendatur, donec per superioris arbitrium eius relaxetur." English translation in N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, , Washington, DC, Sheed & Ward and Georgetown University Press, 1990, vol. 1, 236–237 (= TANNER, *Decrees of the Ecumenical Councils*).

> metropolitans or bishops or others mentioned above are negligent in these matters, they will incur the penalties laid down in the sacred canons.[364]

There seems to have been consensus at the Council that, in order to effect the reforms that the Council had articulated, one means was the celebration of the diocesan synod.[365] Unfortunately, even though many synods were held after the Council with good effects,[366] with time the enthusiasm for holding the synods waned and holding the synods became infrequent.[367] James Coriden says that the reasons for the decline were the assertions of presbyteral rights which led to conflicts with the bishops, ineffectiveness of the synodal process, the laxity or aloofness of the bishops, and the interference of secular powers.[368]

From the Council of Trent to the promulgation of the 1917 Code of Canon Law, there was no significant change in the legislation on the diocesan synod. At the First Vatican Council, the diocesan synod had been in the schemata and the Fathers discussed and proposed some changes. With the hurried conclusion of Vatican I, however, any

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[364] *Council of Trent*, session 24, canon 2. "Synodi quoque dioecesanae quotannis celebrentur, ad quas exempti etiam omnes, qui alias, cessante exempti, interesse deberent nec capitulis generalibus subduntur, accedere teneantur; ratione tamen parochialium aut aliarum saecularium ecclesiarum, etiam annexarum, debeant ii, qui illarum metropolitani quam episcopi et alii suprascripti negligentes fuerunt, poenas sacris canonibus sancitas incurrant." In TANNER, *Decrees of the Ecumenical Councils*, vol. 2, 761.

[365] Cf. DONNELLY, The Diocesan Synod, 22.

[366] P.J. PRACTICO, The Purpose and Function of the Diocesan Synod: A Canonical Analysis and Critique of the Second Synod of the Diocese of Scranton, JCD diss., Rome, Pontificia Studiorum Universitas a S. Thoma AQ. in Urbe, 1987, 33 (=PRACTICO, The Purpose and Function of the Diocesan Synod).

[367] CORIDEN, "The Diocesan Synod," 79.

[368] Ibid., 81.

changes to be considered for the disciplines concerning diocesan synods had to await the promulgation of the 1917 Code.[369]

3.1.1.3 The 1917 Code

The 1917 Code of Canon Law treated the diocesan synod in seven canons (356 – 362) in the second book of the Code entitled *De personis*, in the first part *De clericis*, in the section *De clericis in specie*, and under the title *De potestate episcopali deque iis qui de eadem participant*. Thomas Green identifies the following themes as present in these canons: "the notion of the synod, the consultative purpose, and the essential structure of the synod."[370] John Abbo adds that canons 356 – 362 regulated the diocesan synod in its convocation, membership, preparation, and legislation.[371] Here, our format of the themes shall be the following: the nature and purpose of the synod; frequency and place of synod; convocation; membership; preparation and celebration; and dissolution of the synod.

a) **Nature and Purpose**

The nature and purpose of the synod in the 1917 Code are outlined in canons 356, §1 and 362. Canon 356, §1 stated that in each diocese, at least every ten years, there is to be celebrated a diocesan synod, in which only those things are treated that refer to the needs

[369] Cf. PRACTICO, The Purpose and Function of the Diocesan Synod, 40.

[370] GREEN, "Selected Legislative Structures in Service of Ecclesial Reforms," 441.

[371] J.A. ABBO, "The Roman Synod," in *The Jurist*, 21 (1961), 171 (=ABBO, "The Roman Synod").

or utility of the clergy and people of the particular diocese.[372] John Abbo elaborates the scope of the diocesan synod in the following words.

> The matters to be treated in the diocesan synod are exclusively those relating to the particular needs of the clergy or people of the diocese. *Per se*, no synod should concern itself, either in the preliminary discussions or in its legislation, with questions not bearing on their welfare. Moreover, the synod is forbidden to intrude into areas outside the boundaries prescribed by common law, which prohibits the taking of measures against norms already found in the general law of the Church, whether in or outside the Code, or on any other matter expressly removed from the competence of the bishop, or on rights sanctioned by certain privileges and legal customs. The synod may, however, legislate on certain matters not mentioned in current general law of the Church. As to matters mentioned in the Code, it must confine its considerations to questions on the observation or scope of the law where clarification and elaboration are warranted by the limited treatment of the Code.[373]

Canon 362 made it clear that the bishop alone is the legislator in the synod and that the others have only consultative vote. Besides, it is only the bishop who signs the synodal constitutions which begin to oblige immediately if they are promulgated in the synod, unless expressly determined otherwise.[374] Since the bishop has full legislative, executive, and judicial powers in his own diocese, a synod is just one of those means for the bishop to legislate for his diocese. The synod therefore does not take away or limit a bishop's legislative power. He can exercise this legislative power in the synod as well as outside the synod. So, why hold a synod if he can legislate on his own? The advantage of the synodal process for making laws, says Patrick Practico, "was pointed out by Benedict XIV … that

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[372] *CIC/1917*, c. 356, §1. "In singulis dioecesibus celebranda est decimo saltem quoque anno dioecesana Synodus, in qua de iis tantum agendum quae ad particulares cleri populique dioecesis necessitates vel utilitates referuntur."

[373] ABBO, "The Roman Synod," 183.

[374] *CIC/1917*, c. 562. "Unicus est in Synodo legislator Episcopus, ceteris votum tantum consultivum habentibus; unus ipse subscribit synodalibus constitutionibus; quae, si in Synodo promulgentur, eo ipso obligare incipient, nisi aliud expresse caveatur."

the future of the law will be more fruitful if those affected by it, especially the clergy, are part of the decision-making process."[375]

The members of the synod do not have the right to a deliberative vote as the members of the ecumenical, plenary, and provincial councils have. Their voice in the proceedings is only consultative, and thus their advice may or may not be followed by the bishop. Canon 362 therefore renewed the previously accepted principle that the bishop alone is the legislator in the synod. It is he who decides what is to be adopted and how to promulgate it.[376] However, there are three matters in which the whole synodal body had a deliberative vote: (i) in the nomination and election of synodal examiners, (ii) nomination and election of parochial consultors,[377] and (iii) nomination and election of synodal judges.[378] For such situation, the entire synodal body had a deliberative vote in confirmation of the nominees proposed by the bishop to the synod. [379]

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[375] Cf. PRACTICO, The Purpose and Function of the Diocesan Synod, 46.

[376] Cf. DONNELLY, The Diocesan Synod, 111.

[377] There seems to be a contradiction in relation to when the synodal examiners and parochial consultors were instituted. Whereas canon 262 said that the synodal examiners and parochial consultors were to be instituted in the synod, canon 264 implied that they could be instituted in the synod or outside of it. As for the synodal judges, canon 1574 said that synodal judges were constituted in the synod while pro-synodal judges were constituted outside of the synod.

[378] *CIC/1917*, c. 1574, §1. "In qualibet dioecesi presbyteri probatae vitae et in iure canonico periti, etsi extradioecesani, non plures quam duodecim eligantur ut potestate ab Episcopo delegata in litibus iudicandis partem habeant; quibus nomen esto *iudicum synodalium aut pro-synodalium*, si extra Synodum constituuntur."

[379] Cf. *CIC/1917*, c. 385, §1. "In quavis diocese habeantur examinatores synodales et parochi consultores qui omnes in Synodo constituantur, propositi ab Episcopo, a Synodo approbati."

The legislation of a diocesan synod was (as it is now) dependent upon the bishop's authority. John Abbo outlines the following as the functions or aims of synodal legislation.[380]

1) It completes what the common law, in its sobriety, has left, explicitly or implicitly, to the legislative initiative of the subordinate legislation.

2) It applies, more or less rigidly, in more or less detail, the norms of the current common law to the concrete realities of the time and place.

3) It supplies weighty questions and prudent suggestions for submission to the supreme legislator in the Church. From the contact of the clergy of the diocese with the bishop in the synod may come the knowledge or acute awareness of problems and situations that exist but that the synod cannot meet, solve or remedy.

4) It urges the observance of the general law and even of particular laws not duly regarded or obeyed.

5) It formulates statutes not always rigidly juridical but often pastoral in their concern and expressed in a form that is merely exhortatory.

The synodal legislation is therefore statutory even though some laws are merely exhortative. The synodal statutes are *per se* perpetual. They cease to exist only when the prescriptions becomes unjust or impossible to observe, or their purpose is no longer useful or obtainable, or when they have been abrogated or derogated from by the law of a competent legislator or by a contrary legal custom.[381]

b) **Frequency and Place of the Synod**

[380] Cf. ABBO, "The Roman Synod," 184.

[381] Cf. DONNELLY, The Diocesan Synod, 115.

Canon 356, §1 stated that in each diocese, at least every ten years, there is to be celebrated a diocesan synod.[382] The ten-year span requirement for a diocesan synod is a big shift from what we saw earlier at the Council of Trent and in the earlier councils which had required that a diocesan synod be held every year. Patrick Practico argues that the reason for this shift is because, in the period leading to the codification of the law of the Church in 1917, diocesan synods had become more infrequent. The lack of a widespread observance of the minimum interval between the celebration of synods was not viewed as a grave error. The excuses given by bishops often included the following: that bishops have now, in pastoral retreats, ecclesiastical conferences, and other clerical gatherings frequent opportunities to meet their presbyters, give them their instructions, correct possible abuses, and promote study and piety among them such that the synods were less needed than in the past.[383] The bishops' reasoning may have informed the decision made to reduce in the 1917 Code the frequency of diocesan synods at least to once in ten years.

As for the place of the synod, canon 357, §2, stated that the diocesan synod is to be celebrated in the cathedral church, unless reasonable cause persuades otherwise.[384] Benedict XIV[385] had pointed out that the synod, which is a public and solemn act of episcopal jurisdiction, should be celebrated in the cathedral church, "the mother and head

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[382] *CIC/1917*, c. 356, §1. "In singulis dioecesibus celebranda est decimo saltem quoque anno dioecesana Synodus...."

[383] PRACTICO, The Purpose and Function of the Diocesan Synod, 49 –50.

[384] *CIC/1917*, c. 357, §2. "Celebranda est in ecclesia cathedrali, nisi aliud rationabilis causa suadeat."

[385] BENEDICT XIV, *De Synodo Diocesana*, Rome, Ex Typographia Sacrae Congregationis de Propaganda Fide, 1806 (=*De Synodo Diocesana*).

of all the churches in the diocese" and the church to which the bishop is especially bound.[386] If there is a special reason, however, the Code permitted the synod to be celebrated elsewhere (of course, suitable place) in the diocese, for the jurisdiction of the bishop does not depend on the place where the synod is held.

c) **Convocation**

Canon 357, §1 stated that the bishop convokes and presides over the diocesan synod, but not the vicar general or a vicar capitular without special mandate.[387] Normally, it is the bishop who convokes the synod. Canon 356, §2 stated that the bishop of more than one diocese is able to convoke one synod for the dioceses under his jurisdiction.[388] This opened the possibility of either holding one diocesan synod for all the dioceses or a separate synod in each diocese, depending on the determination by the bishop responsible for the more than one diocese.

As regards the vicar general with a mandate, the mandate is only to issue the decree of convocation and/or preside over the diocesan synod. This has the implication that the vicar general with a mandate can not do anything pertaining to the diocesan synod apart from convoking it and/or presiding over it.

d) **Membership**

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[386] Cf. *De Synodo Diocesana*, Bk. 1, chapter. 5, no. 3. See also DONNELLY, The Diocesan Synod, 54.

[387] *CIC/1917*, c. 357, §1. "Synodum dioecesanam convocat eique praeest Episcopus, non autem Vicarius Generalis sine mandato speciali nec Vicarius Capitularis."

[388] *CIC/1917*, c. 356, §2. "Si Episcopus plures dioeceses aeque principaliter unitas regat, aut unam habeat in titulum, alteram aliasve in perpetuam administrationem, potest unam tantum dioecesanam Synodum ex omnibus dioecesibus convocare."

Canons 358 and 359 dealt with the membership of the synod. Canon 358 was most extensive and gives precise instructions regarding those who must[389] attend and those who can be called to attend the synod by the bishop if he judges it opportune.[390] Canon 358, §1 identified those persons who must be invited by the bishop to attend the synod and who are obliged to attend: the vicar general, the canons of the cathedral or the diocesan consultors, the rector of the diocesan seminary (at least of the major seminary), the vicars forane (deans), one deputy from each collegiate church to be chosen by the members of the chapter, the pastors of the city in which the synod is celebrated, at least one pastor from each deanery who is elected by the presbyters of the deanery who have the care of souls (those elected must provide a substitute for the parish during their absence), abbots who rule an abbey in the diocese, and one of the superiors of each religious institute of clerics chosen by the provincial (who may attend if he resides in the diocese instead of a local superior).

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[389] *CIC/1917*, c. 358, §1. "Ad Synodum vocandi sunt ad eamque venire debent: 1.˚ Vicarius Generalis; 2.˚ Canonici ecclesiae cathedralis aut consultorres dioecesani; 3.˚ Rector Seminarii dioecesani saltem maiores; 4.˚ Vicarii foranei; 5.˚ Deputatus uniuscuiuque collegialis ecclesiae a Capitulo eiusdem ecclesiae e gremio eligentur; 6.˚ Parochi civitatis in qua Synodus celebrator; 7.˚ Unus saltem parochus ex unoquoque vicariatu foraneo eligendus ab omnibus qui curam animarum actu inibi habeant; parachus autem electus debet pro tempore absentiae vicarium substitutum sibi sufficere ad normam can. 465, § 4; 8.˚ Abbates de regimine et unus e Superioribus cuiusque religionis clericalis qui in dioecesi commorentur, designatus a Superiore provinciali, nisi domus provincialis sit in dioecesi et Superior provincialis interesse ipse maluerit."

[390] *CIC/1917*, c. 358, §2. "Episcopus, si opportunum iudicaverit, potest ad Synodum vocare alios quoque et etiam omnes canonicos, parochos, Superiores religiosos, imo et singulos suae dioecesis saeculares sacerdotes, ii stamen exceptis qui necessarii sunt ne in paroeciis animarum cura desit; invitati autem ius suffragii in omnibus habent, perinde ac ceteri, nisi Episcopus in invitatione aliud expresse caverit."

The second paragraph of canon 358 identified those who can be invited by the bishop to attend the synod. These had a right to vote just as those who must attend the synod, unless the bishop expressed otherwise in his invitation. The list of those who could be invited include: all the canons, pastors, religious superiors, and any or all of the secular presbyters of the diocese, with the provision that enough presbyters remain in the parishes for the care of souls.

Canon 359, §1 stated that those who must come to the synod, if they are detained by a legitimate impediment, are not permitted to send a procurator who would participate in their name at the synod; but they shall inform the bishop about the impediment.[391] Paragraph two of the same canon allowed the bishop to compel and punish negligent ones with just penalties, unless it concerns exempt religious who are not pastors.[392]

Interestingly, canons 358 and 359 did not mention lay people as being among those to be invited to take part in the synod. Thomas Green says:

> The attendance of lay persons at the synod, while not explicitly forbidden, was not envisioned in the Code, although the canons do allow for laymen to take part in the preparatory commissions. A response of the Congregation of the Council in 1959, which quoted Benedict XIV's *De Synodo Diocesana*, discouraged the attendance of lay people at synods lest they get the idea that they had a right to be there, and it denied them a vote.[393]

[391] *CIC/1917*, c. 359, §1. "Iis qui ad Synodum venire debent, si legitimo impedimento detineantur, non licet mittere procuratorem qui eorum nomine Synodo intersit; sed Episcopum de impedimento certiorem faciant."

[392] *CIC/1917*, c. 359, §2. "Negligentes Episcoupus potest iustis poenis compellere et punier, nisi de religiosis exemptis agatur qui parochi non sunt."

[393] GREEN, "Selected Legislative Structures in Service of Ecclesial Reforms," 83.

The definitive word concerning lay participation at the synod, therefore, appears to have remained that of Benedict XIV.

e) **Preparation and Celebration**

Preparation for a diocesan synod is a new feature introduced in the 1917 Code. Canon 360 stated that the bishop, if it seems expedient to him, at an opportune time before the synod, shall appoint one or several commissions from the clergy of the city and the diocese, that is, a committee of men who will prepare the things to be treated in the synod.[394] Even though the canon leaves it to the bishop's discretion whether or not to establish a preparatory commission, experience showed that preparation for the synod often yielded fruitful discussions at the synod. Francis Donnelly says:

> From the very nature of the synod … it follows that a definite and detailed preparation must be made if it is to be celebrated according to the letter and spirit of Canon Law and the ritual of the Church. It is an event which requires much deliberation on the part of the bishop, as well as diligence, study and patient arrangement of details on the part of those associated with him in this task. As in every work, but especially one of this kind, the greater and more painstaking the preparation the greater will be the success achieved and the more enduring the benefits derived. It is not too much to say that, if the synod is badly prepared, that is, in a careless and superficial manner, it will mean little more to a diocese than to a mere formality complying with the letter or the law but not fulfilling its spirit, and consequently not producing the salutary fruits for the common welfare of both clergy and faithful which should be the result of such an assembly. The minutest details must be thoughtfully foreseen and provided for; the statutes must be carefully drawn up by expert and prudent canonists. Everything should be so arranged that the greatest possible good may accrue to the diocese from the celebration of the synod.[395]

[394] *CIC/1917*, c. 360, §1. "Episcopus, si id expedire videatur, opportune ante Synodum tempore, unam vel plures e clero civitatis et dioecesis *commissiones* nominet, seu coetus virorum qui res in Synod tractandis parent."

[395] DONNELLY, The Diocesan Synod, 77–78.

The number of commissioners was not determined in the law. While canon 360, §1 left the appointment of pre-synodal commissions to the discretion of the bishop, canon 361 obliged the bishop to hold the preparatory sessions and stated that discussions therein must be entirely free.[396] The only requirement for such discussions is that the debate be moderated by the one presiding.[397]

The actual celebration of the synod, usually three days, is the climax of the synod process. If the legislation to be enacted in the solemn session was well prepared for by study, consultation, and discussions in the commission meetings and in preparatory sessions, the synod will be conducted properly and successfully.[398]

The synodal officials do the actual work of conducting the celebration. The canons make no mention of synodal officials but the *Caeremoniale Episcoporum* (L.1, c. 31, no. 18) mentions a promoter of the synod, a secretary, a notary, a master of ceremonies, and a procurator for the clergy. The Code did not contain any of the ceremonial details which are now found in the *Pontifical romanum*[399] and in the *Caeremoniale Episcoporum*.[400]

f) **Dissolution**

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[396] *CIC/1917*, c. 361. "Propositae quaestiones omnes, praesidente vel per se vel per alium Episcopo, liberae adstantium discetationi in sessionibus praeparatoriis subiiciatur."

[397] DONNELLY, The Diocesan Synod, 86.

[398] PRACTICO, The Purpose and Function of the Diocesan Synod, 62.

[399] *Pontificale Romanum, editio typica, 1961-1962*, Rome, Libreria Editrice Vaticana, 2008, nn. 847-883.

[400] CONGREGATION FOR DIVINE WORSHIP, *Caeremoniale Episcoporum*, Rome, Libreria Editrice Vaticana, 1984, nn. 1169-1176 (=*Caeremoniale Episcoporum*).

It is important to underline the fact that, no matter what format a synod uses, the primary purpose of the synod is to consider and adopt laws for the local Church. At the end of the synod, the bishop signs the synodal statutes and can promulgate them in the synod (in this case the statutes start to bind immediately, unless expressed otherwise) or outside the synod and after its completion.[401]

The Code made no mention on the cessation, suspension, or dissolution of a diocesan synod. However, dissolution is implied in canon 362, which explains that, once the bishop has signed the constitutions (and even promulgated them), the very purpose of the synod ceases, so it is dissolved *ipso facto*. Besides, one who has authority to convoke a synod has the authority to suspend or dissolve it any time if he judges it opportune. If the bishop ceased to have jurisdiction while the synod is continuing, it seems that the synod would cease automatically.[402]

3.1.1.4 *Ecclesiae sanctae*

Ecclesiae sanctae III[403] mentions the diocesan synod in the context of pastoral council. Number 20 says: "The pastoral council shall be duly constituted. It shall be its

[401] *CIC/1917*, c. 362. "Unus ipse subscribit synodalibus constitutionibus; quae, si in Synodo promulgentur, eo ipso obligare incipiunt, nisi aliud expresse caveantur."

[402] Cf. PRATICO, The Purpose and Function of the Diocesan Synod, 63.

[403] *Ecclesiae sanctae III* contains norms for implementing the Decree on the Church's missionary Activity *Ad gentes divinitus*. It applies only to mission territories.

duty according to no. 27 of the Decree *Christus Dominus*, 'to investigate, consider, and come to practical conclusions about matters relating to pastoral work' and to assist in preparing for the diocesan synod and carrying out its statutes."[404] Galea-Curmi says that a new element introduced by *Ecclesia sanctae*[405] lies in the fact that the pastoral council, which in a sense is to "represent" the whole people of God, is to be involved in the preparation and implementation of the synod."[406]

3.1.2 Nature and Purpose

The canons on the diocesan synod are contained within Book II of the revised Code. As mentioned earlier, Book II follows the theological basis established in the conciliar and post conciliar documents. Instead of concentrating on isolated individuals as did the comparable book in the previous Code, it emphasizes the sacramentally grounded community of believers. It stresses the common mission of all and reflects the shift towards a more genuinely communitarian ecclesiology that must also be present in each particular Church—in the participative structures and especially in the diocesan synod which is the

[404] *ES III*, no. 20, in *AAS*, 58 (1966), 787. "Consilium Pastorale rite constituatur; cuius est secundum N. 27 Decreti *Christus Dominus:* « ea quae ad pastoralia opera spectant investigare, perpendere atque de eis practicas expromere conclusions »; necnon suam operam praestare in praeparanda Synodo dioecesana et curare exsecutionem Statutorum Synodi (N. 30)." In *FLANNERY1*, 862.

[405] In this case *Ecclesiae sancae III*.

[406] GALEA-CURMI, *The Diocesan Synod as a Pastoral Event*, 46.

highest of all the diocesan structures of participation in the bishop's pastoral governance of a particular Church.[407]

Canon 460 describes the diocesan synod. The initial canon specifies the notion and object of the diocesan synod and contains two major changes which concern synodal participation and the purpose of the diocesan synod.[408] Canon 460 states that a diocesan synod is a group of selected presbyters and other members of the Christian faithful of a particular Church who offer assistance to the diocesan bishop for the good of the whole diocesan community.[409] The diocesan synod is a juridical organ of the diocese[410] in which the bishop, making use of the aid and counsel of the various components of the diocesan community, solemnly exercises the office and ministry of shepherding the flock and adapting the norms of the universal Church to the particular situation of the diocese.[411]

Canon 460 further indicates that the purpose of the diocesan synod is to assist the bishop in the exercise of the office proper to him, namely, that of governing the Christian community. The synod is, therefore, contextually and inseparably an action of the episcopal

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[407] L.J. JENNINGS, "A Renewed Understanding of the Diocesan Synod," in *CLSA Proceedings*, 20 (1986), 338 (=JENNINGS, "A Renewed Understanding of the Diocesan Synod").

[408] Ibid., 341.

[409] *CIC*, c. 460. "Synodus dioecesana est coetus delectorum sacerdotum aliorumque christifidelium Ecclesiae particularis, qui in bonum totius communitatis diocesanae Episcopo dioecesano adiutricem operam praestant…."

[410] ARRIETA, *Governance Structures within the Catholic Church*, 232. Also on this topic, see A. REHRAUER, "Diocesan Synods," in *CLSA Proceedings*, 49 (1987), 1–15; F. DANEELS, "De Dioecesanis corresponsabilitatis organis," in *Periodica*, 42 (1981), 301–324; JENNINGS, "A Renewed Understanding of the Diocesan Synod," 319–354; and J.A. FUENTES, "Il Sinodo diocesano," in *Ius canonicum*, 42 (1981), 543–466.

[411] ARRIETA, *Governance Structures within the Catholic Church*, 232.

governance and an event of communion, thus expressing that nature of hierarchical communion which belongs to the profound nature of the Church.[412]

3.1.2.1 Convocation

Canon 461, §1 states that a diocesan synod is to be celebrated in individual particular Churches when circumstances suggest it in the judgement of the diocesan bishop after he has heard the presbyteral council.[413] This canon contains two new stipulations, that is, the frequency of convoking a synod and the need to consult the presbyteral council. As regards the frequency of the diocesan synod, the revised Code moves away from the mandated ten year interval in the 1917 Code. In the revised Code, there is no suggested or mandated time frame. It is celebrated when the bishop judges that the circumstances warrant it and after he has consulted the presbyteral council.

It is the diocesan bishop who alone convokes a diocesan synod. This is a shift from the 1917 law which allowed a vicar general or a vicar capitular, if given a special mandate,[414] to convoke and preside at a synod. Furthermore, the term *episcopus* used in the 1917 Code encompassed not only the resident bishop but others including coadjutor bishop—meaning that a coadjutor bishop could convoke and preside over a synod.[415]

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[412] CONGREGATION FOR BISHOPS and CONGREGATION FOR THE EVANGELIZATION OF PEOPLES, *Instruction on Diocesan Synods*, cit., I, 1.

[413] *CIC*, c. 461, §1. "Synodus dioecesana in singulis Ecclesiis particularibus celebretur cum, iudicio Episcopi dioecesani et audito consilio presbyterali, adiuncta id suadeant."

[414] Cf. *CIC/1917*, c. 357, §1. "Synodum dioecesanam convocat eique praeest Episcopus, non autem Vicarius Generalis sine mandato speciali nec Vicarius Capitularis."

[415] Cf. DONNELLY, Diocesan Synod, 49.

Even though the diocesan bishop is to convoke the diocesan synod, he must first consult the presbyteral council. At the time of the 1917 Code, there was no presbyteral council. The consultors or the chapter of canons did not fulfill the same kind of role, and there was no suggestion in the 1917 Code that the bishop consult those persons.[416] Why consult the presbyters? The presbyters constitute one priesthood with their bishop, and the presbyteral council assists the bishop in the governance of the diocese; therefore, it is advantageous that the bishop hear them. Of course, as mentioned earlier, the diocesan bishop only needs to hear the council and then he decides whether to follow their advice or not. Ann Rehrauer says that "respecting the wisdom of the presbyterate and its relationship to him, the bishop will probably follow the advice because he needs the cooperation and enthusiasm of the presbyterate to insure an effective celebration."[417]

The second paragraph of canon 461 repeats the law as in the 1917 Code and permits one synod to be held for two or more dioceses committed to the same bishop, even if he indefinitely acts only as a diocesan administrator. While the 1917 Code explicitly mentioned that the synod be held in a cathedral church or some other reasonable place, the new Code does not identify a place for the synod. Nevertheless, the *Caeremoniale episcoporum* presumes that the place of the synod is the cathedral church.[418]

3.1.2.2 Preparation and Celebration

[416] REHRAUER, "Diocesan Synods," 7.

[417] Ibid., 8.

[418] *Caeremoniale episcoporum,* nn. 1169-1176.

While canon 360 of the 1917 Code spoke of preparatory commissions for the diocesan synod, the 1983 Code makes no mention of the period of preparation. The question of preparation for the synod is, however, addressed in the *Directory for Pastoral Ministry of Bishops* as we shall see later.

Canon 465 concerns the actual celebration of the diocesan synod. This canon "leaves the method of celebrating the synod completely in the hands of the diocesan bishop and the synodal members. In so doing, it affirms the rights of the faithful as articulated in the conciliar documents and in the canons already referred to at the beginning of Book II."[419]

The sessions of the synod are to involve free discussion of all the members. The right to free discussion in the sessions of the synod is clarified in the revised Code in the presentation of the obligations and rights of the Christian faithful in Book II—especially their right, and at times their duty, to make known their needs and desires to the pastors of the Church.[420]

3.1.3 Composition

While the 1917 Code limited membership of the synod to clerics only, the 1983 Code expands the membership to include lay people. Some of the clerics in c. 358 of the 1917 Code retained in the 1983 Code, in canon 463, §1 include: the vicar general, the rector of the diocesan major seminary, the vicars forane, and the canons of the cathedral chapter

[419] JENNINGS, "A Renewed Understanding of the Diocesan Synod," 349.

[420] Cf. *CIC*, cc. 212, §§2–3; 218; and 223.

or the diocesan consultors. To this list of clerics retained, the revised Code adds the following: the coadjutor bishop and auxiliary bishops; the episcopal vicars, the judicial vicar, the members of the presbyteral council, and one priest and a potential substitute from each vicariate forane; lay members of the Christian faithful, including members of institutes of consecrated life, chosen by the pastoral council in a manner and number determined by the diocesan bishop, and some superiors of religious institutes and societies of apostolic life which have a house in the diocese.[421]

The diocesan bishop has the obligation to convoke the above-mentioned persons. They, in turn, have an obligation to participate. The convocation should be done formally by decree. A list should be prepared of those who are officially members of the synod with the right of free discussion and vote.[422]

Paragraph two gives freedom to the bishop to enlarge the membership of the synod. Those invited may be clerics, members of institutes of consecrated life, or lay members of the Christian faithful. This given flexibility is an upholding of the principle of subsidiarity and a recognition of the diversity within particular Churches.[423]

The final paragraph of canon 463 states the option of inviting leaders and representatives of other Churches and ecclesial communities to participate in the synod as ecumenical observers. Thomas Green says that the inclusion of leaders from other Churches and ecclesial communities should foster mutual understanding, clarity, and

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[421] *CIC*, c. 463, §1. "Ad Synodum doecesanam vocandi sunt uti synodi sodales eamque participandi obligatione tenetur...."

[422] JENNINGS, "A Renewed Understanding of the Diocesan Synod," 346.

[423] Ibid., 346.

ecumenical collaboration. Such observers should have a voice even if without a vote. Can a bishop invite Muslims and Jewish representatives at the synod as observers? The Code only mentions other Churches and ecclesial communities. However, Thomas Green thinks that Jewish or Muslim representation may be quite desirable in some settings given increasing interreligious concerns.[424]

> Synod membership is not totally within the bishop's discretion despite his great freedom here. The law envisions a tripartite structure: a) *obligatory* members: ex officio members, or those elected by various groups; b) *facultative* members; c) *observers* from another Church or ecclesial community. The bishop may ensure a properly representative synod and tap the diverse gifts of the faithful especially through the facultative members, for whom there is no set number. Furthermore, if there are several *sui iuris* Churches in the territory, they might send observers.[425]

3.1.4 Functions

The Directory for the Pastoral Ministry of Bishops *Apostolorum successores* (22 February 2004) puts in a clear way the functions of the diocesan synod in the 1983 Code. The Directory says that the diocesan synod is an act of governance and an event of *communio*. It helps the diocesan bishop to lead the diocesan community and is an occasion to apply and adapt universal discipline to the needs of the Particular Church.[426]

The diocesan synod is a consultative body or assembly, convoked by the bishop, to which presbyters and other faithful of the particular Church are called, in accordance with canonical norms, so as to help the bishop in his task of leading the diocesan community.

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[424] GREEN, "Selected Legislative Structures in Service of Ecclesial Reform," 444.

[425] Ibid.

[426] *AS*, no. 166, 184; cf. RENKEN, *Particular Churches, 460-572*, 21.

In and through the synod, the bishop solemnly exercises the office and ministry of shepherding his flock.[427]

In its dual dimension as "*an action of episcopal governance and an event of communion*,"[428] "the synod is suitable means by which to apply and adapt the laws and norms of the universal Church to the particular situation of the diocese. It indicates the methods to be adopted in diocesan apostolic work, overcomes difficulties arising in the apostolate and the governance of the diocese, inspires activities and initiatives of a general nature, proposes sound doctrine, and corrects any errors of faith or morals that might exist."[429]

Canon 466 states that the only legislator in the diocesan synod is the diocesan bishop; the other members of the synod possess only a consultative vote. Only the diocesan bishop signs the synodal declarations and decrees,[430] which can be published only by his

[427] *AS*, no. 167, 184.

[428] POPE JOHN PAUL II, Homily of 3 October 1992, in *OR-E*, 14 October 1993, 7. See also, RENKEN, *Particular Churches*, 460-572, 23.

[429] *AS*, no. 168, 184–185.

[430] Normally, the decrees (especially singular administrative acts) of a diocesan bishop are acts of executive power and deal with the administration and good order of his diocese (the exception is the decree in canon 29). If they are made during the synod, they are diocesan laws, usually known as "diocesan statutes," of "synodal statutes." The decrees of a synod have, therefore, a legislative force. Synodal declarations are, on the other hand, acts of *munus docendi* and do not have legislative force. Giorgio Corbelline says: "'Declarations' here means those acts that possess a content not directly normative, but rather doctrinal or, in general, guiding; the term 'decrees' means the acts that contain precise decisions of a juridical nature which are required to become a norm of action in that particular Church. The signing by the bishop is the act through which the texts that are developed in the synod, and in some cases, revised afterwards by the bishop, acquire juridical effect or become binding for the particular Church." See CORBELLINI, "The Diocesan Synod," 1074.

authority. Therefore, the results of the sessions must be submitted to the legislator, the diocesan bishop. It belongs to him to sanction and to promulgate, when he deems appropriate, the dispositions and decrees drawn up during the synod. Any promulgation which does not bear the signature of the diocesan bishop is invalid,[431] unless it is explicit that the bishop has orally approved the legislation and delegated another (chancellor, vicar general) to promulgate his legislation.[432]

3.1.5 Cessation

The 1917 Code did not have provision for the cessation of the diocesan synod; therefore, canon 468 of the 1983 Code has no precedent in the 1917 Code. The first paragraph of canon 468, §1 states that the suspension or dissolution of a diocesan synod pertains to the prudent judgement of the diocesan bishop.[433] Either suspension or dissolution of the diocesan synod should be accompanied with the formalities of the law. Thus, the diocesan bishop should issue a decree indicating either its dissolution, or its suspension, whether indefinitely or for a stated period of time.[434] The second way for the diocesan synod to cease is when the see is vacant or impeded; in these cases the diocesan

[431] Cf. ARRIETA, *Governance Structures within the Catholic Church*, 236.

[432] The pope often approves legislation orally but then the Secretary of State or Congregation promulgates it. The bishop could do the same.

[433] *CIC*, c. 468, §1. "Episcopo dioecesano competit pro suo prudenti iudicio synodum dioecesanam suspendere necnon dissolvere."

[434] Cf. CORBELLINI, "The Diocesan Synod," 1080.

synod is interrupted *ipso iure*, until the succeeding diocesan bishop either chooses to continue it or to dissolve it.[435]

Conclusion

The diocesan synod is an old institute in the Church. As the Directory for Pastoral Ministry of Bishops points out, it is the highest of all the diocesan structures of participation in the bishop's pastoral governance. It is both an act of episcopal governance and an event of communion, and thus it expresses the character of the hierarchical communion that belongs to the nature of the Church. However, since the juridical competence of the diocesan synod remains limited to the legislative power of the bishop who is at liberty to invoke it or not, the existence of the diocesan synod as a legislative structure is dependent on the whims of the diocesan bishop.

3.2 The Diocesan Finance Council

Introduction

The Code requires that the diocesan bishop establish a diocesan finance council, and provides specific norms governing its composition (c. 492) and functions (c. 493). The Code also requires that the diocesan bishop appoint a diocesan finance officer (c. 494).[436]

Just as in the 1917 Code, the finance council holds a special place in 1983 Code because of the importance attached to temporal goods in the Church for the mission of the

[435] *CIC*, 468, §2. "Vacante vel impedita sede episcopali, synodus dioecesana ipso iure intermittitur, donec Episcopus dioecesanus, qui succedit, ipsam continuari decreverit aut eandem extinctam declaraverit."

[436] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460–572*, 107.

Church. Thus, the finance council is to be viewed in the larger context of the place of temporal goods as treated in Book V of the 1983 Code.

The 1983 Code reiterates that the diocesan bishop, as chief shepherd of the particular Church, is responsible for the pastoral needs of his flock and the worldly affairs of his diocese.[437] He is the administrator of the temporal goods of the local Church[438] and the supervisor of all Church property belonging to the public juridic persons subject to him.[439] To assist him in these tasks, Church law provides two participative bodies: the diocesan finance council[440] and the college of consultors.[441]

The diocesan finance council exists solely to help the diocesan bishop in finance matters. It is the only participative body directly identified in the 1983 Code as an obligatory part of the diocesan curia.[442] The prominence given to this consultative and consent giving body by the Code underscores its important role in assisting the diocesan bishop in the governance of the diocese.[443]

3.2.1 Antecedents to the Diocesan Finance Council in the 1983 Code

[437] *CIC*, c. 369.

[438] *CIC*, c. 1279.

[439] *CIC*, c. 1276.

[440] *CIC*, c. 492.

[441] *CIC*, c. 502.

[442] FARRELLY, The Diocesan Finance Council, 148.

[443] Ibid.

The Church has always taken seriously the care for finances and temporal goods throughout the centuries, since the New Testament times.[444]

3.2.1.1 The Early Church

In the story of the anointing of Jesus at Bethany by a woman with expensive ointment in Matthew, Mark, and John, there is a vivid discussion about the use of the finances (Mt 26: 6–13; Mk 14: 3–9; Jn 12: 1–8). John goes further to point out that Judas Iscariot was in charge of the treasury and the distribution of the proceeds from the treasury to the poor. That is why Judas was concerned about the waste of the expensive ointment on Jesus' feet by the woman (Jn 12: 3-8; 13: 28-29).

In Acts 6:4 we read that seven deacons were chosen to assist the apostles in the work of caring for their people which implied provision of material goods to them. The bishops of the early Church continued this example of the apostles, so that they would be free to provide for the spiritual needs of the people. The prelates of the first three centuries delegated temporal administration to archpresbyters and to an even greater degree to archdeacons.[445] By the time of St. Cyprian, all control of ecclesiastical goods rested in the

[444] COUNCIL OF TRENT, session 7, *De reformatio*, canon 8. "Locorum ordinarii ecclesias quascumque quomodolibet exemptas autoritate apostolica singulis annis visitare teneantur…." In N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 2, 688.

[445] J.J. COMYNS, *Papal and Episcopal Administration of Church Property*, Washington, DC, The Catholic University Press, 1942, 22 (=COMYNS, *Papal and Episcopal Administration of Church Property*).

hands of the bishop or his appointees, usually presbyters or deacons. Still, Cyprian himself recognized a consultative role on the part of the laity.[446]

The legislation of the early Church, especially at the Council of Chalcedon in 451, required that the bishop have a fiscal officer, an *econome*,[447] perhaps to prevent suspicions and to avoid bringing dishonour to the priesthood concerning the management of temporal goods. This legislation was renewed through centuries, especially in Spain and in the empire of Charlemagne, up to the time of the decretals of Gregory IX. The *econome* was appointed primarily to administer the temporal affairs of the diocese on an ordinary basis, but especially during the vacancy of a see.[448]

3.2.1.2 The Middle Ages

In the early middle ages, the advent of ecclesiastical administration by laymen of princely and even of common status became the tenor of ecclesiastical practice in matters of Church property. This led to the fragrant abuses of commendatory abbeys, proprietary churches, feudal tithes and lands, lay investiture, and the lesser corruptions of patronage.[449] Fortunately, by the time of the Council of Trent all serious abuses of lay administration had been brought under control. However, the rise of nationalism, in which states demanded control of Church property and even liquidated ecclesiastical holdings,

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[446] Cf. A.O. SIGUR, "Lay Cooperation in the Administration of Church Property," in *The Jurist*, 31 (1953), 173 (=SIGUR, "Lay Cooperation in the Administration of Church Property").

[447] COUNCIL OF CHALCEDON, canon 26, in J.D. MANSI, *Sacrorum Conciliorum nova et amplissima*, Paris, H. Welter, 1901 – 1927.

[448] COMYNS, *Papal and Episcopal Administration of Church Property*, 110.

[449] Cf. SIGUR, "Lay Cooperation in the Administration of Church Property," 175.

constituted a serious threat to ecclesiastical immunity.[450] In response to the challenges posed to the Church from nationalism, the Council of Trent provided legislation concerning:[451]

a) the supervisory authority of the bishop or the local ordinary in regard to all administration in the diocese, with the right to review the accounts presented to him by the administrators, annually;[452]

b) the admissibility of laymen to administrative positions within the diocese, whether as actual administrators or as advisors;[453] and

c) the penalties for any usurpation of Church property. Excommunication, the threatened sanction for violation of canonical immunity in administration, was to be issued rarely and with discretion.[454]

After the Council of Trent, in the period leading to the codification of the 1917 Code, the Sacred Congregation of Rites and the Sacred Congregation of Bishops and

[450] Cf. Ibid., 180.

[451] Cf. Ibid.

[452] Cf. *Council of Trent*, session 22, canon 9. "Administratores tam ecclesiastici quam laici, fabricate cuiuvis ecclesiae, etiam cathedrals, hospitalis, confraternitatis, eleemosynae, montis pietatis et quorumcumque piorum locorum singulis annis teneantur reddere rationem administationis ordinario, consuetudinibus et privilegiis quibuscumque in contrarium sublatis, nisi secus forte in institutione et ordinatione talis ecclesiae seu fabricate expresse cautum esset." In N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 2, 740.

[453] Cf. *Council of Trent*, session 14, canon 13. "Non liceat praeterea patron cuiusvis privilegii praetextu aliquem ad beneficia sui iuris patronatus, nisi episcopo loci ordinario, ad quem provisio seu institutio ipsius beneficii, cessante privilegio, iure pertineret, quoquo modo praesentare; alias praesentatio ac institution forsan sequutae nullae sint et esse intelligantur." Ibid., 718.

[454] Cf. COUNCIL OF TRENT, session 25, *Decretum de reformatione*, chapter 3. "Quapropter excommunicationis illae, quae monitionibus praemissis ad finem revelationis, ut aiunt, aut pro deperditis seu subtractis rebus ferri solent, a nemine prorsus praeterquam ab episcopo decernantur, et tunc non alias, quam ex re non vulgari, causaque diligentur ac magna maturitate per episcopum examinata, quae eius animum moveat; nec ad eas concedendas cuiusvis saecularis, etiam magistractus, auctoritate adducatur, sed totum hoc in eius arbitrio et conscientia sit positum, quando ipse pro re, loco, persona aut tempore eas decernendas esse iudicaverit." In N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 2, 786.

Regulars outlined two important issues in regard to lay administration of church property: the relation between pastors and certain types of lay administrators;[455] and the cumulative rights of lay boards of administration.[456] From these, various regulations for lay administration and varying forms of group administration were established. Sigur says that the Sacred Congregation of Bishops and Regulars

> allowed laymen to serve as administrators of the *Fabricae ecclesiarum*, and likewise of hospitals, colleges, pious institutions, charitable funds, and confraternities. …the Congregation distinguished between various types and degrees of administration, allowing to laymen only provisional temporal administration. Notably, the Congregation was responsible for specifying the nature, functions, and demands of administration.[457]

3.2.1.3 The 1917 Code

Given the importance of ecclesiastical goods in the life of the Church, the 1917 Code identified a number of bodies to participate in the episcopal administration of the diocesan ecclesiastical goods. Before identifying the bodies, the Code made it clear that it is the responsibility of the local ordinary to see to the administration of ecclesiastical

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[455] SACRED CONGREGATION OF RITES, *Urbis et orbis*, 12 January 1704—*Fontes*, n. 5757.

[456] SACRED CONGREGATION OF BISHOPS AND REGULARS, *Collectanea in usum secretariae Sacrae Congregationis Episcoporum et Regularium*, Rome, Ex Typographia Polyglotta, 1885, 528–530.

[457] Cf. SIGUR, "Lay Cooperation in the Administration of Church Property," 182. The original text of the Congregation reads: "administratio est rerum gubernatio: omnia fert quae temporis, rerum, negotiorum necessitate, circumstantiis, opportunitate magis congruere censeat qui gubernat nimirum qui administrat patrimonium suae fidei concreditum; ideoque administrator omnia explore valet, quae concreditae sibi rerum gubernationi magis congruere ac expedire existimet." See SACRED CONGREGATION OF BISHOPS AND REGULARS, *Thesaurus Resolutionum Sacrae Congregationis Concilii*, vol. 13, Rome, Ex Typographia Polyglotta, 1901, 34.

goods.[458] The bodies included the cathedral chapter, consultors, the council of administration, and the missionary council. Of these bodies, the council of administration was the only one whose sole reason for existence was to provide assistance to the ordinary in the administration of temporal goods.[459] Our focus is, therefore, on the council of administration. We will treat it under the following themes: the nature and purpose of the council, its composition, and its functions.

a) Nature and Purpose

For the first time in the history of the Church, in the universal law, a council of administration to assist the bishop to administer the temporal goods of the diocese was made mandatory. This body was to be a permanent part of the diocesan structure to be recognized as such by all.[460] To this effect, canon 1519, §1 stated:

> In order that the responsibility of the local ordinary to administer temporal goods of the diocese be rightly undertaken, every ordinary in his episcopal city shall institute a council over which he who is himself the ordinary presides and [being associated with] two or more suitable men, expert insofar as possible in civil law and selected by the ordinary himself, having heard the chapter, unless by law or particular custom or other equivalent legitimate manner, he has already made provision.[461]

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[458] *CIC/1917*, canon 1519, § 1. "Loci Ordinarii est sedulo advigilare administrationi omnium honorum ecclesiasticorum quae in suo territorio sint nec ex eius iurisdictione fuerint subducta, salvis legitimis praescriptionibus, quae eldem potiora iura tribuant."

§ 2. "Habita ratione iurim, legitimarum consuetudinum et circumstantiarum, Ordinarii, opportune editis peculiaribus instructionibus intra fines iuris communis, universum administrationis bonorum ecclesiasticorum negotium Ordinandum current."

[459] A.G. FARRELLY, The Diocesan Finance Council: A Historical and Canonical Study, JCD diss., Ottawa, Faculty of Canon Law, Saint Paul University, 1987, 63–64 (=FARRELLY, The Diocesan Finance Council).

[460] FARRELLY, The Diocesan Finance Council, 68.

[461] *CIC/1917*, canon 1520, § 1. "Ad hoc munus rite obeundum quilibet Ordinarius in sua civitate episcopali Consilium instituat, quod constet praeside, qui est ipsemet Ordinarius, et duobus vel pluribus viris idoneis, iuris etiam civilis, quantum fieri potest peritis, ab ipso Ordinario, audito

b) **Composition**

The council of administration was to be composed of at least three persons, that is, the ordinary, who was the *ex officio* president, and two others whom he chose after consulting the cathedral chapter or the consultors. He was not bound to follow the advice given to him by the chapter or consultors, but he was obliged to consult them. Those chosen to be episcopal advisors on this council of administration needed to be of the highest calibre possible—hence, the need for the ordinary (before appointing them) to seek the advice of those who, by law, assisted him in the governance of the diocese.

The law required the council to consist of two or more suitable men, expert even in civil law. The law established a minimum number to ensure the bishop was assisted by a council for diversity of opinion and expertise. The members could be clerics or lay men; women were excluded.

Earlier conciliar legislation had limited episcopal consultation, for giving either advice or consent, to the clergy. The inclusion of laymen on the council of administration was therefore a significant development in the Church at the time. Of course, lay men had participated in the administration of ecclesiastical temporal goods prior to this but never in this official advisory capacity at the diocesan level.[462] Adrian Farrelly argues that the "acceptance of lay men into the realm of diocesan administration seems to have been prompted more by pragmatism than by any theological awakening to the baptismal dignity

Capitulo, eligendis nisi iure vel consuetudine peculiari iam alio aequivalenti modo legitime fuerit provisum."

[462] FARRELLY, The Diocesan Finance Council, 70.

of the laity which made them suitable to administer the goods of the Church. This awakening would come with the Second Vatican Council."[463]

Paragraph two of canon 1520 specified that persons related to the bishop by blood or affinity in the first or second degree could not be appointed to this board except by indult of the Holy See.[464] This may have been precautionary, lest the bishop be accused of conflict of interest, favouritism, or nepotism. The vicar general could belong to this body as local ordinary but not as a distinct member. The reasoning for the vicar to belong to the body as an ordinary and not as a member is that the vicar general is the *alter ego* of the bishop. In the absence of the bishop, the bishop would most likely delegate the vicar general to chair the meeting. To preserve the relationship (of representation and support) which must exist between the bishop and the vicar general, the vicar general was therefore not to be a member of the council of administration to advise the bishop.[465]

c) Functions

We saw in canon 1519, §1 that the very reason for the existence of the council of administration in the diocese was to help the ordinary to fulfil his function of vigilant supervision over the administration of all the ecclesiastical goods which had not been withdrawn from his jurisdiction. Though not expressed explicitly, the council was also meant to provide checks and balances to the bishop.

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[463] Ibid., 74.

[464] *CIC/1917*, canon. 1520, §2. "Citra apostolicum indultum, ii a munere administratoris excluduntur, qui cum Ordinario loci primo vel secondo consanguinitatis vel affinitatis gradu coniuncti sint."

[465] Cf. FARRELLY, The Diocesan Finance Council, 75.

Canon 1520, §3 outlined how the council was to help the ordinary fulfill this function 1) by giving advice to the ordinary when he needs it, although the ordinary is free to accept or reject the advice, and 2) by giving consent to the bishop in some cases, such that the bishop would act invalidly if he proceeded without the council's approval.[466]

Canon 1520, §3 also clarified that the local ordinary shall not fail to consult the council of administration in administrative actions of greater importance. This canon made it clear that these members had only a consultative vote unless common law in express special cases or the documents of foundation required consent.[467]

The acts stipulated in the Code requiring the ordinary to consult the council of administration were found in canons 1415, §2; 1520, §3; 1532, §2; 1533; 1538, §1; 1541, §§2 – 3; 1542; 1547; and 1653, §1. The acts in the Code requiring the ordinary to obtain the consent of the council of administration were found in the following canons: 1532, §3; 1539, §2; 1541, §§1 – 2; 1542; 1653; 1533; 1538, §1; 1415, §2; and 1539, §2.

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[466] *CIC/*1917, c. 105. "Cum ius statuit Superiorena ad agendum indigere consensus vel consilio aliquarum personarum: 1.˚ Si consensus exigatur, Superior contra earundem votum invalide agit; si consilim tantum, per verba, ex. gr.: *de consilio consultorum, vel audito Capitulo, parocho,* etc., satis est ad valide agendum ut Superior illas personas audiat; quamvis autem nulla obligatione teneatur ad eorum votum, etsi concors, accedendi, multum tamen, si plures audiendae sint personae, concordibus earundem suffragiis deferat, nec ab eisdem, sine praevalenti ratione, suo iudicio aestimanda, discedat; 2.˚ Si requiratur consensus vel consilium non unius tantum vel alterius personae, sed plurium simul, eae personae legitime convocentur, salvo praescripto cano. 162, § 4, et mentem suam manifestent; Superior autem pro sua prudentia ac negotiorum gravitate potest eas adigere ad iusirandum de secreto servando praestandum; 3.˚ Omnes de consensu vel consilio requisiti debent ea qua par est reverentia, fide ac sinceritate sententiam suam aperire."

[467] *CIC/*1917, c. 1520, §3. "Loci Ordinarius in administrativis actibus maiores momenti Consilium administrationis audire ne praetermittat; huius tamen sodales votum habent tantum consultivum, nisi iure communi in casibus specialiter expressis vel ex tabulis fundamentionis eorum consensus exigatur."

With these canons, the Code was able to outline acts of ordinary administration and acts of extraordinary administration; what needed counsel; and what needed consent. Indeed, since validity of the acts depended on the fulfillment of the required formalities, it was important to know to which acts of administration these formalities applied.[468]

In a nutshell, therefore, the legislation accorded the council of administration a central position in episcopal administration of temporal goods. In the cases determined by law, the bishop was either to seek the advice of the council or to obtain its consent before performing certain acts. Thus, the council could be said to have had limiting power on the actions of the bishop. Indeed, even though the bishop was free to accept or reject the advice of the council, he was not free to proceed without consultation with the council in certain matters. Furthermore, he could not act validly without the consent of the council when the law required it.[469]

Because lay men were eligible for membership in the council (this being the first time in universal Church law that lay men were formally authorized to be appointed as episcopal advisors), the bishop now would seek consent or counsel from the laity. This was a significant movement in shared responsibility among the people of God in a diocese.

3.2.2 Nature and Purpose

As mentioned earlier, the diocesan finance council is the only participative body in the 1983 Code as an obligatory part of the diocesan curia. The diocesan finance council is

[468] FARRELLY, The Diocesan Finance Council, 87.

[469] Cf. *CIC/1917*, c. 105.

to be established by the diocesan bishop, who issues the decree of its establishment and approves its statutes.[470] Since the diocesan bishop is the competent authority to establish the diocesan finance council, those whom the law regards as equivalent to him[471] must also establish this council and have the responsibility of doing so in those communities which have been entrusted to them.[472]

Though the council is established by the bishop, it does not depend on the bishop for its continued existence. When the see falls vacant, the college of consultors and the finance council remain functioning, attending to those tasks which the law stipulates.[473] "Although constituted as a consultative organ,[474] its advice at times can acquire a binding character (cf. c. 1292, §1)."[475] Indeed, the Code does not state anywhere that the diocesan finance council is a consultative body because, in many instances it must give its *consent* before the diocesan bishop is able to act validly. John Renken says that in those instances when the diocesan bishop must receive its counsel or consent, the diocesan finance council

[470] *CIC*, c. 492, §1. "In singulis dioecesibus constituantur consilium a rebus oeconomicis, cui praesidet ipse Episcopus dioecesanus eiusve delegatus…."

[471] They include: the territorial prelature, territorial abbacy, apostolic vicariate, apostolic prefecture, apostolic administration established on a stable basis, military ordinariate, and Anglican ordinariate. For further details, see canons 370-371.

[472] FARRELLY, The Diocesan Finance Council, 166.

[473] *CIC*, c. 421, §1 and c. 423, §2.

[474] Although constituted as a consultative body, the diocesan finance council is more than just a purely consultative body since, in several instances, it gives consent to the diocesan bishop for validity of his actions. We will say more on this below.

[475] ARRIETA, *Governance Structures within the Catholic Church*, 230.

has a legal right; if the bishop fails to obtain its counsel or consent before he acts in these instances, his action is invalid (see c. 127, §1).[476]

The diocesan bishop presides at the meetings of the diocesan finance council, whether personally or through his delegate. "The role of the 'presidency' in these meetings is distinct from the role of 'chairing' them. Nothing prevents another person from 'chairing' the meetings of the diocesan finance council, under the presidency of the diocesan bishop, personally or through his delegate."[477]

3.2.3 Composition

Canon 492 states that the finance council is to be composed of at least three persons appointed directly by the bishop. There is no maximum number mentioned. This gives the bishop freedom to decide what would be the best number for his diocese so long as it does not go below three. Three, being an odd number, allows for an absolute majority in a vote when the members are present.[478]

The bishop is free to appoint to the finance council any member of the Christian faithful he chooses, whether lay, religious or clergy, without any age requirement. However, the following qualities for membership to the council are required: the members must be skilled in civil law and financial affairs and have outstanding integrity. Since it is the "diocesan bishop who bestows all offices in the diocesan curia (see c. 470), the diocesan

[476] RENKEN, *Particular Churches: Their Internal Ordering, 460 – 572*, 107.

[477] Ibid., 108.

[478] B. DAVID, "Le conseil diocésain pour les affaires économiques," in *Les cahiers du droit ecclésial*," 2 (1985), 11.

bishop must determine the presence of these qualities. The nature of their service to the Church necessarily also requires that the members of the diocesan finance council have appropriate knowledge of canon law."[479]

The Code excludes from the membership those related to the diocesan bishop up to the fourth degree of consanguinity or affinity,[480] that is, "the diocesan bishop's siblings, aunts/uncles, nieces/nephews, and any of their spouses…. The obvious reason for this exclusion is to avoid the appearance of, and accusations of, financial impropriety."[481]

The appointment is for a term of five years, renewable indefinitely.[482] Adrian Farrelly says that reappointment for additional terms enables the members of the council to attain a solid understanding of the administration of the temporal goods of the dioceses and provide the bishop with sound, reliable advice.[483]

There is no mention of the dismissal of members. But since the bishop is the competent authority to appoint the members to the council, he would also have the power to remove them. The reasons for such action would need to be just and spelled out in statutes governing the council.

3.2.4 Functions

[479] RENKEN, *Particular Churches: Their Internal Ordering, 460–572*, 107-108.

[480] *CIC*, c. 492, §3. "A consilio a rebus oeconomicis excluduntur personae quae cum Episcopo usque ad quartum gradum consanguinitatis vel affinitatis coniunctae sunt."

[481] RENKEN, *Particular Churches: Their Internal Ordering, 460–572*, 108.

[482] The 1917 Code determined no time limit for those appointed to the council of administration.

[483] FARRELLY, The Diocesan Finance Council, 169.

As stated earlier, the diocesan finance council assists the diocesan bishop as administrator of the temporal goods of the diocese. The diocesan bishop has three functions in his diocese regarding its temporal goods: he represents the juridic person of the diocese (c. 118) and is therefore responsible for the ecclesiastical goods which belong to it; he is responsible for supervising the ecclesiastical goods of the juridical persons which are subject to him (c. 1276, §1); and he administers the goods of a public juridic person which does not have its own administrator (c. 1279, §2). The finance council is to assist the bishop in fulfilling these responsibilities by offering counsel and in some cases consent. Arrieta summarises the functions of the diocesan finance council.

> Besides those cases in which the committee must be consulted by law prior to the fulfillment of certain acts, the principal functions belong to this committee are the following: a) annual preparation of the budget for the coming year, according to the indications of the diocesan bishop (c. 493 *CIC*); b) drawing up the annual financial statements of income and expenditures at the end of the year (c. 493 *CIC*); c) giving consent for the fulfillment, by the bishop, of extraordinary administrative acts (c. 1277 *CIC*); d) examination of the annual accounts presented to the bishop by all the administrators of ecclesiastical goods under his power of governance (c. 1287, §1 *CIC*); e) definition of the general lines of activity of the administration of the diocesan financial administrator.[484]

Canon 493 identifies two functions of the diocesan finance council: (1) to prepare an annual diocesan budget and (2) to examine the annual diocesan financial report.[485] "In practice, the earlier stages of the development of both the budget and the financial report

[484] ARRIETA, *Governance Structures within the Catholic Church*, 231.

[485] *CIC*, c. 493. "Praeter munera ipsi commissa in Libro V De bonis Ecclesiae temporalibus, consilii a rebus oeconomicis est quotannis, iuxta Episcopi dioecesani indicationes, rationem apparare quaestuum et erogationum quae pro unverso dioecesis regimine anno venture praevidentur, necnon, anno exeunte, rationem accepti expensi probare."

involve many persons. The discipline of canon 493, however, indicates that the diocesan finance council must develop the final versions of each."[486]

Canon 493 adds that other functions of the diocesan finance council are found in Book V, "The Temporal Goods of the Church." These functions include:[487]

1. To review the annual financial reports presented by administrators of any ecclesiastical goods whatsoever which have been legitimately exempted from the power of governance of the diocesan bishop, after the administrators have submitted these to the local ordinary (c. 1278, §1);

2. To give *consent* before the diocesan bishop is able to perform the following acts *validly* (see c. 127, §1):
   a) to place acts of extraordinary administration of diocesan goods as defined by the conference of bishops (c. 1277; the college of consultors must give its consent),

   b) to give permission to alienate goods of public juridic persons subject to his authority, and to alienate diocesan goods, which belong to stable patrimony and whose value is beyond the minimum amount established by the conference of bishops (c. 1292, §2; the college of consultors and "those concerned" must also give their consent),

   c) to give permission to administrators to perform any contractual transaction which can worsen the patrimonial condition of a public juridic person subject to his authority, or to perform the transaction himself if it involves diocesan goods (c. 1295; the college of consultors and "those concerned" must also give their consent: see c. 1292, §2);

3. To give *counsel* before the diocesan bishop is able to perform the following acts *validly* (see c. 127, §1):
   a) to appoint and to remove the diocesan finance officer (c. 494, §§2-3; the college of consultors must give its counsel),
   b) to impose a moderate tax upon public juridic persons subject to his authority (c. 1263; the presbyteral council must also give counsel),
   c) to impose an extraordinary tax upon other juridic persons and upon physical persons subject to this authority (c. 1263; the presbyteral council must give also its counsel),
   d) to place "non-routine" acts of ordinary administration of diocesan goods which are more important in light of the economic condition of the diocese (c. 1277; the college of consultors must give its consent),
   e) to determine acts of extraordinary administration placed by public juridic persons subject to him (c. 1281, §1),
   f) to make a prudent judgement on the investment of money and movable goods assigned to an endowment for the benefit of a foundation (c. 1305),

[486] RENKEN, *Particular Churches: Their Internal Ordering, 460–572*, 110.

[487] Cf. ibid., 111-112.

g) to lessen equitably the obligations attached to a foundation (but not foundation Masses) if, through no fault of the administrators, the fulfillment of these obligations becomes impossible because of diminished revenue or some other cause (. 1310, §2; "those concerned" must also give their consent).

Another function of the diocesan finance council, found outside of Book V, is to choose a temporary diocesan finance officer if the diocesan finance officer is chosen the diocesan administrator *sede vacante* (c. 423, §2). "This provision demonstrates that the diocesan finance council continues to exist during the vacancy of the particular Church; moreover, it is the only instance in the Code when a group of persons (perhaps entirely lay persons) can bestow an ecclesiastical office, albeit temporarily."[488]

Besides the diocesan finance council, the Code provides for the appointment of a diocesan finance officer by the diocesan bishop. The 1917 Code did not have provisions for a finance officer. The 1983 Code therefore restores the practice of the early Church of the bishops employing the services of *economes* to assist them in the administration of ecclesiastical goods. The finance officer is not included in the Code as a member of the finance council and should not be made one.[489] This is unlike the Eastern Code which provides that the eparchial finance officer is *ipso iure* a member of the finance council.[490] This may be because

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[488] RENKEN, *Particular Churches: Their Internal Ordering, 460–572*, 112.

[489] FARRELLY, The Diocesan Finance Council, 185.

[490] *Codex canonum Ecclesiarum orientalium, autortate Ioannis Pauli PP. II promulgates, fontium annotatione indice analytico-alphabetico auctus,* Libreria editrice Vaticana, 1989, c. 263, §2. "Oeconomus eparchialis ipso iure est membrum consilii a rebus oeconomicis." English translation *Code of Canon Law: Latin-English Edition, New English Translation*, Prepared under the auspices of the Canon Law Society of America, Washington, DC, Canon Law Society of America, 2001. All references to the canons of the 1990 Code will be styled "*CCEO*, c." for canon and "*CCEO*, cc." for canons, followed by the canon number (s)

> the Eastern Code requires that an eparchial finance officer be a member of the Christian faithful (i.e., baptized, but not necessarily a Catholic [see *CCEO*, c. 897]; the requirement is not *per se* made in the Latin Code. If, however, the finance officer were to be appointed as a member of the finance council, he or she would need to be a member of the Christian faithful since the requirement is made of members of that council (*CCEO*, c. 492, §1).[491]

In the 1983 Code, the roles assigned to the officer and the council are distinct and, while they will work closely together, the distinctiveness of the relationship envisaged in the law should be maintained.

Canon 494, §1 states that in every diocese, after having heard the college of consultors and the finance council, the bishop is to appoint a finance officer who is truly expert in the financial affairs and absolutely distinguished in honesty.[492] This person may be lay or cleric, man or woman.

The routine administration of the diocesan ecclesiastical goods falls on the finance officer.[493] The office seeks to achieve unity in direction and governance in financial management of the diocese.[494] The finance officer is responsible for the administration of goods of the diocese under the authority of the bishop especially as regards the preparation of budgets in conjunction with the finance council. From the income of the diocese, the

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[491] J.D. FARIS, "The Codes and Canons of the Eastern Churches and Temporal Goods," in K.E. MCKENNA, L.A. DINARDO, and J.W. POKUSA (eds.), *Church Finance Handbook*, Washington, DC, CLSA, 1999, 37.

[492] *CIC*, c. 494, §1. "In singulis dioecesanibus ab Episcopo, auditis collegio consultorum atque consilio a rebus oeconomicis, nominetur oeconomus, qui sit in re oeconomica vere peritus et probitate prorsus praestans."

[493] *CIC*, c. 494, §3. "Oeconomi est, secundum rationem a consilio a rebus oeconomicis definitam, bona dioecesis sub autoritate Episcopi administrare atque ex quaestu dioecesis constituto expensas facere, quas Episcopus aliive ab ipso deputati legitime ordinaverint."

[494] ARRIETA, *Governance Structures within the Catholic Church*, 231.

finance officer is to meet the expenses which the bishop, or others deputized by him, have legitimately authorized. Annually, he will render an account of all such matters to the diocesan finance council. Furthermore, as provided for by canon 1278, the diocesan bishop can entrust to the diocesan finance officer the administration of ecclesiastical goods of a public juridic person that has no administrator.

The term of office of the finance officer is five years, renewable indefinitely. The removal of the officer during his term requires a grave cause, and the bishop must consult with the college of consultors and the finance council beforehand.[495]

3.2.5 Cessation

Though the council is established by the bishop, it does not depend on the bishop for its continued existence. When the see falls vacant, the college of consultors and the finance council remain functioning, attending to those tasks which the law stipulates.[496]

> … the diocesan finance council does not cease *sede vacante*; presiding at its meetings during the vacancy is the diocesan administrator or his delegate. Indeed, should the diocesan finance officer have been selected the diocesan administrator, the diocesan finance council itself chooses his temporary replacement as diocesan finance officer (see c. 423, §2). In this situation, an ecclesiastical office is conferred, albeit temporarily, by a group whose members may entirely be lay.[497]

[495] *CIC*, c. 494, §2. "Oeconomus nominetur ad quinquennium, sed expleto hoc tempore ad alia quinennia nominari potest; durante munere, ne amoveatur nisi ob gravem causam ab Episcopo aestimandam, auditis collegio consultorum atque consilio a rebus oeconomicis."

[496] See footnote 480.

[497] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460 – 572*, 108-109.

Since the members of the diocesan finance council hold an ecclesiastical office, they can be removed from office according to the discipline of canons 184-196.[498] Besides removal from office, they can also lose office by resignation or privation (cc. 187-189, 196).

Conclusion

A diocesan finance council is required in every diocese by the 1983 Code. The members of the diocesan finance council provide *counsel* and, in certain instances, *consent* to the diocesan bishop about financial matters affecting the diocese. Based on the biblical principle of stewardship, a diocesan finance council exists to assist the diocesan bishop in his responsibilities for the financial health and welfare of the diocese entrusted to his care. A diocesan finance council also serves to strengthen accountability and to ensure that good financial practices are in place and followed. It is for these reasons that the diocesan finance council is an obligatory body in a particular Church.

3.3 The Presbyteral Council

Introduction

The Code mandates the establishment of a presbyteral council in every diocese. Canons 495–501 identify the presbyteral council as the senate of the diocesan bishop, assisting the bishop in the pastoral governance of a diocese. The following themes are

[498] Ibid., 109.

considered in these canons: establishment of the presbyteral council (c. 495); its statutes (c. 496); composition (cc. 497-499); functions (c. 500); and cessation (c. 501). Canon 502 describes the relation between the presbyteral council and the college of consultors.

The presbyteral council was legalized in the 1983 Code to broaden the role of the existing *senatus* of the bishop, the cathedral chapter, or consultors.[499] The intent of the Fathers at the Vatican II Council of creating this institution seemed "to have been to expand both the breath of representation and the seriousness of involvement of the existing body, rather than to create something new or even parallel to the existing *senatus*."[500]

The presbyteral council is the institutional manifestation of the communion between the diocesan bishop and the presbyters who collaborate with him in the pastoral ministry. For this reason, the collaborative function with regard to the bishop, carried out by the cathedral chapter in the 1917 Code, has been assumed in the 1983 Code by the presbyteral council and the college of consultors.[501]

3.3.1 Antecedents to the Presbyteral Council of the 1983 Code

[499] J.H. PROVOST, "Presbyteral Councils and College of Consultors: Current Law and Some Diocesan Statutes," in *CLSA Proceedings*, 49 (1987), 194 (=PROVOST, "Presbyteral Councils and College of Consultors").

[500] PROVOST, "Presbyteral Councils and College of Consultors," 194.

[501] ARRIETA, *Governance Structures within the Catholic Church*, 237.

While the notion of a "council of presbyters" or a "presbyteral council" is a post-Vatican II development, its origins can be traced to the early Church, even to the New Testament.[502]

3.3.1.1 The Early Church

According to Francis Sullivan, "we have good reasons to believe that the presbyteral structure of Christian church leadership was first introduced in the mother church of Jerusalem…. [Since] the churches of Rome and of northern Asia Minor were evangelized by Christians from Jerusalem, it is not surprising that these churches also adopted the presbyteral system."[503]

Luke tells us that, when the Christians in Antioch heard about a looming famine and decided to send relief to the brothers and sisters who lived in Judea, they sent it "to the presbyters" (Acts 11: 30). This text has two implications: 1) the acknowledgement of the presence and importance of the presbyters and, 2) the fact that money was sent to them suggests that they were trustees of the Jerusalem community.[504] But Luke does not explain how the Church of Jerusalem came to have presbyters, which indicates that he presumed

[502] P.S. BRENNAN, "Collaboration, Consultation, and *Communio* between Bishops and Priests: Structures and Issues," in *CLSA Proceedings*, 68 (2006), 88 (=BRENNAN, "Collaboration, Consultation, and *Communio* between Bishops and Priests").

[503] F.A. SULLIVAN, *From Apostles to Bishops: The Development of the Episcopacy in the Early Church*, New York/Mahwah, NJ, The Newman Press, 2001, 69 (=SULLIVAN, *From Apostles to Bishops*).

[504] G. D'ERCOLE, "The Presbyteral Colleges in the Early Church," E.A. Carpenter (trans.), in *Concilium*, 7 (1966), 12 (=D'ERCOLE, "The Presbyteral Colleges in the Early Church").

his readers would take it for granted that such community would have "elders" to take care of its needy members.[505]

The next reference to presbyters in the Church at Jerusalem has them sharing a decision-making role with the apostles.[506] Luke tells us that when dissension arose in Antioch as to whether Gentile converts should accept circumcision, "it was decided that Paul, Barnabas, and some of the elders should go to Jerusalem to the apostles and presbyters about this question" (Acts 15: 2). Luke indicates several times in his account of the "council" in Jerusalem that the presbyters helped arrive at the decision with the apostles (Acts 15: 6, 22, 23). Indeed, it is significant that Luke

> does not present the decision of the council as the work of the apostles alone, but of the apostles and the presbyters. Acts 17: 7 shows that the discussion was a long and involved one. What is particularly important is that the decree which the council decided on is presented as the decision not only of the apostles and the presbyters but of "the whole church.[507]

Even though in Acts 21: 17–18, Luke presents James as the leader of Jerusalem Church and the presbyters as his council, the aspect of collegiality of the presbyterate is paramount to him.

Outside of Jerusalem, first, in the pastoral letters, Paul reveals the composition and the functions of the presbyterate in the communities that he served. For instance, Paul's

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[505] According to John Knox, there already existed in the Jewish community of the Old Testament the institution of the Sanhedrin which was usually referred to as "the Council of elders." For more information, see J. KNOX, "The Ministry in the Primitive Church," in H.R. NIEBUHR and D.D. WILLIAMS (eds.), *The Ministry in Historical Perspective*, New York, Harper & Row Publishers, 1956, 21.

[506] D'ERCOLE, "The Presbyteral Colleges in the Early Church," 60.

[507] M.M. BOURKE, "Collegial Decision-Making in the New Testament," in *The Jurist*, 31 (1971), 12 (=BOURKE, "Collegial Decision-Making in the New Testament").

farewell discourse to the Ephesians reveals that a group of presbyters were responsible for the pastoral care of the Church at Ephesus. Paul's exhortation contains the following description of their role: "keep watch over yourselves and over the whole flock of which the Holy Spirit has appointed you overseers, in which you tend the Church of God that he acquired with his own blood" (Acts 20: 28).

Paul speaks of local leaders as *episkopoi* rather than *presbuteroi* (unlike in Luke's and Peter's accounts). The implication is that there was no distinction between *episkopoi* and *presbuteroi* in the New Testament Church.[508] Indeed, local Church leaders could be called either elders or overseers, without a clear distinction between them.[509]

In the letters of Peter, we find more information on the presbyteral structure in the New Testament. 1 Peter 5: 1–5, indicates that the ministry of presbyter had significantly developed compared to the one in Luke and Paul.

> Now I have something to tell you elders: I am an elder myself, and a witness to the sufferings of Christ, and with you I have a share in the glory that is to be revealed. Be the shepherd of the flock of God that is entrusted to you: watch over it, not simply as a duty but gladly, because God wants it, not for sordid money, but because you are eager to do it.…To the rest of you I say: do what the elders tell you, and all wrap yourselves in humility to be servants of each other, because God refuses the proud and will always favour the humble…. (1 Pt 5: 1–3, 5).

This exhortation to the presbyters, and the author's description of himself as a "fellow presbyter," indicates that at this time, in both the Church of Rome and the Churches of the northern Asia Minor, there existed not only charismatic ministry, but also the more structured ministry of a group of presbyters. Giuseppe D'Ercole says that the presbyters in

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[508] The tradition of refereeing to bishop and presbyter as priest (*sacerdos*) is maintained today.

[509] SULLIVAN, *From Apostles to Bishops*, 65.

the New Testament "appear as a college, especially as pastors and teachers of faith."[510] Robert Eno adds that "the original function of the college of presbyters was the most significant form of shared responsibility."[511]

But as the Church began to grow and expand towards the end of the first century, challenges arose and the immediate concern for the Church became how to centralize leadership for stability. Thus, "the central concern by the end of the first century was having in place a reliable Church leadership to secure the stability and continuity of the Christian community in the society."[512] This would eventually create a growing tension in the Church between maintaining the sense of shared responsibility and the need for the Church to centralize leadership for stability as the Church spread and expanded. The *Didascalia apostolorum* offers us a glimpse of this tension. John Lynch says:

> The *Didascalia apostolorum*, a Church order of northern Syria, in the first half of the third century, offers evidence of a collegiate presbyterate functioning in that area as well. As in Cyprian and Hippolytus the presbyterate acts in an advisory capacity to the bishop. Unlike in the West, however, the presbyterates are selected and appointed by the bishop alone without the formal participation of the community.[513]

In the *Didascalia apostolorum*, the presbyters are reckoned as a "type of apostles and are to be honoured as the apostles, as the counsellors of the bishop and as the crown and council

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[510] D'ERCOLE, "The Presbyteral Colleges in the Early Church," 13.

[511] R.B. ENO, "Shared Responsibility in the Early Church," in *Chicago Studies*, 9 (1970), 134 (=ENO, "Shared Responsibility in the Early Church").

[512] E. DUFFY, "Presbyteral Collegiality: Precedents and Horizons," in *The Jurist*, 69 (2009), 125 (=DUFFY, "Presbyteral Collegiality: Precedents and Horizons").

[513] Ibid., 27.

of the Church."[514] But the same document describes the role of bishop as "high priest, a 'chief,' a 'master,' a 'powerful king,' one to be honoured since he is 'a type of God.'"[515]

According to García Barberena, it was in the time of St. Clement that the figure of bishop became distinct from the presbyters and set above them.[516] In this new arrangement where the bishop is above the presbyters, we look to the letters of Ignatius of Antioch which best describes the nature and functions of the presbyterate under their bishop. John Lynch draws a conclusion from the words of St. Ignatius of Antioch on the presbytery

> The presbyters, true councillors of the bishop, plan and set policy, not merely execute his decisions. Such is the force of the word used to explain the nature of the presbyter, *synedrion* or *senate*. It was the same term used to designate the Sanhedrin of Jerusalem and the Areopagus of Athens. Here is a body constituted and invested with important functions, especially that of deliberation, for the governance of the community.[517]

Thus, while the Church was moving in the direction of a monarchical episcopate, it did not totally remove a collegial dimension from ecclesial governance.[518] Indeed, in the patristic

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[514] *The Didascalia apostolorum*, rendered into English by S. ALISTAIR, Turnhout, Belgium, Brepols Publishers, 2009, 150 (=*The Didascalia apostolorum*).

[515]*The Didascalia apostolorum*, 150–151.

[516] T.G. BARBERENA, "Collegiality at the Diocesan Level: The Western Presbyterate," P. Burns (trans.), in *Concilium*, 1 (1965), 12 (=BARBERENA, "Collegiality at the Diocesan Level").

[517] LYNCH, "Co-responsibility in the First Five Centuries: Presbyteral Colleges and the Election of Bishops," in *The Jurist*, 31 (1971), 20 (=LYNCH, "Co-responsibility in the First Five Centuries"). The original words of St. Ignatius are found in his letter to the Philadelphians. See J.B. LIGHTFOOT and J.R. HARMER (trans.), *The Apostolic Fathers*, 2nd ed., M.W. HOLMES (ed.), Grand Rapids, MI, Baker Book House, 1989, 87, 93, 96, 98, 108, 106 (=LIGHTFOOT and HARMER, *The Apostolic Fathers*). LIGHTFOOT and HARMER, *The Apostolic Fathers*, 106.

[518] LYNCH, "Co-responsibility in the First Five Centuries," 20.

period, several Church fathers, notably Clement of Rome,[519] Ignatius of Antioch,[520] Polycarp of Smyra,[521] and Cyprian,[522] attest to the fact that the guidance of the local community was a shared responsibility.[523]

The actual decline of the presbytery ("council of presbyters") started in the fourth century. The presbytery lived with the bishop, usually at the cathedral. John Lynch says that during the Decian persecution presbyters were permitted to offer the eucharistic sacrifice. "As the Church spread out into the countryside, presbyters were commissioned to minister to the widely scattered people. The presbyter thus became isolated, separated from the presbytery."[524] Indeed, it became increasingly difficult to bring the presbyters together.[525] The net effect was to concentrate administrative and disciplinary affairs in the hands of the bishop.[526] Eventually, the collegial presbyterate declined.

3.3.1.2 The Middle Ages

[519] W.R. HOLMES (trans.), *Apostolic Fathers: Greek Texts and English Translations*, 3rd ed., Grand Rapids, MI, Baker Book House, 1999, 138–165 (=HOLMES, *Apostolic Fathers*).

[520] We read this from his letters to the Ephesians, to the Trallians, to the Philadelphians and to the Smyrnaeans. For more details, see LIGHTFOOT and HARMER, *The Apostolic Fathers*, 112.

[521] Especially Polycarp's letter to the Philippians. See ibid., 123–130.

[522] Especially his letter to Lucius. See G.W. CLARKE (trans.), *The Letters of St. Cyprian of Carthage*, 55-66, vol. 3, New York/Mahwah, NJ, Newman Press, 1986, 271–277.

[523] LYNCH, "Co-responsibility in the First Five Centuries," 17.

[524] Ibid., 28.

[525] BARBERENA, "Collegiality at the Diocesan Level," 13.

[526] LYNCH, "Co-responsibility in the First Five Centuries," 30.

Although presbyteral collegiality experienced a decline, it did not die out completely.[527] García Barberena argues that the presbytery "survived in the group of presbyters who remained in the city with the bishop; after various vicissitudes this group became the origin of the cathedral chapter and of the presbyteral cardinals of Rome."[528] The vacuum left by the breakdown of the presbyterium was thus filled by the cathedral chapter.[529] By the fourth century, rural and cathedral clergy were being distinguished.[530] The cathedral chapter slowly started having a life of its own, gradually acquiring an existence separate from the bishop, with common life disappearing, too.[531] This body, over a period of time, achieved certain legal rights and reached the peak of its power between the eleventh and fourteenth centuries.[532]

Joseph Purcell argues that it was because the Church had been plagued by unhealthy lay influence in the election of bishops that the role of cathedral chapter was strengthened in order to fight this challenge. Indeed, "the popes, in order to dilute such influence, continually urged the cathedral chapter to play a part in such elections."[533]

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[527] D'ERCOLE, "The Presbyteral Colleges in the Early Church," 16.

[528] Cf. BARBERENA, Collegiality at the Diocesan Level," 13.

[529] J.W. PURCELL, "The Institute of the Senate of Priests," in *The Jurist*, 38 (1978), 137 (= PURCELL, "The Institute of the Senate of Priests").

[530] J. GILCHRIST, "Cathedral Chapter," in *New Catholic Encyclopedia*, vol. III, New York, McGraw-Hill Book Company, 1967, 249 (=GILCHRIST, "Cathedral Chapters").

[531] Cf. ibid., 249.

[532] PURCELL, "The Institute of the Senate of Priests," 137.

[533] Cf. GILCHRIST, "Cathedral Chapters," 249.

As a corporate body with rights and status in canon law, the cathedral chapter in the Decretal era possessed the power to elect a bishop, govern a diocese *sede vacante*, impose ecclesiastical sanctions, and play some role in the administration of a diocese as the bishop's senate and council.[534] Joseph Purcell says that perhaps the greatest power the chapter possessed was its influence as the bishop's senate or council. This was the area in which the chapter played a continuous part in the administration of a diocese.[535] Giuseppe D'Ercole says:

> Ordinations of clerics and alienations of property performed without the consent of the chapter were invalid. The Decretals of Gregory IX further amplified the advisory powers of the chapter by providing that: any donations of "*res ecclesiastica*" by the bishop made without the chapter's approval is invalid; any business of the Church (*negotia ecclesia*) undertaken by a prelate without the counsel of the chapter is invalid; the chapter must be consulted before appointment or confirmation of candidates for office; if a collegiate church has the right of presentation, candidates must have the approval of a majority of chapter members, unless custom or privilege allows the prelate to make the presentation; bishops may not confer one church upon another or upon a monastery without the chapter's consent; the cathedral chapters are to be invited to provincial councils. In the thirteenth century a number of chapters were made directly subject to the metropolitan or to the pope, a state of affairs which rendered them almost completely independent of the local bishop.[536]

The immense powers which the cathedral chapter wielded often led to friction between the chapter and the bishop. Indeed, the immense powers, almost outside the control of the bishop, who after all, "often owed his election to the chapter, together with the political influences that were never completely eliminated, rendered the chapter more

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[534] Cf. PURCELL, "The Institute of the Senate of Priests," 137–138. See also GILCHRIST, "Cathedral Chapters," 250.

[535] PURCELL, "The Institute of the Senate of Priests," 18.

[536] D'ERCOLE, "The Presbyteral Colleges in the Early Church," 18–19.

of an opposing force than an asset to the bishop."[537] Joseph Purcell adds that, "by the time the cathedral chapter had reached the pinnacle of its power, it was more of a hindrance than a help in administering the Church."[538]

The period between the end of the fourteenth century and the Council of Trent signaled a decline in the power of the cathedral chapter. The functions of the cathedral chapter were modified by papal decrees. For example, "the prerogative of electing the bishop, while theoretically remaining intact until the 1917 Code, was, in fact, thwarted much earlier. Clement V (1305) reserved to himself appointments to vacant bishoprics in the diocese of Rome, which reservation subsequent popes extended throughout the Church."[539]

The Council of Trent introduced more modifications to the functions of the cathedral chapter. The Council modified the power of the chapter to govern the diocese *sede vacante* by requiring the appointment of a vicar capitular within eight days of the bishop's death.[540] The Council likewise made cathedral chapters subject to episcopal visitation and correction.[541] The Council also limited the chapter's powers in regard to

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[537] PURCELL, "The Institute of the Senate of Priests," 138.

[538] Cf. ibid., 139.

[539] PURCELL, "The Institute of the Senate of Priests," 139.

[540] *Council of Trent*, session 24, *Decretum de reformatione*, canon 16. "Capitulum sede vacante, ubi fructuum percipiendorum ei munus incumbit, eoconomum unum vel plures fideles ac diligentes decernat, qui rerum ecclesiasticarum et proventuum curam gerant, quorum rationem ei, ad quem pertinebit, sint reddituri. Item officialem seu vicarium infra octo dies post mortem episcopi constituere, vel exisistentem confirmare omnino teneatur…." In N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 2, 769.

[541] COUNCIL OF TRENT, session 6, *Decretum de residentia episcoporum et aliorum inferiorum*, chapter 4. "Capitula cathedralium et aliarum maiorum ecclesiarum illorumque personae

appointments, and each chapter was required to acknowledge the bishop as the chief authority in the diocese.[542]

Between the Council of Trent and the 1917 Code of Canon Law, nothing substantial happened to the institution of the cathedral chapter except the few modifications to it by the Holy See. The modifications included: 1) the members of cathedral chapter (as well as collegial chapters) became obligated to the daily recitation of the Divine Office in common; 2) a canon had now a right to the income arising from the temporal goods annexed to the title of a canon; and 3) the daily distribution of some of the fruits of the benefices attached to the chapter were to be given only to those that actually attended the choir service or were considered present by a fiction of the law.[543]

3.3.1.3 The 1917 Code

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nullis exemptionibus, consuetudinibus, sententiis, iuramentis, concordiis (quae tantum suos obligent auctores, non etiam successores) tueri se possint, quominus a suis episcopis et aliis maioribus praelatis per se ipsos solos vel iliis, quibus sibi videbitur, adiunctis, iuxta canonicas sanctiones toties, quoties opus fuerit visitari, corrigi et emendari, etiam auctoritate apostolica, possint et valeat." In N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 2, 683.

[542] Cf. *Council of Trent*, session 25, *Decretum de reformatione generali*, chapter 9. "Reliqui patronatus omnes in beneficiis, tam saecularibus quam regularibus seu parochialibus, vel dignitatibus aut quibuscumque aliis beneficiis, in cathedral vel collegiate ecclesia, seu facultates et privilegia, concessa, tam in vim patronatus quam alio quocumque iure, nomindi, eligendi, praesentandi ad ea, cum vacant (exceptis patronatibus, super cathedralibus ecclesiis competentibus, et exceptis aliis, quae ad imperatorem et reges seu regna possidentes aliosque sublimes ac supremos principes, iura imperii in dominiis suis habentes, pertinent, et quae in favorem studiorum generalium concessa sunt): in totum prorsus abrogate et irrita, cum quasi possession inde secuta, intelligantur; beneficiaque huiusmodi tamquam libera a suis collatoribus conferantur, ac provisionies huiusmodi plenum effectum consequantur. Ad haec liceat episcopo, praesentatos a patronis, si idonei non fuerint, repellere. Quodsi ad inferiores institutio pertineat: ab episcopo tamen, iuxta alias statuta ab hac sancta synodo, examinentur; alioquin institutio ab inferioribus facta irrita sit et inanis." In N.P. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 2, 790.

[543] Cf. KLELOTKA, *College of Consultors*, 12.

The cathedral chapter in the 1917 Code is a weakened institution compared to its powerful counterpart in the Middle Ages. It is a shadow of itself in the medieval time—"a time when the great complex of a cathedral, with its wealth and corporate life, its business and religious interests that could take its members far afield, provided satisfying careers for those who constituted the body of canons."[544] Though it was a weakened institution, it was still the senate of the bishop, a function that would eventually be taken over by the presbyteral council in the 1983 Code of Canon Law.

Since the cathedral chapter is not among our selected participative structures in this study, we will remark only on its essentials. Besides, most of its functions shall be explained in detail under the consultors, which is its alternative. Here, we will outline briefly the following themes: the nature and purpose of the chapter of canons, its establishment, and its functions.

a) **Nature and Purpose**

A chapter was composed of presbyters, usually those assigned to duties in the diocesan cathedral, and gathered on regular basis for scripture readings and other pious practices. A cathedral chapter was to advise the bishop and, in case of vacancy of the episcopal see, was to govern the diocese during the vacancy. Canon 391, §1 stated that "a chapter of canons, whether cathedral or collegial, that is gathered together is a college of clerics so instituted that it does the more solemn acts of God in a church and, if it concerns

[544] GILCHRIST, "Cathedral Chapters," 250.

a cathedral chapter, serves as a senate for the bishop according to the norms of the sacred canons and, the see being vacant, supplies his place in the governance of the diocese."[545]

b) **Establishment**

The establishment, restoration, and suppression of cathedral chapters belonged to the Holy See.[546] It is the same Holy See that controlled the appointment of certain dignitaries, namely, those whose rank once denoted jurisdiction. James Gilchrist summarizes the composition of the cathedral chapter.

> The number of canons varies from place to place depending on the arrangement. Income, mainly in the form of benefices, must be adequate. The first official must be a Doctor of Theology or Canon Law or hold a degree in Sacred Scripture. The provost does the external business and the dean, the internal. The dignitaries summon and preside over the chapter and represent the bishop, if absent, on high feast days, or assist the bishop with advice of the chapter. There may be non-residential canons and honorary canons who have only the insignia of a canon to a choir stall.[547]

c) Functions

The cathedral chapter, despite its loss of power since the Middle Ages, as a collegial body had certain definitive spiritual and temporal rights and duties and was autonomous in its own sphere.[548] The chapter continued to enjoy an immense statutory and patrimonial autonomy, and it discharged important tasks both in diocesan governance and in the

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[545] *CIC/1917*, c. 391, §1. "Capitulam canonicorum sive collegiale seu collegiatum est clericorum collegium ideo institutum ut sollemniorem cultum Deo in ecclesia exhibeat et, si agatur de Capitulo cathedral, ut Episcopum, ad normam sacrorum canonum, tanquam eiusdem senatus et consilium, audivet, ac, sede vacante, eius vices suppleat in dioecesis regimine."

[546] *CIC/1917*, c. 392. "Capitularum tum cathedralium tum collegialim institutio seu erectio, innovation ac suppression Sedi Apostolicae reservetur."

[547] GILCHRIST, "Cathedral Chapters," 250.

[548] Ibid.

direction and pastoral care of the cathedral. Inasmuch as it formed the bishop's senate, the bishop was obliged to seek its counsel or consent for various acts of administration. In a vacant see, the chapter received all the bishop's jurisdiction until it elected, within eight days, a vicar capitular to administer the diocese.[549]

3.3.1.4 *Ecclesiae sanctae*

Whereas conciliar documents laid the theological foundation for a presbyteral council, *Ecclesia sanctae* established it as a canonical institute in a particular Church. The document called for the establishment of a new institution, distinct from the cathedral chapter and the board of diocesan consultors, both of which were to remain in force and maintain their competence. Number 15 of the document reads:

> There shall be in each diocese a council of presbyters, a group or senate of presbyters, representing the presbyterium, which by its advice will give effective assistance to the bishop in ruling the diocese. The manner and forms of its working are to be determined by the bishop. In this council the bishop shall hear the views of his presbyters and discuss with them the pastoral needs and the good of the diocese.[550]

This paragraph mandates the establishment of a presbyteral council in every diocese and examines the characteristics and the purpose of the council. No details are given on the manner of operation of the council—it shall be the responsibility of the bishop to determine those details.

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[549] The details on the specific issues of consultation and consent will be considered with the consultors below.

[550] *ES I*, no. 15, §1, in *AAS*, 58 (1966), 766. "In unaquaque dioecesi, modis ac formis ab Episcopo statuendis, habeatur Consilium Presbyterale, scilicet coetus seu senatus sacerdotum, Presbyterium repraesentantium, qui Episcopum in regimine dioecesis suis consiliis efficaciter adiuvare possit. In hoc Consilio Episcopus sacerdotes suos audiat, consulat et cum eis colloquatur de iis quae ad necessitates operis pastoralis et bonum dioecesis spectant." In *FLANNERY1*, 600.

The document declares that membership of the council shall be only presbyters, most or all of whom shall be diocesan clergy. Since the religious presbyters working in the diocese also share in the same priesthood and mission of Christ, number 15 of the document mentions explicitly the need for their inclusion in the council. “Religious also may be co-opted as members of the council of presbyters insofar as they share in the care of souls and the works of the apostolate.”[551]

The document states that the council of presbyters is merely consultative,[552] but its counsel is to be sought and taken seriously by the bishop. The document also specifies that the council of presbyters ceases to exist when the see falls vacant unless, in special circumstances to be recognized by the Holy See, and the vicar capitular or apostolic administrator confirms it in existence.[553] The new bishop has the obligation of establishing a new presbyteral council after taking canonical possession of the diocese.[554]

3.3.2 Nature and Purpose

Canon 495, §1 states that the presbyteral council is a group of presbyters which, representing the *presbyterium*, is to be like a senate of the bishop and which assists him in

[551] *ES I*, no. 15, §2, in *AAS*, 58 (1966), 766. “Inter membra Consilii Presbyteralis cooptari poterunt etiam Religiosi, quatenus in cura animarum atque apostolatus operibus exercendis partem habeant.” In *FLANNERY1*, 600.

[552] Cf. *ES* I, no. 15, §3, in *AAS*, 58 (1966), 766. “Consilium Presbyterale vocem tantum consultivam habet.” Ibid.

[553] *ES* I, no. 15, §4, 766. “Sede vacante, Consilium Presbyterale cessat, nisi in peculiaribus adiunctis a Sancta Sede recognoscendis Vicarius Capitularis vel Administrator Apostolicus illud confirmet.” Ibid.

[554] Ibid. “Novus autem Episcopus ipse sibi novum Consilium Presbyterale constituet.”

the governance of the diocese[555] according to the norm of law in order to promote, as much as possible, the pastoral good of the portion of the people of God entrusted to the bishop.[556] The presbyteral council represents the presbyterate as a whole and of various functions, positions, and tasks associated with it. The presbyteral council is a collegial institution with an obligatory character and exclusively diocesan scope.[557]

Canon 500, §2 states that the presbyteral council possesses only a consultative vote; the diocesan bishop is to hear it in affairs of greater importance, but he needs its consent only in cases expressly defined by law.[558] This has the implication that, in the strictly juridical sphere, the advice of the presbyteral council is limited to those matters that the bishop submits to its consideration with the exception of a few matters that require consent as identified in the law. As *Presbyteri sacra* had indicated:

> The competence of the presbyteral council is to assist the bishop by its counsel in the government of the diocese. Therefore, questions of major moment, whether they pertain to the sanctification of the faithful or the doctrine to be given to them or to the general administration of the diocese, should be treated by the council, if, that is, the bishop proposes them or, at least, admits them for consideration. In the

[555] *Spirituali miltum curae*, no. VI, §5 provides for the establishment of a presbyteral council in a military ordinariate. Canon 495, §2 states that "in apostolic vicariates and prefectures, the vicar or prefect is to establish a council of at least three missionary presbyters whose opinion, even by letter, he is to hear in more serious matters." *Anglicanorum coetibus*, no. 10, § 1 provides for the establishment of a governing council with its own statutes approved by the ordinary and confirmed by the Holy See. Paragraph two adds that the governing council is to be presided over by the ordinary and its functions are those of the presbyteral council and the college of counsultors as outlined in the 1983 Code of Canon Law.

[556] *CIC*, 495, §1. "In unaquaque dioecesi constitutatur consilium presbyterale, coetus Episcopi, presbyterium repraesentans, cuius est Episcopum in regimine dioecesis ad normam iuris adiuvare, ut bonum pastorale portionis populi Dei ipsi commisae quam maxime provehatur."

[557] ARRIETA, *Governance Structures within the Catholic Church*, 237.

[558] *CIC*, c. 500, §2. "Consilium presbyterate gaudet voto tantum consultivo; Episcopus dioecesanus illud audiat in negotiis maioris momenti, euis autem consensus eget solummodo in casibus iure express definitis."

> proposal or admission of a question the bishop should be solicitous for the observance of the universal laws of the Church.
>
> In as much as the council represents the whole *presbyterium* of the diocese, it was established to promote the good of the said diocese. Consequently, all questions, and not only those which look to the life of presbyters, can rightly be admitted for consideration by the council, and, indeed, as testimonials of the priestly ministry on which they spend themselves to be benefit of the ecclesiastical community.
>
> In general, it belongs to the council to advocate norms that seemingly ought to be set down, to propose questions of principle; but not to treat of those questions which of their nature demand a more discreet manner of procedure, as happens, for example, in conferral of office.[559]

Canon 496 states that the presbyteral council is to have its own statutes approved by the diocesan bishop, attentive to the norms issued by the conference of bishops.[560] Canon 94, §1 defines statutes as ordinances which are established according to the norm of law in aggregates of persons or of things and which define their purpose, constitution,

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[559] *PS*, no. 8, in *AAS*, 62 (1970), 463. "Competentia Consilii Presbyteralis est Episcopo adsistere consiliis in regimine dioecesis. Quare quaestiones maioris momenti, quae sive ad sanctificationem fidelium sive ad doctrinam ipsis tradendam, sive ad moderamen dioecesis in genere spectant, pertractantur a Consilio, si nempe Episcopus eas proponat vel saltem admittat pertractandas. In proponenda aut admittenda quaestione Episcopus sollicitus erit de observandis Ecclesiae legibus unviersalibus.

"Consilium, quatenus totum repraesentat dioecesis Presbyterium, ad bonum eiusdem dioecesis promovendum institutum est; omnes igitur queastiones, et non solum quae ad vitam presbyterorum spectant, rite admissae tractari possunt a Consilio, et quidem uti argumenta ministerii sacerdotalis, quod nempe ipsi in favorem communitatis ecclesiasticae impendunt.

"Consilii est, in genere, normas forte condendas suadere, quaestiones principii proponere; non vero de illis questionibus agere, quae natura sua modum procedendi discretum exigunt, ut accidit e. gr. in officiorum collationibus." English translation in *CLD*, vol. 7, 388.

[560] Cf. *CIC*, c. 496. "Concilium presbyterale habeat propria statura ab Episcopo dioecesano approbata, attentis normis ab Episcoporum conferentia prolatis."

government and method of operation.[561] The statutes receive legal force in virtue of approval of the diocesan bishop who is the legislator in the diocese (c. 94, §3).

The presbyteral council is convoked and presided over by the bishop.[562] The Code does not make provision for how often the bishop should convoke the council; this should be determined in the statutes after taking into consideration the norms of the conference of bishops regarding this matter.[563] It also belongs to the bishop to determine the questions to be treated or, at least, to gather the proposals of the members for discussion always keeping in mind the universal laws of the Church.[564]

3.3.3 Composition

Canons 497 to 499 address various issues relating to the membership of the presbyteral council. The Code is silent in regard to the total number of members on the presbyteral council. It will be the task of the diocesan statutes, following the general criteria emanating from the conference of bishops, to determine this concretely for each diocese.[565]

Canon 497 provides three means of becoming a member of the presbyteral council: 1) the presbyters elect freely from among themselves about half of the council (*dimidia*

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[561] *CIC*, c. 94, §1. "Statuta, sensu proprio, sunt ordinationes quae in unversitatibus sive personarum sive rerum ad norman iuris conduntur, et quibus definiuntur earundem finis, constitution, regimen, atque agenda rationes."

[562] *CIC*, c. 500, §1. "Episcopi dioecesani est consilium presbyterale convocare, eidem praesidere atque quaestiones in eodem tractandas determinare aut a membris propositas recipere."

[563] OKOSUN, The Collaborative Role of the Presbyteral Council, 84.

[564] Cf. *CIC*, c. 500, §1. See also ARRIETA, *Governance Structures within the Catholic Church*, 238.

[565] ARRIETA, *Governance Structures within the Catholic Church*, 239.

circiter pars) in accordance with the discipline of canons 498-499 and the statutes;[566] 2) some presbyters, as they are in the statutes, belong to the presbyteral council *ex officio*—that is, by reason of their offices in the diocese;[567] and 3) the rest of the members are appointed directly by the bishop.[568] In this way, members of the council would consider themselves as representing the whole *presbyterium* of the diocese rather than merely one segment of it. Because the presbyteral council is founded on the common participation of the bishop and his presbyters in the same priesthood and ministry, membership in it is reserved to presbyters only.[569]

Canon 498 identifies those who have *active* right (i.e., the right to elect) and *passive* right (i.e., the right to elect and be elected) in an election to the council. The *active* and *passive* rights are held by (1) all secular presbyters incardinated in the diocese, and (2) secular presbyters not incardinated in the diocese and presbyters belonging to a religious institute or society of apostolic life, who reside in the diocese and exercise some office for the good of the diocese. Furthermore, the statutes can confer the right of active and passive

[566] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 129.

[567] Cf.ibid.

[568] *CIC*, c. 497. "Ad designationem quod attinet sodalium consilii presbyteralis: 1.˚ dimidia circiter pars libere eligatur a sacerdotibus ipsis, ad normam canonum qui sequuntur, necnon statutorum; 2.˚ aliqui sarcedotibus ipsis, ad normam statutorum, esse debent membra nata, qui scilicet ratione officii ipsis demandati ad consilium pertineat; 3.˚ Episcopo dioecesano integrum est aliquos libere nominare."

[569] Cf. *PO*, no. 7, in *AAS*, 58 (1966), 1001–1002, in *FLANNERYI*, 875–877; CONGREGATION FOR CLERGY et al., Instruction *Ecclesia de mysterio* (*EM*), art. 5, §1, in *AAS*, 89 (1997), 867–868, in *Origins*, 27 (1997), 405

rights on other presbyters with a domicile or quasi-domicile in the diocese.[570] "The formulation of this canon makes one think that the determining element for a priest to have active and passive vote in the elections is that he has a specific task for the welfare of the diocese. The other elements, residence, domicile, quasi-domicile, incardination, consecrated life, are complementary, or specifying."[571]

Canon 499 leaves the manner of electing the members to the statutes, emphasizing the fact that the election must be in such a way that the members chosen represent the whole *presbyterium* of the diocese, taking into account the different ministries and various regions of the diocese.[572] Thus, the statutes are to specify the manner of electing members of the presbyteral council so that, insofar as possible, the presbyters of the presbyterate are represented. Attention is to be given to different ministries and different regions of the diocese.[573]

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[570] *CIC*, c. 498, §1. "Ius electionis tum activum tum passivum ad consilium presbyterale constituendum habent: 1.˚ omnes sarcedotes saeculares in dioecesi incardinati; 2.˚ sarcedotes saeculares in dioecesi non incardinati, necnon sacerdotes sodales alicuius instituti religiosi aut societatis vitae apostolicae, qui in dioecesi commorantes, in eiusdem bonum aliquod officium execent." §2. Quatenus statuta id provideant, idem ius electionis conferri potest aliis sacerdotibus, qui domicilium aut quasi-domicilium in dioecesi habent."

[571] M. MARCHESI, "Active and Passive Right of Election," *Exegetical CommII/2*, 1206.

[572] *CIC*, c. 499. "Modus eligendi membra consilii presbyteralis statutis determinandus est, ita quidem ut, quatenus id fieri possit, sacerdotes presbyterii repraesententur, ratione habita maxime diversorum ministeriorum variarumque diocesis regionum."

[573] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 131.

3.3.4 Functions

Canon 500, §2 says that the presbyteral council has a consultative nature. The diocesan bishop is to hear it in affairs of greater importance but needs its consent only in cases expressly defined by law.[574] The diocesan bishop needs the consent[575] of the presbyteral council in one matter: the identification of members of a group of *parochi*[576] whom the diocesan bishop will consult in removing[577] or transferring[578] an unwilling *parochus*. In this situation, the diocesan bishop proposes the names of the *parochi* to be

[574] *CIC,* c. 500, §1. "Episcopi dioecesani est consilium presbyterale convocare, eidem praesidere atque quaestiones in eodem tractandas determinare auta membris propositas recipere.""

[575] This is not the consent of c. 127. It is equivalent to a canonical election. The bishop proposes some names, and from these candidates the council chooses the ones that it wants. The best way of doing this would be by secret ballot.

[576] *CIC*, c. 1742, §2. "De parochis qui sunt sodales instituti religiosi aut societatis vitae apostolicae, servetur praescriptum can. 682, § 2. "

[577] *CIC*, c. 1745, 2˚. "… deinde, completa, si opus sit, instructione, una cum iisdem parochis de quibus in can. 1742, § 1, nisi alii propter illorum impossibilitatem sint designandi, rem perpendat."

[578] *CIC*, c. 1750. "Episcopus, si, non obstantibus allatis rationibus, iudicet a proposito non esse recedendum, cum duobus parochis ad normam can. 1742, § 1 selectis, rationes perpendat quae translationi faveant vel obstent; quod si exinde translationem peragendam censeat, paternas exhortationes parocho iteret. "

chosen by the presbyteral council; the council then chooses some *parochi* from among those proposed. The chosen *parochi* are then established in a stable manner.[579]

The following are the cases in which the counsel of the council is mandatory: 1) to convoke a diocesan synod;[580] 2) to establish, supress, or modify parishes;[581] 3) to decide the destination of the offerings of the faithful and the remuneration of presbyters for carrying out of parochial functions;[582] 4) to create parish councils in the diocese;[583] 5) to

[579] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 134.

[580] *CIC*, c. 461, §1. "Synodus dioecesana in singulis Ecclesiis particularibus celebretur cum, iudicio Episcopi dioecesani et audito consilio presbyterali, adiuncta id suadeant."

[581] *CIC*, c. 515, §2, "Paroecias erigere, supprimere aut eas innovare unius est Episcopi dioecesani, qui paroecias ne erigat aut supprimat, neve eas notabiliter innovet, nisi audito consilio presbyterali."

[582] Cf. *CIC*, c. 531. "Licet paroeciale quoddam munus alius expleverit, oblationes quas hac occasione a christifidelibus recipit ad massam paroecialem deferat, nisi de contraria offerentis voluntate constet quoad oblationes voluntarias; Episcopo dioecesano, audito consilio presbyterali, competit statuere praescripta, quibus destinationi harum oblationum necnon remunerationi clericorum idem munus implentium provideatur."

[583] *CIC*, c. 536, §1. "Si, de iudicio Episcopi dioecesani, audito consilio presbyterali, opportunum sit, in unaquaque paroecia constituatur consilium pastorale, cui parochus praeest et in quo christifideles una cum illis qui curam pastoralem vi officii sui in paroecia participant, ad actionem pastoralem fovendam suum adiutorium praestent."

erect a new church building;[584] 6) to relegate a church to profane but not sordid use;[585] and 7) to impose the ordinary and extraordinary diocesan taxes.[586]

The final section of canon 500 makes it clear that the presbyteral council can never act without the bishop, and it pertains to the bishop alone to determine which matters discussed or decisions reached at in the council are to be made public. One may justifiably think that this canon is somewhat restrictive in the way in which it places the controlling hand firmly with the diocesan bishop.

Besides giving consent and counsel to the diocesan bishop, the presbyteral council is also to choose two of its members to take part in a particular council with a consultative

[584] *CIC*, c. 1215, §2, "Episcopus dioecesanus consensum ne praebeat nisi, audito consilio presbyterali et vicinarum ecclesiarum rectoribus, censeat novam ecclesiam bono animarum inservire posse, et media ad ecclesiae aedificationem et ad cultum divinum necessaria non esse defutura."

[585] *CIC*, c. 1222, §2. "Ubi aliae graves causae suadeant ut aliqua ecclesia ad divinum cultum amplius non adhibeatur, eam Episcopus dioecesanus, audito consilio presbyterali, in usum profanum non sordidum redigere potest, de consensu eorum qui iura in eadem sibi legitime vindicent, et dummodo animarum bonum nullum inde detrimentum capiat."

[586] *CIC*, c. 1263. "Ius est Episcopo dioeces ano, auditis consilio a rebus oeconomicis et consilio presbyterali, pro dioecesis necessitatibus, personis iuridicis publicis suo regimini subiectis moderatum tributum, earum redditibus proportionatum, imponendi; ceteris personis physicis et iuridicis ipsi licet tantum, in casu gravis necessitatis et sub iisdem condicionibus, extraordinariam et moderatam exactionem imponere, salvis legibus et consuetudinibus particularibus quae eidem potiora iura tribuant."

vote, [587] and all its members are to take part in the diocesan synod with the consultative vote.[588]

3.3.5 Cessation

According to canon 495, §1, the presbyteral council is a permanent and obligatory body. Canon 501, §2 states that the presbyteral council is dissolved a *iure* when the see is vacant but adds that the new diocesan bishop must establish it within a year of his having taken canonical possession of the diocese.

Since the members of the presbyteral council have terms of office, they cease to be members of the council in accordance with the law (cc. 184-196) and the statutes. The statutes would provide a way in which not all members finish their terms at the same time so that there is continuity. Thus, every five years, there will be a change in the composition of the council.[589] If a member of the council is also a member of the college of consultors, his membership on the college of consultors does not cease when his membership to the presbyteral council ceases. When the council is first set up, the terms of members should be spread out: some to have two year terms, some three, etc. When members' terms expire, new members with the same length terms succeed the former members, keeping everyone on a different termination schedule.

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[587] *CIC*, c. 443, §5. "Ad concilia provincialia praeterea invitentur capitula cathedralia, itemque consilium presbyterale et consilium pastorale uniuscuiusque Ecclesiae particularis, ita quidem ut eorum singula duos ex suis membris mittant, collegialiter ab iisdem designatos; qui tamen votum habent tantum consultivum."

[588] *CIC*, c. 463, §1, 4˚. "Ad synodum dioecesanam vocandi sunt uti synodi sodales eamque participandi obligatione tenentur: ... 4° membra consilii presbyteralis."

[589] *CIC*, c. 501, §1. "Membra consilii presbyteralis designentur ad tempus, in statutis determinatum, ita tamen ut integrum consilium vel aliqua eius pars intra quinquennium renovetur."

Canon 501[590] addresses the issue of dissolution of the council, which occurs in two ways. 1) When the see is vacant, it is dissolved by virtue of the law; this is based on the fact that this council is not able to act without the bishop. 2) It can be dissolved by the bishop when he deems it opportune; this is based on the fact that this council is established to promote the good, or pastoral welfare, of the diocese.[591]

As mentioned above, due to its connection with the bishop, the presbyteral council loses its function when the diocesan see falls vacant, until the new diocesan bishop constitutes a new council within the year following his taking possession of the diocese. "After he has taken canonical possession, the college of consultors no longer substitutes for the presbyteral council. The college of consultors replaces the presbyteral council only *sede vacante*."[592]

Conclusion

The presbyteral council is a permanent and obligatory body in a diocese. It is established by the diocesan bishop as his *senate,* assisting him in the governance of the diocese according to the norm of law. The council promotes, as much as possible, the pastoral good of the portion of the people of God entrusted to the bishop. Since the

[590] *CIC,* c. 501, §2. "Vacante sede, consilium presbyterale cessat eliusque munera implentur a collegio consultorum; intra annum a capta possession Episcopus debet consilium presbyterale noviter constituere." §3. "Si consilium presbyterale munus sibi in bonum dioecesis commissum non adminpleat aut eodem graviter abutatur, Episcopus dioecesanus, facta consultatione cum Metropolita, aut si de ipsa sede metropolitana agatur cum Episcopo suffraganeo promotine antiquiore, illud dissolvere potest, sed intra annum debet noviter constituere."

[591] Cf. OKOSUN, The Collaborative Role of the Presbyteral Council, 88.

[592] RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 137.

presbyteral council is the institutional manifestation of the communion between the bishop and the presbyters who collaborate with him in the pastoral ministry of the diocese, it is important that the diocesan bishop take the advice of the presbyteral council seriously.

3.4 The College of Consultors

Introduction

Like the presbyteral council, the college of consultors is a mandatory body. The 1983 Code requires every diocese to have an operative college of consultors. "The *collegium* has precise *munera* to perform, both routinely and when the see is impeded or vacant. Sometimes it functions with a consultative nature, but other times it functions in a deliberative way. Its members are elected by the diocesan bishop from among the *sacerdotes* (i.e., bishops and presbyters) serving on the presbyteral council."[593]

The Code draws a close connection between the presbyteral council and the college of consultors since both bodies act as *senatus* to the bishop in the diocese. Thus, the Code attempts to assure coordination and cooperation between the consultors and the presbyteral council by drawing the membership of the college of consultors from among the members of the presbyteral council. This dual membership of the consultors is also intended to assure

[593] J.A. RENKEN, "The College of (Eparchial) Consultors: A Comparison of Latin and Eastern Law," in *Studia canonica,* 44 (2011), 445 (=RENKEN, "The College of (Eparchial) Consultors").

that the consultors will be aware of the issues the presbyteral council deals with and can carry on the functions of the presbyteral council during the vacancy of the See.[594]

The Code presents the nature, purpose, composition and cessation of the college of consultors in canon 502. The functions of the college of consultors are spread out in the Code. In many ways, this canonical institute succeeds the diocesan consultors of the 1917 Code.

3.4.1 Antecedents to the College of Consultors of the 1983 Code

We consider the evolution of the canonical institute of the college of consultors in two senses. First, as a senate of the diocesan bishop in a diocese, it is a new institution created by the Second Vatican Council. Commenting on the newness of this institution, Hector Relon says:

> The exclusion of the cathedral chapter from having any role in the governance of the diocese and the perceived inability of the Presbyteral Council to provide in the situation *sede impedita* and *sede vacante* required the existence of the College of Consultors. It is a new council in as much as it is not intended to be normal senate of the bishop. In this it differs from its predecessor, the Diocesan Consultors of the 1917 Code. This can be seen from the functions originally attributed to it which only concern the governance of an impeded or a vacant diocese. Besides, the role of senate of the bishop now belongs to the Presbyteral Council.[595]

Second, as a canonical institute with functions of governing a diocese *sede vacante* and *sede impedita*, it replaces the diocesan consultors of the 1917 Code. Commenting on the diocesan consultors of the 1917 Code, Peter Klekotka says: “The history of this canonical

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[594] R.E. HEMBERGER, Consultation in the 1983 Code of Canon Law, JCD diss., Washington, DC, The Catholic University of America, 150–151.

[595] H.C. RELON, Legislation on the College of Consultors: Evolution and Commentary on Some Aspects, JCD diss., Rome, Pontificium Athenaeum Sanctae Crucis, 1996, 107 (RELON, Legislation on the College of Consultors).

institution or the rights and duties of these diocesan consultors will not be fully understood without a brief glance at the history of cathedral chapters which this institution replaces in dioceses where for any reason the cathedral chapter does not at present exist."[596] This has the implication that, to understand and appreciate the institution of the college of consultors as we have it in the 1983 Code, we must consider its milestones: the cathedral chapter, the consultors of the councils of Baltimore, and the diocesan consultors of the 1917 Code. Since we have already looked briefly at the cathedral chapter when treating the subject of presbyteral council, we will not repeat it here. Instead, we will start with the plenary councils of Baltimore.

3.4.1.1 The Councils of Baltimore

As we saw earlier, between the Council of Trent and the 1917 Code of Canon Law, nothing substantial happened to the institution of the cathedral chapter except the few modifications to it by the Holy See. In the meantime, there emerged an institution known as diocesan consultors that would later be established as an alternative to the cathedral chapter in the 1917 Code. Peter Klekotka, commenting on the emergence of the board of consultors, says:

> The impossibility of having a cathedral chapter as fully organized as in the older countries of Europe, etc., is readily apparent in a diocese still under missionary conditions. True enough, the Holy See has considerably modified the ancient requirements for such countries as England, Scotland, Holland and even France after the Revolution, but with all this one will readily perceive that in countries where the Church's missionary activity falls on virgin soil, as was the case especially in the continents discovered in modern times, i.e., the two Americas and Australia, the erection of cathedral chapters in any form would require a long

[596] P.J. KLEKOTKA, Diocesan Consultors, Canon Law Studies, no. 8, Washington, DC, The Catholic University of America, 1920, 12 (=KLEKOTKA, College of Consultors).

> process of evolution and growth. To bridge this gap the institution of diocesan consultors was created with every promise of remaining a permanent institution.[597]

It was in the diocesan synod of Mobile, in 1835, for the first time in the history of the Church, that the bishop promulgated a decree establishing a council consisting of two presbyters and the vicar general. The two presbyters were to be freely appointed to the council by the diocesan bishop, and the vicar general was to be a member of the council by virtue of his office. The council would meet once a month for the discussion of diocesan affairs.[598] This would eventually form the basis of the future institution of the diocesan consultors.

The First Plenary Council of Baltimore of 1852 not only adopted this idea of an advisory council but also urged bishops to establish this council of several presbyters as their advisors in administrative matters in their dioceses throughout the USA.[599] The two subsequent provincial Plenary Councils of Baltimore went further and expounded on the nature and functions of the diocesan consultors.[600] Of special mention is the Third Plenary Council of Baltimore whose decrees on the diocesan consultors were so exhaustive and definitive that they became the model for similar legislation in other lands and even formed the ground work of the legislation of the same in the 1917 Code.[601] Below is a brief

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[597] KLEKOTKA, College of Consultors, 12.

[598] Cf. KLEKOTKA, College of Consultors, 17–18.

[599] J. BARRETT, A Comparative Study of the Councils of Baltimore and the Code of Canon Law, Canon Law Studies, no. 83, Washington, DC, The Catholic University of America, 1932, 72–73 (=BARRET, A Comparative Study of Councils of Baltimore)..

[600] The first Plenary Council at Baltimore was held in 1852, the second in 1866 and the third in 1884, respectively.

[601] KLEKOTKA, College of Consultors, 22.

summary of the legislation of the Baltimore Plenary Councils on the diocesan consultors regarding their establishment, membership, functions, and constitution.[602]

Establishment. The Third Plenary Council made obligatory the establishment of the institution of the diocesan consultors across the United States of America.[603] The consultors were to serve as a temporary replacement of the cathedral chapter in helping the bishop govern the diocese.[604]

Membership. To be a diocesan consultor, one had to be a priest. In addition, the priest had to possess outstanding qualities of piety, moral integrity, attention to the salvation of souls, knowledge, wisdom, understanding of the world and people, and respect for the sacred canons and diocesan decrees. The number of consultors was to be six or at least four. In the event that the bishop could not secure this number, two members would suffice.[605] The bishop was invested with the authority to appoint the members to the consultors. He would appoint directly himself half of the total number of consultors, while half he would confirm from the list proposed by the clergy with sacred ministry in the diocese.[606]

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[602] OKOSUN, The Collaborative Role of the Presbyteral Council, 28.

[603] *Acta et Decreta Concilii Plenarii Baltimorensis Tertii*, Baltimore, John Murphy, 1986, nn. 17-22, pages 14–16 (=ADCPBT).

[604]Ibid., no. 18, 14. "Quamdiu, in praesenti rerum statu, capitula cathedralia erigi nequent, instituantur Consultores Dioecesani."

[605] Ibid., no. 18, 14–15, 13. "... sacerdotes pietate morumque integritate, sollicitudine pro animarum salute, doctrina, prudentia, rerum hominumque experientia, necnon sacrorum canonum, et dioecesanorum statutorum observantia insignes. Ejusmodi consultores numero debent esse sex vel saltem quatuor, ubi vero nullo modod tot haberi poterunt, sint saltem duo."

[606] Ibid., no. 19, 15. "Eligendi erunt consultores ab Episcopo, ea tamen ratione, ut dimidiam eorum partem eligat ex sese, alteram vero partem nonnisi post propositionem cleri. Propositio

Functions. Number 20 of the decree listed the following as the functions of the diocesan consultors.

1) The bishop will request the consultors' counsel to convoke and announce the diocesan synod.

2) If it happens that any mission or parish has to be dismembered, the consultors' counsel will be requested and that of the rector of the mission.

3) The consultors' counsel will also be requested when it is a question of entrusting a mission to some religious community; in such a case, the approval of the Holy See will also be necessary.

4) The consultors' counsel will also be requested when it is a matter of instituting deputies for diocesan seminaries.

5) The consultors' counsel will also be necessary for the appointment of a new consultor and examiner acting in a synod.

6) When it is a question of transferring goods and funds of the diocese or of the missions, and the amount involved is above five thousand dollars, the consultors' counsel is needed and, when it is obtained, the approval of the Holy See is also necessary.

7) Also, after the consultors' counsel has been obtained, it will be necessary to refer to the Holy See when it is a question of the bishop imposing a new tax that goes beyond the limits set by canon law.[607]

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autem ex parte cleri fiet hoc modo: singuli sacerdotes qui in dioecesi sacro ministrerio funguntur, Episcopo exhibehunt nomina eorum scripta, quos pro munere consultorum idoneos putaverint, quin taxative aliquos designent. Pro unoquoque selgendo consultore tria nomina proponi debent; ex his vero Episcopus eos eliget, quos ipse in Domino aptiores judicaverit."

[607] ADCPBT, no. 20, 15–16. "Ad Consultorum attributiones quod pertinent, Patres de his convenerunt: (1) Consilium consultorum exquiret Episcopus pro synodo diocesana indicenda et publicanda. (2) Si contingat ut missio sue parochia aliqua sit dismembranda, exquirendum erit consilium consultorum, necnon et rectoris dismembrandae missionis. (3) Consultorum item requiretur consilium, quondo id agetur, ut missio seu parochia tradatur alicui familiae religiosae; quo in casu necessaria erit etiam venia S. Sedis. (4) Consultorum consilium exquiretur in constituendis deputatis pro seminariis dioecesanis. (5) Item consultorum consilium necessarium erit in eligendo novo consultore et in eligendis examinatoribus qui sint loco synodalium. (6) Quando agitur de bonis et fundis dioecesis vel missionum permutandis aliisque agendis, quae speciem alienationis prae se ferunt, ubi summa pecuniae non excedat valerem quinque millium scutatorum, Episcopi liberi erunt; ubi vero negotium eam summam superat, tunc requiritur consilium consultorum, eoque praehabito, necessaria est S. Sedis permissio. (7) Item, praehabito

The bishop was only required to obtain the counsel of the diocesan consultors and no one else, except when the permission of the Holy See was required. As for the diocesan administrator during the vacancy of the see, number 22 of the decree said that the administrator was required to obtain the advice of the diocesan consultors as if he were the bishop of the diocese.[608]

Constitution. The term of office for a consultor was three years. A member could not be dismissed by the bishop against his will except for a legitimate and just reason and only after consulting all the other consultors. The reasons for dismissal included:[609]

1) old age, ill health, or a motive of the same sort by which he becomes incapable of fulfilling the functions of a consultor;

2) committing a serious offense, by which he makes himself unworthy of such an honourable function; and

3) a personal fault which casts a slur on his reputation.

In replacing a consultor, the bishop was required to appoint a substitute with the advice of the other consultors. If the terms of the consultors expired while the see was

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consilio consultorum, necessarius erit recursus ad S. Sedis in singulis casibus, in quibus agatur de imponenda nova taxa pro Episcopo quae excedat limites a canonibus constitutos."

[608] Cf. ADCPBT, no. 22, 16. "Sede episcopali vacante, administrator dioecesis consilium consultorum adhibere tenentur, juxta normam supra statutorum quoad consultorum attributiones." See also H.R. VILLAMIL, Legislation on the College of Consultors: Evolution and Commentary on Some Aspects, JCD diss., Rome, Pontificium Athenaeum Sanctae Crucis, 1996, 11.

[609] ADCPBT, no. 21, 16. "Consultores eligentur ad triennium. Postquam electi fuerint nullus eorum invitus removeri potest nisi ex justa causa, et de consilio ceterorum consultorum. Justa autem aderit causa, si ob senectutem, infirmitatem et similia ad consultores partes obeundas inhabilis effectus fuerit, aut graviter delinquendo munere ejusmodi honorifico indignum sese reddiderit, vel proprio culpa notabile passus sit famae detrimentum." English translation in J. BARRETT, A Comparative Study of the Councils of Baltimore and the Code of Canon Law, 84.

vacant, the members would retain their functions until a new bishop was in place who was required to appoint new consultors within six months following his consecration.[610] The bishop was to convoke the consultors four times a year at fixed dates or, if this was impossible, at least twice a year, and whenever there were affairs to be discussed.[611] The consultors were to act in a collegial manner and were to take a secret vote whenever it seemed prudent.

It is this model of the board of consultors[612] that was adopted in the acts and decrees of the Plenary Council of Sydney, Australia of 1885;[613] in the acts and decrees of the Plenary Council of Latin America of 1899;[614] in the acts and decrees of the First

[610] ADCPBT, no. 21, 16. "In locum consultores recedentis, sive remotiones, sive renuntiationis via, Episcopus alium sufficient de consilio tamen reliquorum consultorum. Casa quo triennium expirare contigerit temporare vacationis sedis episcopalis, consultores in officio manebunt usque ad accessum novi Episcopi, qui intra sex menses a consecratione sua ad novam consultorum electionem instituendam tenetur."

[611] ADCPBT, no. 21, 16. "Consilium consultorum praestabitur collegialiter, et quoties eis ita videbitur, secretis suffragiis, ideoque Episcopus eos quater in anno statutis temporibus convocabit, vel ubi id fieri non potest, saltem bis in anno; alias vero quoties ad pertractanda negotia erit necessarium."

[612] Cf. KLEKOTKA, College of Consultors, 23

[613] *Acta et Decreta Concilii Plenarii Australasiae, habiti apud Sydney, A.D. 1885, a Sancta Sede recognita*, F. Cunningham & Co., 1887, canons 29–34.

[614] *Acta et Decreta Concilii Plenarii Americae Latinae, in Urbe celebrati anno Domini MDCCCXCIX*, Rome, Typis Vaticanis, 1902, canons 242–246.

Plenary Council of Manilla of 1908;[615] and in the acts and decrees of the First Plenary Council of Quebec of 1909.[616]

There were two modifications of some significance to the institution of the consultors before the Code of 1917. The first was the decree of the Sacred Consistorial Congregation, *Maxima cura,* of August, 1910,[617] which raised the status of the consultors in the selection of pro-synodal examinars or parish-priest consultors. To fill their (pro-synodal examinars and parish consultors) vacancies, the *consent* of diocesan consultors was required. The second was the modification which came on 25 July 1916 by the Sacred Consistorial Congregation which revoked the right, which the consultors possessed in common with the irremovable rectors, to name three candidates for appointment to the vacant see.

3.4.1.2 The 1917 Code

The legislation on consultors of the councils of Baltimore, with some modifications, was adopted by Holy See and found its way in the 1917 Code as an alternative to the chapter of canons. Canon 423 stated that, in any diocese where there cannot yet be established or restored a cathedral chapter of canons, the bishop should

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[615] *Acta et Decreta Concilii Provincialis Manilani I, in Urbe Manila celebrati Anno Domini MDCCCVII*, Rome, Typis Polyglottis Vaticanis, 1910, canons 280 – 285.

[616] *Acta et Decreta Concilii Plenarii Quebecensis Primi, Anno Domini MCMIX*, Quebec, Typis L'Action Sociale Limitée, 1912, canons 117–121.

[617] SACRED CONSISTORIAL CONGREGATION, Decree *Maxima cura* 20 August 1910, in *AAS* 2 (1910), 637.

institute consultors, with due regard for the special prescriptions of the Apostolic See.[618] The high virtues to be found in those chosen as consultors were similar to those of Decree 18 of the Third Plenary Council of Baltimore,[619] except for the omission of the phrase "care for the salvation of souls."[620]

a) **Membership**

The bishop's right to select his consultors was reaffirmed in canons 424 and 426, parallel to Baltimore's Decrees 19 and 20, but with some modifications. In the 1917 Code, more control and freedom were given to the bishop, whereby he could appoint all of the consultors, unlike in the Baltimore legislation, which gave presbyters the right to nominate half of the consultors.

The standard minimum number of consultors was six, but the minimum number in small dioceses was four. The consultors were to live in the cathedral city or in a nearby city,[621] suggesting that the consultors were to be readily available for the meetings called

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[618] *CIC/1917*, c. 423. "In quibus dioecesibus nondum constitui potuit restituive cathedrale canonicorum Capitulum, instituantur ab Episcopo, salvis peculiaribus Apostolicae Sedis praescriptis, consultores dioecesani, hoc est sacerdotes pietate, moribus, doctrina ac prudentia commendati."

[619] ADCPBT, no. 18, 14–15. "Quamdiu, in praesenti rerum statu, capitula cathedralia erigi nequeunt, instituantur consultores dioecesani, sacerdotes pietate morumque integritate, sollicitudine pro animarum salute, doctrina, prudentia, rerum hominumque experientia, necnon sacrorum canonum, et dioecesanorum statutorum observantia insigne."

[620] *CIC/1917*, c. 423. "In quibus dioecesibus nondum constitui potuit restituive cathedrale canonicorum Capitulum, instituantur ab Episcopo, salvis peculiaribus Apostolicae Sedis praescriptis, consultores dioecesani, hoc est sacerdotes pietate, moribus, doctrina ac prudentia commendati."

[621] *CIC/1917*, c. 425, §1. "Consultores dioecesani numero sint saltem sex; in dioecesanibus ubi pauci sint sacerdotes, saltem quatuor; iidemque omnes in civitate episcopali vel in locis vicinioribus commorentur."

by the bishop. The canons do not indicate the frequency of the meetings. The Third Council of Baltimore had decreed that at least two, preferably four, meetings between the bishop and consultors be held each year.[622]

The term of office for a consultor was three years with the possibility of confirmation by the bishop for another three years. The Code stated that a consultor may not be removed from office while his term has not ended unless for a just cause and with the bishop consulting the other consultors. This was also in the Baltimore Decree, but Baltimore gave reasons for the removal of a consultor,[623] which the 1917 Code omitted.[624]

It is important to note that, even though the consultors were an alternative to the cathedral chapter, its mode of establishment was different. Whereas the members of the cathedral chapter were appointed by the Holy See, the consultors were chosen directly by the bishop. In this sense, the canons were more autonomous and enjoyed greater stability than the consultors. Without a doubt, the canons enjoyed more powers and privileges than the consultors.

b) **Functions**

Canon 427 stated that the consultors, like a senate of the bishop, take the place of the cathedral chapter. Therefore, all canons on the governance of the diocese, whether the

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[622] ADCPBT, no. 21. See footnote 611.

[623] Cf. no. 21, 16, no. 21, 16. "Consultores eligentur ad triennium. Postquam electi fuerint nullus eorum invitus removeri potest nisi ex justa causa, et de consilio ceterorum consultorum. Justa autemaderit causa, si ob senectutem, infirmitatem et similia ad consultores partes obeundas inhabilis effectus fuerit, aut graviter delinquendo munere ejusmodi honorifico indignum sese reddiderit, vel proprio culpa notabile passus sit famae detrimentum."

[624] *CIC/1917*, c. 428. "Durante munere, consultores ne removeantur, nisi ob iustam causam ac de consilio ceterorum consultorum."

seat is occupied, impeded, or vacant in reference to the cathedral chapter were applied also to the consultors.[625]

The Code of 1917 provided specific issues which required the consent or counsel of the college of consultors. We saw earlier in the Decree of Baltimore the seven areas in which the bishop was to seek counsel of the college.[626] Of the seven issues, four were adopted in the 1917 Code, that is, (1) canons 386, §1, 388 and 426, §3 on replacing of pro-synodal examiners and parish priest consultors outside a diocesan synod and of the diocesan consultors themselves due to resignation or death or removal for a just cause; (2) canons 452, 1423, 1428 and 1442 on entrusting a parish or mission to a religious institute (the bishop was to consult consultors before the Holy See gave approval); (3) canon 1359 on appointing the deputies in charge of the discipline and temporal affairs in the seminary; and (4) canon 1428 on consulting the consultors and irremovable pastors when there was a question of the division of a parish or mission. In addition to the four, the Code stipulated the following issues for consultation with the consultors: (1) canon 1234 on determining funeral offerings—the only financial item requiring consultation with the consultors; (2) canon 1532, §3 on appointing of two or more men to form the council of administration; and (3) canons 1532, §2 and §3 on alienating church property valued beyond certain limits.

[625] *CIC/1917*, c. 427. "Coetus consultorum dioecesanorum vices Capituli cathedralis, qua Episcopi senatus, supplet; quare quae canones ad qubernationem dioecesis, sive sede plena sive ea impedita aut vacante, Capitulo cathedral tribuunt, ea de coetu quoque consultorum dioecesanorum intelligenda sunt."

[626] ADCPBT, no. 20. See footnote 607.

The consultors' consent was required only for a limited number of administrative matters in the 1917 Code.[627] In fact, most of these were during the vacancy of the see, after the administrator had taken possession of the diocese. The only situation outside of the vacancy that required the bishop to obtain consent from the consultors was the alienation of church property, as referred to in canon 1532, §3.

The issues that needed the consent of the consultors during a vacancy were the following: (1) canon 113 on prohibiting the vicar general with a special mandate, or the vicar capitulary to grant anyone excardination or incardination except when the episcopal see has been vacant for one year ; (2) canon 373, §5 on removing or suspending the diocesan chancellor and other notaries; (3) canon 426, §5 on replacing a consultor who had resigned or died when the see was vacant; and (4) canon 958, §1, 3˚ on granting dimissorial letters to a secular priest of the diocese after a year *sede vacante*. Canon 380, §1 stipulated one further role of the consultors when the see fell vacant or impeded: they had custody of the two safes necessary for diocesan archives and the secret documents, particularly those concerned with criminal trials.

Thus, according to the 1917 Code, the most significant authority ascribed to the diocesan consultors was during the vacancy of a see before the appointment of the administrator when, as a body, they exercised the ordinary power of governance.[628] Canon 437 provided that the consultors could not reserve any of the bishop's/administrator's

[627] J.B. HANNON, The College of Consultors and the Exercise of Ecclesial Authority, JCD diss., Faculty of Canon Law, Saint Paul University, Ottawa, 1986, 59 (HANNON, The College of Consultors and the Exercise of Authority).

[628]HANNON, The College of Consultors and the Exercise of Authority, 60.

powers, and explained that their status be reverted to "advisors" as soon as the administrator was elected, accepted the appointment, and made the profession of faith.

c) **Rights of Consultors**

The Code enumerated the following as the rights of the consultors: (1) canon 286, §3 on the right to be informed when the provincial councils were to be held and to meet to select two representatives who were to have a consultative vote at the council; (2) canon 334, §3 on the right to receive the apostolic letters of appointment of the residential bishop, canon 313 for apostolic administrator, and canon 353, §2 for a coadjutor; (3) canon 358, §1, 2˚ on the right to be called to a diocesan synod.

3.4.2 Nature and Purpose

The college of consultors in the 1983 Code is an obligatory collegiate body that belongs to the structure of a diocese. Canon 502, §1 states that from among the members of the presbyteral council and in a number not less than six nor more than twelve, the diocesan bishop freely appoints some presbyters who are to constitute for five years a college of consultors.[629] The canon employs the term "college" to mean that the members of the college of consultors act as a unified body.[630] As a college, it is an aggregate of persons which has a minimum number of six and a maximum of twelve. Due to the reduced

[629] *CIC*, c. 502, §1. "Inter membra consilii presbyteralis ab Episcopo dioecesano libere nominantur aliqui sacerdotes, numero non minore quam sex nec maiore quam duodecim, qui collegium consultorum ad quinquennio constituant, cui competunt munera iure determinata; expleto tamen quinquiennio munera sua propria exercere pergit usquedum novum collegium constituatur."

[630] It has a sense of c. 115, §2.

composition and simplified convocation of the college of consultors, the bishop is provided with the uninterrupted assistance in the more urgent affairs of governance.[631]

The 1983 Code enumerates specific instances wherein the diocesan bishop or the diocesan administrator is required to obtain either the consent or counsel[632] of the college of consultors. In order for the diocesan bishop or the diocesan administrator to obtain either the consent or the counsel of the college of consultors, he must convoke the college of consultors who give consent or counsel as a group.

While convocation of the college in canon law does not necessarily imply the physical presence of members, this is a requirement for elections, so that the election of a diocesan administrator would require that all the members of the college be informed and summoned to attend the meeting.[633] "The college of consultors after being legitimately convoked by its presiding officer is considered duly constituted when it obtains the required constitutional quorum."[634] Once the constitutional quorum of the college of consultors is obtained it can proceed to deal with the matters to be decided—the matters are enumerated by the law itself, as we shall see later.

Paragraph two of canon 502 treats the question of who presides over the college of consultors. The diocesan bishop presides, but when the see is impeded or vacant, the one who temporarily takes the place of the bishop or, if he has not yet been appointed, the priest

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[631] ARRIETA, *Governance Structures within the Catholic Church*, 240.

[632] For more details on the notions of consent and counsel, refer to *CIC*, c. 127.

[633] HANNON, The College of Consultors and the Exercise of Authority, 263.

[634] RELON, Legislation on the College of Consultors, 154.

who is senior in ordination in the college of consultors presides.[635] The diocesan bishop is not a voting member of the presbyteral council. And neither the diocesan bishop nor the diocesan administrator is a voting member of the college of consultors. He is ineligible to vote on the matters on which the body is to give him counsel or consent.

3.4.3 Composition

Canon 502, §1 provides legislation on the college's membership. The college must consist of six to twelve presbyters (*sacerdotes*), inclusive, each of whom is appointed by the diocesan bishop. If the college has fewer than six, or more than twelve, members, it is not validly constituted.[636] This is a shift away from the 1917 Code which allowed a lower limit of four consultors in smaller dioceses.

To be eligible for appointment to the college of consultors, one must be a member of the presbyteral council at the time of appointment. If a member of the college thereafter ceases membership on the presbyteral council, he remains a member of the college of consultors until his term elapses on the college of consultors.[637] The diocesan bishop

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[635] *CIC*, c. 502, §2. "Collegio consultorum praeest Episcopus dioecesanus; sede autem impedita aut vacante, is qui ad interim Episcopi locum tenet aut, si constitutus nondum fuerit, sacerdos ordinatione antiquior in collegio consultorum."

[636] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 139.

[637] Two authentic interpretations, published in 1984 at the order of Pope John Paul II concerning canon 502, clarified this position. These interpretations had been proposed by the Pontifical Commission for the Authentic Interpretation of the Code of Canon Law on 26 June 1984.

> "Q. Whether, according to the norm of canon 502, §1, a member of the college of consultors who ceases to be a member of the presbyteral council remains in his function as a consultor?
>
> R. *Affirmative*.

appoints the members to the college. The manner of appointing the college of consultors, who hold an ecclesiastical office, is governed by the canons that regulate the canonical provision of an ecclesiastical office.[638] The term of office is now five years as opposed to three years in the 1917 Code.

A consultor remains in office as a member of the college for his full five-year term even after he has completed his term in the presbyteral council. Thus, canon 502, §1 provides for continuity, with no break in the existence of the college, so that notice of termination of office after five years must still be given in writing by the diocesan bishop to the individual concerned.[639]

3.4.4 Functions

The college of consultors is a collective group that assists the diocesan bishop in the governance of the diocese. The college of consultors is able to govern the diocese *sede vacante*, and it gives consent and counsel to the bishop in matters prescribed by the law. Thus, "It is the only collective diocesan organ that has the capacity to perform all three

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> Q. Whether during the period of five years, if one ceases to be a consultor, the diocesan bishop must name another in his place?
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> R. *Negative* and *ad mentem*. The mind [of the Legislator], however, is that the obligation to name another consultor exists only if the minimum number required in canon 502, §1 is lacking."

See PONTIFICAL COMMISSION FOR THE AUTHENTIC INTERPRETATION OF THE CODE OF CANON LAW, *Responsa ad proposita dubia*, 11 July 1984, in *AAS*, 76 (1984), 747, English translation in RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 139, footnote 41.

[638] Cf. *CIC*, cc. 145–156.

[639] HANNON, The College of Consultors and the Exercise of Authority, 272.

functions: namely, active, consultative, and control. Within these three functions, the general law determines its specific juridic competencies to distinguish them from the other consultative organs in the diocese."[640]

The significant functions that the Code assigns to the college of consultors involve various aspects of central diocesan administration, particularly *sede vacante* and *sede impedita*. In these exceptional circumstances,[641] the functions of the college of consultors include:

1) To elect a diocesan administrator within eight days when the see becomes vacant (c. 421,§1), and to witness his profession of faith (c. 883, 4˚);

2) To inform the Apostolic See of the death of the diocesan bishop, if there is no auxiliary bishop (c. 422);

3) To assume diocesan governance when the see is vacant before the election of the diocesan administrator, if there is no auxiliary bishop (c. 419);

4) To see the apostolic letter of appointment of the diocesan bishop, in the presence of the chancellor, when he takes canonical possession of the diocese (c. 382, §2);

5) To see the apostolic letter of appointment of both the coadjutor bishop, together with the diocesan bishop, in the presence of the chancellor, when he takes possession of his office (c. 404, §1);

6) To see the apostolic letter of appointment of both the coadjutor bishop and the auxiliary bishop, in the presence of the chancellor, when they take possession of their office, if the diocesan bishop is completely impeded (c. 404, §3);

7) To select a priest to govern an impeded see, if there is no coadjutor bishop (or if he also is impeded) and if the diocesan bishop has not composed a secret document identifying presbyters, listed in order of preference, to govern the impeded see (c. 413, §3); and

8) To fulfill the functions of the presbyteral council when the see is vacant (c. 501, §2).

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[640] RELON, Legislation on the College of Consultors, 158.

[641] The list of the execeptional circumstances is taken from RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 141–142.

The Code identifies three instances wherein the diocesan bishop cannot perform a juridic act validly without obtaining the consent of the college of consultors:

1) To place acts of extraordinary administration of diocesan goods as defined by the conference of bishops (c. 1277; the diocesan finance council must also give its consent);

2) To give permission to alienate goods of public juridic persons subject to his authority, and to alienate diocesan goods, which belong to stable patrimony whose value is beyond the minimum amount established by the conference of bishops (c. 1292, §2; the diocesan finance council and "those concerned" must also give their consent); and

3) To give permission to administrators to perform any contractual transaction which can worsen the patrimonial condition of a public juridic person subject to his authority, or to perform the transaction himself if it involves diocesan goods (c. 1295; the diocesan finance council and "those concerned" must also give their consent; see c. 1292, §2).

The diocesan administrator is also required to obtain consent from the college of consultors in three instances.

1) To grant excardination or incardination of clergy, and permission to move to another particular Church, after the see has been vacant for a year (c. 272);

2) To remove the chancellor and other notaries (c. 485); and

3) To issue dimissorial letters (c. 1018, §).

The Code requires the diocesan bishop to receive counsel of the college of consultors in the following instances:

1) To appoint the diocesan finance officer (c. 494, §1);

2) To remove the diocesan finance officer during or before his or her five year term (c. 494, §2);

3) To place "non-routine" acts of administration of ecclesiastical goods of diocesan goods which are more important in light of the economic condition of the diocese (c. 1277).

In addition to the above functions, canon 413, §2 requires the college of consultors to select a priest to govern the diocese *sede impedita*, if a coadjutor (where there is one) is also

impeded and the list mentioned in canon 413, §1,[642] is not available.[643] Finally, in addition to these functions which belong to the college of consultors as a group, some members of the college as *individuals* are to be heard by the pontifical legate whenever a diocesan bishop or a coadjutor bishop is to be appointed.[644]

3.4.5 Cessation

Once created, the college of consultors remains in existence as a body for a period of five years, and it remains in existence even after that time until notification of its dissolution is given to its members in writing by the diocesan bishop, who would then constitute a new college. During its existence, the diocesan bishop must appoint a new member only if the departure of a member results in less than six members. The new member completes the unexpired term of the member who departed.[645] And, "nothing

[642] *CIC*, c. 413, §1. "Sede impedita, regimen dioecesis, nisi aliter Sancta Sedes pro providerit, competit Episcopo coadiutori, si adsit; eo deficiente aut impedito, alicui Episcopo auxiliari aut Vicario generali vel episcopali aliive sacerdoti, servato personarum ordine statuto in elencho ab Episcopo dioecesano quam primum a capta dioecesis possessione componendo; qui elenchus cum Metropolitana communicandus singulis saltem triennis renoventur atque a cancellario sub secreto servetur."

[643] *CIC*, c. 413, §2. "Si deficiat aut impediatur Episcopus coadiutor atque elenchus, de quo in § 1, non suppetat, collegii consultorum est sacerdote meligere, qui dioecesim regat."

[644] *CIC*, c. 377, §3. "Nisi aliter legitime statutum fuerit, quoties nominandus est Episcopus dioecesanus aut Episcopus coadiutor, ad ternos, qui dicuntur, Apostolicae Sedi proponendos, pontificii Legati est singilatim requirere et cum ipsa Apostolica Sede communicare, una cum suo voto, quid suggerant Metropolita et Suffraganei provinciae, ad quam providenda dioecesis pertinet vel quacum in coetum convenit, necnon conferentiae Episcoporum praeses; pontificius Legatus, insuper, quosdam e collegio consultorum et capitulo cathedrali audiat et, si id expedire iudicaverit, sententiam quoque aliorum ex utroque clero necnon laicorum sapientia praestantium singillatim et secreto exquirat."

[645] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460–572*, 140.

prevents the diocesan bishop from removing an individual member of the college of consultors in accord with the norms for removal from office (cc. 192-195). The law does not, however, permit the diocesan bishop to dissolve the college of consultors, as he can dissolve the presbyteral council (see c. 501, §3)."[646]

Conclusion

The college of consultors is a mandatory body in a diocese. Like the presbyteral council, it is a senate of the bishop. Its functions range from governing the diocese *sede vacante* to giving consent or counsel in certain matters to the diocesan bishop or diocesan administrator. Indeed,

> the college of consultors has very important roles to perform *sede vacante*. It continues to perform its *routine* functions, which consist largely in giving consent or counsel to the diocesan leader. In addition, it performs some *unique* functions *sede vacante*: i.e., to give its consent for the diocesan administrator to grant excardination or incardination of a cleric, or to give a cleric permission to move to another particular Church, after the see has been vacant for one year (c. 277) …. Also importantly, it performs all the functions of the presbyteral council *sede vacante* (c. 501, §2).[647]

Even though the college of consultors has a lifespan of five years, its role in the governance of the diocese suggests that the college of consultors need always be present and active in any given diocese and at any given time. Indeed, the diocesan bishop should be "always making certain that the college of consultors has sufficient members to function should the see become vacant, should one of its members be elected the diocesan

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[646] Ibid.

[647] JOHN RENKEN, "College of Consultors," in *CLSA Advisory Opinions*, 45 (2011), 80 (=RENKEN, "College of Consultors").

administrator, and should a member of the college cease membership for whatever cause *sede vacante*."[648]

3.5 The Diocesan Pastoral Council

Introduction

In the 1983 Code, the diocesan pastoral council is treated in canons 511–514. The Code does not require the diocesan bishop to establish a diocesan pastoral council, but it recommends it to the extent that pastoral circumstances suggest it.[649] The purpose of the diocesan pastoral council is to do pastoral planning, which involves three steps: (1) to investigate those matters which pertain to diocesan pastoral works, (2) to study them, and (3) to propose practical conclusions about them. The difference between the diocesan pastoral council and the presbyteral council is that, whereas the diocesan pastoral council focusses on the "pastoral" works, the focus of the presbyteral council is upon diocesan

[648] RENKEN, "College of Consultors," 80–81.

[649] While the pastoral council is not obligatory for dioceses according to canon 511, it is required for personal ordinariates for former Anglicans. In *Anglicanorum coetibus*, Pope Benedict XVI stated: "Article X. §4. In order to provide for the consultation of the faithful, a pastoral council is to be constituted in the ordinariates [Cf. canon 511]." See BENEDICT XVI, Apostolic Constitution on New Structures for Welcoming Former Anglicans into Catholic Church *Anglicanorum coetibus*, 4 November 2009, in *AAS*, 101 (2009), 985 – 990, English translation in *Origins*, 39 (2009), 387–390. The Complementary Norms to *Anglicanorum coetibus* issued by the Congregation for the Doctrine of the Faith elaborated on the aforementioned point in the following words: "Article 13, §1. The pastoral council, constituted by the ordinary, offers advice regarding the pastoral activity of the ordinariate. §2. The pastoral council, whose president is the ordinary, is governed by statutes approved by the ordinary." See CONGREGATION FOR THE DOCTRINE OF THE FAITH, Complementary Norms for the Apostolic Constitution *Anglicanorum coetibus*, 4 November 2009, English edition in *Origins*, 39 (2009), 390–392. See also RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 160.

"governance" issues (see 495, §1).[650] William Woestman says that "the theological foundations for the diocesan pastoral council are *communio* and the participation of the faithful in the pastoral activity of the Church. Both communion and participation are rights and duties of all the faithful in virtue of their baptism incorporating them in Christ and the Church."[651]

3.5.1 Antecedents to the Diocesan Pastoral Council of the 1983 Code

The diocesan pastoral council of the 1983 Code has no antecedents. It is a new reality envisioned by Vatican II Council in *Christus Dominus*. Roch Pagé writes:

> As a consultative body in which presbyters, religious and laity serve on an equal footing [for investigating and considering matters relating to pastoral activity and for formulating practical solutions concerning them],[652] in the diocese, the diocesan pastoral council has no precedent in the history of the Church but the tradition of the Church has some isolated factors that remotely prepared the way for this institution.[653]

According to Pagé, the following factors are the remote preparation for the institution of the diocesan pastoral council: the role of the clergy and the laity in giving counsel in the writings of St. Cyprian; the presbyterium in the days of St. Ignatius of Antioch, St. Jerome and St. Cyprian; the cathedral chapters; the laity as counsellors in the writings of St. John Chrysostom; and laity in collaboration with the magisterium, especially the role played by

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[650] Cf. RENKEN, *Particular Churches: Their Internal Ordering, 460–57*2, 159.

[651] W.H. WOESTMAN, Diocesan Consultative Organisms, Class notes, DCA 5201, Ottawa, Faculty of Canon Law, St. Paul University, 1995-1996, 29.

[652] Cf. *CD*, no. 27. The functions of the diocesan pastoral council found in *Christus Dominus*, 27, are reproduced in canon 511 of the 1983 Code of Canon Law.

[653] R. PAGÉ, *The Diocesan Pastoral Council*, Toronto, Newman Press, 1970, 3 (=PAGÉ, *The Diocesan Pastoral Council*).

the laity in the counsel sought by Pope Leo XII for his encyclical *Rerum novarum* (1891) and even for extraordinary magisterium for issues like the Marian doctrines of the Assumption and Immaculate Conception, among others.[654]

3.5.1.1 *Christus Dominus*

As we saw in chapter two, the Decree *Christus Dominus*, number 27, manifested the desire to institute in every diocese a special diocesan council to study the pastoral issues of the diocese and to draw practical conclusions that would orient the bishop. This was taken up by *Ecclesiae sanctae* and made it into law.

3.5.1.2 *Ecclesiae sanctae*

Ecclesiae sanctae established a diocesan pastoral council as a canonical institute in a particular Church. It treated the pastoral council together with the presbyters' council in numbers 15-17. Whereas the presbyters' council was mandated by *Ecclesiae sanctae*, the diocesan pastoral council was simply recommended: "The pastoral council, which enjoys only a consultative voice, may be established in different ways…."[655] More discretion was left to the bishop regarding the establishment and functioning of the diocesan pastoral council.

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[654] Cf. PAGÉ, *The Diocesan Pastoral Council*, 3–9.

[655] *ES 1*, no.16, §2, in *AAS*, 58 (1966), 766. "Consilium Pastorale, quod voce consultiva tantum gaudet, diversa ratione constitui potest. Ordinarie, licet natura sua sit institutum permanens, quod membra et actionem potest esse ad tempus atque ex occasione munere suo perfungens. Episcopus illud convocare poterit, quotiescumque id ipsi opportunum videbitur." In *FLANNERYI*, 601.

The document outlined the purpose of the pastoral council as: examining and considering all that relates to pastoral work and offering practical conclusions on these matters, so that the life and activity of the people of God would be brought into greater conformity with the Gospel.

Paragraph two of number 16 stated that the pastoral council enjoys only a consultative vote. Although by its nature it is ordinarily a permanent institution, it may be temporary as regards membership and activity, and it may exercise its function as occasion arises. It is the responsibility of the bishop to convene it whenever he considers it advisable. Those who can be members include clerics, religious, and laity, appointed freely by the bishop.[656] The only person whose membership was required on the diocesan pastoral council was the priest in charge of promoting missionary activity.[657] In addition to the broad mandate to investigate and offer practical conclusions regarding pastoral activities,[658] the pastoral council in mission countries was to prepare for and implement the actions of the diocesan synod.[659]

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[656] Cf. *ES* I, no.16, §3, in *AAS*, 58 (1966), 766. "In Consilio Pastorali clerici, Religiosi et laici, specialiter ab Episcopo delecti, partes habent."

[657] Cf. *ES III*, no. 4, in *AAS*, 58 (1966), 783. "In singulis dioecesibus sacerdos deputetur ad incepta pro missionibus promovenda, qui etiam partes habeat in Consilio pastorali dioeceseos (N.38)."

[658] Cf. *ES I*, no. 16, §1, 766. "Consilii Pastoralis est ea omnia quae ad opera pastoralia spectant investigare, perpendere atque de eis expromere conclusiones practicas, ita ut vitae et actionis Populi Dei conformitas cum Evangelio promoveatur."

[659] Cf. *ES III*, no. 20, 787. "Necnon suam operam praestare in praeparanda Synodo dioecesana et curare exsecutionem Statutorum Synodi (N. 30)."

3.5.2 Nature and Purpose

Canon 511 states that in every diocese, to the extent that pastoral circumstances suggest it, a pastoral council is to be constituted which under the authority of the bishop investigates, considers, and proposes practical conclusions about those things which pertain to pastoral works in the diocese.[660] From this canon, we deduce that the diocesan pastoral council is not mandatory since the bishop is not obliged to constitute it. He establishes it if the concrete situation requires it—even then it is the bishop himself determining whether or not it is required. Unlike the presbyteral council, which assists the bishop in the governance of the diocese, the diocesan pastoral council is founded to assist the bishop through its study and weighing of pastoral matters and through its proposing concrete practical conclusions.[661]

The purpose of the diocesan pastoral council in the pastoral work is threefold: investigating pastoral issues under the authority of the bishop, pondering them, and suggesting practical conclusions about them.

> The pastoral council, therefore, can give the bishop great help by presenting him with proposals and suggestions: regarding missionary, catechetical and apostolic undertakings within the diocese; concerning the promotion of doctrinal formation and sacramental life of the faithful; concerning pastoral activities to help presbyters in the various social and territorial areas of the diocese; concerning public opinion on matters pertaining to the Church as it is more likely to be fostered in the present time; etc. The pastoral council can be also extremely useful for mutual communication of experiences and for proposed undertakings of various types by

[660] *CIC*, c. 511. "In singulis dioecesibus, quatenus pastoralia adiuncta id suadeant, consituatur consilium pastorale, cuius est sub auctoritate Episcopi ea quae opera pastoralia in dioecesi spectant investigare, perpendere atque de eis conclusiones practicas proponere."

[661] PAGÉ, *The Diocesan Pastoral Council*, 65.

> which the concrete needs of the people of the diocese may become clearer to the bishop and a more opportune means of pastoral action may be suggested to him.[662]

3.5.3 Composition

The Code gives general criteria for membership in the pastoral council, but it belongs to the diocesan bishop to determine the precise way of choosing the members as established in the statutes. Canon 512, §1[663] requires that all members of the pastoral council be in full communion with the Catholic Church. Canon 205 gives the elements of full communion as: baptism, the union with Christ in visible community, and the bonds of faith, sacraments, and ecclesiastical governance.[664]

The membership of the diocesan pastoral council must include lay people, members of institutes of consecrated life, and clerics in full communion with the Church. The number of members of the pastoral council is determined by the diocesan bishop in the

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[662] *Omnes christifideles*, no. 9. "Il consiglio pastorale dunque potrà prestare un aiuto utilissimo al vescovo, facendo proposte e dando suggerimenti riguardo alle iniziative missionarie, catechetiche e apostoliche nell'ambito diocesano; riguardo alla promozione della formazione dottrinale e della vita sacramentale dei fedeli; riguardo all'aiuto da dare all'azione pastorale dei sacerdoti nei diversi ambiti sociali, o zone territoriali della diocesi; circa il modo di sensibilizzare sempre meglio la pubblica opinione sui problemi che riguardano la chiesa, ecc. Il consiglio pastorale può essere anche molto utile per effettuare uno scambio reciproco di esperienze e per proporre iniziative di vario genere, così da rivelare più chiaramente al vescovo le concrete necessità della popolazione diocesana e suggerirgli la linea più conveniente di azione pastorale." English translation in *CLD*, vol. 8, 286 – 287.

[663] *CIC*, c. 512, §1. "Consilium pastorale constat christifidelibus qui in plena communione sint cum Ecclesia catholica."

[664] *CIC*, c. 205. "Plene in communione Ecclesiae catholicae his in terris sunt illi baptizati, qui in eius compage visibili cum Christo iunguntur, vinculis nempe professionis fidei, sacramentorum et ecclesiastici regiminis."

statutes.[665] The number should be large enough to be truly representative of the faithful of the diocese, but not so large as to make it difficult to hold and conduct fruitful meetings with an exchange of ideas leading to practical conclusions.

The second paragraph of the canon of 512 highlights the representative character of the pastoral council. The council is meant to be representative of the whole people of God without the members being considered necessarily as representatives of a specific constituency.[666] Thus, each member of the council should have the same sense of being a servant of the entire diocese (rather than simply representative of any particular sector) which makes the pastoral council to be truly an organisation of collective responsibility of all the active elements of the people of God in a particular Church.[667] The members must be outstanding in firm faith, good morals, and prudence[668] since the pastoral council, of which they are members, plays an important role in the life of the diocese.

3.5.4 Functions

[665] *CIC*, c. 512, §1. "Consilium pastorale constat christidelibus qui in plena communione sint cum Ecclesia catholica, tum clericis, tum membris institutorum vitae consecratae, tum praesertim laicis, quique designantur modo ab Episcopi dioecesano determinate."

[666] *CIC*, c. 512, §2. "Christifideles, qui deputantur ad consilium pastorale, ita seligantur ut per eos universa populi Dei portio, quae dioecesim constituat, revera configuretur, ratione habita diversarum dioecesis regionum, condicionum socialium et professionum, necnon partis quam sive singuli sive cum aliis coniuncti in apostolatu habent."

[667] Cf. F. LOZA, "The Diocesan Pastoral Council," in *Exegetical CommII/2,* 1248.

[668] *CIC*, c. 512, §3. "Ad consilium pastorale ne deputentur nisi christifideles certa fide, bonis moribus et prudentia praestantes."

The pastoral council exists to do pastoral planning: to foster pastoral activity by investigating, studying, and recommending what pertains to pastoral work. To do this pastoral planning most efficiently and effectively, John Renken says:

> The Church will wisely rely on the experience and expertise of professional planners who assist in discerning needs, gathering data, developing workable solutions, cost factoring, designing means of implementation, periodic reviewing, developing leadership skills, and so forth …. The pastoral council will give leadership informed recommendations on how to meet pastoral needs. These recommendations will ordinarily indicate a means of implementation to involve some other agent. The council normally does not implement its own recommendations, but continues to do planning for the community.[669]

Thus, the pastoral council can present to the diocesan bishop proposals and suggestions regarding pastoral issues like: missionary activity of the diocese, catechetical and apostolic undertakings, the promotion of doctrinal formation, the sacramental life of the faithful, etc.

As mentioned earlier, the diocesan pastoral council possesses a consultative vote. Therefore, its advice does not have binding value, even when such advice might be useful to the governance of the diocese. The pastoral council

> offers recommendations to the community leader, who appreciates the council's identification and study of the people's needs. The leader retains, however, the necessary freedom to address these needs in some way other than the council's recommendation, though he is aware of the repeated invitation of the post-conciliar documents that informed advice is not to be dismissed easily or to be disregarded easily.[670]

The result of the work of the pastoral council is in the form of information, suggestions, and proposals presented to the bishop to whom it belongs, according to his own judgement

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[669] J.A. RENKEN, "Pastoral Councils: Pastoral Planning and Dialogue among the People of God," in *The Jurist*, 53 (1993), 147 (=RENKEN, "Pastoral Councils").

[670] RENKEN, "Pastoral Councils," 153.

and in virtue of his authority, to evaluate the conclusions of the pastoral council and to do with them that which he deems appropriate.[671]

Besides the above functions, the diocesan pastoral council is to choose two of its members to take part in a particular council where they have a consultative vote (c. 443, §5).[672] Furthermore, the diocesan bishop is to determine the manner whereby the diocesan pastoral council chooses lay persons, even members of institutes of consecrated life, to take part in the diocesan synod, and the number of those chosen; if there is no diocesan pastoral council, the diocesan bishop is to determine another method to select these lay members of the diocesan synod (c. 463, §1, 5°).[673]

3.5.5 Cessation

The diocesan pastoral council is ordinarily a permanent institution, but it is temporary in terms of its membership and activity. "The pastoral council is constituted for a period of time"[674] at the discretion of the diocesan bishop when concrete circumstances demand it. Thus, in initiating a pastoral council, the first step is the gathering of information about the pastoral circumstances that could justify the establishment of the council. The

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[671] ARRIETA, *Governance Structures within the Catholic Church*, 244.

[672] *CIC*, c. 443, §5. "Ad concilia provincialia praeterea invitentur capitula cathedralia, itemque consilium presbyterale et consilium pastorale uniuscuiusque Ecclesiae particularis, ita quidem ut eorum singula duos ex suis membris mittant, collegialiter ab iisdem designatos; qui tamen votum habent tantum consultivum."

[673] *CIC*, c. 463, §1, 5° "christifideles laici, etiam sodales institutorum vitae consecratae, a consilio pastorali eligendi, modo et numero ab Episcopo dioecesano determinandis, aut, ubi hoc consilium non exstet, ratione ab Episcopo dioecesano determinata."

[674] *CIC*, c. 513, §1. "Consilium pastorale constituitur ad tempus."

next step is the appointment of the members and the writing of the statutes which the diocesan bishop must approve. The last step is for the bishop to decide whether to dissolve the pastoral council, or to let it exist and replace new members when older members' terms come to an end.

As the presbyteral council ceases when the see is vacant, similarly the pastoral council also ceases with the vacancy of the see.[675] The diocesan administrator, however, can call upon the former members of the defunct council for their advice, if he judges this opportune.[676] It is the prerogative of the new diocesan bishop either to reconstitute the former pastoral council or to establish a new pastoral council. He may retain the old statutes or make new ones.[677]

Conclusion

The diocesan pastoral council is not an obligatory body but is recommended to the measure that pastoral circumstances suggest it. It has a consultative nature. It has a three-fold function: investigating those matters which pertain to diocesan pastoral works, studying them, and proposing to the diocesan bishop practical conclusions about them. The diocesan pastoral council intends to enhance the process of pastoral planning, to develop pastoral programmes, and to improve pastoral services. Although the diocesan pastoral

[675] *CIC*, c. 512, §2. "Sede vacante, consilium pastorale cessat."

[676] *Omnes christifideles*, no. 11. "In caso di vacanza della sede episcopale il consiglio pastorale decade. Nulla vieta tuttavia che, se le circostanze lo suggeriscono, chi svolge le funzioni di ordinario, mentre la sede episcopale è vacante, convochi i membri del consiglio pastorale per consultarsi con loro. Gli altri consigli che presentano somiglianze con il consiglio pastorale." English translation in *CLD*, vol. 8, 287.

[677] Cf. LOZA, "The Pastoral Council," 1250.

council is not a body which makes binding decisions, its recommendations to the diocesan bishop should be taken seriously, especially when they have been grounded in prayer, discernment, and communal wisdom.

3.6 Juridic Documents on Participative Structures after the 1983 Code

Several documents with some juridic value related to this study have been issued by the Holy See since the promulgation of the 1983 Code. They include: *Christifideles laici*,[678] *Instructio de synodis dioecesanis agendis*,[679] *Ecclesiae de mysterio*,[680] *Pastores gregis*,[681] and *Apostolorum successores*.[682]

a) **On the Diocesan Synod**

The documents to be considered here are: the 1997 Instruction on Diocesan Synods (*Instructio de synodis dioecesanis agendis*), and the 2004 Directory on the Pastoral

[678] JOHN PAUL II, Post-synodal Apostolic Exhortation on the Vocation and Mission of the Lay Faithful in the Church and in the World *Christifideles laici*, 30 December 1988 (*CL*), in *AAS*, 81 (1989), 393–521, English translation in *Origins*, 18 (1989), 561–595.

[679] CONGREGATION FOR BISHOPS and CONGREGATION FOR EVANGELIZATION OF PEOPLES, Instruction on Diocesan Synods, *Instructio In constitutione apostolica de synodis dioecesanis agendis*, 19 March 1997 (*ISDA*), in *AAS*, 89 (1997), 706–727; English translation in *Origins*, 27 (1997), 324–331. The *ISDA* is divided in parts and the appendix. There are parts I to V.

[680] CONGREGATION FOR CLERGY et al., Instruction on Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Ministry of Priests *Ecclesia de mysterio*, 15 August 1997 (*EM*), in *AAS*, 89 (1997), 852–877, English translation in *Origins*, 27 (1997), 397–409.

[681] JOHN PAUL II, Post-synodal Apostolic Exhortation on the Role of Bishops *Pastores gregis*, 16 October 2003 (*PG*), in *AAS*, 96 (2004), 825–927, English translation in *Origins*, 33 (2003), 353–392.

[682] CONGREGATION FOR BISHOPS, Directory for the Pastoral Ministry of Bishops *Apostolorum successores*, 22 February 2004 (*AS*), Rome, Libreria editrice Vaticana, 2004. The Directory was not published in *Acta apostolicae sedis* but as a separate book.

Ministry of Bishops *Apostolorum successores*. The Instruction and Directory are acts of executive power of governance (c. 34).[683] Thus, they set out the provisions of the law, clarify the disposition of the law, and determine and develop those procedures to be adopted in their execution. They are never to derogate from the law of which they are expounding and urging for its observance.[684]

The 1997 Instruction on diocesan synods follows in a deductive manner the canons of the 1983 Code of Canon Law concerning the diocesan synod. The document is divided into five main parts: introduction on the nature and purpose of the diocesan synod, composition of the synod, convocation of the synod, conducting the synod, and synodal declarations and decrees. The beginning of the Instruction includes a quote from *Sacrae disciplinae leges*:

> The Holy Father Pope John Paul II numbered among the principle elements which, according to the Second Vatican Council, expresses the true and genuine image of the Church "the doctrine whereby the Church is presented as the people of God and its hierarchical authority as service; the further doctrine which portrays the Church as a communion and then spells out the mutual relationships between the particular and the universal Church, and between collegiality and primacy; and likewise, the doctrine by which all members of the people of God share, in a manner proper to each of them, in the threefold priestly, prophetic, and kingly office of Christ. [685]

[683] *CIC*, c. 34, §1. "Instructiones, quae nempe legum praescripta declarant atque rationes in iisdem exsequendis servandas evolunt et determinant, ad usum eorum dantur quorum est curare ut leges exsecutioni mandentur, eosque in legum exsecutione obligant; eas legitime edunt, intra fines suae competentiae, qui potestate exsecutiva gaudent."

[684] *CIC*, c. 34, §2. "Instructionum ordinationes legibus non derogant, et si quae cum legum praescriptis componi nequeant, omni vi carent. "

[685] JOHN PAUL II, *Sacrae disciplinae leges*, in *Latin – English Edition*, xxx; *ISDA*, *Prologue*, 706, in *Origins*, 27, 324.

This quote emphasizes that one will find the basis of the synod and its renewal not in a particular quote from the Council but in its experience and teaching, particularly its ecclesiological renewal.[686]

On the composition of the synod, the Instruction requires that the choices made regarding membership should help the synod to be an adequate expression of the true make-up of the diocese. It adds that there should be an adequate number of permanent deacons among the clerics.

An important contribution of the Instruction is the section which includes proposals regarding the preparatory phase of the synod while leaving the bishop free to adapt and apply these proposals according to the particular situation of his diocese.[687] The Instruction emphasizes the broad participation of the people in this phase of the synod. It speaks of the manner in which they would have the possibility of expressing themselves on the topics chosen for the synod. It says that this consultation should aim at reaching the whole people of God in the diocese.[688]

The Instruction speaks about the active collaboration of members in the drawing up of the final document and the ministry of the bishop within this process—a ministry which

[686] GALEA-CURMI, *The Diocesan Synod as a Pastoral Event*, 110.

[687] Cf. *ISDA*, III, C, 2, 715, in *Origins*, 327.

[688] Ibid.

is the antithesis of arbitrariness.[689] The bishop is to listen and to invite people to cooperate in seeking to discern the will of the Spirit of the particular Church.[690]

The Instruction says that the synodal "decrees" are true juridic norms in two forms: *constitutions* (or otherwise) and directives for future pastoral programmes. Synodal "declarations," in contrast to decrees, are opportune affirmations of the truth of the Catholic faith or morals, especially in relation to more important aspects of the life of the particular Church.[691] The Instruction does not require that the diocesan bishop issue juridical norms.[692] Thus, it remains the choice of the bishop to see what form should be given to the synod's conclusions.

Finally, in the appendix, the Instruction puts forward an important principle of servant leadership to apply to the diocesan bishop's leadership style, that is, "rule of government which recommends prudence and discretion so as to avoid unnecessary use of power where counsel and persuasion would suffice."[693]

Apostolorum successores reflects the Code and the 1997 Instruction on diocesan synods. In *Apostolorum successores*, the diocesan synod is treated in greater detail than is any other diocesan participative body. The synod is called "the highest of all diocesan structures of participation in the Bishop's pastoral governance … [It] is both an act of

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[689] GALEA-CURMI, *The Diocesan Synod as a Pastoral Event*, 113.

[690] Cf. *ISDA*, I, 2, 709, in *Origins*, 27, 325.

[691] *ISDA*, V. 2, 720, in *Origins*, 328.

[692] *ISDA*, Appendix, 722, in *Origins*, 329.

[693] Ibid.

episcopal governance and an event of communion, and thus it expresses the character of hierarchical communion that belongs to the nature of the Church."[694] The diocesan synod is

> a suitable means by which to apply and adapt the laws and the norms of the universal Church to the particular situation of the diocese. It indicates the methods to be adopted in diocesan apostolic work, overcomes difficulties arising in the apostolate and the governance of the diocese, inspires activities and initiatives of a general nature, proposes sound doctrine, and corrects any errors of faith, or morals that might exist.[695]

Apostolorum successores states that the membership of the synod "must reflect the diversity of vocations and apostolic undertakings, and the social and geographic variety which characterizes the diocese."[696] Interestingly, in saying that a "prevalent role should be entrusted to *clerics* in view of their office in ecclesial communion,"[697] *Apostolorum successores* seems to suggest that there is concern that the laity might dominate the diocesan synod if their number is disproportionately higher than that of the clergy.

Apostolorum successores outlines the role of the diocesan bishop in number 171. He is the one to convoke the synod after consulting the presbyteral council. The synod is to be held as frequently as possible when pastoral circumstances require it. As part of the preparations, the bishop will need to make a pastoral visitation of parishes. He is specifically directed to consult the 1997 Instruction on diocesan synods.[698] Besides

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[694] *AS*, no. 166, 184.

[695] *AS*, no. 168, 184–185.

[696] Ibid., no. 169, 185.

[697] Ibid.

[698] Ibid., no. 172, 187.

requesting the input of the faithful, the diocesan bishop should encourage their prayers for the synod and provide timely information regarding the synod and its preparations.

During the actual celebration of the synod, *Apostolorum successores* encourages free synodal discussion of issues but discourages the synod from attempting to address matters reserved to higher authority.[699] Synod texts are to be transmitted to the metropolitan and the episcopal conference to inform them about the decisions possibly affecting other particular Churches. While not technically required by the Code, *Apostolorum successores*, number 174, calls for communication of synod texts also to the Holy See.[700] Finally, number 175 states the possible relevance of the Code and the 1997 Instruction on diocesan synods in regulating comparable diocesan forums and similar ecclesial meetings that are of a synodal nature.[701]

b) **The Diocesan Finance Council**

Here, two documents are considered: *Ecclesiae de mysterio* and *Apostolorum successores*. *Ecclesiae de mysterio* is an interdicasterial instruction issued by eight curial dicasteries on the collaboration of lay faithful in the ministry of presbyters.[702] Before *Ecclesiae de mysterio* outlines teachings on specific participative structures, it makes allusion to the positive results obtained through the structures of collaboration in the

[699] *AS*, no. 174, 189.

[700] The *ISDA* had also stated the same. For more on this, see *ISDA*, V, 5, 721, in *Origins*, 27, 329.

[701] *AS*, no. 175, 190.

[702] *Ecclesiae de mysterio* is negative in tone, emphasizing what the faithful should not do in the Church.

particular Church which the Second Vatican Council called for and considered necessary for the life and mission of the Church as communion.[703] It says: "these ecclesiastical structures so necessary to that ecclesiastical renewal called for by the Second Vatican Council have produced many positive results and have been codified in canonical legislation. They represent a form of active participation in the life and mission of the Church as communion."[704]

On the diocesan finance council, *Ecclesiae de mysterio* emphasizes that the diocesan finance council is a consultative body. Interestingly, even though it says that the finance council is consultative, the document sets apart the diocesan finance council from the other councils (the diocesan pastoral council, the parish finance council, and the parish pastoral council). It says: "Diocesan and parochial pastoral councils and parochial finance councils, of which non-ordained faithful are members, enjoy a consultative vote only and cannot in any way become deliberative structures."[705] The reason for the distinction is that the diocesan finance council, unlike the other councils, has a deliberative vote in some matters.

Apostolorum successores expounds on the law on the diocesan finance council as found in the 1983 Code. According to Thomas Green, the *Directory* does not give as much

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[703] *EM*, Prologue, in *AAS*, 89 (1997), 852, in *Origins*, 27 (1997), 399.

[704] *EM*, art. 5, §1. "Compages hae, postolatae et valide propatae in itinere renovationis Ecclesiae secundum Consilium Vaticanum II et in corpus iuris collectae, formam ostendunt participandi vitam et munus Ecclesiae in actuosa communion." English translation in *Origins*, 27 (1997), 405.

[705] *EM*, art. 5, §2, 868. "*Consilium pastorale*, dioecesanum et paroeciale *atque consilium paroeciale pro rebus oeconomicis*, quibus intersunt etiam christifideles laici non ordinate, voto guadent tantum consultivo nec possunt ullo modo fieri insituta deliberativa." Ibid.

attention to the finance councils and pastoral councils as it does to the diocesan synod.[706] *Apostolorum successores*, however, introduces a new element as regards membership in the diocesan finance council. The document suggests that in "those places where the permanent diaconate has been instituted, steps should be taken to arrange the participation of the deacons in finance councils, according to the charism of their order."[707]

c) **The Presbyteral Council**

Since the promulgation of the 1983 Code, a number of ecclesiastical documents from the Holy See have made reference to the uniqueness of the presbyteral council and the significance of the collaborative role of this council in the governance of a diocese. Here, we shall consider three: *Ecclesiae de mysterio*, *Pastores gregis*, and *Apostolorum successores*.

As mentioned earlier, *Ecclesiae de mysterio* concerns what the laity cannot do in the Church. On the membership of the presbyteral council, it emphasizes that it is only presbyters (whose priesthood is a common participation in the priesthood of Christ with the bishop) who can be members of the presbyteral council.[708] The document makes it clear that deacons, non-ordained members of the faithful, and those presbyters who have lost the

[706] T.J. GREEN, "The 2004 Directory on the Ministry of Bishops: Reflections on Episcopal Governance in a Time of Crisis," in *Studia canonica*, 41 (2007), 132 (=GREEN, "The 2004 Directory on the Ministry of Bishops").

[707] *AS*, no. 192, 211.

[708] Indeed, it is not enough just to be priest but priest who is active in ministry. That is why those who are laicized or have abandoned ministry may have a possibility of attending a meeting of the council but neither have active nor passive voice.

clerical state or who have abandoned the sacred ministry can have neither active nor passive voice in the presbyteral council.[709]

Pastores gregis addresses the vocation and mission of the bishop in the Church. The document describes the Church as an organically structured community with various charisms, ministries, and services that aim at attaining a common end, which is salvation.[710] It assigns to the diocesan bishop the responsibility of bringing together the faithful by promoting a "collaborative effort" in his diocese. The document urges the diocesan bishop "to make every effort to develop within his particular Church structures of communion and participation which make it possible to listen to the Spirit who lives and speaks in the faithful, in order to guide them in carrying out whatever the same Spirit calls them to do for the true good of the Church."[711] Thus, the diocesan bishop should

> adopt a pastoral style which is more open to collaboration with all. There is a type of reciprocal interplay between what a bishop is called to decide with personal responsibility for the good of the Church entrusted to his care and the contribution that the faithful can offer him through consultative bodies such as the diocesan synod, the presbyteral council, the episcopal council, and the pastoral council.[712]

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[709] *EM*, art. 5, in *AAS*, 89 (1997), 867–868. "Quoniam communi nititur participation Episcopi et presbyterorum in eodem sacerdotio et ministerio. Frui igitur nequeunt iure vocis activae et passivae nec diaconi, nec fideles non ordinate, quamvis cooperators sint sacrorum ministrorum, nec illi presbyteri qui statum clericalem amiserunt vel exercitium reliquerunt sacre ministerii." English translation in *Origins*, 27 (1997), 405.

[710] *PG*, no. 44, in *AAS*, 96 (2004), 884. "Ecclesia communitas est organica, quae in dispositione efficitur diversorum charismatum, ministeriorum et famulatuum, ut propositum adimpleatur quod est salus …." English translation in *Origins*, 33 (2004), 376.

[711] Ibid., no. 44, 885, "Episcopus igitur sua in Ecclesia particulari suscitare conabitur structuturas communionis atque participationis, quae permittant ut Spiritus auscultetur qui vivit et loquitur in fidelibus, illosque dirigat ad exsequendum quidquid idem Spiritus pro vero Ecclesiae bono inspirit." Ibid.

[712] Ibid., no. 44, 883–884. "Ecclesialis communio qua Episcopus afficitur, adducet eum ad quemdam pastoralem modum usque apertiorem, participate cum omnibus opera. Adest genus quoddam circularis actionis inter ea quae Episcopus vocatur ad decernenda cum responsalitate pro

Apostolorum successores uses the canons of the 1983 Code on the presbyteral council to broaden the pastoral scope of both the consultative and collaborative role of the presbyteral council in diocesan governance. The document tries to recapitulate and synthesize key themes from all that has been said about the pastoral ministry of the bishop since Vatican II. Like previous juridic documents on the presbyteral council, the section on the presbyteral council in the *Directory* emphasizes the theological basis, representative nature, and function of this council.[713]

On the nature and purpose of the presbyteral council, the *Directory* repeats canon 495, §1 but adds an introduction establishing its theological basis in the communion between the bishop and the presbyters in the mission of the Church.

> The hierarchical communion between the bishop and the presbyterate, founded on the unity of the ministerial priesthood and of the ecclesial mission, manifests itself institutionally in the presbyteral council, insofar as it is "a group of presbyters which, representing the *presbyterium*, is to be like *a senate of the bishop*, and which assists the bishop in the governance of the diocese according to the norms of law to promote as much as possible the pastoral good of the portion of the people of God entrusted to him.[714]

The theological basis of the presbyteral council in the *Directory* is referenced to John Paul II's Apostolic Letter *Novo millennio ineunte*. Number 45 of *NMI* not only insists on communion as the basis of the structures of participation but also talks about the nature of consultation of these structures.

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bono Ecclesiae eius curae concreditae atque operam quam fidelis illi offerre possunt per coetus consultationis, qui sunt: synodus dioecesana, consilium presbyterale, consilium episcopale, consilium pastorale." Ibid.

[713] OKOSUN, The Collaborative Role of the Presbyteral Council, 110.

[714] *AS*, no. 182, 198.

> Structures of participation envisaged by canon law, such as the council of presbyters and the pastoral council … of course are not governed by the rules of parliamentary democracy because they are consultative rather than deliberative, yet this does not mean that they are less meaningful and irrelevant …. While the wisdom of the law, by providing precise rules for participation, attests to the hierarchical structure of the Church and averts any temptation to arbitrariness or unjustified claims, the spirituality of communion, by promoting a trust and openness wholly in accord with the dignity and responsibility of every member of the people of God, supplies institutionality with a soul.[715]

The *Directory* strives to strike a balance between the hierarchical authority of the bishop and the need for active participation of the presbyters who are in communion with the diocesan bishops in the priesthood of Christ. It says: "the presbyteral council must never act without the knowledge of the bishop, who alone is competent to convoke it, preside over it, determine the questions to be treated by it, and make public the contents of the discussions and any other decisions."[716] Yet the *Directory* adds a clause, in accordance with canon 127, §2, 2˚, which morally limits the power of the bishop to act contrary to the unanimous opinions of the councillors without a serious and overriding reason.[717]

Membership. The *Directory* repeats for the most part what the canons say but adds that, if the total number of presbyters in a diocese is very small such that choosing

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[715] *NMI*, no. 45.. "Hunc ad finem melius usque adhibeatur est necesse illa participationis instituta quae iam Ius Canonicum praevidet, qualia sunt *Concilia presbyteralia et pastoralia*. Uti patet, non diriguntur ea normis popularis regiminis, quandoquidem per vim suam amittunt aut significationem …. Si igitur iuridicialis prudentia, qua certae circumscribuntur participationis regulae, compagem Ecclesiae hierarchicam ostendit repellitque invitamenta ad proprium arbitrium aut iniustas postulationes, communionis aliunde spiritualitas suam confert animam corpori institutionis indicatque fiduciam illam ac mentem apertam quae dignitati prorsus respondet ac responsalitati cuiusque sodalist Dei apud Populum." English translation in *Origins*, 30 (2001), 503.

[716] *AS*, no. 182, 199.

[717] Ibid., no. 182, 200.

representatives is not possible, all the presbyters could be summoned. However such an assembly is not a presbyteral council but an alternative of the presbyteral council.[718]

Statutes of the council of presbyters. The *Directory* elaborates on canon 496 and states clearly that it is the council of presbyters itself that draws up the Statutes which address

> such matters as its composition, the election of its members, the principle matters to be submitted for study, the frequency of meetings, internal offices (e.g. moderator, secretary), the commissions that could be set up for addressing specific questions and the procedure to be followed at meetings. The proposed statutes are to be presented to the bishop for his approval. He should ensure that they conform to the prescriptions of the Code and the norms of the Episcopal Conference.[719]

To this, the *Directory* adds another new clause which requires that, before granting his approval, the bishop "should also consider whether the structure proposed is appropriate for a consultative body, and whether it succeeds in avoiding any organisational complexities that could detract from its clarity."[720]

As a pastoral document, *Apostolorum successores* explores some new areas in which the presbyteral council could collaborate with the bishop in shepherding the people of God in the diocese. The areas include the administration of goods in number 189, the suspension or dissolution of the diocesan synod in number 187, preaching in number 122, and the establishment of common statutes for vicariates forane or deaneries in number 217.[721]

d) **The College of Consultors**

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[718] Ibid.

[719] *AS*, no. 182, 200.

[720]Ibid.

[721] Cf. OKOSUN, The Collaborative Role of the Presbyteral Council, 113–114.

The only document after the promulgation of the 1983 Code that addresses the college of consultors is *Apostolorum successores.* Even so, *Apostolorum successores* says very little on the college of consultors and primarily repeats the Code of 1983. Notably, *Apostolorum successores* does stress the college's input in major patrimonial matters and its occasional deliberative role. The only new aspect of *Apostolorum successores* is the statement that "the bishop should abstain from voting with the consultors when an opinion or consent is requested of the college."[722]

e) **The Diocesan Pastoral Council**

The documents that treat the diocesan pastoral council, include: *Christifideles laici*, *Ecclesiae de mysterio* and *Apostolorum successores*. *Christifideles laici* is on the vocation and mission of the lay faithful in the Church and in the world. Number 25 of this document is devoted to the place of the laity in a particular Church. It says that the participation of the lay faithful can be in different ways. One of those ways is to participate in collaborative structures including diocesan pastoral council. The document says: "In fact, on a diocesan level this structure could be the principle form of collaboration, dialogue, and discernment as well. The participation of the lay faithful in this councils can broaden resources in consultation and the principle of collaboration – and in certain instances also in decision-making – if applied in a broad and determined manner."[723]

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[722] *AS*, no. 183, 201.

[723] *CL*, no. 25,. "Agitur revera de forma, quoad ipsam dioecesim, praecipua collaborationis et dialogi, atque adeo discretionis. Participatio christifidelium laicorum huiusmodi Consiliis dilatare poterit recurrationis, quood in quibusdam casibus etiam decisionem attiget, adhibebitur latius et fortius." English translation in *Origins*, 18 (1989), 573.

While *Christifideles laici* has a positive tone on the role of the laity in the Church, *Ecclesiae de mysterio* has a negative statement on what the lay cannot do. In just three lines, *Ecclesiae de mysterio* says of the diocesan pastoral council: "Diocesan and parochial pastoral councils, and parochial finance councils, of which non-ordained faithful are members, enjoy a consultative vote only and cannot in any way become deliberative structures."[724]

Apostolorum successores also does not treat in detail the diocesan pastoral council. According to Thomas Green, even though the *Directory* is more detailed than the previous documents on the pastoral council, it is

> more cautious than *EI* regarding its practical functioning. For example, *AS* 184 stresses the pre-eminent directive episcopal role regarding *DPC*, its limited consultative competency, and the autonomy of the faithful vis-à-vis the council. *AS* is silent regarding the council's potentially significant role in studying and making recommendations on pastoral issues (can 511: *CCEO*, c. 272).[725]

In expounding on the nature and functions of the diocesan pastoral council, *Apostolorum successores* adds more areas for the diocesan pastoral council to explore. The areas include: "pastoral planning, various catechetical, missionary and apostolic initiatives, ways of improving the doctrinal formation and sacramental life of the faithful, assistance for the pastoral ministry of the clergy, and various means of raising public awareness regarding concerns of the Church."[726] The document also adds that it shall be "helpful if the bishops

[724] See footnote 705.

[725] GREEN, "The 2004 Directory on the Ministry of Bishops," 137.

[726] *AS*, no. 184, 203.

discuss the activity of diocesan pastoral councils in meetings of *Episcopal Conferences*, so that each bishop in his own diocese can profit from the experience of others."[727]

3.5 Conclusion

The participative structures in the 1983 Code have evolved over time. The laws regarding their establishment and existence have been influenced by the prevailing social, cultural, political, economic, and religious conditions. Scholars are in agreement that, even though these participative structures have come into existence at different times in the history of the Church, all of them, in one way or another, can be traced to the scriptures, especially the New Testament. The New Testament begins with a Church that is communal—in which Christians acknowledge each other's different gifts and share them for each other and for the growth of the mission of the Church. Here, leadership is a shared responsibility.

Even as the Church grew and became institutionalized, from the end of the first century onwards, the question was not whether participation in the mission of the Church is necessary, but instead was how this participation is to be carried out. Of course, the institutionalized Church, which put much emphasis on centralizing authority (usually around the bishop) did so at the expense of the participation of the other members of the Christian faithful. It was for this reason that some of the participative structures like the presbyteral council disappeared in the early Church. Thanks to the cathedral chapter that kept alive the spirit of participation in the governance of a particular Church.

[727] Ibid.

The 1917 Code treated extensively the diocesan synod and the council of administration. It also revised the laws governing a cathedral chapter and gave formal recognition to persons called the "consultors." But these were regulated in the context of a "perfect society" ecclesiology and the monarchy model of authority which permeated the spirit of the 1917 Code of Canon Law.

The 1983 Code shifts away from "perfect society" ecclesiology and embraces *communio* ecclesiology. It draws on juridical norms of the 1917 Code and the conciliar and post conciliar documents for a comprehensive treatment of the structures of participation. It expands the participative structures in a particular Church—from just a few in the 1917 Code (the diocesan synod, the council of administration, the cathedral chapter, and the consultors) to several in the 1983 Code (the diocesan synod, the diocesan finance council, the episcopal council, the presbyteral council, the college of consultors, the diocesan pastoral council, the parish finance council, and the parish pastoral council, etc.).

Even though the treatment of the participative structures in the 1983 Code is comprehensive, it is not exhaustive. Brad Hinze expresses this well:

> It is seemingly true that the Code has received and implemented certain major facets of the council pertaining to participatory structures, but not all. Indeed, there are claims advanced in the council documents about the diversity of gifts given to the laity and to different Churches, and about modes of collaboration that are not fully received and in fact on the crucial issue of participatory structures the Code has set up certain restrictions.[728]

Since every legal system is conditioned historically, culturally, socially, and politically, it is impossible to formulate laws that are always clear and responsive to

[728] HINZE, "The Reception of Vatican II in Participatory Structures of the Church," 30.

pastoral contingences. Therefore, there is constant need to update the law to meet the needs of the time. It is for this reason that we explore in the next chapter the current thought of the Holy See (especially as espoused by Pope Francis) on participatory structures and how perhaps to apply these norms to the situation in the AMECEA.

CHAPTER FOUR

APPLICATION OF THE CANONICAL NORMS ON DIOCESAN STRUCTURES TO SELECTED PARTICULAR CHURCHES IN THE AMECEA REGION

Introduction

Nearly two decades ago, commenting on the rights of the Christian faithful and their role in the mission of the Church through participative structures, James Provost said: "the most realistic evaluation of rights in the Church is that, at the present time, they are at most an ideal. … for the rights to become 'real' in the Church, each generation must adopt a 'new way of thinking' characteristic of Vatican II. This manner of thinking is not a given, and must be acquired afresh at each stage."[729] About a decade later,[730] Brad Hinze said: "There have been significant preliminary steps forward, but this is an unfinished work of the council and the code. The new code, now twenty-five years old, did much to move us in the right direction, even when these have not been received or narrowly interpreted. … the architects of the new code were not always the most helpful in 'translating' the documents of Vatican II into law."[731] He adds: "it is certainly true that the Code has received and implemented certain major facets of the [Vatican II] Council pertaining to participatory structures, but not all. There are claims advanced in the Council documents about the diversity of gifts given to the laity and to different Churches, and about modes of

[729]J.H. PROVOST, "Rights in Canon Law: Real, Ideal, or Fluff?" in *CLSA Proceedings*, 61 (1999), 341–342 (=PROVOST, "Rights in Canon Law").

[730] It may be true that, in other places in the world, the Christian faithful have a more pronounced role in their participation in the mission of the Church but, as we saw in the general introduction, many of the particular Churches in the AMECEA are far from allowing active participation of the faithful in the mission of the Church through participative structures.

[731] HINZE, "The Reception of Vatican II in Participatory Structures of the Church," 29.

collaboration that are not fully received and in fact on the crucial issue of participatory structures the Code has set up restrictions."[732]

Our interviews with a number of bishops and presbyters in the AMECEA region in 2016 point to the reality that a number of particular Churches in the AMECEA have embraced the canonical teachings on participative structures. In these particular Churches the structures of participation are active and functioning well. The contrary is true for the particular Churches that have not embraced the canonical teachings on participative structures. Indeed, a good number of particular Churches have never held a diocesan synod; a good number of them do not have mandatory participative structures like a presbyteral council and diocesan finance council; and a good number of them do not have diocesan pastoral councils.

As mentioned earlier, there are several reasons why the participative structures are not functioning well in the AMECEA region. Among those reasons that we mentioned, one which stands out and which has called for our attention is the persistence of a monarchical type of leadership that we saw in the 1917 Code which thrives in the traditional African patriarchal society settings in the AMECEA region. This is despite the contrary teaching in the 1983 Code on active participation by members of the Church, animated by the *communio* ecclesiology of the Second Vatican Council.

After having analyzed the current situation of selected participative structures in the AMECEA region in chapter one and after having outlined the canonical norms

[732]See footnote 728.

governing the selected participative structures in chapter three, which is animated by *communio* ecclesiology as outlined in chapter two, this present chapter seeks to outline the application of these canonical norms governing canonical structures to the situation of the particular Churches in the AMECEA. Since every legal system is conditioned historically, culturally, socially, and politically, our application of the canonical norms governing the selected participative will pay attention to the current reality, both secular and religious.

We have divided chapter four into three sections. Section one will address the context (both secular and religious) in which these norms are being applied. Here, we will present the contemporary world view of human freedom and human rights (often referred to as liberalism) and its shortcomings. We will also present the Church as it is today especially as regards her hierarchy and the right of participation by the individual in the mission of the Church.

Section two will be devoted to Pope Francis and his teachings on participative structures. Here, we will outline Pope Francis' critique of both the modern secular view on human freedom and rights and the Church's "rigid hierarchy." We will then, explore his understanding of the mission of the Church, hierarchy and synodality, and the place of the participative structures in a particular Church.

In section three, we will consider the practical application of the canonical norms governing canonical structures in selected particular Churches in the AMECEA region. We will follow closely Pope Francis' understanding of the canonical norms found in the 1983 Code on participative structures. We will restate the fact that the mission of the Church is to evangelize. Each member, through baptism, has a right to participate in this mission. For

the members of the Church in AMECEA to participate actively in the mission of the Church through participative structures, the Church will have to be truly a family of God modeled on the traditional African family where there is solidarity, dialogue, and active participation of members for the good of the whole community. We will show how this is possible by outlining the roles of the bishop, the presbyters, and the laity in a particular Church. We will also give specific suggestions for widening the scope of participation in these structures.

We will conclude chapter four in saying that the approach being taken by Pope Francis on participative structures properly addresses the contemporary issues on participation in the Church and particularly in the AMECEA region. Indeed, Pope Francis' insistence on the notion of synodality, and his emphasis on the right and unique purpose of each participative structure, is a return to the teachings of Vatican II on the role of all the faithful in the building up of the kingdom of God. This approach of Pope Francis should be embraced by the particular Churches in the AMECEA region.

4.1 The World Today: Brief Reflections

The "world today" here refers to the happenings today in both the secular and religious (particularly in the Catholic Church) spheres. For the secular world, we will analyse the concepts of globalization and democracy in relation to human rights and freedoms. For the Catholic Church, we will analyze the concepts of hierarchy and the role of the laity in the mission of the Church.

Today, we live in a world that is globalized and more democratic. The democracy of today has more space for the individual's participation than in the 1960s and onwards. Oscar Rodriquez says:

> The democracies of today face a growing phenomenon, the passage from formal democracy to participative democracy. Some people are not merely satisfied to go to the voting polls and to elect public officials, but they also wish to be personally involved in the implementation of the necessary changes. The political community realizes that if there is no consultation, they run the risk of losing popular support. The policies of referendum and plebiscite are becoming in many nations the way of public consultation in instances of difficult decisions.[733]

Indeed, "the collapse of dictatorships and the subsequent adoption of constitutional and representative forms of government has increased political participation by the citizenry and provided greater individual freedoms and political choice."[734] This has had consequences for the secular world and the Church especially as regards the role of the individual in the society. Below is a brief reflection on the evolution of the concept of "participative democracy" since the 1960s and the Church's response.

4.1.1 Liberalism and Catholicism

In this section, we will look at liberalism of the 1960s and the teachings of Vatican II (*Gaudium et spes* and *Dignitatis humanae*), and then liberalism today and the Church's response.[735]

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[733]O. A. RODRIGUEZ, "Consultation in the Life of the Church: In Service of *Communio*," in *CLSA Proceedings*, 68 (2006), 3.

[734] Ibid., 3.

[735] It has not just been response, sometimes, it has been reaction.

4.1.1.1 Liberalism and the Second Vatican Council Teachings

The Catholic Church has been in the forefront of supporting liberal political structures that establish constitutional democracy and a guarantee of civil rights. "Popes since the Vatican II have powerfully endorsed democratic constitutional government, generalized religious freedom, and human rights as criteria of political justice."[736] The dramatic change of heart (from being an opponent of classical liberalism to being a proponent of democratic institutions embedded in liberalism) by the Catholic Church has to do with a change of heart and tone beginning with

> Pope John XXIII and a major development of Catholic social teaching during and immediately after his pontificate…. Pope John XXIII was responsible for the recognition of the human rights tradition in his two major social encyclicals, *Mater et magistra* (*Christianity and Social Progress*, 1961) and *Pacem in teris* (*Peace on Earth*, 1963, during the Council), and then in the documents of the Second Vatican Council, especially *Gaudium et spes* and *Dignitas humanae* (1965).[737]

According to David Hollenbach, these powerful treatises changed the direction of the Church's social teaching on the matter of human rights. From a position of staunch opposition to the enlightenment's revolutionary proclamation of rights and freedoms, these teachings moved to an activist engagement in the global struggle for human rights. The

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[736] J.A. KOMONCHAK, "Vatican II and the Encounter between Catholicism and Liberalism," in R.B. DOUGLASS and D. HOLLENBACH (eds.), *Catholicism and Liberalism*, Cambridge, Cambridge University Press, 1994, 89 (=KOMONCHAK, "Vatican II and the Encounter between Catholicism and Liberalism").

[737] J.A. CORIDEN, "The CLSA and the Protection of Rights: Legacy and Vision," in *CLSA Proceedings*, 73 (2011), 3–4 (=CORIDEN, "The CLSA and the Protection of Rights").

treatises made the Catholic Church into one of the world's most vigorous advocates of human rights and the equality of persons.[738] David Hollenbach writes:

> There is a considerable irony in the relationship between Roman Catholic thought and recent discussions on human rights. During the last century and a half, the Roman Catholic Church has moved from strong opposition to the rights championed by liberal thinkers of the eighteenth and nineteenth centuries to the position of one of the leading institutional advocates for human rights on the world stage today…. Thus, in a relatively short period, the Catholic Church moved from being a staunch opponent of liberal rights and freedoms to activist engagement in the struggle for human rights from Poland to Philippines, from Central America to South Africa….[739]

Pope John XXIII's *Pacem in terris*[740] promoted a Catholic theory of rights that is communitarian rather than individualistic and featured 1) the correction of rights and duties, 2) an attitude of cooperation, collaboration, and adjustment, and 3) the assimilation of rights into the common good.[741] Thus, *Pacem in terris* presented an almost complete and systematic list of human rights in the modern Catholic tradition. Published during the Second Vatican Council, the encyclical had a tremendous impact on the thinking of the fathers at the Council on the subject of human rights. It "moved the leadership of the Church from a position of staunch opposition to modern rights and freedoms to activist

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[738] Cf. D. HOLLENBACH, "Commentary on *Gaudium et spes*, in K. HIMES (ed.), *Modern Catholic Social Teaching: Commentaries and Interpretations*, Washington, DC, Georgetown University Press, 2005, 282–283 (HOLLENBACH, "Commentary on *Gaudium et spes*").

[739] D. HOLLENBACH, "A Communitarian Reconstruction of Human Rights: Contributions from Catholic Tradition," in R.B. DOUGLASS and D. HOLLENBACH (eds.), *Catholicism and Liberalism*, Cambridge, Cambridge University Press, 1994, 127 (=HOLLENBACH, "A Communitarian Reconstruction of Human Rights").

[740] JOHN XXIII, Encyclical Letter on Peace on Earth *Pacem in terris*, 11 April 1963, in *AAS*, 55 (1963), 257–304, English translation in D.J. O'BRIEN and T.A. SHANNON, *Catholic Social Thought: The Documentary Heritage*, New York, Orbis Books, 1992, 131–162.

[741] Cf. CORIDEN, "The CLSA and the Protection of Rights," 6.

engagement in the global struggle for human rights. This shift was one of the most dramatic reversals in the long history of the Catholic Church."[742]

The Second Vatican Council seized the moment and developed the teachings on human rights and freedoms. Joseph Komonchak comments: "The Second Vatican Council can be read as the event in which the Catholic Church significantly reassessed modern society and culture and the attitudes and strategies it had adopted towards them in the previous century and half. Those earlier attitudes and strategies had been founded in a consistent repudiation of an ideology and praxis summed up in the word 'liberalism.'"[743]

Pope John XXIII's insistence that the Second Vatican Council be primarily "a pastoral exercise of teaching office was itself not simply a matter of simple adaptations or applications of perennial principles, but a new reading of the Gospel undertaken under the impulse of the 'signs of the times.'"[744] This was reflected in the primarily doctrinal and internal texts of the Council which reflected a new and far more positive encounter with modernity.[745] On the texts in which the Council more explicitly addressed the problem of

[742] Ibid., 3.

[743] KOMONCHAK, "Vatican II and the Encounter between Catholicism and Liberalism" 76.

[744] Ibid., 80.

[745] Ibid.

modern society and culture, two stand out: the Pastoral Constitution on the Church in the Modern World (*GS*)[746] and the Declaration on Religious Freedom (*DH*).[747]

GS begins by discussing the general theme of the "Church and World" and more specifically "the Church in the Modern World." *GS*, no. 4 invites the members of the Church to read "the signs of the times." Joseph Komonchak identifies the principles and developments identified in the course of the document as characterizing "today," as follows: "the rapidity and depth of social and cultural transformations; the impact of the natural and social sciences and technology; modernization, industrialization, urbanization, mass media; a dynamic sense of nature; calls for greater freedom of self-realization and human rights; the spread of democracy; a changed relationship between Church and State."[748]

The Council's efforts in trying to be respectful and dialogical with the world is seen in its description of the modern understanding of freedom as autonomy and self-responsibility, giving birth to a "new humanism, where man is defined before all else by his responsibility to his brothers and at the court of history."[749]

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[746] SECOND VATICAN COUNCIL, Pastoral Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965, in *AAS*, 58 (1966), 1025–1115, English translation in *FLANNERY1*, 903 – 1001.

[747] SECOND VATICAN COUNCIL, Declaration on Religious Liberty *Dignitatis humanae*, 7 December 1965, in *AAS*, 58 (1966), 929–946, English translation in *FLANNERY1*, 799–812.

[748] KOMONCHAK, "Vatican II and the Encounter between Catholicism and Liberalism," 80.

[749] *GS*, no. 55, in *AAS*, 58 (1966), 1076. "Tali ergo modo testes sumus novum humanismum nasci, in quo homo imprimis sua responsibilitate erga suos fratres historiamque definitur." English translation in *FLANNERY1*, 960.

Perhaps the document's greatest achievement as related to human rights was "to combine the traditional view of human rights as rooted in human nature with modern historical consciousness."[750] In support of this view, David Hollenbach says:

> There are domains of human existence which cannot be suppressed without oppressing human beings. These include respect for the bodily, interpersonal, socio-political, economic, and cultural dimensions of human existence. Because of the increasing interdependence of persons, the means to this respect must be more and more through the organized action of communities and society as a whole. Thus from the perspective of the Council, social, economic, and cultural rights, defined in relation to historical conditions, assume a new place of importance in the Catholic human rights tradition.[751]

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[750] D. HOLLENBACH, *Claims in Conflict: Retrieving and Renewing the Catholic Human Tradition*, Mahwah, NJ, Paulist Press, 1979, 75 (=HOLLENBACH, *Claims in Conflict*).

[751] Cf. HOLLENBACH, *Claims in Conflict*, 75; GS, no. 26, 1046. "(De dono communi promovendo). Ex interdependentia in dies strictiore et paulatim ad mundum universum diffusa sequitur bonum commune — seu summam eorum vitae socialis condicionum quae tum coetibus, tum singulis membris permittunt ut propriam perfectionem plenius atque expeditius consequantur — hodie magis magisque universale evadere, et exinde iura officiaque implicare, quae totum humanum genus respiciunt. Quilibet coetus necessitatum et legitimarum appetitionum aliorum coetuum, immo boni communis totius familiae humanae, rationem habere debet. Simul vero conscientia crescit eximiae dignitatis quae personae humanae competit, cum ipsa rebus omnibus praestet, et eius iura officiaque universalia sint atque inviolabilia. Oportet ergo ut ea omnia homini pervia reddantur, quibus ad vitam vere humanam gerendam indiget, ut sunt victus, vestitus, habitatio, ius ad statum vitae libere eligendum et ad familiam condendam, ad educationem, ad laborem, ad bonam famam, ad reverentiam, ad congruam informationem, ad agendum iuxta rectam suae conscientiae normam, ad vitae privatae protec tionem atque ad iustam libertatem etiam in re religiosa. Ordo socialis igitur eiusque progressus in bonum personarum indesinenter cedere debent, siquidem rerum ordinatio ordini personarum subiicienda est et non e converso, ipso Domino id innuente cum dixerit sabbatum propter hominem factum esse et non hominem propter sabbatum. Ordo ille in dies evolvendus, in veritate fundandus, in iustitia aedificandum, amore vivificandus est; in libertate autem aequilibrium in dies humanius invenire debet. Ad haec autem implenda mentis reno vatio atque amplae societatis immutationes inducendae sunt. Spiritus Dei, qui mirabili providentia temporum cursum dirigit et faciem terrae renovat, huic evolutioni adest. Evangelicum autem fermentum in corde hominis irrefrenabilem dignitatis exigentiam excitavit atque excitat." English translation in *FLANNERY1*, 1046.

Dignitatis humanae, on its part, committed the Catholic Church to the principle of religious freedom in modern society.[752] The civil right is said to rest on the dignity of human persons who, if they are obliged to pursue truth, especially religious truth, cannot do so if they do not enjoy both "psychological freedom and immunity from external coercion."[753] "Therefore the civil authority, the purpose of which is the care of the common good in the temporal order, must recognize and look with favour on the religious life of the citizens. But if it presumes to control or restrict religious activity it must be said to have exceeded the limits of its power."[754]

John Courtney Murray, one of the architects of *Dignitatis humanae*, commented that in *Dignitatis humanae*:

> The authorities and faithful of the Church are indeed conscious that their freedom is of divine origin—a participation respectively in the freedom of the Incarnate Word and in the freedom of the Holy Spirit. In political society, however, and in the face of government, only that title to freedom may be urged which the powers of the secular order are able, and are obliged, to recognize. This title is the basic

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[752] *DH*, no. 1, in *AAS*, 58 (1966), 929–930. " Quae libertatis exigentia in societate humana ea maxime respicit quae sunt animi humani bona, imprimis quidem ea quae liberum in societate religionis exercitium spectant. Ad has animorum appetitiones diligenter attendens, sibique proponens declarare quantum sint veritati et iustitiae conformes, haec Vaticana Synodus sacram Ecclesiae traditionem doctrinamque scrutatur, ex quibus nova semper cum veteribus congruentia profert." " In *FLANNERY1*, 799.

[753] Ibid., no. 2, 930. "Haec Vaticana Synodus declaret personam ius habere ad libertatem religiosam. Huiusmodi libertas in eo consistit, quod omnes homines debent immunes esse a coercitione ex parte sive singulorum sive coetuum socialium et cuiusvis potestatis humanae, et ita quidem ut in re religiosa neque aliquis cogatur ad agendum contra suam conscientiam neque impediatur, quominus iuxta suam conscientiam agat privatim et publice, vel solus vel aliis consociatus, instar debitos limites." English translation in *FLANNERY1*, 800.

[754] *DH*, no. 3, in *AAS*, 58 (1966), 931. "Potestas igitur civilis, cuius finis proprius est bonum commune temporale curare, religiosam quidem civium vitam agnoscere eique favere debet, sed limites suos excedere dicenda est, si actus religiosos dirigere vel impedire praesumat." In *FLANNERY1*, 802.

> truth about the dignity of the human person and about the necessary freedom of his life—especially his religious life, both personal and corporate—in society.[755]

Thus, the right to the public exercise of religious beliefs and practices belongs to all religious groups and must be acknowledged and defended by the civil authority. And, "if, because of the circumstances of a particular people, special civil recognition is given to one religious community in the constitutional organization of a society, the right of all citizens and religious communities to religious freedom must be recognized and respected as well."[756]

It is important to underline the fact that, even though the Church has supported liberal democracies, it has not endorsed them whole-heartedly. David Hollenbach and many other scholars maintain that the Church does not blindly endorse liberal democracy. Commenting on *GS*, Hollenbach says, "*GS* begins its discussion of human rights in the midst of its treatment of the growing interdependence of persons. Thus, its approach diverges in significant ways from the individualistic understanding of human rights that predominate … in the Western World."[757]

The Council, in responding to the widespread belief that religion endangers rightful human autonomy, not only rejected the idea that autonomy must mean disregarding our

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[755] MURRAY, J.C., *Religious Liberty: Catholic Struggle with Pluralism*, J.L. HOOPER (ed.), Louisville, KY, Westminster/John Knox Press, 1993, 209–210.

[756] *DH*, no. 6, 934. "Si attentis popularum circumstantiis peculiaribus uni communitati religiosae specialis civiles agnitio in iuridica civitatis ordinatione tribuitur, necesse est ut simul omnibus civibus et communitatibus religiosis ius ad libertatem in re religiosa agnoscatur et observer." In *FLANNERY1*, 804.

[757] HOLLENBACH, "Commentary on *Gaudium et spes*," 280.

relation to the Creator but also insisted on the legitimate meaning[758] of the word "autonomy."[759] Consequently, the Church repudiated liberalism which is rooted in "an ideal of freedom and autonomy which rests on a belief that one must choose between freedom and order, autonomy and creaturehood."[760]

The Church's stand is that it is not possible to construct a society simply on the basis of a formal notion of freedom, as "freedom from," which leaves in suspense or perhaps even considers unresolvable the question of "freedom for."

> It is this point that the real problem of the Church with liberalism lies: the question of genuine values cannot be avoided, nor that of the foundation of these rights. Even in the midst of Vatican II's acceptance of the liberal political solution, there persists a view of the foundations of rights which differs from that of classical political liberalism. Rights do not belong to isolated individuals, pre-political monads, for whom society is a later, man-made artifact.[761]

For the Church, embodiment in society is precisely the origin of rights, and this embodiment is prior to and explains the construction of a political order to secure them. "On this point the Council did not make any concessions to liberal philosophy."[762]

4.1.1.2 Liberalism Today

The insistence on the primacy of individual rights and freedoms today is more pronounced than ever before. This has been occasioned mainly because of the increased

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[758] Not freedom from but freedom with responsibility.

[759] KOMONCHAK, "Vatican II and the Encounter between Catholicism and Liberalism," 81.

[760] Ibid., 82.

[761] KOMONCHAK, "Vatican II and the Encounter between Catholicism and Liberalism," 90.

[762] Ibid.

awareness of people for freedoms and rights. A contemporary philosopher, Charles Taylor, says that the increased awareness of people for freedoms and rights is a result of what he refers to as "modern social imaginaries."[763]

What is a modern social imaginary? According to Charles Taylor, a social imaginary is

> something much broader and deeper than the intellectual schemes people may entertain when they think about social reality in a disengaged mode … rather…the ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underline these expectations.[764]

The modern social imaginary begins with the individual person. Society is conceived as being populated by a multiplicity of these individuals. These individuals are not, however, "primarily the flesh and the blood people with their own peculiar histories, social positions, community traditions and ethos, and relationships we encounter in everyday life. Rather, these individuals are conceived first of all as 'unencumbered selves'— whose personal identities are established prior to and independent of [their] ends, history and communal relations."[765] Society is established for the sake of such "encumbered" individuals to provide them with security and to foster economic exchange

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[763] C. TAYLOR, *Modern Social Imaginaries*, Durham, Duke University Press, 2004, 23 (=TAYLOR, *Modern Social Imaginaries*). John Beal uses Taylor's theory to explain the situation of the world today in relation to the rights of a person in the society and in the Church. See J. BEAL, "Rights in the Church: Great Expectations, Meager Results," in *CLSA Proceedings*, 73 (2011), 33–53 (=BEAL, "Rights in the Church"). Since Beal's treatment of Taylor on the subject is somewhat exhaustive, we will follow closely what he has written on the subject.

[764] TAYLOR, *Modern Social Imaginaries*, 23.

[765] HOLLENBACH, "A Communitarian Reconstruction of Human Rights," 130.

and prosperity,[766] a service which "centers on the needs of the ordinary life, rather than aiming to secure for individuals the highest virtue, as was the case in the classical model of society stemming from Aristotle."[767]

In a preeminent way, society serves the individuals who compose it by protecting their individual rights.[768] The rights most prized by those oriented by this modern social imaginary are those freedoms which ground "their existence as free agents,"[769] that is, those that guarantee them individual autonomy. As moral agents shaping their own destiny, individuals enjoy freedom from coercion by others in matters of belief, expression, and action.[770]

The primacy which modern social imaginary gives to autonomous freedom entails a commitment to ensuring the freedom of individuals to choose their own "visions of good life."[771] Interference with an individual's private pursuit of happiness can only be justified when that pursuit impinges on the rights of others.[772]

Since the modern social imaginary begins with "unencumbered" individuals, "those rooted in it can be tempted to see social relations as accidental accoutrements of personality

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[766] TAYLOR, *Modern Social Imaginaries,* 20.

[767] Ibid.

[768] BEAL, "Rights in the Church," 37.

[769] TAYLOR, *Modern Social Imaginaries,* 20.

[770] Ibid.

[771] HOLLENBACH, "A Communitarian Reconstruction of Human Rights," 131.

[772] BEAL, "Rights in the Church," 41.

and to define the problem of social life in terms of the Hobbesian dilemma of how to induce or force the individual into some kind of social order, make him conform and obey the rules."[773] Indeed, they

> see themselves as agents, who, through disengaged, disciplined action, can transform their own lives as well as the larger social order. They are buffered, disciplined selves. Free agency is central to their self-understanding. The emphasis on rights and the primacy of freedom among them doesn't just stem from the principle that society should exist for the sake of its members; it also reflects the holder's sense of their own agency and of the situation that agency demands in the world, namely, freedom.[774]

Such a sense of individual agency extends to the order of society itself.[775] The modern social imaginary not only stresses the "idea of society as existing for the benefit of individuals and the defense of their rights,"[776] but views this ideal as "one not yet realized, but demanding to be integrally carried out … an imperative prescription."[777] Societal structures are meant to serve these ends of mutual service and mutual respect and are to be judged instrumentally on how well or how poorly they serve them. If they fail or are deficient, they need to be changed.[778]

> The modern social imaginary's rejection of the notion that there is a normative order of hierarchically coordinated and complementary social roles deep in the nature of things has, on a more practical level, left those imbued with it impatient with rules no matter how hallowed, and roles no matter how traditional that seem to stand in the way of achieving equality and the full flowing of rights. Since all

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[773] TAYLOR, *Modern Social Imaginaries,* 18.

[774] Ibid., 21.

[775] BEAL, "Rights in the Church," 45.

[776] C. TAYLOR, *A Secular Age*, Cambridge, Harvard University Press, 2007, 160 (=TAYLOR, *A Secular Age*).

[777] TAYLOR, *A Secular Age*, 162.

[778] BEAL, "Rights in the Church," 45.

> members of society are equal, each individual should enjoy an equal voice in charting the community's direction. As a result, governance that ignores or marginalizes the governed is likely to be perceived as lacking legitimacy.[779]

4.1.2 The Church and its Hierarchy

Whereas the secular world view is committed to the modern social imaginary, the Church is still committed to the pre-modern social imaginary where "the divine law of the Church defines it as a society whose hierarchical order corresponds to and embodies a hierarchy in the heavens."[780] It is for this reason that the Church has never backed away from its insistence that the Church's own hierarchical structure is a matter of divine law and, therefore, immutable.

> The Church's commitment to this normative and hierarchical differentiation of functions in its own social order is reflected in the Magisterium's continued insistence that the difference between the priesthood of the ordained and the common priesthood of all the baptized is ontological and not merely instrumental, and its nervous warnings and interventions to head off encroachments of the non-ordained on the proper functions of the ordained in the name of equality or even on pragmatic grounds.[781]

John Beal says that since the Church understands herself as hierarchical, "the function of a society's laws is not primarily to construct a just social order in which the basic rights of members are recognized and guaranteed but to conserve and, if necessary, restore the normative hierarchical order whose maintenance is itself essential for the

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[779] Ibid.

[780] Ibid., 46.

[781] BEAL, "Rights in the Church," 46.

common good of the society. In such an order, concern for protecting the rights of members may not be the highest autonomy, but it need not be a matter of social indifference."[782]

Indeed, the Church has consistently viewed rights as the minimum conditions for a person's active participation in the life of his or her community so "that the true nature of the common good of the community might be more adequately understood and pursued."[783] In constructing rights in this way, "the Church's social teaching has implicitly acknowledged that the concrete demands of the common good, while accessible to human reason, are not already known but must be sought through dialogue and inquiry in which all the members of the community are entitled to participate in a meaningful way in this communal discernment."[784]

To be a person is necessarily to live in particular historical circumstances, with a particular social identity and set of relationships.[785] As a consequence, it is not autonomous freedom that is the essential precondition for moral agency but the fact that one becomes a proper moral agent or a fully competent human subject only by being embedded in a community sustained by a shared vision of the good and by the communal social roles that educate us in virtue.[786] Indeed, justice cannot be determined in the abstract simply by applying universal standards of human rights to particular persons without reference to

[782] Ibid., 47.

[783] HOLLENBACH, "A Communitarian Reconstruction of Human Rights," 143.

[784] BEAL, "Rights in the Church," 47.

[785] HOLLENBACH, "A Communitarian Reconstruction of Human Rights," 130.

[786] TAYLOR, *Modern Social Imaginaries,* 18.

their communal bonds, social roles, historical period, and cultural traditions.[787] It is for this reason that, although the teachings of the Second Vatican Council and of subsequent Popes as well as the norms of the revised Code of Canon Law recognize numerous rights and obligations of the faithful in the Church, these rights too must be exercised with an eye to the common good of the Church.[788]

Unfortunately, when a hierarchical structure becomes rigid, despite its values to the society, it becomes a burden. Rigidity of the structures is made possible by leaders in the Church who claim that the Church is not a democracy. And true to it: "with the exception of a few decisions for which the consent of the diocesan finance or college of consultors is required, the role of the finance, pastoral and presbyteral councils in the dioceses and parishes is consultative rather than deliberative. In the minds of some, this 'merely consultative' character dooms these bodies to be marginal and ineffective."[789] Furthermore, the same church leaders (and even others in the Church) argue that "the Church is not a business," therefore it does not need equality of participation in decision making.[790] According to John Beal, such arguments are inadequate because, though the Church is neither a democracy nor a business, there are elements of both a democracy and a business that make the Church who she is.

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[787] Ibid.

[788] BEAL, "Rights in the Church," 44.

[789] J.P. BEAL, "Consultation in Church Governance: Taking Care of Business by Taking after Business," in *CLSA Proceedings,* 68 (2006), 28 (=BEAL, "Consultation in Church Governance").

[790] BEAL, "Consultation in Church Governance," 35.

Indeed, scholars, both in canon law and theology, argue that this way of thinking (that is, that the Church is neither a democracy nor a business) makes the Church a "rigidly hierarchically structured Church" which gives prominence to the hierarchy at the expense of the individual and his/her role in the mission of the Church. John Beal says:

> when commitment to public morality, duties and the common good is embedded in a rigidly hierarchical structure in which relations of complementarity override intimations of equality and in which relations of genuine reciprocity between the hierarchical authorities and the rest of the society are lacking or atrophied, concern for rights easily becomes a peripheral concern or, in Provost's phrase "mere fluff." Such is the case in the Catholic Church at the present time.[791]

Moreover, the Second Vatican Council presents the Church itself as a sacrament of Christ's saving presence in the world.[792] Paul VI, in discussing the role of canon law, linked the Church's legal dimensions to the "visibility" aspect of the Church as sacrament.[793] Thus, the laws help to make the Church visible to people in the world. This visibility is necessary for the Church to be a sacramental sign.

For a while now, the Church has been at the forefront in teaching social justice. But, for the Church to be a sign of Christ's concern for justice, the Church itself must

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[791] BEAL, "Rights in the Church," 48.

[792] Cf. *LG*, no. 1, in *AAS*, 57 (1965), 5. "Lumen gentium cum sit Christus, haec Sacrosancta Synodus, in Spiritu Sancto congregata, omnes homines claritate Eius, super faciem Ecclesiae resplendente, illuminare vehementer exoptat, omni creaturae Evangelium annuntiando (cfr. Mar 16, 15). Cum autem Ecclesia sit in Christo veluti sacramentum seu signum et instrumentum intimae cum Deo unionis totiusque generis humani unitatis, naturam missionemque suam universalem, praecedentium Conciliorum argumento instans, pressius fidelibus suis et mundo universo declarare intendit. Condiciones huius temporis huic Ecclesiae officio urgentiorem vim addunt, ut nempe homines cuncti, variis hodie vinculis socialibus, technicis, culturalibus arctius coniuncti, plenam etiam unitatem in Christo consequantur." English translation in *FLANNERY1*, 350.

[793] J.H. PROVOST, "Rights in Canon Law: Real, Ideal, or Fluff?" in *CLSA Proceedings,* 61 (1999), 325 (=PROVOST, "Rights in Canon Law").

practice that social justice it preaches to others. Indeed, "the Church presents its social teaching as applicable to all human institutions. It claims the right 'always and everywhere to announce moral principles, including those pertaining to the social order, and to make judgements on any human affairs to the extent that they are required by the fundamental rights of the human person or the salvation of souls.'"[794] It follows, therefore, that "the Church's teaching and judgments can be applied to the Church itself, insofar as it is a social institution incarnating a divine reality. Both the fundamental rights of its members, and the salvation of their souls may be the basis of this claim."[795] Indeed, "the practice within the Church of its own social justice teaching is a key factor in the credibility of the Church's own witness."[796]

Without doubt, the Church is a hierarchical society. It understands this arrangement as divinely willed. But it also teaches a fundamental equality of all the baptized. "The 1983 Code affirms this fundamental equality in the Church (c. 208). It recognizes a common (justice) juridical status for all the Christian faithful through the listing of the obligations and rights common to them all (cc. 208-223). Moreover, the distinction between clergy and laity is not itself divinely based; rather, what is considered divinely based is the sacrament of orders, not the legal status based on it."[797] James Coriden reminds us:

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[794] Cf. *CIC*, c. 747, §2. "Ecclesiae competit semper et ubique principia moralia etiam de ordine sociali annuntiare, necnon iudicium ferre de quibuslibet rebus humanis, quatenus personae humanae iura fundamentalia aut animarum salus id exigent."

[795] PROVOST, "Rights in Canon Law," 325.

[796] Ibid., 326.

[797] PROVOST, "Rights in Canon Law," 328.

> All of the faithful have the right and duty to participate fully in the life of the Church. This basic right of participation is sounded clearly in canon 204 of the code.[798] The mode of active engagement that is stated explicitly in regard to liturgical celebrations, "knowingly, actively, and fruitfully,"[799] is also true of other forms of sharing in the mission of the local Church. Good pastors try very hard and persistently to help their people to participate fully in Eucharistic celebrations. We must try just as hard to stimulate our people to take part in other forms of activity, both the routine (pastoral and finance councils, parish and diocesan) and exceptional (parish programs and events, diocesan synods). The society's special focus is on the area of governance.[800]

Besides the right to equality, there are other rights listed in the canons. Some are spelled out for all the Christian faithful, or for specific types of the faithful (laity, clergy, religious). Other rights are connected with offices, whether as listed in the 1983 Code or as detailed by particular law or decree (c. 145, §2). Still, other rights are guaranteed by the obligations of others (cf. cc. 213; 383; 528-529; 384).[801] The question here, therefore, is not whether there are rights in the Church but whether those rights are applied. This is because, for many people, the application of the basic human rights in the Church is not always recognizable.[802] Rik Torfs says:

> A problem linked up with rights in the Church clearly is the hierarchical character of ecclesial structures. The 1983 Code maintains this idea. The title of book II, part II is clear: *The Hierarchical Constitution of the Church*. And the exclusive connection between ordination and power of governance, as expressed in canon

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[798] *CIC*, c. 204, §1. "Christifideles sunt qui, utpote per baptismum Christo incorporate, in populum Dei sunt constitute, atque hac ratione muneris Christi sacerdotalis, prophetici et regalis suo modo participes facti, secundum propriam cuiusque condicionem, ad missionem exercendam vocantur, quam Deus Ecclesiae in mundo adimplendam concredidit."

[799] SECOND VATICAN COUNCIL, Constitution on the Sacred Liturgy *Sacrosanctum concilium*, 4 December 1963 (*SC*), nn. 11 & 12, in *AAS*, 56 (1964), 102–103 & 104, English translation in *FLANNERY1*, 6–7.

[800] CORIDEN, "The CLSA and Protection of Rights," 25.

[801] PROVOST, "Rights in Canon Law," 330.

[802] PROVOST, "Rights in Canon Law," 330.

> 129 and canon 274, leads to some apparent tension with the enthusiastic proclamation on rights, including equality as expressed in canon 208. To put it bluntly; what is the real significance of rights, of equality for example, in a highly hierarchical community?[803]

For James Provost, "the most realistic evaluation of rights in the Church is that, at the present time, they are at most an ideal. Regrettably, at times they may even qualify as 'fluff.'"[804] He points out that we are very much in a major period of transition regarding our understanding of Church, the role of individual Christians, the place of rights in the Church, and especially the right of equality as expressed in canon 208. He says:

> We are very much in a major period of transition regarding our understanding of Church, the role of the individual Christians, and the place of rights in the Church…. Thus for rights to become "real" in the Church, each generation will have to adopt the "new way of thinking" characteristic of Vatican II. This manner of thinking is not a given, and must be acquired afresh at each stage. Moreover, each generation must engage in the deeply human and Christian struggle to actualize rights in the Church as a means of living the Christian life. The rights of Christians are not an attempt to elude the gospel, but to live it afresh. They are not an attempt to escape the responsibilities of Catholics, but to empower them in a more effective evangelization. They are a means not to isolate Christians, but to build communion.[805]

If we do not pay attention to individuals and their rights, Provost warns that the economy of salvation, and the credibility of the Church to evangelize in the modern society are at stake.[806]

4.2 Pope Francis and Participative Structures in a Particular Church

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[803] R. TORFS, "Rights in Canon Law: Real, Ideal or Fluff?" in *CLSA Proceedings*, 61 (1999), 358.

[804] PROVOST, "Rights in Canon Law," 341.

[805] Ibid., 341–342.

[806] PROVOST, "Rights in Canon Law," 342.

In the foregoing discussion on the world today, we identified three challenges: "globalization of indifference," "modern social imaginary," and the "rigid hierarchical Church structures." We saw how the secular society, steeped in the modern social imaginary, pays more attention to individual rights of a person in the society at the expense of the common good. This is further complicated by the fact that we live in a globalized world where powerful economic forces are now trumping the individuals and their basic rights. The Church, on the other hand, seems to be steeped in the premodern social imaginary, insisting on the prominence of the hierarchy at the expense of the individual and his/her rights, thereby curtailing his or her role of participation in the mission of the Church through participative structures.

Pope Francis, aware of these challenges,[807] invokes the teachings of the Second Vatican Council to address them. He critiques the notion of "globalization of indifference," which does not uphold the basic human rights of the individual; he critiques the notion "modern social imaginary," which has an exaggerated sense of freedoms and the rights of an individual in the society; and he critiques a Church that is not reading the signs of the times—a Church that is frozen in "rigid hierarchical structures" not readily open to dialogue for active participation of all. After laying down his critiques, Pope Francis then outlines his thoughts on the nature of the Church and the role of the individual in it. Central to his thoughts is the notion of synodality.

[807] Caused by globalization of indifference, the exaggerated sense of individual human rights, and rights and the Church's "rigid hierarchy."

4.2.1 Pope Francis' Critique of Modern Liberalism

Reflecting on the positives and negatives of globalization, Pope Francis, in his Apostolic Exhortation *Evangelii gaudium*,[808] writes:

> In our time humanity is experiencing a turning point in its history, as we can see from the advances being made in so many fields. We can only praise the steps being taken to improve people's welfare in areas such as health care, education, and communications. At the same time we have to remember that the majority of our contemporaries are barely living from day to day, with dire consequences. A number of diseases are spreading. The hearts of many people are gripped by fear and desperation, even in the so-called rich countries. The joy of living frequently fades, lack of respect for others and violence are on the rise, and inequality is increasingly evident. It is a struggle to live and, often, to live with precious little dignity. This epochal change has been set in motion by the enormous qualitative, quantitative, rapid, and cumulative advances occurring in the sciences and in technology, and by their instant application in different areas of nature and of life. We are in an age of knowledge and information, which has led to new and often anonymous kinds of power.[809]

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[808] POPE FRANCIS, Apostolic Exhortation on the Proclamation of the Gospel in Today's World *Evangelium gaudium*, 24 November 2013 (=*EG*), in *AAS*, 105 (2013), 1019–1137. The title of the document is in Latin but the document was published in Italian in the *AAS*. English translation by Libreria editrice Vaticana, http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-rancesco_esortazione-ap_20131124_evangelii-gaudium.html (14 January 2017).

[809] *EG*, no 52, in *AAS*, 105 (2013), 1041–1042. "L'umanità vive in questo momento una svolta storica che possiamo vedere nei progressi che si producono in diversi campi. Si devono lodare i successi che contribuiscono al benessere delle persone, per esempio nell'ambito della salute, dell'educazione e della comunicazione. Non possiamo tuttavia dimenticare che la maggior parte degli uomini e delle donne del nostro tempo vivono una quotidiana precarietà, con conseguenze funeste. Aumentano alcune patologie. Il timore e la disperazione si impadroniscono del cuore di numerose persone, persino nei cosiddetti paesi ricchi. La gioia di vivere frequentemente si spegne, crescono la mancanza di rispetto e la violenza, l'inequità diventa sempre più evidente. Bisogna lottare per vivere e, spesso, per vivere con poca dignità. Questo cambiamento epocale è stato causato dai balzi enormi che, per qualità, quantità, velocità e accumulazione, si verificano nel progresso scientifico, nelle innovazioni tecnologiche e nelle loro rapide applicazioni in diversi ambiti della natura e della vita. Siamo nell'era della conoscenza e dell'informazione, fonte di nuove forme di un potere molto spesso anonimo."

While on his visit to United States of America and to the United Nations headquarters,[810] at Independence Hall in Philadelphia, Pope Francis spoke of the merits and demerits of globalization.

> Globalization is not evil. On the contrary, the tendency to become globalized is good; it brings us together. What can be evil is how it happens. If a certain kind of globalization claims to make everyone uniform, to level everyone out, that globalization destroys the rich gifts of each person and each people. But a globalization which attempts to bring everyone together while respecting the uniqueness and gifts of each person or people is a good globalization; it helps all of us to grow, and it brings peace.[811]

Unfortunately, for Pope Francis globalization is creating more disadvantages (in the form of "globalization of indifference") than advantages. In his message for the celebration of the World Day of Peace in 2016,[812] Pope Francis spoke at length on the notion of globalization of indifference (indifference that means lack of concern for God, neighbour, and the environment) and its effects.

> Indifference towards God transcends the purely private sphere of the individual and affects the public and social sphere. As Benedict XVI pointed out, 'the glorification of God and human peace on earth are closely linked.'[813] "Indeed, without openness to the transcendent, human beings easily become prey to

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[810] The visits took place in September, 2015.

[811] POPE FRANCIS, Address on Religious Freedom at Independence Mall in Philadelphia, 26 September 2015, in *AAS*, 107 (2015), 1050–1051. "La globalización no es mala. Al contrario, la tendencia una globalizarnos es Buena, nos une. Lo que puede ser malo es el modo de hacerlo. Si una globalización pretende igualar a todos, como si fuera una esfera, esa globalizacion destruye la riqueza y la particularidad de cada persona y de cada pueblo. Si una globalizacion busca unir a todos, pero respetando a cada pueblo, a cada riqueza, a su peculiaridad, esa globalización es buena y nos hace crecer a todos, y lleva a la paz." English translation in *L'Osservatore romano*, 2 October 2015, 16 (=POPE FRANCIS, Address on Religious Freedom at Philadelphia).

[812] POPE FRANCIS, Message on the Occasion of World Day of Peace 2016, in *Origins*, 45 (2015), 509 – 514 (=POPE FRANCIS, World Day of Peace 2016).

[813] BENEDICT XVI, Address to the Diplomatic Corps Accredited to the Holy See, 7 January 2013, in *Origins*, 42 (2013), 506.

> relativism and find it difficult to act justly and to work for peace. Disregard and denial of God, which lead man to acknowledge no norm above himself and himself alone, have produced cruelty and violence.
>
> On both the individual and communitarian levels, indifference to one's neighbour, born of indifference to God, finds its expression in disinterest and lack of engagement, which only help to prolong situations of injustice and grave social imbalance. This in turn can lead to conflicts or, in any event, generate a climate of dissatisfaction which risks exploding sooner or later into acts of violence and insecurity.
>
> Indifference and lack of commitment constitute a grave dereliction of duty whereby each of us must work in accordance with our abilities and our role in society for the promotion of the common good, and in particular for peace, which is one of mankind's most precious goods.
>
> On the institutional level, indifference to others and to their dignity, their fundamental rights, when it is part of a culture shaped by the pursuit of profit and hedonism, can foster and even justify actions and policies which ultimately represent threats to peace. Indifference can even lead to justifying deplorable economic policies which breed injustice, division and violence for the sake of ensuring the wellbeing of the individuals or nations. Not infrequently, economic and political projects aim at securing or maintaining power and wealth, even at the cost of trampling on the basic rights and needs of others. When people witness the denial of their elementary rights, such as the right to food, water, health care or employment, they are tempted to obtain them by force.[814]

On the national level, in a state where democracy exists, Pope Francis has been in praise of the merits of democracy but has also warned about the dangers of insistence on individual freedoms at the expense of the common good.

> The process of secularization tends to reduce the faith and the Church to the sphere of the private and personal. Furthermore, by completely rejecting the transcendent, it has produced a growing deterioration of ethics, a weakening of the sense of personal and collective sin, and a steady increase in relativism. These have led to a general sense of disorientation, especially in the periods of adolescence and young adulthood which are so vulnerable to change. As the bishops of the United States of America have rightly pointed out, while the Church insists on the existence of objective moral norms which are valid for everyone, 'there are those in our culture who portray this teaching as unjust, that is, as opposed to basic human rights. Such claims usually follow from a form of moral relativism that is joined, not without inconsistency, to a belief in the absolute rights of individuals.

[814] POPE FRANCIS, World Day of Peace 2016, in *Origins*, 511.

> In this view, the Church is perceived as promoting a particular prejudice and as interfering with individual freedom.'[815] We are living in an information-driven society which bombards us indiscriminately with data – all treated as being of equal importance – and which leads to remarkable superficiality in the area of moral discernment. In response, we need to provide an education which teaches critical thinking and encourages the development of mature moral values.[816]

Critical thinking will help alleviate the crisis the human person is facing today—the loss of human dignity. Pope Francis reflects: "Today, the person counts for nothing, it is coins, it is money that counts … the person is in a crisis today … it is true — the person is a slave!" [817] Indeed, the human person is more and more misusing his/her God-given freedom to make choices that are not good for himself/herself. Pope Francis continues:

> Freedom is not doing everything one likes, or seeing how far one can go by trying drunkenness and overcoming boredom … [rather] freedom means being able to think about what we can do, being able to assess what is good, and what is bad, these are the types of conduct that lead to development; it means always opting for

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[815] This is Pope Francis' reference to UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *Ministry to Persons with a Homosexual Inclination: Guidelines for Pastoral Care*, Washington, DC, USCCB, 2006, 17.

[816] *EG*, no. 64, in *AAS*, 105 (2013), 1046. "Il processo di secolarizzazione tende a ridurre la fede e la Chiesa all'ambito privato e intimo. Inoltre, con la negazione di ogni trascendenza, ha prodotto una crescente deformazione etica, un indebolimento del senso del peccato personale e sociale e un progressivo aumento del relativismo, che danno luogo ad un disorientamento generalizzato, specialmente nella fase dell'adolescenza e della giovinezza, tanto vulnerabile dai cambiamenti. Come bene osservano i Vescovi degli Stati Uniti d'America, mentre la Chiesa insiste sull'esistenza di norme morali oggettive, valide per tutti, « ci sono coloro che presentano questo insegnamento, come ingiusto, ossia opposto ai diritti umani basilari. Tali argomentazioni scaturiscono solitamente da una forma di relativismo morale, che si unisce, non senza inconsistenza, a una fiducia nei diritti assoluti degli individui. In quest'ottica, si percepisce la Chiesa come se promuovesse un pregiudizio particolare e come se interferisse con la libertà individuale ». Viviamo in una società dell'informazione che ci satura indiscriminatamente di dati, tutti allo stesso livello, e finisce per portarci ad una tremenda superficialità al momento di impostare le questioni morali. Di conseguenza, si rende necessaria un'educazione che insegni a pensare criticamente e che offra un percorso di maturazione nei valori."

[817] POPE FRANCIS, Address to the Students of the Jesuit Schools of Italy and Albania, 7 June 2013, in *Origins*, 43 (2013), 117 (=POPE FRANCIS, Address to the Students of the Jesuit Schools).

> the good …. Always being free to choose the goodness is demanding but it will make you into people with a backbone who can face life, people with courage and patience.[818]

A correct, adequate understanding of freedom and its proper use are crucial especially in the young. This is because if children and others are deprived of a full understanding of the power of freedom through the failings of an adequate education, our society will continue to deteriorate morally.[819] The acknowledgement of the origin of freedom is crucial for a correct understanding and proper use of it. Pope Francis says that, since God created humankind, human freedom originates in God. That is why, when freedom is used in opposition to the love of God and the true good of others, it becomes a lie, a false freedom. This then becomes an abuse of God himself who has given it to humankind. In abusing freedom, human beings use it as a weapon against goodness, which always brings harm to themselves and the society in which they live.

When human beings abuse freedom, they begin to think wrongly they have the sole power to determine what freedom is, which leads to the mistaken idea that freedom exists to serve only an individual's subjective wants or needs without consideration for what is truly good. Freedom, then, becomes distorted, expanded, and exaggerated outside of its proper boundaries. When taken to the extreme, it is trumpeted as the "right" of the powerful to kill the weak.[820] The proper use of freedom calls for an understanding that

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[818] POPE FRANCIS, Address to the Students of the Jesuit Schools, in *Origins*, 117.

[819] Ibid., 118.

[820] Cf. *EG*, no. 218, in *AAS*, 105 (2013), 1110. "La pace sociale non può essere intesa come irenismo o come una mera assenza di violenza ottenuta mediante l'imposizione di una parte sopra le altre. Sarebbe parimenti una falsa pace quella che servisse come scusa per giustificare

> all men and women are created equal, that they are endowed by the Creator with certain inalienable rights, and that governments exist to protect and defend those rights…. When individuals and communities are guaranteed the effective exercise of their rights, they are not only free to realize their potential, they also, through their talents and their hard work, contribute to the welfare and enrichment of society as a whole.[821]

4.2.2 Pope Francis' Critique of "Rigid Church Hierarchy"

Pope Francis' critique of the Roman Curia in 2014 and his constant critique of rigid Church leaders[822] points to his own understanding of the nature of the Church, the role of the hierarchy, and the place of law in the mission of the Church. At the start of the critique of the Roman Curia, as his point of reference, Pope Francis invokes Pope Pius XII's image

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un'organizzazione sociale che metta a tacere o tranquillizzi i più poveri, in modo che quelli che godono dei maggiori benefici possano mantenere il loro stile di vita senza scosse mentre gli altri sopravvivono come possono. Le rivendicazioni sociali, che hanno a che fare con la distribuzione delle entrate, l'inclusione sociale dei poveri e i diritti umani, non possono essere soffocate con il pretesto di costruire un consenso a tavolino o un'effimera pace per una minoranza felice. La dignità della persona umana e il bene comune stanno al di sopra della tranquillità di alcuni che non vogliono rinunciare ai loro privilegi. Quando questi valori vengono colpiti, è necessaria una voce profetica."

[821] POPE FRANCIS, Encyclical Letter on the Care of the Environment *Laudato Si!* 24 May 2015,http://w2.vatican.va/content/francesco/la/encyclicals/documents/papafrancesco_20150524_enciclica-laudato-si.html (10 January 2017), no. 205. "At non omnia deperdita sunt, quia homines, qui usque ad extremum se depravare possunt, valent etiam se ipsi superare, ad bonum eligendum redire et regenerari, praeter omnes coërcitiones mentis societatisque quae eis imponuntur. Possunt se ipsos honeste conspicere, proprium taedium ostendere novaque incipere itinera ad veram libertatem." English translation, Pauline Publications Africa, Nairobi, 2015, 113.

[822] Pope Francis' critique seemed to include Church lawyers because of his reference to the teachers of the law in the Bible who were Pharisees and Scribes. Although his choice of words has sometimes offended a good number of canon lawyers, his intention was not to attack canon lawyers but to encourage them to consider more and more the spirit behind the laws of the Church and not legalism.

of the Church as the Mystical Body of Jesus Christ[823] and the Second Vatican Council's principle of inclusivity in the building up of this mystical body.

> The Second Vatican Council thus recalls that diversity of members and functions is engaged in the building up of Christ's body too. There is only one Spirit who, out of his own richness and the needs of the ministries, gives his various gifts for the welfare of the Church (cf. 1 Cor 12:1-11). As a result, Christ and the Church together make up the 'whole Christ' (*Christus totus*). The Church is one with Christ.[824]

Pope Francis suggests that the Roman Curia is a "small-scale model of the Church—a 'body' which strives seriously every day to be more alive, more healthy, more harmonious, and more united in itself and with Christ."[825] The Roman Curia should therefore be reflective of the leadership in the whole Church. This is because it is "a complex body, made up of a number of Congregations, Councils, Offices, Tribunals, Commissions, as of numerous elements which do not all have the same task but are

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[823] Pope Pius XII, in his *Mystici Corpus*, Part One, nn. 15-16, in *AAS*, 35 (1943), 200, states that the Church, being *mysticum Corpus Christi*, "calls also for a multiplicity of members, which are linked together in such a way as to help one another. As in the body, when one member suffers, all the other members share its pain, and the healthy members come to the aid of the ailing, so in the Church the individual members do not live for themselves alone, but also help their fellows, and all work in mutual collaboration for the common comfort and for the more perfect building up of the whole Body… a Body not formed by a haphazard grouping of members, but… constituted of organs, that is of members, that have not the same function and arranged in due order; so for this reason above all the Church is called a body, that it is constituted by the coalescence of structurally united parts.

[824] POPE FRANCIS, Address to the Roman Curia, 22 December 2014, English translation in *L'Osservatore romano*, 22 December 2014, http://www.news.va/en/news/an-examination-of-conscience-at-the-audience-for-t (15 January 2017).

[825] POPE FRANCIS, Address to the Roman Curia, in *L'Osservatore romano*, 22 December 2014, http://www.news.va/en/news/an-examination-of-conscience-at-the-audience-for-t (15 January 2017).

coordinated in view of an effective, edifying, disciplined, and exemplary functioning, notwithstanding the cultural, linguistic, and national differences of its members."[826]

Thus, the Roman Curia is called "constantly to improve and to grow in *communion*, *holines*s, and *wisdom*."[827] Unfortunately, Pope Francis has not experienced this in the Curia. It is for this reason that he offers criticisms (he calls them diseases), numbering fifteen, to the Roman Curia. Of relevance to us, in this study, are the following three.

1. **The disease of thinking we are 'immortal,' 'immune,' or downright 'indispensable,'** neglecting the need for regular check-ups. A Curia which is not *self-critical*, which does not keep up with things, which does not seek to be more fit, is a sick body …. It is a disease of rich fool in the Gospel, who thought he would live forever (cf. Lk 12:13-21), but also of those who turn into lords and masters, and think of themselves as above others and not at their service. It is often an effect of pathology of power, from a superiority complex, from a narcissism which passionately gazes at its own image and does not see the image of God in the face of others, especially the weakest and those most in need ….

2. **The disease of mental and spiritual 'petrification.'** It is found in those who have a heart of stone, the 'stiff-necked' (Acts 7:15-60), in those who in the course of time lose their interior serenity, alertness and daring, and hide under a pile of papers, turning into *paper pushers* and not *men of God* (cf. Heb 3:12). It is dangerous to lose the human sensitivity that enables us to weep with those who weep and to rejoice with those who rejoice! This is the disease of those who lose '*the sentiments of Jesus*' (cf. Phil 2:5-11), because as time goes on their hearts grow hard and become incapable of loving unconditionally the Father and our neighbour (cf. Mt. 22:34-35).

3. **The disease of poor coordination.** Once its members lose communion among themselves, the body loses its harmonious functioning and its equilibrium; it then becomes an orchestra which produces noise: its members do not work together and lose the spirit of fellowship and teamwork. When the foot says to the arm: I don't need you," or the hand says to the head, 'I'm in charge,' they create discomfort and scandal.

Pope Francis directed the second criticism above to the Roman Curia, and he has also invoked it several times when commenting about legalistic Church leaders who cannot

[826] Ibid.

[827] Ibid.

move beyond the words of the law to the spirit of the law for the salvation of souls. The Pope has on many occasions pointed out that he dislikes legalism, rigidity, and clericalism in a Church leader.

For example, on legalism, Pope Francis has pointed out that some lawyers today are like the Pharisees in Jesus' time who were so wrapped up in doctrine as an end in itself that they were unable to see that Jesus was leading people down a new and surprising path toward his glory. "The scholars of the law were safeguarding the law 'out of love, to be faithful to God,' however, 'they were closed up right there,' and forgot all the ways God acted in history. They forgot that God is the God of law, but is also the God of surprises. The guardians of the law thus couldn't see beyond 'this system made with lots of good will,' and they could not read the 'signs of the times.'"[828]

On rigidity, Pope Francis says that the Pharisees were (as are some Church leaders today) rigid. "Their mistake was to detach the commandments from the heart of God. They thought it enough to merely keep the commandments, but these 'are not just a cold law,' because they are born from a relationship of love and are indications that help us avoid mistakes in our journey to meet Jesus. So, the pharisees who close their hearts and minds 'to all things new,' do not understand the path of hope."[829] Indeed, he explains:

> Attachment to the law ignores the Holy Spirit. It does not grant that the redemption of Christ goes forward with the Holy Spirit. It ignores that: there is only the law. It is true that there are Commandments and we have to follow the Commandments; but always through the grace of this great gift that the Father has given to us His son, and the gift of the Holy Spirit. And so, the law is understood. But don't reduce

[828] POPE FRANCIS, Homily at Casa Santa Marta, 24 October 2016, in *L'Osservatore romano*, English ed., 28 October 2016, 10 (POPE FRANCIS, Homily at Casa Santa Marta, 24 October 2016).

[829] Ibid.

> the Spirit and the Son to the Law. This was the problem of these people: they ignored the Holy Spirit, and they did not know how to go forward.[830]

Pope Francis also believes that there are still elements of clericalism in the Church. In a homily, reflecting on the Gospel, where the pharisees question Christ's authority of teaching, the Pope says that in doing so

> they forgot the promises made by God in the past. Their hearts were fixed on legalism and authority and forgot about the prophecies and the mighty deeds of the Lord. When there is no prophesy in the people of God, the void it leaves becomes occupied by clericalism. And it is this clericalism that the Pharisees ask Jesus 'with what authority do you do this? With what authority?' And this is when the memory of the promise and the hope of going forward becomes reduced to only the present: neither the past, nor a hopeful future.[831]

After critiquing legalism, rigidity, and clericalism in the Church, Pope Francis expresses his hope for a Church that shall be "open to the gift of God, that she may allow herself to be surprised by the Holy Spirit to be a Church that gives birth, a Mother Church."[832] It will be a Church that encourages dialogue.

> Dialogue is our method, not as a shrewd strategy but out of fidelity to the One who never wearies of visiting the marketplace, even at the eleventh hour, to propose his offer to love (Mt 20:1-16). The path ahead, then, is dialogue among yourselves, dialogue in your presbyterates, dialogue with lay persons, dialogue with families, dialogue with the society. I cannot ever tire of encouraging you to dialogue fearlessly. The richer the heritage which you are called to share with *parrhesia*, the more eloquent should be the humility with which you should offer it. Do not be afraid to set out on that 'exodus' which is necessary for all authentic dialogue. Otherwise, we fail to understand the thinking of others, or to realize deep down that the brother or sister we wish to reach and redeem, with the power and the

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[830] POPE FRANCIS, Homily at Casa Santa Marta, 6 October 2016, English translation in *Zenit*, 7 October 2016, https://zenit.org/articles/popes-morning-homily-ask-yourself-do-i-ignore-sadden-the-holy-spirit/ (15 January 2017).

[831] POPE FRANCIS, Speech after Homily at St. Peter Square, 24 April 2016, English translation in *Zenit*, 25 April 2016, https://zenit.org/articles/category/pope-holy-see/popes-morning-homily/ (15 January 2017).

[832] Ibid.

> closeness of love, counts more than their positions, distant as they may be from what we hold as true or certain.[833]

In his opening address to the extraordinary synod of the family in October 2015, Pope Francis said: "The world in which we live, and which we are called to love and serve, even with its contradictions, demands that the Church strengthen cooperation in all areas of her mission. It is precisely this path of *synodality* which God expects of the Church of the third millennium." [834]

Pope Francis' critiques on the contemporary secular world view and on the Church hierarchy's legalism, rigidity, and clericalism, and his concept of synodality, sets the stage for understanding his view on the nature of the Church and the role of canon law in building up the kingdom of God. Since our focus is on participative structures in a particular Church, we will explore below Pope Francis' perspective of participative structures in a particular

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[833] POPE FRANCIS, Address to the Catholic Bishops of the United States of America at Washington, DC, 23 September 2015, in *AAS*, 107 (2015), 1023. "Il dialogo è il nostro metodo, non per astute strategia, ma per fedeltà a Colui che non si stanca mai di passare e ripassare nelle piazza degli uomini fino all'undicesima ora per proporre il suo invite d'amure. La via è pertanto il dialogo: dialogo tra voi, dialogo con la società. Non mistancherei di icoraggiarvi a dialogo senza paura. Tanto più è ricco il patrimonio, che con parresia avete da condividere, tanto più sia eloquente l'umiltà con la quale lo dovete offrire. Non abbiate paura di compiere l'esodo necessario ad ogni autentico dialogo. Altrimenti non è possibile comprendere le ragioni dell'altro né capire fino in fondo che il fratello da raggiungere e riscattare, con la forza e la prossimità dell'amore, conta più di quanto contano le posizioni che guidichiamo lontane dalle nostre pur authentiche certezze ...." In *L'Osservatore romano*, English ed., 25 September 2015, 19.

[834] POPE FRANCIS, Speech on the 50th Anniversary of Synod of Bishops, 5 October 2015, in *AAS*, 107 (2015), 1139. "Dobbiamo prosequire su questa strada. Il mondo in cui viviamo, e che siamo chiamati ad amare e servire anche nelle sue contradddizioni, esige dalla Chiesa il potenziamento delle sinergie in tutti gli ambiti della sua missione. Proprio il cammino della *sinodalità* è il cammino che Dio si aspetta dalla Chiesa del terzo millennio." English translation in *Origins*, 45 (2015), 382 (=POPE FRANCIS, "Synodality").

Church. We will then use his perspective on participative structures in a particular Church to apply to the situation in particular Churches in the AMECEA region.

4.2.3 Pope Francis' Perspective on Participative Structures in a Particular Church

Our main sources for the reflection on Pope Francis' perspective on participative structures include *Evangelii gaudium*, his opening address at the October 2015 extraordinary session of the Synod of the Bishops on Family, and his messages during his apostolic journey to Africa. We also rely on John Renken's exposition on "Pope Francis and Participative Structures in the Church: A Canonical Reflection."[835]

As we pointed out earlier, Pope Francis knows the challenges facing the world and the Church. He believes that a good understanding and application of Vatican II teachings can bring about a good understanding of the role of the Church and canon law (especially as regards the role of the individual) in society.

4.2.3.1 Pope Francis and the Mission of the Church

Pope Francis adapts Vatican II's description of the Church as the people of God. He explains that, "after stating that the people of God is comprised of all the baptized who are called to 'be a spiritual house and a holy priesthood,'[836] the Second Vatican Council

[835] J.A. RENKEN, "Pope Francis and Participative Bodies in the Church: Canonical Reflections," in *Studia canonica*, 48 (2014), 203–233 (=RENKEN, "Pope Francis and Participative Structures").

[836] Cf. *LG*, no. 10, in *AAS*, 57 (1965), 14–15. "Christus Dominus, Pontifex ex hominibus assumptus (cfr. Hebr, 5, 1-5) novum populum « fecit regnum et sacerdotes Deo et Patri suo » (Apoc. 1, 6; cfr. 5, 9-10). Baptizati enim, per regenerationem et Spiritus Sancti unctionem consecrantur in domum spiritualem et sacerdotium sanctum, ut per omnia opera hominis christiani spirituales offerant hostias, et virtutes annuntient Eius qui de tenebris eos vocavit in admirabile

went on to say that 'the whole body of the faithful, who have an anointing which comes from the holy one (cf. Jn 2:20-27), cannot err in matters of belief. The people of God is holy thanks to this anointing, which makes it infallible *in credendo*."[837] It is for this reason that "all the baptized, whatever their position in the Church or their level of instruction in faith, are agents of evangelization, and it would be insufficient to envisage a plan of evangelization to be carried out by professionals while the rest of the faithful would simply be passive recipients."[838] The *sensus fidei* prevents a rigid separation between and *Ecclesia*

lumen suum (cfr. 1 Petr. 2, 4-10). Ideo universi discipuli Christi, in oratione perseverantes et collaudantes Deum (cfr. Act. 2, 42-47), seipsos hostiam viventem, sanctam, Deo placentem exhibeant (cfr. Rom. 12, 1), ubique terrarum de Christo testimonium perhibeant, atque poscentibus rationem reddant de ea, quae in eis est, spe vitae aeternae (cfr. 1 Petr. 3, 15). Sacerdotium autem commune fidelium et sacerdotium ministeriale seu hierarchicum, licet essentia et non gradu tantum differant, ad invicem tamen ordinantur; unum enim et alterum suo peculiari modo de uno Christi sacerdotio participant. Sacerdos quidem ministerialis, potestate sacra qua gaudet, populum sacerdotalem efformat ac regit, sacrificium eucharisticum in persona Christi conficit illudque nomine totius populi Deo offert; fideles vero, vi regalis sui sacerdotii, in oblationera Eucharistiae concurrunt, illudque in sacramentis suscipiendis; in oratione et gratiarum actione, testimonio vitae sanctae, abnegatione et actuosa caritate exercent." English translation in *FLANNERY1*, 360–361.

[837] *EG*, no. 119, *AAS*, 105 (2013), 1069–1070. "In tutti i battezzati, dal primo all'ultimo, opera la forza santificatrice dello Spirito che spinge ad evangelizzare. Il Popolo di Dio è santo in ragione di questa unzione che lo rende infallibile "in credendo". Questo significa che quando crede non si sbaglia, anche se non trova parole per esprimere la sua fede. Lo Spirito lo guida nella verità e lo conduce alla salvezza. Come parte del suo mistero d'amore verso l'umanità, Dio dota la totalità dei fedeli di un istinto della fede – il sensus fidei – che li aiuta a discernere ciò che viene realmente da Dio. La presenza dello Spirito concede ai cristiani una certa connaturalità con le realtà divine e una saggezza che permette loro di coglierle intuitivamente, benché non dispongano degli strumenti adeguati per esprimerle con precisione."

[838] *EG*, no. 120, 1070. "In virtù del Battesimo ricevuto, ogni membro del Popolo di Dio è diventato discepolo missionario (cfr Mt 28, 19). Ciascun battezzato, qualunque sia la sua funzione nella Chiesa e il grado di istruzione della sua fede, è un soggetto attivo di evangelizzazione e sarebbe inadeguato pensare ad uno schema di evangelizzazione portato avanti da attori qualificati in cui il resto del popolo fedele fosse solamente recettivo delle loro azioni."

docens and an *Ecclesia discens*, since the flock likewise has an instinctive ability to discern the new ways that the Lord is revealing to the Church.[839]

The task of the Church is evangelization. "The Church, as the agent of evangelization, is more than an organic and hierarchical institution: she is first and foremost a people advancing on its pilgrim way toward God."[840]

> The Church which 'goes forth' is a community of missionary disciples who take the first step, who are involved and supportive, who bear fruit and rejoice. An evangelizing community knows that the Lord has taken the initiative, he has loved us first (cf. 1 Jn 4: 19), and therefore we can move forward, boldly take the initiative, to go out to others, seek those who have fallen away, stand at the crossroads and welcome the outcast. Such a community has an endless desire to show mercy, the fruit of its own experience of the power of the Father's infinite mercy. Let us try a little harder to take the first step and to become involved. Jesus washed the feet of his disciples. The Lord gets involved and he involves his own, as he kneels to wash their feet. He tells his disciples: 'You will be blessed if you do this' (Jn 13: 17). An evangelizing community gets involved by word and deed in people's daily lives; it bridges distances, it is willing to abase itself if necessary, and it embraces human life, touching the suffering flesh of Christ in others. Evangelizers thus take on the 'smell of the sheep' and the sheep are willing to hear their voice. An evangelizing community is also supportive, standing by people at every step of the way, no matter how difficult or lengthy this may prove to be. It is familiar with patient expectation and apostolic endurance. Evangelization consists mostly of patience and disregard for constraints of time. Faithful to the Lord's gift, it also bears fruit. An evangelizing community is always concerned

[839] POPE FRANCIS, Address to the Leadership of the Episcopal Conference of Latin America during the General Coordination Meeting, 28 July 2013, Rio de Janeiro, in *L'Osservatore romano*, English ed., 28 July 2013, http://www.news.va/en/news/francis-to-brazils-leaders-a-country-grows-when-it (15 January 2017). See also, POPE FRANCIS, Address on the Occasion of a Meeting with Clergy, Consecrated Persons, and Members of Pastoral Councils, 4 October 2013, http://www.news.va/en/news/meeting-with-the-clergy-consecrated-people-and-mem (15 January 2017).

[840] *EG*, no. 111, in *AAS*, 105 (2013), 1066. "L'evangelizzazione è compito della Chiesa. Ma questo soggetto dell'evangelizzazione è ben più di una istituzione organica e gerarchica, poiché anzitutto è un popolo in cammino verso Dio. Si tratta certamente di un mistero che affonda le sue radici nella Trinità, ma che ha la sua concretezza storica in un popolo pellegrino ed evangelizzatore, che trascende sempre ogni pur necessaria espressione istituzionale. Propongo di soffermarci un poco su questo modo d'intendere la Chiesa, che trova il suo ultimo fondamento nella libera e gratuita iniziativa di Dio."

> with fruit, because the Lord wants her to be fruitful. It cares for the grain and does not grow impatient at the weeds. The sower, when he sees weeds sprouting among the grain does not grumble or overreact. He or she finds a way to let the word take flesh in a particular situation and bear fruits of new life, however imperfect or incomplete these may appear. The disciple is ready to put his or her whole life on the line, even to accepting martyrdom, in bearing witness to Jesus Christ, yet the goal is not to make enemies but to see God's word accepted and its capacity for liberation and renewal revealed. Finally, an evangelizing community is filled with joy; it knows how to rejoice always. It celebrates every small victory, every step forward in the work of evangelization. Evangelization with joy becomes beauty in the liturgy, as part of our daily concern to spread goodness. The church evangelizes and is herself evangelized though the beauty of the liturgy, which is both a celebration of the task of evangelization and the source of her renewed self-giving.[841]

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[841] *EG*, no. 24, in *AAS*, 105 (2013), 1029–1030. "La Chiesa "in uscita" è la comunità di discepoli missionari che prendono l'iniziativa, che si coinvolgono, che accompagnano, che fruttificano e festeggiano. "Primerear – prendere l'iniziativa": vogliate scusarmi per questo neologismo. La comunità evangelizzatrice sperimenta che il Signore ha preso l'iniziativa, l'ha preceduta nell'amore (cfr 1 Gv 4, 10), e per questo essa sa fare il primo passo, sa prendere l'iniziativa senza paura, andare incontro, cercare i lontani e arrivare agli incroci delle strade per invitare gli esclusi. Vive un desiderio inesauribile di offrire misericordia, frutto dell'aver sperimentato l'infinita misericordia del Padre e la sua forza diffusiva. Osiamo un po' di più di prendere l'iniziativa! Come conseguenza, la Chiesa sa "coinvolgersi". Gesù ha lavato i piedi ai suoi discepoli. Il Signore si coinvolge e coinvolge i suoi, mettendosi in ginocchio davanti agli altri per lavarli. Ma subito dopo dice ai discepoli: « Sarete beati se farete questo » (Gv 13, 17). La comunità evangelizzatrice si mette mediante opere e gesti nella vita quotidiana degli altri, accorcia le distanze, si abbassa fino all'umiliazione se è necessario, e assume la vita umana, toccando la carne sofferente di Cristo nel popolo. Gli evangelizzatori hanno così "odore di pecore" e queste ascoltano la loro voce. Quindi, la comunità evangelizzatrice si dispone ad "accompagnare". Accompagna l'umanità in tutti i suoi processi, per quanto duri e prolungati possano essere. Conosce le lunghe attese e la sopportazione apostolica. L'evangelizzazione usa molta pazienza, ed evita di non tenere conto dei limiti. Fedele al dono del Signore, sa anche "fruttificare". La comunità evangelizzatrice è sempre attenta ai frutti, perché il Signore la vuole feconda. Si prende cura del grano e non perde la pace a causa della zizzania. Il seminatore, quando vede spuntare la zizzania in mezzo al grano, non ha reazioni lamentose né allarmiste. Trova il modo per far sì che la Parola si incarni in una situazione concreta e dia frutti di vita nuova, benché apparentemente siano imperfetti o incompiuti. Il discepolo sa offrire la vita intera e giocarla fino al martirio come testimonianza di Gesù Cristo, però il suo sogno non è riempirsi di nemici, ma piuttosto che la Parola venga accolta e manifesti la sua potenza liberatrice e rinnovatrice. Infine, la comunità evangelizzatrice gioiosa sa sempre "festeggiare". Celebra e festeggia ogni piccola vittoria, ogni passo avanti nell'evangelizzazione. L'evangelizzazione gioiosa si fa bellezza nella Liturgia in mezzo all'esigenza quotidiana di far progredire il bene. La Chiesa evangelizza e si evangelizza con la bellezza della Liturgia, la quale è anche celebrazione dell'attività evangelizzatrice e fonte di un rinnovato impulso a donarsi."

For the Church to be fruitful in her mission of evangelization in this day and age, Pope Francis invites all the Christian faithful "to be bold and creative in the task of rethinking the goals, structures, style, and methods of evangelization in their respective communities.[842]

> Pastoral ministry in a missionary key seeks to abandon the complacent attitude that says: 'we have always done it this way.' I invite everyone to be bold and creative in this task of rethinking the goals, structures, style, and methods of evangelization in their respective communities. A proposal of goals without an adequate communal search for the means of achieving them will inevitably prove illusory. I encourage everyone to apply the guidelines found in this document generously and courageously, without inhibitions or fear. The important thing is to not walk alone, but to rely on each other as brothers and sisters, and especially under the leadership of the bishops, in a wise and realistic pastoral discernment.[843]

Thus, all the "Christian faithful who, bearing divine gifts and having various but complimentary ecclesial roles, need to collaborate together in the mission of the Church, which is evangelization."[844] For Pope Francis, this is the context in which to understand both the role of the hierarchy and the role of the laity in the mission of the Church.

4.2.3.2 The Church's Hierarchy and the Notion of Synodality

[842] Cf. RENKEN, "Pope Francis and Participative Structures," 205.

[843] *EG*, no. 33, in *AAS*, 105 (2013), 1034. "La pastorale in chiave missionaria esige di abbandonare il comodo criterio pastorale del "si è fatto sempre così". Invito tutti ad essere audaci e creativi in questo compito di ripensare gli obiettivi, le strutture, lo stile e i metodi evangelizzatori delle proprie comunità. Una individuazione dei fini senza un'adeguata ricerca comunitaria dei mezzi per raggiungerli è condannata a tradursi in mera fantasia. Esorto tutti ad applicare con generosità e coraggio gli orientamenti di questo documento, senza divieti né paure. L'importante è non camminare da soli, contare sempre sui fratelli e specialmente sulla guida dei Vescovi, in un saggio e realistico discernimento pastorale."

[844] RENKEN, "Pope Francis and Participative Structures," 209.

Pope Francis, invoking Vatican II Council, insists that authority is for service.

> Jesus founded the Church by setting at her head the Apostolic College, in which the Apostle Peter is the 'rock' (cf. Mt 17: 18), the one who must confirm his brethren in the faith (cf. Lk 22: 32). But in this Church, as in an inverted pyramid, the top is located at beneath the base. Consequently, those who exercise authority are called 'ministers,' because, in the original meaning of the word, they are the least of all. It is in serving the people of God that each bishop becomes, for that portion of the flock entrusted to him, *vicarius Christi*[845] the vicar of that Jesus who at the Last Supper bent down to wash the feet of the Apostles (cf. Jn 13: 1-15). And in a similar perspective, the Successor of Peter is nothing else if not the *servus servorum Dei*.[846] Let us never forget this! For the disciples of Jesus, yesterday, today and always, the only authority is the authority of service, the only power of the cross. As the Master tells us: 'You know that the rulers of the Gentiles lord it over them, and their great men exercise authority over them. It shall not be so among you; but whoever would be great among you must be your servant, and whoever would be first among you must be your slaves' (Mt 20: 25-27). *It shall be among you*: in this expression we touch the heart of the mystery of the Church, and we receive the enlightenment necessary to understand our hierarchical service.[847]

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[845] Cf. *LG*, no. 27, in *AAS*, 57 (1965), 32. "Episcopi Ecclesias particulares sibi commissas ut vicarii et legati Christi regunt, consiliis, suasionibus, exemplis, verum etiam aucto ritate et sacra potestate, qua quidem nonnisi ad gregem suum in veritate et sanctitate aedificandum utuntur, memores quod qui maior est fiat sicut minor et qui praecessor est sicut ministrator (cfr. Luc. 22, 26-27)." English translation in *FLANNERY1*, 382.

[846] POPE FRANCIS, Address to the Third Extraordinary General Assembly of the Synod of Bishops, 18 October 2014, in *Origins*, 44 (2014), 367.

[847] POPE FRANCIS, "Synodality," in *AAS*, 107 (2015), 1142. "Gesù ha costituito la Chiesa ponendo al suo vertice il Collegio apostolico, nel quale l'apostolo Pietro è la « roccia » (Cfr Mt 16, 18), colui che deve « confermare » i fratelli nella fede (Cfr Lc 22, 32). Ma in questa Chiesa, come in una piramide capovolta, il vertice si trova al di sotto della base. Per questo coloro che esercitano l'autorità si chiamano « ministri »: perché, secondo il significato originario della parola, sono i più piccoli tra tutti. È servendo il Popolo di Dio che ciascun Vescovo diviene, per la porzione del Gregge a lui affidata, vicarius Christi, vicario di quel Gesù che nell'ultima cena si è chinato a lavare i piedi degli apostoli (Cfr Gv 13, 1-15). E, in un simile orizzonte, lo stesso Successore di Pietro altri non è che il servus servorum Dei. Non dimentichiamolo mai! Per i discepoli di Gesù, ieri oggi e sempre, l'unica autorità è l'autorità del servizio, l'unico potere è il potere della croce, secondo le parole del Maestro: « Voi sapete che i governanti delle nazioni dominano su di esse e i capi le opprimono. Tra voi non sarà così; ma chi vuole diventare grande tra voi, sarà vostro servitore e chi vuole essere il primo tra voi, sarà vostro schiavo » (Mt 20, 25-27). Tra voi non sarà così: in quest'espressione raggiungiamo il cuore stesso del mistero della Chiesa – « tra voi non sarà così »

Pope Francis employs, in a new way, the notion of synodality to explain both the hierarchy and the laity. He says: "*Synodality*, as a constitutive element of the Church, offers us the most appropriate interpretive framework for understanding the hierarchical ministry itself."[848]

> If we understand, as Saint John Chrysostom says, that 'Church and Synod are synonymous,' inasmuch as the Church is nothing other than the 'journeying together' of God's flock along the paths of history towards the encounter with Christ the Lord, then we understand too that, within the Church, no one be 'raised up' higher than others. On the contrary, in the Church, it is necessary that each person 'lower' himself or herself, so as to serve our brothers and sisters along the way.[849]

Commenting on the synod of bishops in relation to the papal authority in the Church, Pope Francis says:

> The fact that the Synod always acts *cum Petro et sub Petro* – indeed, not only *cum Petro*, but also *sub Petro* – is not a limitation of freedom, but a guarantee of unity. For the Pope is, by will of the Lord, 'the perpetual and visible source and foundation of the unity both of the bishops and of the whole company of the faithful.'[850] Closely related to this is the concept of '*hierarchica communio*' as

– e riceviamo la luce necessaria per comprendere il servizio gerarchico." In *Origins*, 45 (2015), 383.

[848] POPE FRANCIS, "Synodality," in *AAS*, 107 (2015), 1141-1142. "La *sinodalità*, come dimensione constitutiva della Chiesa, ci offre la cornice interpretetiva più adequata per comprendere lo stesso ministero gerarchico." English translation in *Origins*, 45 (2015), 383.

[849] POPE FRANCIS, "Synodality," in *AAS*, 107 (2015), 1141, 1142. "Se capiamo che, come dice san Giovanni Chrisostomoe, «Chiesa e Sinoido sono sinonimi » – perché la Chiesa non è altro che il «camminare insieme» del Gregge di Dio sui sentieri della storia incontro a Christo Signore – capiamo pure che al suo interno nessuno può essere "elevato" al di sopra degli altri. Al contraria, nella Chiesa è necessario che qualcuno «si abbassi» per mettersi al servizio dei fratelli lungo il cammino." In *Origins*, 45 (2015), 383.

[850] *LG*, no. 23, in *AAS*, 57 (1965), 27. "Collegialis unio etiam in mutuis relationibus singulorum Episco porum cum particularibus Ecclesiis Ecclesiaque universali apparet. Romanus Pontifex, ut successor Petri, est unitatis, tum Episcoporum tum fidelium multitudinis, perpetuum ac visibile principium et fundamentum. Episcopi autem singuli visibile principium et fundamentum

> employed by the Second Vatican Council: the Bishops are linked to the Bishop of Rome by the bond of episcopal communion (*cum Petro*) while, at the same time, hierarchically subject to him as head of the college (*sub Petro*).[851]

Pope Francis identifies the art of listening as an important element for a synodal Church.

> A synodal Church is a Church which listens, which realizes that listening is more than simply hearing.' It is a mutual listening in which everyone has something to learn. The faithful people, the college of bishops, the Bishop of Rome: all listening to each other, and all listening to the Holy Spirit, the "Spirit of Truth" (Jn 14: 17), in order to know what he 'says to the Churches' (Rev. 2: 7).[852]

Unfortunately for Pope Francis, *synodality* (the walking-together) among the members of the Church is less evident today. He therefore invites the faithful to "an ecclesial renewal which cannot be deferred."[853] He calls for a "renewal of structures" which will (1) make them more mission-oriented, (2) make ordinary pastoral activity more inclusive and open

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sunt unitatis in suis Ecclesiis particularibus, ad imaginem Ecclesiae universalis formatis, in quibus et ex quibus una et unica Ecclesia catholica exsistit. Qua de causa singuli Episcopi suam Ecclesiam, omnes autem simul cum Papa totam Ecclesiam repraesentant in vinculo pacis, amoris et unitatis." In *FLANNERY1*, 376,

[851] POPE FRANCIS, "Synodality," 1141. "Il fatto che il Sinodo agisca sempre cum Petro et sub Petro – dunque non solo cum Petro, ma anche sub Petro – non è una limitazione della libertà, ma una garanzia dell'unità. Infatti il Papa è, per volontà del Signore, « il perpetuo e visibile principio e fondamento dell'unità tanto dei Vescovi quanto della moltitudine dei Fedeli ». A ciò si collega il concetto di « hierarchica communio », adoperato dal Concilio Vaticano II: i Vescovi sono congiunti con il Vescovo di Roma dal vincolo della comunione episcopale (cum Petro) e sono al tempo stesso gerarchicamente sottoposti a lui quale Capo del Collegio (sub Petro)." Englllish translation in *Origins*, 45 (2015), 383.

[852] POPE FRANCIS, "Synodality," in *AAS*, 107 (2015), 1141,1140. "Una Chiesa sinodale è una Chiesa dell'ascolto, nella consapevolezza che ascoltare « è più che sentire ». È un ascolto reciproco in cui ciascuno ha qualcosa da imparare. Popolo fedele, Collegio episcopale, Vescovo di Roma: l'uno in ascolto degli altri; e tutti in ascolto dello Spirito Santo, lo « Spirito della verità » (Gv 14, 17), per conoscere ciò che Egli « dice alle Chiese » (Ap 2, 7)." In *Origins*, 45 (2015), 382.

[853] Cf. *EG*, nn. 27-33, in *AAS*, 105 (2013), 1028–1035.

at every level, and (3) inspire in pastoral workers a constant desire to go forth and elicit a positive response to the summons of friendship extended to everyone by Jesus."[854] In number 27 of *Evangelii gaudium*, he says:

> I dream of a 'missionary option,' that is, a missionary impulse capable of transforming everything, so that the Church's customs, ways of doing things, times and schedules, language and structures, can be suitably channelled for the evangelization of today's world rather than for her self-preservation. The renewal of structures demanded by pastoral conversion can only be understood in this light: as part of an effort to make them more mission-oriented, to make ordinary pastoral activity on every level more inclusive and open, to inspire in pastoral workers a constant desire to go forth and in this way to elicit a positive response from all those whom Jesus summons to friendship with him. As John Paul once said to the Bishops of Oceania: 'All renewal in the Church must have mission as its goal if it is not to fall prey to a kind of ecclesial introversion.'[post-synodal exhortation *Ecclesia in Oceania* (22 November 2001), n. 19]."[855]

Pope Francis believes that the renewal of Church structures should begin with the papacy itself. He cites Pope John Paul who, in his encyclical letter *Ut unum sint* (25 May 1995), sought assistance in finding "a way of exercising the primacy which, while in no way renouncing what is essential to its mission, is nonetheless open to a new situation,"[856] to show that renewal of the papacy has been desired by leaders before him though little progress has been made in this area. So, now is the time to consider a conversion of the

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[854] RENKEN, "Pope Francis and Participative Structures," 205.

[855] *EG*, no. 27, 1028. "Sogno una scelta missionaria capace di trasformare ogni cosa, perché le consuetudini, gli stili, gli orari, il linguaggio e ogni struttura ecclesiale diventino un canale adeguato per l'evangelizzazione del mondo attuale, più che per l'autopreservazione. La riforma delle strutture, che esige la conversione pastorale, si può intendere solo in questo senso: fare in modo che esse diventino tutte più missionarie, che la pastorale ordinaria in tutte le sue istanze sia più espansiva e aperta, che ponga gli agenti pastorali in costante atteggiamento di "uscita" e favorisca così la risposta positiva di tutti coloro ai quali Gesù offre la sua amicizia. Come diceva Giovanni Paolo II ai Vescovi dell'Oceania, « ogni rinnovamento nella Chiesa deve avere la missione come suo scopo per non cadere preda di una specie d'introversione ecclesiale »."

[856] Cf. RENKEN, "Pope Francis and Participative Structures," 206.

papacy.[857] Pope Francis extends this invitation of ecclesial renewal to episcopal conferences,[858] the parish,[859] other church institutions, basic communities and small Christian communities, movements, other forms of associations,[860] and the particular Church.[861]

4.2.3.3 Participative Structures in a Particular Church

In *Evangelii gaudium*, Pope Francis explains that each particular Church is called to missionary conversion, that each is the primary subject of evangelization.

> Each particular Church, as a portion of the Catholic Church under the leadership of its bishop, is likewise called to missionary conversion. It is the primary subject of evangelization [cf. *Propositio* 41], since it is the concrete manifestation of the one Church in one specific place, and in it 'the one, holy, catholic, and apostolic Church of Christ is truly present and operative'[862] It is the Church incarnate in a certain place, equipped with all the means of salvation bestowed by Christ, but with local features. Its joy in communicating Jesus Christ is expressed both by a concern to preach him to areas in greater need and in constantly going forth to the outskirts of its own territory or towards new sociocultural settings.[863]

[857] *EG*, no. 32, 1033–1034.

[858] *EG*, no. 32, in *AAS*, 107 (2015), 1033–1034.

[859] *EG*, no. 28, 1031–1032.

[860] *EG*, no. 29, 1032.

[861] Cf. *EG*, nn. 30-31, 1033–1034.

[862] *CD*, no. 11, in *AAS*, 58 (1966), 681, in *FLANNERY1*, 572.

[863] *EG*, no. 30, 1033–1034, "Ogni Chiesa particolare, porzione della Chiesa Cattolica sotto la guida del suo Vescovo, è anch'essa chiamata alla conversione missionaria. Essa è il soggetto dell'evangelizzazione, in quanto è la manifestazione concreta dell'unica Chiesa in un luogo del mondo, e in essa « è veramente presente e opera la Chiesa di Cristo, una, santa, cattolica e apostolica ». È la Chiesa incarnata in uno spazio determinato, provvista di tutti i mezzi di salvezza donati da Cristo, però con un volto locale. La sua gioia di comunicare Gesù Cristo si esprime tanto nella sua preoccupazione di annunciarlo in altri luoghi più bisognosi, quanto in una costante uscita verso le periferie del proprio territorio o verso i nuovi ambiti socioculturali. Si impegna a stare sempre lì dove maggiormente mancano la luce e la vita del Risorto. Affinché questo impulso missionario sia

The Church, whose sole task is evangelization for the salvation of souls,[864] is composed of "missionary disciples." The new evangelization calls for the personal involvement, the active engagement, of each missionary.[865] Pope Francis says:

> In virtue of their baptism, all the members of the People of God have become missionary disciples (cf. Mt 28: 19). All the baptized, whatever their position in the Church or their level of instruction in the faith, are agents of evangelization, and it would be insufficient to envisage a plan of evangelization to be carried out by professionals while the rest of the faithful would simply be passive recipients. The new evangelization calls for personal involvement on the part of each of the baptized. Every Christian is challenged, here and now, to be actively engaged in evangelization; indeed, anyone who has truly experienced God's saving love does not need much time or lengthy training to go out and proclaim that love. Every Christian is a missionary to the extent that he or she has encountered the love of God in Christ Jesus: we no longer say that we are 'disciples' and 'missionaries,' but rather that we are always 'missionary disciples.' If we are not convinced, let us look at those first disciples, who, immediately after encountering the gaze of Jesus, went forth to proclaim him joyfully: 'We have found the Messiah!' (Jn 1: 41). The Samaritan woman became a missionary immediately after speaking with Jesus and many Samaritans come to believe in him 'because of the woman's testimony' (Jn 4: 39). So, too, Saint Paul, after his encounter with Jesus Christ, 'immediately proclaimed Jesus' (Acts 9: 20; cf. 22: 6-21). So what are we waiting for?[866]

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sempre più intenso, generoso e fecondo, esorto anche ciascuna Chiesa particolare ad entrare in un deciso processo di discernimento, purificazione e riforma."

[864] Cf. *CIC*, c. 1752. "In causis translationis applicentur praescripta canonis 1747, servata aequitate canonica et prae oculis habita salute animarum, quae in Ecclesia suprema semper lex esse debet."

[865] Cf. RENKEN, "Pope Francis and Participative Structures," 210.

[866] *EG*, no. 120, in *AAS*, 105 (2013), 1070. "In virtù del Battesimo ricevuto, ogni membro del Popolo di Dio è diventato discepolo missionario (cfr Mt 28, 19). Ciascun battezzato, qualunque sia la sua funzione nella Chiesa e il grado di istruzione della sua fede, è un soggetto attivo di evangelizzazione e sarebbe inadeguato pensare ad uno schema di evangelizzazione portato avanti da attori qualificati in cui il resto del popolo fedele fosse solamente recettivo delle loro azioni. La nuova evangelizzazione deve implicare un nuovo protagonismo di ciascuno dei battezzati. Questa convinzione si trasforma in un appello diretto ad ogni cristiano, perché nessuno rinunci al proprio impegno di evangelizzazione, dal momento che, se uno ha realmente fatto esperienza dell'amore di Dio che lo salva, non ha bisogno di molto tempo di preparazione per andare ad annunciarlo, non può attendere che gli vengano impartite molte lezioni o lunghe istruzioni. Ogni cristiano è

According Pope Francis, each missionary disciple is empowered with unique gifts for the upbuilding of the Church.[867] Thus, the personal charisms are to be at the service of a communion which evangelizes.

> The Holy Spirit also enriches the entire evangelizing Church with different charisms. These gifts are meant to renew and build up the Church [cf. *Lumen gentium*, n. 12]. They are not an inheritance, safely secured and entrusted to a small group for safekeeping; rather they are gifts of the Spirit integrated into the body of the Church, drawn to the centre which is Christ and then channelled into an evangelizing impulse. A sure sign of the authenticity of a charism is its ecclesial character, its ability to be integrated harmoniously into the life of God's holy and faithful people for the good of all. Something truly new brought about by the Spirit need not overshadow other gifts and spiritualities in making itself felt. To the extent that a charism is better directed to the heart of the Gospel, its exercise will be more ecclesial. It is in communion, even when this proves painful, that a charism is seen to be authentic and mysteriously fruitful. On the basis of her response to this challenge, the Church can be a model of peace in the world.[868]

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missionario nella misura in cui si è incontrato con l'amore di Dio in Cristo Gesù; non diciamo più che siamo "discepoli" e "missionari," ma che siamo sempre "discepoli-missionari". Se non siamo convinti, guardiamo ai primi discepoli, che immediatamente dopo aver conosciuto lo sguardo di Gesù, andavano a proclamarlo pieni di gioia: « Abbiamo incontrato il Messia » (Gv 1, 41). La samaritana, non appena terminato il suo dialogo con Gesù, divenne missionaria, e molti samaritani credettero in Gesù « per la parola della donna » (Gv 4, 39). Anche san Paolo, a partire dal suo incontro con Gesù Cristo, « subito annunciava che Gesù è il figlio di Dio » (At 9, 20). E noi che cosa aspettiamo?"

[867] Cf. RENKEN, "Pope Francis and Participative Structures," 211.

[868] *EG*, no. 130, in *AAS*, 105 (2013), 1032–1033. "Lo Spirito Santo arricchisce tutta la Chiesa che evangelizza anche con diversi carismi. Essi sono doni per rinnovare ed edificare la Chiesa.108 Non sono un patrimonio chiuso, consegnato ad un gruppo perché lo custodisca; piuttosto si tratta di regali dello Spirito integrati nel corpo ecclesiale, attratti verso il centro che è Cristo, da dove si incanalano in una spinta evangelizzatrice. Un chiaro segno dell'autenticità di un carisma è la sua ecclesialità, la sua capacità di integrarsi armonicamente nella vita del Popolo santo di Dio per il bene di tutti. Un'autentica novità suscitata dallo Spirito non ha bisogno di gettare ombre sopra altre spiritualità e doni per affermare se stessa. Quanto più un carisma volgerà il suo sguardo al cuore del Vangelo, tanto più il suo esercizio sarà ecclesiale. È nella comunione, anche se costa fatica, che un carisma si rivela autenticamente e misteriosamente fecondo. Se vive questa sfida, la Chiesa può essere un modello per la pace nel mondo."

For a fuller utilization of each one's charism, there needs to be appreciation of one another's gifts. This requires dialogue which enhances "a dynamism of communion which inspires all ecclesial decisions"[869] – a true experience of synodality.

> The first level of the exercise of *synodality* is had in the particular Churches. After mentioning the noble institution of the Diocesan Synod, in which presbyters and laity are called to cooperate with the bishop for the good of the whole ecclesial community,[870] the *Code of Canon Law* devotes ample space to what are usually called 'organs of communion' in the local Church: the presbyteral council, the college of consultors, chapters of canons and the pastoral council.[871] Only to the extent that these organizations keep connected to the 'base' and start from people and their daily problems, can a synodal Church begin to take shape: these means, even when they prove wearisome, must be valued as an opportunity for listening and sharing.[872]

John Renken points out that "this sole reference to the Code of Canon Law in the apostolic exhortation identifies twenty-six canons which provide legislation for seven distinct "means of participation" in the particular Church:"[873] the diocesan synod (cc. 460-468); the diocesan finance council (cc. 492-494); the presbyteral council (cc. 495-501); the

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[869] Cf. RENKEN, "Pope Francis and Participative Structures," 207.

[870] Cf. *CIC*, cc. 460–468.

[871] Cf. *CIC*, cc. 431–459.

[872] POPE FRANCIS, "Synodality," in *AAS*, 107 (2015), 1142–1143. "Il primo livello di esercizio della sinodalità si realizza nelle Chiese particolari. Dopo aver richiamato la nobile istituzione del Sinodo diocesano, nel quale Presbiteri e Laici sono chiamati a collaborare con il Vescovo per il bene di tutta la comunità ecclesiale, il Codice di diritto canonico dedica ampio spazio a quelli che si è soliti chiamare gli « organismi di comunione » della Chiesa particolare: il Consiglio presbiterale, il Collegio dei Consultori, il Capitolo dei Canonici e il Consiglio pastorale. Soltanto nella misura in cui questi organismi rimangono connessi col « basso » e partono dalla gente, dai problemi di ogni giorno, può incominciare a prendere forma una Chiesa sinodale: tali strumenti, che qualche volta procedono con stanchezza, devono essere valorizzati come occasione di ascolto e condivisione." English translation in *Origins*, 45 (2015), 383.

[873] Cf. RENKEN, "Pope Francis and Participative Structures," 207.

college of consultors (c. 502); the diocesan pastoral council (cc. 511-514); the parish pastoral council (c. 536); and the parish finance council (c. 537).[874] For Pope Francis, it is the duty of the diocesan bishop to encourage and to develop these canonical "means of participation" ("and other forms of pastoral dialogue") out of a desire to listen to everyone and not simply to those who would tell him what he would like to hear. Indeed, these participative structures are occasions for "pastoral dialogue" whose aim is "the missionary aspiration of reaching everyone.[875]

In his homily in the Cathedral of Philadelphia, Pope Francis insisted that:

> One of the great challenges facing the Church today in this generation is to foster in all the faithful a sense of personal responsibility for the Church's mission, and to enable them to fulfill that responsibility as missionary disciples, as a leaven of the Gospel in our world. This will require creativity in adapting to changed situations, carrying forward the legacy of the past not primarily by maintaining our structures and institutions, which have served us well, but above all by being open to the possibilities which the Spirit opens to us and communicating the joy of the Gospel, daily and in every season of our life.[876]

This entails not just listening but listening actively. Indeed, active listening is the key factor in any successful consultative process. Echoing the sentiments of Pope Francis, John Beal says: "Not only does a consultative decision-making process lead to better choices, but it also builds 'internal commitment' to the choices ultimately made. Consultation thereby increases the likelihood that those choices will be implemented

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[874] Ibid.

[875] Cf. *EG*, no. 31, in *AAS*, 105 (2013), 1033; cf. RENKEN, "Pope Francis and Participative Structures," 207.

[876] POPE FRANCIS, Homily at Mass in the Cathedral of Philadelphia on 26 September 2015, in *L'Osservatore romano*, English ed., 2 October 2015, 16.

effectively and achieve their desired purposes."[877] The purpose of consultation, therefore, should be to increase 'internal commitment' in each member for the mission—where individuals have a significant influence on defining the goals to be achieved and the paths required to achieve them.[878] John Renken adds:

> The participative bodies of the particular Church occasion the rich sharing of the various gifts both at the level of the diocese and the level of the parish. Each must be a forum of open and respectful dialogue among the missionary disciples for the common good of the Church as it performs its essential task of evangelization. Each involves a trusting and open dialogue among the faithful and with their pastors. Arguably, any matter proper to the purpose of each participative body merits serious consideration for candid discussion.[879]

Pope Francis explains in *Evangelii gaudium* (no. 31) that the common purpose of every participative structure is "pastoral dialogue" whose aim is "the missionary aspiration of reaching everyone."[880] Therefore, to achieve the mission of the Church, everyone must to be actively involved. This has the implication that decision-making in any Church structure must not be a one-man/woman show. What animates a communal decision-making process in a participative structure should be the purpose of that structure in the realization of the mission of the Church.

Commenting on number 31 of *Evangelii gaudium*, John Renken points out: "The purpose (*raison d'être*) of each body is unique. Moreover, the *modus operandi* of the bodies varies: in diverse circumstances, the distinct bodies may offer a vote that is

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[877] BEAL, "Consultation in Church Governance," 33.

[878] Ibid.

[879] RENKEN, "Pope Francis and Participative Structures," 212.

[880] Cf. *EN*, no. 31, in *AAS*, 105 (2013), 1033.

consultative, consensual, or deliberative."[881] For Pope Francis, what is important for the interpretation of the canons on participative structures,[882] is the emphasis on the purpose of each structure, the process of making decisions for the fulfilment of this purpose—a process that is essentially guided by the principle of synodality. In this way, it is not so much the decision arrived at but the process which ensures active participation of the Christian faithful.[883]

4.3 Application of Canonical Norms on Selected Participative Structures in the AMECEA Region

In the Church in the AMECEA region, even though the lay faithful are more and more aware of their rights and freedoms, they remain mostly passive participants in the mission of the Church. There is still a strong belief among the ordained that the mission of the Church belongs to them. The rigidity of the hierarchy, who, for the most part, embrace the "perfect society" ecclesiology model that thrives in the traditional African patriarchal societies in the AMECEA region, gives little room for the lay faithful to explore their talents and use them for the sake of the mission of the Church.

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[881] RENKEN, "Pope Francis and Participative Structures," 214.

[882] For Pope Francis, it is not so much what decision has been reached, but how that decision has been reached. If the decision involves the active participation of all the Christians, the better. The means (active participation of all) will justify the end (the decision of the one with authority). John Beal says that "While decision-making usually results in a choices of actions or inactions, choice-making is only a part, and not necessarily the most important part, of decision-making. Decision-making is a process with several critical states and ample opportunities for meaning participation." See BEAL, "Consultation in Church Governance," 29.

[883] The unique purpose (*raison d'être*) of each participative structure and the *modus operandi* of each participative structure are elaborated in the Code. See also, RENKEN, "Pope Francis and Participative Structures," 215–221.

Even though the Church in the AMECEA has been thriving in recent years, this may not be the case in the future due to this unhealthy tension. There is an urgent need for the stakeholders to come together to address this tension. Both the lay faithful and the ordained need to embrace the idea that both are indispensable for the work of evangelization of the Church. To achieve this, Pope Francis said:

> Dialogue is our method, not as a shrewd strategy but out of fidelity to the One who never wearies of visiting the marketplace, even at the eleventh hour, to propose his offer to love (Mt 20:1-16). The path ahead, then, is dialogue among yourselves, dialogue in your presbyterates, dialogue with lay persons, dialogue with families, dialogue with the society. I cannot ever tire of encouraging you to dialogue fearlessly. The richer the heritage which you are called to share with *parrhesia*, the more eloquent should be the humility with which you should offer it. Do not be afraid to set out on that "exodus" which is necessary for all authentic dialogue. Otherwise, we fail to understand the thinking of others, or to realize deep down that the brother or sister we wish to reach and redeem, with the power and the closeness of love, counts more than their positions, distant as they may be from what we hold as true or certain.[884]

True dialogue entails active listening. "When you really listen to someone, just for a moment, you sense a deeper connection, heart to heart. The other person senses the deep connection as well. They no longer feel alone. And this connection, this burst of grace, stays with you; it stays with them. You both are changed, made better, because of it…. True listening means listening with our eyes and our ears, listening with undivided attention, listening with our hearts." [885] As a result, the members are no longer strangers to each other, treating one another with respect and dignity, and becoming friends and even "family," thereby making the Church a true family of God.

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[884] See footnote 833.

[885] STEPHEN ROSSETTI, "True Listening: Antidote to Narcissism and Core to Ministry," in *Origins*, 43 (2013), 61.

4.3.1 Church as Family of God

As we saw in chapter one, the family is "particularly important for the African as the setting for the most intimate form of interpersonal relationship and as the fountain of life for the perpetuation of self and lineage and as a cradle for culture and tradition that ensures the identity of the people. The family is also the school for the transmission of culture and traditions of the group and the architect of solidarity of its members." [886] John Paul II, subscribing to this vision of the African family, said: "It is my ardent hope and prayer that Africa will always preserve this priceless cultural heritage and never succumb to the temptation to individualism, which is so alien to its best traditions: care for others, solidarity, warmth in human relationships, acceptance, dialogue and trust."[887] Added to these is the value of the extended family: "African cultures have an acute sense of solidarity and community life. In Africa it is unthinkable to celebrate a feast without the participation of the whole village. Indeed, community life in African societies expresses the extended family."[888]

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[886] H.O. OKEKE, "Church-as-God's Family: From African Ecclesiology to African Canon Law, in *Studia canonica*, 32 (1998), 400 (=OKEKE, "Church-as-God's Family").

[887] See footnote 254.

[888] *EA*, no. 43, in *AAS*, 88 (1996), 28. "Africae culturarum acri humanae necessitudinis vitaeque communis sensu fruuntur. Nulla intellegitur in Africa celebritas quam integer pagus non participet. Reapse, in Africanis societatibus communis vita significatio est ampliatae familiae. Perstudiose sane oramus atque preces flagitamus, ut semper servet Africa pretiosam hanc hereditatem culturalem, numquam vero concedat illecebris individualismi, qui optimis eius moribus omnino est absonus." English translation in *Origins*, 25, (1996), 258.

It is for this reason that the important place which the family occupies in the African social economy was given ecclesiological significance in the African synod of 1994 by the African bishops. The ecclesiological implications of the Church as a family of God brings to the fore the understanding of the Church as a "living family made up of bishops, presbyters, men and women religious and lay people grounded in one baptism—that makes them sons and daughters of God with equal dignity. It is in such a setting that the values of complementarity of roles, co-responsibility, effective division of labour, participation of all in communal projects, and affective as well as effective solidarity,[889] find meaning. It is in this setting that we come to understand and appreciate the roles of the bishop, priest, and the laity in the mission of the Church in a particular Church.

4.3.1 The Role of the Bishop

The true meaning of a bishop's authority lies in the service he is called to render to the people of God. The bishop's leadership style should be that of servant leadership. *Apostolorum successores* points out: "the bishop should model his style of governance both on divine wisdom, which teaches him to consider the eternal dimension of things and also on evangelical prudence."[890] To ensure an increasingly effective apostolate, the bishop should be willing to engage in dialogue with his presbyters and the laity, not merely occasionally but regularly, especially through participative structures.

[889] Cf. OKEKE, "Church-as-God's Family," 404.

[890] *AS*, no. 41, 54.

The bishop will need to ensure that his style of leadership is as transparent as humanly possible. *Pastores gregis* says that the bishop's governance will be pastorally effective when it is hinged on or rooted in a moral authority such that "all that the bishop says and does must reveal the authority of Christ's word and his way of acting."[891] This will require that a bishop in the AMECEA region recognizes that "perfect society" ecclesiology is obsolete and has no place in the Church today. Since the values of *communio* ecclesiology of Vatican Council II and the traditional leadership style of the council of elders outweigh the antiquated "perfect society" ecclesiology and monarchical leadership style, a bishop needs to embrace them without question for the sake of Church in the AMECEA.

4.3.1.2 The Priest as Collaborator in the Ministry of the Bishop

Presbyters are co-workers with their bishop and co-responsible for the welfare of the people of God whom they serve.[892] "Fruitful collaboration and consultation will depend in large part on the maturity, social skills, and personal health and well-being of both bishops and presbyters … good formation in the seminary, and ongoing formation in the

[891] *PG*, no. 43, in *AAS*, 96 (2004), 882. "In omnibus Episcopi ductus et factis auctoritas verbi et actionis Christi est revelanda." English translation in *Origins*, 33 (2004), 375.

[892] Cf. *CIC*, c. 519. "Parochus est pastor proprius paroeciae sibi commissae, cura pastorali communitatis sibi concreditae fungens sub auctoritate Episcopi dioecesani, cuius in partem ministerii Christi vocatus est, ut pro eadem communitate munera exsequatur docendi, sanctificandi et regendi, cooperantibus etiam aliis presbyteris vel diaconis atque operam conferentibus christifidelibus laicis, ad normam iuris."

priesthood, provide the necessary foundation for effective interaction between bishops and presbyters."[893]

Pope John Paul II called presbyters "men of communion," implying that presbyters have the desire and the ability to establish and nurture a community of believers. To build and to participate in a communion demands that a priest "not be arrogant or quarrelsome, but affable, hospitable, sincere in his words and heart, prudent and discreet, generous and ready to serve, capable of opening himself to clear and brotherly relationships and of encouraging the same in others, and quick to understand, forgive, and console.[894]

The ordained ministry has a radical "communitarian form" and can only be carried out as "a collective work." It is important that presbyters never lose sight of the fact that they work for building up of the body of Christ. In order to realize that common cause, they must collectively and individually make a conscious effort to promote among themselves those qualities and style of living that are capable of deepening the spirit of communion, cooperation, and collaboration through the participative structures. "Such qualities include sincerity, selflessness, concern for the needs of others, justice, and respect. These values can be concretely put into action through gatherings and associations, friendly

[893] BRENNAN, "Collaboration, Consultation, and *Communio* between Bishops and Priests," 97.

[894] JOHN PAUL II, 4 Post-synodal Apostolic Exhortation *Pastores dabo vobis*, 25 March 1992 (*PDV*), no. 43, in *AAS*, 84 (1992), 655. "Id secum imprimis fert ut sacerdos ne arrogans neve litigiosus sit, sed mitis et affabilis, hospitalis, verbo et corde sincerus, prudens et sciens, bene volens et ad serviendum promptus, capax praeterea suscitandi, secum imprimis sed etiam aliorum inter sese, incorruptas et fraternas relationes; indulgentiae et consolationi facilis (cf. etiam 1 Tim 3, 1-5; Tit 7, 9)." English translation in *Origins*, 21 (1992), 739.

visits, spiritual sharing, etc. This style of diocesan life is necessary to fortify the foundation for collaboration laid during the seminary formation."[895]

Besides, presbyters have the juridic and moral obligation to take seriously their own share of responsibility of governing the diocese. If presbyters fail to take their own responsibility seriously either by not discerning properly before giving consent or counsel or when they really are not convinced that they should, "their collaboration becomes a stumbling block to the pastoral welfare of the diocese. Hence, in order to boost their collaborative role, presbyters must be aware and take seriously the fact that they are co-responsible with their bishop in promoting the welfare of the diocese and take their share of that responsibility seriously."[896]

One of the issues that some bishops have raised regarding their reservations on some participative structures, and especially the presbyteral council, is that participative structures are forums where presbyters are in a shouting match with the bishop. Instead of these structures fostering communion, they are sources of disruption. And this is in part because of wrong understanding of the notion of obedience and the unfulfilled needs of the bishop and the presbyters. A proper understanding of obedience rooted in the obedience of Jesus (of hearing and doing the will of the Father—what Patrick Brennan calls "mutual

[895] OKOSUN, The Collaborative Role of the Presbyteral Council, 187.

[896] OKOSUN, The Collaborative Role of the Presbyteral Council, 188.

obedience"[897]) will provide a healthy foundation for a good working relationship between bishops and presbyters. The Directory for the Life and Ministry of Priest says:

> Filial union with his own Bishop is also an indispensable condition for the efficacy of the priestly ministry. For pastors with more experience it is easy to note the need to avoid any form of subjectivism in the exercise of the sacred ministry and adhere in a co-responsible manner to pastoral programmes. Besides being an expression of maturity, this adhesion, which entails proceeding in unison with the mind of the Bishop, contributes to the edification of that unity in communion which is indispensable for the work of evangelisation.[898]

4.3.1.3 Seminary Formation

As Pope Francis has pointed out, some priestly formation programmes in seminaries seem still to be under the influence of "perfect society" ecclesiology. Pope Francis, in his address to the Society of Jesus, said: "I am noticing the lack of discernment in the formation of presbyters. We are risking, in fact, becoming accustomed to 'black and white' and to that which is legal. We are quite closed, by and large, to discernment. One thing is clear, today in a certain quantity of seminaries, a rigidity has been re-established which is not related to situational discernment."[899]

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[897] BRENNAN, "Collaboration, Consultation, and *Communio* between Bishops and Priests," 99.

[898] CONGREGATION FOR THE CLERGY, Directory for the Life and Ministry of Priests *Presbyterorum ordinis*, new edition, 2013, Rome, Libreria editrice vaticana, Rome, 2013, no.33.

[899] POPE FRANCIS, Address to Delegates to 36th General Assembly of the Congregation of Society of Jesus, 24 October 2016, English translation in *La Civiltà Cattolica*, https:// cruxnow.

This is true for many diocesan seminaries in the AMECEA region. There is little room for dialogue between students and the formators. It is no secret that many students would rather keep to themselves their real thoughts and feelings about issues until they are ordained. They have been told that seminarians have no rights whatsoever. And therefore, they have learned to lie low "like an envelope" until they are ordained to the priesthood. Only then do they show their true selves. In this way, many of them necessarily end up lacking those communication and social skills which are essential in working with others in the ministry.

It is our hope that the seminary formation will be a formation that is geared toward a collaborative spirit in ministry. The seminary formation should devote attention to and place emphasis on human maturity and the formation of conscience. *Pastores dabo vobis* says: "In order that his ministry may be humanly as credible and acceptable as possible, it is important that the priest should mold his human personality in such a way that it becomes a bridge and not an obstacle for others in their meeting with Jesus Christ the Redeemer of humanity."[900] This molding of human personality should be oriented towards achieving certain goals. The molding starts in the seminary. *Pastores dabo vobis* explains:

> Future presbyters should therefore cultivate a series of human qualities, not only out of proper and due growth and realization of self, but also with a view to the ministry. These qualities are needed for them to be balanced people, strong and free, capable of bearing the weight of pastoral responsibilities. They need to be

com/uncategorized/ 2016/11/24/pope-despairs-current- politics-rigid- seminary-morality/ (24 October 2016).

[900] *PDV*, no. 43, in *AAS*, 84 (1992), 732. "Atque ut eius ministerium sit hominibus credendum atque accipiendum, valde oportet ut sacerdos ea induatur humanitate, in qua homines non obstaculum sed pontem reperiant quo brevius pervenire valeant ad Christum Iesum, hominis Redemptorem." English translation in *Origins,* 21 (1992), 738–739.

> educated to love the truth, to be loyal, to respect every person, to have a sense of justice, to be true to their word, to be genuinely compassionate, to be men of integrity and especially, to be balanced in judgement and behaviour.[901]

The future presbyters must be trained to learn the necessary skills and develop desirable virtues: "to cultivate mature and responsible freedom, love the truth, be loyal, respect every person, have a sense of justice, be true to their words, be men of integrity, be balanced in judgment and behaviour, be open to sincere dialogue, become accustomed to listening to the voice of God, and adhere with love and constancy to God's will. This is the kind of formation that will help the future priest differentiate sincere or pious obedience to a constituted authority from false obedience rooted in fear and the insecurity of losing one's office or position."[902] This aspect of the formation of future presbyters must be taken seriously in order to help them develop the spirit that is required for a mature, sincere, courageous, intelligent, and fruitful collaboration in their priestly ministry.[903] The *Ratio fundametalis institutionis sacerdotalis* says:

> The fundamental idea is that Seminaries should form missionary disciples who are "in love" with the Master, shepherds with the "smell of the sheep," who live in their midst to bring the mercy of God to them. Hence every priest should always

[901] Ibid., no. 43, 732–733. "Colant igitur qui presbyteri sunt futuri eas humanitatis dotes quibus sic dicta «personalitas » instruitur, aequilibrio mentis insignis, fortis, libera; brevi, quae vere capax sit responsalitates pastorales in sese recipiendi. Sic ergo instruantur candidati ut veritatem ac fidelitatem ament, ut quemvis revereantur, ut iustitiae ductu in omnibus regantur, ut dato verbo fideles perstare noverint, ut compati addiscant, ut sibi ipsis constent seu cohaerentes perstare sciant, ut denique recte de rebus et hominibus iudicent, ut nobilia dumtaxat placita eligere potent." English translation in *Origins*, 21 (1992), 739.

[902] OKOSUN, The Collaborative Role of the Presbyteral Council, 180.

[903] Ibid.

> feel that he is a disciple on a journey, constantly needing an integrated formation, understood as a continuous configuration of Christ.[904]

Seminary formation must therefore emphasize that:[905]

1) the one who governs in the Church is a servant, not a master;

2) governance in the Church is a service, not control;

3) one who governs in the Church is called to seek not his or her own will but the will of God under the influence of the Holy Spirit;

4) the motivation of the one who governs in the Church is to achieve the ultimate and highest goal of the mystical body of Christ, which is the salvation of souls;

5) one who governs in the Church must understand that governance is only one aspect of the broad ministries, offices and charisms in the Church;

6) ecclesiastical governance involves participation and collaboration;

7) governance does not make one person superior to another;

8) rather there is basic equality of all the faithful in the Church;

9) governance in the Church also demands accountability and transparency at every level;

10) one who governs has the moral obligation to use the means and resources available, both human and material, to make good decisions and do what is right;

11) one who governs must heed Church laws and teachings on the role of governance, for Church leaders are not monarchs or imperialists who have dominance over others.

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[904] CONGREGATION FOR THE CLERGY, General Executory Decree *The Gift of the Priestly Vocation: Ratio fundamentalis institutionis sacerdotalis* [booklet], 8 December 2016, Rome, L'Osservatore romano, 4 (=*RFIS*).

[905] OKOSUN, The Collaborative Role of the Presbyteral Council, 178.

Above all, seminary formation must be integral. "The journey of priestly formation, beginning with the seminary years, is described in this present *Ratio fundamentalis* in terms of four characteristic elements of formation, understood as one, integral, grounded in community and missionary in spirit."[906] The *Ratio* adds:

> This formation has an eminently communitarian character from the outset. In fact, the vocation to the priesthood is a gift that God gives to the Church and to the world, a path to sanctify oneself and others that should not be followed in an individualistic manner, but must always have as its point of reference a specific portion of the People of God. Such a vocation is discovered and accepted within a community. It is formed in the Seminary, in the context of an educating community, comprised of various members of the People of God. This community leads the seminarian, through ordination, to become part of the 'family' of the presbyterate, at the service of a particular community.[907]

4.3.1.4 The Laity

Lay people not only belong to the Church; but they are the Church. Indeed, by baptism:

> the lay faithful becomes sons and daughters of God, members of Christ and of his mystical body which is the Church; they are consecrated as temples of the Holy Spirit and participate of the same mission with Christ. In their own way, they participate in the triple mission of Christ: to teach, to sanctify, and to govern, which underline their ecclesial condition and their belonging in the Church …. Therefore, "the whole Church," and each one of our particular Churches, is not fully constituted (established) if an adult and co-responsible laity does not exist in conjunction with the bishops, presbyters and religious.[908]

A mature and co-responsible laity is one that is formed and allowed to participate fully in the life of the Church and especially in the participative structures. *Christifideles laici* says:

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[906] *RFIS,* 3.

[907] *RFIS,* 3.

[908] RODRIGUEZ, "Consultation in the Life of the Church," 9.

> The participation of the lay faithful in diocesan synods and in local councils, whether provincial or plenary, is envisioned by the Code of Canon Law. These structures could contribute to church communion and the mission of the particular Church, both in its own surroundings and in relation to the other particular Churches of the ecclesiastical province or episcopal conference … [a diocesan pastoral council] could be the principle form of collaboration, dialogue, and discernment as well. The participation of the lay faithful in these councils can broaden resources in consultation and the principle of collaboration and in certain instances also in decision making – if applied in a broad and determined manner.[909]

Even though there is witness of active participation by the laity in some particular Churches in the AMECEA, in the majority of the particular Churches, the laity play a passive role in the mission of the Church.[910] Closing of a parish or a sub-parish[911] by a bishop because the Christians have asked about or objected to something is not a rare occasion in the AMECEA region.[912] Despite the level of education that the laity may have, some Church leaders treat them as if they know nothing and can offer nothing. With increased awareness of people's rights and freedoms in the secular world, the laity either keep quiet or ignore such leaders, or they depart from Church activities and/or even the

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[909] *CL*, no. 25, in *AAS*, 81 (1989), 437. "Pariter novissimae Synodi coetus postulabat hoc eodem sensu ut foveretur institutio Consiliorum Pastoralium dioecesanorum, ad quae data opportunitate recurratur. Agitur revera de forma, quoad ipsam dioecesim, praecipua collaborationis et dialogi, atque adeo discretionis. Participatio christifidelium laicorum huiusmodi Consiliis dilatare poterit recursum ad consultationem atque ita principium ipsum collaborationis, quod in quibusdam casibus etiam decisionem attinget, adhibebitur latius et fortius. Item participatio christifidelium laicorum Synodo Dioecesano vel Concilio particulari, sive provinciali sive plenario, Codice Iuris Canonici praevisa est, ad communionem conferet, nec non ad ecclesialem missionem Ecclesiae particularis, tum intra proprium ambitum tum in relatione cum ceteris Ecclesiis particularibus eiusdem ecclesiasticae provinciae vel Conferentiae Episcopalis." English translation in *Origins*, 18, (1989), 573.

[910] See footnote 158.

[911] A parish is divided into regions (each consisting of a number of small Christian communities) which are referred as sub-parishes.

[912] At http://allafrica.com/stories/201411130810.html (23 January 2017).

Church itself. The future of the Church in the AMECEA depends on how the Church leaders will recognize and appreciate the many talents that the laity bring in the Church and harness them for the good of the Church. This will demand a sincere effort on the part of the clergy to strive to welcome the laity to the table for dialogue.

4.3.2 Specific Proposals

The specific proposals here are not in any way a deviation from the canonical norms governing the canonical structures. Rather, they are a bold and creative rethinking of the participative structures in order to address the pastoral contingencies of our time in a particular Church.[913] This is in line with Pope Francis who, in *Evangelii gaudium*, invites the faithful to "rethink" various aspects of the participative structures in the life of the particular Church.

> In her ongoing discernment, the Church can also come to see that certain customs not directly connected to the heart of the Gospel, even some which have deep historical roots, are no longer properly understood and appreciated. Some of these customs may be beautiful, but they no longer serve as means of communicating the Gospel. We should not be afraid to re-examine them. At the same time, the Church has rules or precepts which may have been quite effective in their time, but no longer have the same usefulness for directing and shaping people's lives ….[914]

The purpose of the "rethinking" is for a renewal of structures which will make them more mission-oriented. This will make ordinary pastoral activity more inclusive and open at every level. It will also inspire in pastoral workers a constant desire to go forth and elicit a

[913] Cf. RENKEN, "Pope Francis and Participative Structures," 221.

[914] See footnote 161.

positive response to the summons to friendship extended to everyone by Jesus.[915] Below are specific proposals in response to Pope Francis' invitation to a rethinking of ecclesial structures.

4.3.2.1 Terminology

In this study, we have deliberately referred to the structures under consideration as "participative structures" rather than "consultative structures" as they are often called. This is because not all the participative structures always offer only a consultative vote; sometimes a structure offers a consensual or a deliberative vote.[916] Thus, since one or another participative structure may require a consensual vote or a deliberative vote in some matters, a collective reference to all of them as consultative structures is inaccurate.[917] Furthermore, the notion of participation carries more weight than consultation. The participation process is more inclusive, and the level of engagement for those involved is higher than in consultation. As a result, in participation the faithful are disposed to accept more readily the outcome of the process which is reached by general consensus.

Like in any other organization, the faithful, when given a voice in the mission of the Church, will feel personally liable for the success of the mission—something Pope

[915] Cf. RENKEN, "Pope Francis and Participative Structures," 205.

[916] Ibid., 222.

[917] Ibid., 224.

Francis says is missing in the Church today.[918] Besides, participation empowers the faithful to use their talents and creativity in exploring new ways of effective leadership for the promotion of the mission of the Church. Finally, participation gives the faithful the chance to be active in determining the success of the mission.

4.3.2.2 Leadership Training

Pope Francis has repeatedly invoked a servant leadership style[919] as the best leadership style for Church leaders. Servant leadership demands that a leader be ready to serve others as the number one priority. "Servant leadership emphasizes increased service to others; a holistic approach to work; the promotion of a sense of community; and a deepening understanding of spirit in the workplace."[920] It is for this reason that Pope Francis says that a good pastor is one who knows the "smell of his sheep." This type of style of leadership is not a given by virtue of consecration. It becomes even more

[918] See footnote 876.

[919] In the Church Christ is the model of servant leadership, for even when he was God, he humbled himself and became obedient to death (Phi 2:8). Robert Greenleaf and Peter Vaill outline the characteristics of servant leadership as: listening, empathy, healing, awareness, persuasion, conceptualization, foresight, stewardship, commitment to the growth of people, and building community. See ROBERT K. GREENLEAF and PETER B. VAILL, *The Power of Servant Leadership*, San Francisco, CA, Berrett-Koehler Publishers, 1998, 3–8 (=GREENLEAF and VAILL, *The Power of Servant Leardership*).

[920] GREENLEAF and VAILL, *The Power of Servant Leardership*, 4.

complicated and more challenging for Church leaders in the AMECEA some of whom are still steeped in the monarchical type style of authority.

What is needed is a change of mentality by Church leaders. This change of mentality can come through prayer and discernment but also through formation. Even though the Church leaders (the bishops) are expected to have a commitment to lead the flock by being servant taking the example of Jesus by virtue of their consecration, they also need training to develop skills with regard to servant leadership. Training can take the shape of the Emmaus Programme.

The Emmaus Programme is run by the Congregation of the Mission (The Vincentians) for the diocesan presbyters in Kenya. The purpose of the programme is to address the four pillars of formation for presbyters in the missionary territories: human, spiritual, intellectual, and apostolic. Its stated goals are: "to provide an integrated series of seminars in a reflective, spiritual setting to enable diocesan clergy to engage in formation and ongoing development to encourage personal holiness, increase priestly support and morale and assist in improving ministerial competence in missionary areas."[921] It is available three times a year. At the moment, it is only available in Kenya. However, the success of the programme in the last fifteen years has prompted more requests for the same in the neighbouring countries. This programme can easily be tailored to the bishops' need of servant leadership training. Besides, the bishops can use the numerous meetings they have as occasions to invite speakers to instruct them about servant leadership.

[921] CONGREGATION OF THE MISSION (THE VINCENTIANS), "Minisry to Priests," 20 May 2000, https://www.vincentian.org/kenya-mission.html (23 January 2017).

For the presbyters, ongoing formation and training is key in helping them to widen their scope of workmanship. "While the initial formation of future presbyters is very important in arousing the spirit of collaboration, it alone is not sufficient. This spirit of collaboration has to be continually nourished. Permanent formation is necessary to discern and follow the constant call or will of God; and it will help the priest to be and act as a priest in the spirit and style of Jesus the good shepherd."[922]

Ongoing formation should strive to deepen and increase the priest's appreciation of the Church as a mystery, communion, and mission.[923] This will help him to live out his priestly ministry in a spirit of collaboration. The *Ratio fundametalis institutionis sacerdotalis* says:

> Ongoing formation is an indispensable requirement in the life of every priest and in his exercise of the priestly ministry. In fact, the interior attitude of the priest must be distinguished by an ongoing openness to the will of God, following the example of Christ. This implies a continuous conversion of heart, the capacity to see one's life and its events in the light of faith and, above all, of pastoral charity, by way of total gift of self to the Church, according to the design of God.[924] Priestly fraternity is the first setting in which ongoing formation is to take place. It is desirable that this formation be promoted in each Diocese by a priest or group of presbyters, specifically prepared for it and officially appointed to assist in ongoing formation. The different age groups and particular circumstances of the brethren should be taken into consideration.[925]

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[922] *PDV*, no. 73, in *AAS*, 84 (1992), 787. "Perennis formationis diversae et inter se connexae rationes nos iuvant ut altum earum sensum percipiamus: ipsa vero sacerdotem iuvat ut sit sacerdos idemque sacerdotem agat ad Iesu Boni Pastoris spiritum ac morem." English translation in *Origins*, 21, (1992), 753.

[923] Ibid. "In ecclesiologico ambitu, quem compluries memoravimus, altus perennis institutionis sacerdotis sensus percipi potest prout hic est et agit in Ecclesia, quae est mysterium, communio et mission."

[924] *RFIS*, no. 56, 27.

[925] Ibid., no. 83, 36.

Ongoing formation can take the form of seminars like the Emmaus Programme. It can also take the form of meetings of the bishop with presbyters during which speakers from within the group or from outside are invited to speak on specific theological, canonical, scriptural, or pastoral issues to enhance a better understanding of participation in the mission of Christ. Ongoing formation can also be in the form of spiritual recollections, retreats, workshops, and seminars. Presbyters can also be sent to faculties and universities to train in leadership skills and other fields so as to enhance their ministry and the good of the particular Church and the universal Church.[926]

The laity are also to be formed for more effective roles in participative structures. Pope Francis says in *Evangelii gaudium* that lay formation is an "ecclesial challenge:"

> Lay people are, put simply, the vast majority of the people of God. The minority – ordained ministers – are at their service. There has been a growing awareness of the identity and mission of the laity in the Church. We can count on many lay persons, although still not nearly enough, who have a deeply-rooted sense of community and great fidelity to the tasks of charity, catechesis and the celebration of the faith. At the same time, a clear awareness of this responsibility of the laity, grounded in their baptism and confirmation, does not appear in the same way in all places. In some cases, it is because lay persons have not been given the formation needed to take on important responsibilities. In others, it is because in their particular Churches room has not been made for them to speak and to act, due to an excessive clericalism which keeps them away from decision-making. Even if many are now involved in the lay ministries, this involvement is not reflected in a greater penetration of Christian values in the social, political and economic sectors. It often remains tied to tasks within the Church, without a real commitment to applying the Gospel to the transformation of society. The formation of the laity and the evangelization of professional and intellectual life represent a significant pastoral challenge.[927]

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[926] Cf. OKOSUN, The Collaborative Role of the Presbyteral Council, 181.

[927] *EG*, no. 102, in *AAS*, 105 (2013), 1062–1063. "I laici sono semplicemente l'immensa maggioranza del popolo di Dio. Al loro servizio c'è una minoranza: i ministri ordinati. È cresciuta la coscienza dell'identità e della missione del laico nella Chiesa. Disponiamo di un numeroso laicato, benché non sufficiente, con un radicato senso comunitario e una grande fedeltà all'impegno della carità, della catechesi, della celebrazione della fede. Ma la presa di coscienza di questa

Small Christian Communities in the AMECEA region have provided a platform for members to be truly agents of evangelization through the seven-step gospel sharing.[928] The seven-step sharing of the gospel, with the help of lay animators, seeks to empower the members, each of whom is asked at one point to take a leadership role in leading the seven steps. This is a participatory approach in which all the members of the Small Christian Community are encouraged to search and discover for themselves what they are capable of. The lay animators in the Small Christian Communities ensure a leadership-service which assists members to grow in their faith and become involved in efforts for reconciliation, peace, and a more just and peaceful society. This pastoral approach, which involves participants to search for themselves and allow themselves to experience a participatory Church in a Small Christian Community, should be reproduced in workshops, seminars, and even retreats, on the parish and diocesan level for the training of lay leaders.

responsabilità laicale che nasce dal Battesimo e dalla Confermazione non si manifesta nello stesso modo da tutte le parti. In alcuni casi perché non si sono formati per assumere responsabilità importanti, in altri casi per non aver trovato spazio nelle loro Chiese particolari per poter esprimersi ed agire, a causa di un eccessivo clericalismo che li mantiene al margine delle decisioni. Anche se si nota una maggiore partecipazione di molti ai ministeri laicali, questo impegno non si riflette nella penetrazione dei valori cristiani nel mondo sociale, politico ed economico. Si limita molte volte a compiti intraecclesiali senza un reale impegno per l'applicazione del Vangelo alla trasformazione della società. La formazione dei laici e l'evangelizzazione delle categorie professionali e intellettuali rappresentano un'importante sfida pastorale."

[928] K. VELLGUTH, "The Origins of Bible-Sharing: East and South African Roots of a Biblical Pastoral Method," in *Bulletin Dei Verbum*, 84/85 (2007), 22.

It is an approach suitable for balancing between the spiritual and the social, the individual and the community, the hierarchy and the laity.[929]

4.3.2.3 Emphasis on the Purpose of the Participative Structures and the Unique Purpose of Each Participative Structure

Some of the particular Churches in the AMECEA have only one or two participative structures that are functioning. In these cases, the participative structure that is functional performs its own functions and the functions of the other participative structures that are not in place in that particular Church. It is not uncommon to find in some particular Churches a college of consultors serving as the presbyteral council, the diocesan finance council, and the diocesan pastoral council.[930]

No two structures have the same role. "Although all share a common missionary interest and coexist within the one missionary communion of the Church, the distinctive purpose of each participative structure should be clearly identified. Besides, no participative structure should be subordinate to another. Nor is any participative structure dependent on another for the exercise of its proper purpose."[931] As we saw earlier, the common purpose of the participative structures is pastoral dialogue whose aim is the

[929] This pastoral approach has been adopted by different episcopal conferences across the globe.

[930] This came up in our interviews with the bishops and priests in the summer of 2016.

[931] Cf. RENKEN, "Pope Francis and Participative Structures," 223.

missionary hopes of reaching everyone. Yet, each participative structure has a distinctive purpose.[932]

There is urgent need for the Church leaders in the AMECEA to identity not only the general common purpose of the participative structures but also the unique proper purpose of each participative structure. This distinctive purpose of each participative structure must be clearly identified, and the *praxis* must reflect that purpose. This should be explained regularly to its members and to the faithful of the particular Church.[933]

4.3.2.4 Specification of Roles of Members

All members are important and each has a special role to play in the mission of the Church. This will encourage complementarity rather than competition among the Christian faithful. It is unfortunate that some bishops have given the impression that the presbyteral council, the diocesan finance council, and other participative structures do not matter and that they can do without them.

> … but this attitude is not in keeping with canon law. Canon 381, §1 and 391, §1, while acknowledging the power of the diocesan bishop, also makes it clear that such power is limited by the law. So the bishop can never be above the law which regulates his diocese. The bishop must avoid conveying an attitude that he is wiser, more intelligent and better than every other person in the diocese, an attitude which could lead to neglecting to seek counsel of others. Instead the bishop should be humble enough to respect others, listen to them and learn from them. If he has

[932] Ibid., 222.

[933] Ibid., 223.

> these qualities, then the presbyters and the other faithful will be well disposed to collaborate with him in the pastoral governance of the diocese.[934]

While some bishops have used their power to stifle the participative structures, some presbyters have used structures like the college of consultors and/or the presbyteral council to confront the bishop. For example, in some particular Churches, the presbyteral council meetings become a shouting match between the bishop and the presbyters who feel that the bishop is not listening to them. The laity too have sometimes taken unorthodox means to protest against a bishop or presbyters who are not listening to them. For example, some have gone to the press with their protests, and some have gone as far as locking church buildings (even if temporary) to prevent the bishop or priest from entering to carry out his ministry.

The diocesan bishop, the presbyters, and the laity in a particular Church must make a conscious effort to cultivate good mutual relations by acknowledging the fact that all need each other for the success of the mission. They need to treat each other with respect and dignity. Meetings, workshops, and even retreats that have themes focused on good working relationships should be planned in each particular Church in the AMECEA region.

4.3.2.5 Empowerment: Call for More Instances for Deliberative Vote

In the Church today, there is a refreshed awareness of the gifts of all the people of God, bestowed by the Spirit for the common good of the Church in its task of

[934] OKOSUN, The Collaborative Role of the Presbyteral Council, 186.

evangelization. So it seems appropriate to identify even more instances of the three kinds of votes: consultative, consensual, and deliberative (especially deliberative vote).[935]

As John Renken has pointed out, the Code provides that, at the universal level, the Pope can endow the synod of bishops with a deliberative vote, in which case he ratifies its decisions.[936] There seems to be a possibility for similar arrangement involving other participative structures, including those in a particular Church.[937] After all, a recent application of extending deliberative vote in specific matters to a new participative structure is contained in legislation concerning the "governing council," which exists in the personal ordinariates established for former Anglicans.[938] In each of the matters in which the governing council has a deliberative vote, its decisions are always subject to implementation or approval by a higher authority.[939]

A similar kind of deliberative vote could be given, in certain clearly defined matters, to the currently existing participative structures of the other particular Churches. Once the group has placed a deliberative vote, the superior authority would approve it.[940]

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[935] Cf. RENKEN, "Pope Francis and Participative Structures," 230.

[936] Cf. *CIC*, c. 343. "Synodi Episcoporum est de quaestionibus pertractandis disceptare atque expromere optata, non vero easdem dirimere de iisque ferre decreta, nisi certis in casibus potestate deliberativa eandem instruxerit Romanus Pontifex, cuius est in hoc casu decisiones synodi ratas habere."

[937] Cf. RENKEN, "Pope Francis and Participative Structures," 230.

[938] Cf. *Anglicanorum coetibus*, art. X, §2, in *AAS*, 101 (2009), 989; CONGREGATION FOR THE DOCTRINE OF FAITH, Complementary Norms for the Apostolic Constitution *Anglicanorum coetibus*, art. 12, §4, in *Origins*, 39 (2009), 392.

[939] RENKEN, "Pope Francis and Participative Structures," 231.

[940] Ibid., 231–232.

This kind of arrangement could be quite appropriate for particular Churches in the AMECEA whose traditional African societies take the decisions of the council of elders very seriously.

To encourage this, the pope can give permission to the AMECEA bishops for dialogue among pastors, (African) theologians, canonists, and experts in both traditional and modern sciences to "discern even more matters concerning which a participative structure would be expected to offer votes that are consultative, consensual, and deliberative. The conclusions of such dialogue would be presented to the competent ecclesiastical authority so that the Legislator may discern possible modifications in the *praxis* of the Church concerning the *modus operandi* of its participative structures."[941]

4.3.2.6 Benchmarking

Apostolorum successores encourages members of an episcopal conference to share their findings about the workings of their diocesan pastoral councils at their plenary meetings. This kind of sharing should not be limited only to pastoral councils but should be extended also to the other participative structures. This can help the members learn best practices for the participative structures that are working effectively so that they can apply these practices to their own structures. Furthermore, the head of a particular Church can arrange benchmarking with the head of another particular Church. Members of a participative structure of a particular Church can visit another particular Church and

[941] Ibid., 233.

evaluate their own practices and learn from the other participative structure about what is or is not working well.

Conclusion

The modern secular world in which we live has largely moved in recent times from "formal democracy" to "participatory democracy" where people are not merely satisfied to go to voting polls and to elect public officials but where they also wish to be involved personally in the implementation of necessary changes. Political communities are more and more realizing that, if there is no consultation, they run the risk of losing popular support.[942]

A contemporary secular view of freedom and human rights has tremendously increased space for participation of individuals in decision-making, whether the decision be political, social, economic, or religious. The "modern social imaginary" puts emphasis on the rights and freedoms of the individual more than anything: individuals see themselves as agents, who through disengaged, disciplined action, can transform their own lives as well as the larger social order.[943] However, freedom without responsibility and overemphasis on human rights of the individual at the expense of the common good are contrary to the long standing teachings of the Church on the common good.

The Church's teaching on the value of the hierarchy and the common good, therefore, counters the modern secular view of freedom without responsibility and human rights without limit. But the insistence on the centrality of the hierarchical structures in the

[942] See footnote 733.

[943] See footnote 779.

Church's teaching, the hierarchy which sometimes has been rigid, stifles initiative for active participation of the individual Christian faithful in the building up of the kingdom of God.

Pope Francis, aware of these challenges, invokes the teachings of Vatican II Council to address them. He critiques the notion of "globalization of indifference" which does not uphold the basic human rights of the individual. He critiques the notion of "modern social imaginary" which has an exaggerated sense of freedoms and the rights of an individual in the society. And he critiques a Church that is not reading the signs of the times—a Church that is frozen in "rigid hierarchical structures" not readily open to dialogue for active participation of all. After laying out his critiques, Pope Francis then outlines his thoughts on the nature of the Church and the role of the individual in it. Central to his thoughts is the notion of synodality.

Synodality is a constitutive element of the Church. "A synodal Church is a Church which listens, which realizes that listening is more than simply hearing. It is a mutual listening in which everyone has something to learn. The faithful people, the college of bishops, the Bishop of Rome: all listening to each other, and all listening to the Holy Spirit, the Spirit of Truth in order to know what he says to the Churches."[944] As a constitutive element of the Church, synodality offers us the most appropriate interpretive framework for understanding the hierarchical ministry itself.

[944] See footnote 852.

A true experience of synodality starts in a particular Church, especially in the participative structures. Pope Francis says that "only to the extent that these organizations keep connected to the base, and start from people and their daily problems, can a synodal Church begin to take shape: these means, even when they prove wearisome, must be valued as an opportunity for listening and sharing."[945]

There is an urgency for the renewal of Church structures if the Church is to remain relevant in her mission of evangelization in the modern world. Renewal demands genuine dialogue between bishops, presbyters, and the laity in a particular Church. Tough decisions will have to be made for this restructuring to be possible: retraining or training of bishops, presbyters, and laity in leadership skills; intensification of ongoing formation of the presbyters; rethinking seminary formation; increasing instances of using the deliberative vote; identifying the unique purpose of each participative structure; and benchmarking best practices.

[945] See footnote 872.

GENERAL CONCLUSION

It may be true that the Church in Africa is a rapidly growing Church as evidenced by the many baptisms and receptions into the Church on a daily basis, ordinations to diaconate and priesthood, and professions of temporary and perpetual vows in religious communities. But this growing Church is one still rooted in the pre-Vatican II ecclesiology of "perfect society" as characterized by clericalism, triumphalism, and juridicism[946] which thrives in the African traditional patriarchal societies. It is no wonder that some Church leaders, including presbyters and bishops, are like demi-gods. The presbyters are answerable to the bishop and the bishop is answerable to the pope. The laity are to be seen and not to be heard. In this context, dialogue is a non-issue.

This does not reflect the spirit of Vatican II *communio* ecclesiology. The "perfect society" theology overemphasizes the hierarchical nature of the Church in which the pope has absolute powers, the bishops share in some of these powers, and the laity are passive recipients of the grace of God through their submission to the Church leaders. *Communio* ecclesiology, to the contrary, emphasizes the equality of all Christian faithful in the mission of the Church through baptism. Baptism is not only the basis of the membership in the community of believers, but also the basis of the participation of each member in the mission of the Church.

Structures of participation are means whereby a *communio* ecclesiology finds expression. The declaration by Vatican II that the baptism of Christians is the basis of their duty to partake in the three *munera* of Christ (priestly, governing, and teaching) means that

[946] See footnote 79.

the structures of participation must be reinterpreted and expanded. The Church is no longer to be clerical, triumphalist, and juridical, but communal and participatory.

Since the conciliar documents generally did not provide details about the participative structures, post conciliar documents implemented the council teachings. The culmination of the teachings of the council and post conciliar documents on *communio* ecclesiology is expressed in the 1983 Code of Canon Law. Pope John Paul II, when promulgating the 1983 Code, affirmed the desire for the Code to be a reflection of Vatican II *communio* ecclesiology.

> Among the elements which characterize the true and genuine image of the Church we should emphasize especially the following: the doctrine in which the Church is presented as the people of God (cf. dogmatic constitution *Lumen gentium*, chapter 2) and hierarchical authority as service (cf. ibid., chapter 3); the doctrine in which the Church is seen as a *communion* and which therefore determines the relations which are to exist between the particular Churches and the universal Church, and between collegiality and the primacy; likewise the doctrine according to which all the members of the people of God, each in their own way, participate in the threefold priestly, prophetic and kingly office of Christ, to which the doctrine is also linked that which concerns the duties and rights of the faithful and particularly the laity, and finally, the Church's commitment to ecumenism.[947]

Due to the increased desire for participation of the Christian faithful in the mission of the Church, the 1983 Code expanded the structures of participation. The 1917 Code provided for the diocesan synod, the council of administration, the cathedral chapter, and the diocesan consultors. The 1983 Code provided for a greater number of participative structures: the diocesan synod, the diocesan finance council, the episcopal council, the presbyteral council, the cathedral chapter, the college of consultors, the diocesan pastoral council, the parish finance council, and the parish pastoral council. This study has focused on five of these participative structures: the diocesan synod, the diocesan finance council,

[947] See footnote 328.

the presbyteral council, the college of consultors, and the diocesan pastoral council. The themes treated include the nature, purpose, composition, functions, and cessation of these selected participative structures.

Even though the treatment of the participative structures in the 1983 Code is comprehensive, it is not exhaustive. This is because every legal system is conditioned historically, culturally, socially, and politically. It is impossible to formulate laws that are always clear and universally responsive to pastoral contingencies. There is a constant need to update the law to meet the needs of changing times. It is for this reason that we explored in chapter four the teachings of Pope Francis on participative structures.

We laid the background of the teaching of Pope Francis by outlining a brief reflection on the world in which we live. Today, the secular modern world has largely moved from "formal democracy" to "participative democracy" where people are not merely satisfied to go to the voting polls and to elect public officials, but also wish to be involved personally in the implementation of the necessary changes in society.

This contemporary secular view of freedom and human rights has provided for increased participation of individuals in decision-making, whether the decision be political, social, economic, or religious. Influenced by the notion of "modern social imaginary" which puts emphasis on the unlimited rights and freedoms of an individual, persons see themselves as agents of their own destiny who can transform themselves as well as the larger social order. However, overemphasis on individual rights at the expense of the common good goes against the long standing teachings of the Catholic Church on the common good and the hierarchy.

The Church's criticism against individualism that purports an exaggerated sense of human rights and freedoms is not something new. This position was well articulated in the Vatican II documents, especially *Gaudium et spes* and *Dignitatis humanae*. It has been championed by popes in recent years. The Church has maintained that the value of the hierarchy and the common good is paramount and non-negotiable. However, a problem arises when the hierarchy becomes rigid, stifling the initiative for active participation of individual Christians in the mission of the Church. Pope Francis, aware of these challenges posed by individualism (which disputes the existence of the common good) and a rigid hierarchy, has invoked the teachings of Vatican II to address these challenges. His central teaching is the notion of synodality. Synodality, as a constitutive element of the Church, offers the most appropriate interpretative framework for understanding the hierarchical structure itself. A synodal Church is one that listens.

A true experience of synodality starts within a particular Church especially in its participative structures. There is urgency for renewal of participative structures if the Church is to remain relevant in the work of evangelization. Renewal of the structures demands that the bishops, presbyters, and laity in a particular Church come together for dialogue.

If, as some say, the future of the Church is in Africa, then the Church in the AMECEA region must have an honest look at herself and ask tough questions about the current participation of the Christian faithful in the structures of the Church for evangelization. Tough decisions will have to be made for any restructuring to be implemented. Areas of renewal shall include, but are not limited to: training of bishops, presbyters, and the laity in servant-leadership skills; intensification of ongoing formation

of presbyters; revamped seminary formation programmes based on the 2016 *Ratio fundamentalis institutionis sacedotalis*; introducing more instances of using the deliberative vote in participative structures; identifying the unique purpose of each participative structure; and benchmarking best practices.

It is the hope of the author that this study provides some helpful insights into the nature, purpose, and proper functioning of the selected participative structures and offers practical suggestions for their establishment in the particular Churches within the countries of the AMECEA region. It is also our hope that this study may generate sufficient interest for other scholars to undertake further similar studies elsewhere in the Church.

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Lennoxie Nafuma Lusabe, CM, holds a Diploma in Philosophy and Religious Studies from Christ the King Major Seminary, Nyeri (1995); a Baccalaureate in Theology from the Catholic University of Eastern Africa, Nairobi (2003); a Master's degree in Christian Ethics from the Catholic Theological Union, Chicago (2005); a Master's degree in Canon Law from the University of Ottawa, Ottawa (2011); a Licentiate in Canon Law from St. Paul University, Ottawa (2012); and a Diploma in Law (Paralegal Studies) from the Kenya School of Law, Nairobi (2015). He began his Ph.D programme at St. Paul University in 2015.

Lennoxie was pastor of Holy Cross Catholic Parish, Limuru, Kenya (2006-2009); taught canon law at Tangaza University College, Nairobi, and St. Thomas Aquinas Seminary, Nairobi (2012-2015); and worked as formator in the Congregation of the Mission at DePaul Centre, Nairobi (2012-2015). At Tangaza University College, besides teaching, he was a member of the Board of Trustees, representing his Provincial. He was also a member of the Transition Committee for the university charter to be given by the government of Kenya. Lennoxie wrote the Draft Charter and the Statutes for the University. He was a member of the Redaction Commission at the General Assembly of the Congregation of the Mission, Chicago (2016). He was student representative of doctoral students at St. Paul University, Ottawa (2016-2017).