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**CANONICAL COMMUNION:
A READING OF CANON 209, § 1**

by
Robert J. KASLYN, S.J.

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

 Robert J. Kaslyn, Ottawa, Canada, 1992



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ABBREVIATIONS

<i>AA</i>	<i>Apostolicam actuositatem</i>
<i>AAS</i>	<i>Acta Apostolicae Sedis</i>
<i>AC</i>	<i>L'Année canonique</i>
<i>AG</i>	<i>Ad gentes</i>
<i>AS</i>	<i>Acta synodalia sacrosancti Concilii oecumenici Vaticani secundi</i>
<i>CIC/17</i>	<i>The 1917 Code of Canon Law</i>
<i>CIC/83</i>	<i>The 1983 Code of Canon Law</i>
<i>CIC/83/fontes</i>	<i>The 1983 Code, with fontes</i>
<i>CD</i>	<i>Christus Dominus</i>
<i>CDC annoté</i>	<i>Code de droit canonique annoté</i> , trans. A. SORIA-VASCO, H. LAPLANE, M.-A. CHUECA, Paris, Les Éditions du Cerf, 1989
<i>CDC-Navarra</i>	<i>Código de derecho canónico. Edición anotada</i> , A cargo de P. LOMBARDIA Y J. ARRIETA, Pamplona, Edicions Universidad de Navarra, 1983
<i>CLSA</i>	Canon Law Society of America
<i>CLSA Comm.</i>	<i>The Code of Canon Law: A Text and Commentary</i> , commissioned by the CLSA
<i>CLSAP</i>	<i>Canon Law Society of America Proceedings</i>
<i>Comm.</i>	<i>Communicationes</i>
<i>Constitutiones</i>	SACROSANCTAM OECUMENICUM CONCILIUM VATICANUM, <i>Constitutiones, decreta, declarationes</i> , Romae, Typis polyglottis Vaticanis, 1966
<i>C:RCI</i>	<i>Communio: Revue catholique internationale</i>
<i>Critiques</i>	CLSA Task Force For the Revision of the Code of Canon Law, <i>CLSA Task Force Critiques of the Initial Schemata for the Revision of the Code of Canon Law</i>
<i>DC</i>	<i>La documentation catholique</i>
<i>DDC</i>	<i>Dictionnaire de droit canonique</i>

<i>Directorium</i>	SECRETARIATUS AD CHRISTIANORUM UNITATEM FOVENDAM, <i>Directorium ad ea quae a Concilio Vaticano Secundo de re oecumenica promulgata sunt exsequenda</i>
<i>Documents</i>	<i>Commentary on the Documents of Vatican II</i> , H. VORGRIMLER, ed.
<i>Draft of Bk II</i>	PCCICR, <i>Draft of the Canons of Book Two: The People of God</i> , translated under the direction of W. SCHUMACHER, Rome, The Vatican Polyglot Press, 1977
<i>DV</i>	<i>Dei Verbum</i>
<i>ETL</i>	<i>Ephemerides theologicae Lovanienses</i>
<i>GS</i>	<i>Gaudium et spes</i>
<i>J</i>	<i>The Jurist</i>
<i>JIC-Faith</i>	JOINT INTERNATIONAL COMMISSION FOR THEOLOGICAL DIALOGUE BETWEEN THE ROMAN CATHOLIC CHURCH AND THE ORTHODOX CHURCH, "Faith, Sacraments and the Unity of the Church", June 9-16, 1987
<i>LEF</i>	<i>Lex Ecclesiae fundamentalis</i> With a year appended, indicates a particular <i>schema</i>
<i>LG</i>	<i>Lumen gentium</i>
<i>The New Code- Ottawa</i>	<i>The New Code of Canon Law</i> , Proceedings of the 5th International Congress of Canon Law, ed. M. THÉRIAULT and J. THORN, Ottawa, Saint Paul University, 1986
<i>1980 schema</i>	PCCICR, <i>Schema Codicis iuris canonici iuxta animadversiones S.R.E. Cardinalium, Episcoporum Conferentiarum, Dicasteriorum Curiae Romanae, Universitatum Facultatumque ecclesiasticarum necnon Superiorum Institutorum vitae consecratae cognitum</i> , Vatican City, Libreria Editrice Vaticana, 1980.
<i>OE</i>	<i>Orientalium ecclesiarum</i>
<i>NRT</i>	<i>Nouvelle revue théologique</i>
<i>PCCICR</i>	Pontificia Commissio Codici Iuris Canonici Recognoscendo

<i>Periodica</i>	<i>Periodica de re morali, canonica, liturgica</i>
<i>Relatio</i>	PCCICR, <i>Relatio complectens synthesim animadversionum ab Em.mis atque Exc.mis Patribus Commissionis ad novissimum schema codicis iuris canonici exhibitarum, cum responsionibus a secretaria et consultoribus datis</i> , Città del Vaticano, Typis polyglottis Vaticanis, 1981.
<i>Response</i>	Australian Catholic Bishops' Conference, <i>Response of the Australian Episcopal Conference to the Schema Canonum Libri II. De Populo Dei</i> , Sydney, Australian Bishops' Conference, 1978.
<i>RSPT</i>	<i>Revue des sciences philosophiques et théologiques</i>
<i>RTL</i>	<i>Revue théologique de Louvain</i>
<i>SC</i>	<i>Studia canonica</i>
<i>SConc</i>	<i>Sacrosanctum concilium</i>
<i>Schema 1977</i>	PCCICR, <i>Schema Canonum Libri II: De Populo Dei</i> , Città del Vaticano, Typis polyglottis Vaticanis, 1977
<i>Schema novissimum</i>	PCCICR, <i>Relatio complectens synthesim animadversionum ab Em.mis atque Exc.mis Patribus Commissionis ad novissimum schema codicis iuris canonici exhibitarum, cum responsionibus a secretaria et consultoribus datis</i> , Città del Vaticano, Typis polyglottis Vaticanis, 1982
<i>SPCU--Ecumenical</i>	SECRETARIATUS AD CHRISTIANORUM UNITATEM FOVENDAM, "Ecumenical Aspects of the New Code of Canon Law".
<i>Synopsis historica</i>	<i>Constitutionis dogmaticae Lumen gentium: synopsis historica</i> , ed. G. ALBERIGO and F. MAGISTRETTI
N.P. TANNER, <i>Decrees</i>	<i>Decrees of the Ecumenical Councils</i> , Washington, D.C. and London, Sheed and Ward and Georgetown University Press, 1990.
<i>TI</i>	<i>Theological Investigations</i>
<i>TS</i>	<i>Theological Studies</i>
<i>UR</i>	<i>Unitatis redintegratio</i>

INTRODUCTION

Among the significant contributions of the Second Vatican Council, the renewed emphasis on *communio* occupies a foremost position. In recent years, theologians and canonists have increasingly turned to *communio* both to articulate the nature of the Church and to incorporate into ecclesiology conciliar emphases and insights. Through this process, these authors are systematically developing the connotations and implications of *communio*, which in turn lead to greater reflection and application.

At the same time, though, we should recognize that we cannot articulate a precise meaning of *communio*. In their analyses, different authors either stress various dimensions, or concentrate on particular implications which derive from *communio*. This lack of preciseness can cause difficulties, especially in the discipline of canon law which strives for clarity so that its norms may be clearly understood by those subject to them.

In this dissertation, we shall investigate the meaning of *communio* as used in the Code of Canon Law.¹ To establish reasonable limits to this inquiry, we shall

¹ See *Codex iuris canonici auctoritate Ioannis Pauli PP.II promulgatus*, Città del Vaticano, Libreria editrice Vaticana, 1983, xlvii, 317p. U.S. version of English-language translation: *Code of Canon Law*, Latin-English edition (=CIC/83), translation prepared under the auspices of the CLSA, Washington, D.C., CLSA, 1983, xlii, 668p.

restrict our primary analysis to one specific canon which uses the term, namely, canon 209, §1. This canon asserts the obligation always incumbent upon the Christian faithful to maintain communion with the Church.

To accomplish this primary analysis, we have divided this dissertation into five chapters. Schematically, the chapters move from the very general to the particular and then return to the very general. Chapter I will examine Vatican II sources for canon 209, §1; more specifically, *Lumen gentium* 11-13; 23; and 32; and *Gaudium et spes* 1. Next, Chapter II presents the proximate context of canon 209, §1, namely, the Code of Canon Law. After reviewing certain elements of the process of revising the 1917 Code, we turn to the immediate context of the canon itself.

With this general foundation established, Chapter III analyzes the obligation to maintain communion, the focus of this dissertation. To expand further on this commentary, we then turn in Chapter IV to other references to *communio* in the Code, organizing these on the basis of a tripartite division into *communio fidelium*, *communio ecclesiarum*, and *communio hierarchica*. Then, in a look towards the future, the last chapter raises certain disputed questions facing the Church today. We shall organize our material according to the three bonds indicative of full communion, namely, profession of faith, sacraments, and governance. We maintain that the understanding of these topics would benefit from applying the principles of a *communio ecclesiology*.

In this dissertation, therefore, we intend to analyze the meaning of *communio* as used in canon 209, §1. But to achieve this goal, we need also to refer to a

necessary presumption which maintains that *communio* is not a univocal term, that is, limited to one meaning, but rather it exists as a "theological principle." We need to elaborate this statement further.

As a theological principle, *communio* finds its origin in God and in his intra-trinitarian life. *Communio* attempts to express this origin and to articulate God's salvific will and his relationship with redeemed humanity. But human beings cannot encompass God within human parameters. As one consequence, our understanding of *communio* is necessarily limited, finite, and inchoate. Thus, we cannot give a univocal meaning to *communio*. In a positive sense, *communio* involves a polysemous verbal structure, having many meanings.² More particularly, when we attempt an analysis of the term *communio* our attention moves in two different directions simultaneously:

One direction is centripetal, trying to make sense of the words we are reading: the other is centrifugal, gathering up from memory the conventional meanings of the words used in the world of language outside the work being read. This relation of signifiers to signifieds is variable, and the variants develop into different kinds of verbal structures, and different emphases in meaning.³

² Our understanding of polysemous verbal structures is influenced by N. FRYE and B. LONERGAN. For FRYE, see *Words with Power: Being A Second Study of the Bible and Literature*, Markham, Ontario, Viking, 1990, xxiv, 342p; and *The Great Code: The Bible and Literature*, Toronto, Academic Press, 1982, xxiii, 261p. For LONERGAN, see *Method in Theology*, London, Darton, Longman and Todd, 1975, xii, 405p., especially Chapter 3, "Meaning" (pp. 57-99). The difference between the two authors is one of perspective: whereas FRYE begins with the word itself, LONERGAN approaches meaning from the subject, the one who "utilizes" the word. We must also note that analysis of verbal structures by distinguishing "levels (or modes) of meaning" as we develop below is not taken directly from either author's work.

³ N. FRYE, *Words with Power*, p. 3.

This type of dynamic movement reflects the nature and intention of *communio*, that is, God's self-communication to humanity. At the same time, however, this dynamism becomes more complex in reference to *communio* due to the dichotomy between what is finite and what is infinite.

Three different modes or levels best express the polysemous character of *communio*. Although these levels admit of other subdivisions or categories, they remain principal. The three modes are the empirical (the lived experience), the theoretical (reflection upon the experience), and the intentional (the purpose of *communio*).⁴

This distinction in modes refers to "a mental diagram in our minds that we have imposed on the subject." This does not imply that each mode is a self-enclosed entity: "Each mode is partial and imperfect, and that is the reason both for the existence of the others and for their co-existence within the same work."⁵ Each mode presupposes the other, and, in fact, in a particular usage and context of *coi:munio* all three modes could be operative.⁶

⁴ We maintain that the first level, the empirical, is epistemologically prior to the other levels.

⁵ N. FRYE, *Words with Power*, p. 4.

⁶ A very general example could be adduced here: the word *ecumenism* in the intentional mode refers to the unity of the one Church founded and willed by Christ, a unity which as yet does not fully exist in its full manifestation. In the theoretical mode, *ecumenism* refers to reflection upon this will of Christ, its origin and purpose, etc. (the theological dimension) as well as the articulation of principles to guide its development and growth, and norms for particular action (the juridic dimension). In the existential mode, *ecumenism* refers to the concrete experience, for example, of an inter-faith service, or a particular individual's attempt to put the theological and juridic principles into practice in a given situation.

Our understanding of a theological principle finds support in the work of J. Kobler, whose approach resembles that presented above.⁷ Although his main concern is the expression "People of God" as used in Vatican II documents, his comments assist our approach. According to Kobler, through their development of the concept "People of God", Vatican II participants formulated a theory *oriented* to the pragmatic level, but did not directly address this level.⁸

We can apply the same analysis to the description of the Church as the primordial sacrament. The transcendental dimension originates in God's salvific will. Its particular historical manifestation forms the pragmatic dimension. The latter requires further specification within a particular period of space and time. The finite expression of the Church's reality -- its external organization -- manifests the vitality

⁷ See J. KOBLER, "A Phenomenological Hermeneutics of the People of God. Theoretical and Practical Dimensions", in *ETL*, 64 (1988), pp. 84-105.

⁸ This theory has important implications for conciliar and other texts. To understand it correctly, we must elaborate KOBLER's ideas further. On p. 86, KOBLER defines the Vatican II theoretical term "People of God" as a *transcendental pragmatic*, that is, "a *theoretical* construct [which], although constituted in a scientifically responsible way, takes its concrete sense and meaning from its orientation to the *practical* problem or limit-situation to which it is applied." More specifically, two conciliar documents describe this transcendental pragmatic: *Dei Verbum* provides the "transcendental" dimension whereas *Lumen gentium* provides the "pragmatic" dimension. But the latter remains on the level of theory: it presents a "theoretical view of the Church, if you can imagine a 'theory' that is pre-scientific, pre-philosophical, and pre-cultural, i.e., a *proto-theology* [which] is really presenting a field theory of the consciousness (*communio*) which permeates the religious life-world of the Church" (p. 86). Thus, the transcendental and the pragmatic dimensions are presented on a speculative level and ultimately need to descend to the *practico-practical* level, which the Council could not do. In reference to our schema, the practico-practical level corresponds to the empirical mode and the transcendental-pragmatic to the theoretical mode. Consequently, until (and unless) a term such as "People of God" finds expression in the lived experience of believers, it remains merely a theory, without much importance.

and viability of the mystical body of Christ.⁹ We must avoid creating or perceiving a dichotomy between the external manifestation and the internal reality. Finally, the theoretical dimension arises from reflection upon experiences of and within the Church's existence.

When we apply this delicate process to *communio*, important implications ensue. The description of *communio* in its polysemous verbal structure and the consequent analysis of its various modes necessarily imply a particular approach to its interpretation in the Code.¹⁰ In other words, we can place *communio* in the category of what L. Örsy calls "seminal locutions" which express an insight into truth but which of themselves do not provide a final self-definition.¹¹ In reference to certain conciliar expressions, Örsy states that, as seminal locutions, they are not precise concepts. Rather, their full meaning, although dependent on the Church's

⁹ See, for example, H. Urs Von BALTHASAR, *New Elucidations*, M.T. SKERRY, trans., San Francisco, Ignatius Press, 1986, pp. 97-103.

¹⁰ E. CORECCO refers to the polysemous character of *communio* in "Considérations sur le problème des droits fondamentaux du Chrétien dans l'Église et dans la société", in E. CORECCO, *Théologie et Droit canon, Écrits pour une nouvelle théorie générale du Droit canon*, édités par F. FECHTER et B. WILDHABER sous la direction de P. LE GAL, Fribourg Suisse, Éditions universitaires, 1990, xi, 370p. (Coll. *Studia Friburgensia nouvelle série*, No. 68, sectio canonica 5). See especially section 7, "La notion de 'communio'". His emphasis, however, derives from his desire to determine *one* precise meaning, that is, "d'isoler le noyau structurel et, partant, institutionnel de sa signification" (p. 134). We, on the other hand, shall begin with *communio* as polysemous and attempt to demarcate its use *as such* within canon law.

¹¹ See L. ÖRSY, *The Church: Learning and Teaching: Magisterium, Assent, Dissent, Academic Freedom*, Wilmington, Delaware, Michael Glazier, Inc., 1987, pp. 85-86. He discusses the term in his analysis of the term *obsequium*. See also the text of his talk of March 13, 1988, to the annual meeting of the National Pastoral Planning Conference and the Parish and Diocesan Council Network, "Participation in the Church as a Seminal Concept", in *Origins*, 17 (1987-1988), pp. 796-800.

past, emerges only over time and with ever deepening reflection.¹² Applied to *communio*, this suggests that any interpretation of the term in the Code must take cognizance not only of its traditional meanings, but also of possibilities for future development and insights. Further, we should take into account the final destiny of Christians.

This approach finds its particular strength in the fundamental unity of the Church which is taken as an underlying presupposition. Hence, for example, it upholds and indeed strengthens the connection between theology and canon law. At the same time, however, it also proceeds from particular differences among various theoretical approaches, for example, between the theological and the juridical. As one consequence, it gives to each type its proper weight and value.

In view of this discussion, therefore, we should expect that our general and particular analyses of *communio* will reflect its polysemous character. Two consequences ensue. First, we cannot give one specific definition of *communio*; second, we need to situate the juridic usage of *communio* within its broader theological context. In this way, we shall remain faithful to *communio*'s divine origin, yet also establish a foundation for understanding its correct usage in a particular ecclesial context.

¹² L. ÖRSY, *The Church*, pp. 83-85, especially footnote 2.

CHAPTER I
CONCILIAR FONTES OF CANON 209, §1

A valid interpretation of the Code of Canon Law or of a particular canon needs to take into account the documents of Vatican II both as a fundamental inspiration and as a source of particular concepts and ideas. Further, it seems that we must consider the authority of a council to be higher than that of a code of law. John Paul II particularly stresses this relationship in his Constitution promulgating the Code, *Sacrae disciplinae leges*.¹

After describing the Code as a necessary instrument with the purpose of ensuring good order in the life both of the individual and of the social community, and in the Church's activity, the Pope strongly connects this instrument with the ecclesiology proposed by Vatican II. He states as a general principle that the Code

could be understood as a great effort to translate [...] conciliar doctrine and ecclesiology into *canonical* language. If, however, it is impossible to translate perfectly into *canonical* language the conciliar image of the Church, nevertheless the Code must always be referred to this image

¹ In *AAS*, 75, Part II (1983), pp. vii-xiv; English translation in *CIC/83*, pp. xi-xvi. The intimate connection between the Council and canon law began with the decision of John XXIII, announced on January 25, 1959, to call a diocesan synod for Rome and an ecumenical council for the entire Church, both of which would lead to the modernization of canon law. (See JOHN XXIII, Allocution "Questa festiva ricorrenza", in *AAS*, 51 [1959], pp. 65-69). See also J. BEYER, "Constitutio Apostolica 'Sacrae disciplinae leges' Codicis renovati promulgatio", in *Periodica*, 72 (1983), pp. 181-204.

as the primary pattern whose outline the Code ought to express insofar as it can by its very nature.²

Hence, the canons of the Code and their interpretation need to agree with theological insights proposed by Vatican II.

One difficulty raised in examining Vatican II ecclesiology is the fact that the Council did not simply adopt one ecclesiology. Vatican II most often refers either to the Church as *communio* or to its more traditional designation, *societas*.³ But the Pope addressed this issue as well: while faithful to tradition, the Council also presents distinct new elements or emphases to which the Code must conform both in subject matter and expression.⁴

We need to nuance carefully the adjective "new" as applied to Vatican II teaching. We should not misunderstand it as something totally different from that which had preceded, as a creation *ex nihilo*. This leads to biased interpretations,

² JOHN PAUL II, *Sacrae*, in *CIC/83*, p. xiv. The Latin text, p. xi, states, "concipi potest veluti magnus nusus transferendi in sermonem *canonisticum* [...] doctrinam, ecclesiologicalam scilicet conciliarum. Quod si fieri nequit, ut imago Ecclesiae per doctrinam Concilii descripta perfecte in linguam *canonisticam* convertatur, nihilominus ad hanc ipsam imaginem semper Codex est referendus tamquam ad primarium exemplum, cuius lineamenta is in se, quantum fieri potest, suapte natura exprimere debet."

³ See X. OCHOA, *Index verborum cum documentis Concilii Vaticani secundi*, Roma, Commentarium pro religiosis, 1967, pp. 465-466, where, under references to *societas*, the expression *societas perfecta* does not appear. But as will become clear, this notion was at least implicit in certain positions adopted by the Council.

⁴ See JOHN PAUL II, *Sacrae*, in *CIC/83*, p. xv. One element which the Pope emphasized was the doctrine of the Church as *communio*. JOHN PAUL refers often to this ecclesiology; see, for example, his exhortation *Christifideles laici*, in *AAS*, 81 (1989), pp. 393-522; note especially nos. 18-24. English translation in *Origins*, 18 (1988-1989), pp. 561-595.

founded, for example, on whether one is approaching the documents from a "progressive" or a "conservative" stance.⁵ In fact,

the "progressives" at the council were in reality the representatives of the greater and wider tradition, as distinct from its neo-scholastic leveling and simplification. The concern of the "conservative" minority at the council [...] was to see to it that recent tradition (represented especially by Vatican I) was not passed over and forgotten, in the course of this renewal from the earlier sources.⁶

Hence, the referent here is the Church's older tradition which was recalled and reiterated in the conciliar documents.

In other words, the ecclesiological perspective of Vatican II is "new" in that it involves traditional ideas which recent Church teaching had not stressed. But transition from one approach to another does not occur easily. This applies to the level of theory, evinced, for example, by the at-times heated discussions within the Council about certain positions. It also applies, and with much more impact and importance, to the empirical level. Here, people attempt to express in their daily lives the Church's profound reality; to accomplish this, they must become active participants in the process of transition.⁷

⁵ See W. KASPER, *Theology and Church*, trans. M. KOHL, New York, Crossroad Publishing Company, 1989, p. 171.

⁶ W. KASPER, *Theology and Church*, p. 171.

⁷ In reference to this process, T.J. URRESTI, "The Ontology of Communion and Collegial Structures in the Church", in *Concilium*, 1.8 (1965), states on p. 5: "Twentieth-century requirements in ecclesiology demand, on doctrinal, pastoral, ecumenical and vital grounds, an ecclesiology of communion to complement social and universal ecclesiology and to replace the ecclesiology that has come to be known variously as 'juridical', 'apologetic', 'post-Tridentine' or 'Counter-Reformation'."

Thus we live in a period of transition: we continue to interpret and appropriate conciliar teaching.⁸ Tension exists as the Church reflects on conciliar documents, moving from general theoretical principles through systematization to praxis, that is, using new conciliar elements in the Church's life. Nonetheless, this tension is both legitimate and necessary: Vatican II, as did previous councils, delineated boundaries of the Church's position, leaving the "theoretical mediation of these positions" to theology.⁹

Given the extent of conciliar material on *communio*, we will not attempt to present a comprehensive analysis of the topic.¹⁰ Rather, to structure our text, we

⁸ A. DULLES, *The Reshaping of Catholicism. Current Challenges in the Theology of Church*, San Francisco, Harper and Row Publishers, 1988 276p, discusses various issues which the Church has had to face since Vatican II, such as the emerging world Church; the plurality of cultures; and the relationship between authority and conscience. See also L. RICHARD, D. HARRINGTON, and J. O'MALLEY, eds., *Vatican II: The Unfinished Agenda*, New York, Paulist Press, 1987, 223p.

⁹ W. KASPER, *Theology and Church*, p. 171. We should add to "theoretical mediation by theology" theoretical mediation by law, which necessarily follows theological reflection.

¹⁰ The most extensive analysis of *communio* in Vatican II is O. SAIER, "*Communio*" in *der Lehre des Zweiten Vatikanischen Konzils; eine rechtsbegriffliche Untersuchung*, München, M. Hueber, 1973, xxxi, 302p. See also Y. CONGAR, *Le concile de Vatican II. Son Église, peuple de Dieu et corps du Christ. Théologie historique*, Paris, Beauchesne, 1984, iv, 176p; J. HAMER, *The Church is a Communion*, trans. R. MATTHEWS, London, G. Chapman, 1964, 240p; B. KLOPPENBURG, *The Ecclesiology of Vatican II*, trans. M. O'CONNELL, Chicago, Franciscan Herald Press, 1974, xv, 373p; B. LAMBERT, ed., *La nouvelle image de l'Église; bilan du Concile Vatican II*, sous la direction de B. LAMBERT avec la collaboration de Mgr. A. ANCEL (et autres), Soeur MARIE CLAES (et autres), traducteurs, Paris, Mame, 1967, 591p; and H. VORGRIMLER, ed., *Commentary on the Documents of Vatican II*, 5 volumes, New York, Herder and Herder, 1967-1969 (=Documents). For a *communio* ecclesiology, see J.-M.-R. TILLARD, *Église d'églises. L'écclésiologie de communion*, Paris, Les Éditions du Cerf, 1987, 415p. On *Lumen gentium* ecclesiology in particular, see A. ACERBI, *Due ecclesiologie: ecclesiologia giuridica ed ecclesiologia di comunione nella "Lumen gentium"*, Bologna, Edizioni Dehoniana, 1975, 586p. For further development in Vatican II ecclesiology, see, for example, A. DULLES, *The Reshaping of Catholicism*; and F. SULLIVAN, *The Church We Believe In: One, Holy, Catholic and Apostolic*, New York, Paulist Press, 1988, vi, 241p.

Unless otherwise noted, all translations from non-English texts are our own.

shall examine specific conciliar documents cited as sources for canon 209, §1.¹¹ We shall refer to other pertinent texts as necessity demands. Our approach will focus on the following question: what are the basic principles present in the meaning or meanings given to *communio* in the conciliar texts?

1. The Dogmatic Constitution on the Church, *Lumen gentium*

Lumen gentium was promulgated on November 21, 1964, at the conclusion of the Council's third session.¹² Concerned with the reality of the Church, it remains the most important conciliar document, an assessment shared by the Council

¹¹ For conciliar texts, see SACROSANCTUM OECUMENICUM CONCILIUM VATICANUM, *Constitutiones, decreta, declarationes*, Romae, Typis polyglottis Vaticanis, 1966, xxiv, 1292p (=Constitutiones). The texts are also published in AAS, primarily in volumes 56-58 (1964-1968). For English translation, see N.P. TANNER, ed., *Decrees of the Ecumenical Councils*, volume II, Washington, D.C. and London, Sheed and Ward and Georgetown University Press, 1990, 1342p. (=Decrees). We will indicate specific documents by the capitalized first letters of the *incipit*; references to specific phrases and sentences will give the line numeration as found in TANNER.

The *fontes* are in PONTIFICIA COMMISSIO CODICI IURIS CANONICI AUTHENTICE INTERPRETANDO, *Codex iuris canonici, auctoritate Ioannis Pauli PP.II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, Vatican City, Libreria editrice Vaticana, 1989, (=CIC/83/*fontes*).

¹² SACROSANCTUM OECUMENICUM CONCILIUM VATICANUM, Dogmatic Constitution on the Church, *Lumen gentium*, November 21, 1964, in *Constitutiones*, pp. 93-219; in N.P. TANNER, *Decrees*, 849-900. We will also cite the following conciliar documents. The first pagination refers to the Latin text in *Constitutiones*; the second (preceded by TANNER) refers to the English translation in his *Decrees*. The Constitution on the Sacred Liturgy, *Sacrosanctum concilium*, pp. 3-70 -- TANNER, pp. 849-900; the Decree on Eastern Catholic Churches, *Orientalium ecclesiarum*, pp. 223-240 -- TANNER, pp. 900-907; the Decree on Ecumenism, *Unitatis redintegratio*, pp. 243-274 -- TANNER, pp. 908-920; the Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, pp. 277-330 -- TANNER, pp. 921-939; the Dogmatic Constitution on Divine Revelation, *Dei Verbum*, pp. 423-456 -- TANNER, pp. 971-981; the Decree on the Apostolate of the Laity, *Apostolicam actuositatem*, pp. 459-508 -- TANNER, pp. 981-1001; the Decree on the Missionary Activity of the Church, *Ad gentes*, pp. 543-615 -- TANNER, pp. 1011-1042; the Pastoral Constitution on the Church in the Modern World, *Gaudium et spes*, pp. 681-835 -- TANNER, pp. 1069-1135.

members themselves.¹³ The lengthy process of revision before approval of the third and final draft of the document clearly indicates that the Council brought to the forefront a much different understanding of the Church, one which nonetheless was in harmony with Tradition.¹⁴ This new perception will become clear as we analyze particular articles within the Constitution.

Our analysis will begin with the sources cited in the *fontes* for canon 209, §1, namely, *Lumen gentium* 11-13; 23; and 32. As our discussion progresses, we shall see that these texts are "introductory" in that they need to be contextualized within other texts of *Lumen gentium* and the Council.¹⁵

¹³ See, for example, G. PHILIPS, "History of the Constitution", in *Documents*, I, p. 107; and his *L'Église et son mystère au IIe Concile du Vatican: histoire, texte et commentaire de la Constitution Lumen gentium*, I, Paris, Desclée, 1967, p. 5. (PHILIPS was the secretary of the Theological Commission at the Council). See also K. McNAMARA, *The Church: A Theological and Pastoral Commentary on the Constitution on the Church*, Dublin, Veritas Publications, 1983, 437p; P. PEJIC, *De fontibus et argumentis iuridicis in constitutione "Lumen gentium"*, Roma, Edizioni francescane, 1969, 222p.

¹⁴ For discussions on the process, see G. PHILIPS, "History", pp. 105-137 and *L'Église*, I, pp. 13-68. See also G. ALBERIGO and F. MAGISTRETTI, eds., *Constitutionis dogmaticae Lumen gentium: synopsis historica*, Bologna, Istituto per le scienze religiose, 1975, xxvii, 609p (=Synopsis historica). This text contains the various drafts of *LG* (in columnar form) and an Appendix for other documentation. The hoped-for result, according to the author, is "to give the body of decisions relevant to a correct hermeneutic of the text, one which would neither stop at, nor be stopped by, literal exegesis" (p. xix).

¹⁵ For example, one of the most explicit references in *LG* to *communio* is not listed as a source, namely, *Nota explicativa praevia 2*, which states, "*Communio est notio quae in antiqua ecclesia (sicut etiam hodie praesertim in oriente) in magno honore habetur. Non intelligitur autem de vago quodam affectu, sed de realitate organica, quae iuridicam formam exigit et simul caritate animatur.*"

1.1. *Lumen gentium* 11-13

Chapter II, "The People of God", forms the context for articles 11-13. The Chapter title satisfies two foundational purposes: while presenting a more profound understanding of the Church and the relationship between the old and new covenants, it also leads to ever deeper appreciation and realization of the Church as *communio*.¹⁶ According to G. Philips, we need to read Chapter II in conjunction with Chapter I, "The Mystery of the Church". This complementarity demonstrates that the one Church is not an abstract idea but an actual community.¹⁷ Nonetheless, we should also note that these articles often express very general ideas which remain abstract even on the level of theory. We need to contextualize these ideas so that we can situate them within a coherent systematic presentation.

Chapter II begins with a description of the social character of God's universal salvific will, first directed to the people of Israel and then, through the new covenant established by Christ, to all people (article 9). Through Christ, the new people of God are made sharers in the common priesthood of the faithful (article 10). From the first, the chapter stresses the communitarian and egalitarian dimensions of this people.

¹⁶ A. GRILLMEIER, "The People of God". trans. K. SMYTH, in *Documents*, I, pp. 153-154. See also B. KLOPPENBURG, *Ecclesiology*, pp. 41-45; and D. HARRINGTON, "Why is the Church the People of God?", in L. RICHARD et al., *Vatican II*, p. 47.

¹⁷ See G. PHILIPS, *L'Église*, I, pp. 127-128.

Article 11 specifies this participation in reference to the sacraments and virtues which effect the sacred character and structure of the community. The process necessarily begins with baptism which both incorporates the faithful into the Church and gives them a place in the public worship of God.

We should note two important points indicated by terminology. First, the text uses the verb *incorporare* to indicate the process through which one enters into the Church. Second, the common priesthood of the faithful reveals the shared participation in the *tria munera* of Christ: priest, prophet, and king.¹⁸ This terminology forms the basis for important developments in the rest of the text.

Article 12 specifies the participation of the people of God in Christ's prophetic role. The text refers both to the infallible *sensus fidei* as a whole and to the Spirit's gift of particular charisms to individuals within the community (1.17-26).¹⁹ While article 13 describes the universal dimension of the people of God, it also indicates a change in emphasis. Whereas general ideas and principles form the content of

¹⁸ *LG* further develops this idea elsewhere, especially in Articles 34-36. For commentary, see F. KLOSTERMAN, "The Laity", trans. R. STRACHAN, in *Documents*, I, pp. 231-252; B. KLOPPENBURG, *Ecclesiology*, pp. 309-329; G. PHILIPS, *L'Église*, II, pp. 5-62. All refer to other conciliar documents.

¹⁹ See A. GRILLMEIER, "The People of God", p. 164, who notes that this chapter "is concerned with basing the infallibility of the Church, like that of the magisterium, on the people of God as a whole", which serves as a corrective to a one-sided understanding of infallibility as being concentrated on office. See also F. SULLIVAN, *Magisterium. Teaching Authority in the Catholic Church*, Mahwah, New Jersey, Paulist Press, 1983, who distinguishes on pp. 21-23 among the *sensus fidei* (the supernatural sense of faith, which, as an aspect of faith, is a subjective quality of the one who believes), the *sensus fidelium* (the sense or mind of the faithful which generally has an objective meaning referring to what is believed) and the *consensus fidelium* (agreement of the faithful which adds the element of universal agreement to the notion of *sensus fidelium*). See also L. SARTORI, "What is the Criterion for the *Sensus fidelium*?", in *Concilium*, 148.8 (1981), pp. 56-60.

articles 11-12 and most of 13, the concluding paragraph and following articles move from a description of the Catholic Church to particular relationships between the Church and specific groups of people. These groups include the Catholic faithful, catechumens, separated Christians, non-Christians, and unbelievers.

Article 13 first states the general principle that all persons are called to become the new people of God. The nature of this catholicity is based on the unity of the human race and the universal salvific will of God, brought to fulfillment through Jesus Christ. It is continually actualized by the Holy Spirit who is "the principle of union and of unity in the teaching of the apostles, in communion (*communione*), in the breaking of bread and in prayers" (1.10-11).²⁰

This quotation from Acts is extremely important. It views the one and the same Church both from internal and external perspectives. The internal relationship to Christ occurs through the faith passed on from the apostles, authentic witnesses to Jesus, and through the union of all community members in the same faith and salvation, *communio*. We perceive the external relationship in the Eucharist and

²⁰ See A. GRILLMEIER, "The People of God", pp. 166-167; and G. PHILIPS, *L'Église*, I, pp. 182-183. See also K. RAHNER, "Membership of the Church According to the Teaching of Pius XII's Encyclical 'Mystici Corporis Christi' ", in *TI*, volume II, trans. K.-H. KRUGER, Baltimore, Helicon Press, 1964, esp. pp. 76-84.

common prayer.²¹ But a fundamental unity is present: the internal needs external expression; the external needs the foundation in faith.

We can understand the reference to the Eucharist, which article 11 describes as "the source and the culmination of all Christian life" (l.20-21), from two perspectives. Christ gives himself to the Church through the Eucharist; thus, he establishes the Church as a real unity. At the same time, this salvific action occurs *in* the Church as such and thus "the Church is primarily a unity of communion and hence -- in fellowship with the high priest Christ -- a fellowship of worship."²² The one Eucharist, celebrated in various times and places, creates genuine unity.

Although catholicity is first presented geographically and numerically (God intends the Church to encompass all people), the text stresses the unity intended by Christ and created by the Holy Spirit by which "the faithful throughout the world are in communion (*communicant*) with the rest."²³ Catholicity, therefore, does not depend upon the accretion of new members; on the contrary, it possesses its own

²¹ See X. LÉON-DUFOUR, *Sharing the Eucharistic Bread: The Witness of the New Testament*, trans. M. O'CONNELL, New York, Paulist Press, 1987, p. 26. J. McDERMOTT, "The Biblical Doctrine of Koinonia", in *Biblische Zeitschrift*, 19 (1975), pp. 230-231, agrees with this view. After analyzing primarily Pauline references to *koinōnia* (*communio*), McDERMOTT states on p. 232 that, given Paul's "finesse and creative intuition", it is "often impossible to limit *koinōnia* to a single clear-cut meaning." Further, this "oscillation of meaning reveals the depth of the reality that *koinōnia* attempts to describe."

²² A. GRILLMEIER, "The People of God", p. 167. On the connection between *communio* and the Eucharist, see J.-M.-R. TILLARD, *Église d'églises*, especially pp. 37-75; and P. McPARTLAN, "Eucharistic Ecclesiology", in *One in Christ*, 22 (1986), pp. 314-331.

²³ Article 13, l. 14-15, in N.P. TANNER, *Decrees*, p. 859. Of numerous conciliar references to the unity created by the Holy Spirit, see, for example, *LG* 7; 9; 13; *UR* 2; 7; 14; 15; *GS* 38; *AG* 37; 39. For the Spirit's role in the Church, see Y. CONGAR, *I Believe in the Holy Spirit*, volume II: *The Lord and Giver of Life*, trans. D. SMITH, New York, The Seabury Press, 1983, especially pp. 15-23.

internal structure. This structure finds its basis in the common priesthood of the faithful and in particular charisms given to individuals by the Spirit. The latter thus create a fruitful diversity within the membership on the basis of different *officia* (duties) and different states in life, and specific groupings of the faithful (particular churches). In addition, these charisms and the ensuing diversity implicitly form the basis for the Church's hierarchical constitution.²⁴

Article 13 states that the Church "takes up and encourages the riches, resources and customs of peoples insofar as they are good" (1.20-21). This holds true not only for individuals but also for their particular church. The Spirit's gifts exert not only a centripetal force (one's own relationship with God and desire for salvation) but also a centrifugal one (the social aspect of salvation). When the gospel is proclaimed and received by a certain group of people, "the supernatural gifts of the Spirit combine with the natural endowments of the people to form a local Church with its own way of living the Christian life."²⁵ As a result, this process creates *communio* among individuals.

In turn, the *communio* thus created itself possesses both centripetal and centrifugal force: within ecclesiastical communion "there are lawfully particular churches which enjoy their own proper traditions, while the primacy of the see of

²⁴ See V. DE PAOLIS, "Communio in novo Codice iuris canonici", in *Periodica*, 77 (1988), pp. 523-524. We find the most detailed treatment of hierarchical communion in *LG* Chapter 3. For commentary, see K. RAHNER, A. GRILLMEIER, and H. VORGRIMLER, "The Hierarchical Structure of the Church, with Special Reference to the Episcopate", in *Documents*, I, pp. 186-230; G. PHILIPS, *L'Église*, I, pp. 221-390; and K. McNAMARA, *The Church*, pp. 163-234.

²⁵ A. GRILLMEIER, "The People of God", p. 167.

Peter remains intact.²⁶ The latter should ensure that these legitimate differences lead to greater unity among all particular churches and do not harm this unity. The primacy thus serves to safeguard both diversity and unity.

The phrase "bonds of intimate communion" (*vincula intimae communionis*; l.40) refers to that unity which *Lumen gentium* demands. These bonds, by their very nature, require that the different parts of the Church provide each other not only with spiritual and temporal assistance but also with apostolic workers.²⁷

This acknowledgement of the role and importance of particular churches forms one of the most significant conciliar contributions to ecclesiology. "It shows that the Church does not conceive ecclesial unity as uniformity but as communion in diversity and diversity in communion."²⁸ Important implications derive from such a

²⁶ In N.P. TANNER, *Decrees*, p. 859, l.35-39: "[...] in ecclesiastica communione legitime adsunt ecclesiae particulares, propriis traditionibus fruentes, integro manente primatu Petri cathedrae." Conciliar usage of certain terms is not always consistent; for example, the Council refers to the concrete existence of the Church of God by various terms. From his analysis of conciliar documents, R. AUSTIN, "The Particular Church and the Universal Church in the 1983 *Code of Canon Law*", in *SC*, 22 (1988), pp. 342-343, maintains that the bishop forms the constitutive element. For various opinions on terminology, see, for example G. GHIRLANDA, "De definitione Ecclesiae universalis, particularis, localis iuxta Concilium Vaticanum secundum", in *Periodica*, 71 (1982), pp. 605-636; P. MONTINI, "Ecclesia universalis an Ecclesia universa? Investigatio terminologica in textum L.G.", in *Periodica*, 74 (1985), pp. 43-62; R. PAGÉ, *Les Églises particulières: Tome I: leurs structures de gouvernement selon le code de droit canonique de 1983*, Montréal, Éditions Paulines et Médiaspaul, 1985, pp. 13-15; K. RAHNER, "The New Image of the Church", in *TI*, volume X, trans. D. BOURKE, pp. 3-29; G. ROUTHIER, "'Église locale' ou 'Église particulière': querelle sémantique ou option théologique?", in *SC*, 25 (1991), pp. 277-344; and H.-J. SCHULZ, "Église locale et Église universelle. Primauté, collégialité, et synodalité", in *Proche-Orient Chrétien*, 31 (1981), pp. 3-22. We shall use the term "particular church."

²⁷ See J. WILLEBRANDS, "Églises particulières et Église universelle", in *Proche-Orient chrétien*, 35 (1985), esp. pp. 11-14.

²⁸ J. WILLEBRANDS, "Églises particulières", p. 11: "Il montre que l'Église ne conçoit pas l'unité ecclésiale comme une uniformité, mais comme une communion dans la diversité et comme une diversité dans la communion."

perspective. For example, this ecclesiology suggests a different conception and application of papal primacy. Further, it establishes a clearer context for such concepts as episcopal collegiality and subsidiarity.²⁹

Lumen gentium 11-13 implicitly or explicitly refers to many elements willed by Christ and foundational to the principle of *communio*. These include the centrality of the salvific work of Christ and the sanctifying presence of the Spirit as constitutive of the fundamental unity of the people of God; the importance of sacraments and charisms to the Church's life; the participation of all the faithful in the *tria munera* of Christ; the Church as an organized society; the importance of particular churches; the role of the primacy in ensuring legitimate diversity. This diversity testifies to the polysemous nature of *communio*.

But at the same time, these references occur on the level of theory and, indeed, on one circumscribed aspect of that level: they present very general ideas reflecting various aspects of *communio*.³⁰ For example, the text does not establish juridic norms which would regulate the see of Peter's obligation to safeguard legitimate diversity. This obligation forms here a general theological principle. References to empirical level realities -- incorporation into the Church by baptism, for example -- remain on the theoretical level. To deepen our understanding of these

²⁹ Both the relationship between particular churches and the see of Peter and the primacy of the latter, require further elaboration; we shall do this in our analysis of *LG* 23 below.

³⁰ G. PHILIPS, *L'Église*, I, p. 224, in another but not unrelated context, states, "le Concile ne fut pas convoqué pour réduire les théologiens à l'inaction."

ideas, therefore, we shall now examine other texts referring to *communio*. We shall first analyze *Lumen gentium* 23.

1.2. *Lumen gentium* 23

Chapter III, "The Hierarchical Constitution of the Church", forms the context for article 23. By deliberate choice, Chapter III follows the first two chapters, "The Mystery of the Church" and "The People of God". The Church's hierarchical constitution is of divine law; nevertheless, "it is only because the Church is the fellowship of the redeemed that it can also be constituted as a hierarchical society."³¹

Although the term *communio* does not appear in the text, article 23 holds great importance for understanding *communio* since it refers to elements constitutive of the Church.³² For example, it refers to the Church's necessary manifestation in the world. *Lumen gentium* 23 articulates important principles, each of which requires much theological (and, afterwards, juridical) elaboration and analysis. The latter impinge more directly on the empirical level (by implying particular forms of action).

This chapter presupposes recognition of one intrinsic characteristic of the Church, namely, its unity. Since the Council of Constantinople in 381, Christians

³¹ K. RAHNER et al., "The Hierarchical Structure", p. 186. See also his article, "On the Relationship Between the Pope and the College of Bishops", in *TI*, volume X, trans. D. BOURKE, London, Darton, Longman & Todd, 1984, p. 65.

³² In N.P. TANNER, *Decrees*, p. 868, 1.6, however, "in universali caritatis societate" (from S. Irenaeus) is translated as "in the universal communion of charity."

consistently describe the Church as "one, holy, catholic, and apostolic."³³ This unity is not merely an abstract ideal, but manifests itself through various forms and means. We shall now discuss four specific ways in which the one Church manifests itself in the world.

We shall begin by discussing the dynamic relationship which exists among particular churches and the entire Church. We shall then turn to the role of the bishop within this relationship. Finally, we shall examine other institutions which evince the unity of the Church. We shall first refer to the Eastern Churches and patriarchates, and then to conferences of bishops and the synod of bishops.

1.2.1. Particular churches and the entire Church

The dynamic nature of the Church as *communio* reveals itself through the extremely important phrase "in quibus et ex quibus una et unica ecclesia catholica existit."³⁴ Through this expression, we see the essence of *communio* in its totality as a "dynamic of the reciprocal immanence of its constitutive elements."³⁵ The principle

³³ See F. SULLIVAN, *The Church*, p. 3-22. This text discusses current understanding of this four-fold description of the Church.

³⁴ In N.P. TANNER, *Decrees*, p. 867, l.12-13, this phrase is translated as "in and from these particular churches there exists the one unique catholic church." See W. AYMANS, "Ecclesiological Implications of the New Legislation", in *SC*, 17 (1983), pp. 70-71, especially footnote 24. AYMANS acknowledges that he was the first to notice the fundamental significance of this text (located in a subordinate clause) and refers to his article, "Die Communio Ecclesiarum als Gestaltgesetz der einen Kirche", in *Archiv für katholisches Kirchenrecht*, 139 (1970), pp. 69-90. See also J. BEYER, "Église universelle et églises particulières", in *Investigationes theologico-canonicae*, Facoltà di diritto canonico, Roma, Università Gregoriana editrice, 1978, pp. 57-73.

³⁵ E. CORECCO, "Ontologie de la synodalité", in *Théologie et droit canon*, p. 201: "La dynamique de l'immanence réciproque des éléments constitutifs [...]." See also in the same text his

of *communio* thus implies a wide diversity of relationships: individual faithful with God and with one another; priests in a particular diocese with each other and with their bishop; bishops among themselves and with the bishop of Rome; particular churches with the entire Church; separated Churches and ecclesial communities with the Catholic Church.³⁶ Diversity is seen here as constitutive of unity and not as a hindrance to it.

Examining the conciliar treatment of particular churches, J. Willebrands sees a great transformation in the Church's self-image. He historically traces the development of a notion of the Church conceived as

a great uniform and pyramidic organization at the summit of which is found the bishop of Rome and in which dioceses are seen as sections of the whole confided to the authority of their respective bishops.³⁷

In this way, the Church modeled itself on civil society, partially in order to insure its autonomy.

article, "Considérations sur le problème", especially pp. 133-136, where he gives credit to AYMANS' insight. See also J. KOMONCHAK, "The Local Realization of the Church", in *The Reception of Vatican II*, ed. G. ALBERIGO, J-P. JOSSUA and J. KOMONCHAK, trans. M. O'CONNELL, Washington, D.C., The Catholic University of America Press, 1987, pp. 77-90; and E. LANNE, "The Local Church: Its Catholicity and Apostolicity", in *One in Christ*, 6 (1970), pp. 288-313.

³⁶ See E. CORECCO, "Ontologie", pp. 202-203. We are primarily concerned here with the relationship among particular churches and the entire Church.

³⁷ J. WILLEBRANDS, "Église particulières", p. 4: "une grande organisation uniforme et pyramidale au sommet de laquelle se trouvait l'évêque de Rome et dans laquelle les diocèses étaient vus comme des sections de cet ensemble confiées à l'autorité des évêques respectifs." He admits this is a simplified presentation but in agreement see, for example, J. RATZINGER, in "The Ecclesiology of the Second Vatican Council" in *C:ICR*, 13 (1986), pp. 239-252. (RATZINGER is now a cardinal and Prefect of the Congregation for the Doctrine of the Faith.) He states on p. 240 that, until World War I, "the Catholic Church had been considered an ossified apparatus obstinately resisting the achievements of the modern age" and the emphasis in theology on papal primacy "predominated to such an extent that the Church appeared to be essentially a centrally governed institution which one stubbornly defended but which somehow still confronted one only from the outside."

Clearly, Willebrands is here referring to the older understanding of the Church as a society or as a *societas perfecta*; he states that Vatican II chose a different approach. Emphasizing the fundamental importance of each small local community, Vatican II situates unity in faith and fraternal love around the Eucharist. This, in turn, occurs within the universal *communio* over which presides the bishop of Rome.³⁸ A mutual interdependence exists between the unity of the Eucharist and the unity of the Church.

E. Corecco interprets the unity and relationship between the particular church and the entire Church in terms of a dynamic which establishes the Church's constitutional structure. In this structure, the universal is immanent in the particular and the particular in the universal.³⁹ As a consequence, then,

the entire Church exists concretely only in so far as it is realized in the particular Churches and by the fact that as a concrete reality -- not merely ideal and abstract -- it is constituted in turn by particular Churches.⁴⁰

³⁸ See J. WILLEBRANDS, "Église particulières", p. 5.

³⁹ E. CORECCO, "Ontologie", p. 203. See also H. DE LUBAC, *Les églises particulières dans l'Église universelle*, Paris, Aubier, Montaigne, 1971, (Coll. *Intelligence de la Foi*), pp. 50s.

⁴⁰ E. CORECCO, "Considerations sur le problème", p. 134: "l'Église universelle existe concrètement dans la seule mesure où elle se réalise dans les Églises particulières et du fait qu'en tant que réalité concrète -- non seulement idéale et abstraite -- elle est constituée à son tour par les Églises particulières." H.M. LEGRAND, "Nature de l'Église particulière et rôle de l'évêque dans l'Église", in W. ONCLIN, *La charge pastorale des évêques. Décret "Christus Dominus"*, commentaires par W. Onclin (et autres), Paris, Éditions du Cerf, 1969, quotes on p. 105 a Council Father as stating: "l'Église universelle ne résulte pas d'addition des Églises particulières, elle s'y réalise bien plutôt. Le diocèse n'est donc pas une partie de l'Église universelle, *pars in toto* mais plutôt *pars pro toto*, à savoir l'Église universelle manifestée en un lieu déterminé."

The particular churches are the means by which the Church as a whole expresses itself. From this basis, *Lumen gentium* 26 states:

This church of Christ is truly present in all the lawful local congregations of the faithful which, united to their shepherds, are themselves called Churches in the New Testament.⁴¹

In this way the entire Church forms a *corpus ecclesiarum* (article 23, l.30). We should not conceive the whole Church only as a federation of particular churches; rather, it has a unified internal structure and dynamism which possesses the Holy Spirit as its fundamental principle (see *Lumen gentium* 11-13).⁴²

This fundamental unity is most clearly expressed in the Eucharist, through which the community gathered together is identified not only with the apostolic

⁴¹ In N.P. TANNER, *Decrees*, p. 870, l.19-21: "Haec Christi ecclesia vere adest in omnibus, legitimis fidelium congregationibus localibus, quae, pastoribus suis adhaerentes, et ipsae in novo testamento ecclesiae vocantur" (Emphasis added). The reference to local congregations and its placement here (which is concerned with the bishop's sanctifying role) have given rise to numerous questions; for one treatment, see K. RAHNER, "The New Image of the Church", pp. 7-12. He notes on pp. 8-9 that while *LG* generally sees the Church as the whole Church, it also presents an "alternative viewpoint in which the Church is regarded primarily as it exists in the *local* community." Further, the passage shows "that the concept of the Church as the 'perfect society' is quite inadequate to provide a basic model for a theological understanding of the Church" (p. 10). See also his article, "On the Presence of Christ in the Diaspora Community According to the Teaching of the Second Vatican Council", in the same volume, pp. 84-102. See also G. PHILIPS, *L'Église*, I, pp. 338-339, where he comments: "La rédaction de *Lumen Gentium* n'a suivi aucun plan théorique établi d'avance pour être exécuté ensuite à la lettre; elle est le fruit d'un développement historique qui au cours de son évolution s'est enrichi de considérations nouvelles." •

⁴² See also *CD* 11, in N.P. TANNER, *Decrees*, p. 924, l.12-16: "Dioecesis est populi Dei portio, quae episcopo cum cooperatione presbyterii pascenda concreditur, ita ut, pastori suo adhaerens ab eoque per evangelium et eucharistiam in Spiritu sancto congregata, ecclesiam particularem constituat, in qua vere inest et operatur una sancta catholica et apostolica Christi ecclesia." For J. WILLEBRANDS, "Églises particulières", p. 6, the last phrase stresses "la consistance ecclésiale propre de chaque Église particulière." For further discussion, see also J. BEYER, "Église universelle", especially pp. 58-62.

community but also with every community which has celebrated, is celebrating, and will celebrate the Eucharist.⁴³

This understanding of the relationship between the particular church and the entire Church reveals the nature of the Church itself:

[The Church] is the *Church of Churches*. Taken in all its fullness, it is the *communion of communions*, appearing as a *communion* of local churches, widespread throughout the world, of which is itself a *communion* of the baptized gathered in communities by the Holy Spirit, founded on their baptism, in the eucharistic synax.⁴⁴

Further, *communio* as a dynamic finds its ultimate basis in the dynamic which forms the *ad intra* life of the Trinity, the *perichoresis* of the Father, Son, and Spirit.⁴⁵

⁴³ See, for example, *LG* 3, in N.P. TANNER, *Decrees*, p. 850, 1.25-30; J. WILLEBRANDS, "Église particulières", pp. 8-9; O. SAIER, *Communio*, pp. 36s; In *Église et églises*, J.-M.-R. TILLARD emphasizes the centrality of the Eucharist to *communio*, beginning with its basis in the New Testament. See, for example, "L'Église confesse la foi à la synaxe eucharistique", pp. 210-215.

⁴⁴ J.-M.-R. TILLARD, *Église d'églises*, p. 48: "[L'Église] est *communion de communions*, apparaissant comme *communion* d'Églises locales, répandues de par le monde, dont chacune est elle-même *communion* de baptisés rassemblés en communautés par l'Esprit Saint, sur la base de leur baptême, dans la synaxe eucharistique." See also K. RAHNER, "On the Presence of Christ", especially pp. 88-89, where he states, "the local community constitutes *the* Church only in virtue of the fact that it is precisely united by the common bond of faith, love and law with all the other communities of Christ."

⁴⁵ See also, for example, *LG* 2; *UR* 2f.; and J.-M.-R. TILLARD, *Église d'églises*, pp. 70-76. In the context of scriptural references to *communio*, he states that we cannot separate the communion of Christians from the communion of the Father, Son, and Holy Spirit. The latter is not just the model of *communio* but its source, origin, and bond. See also R. KRESS, "The Church as *Communio*: Trinity and Incarnation as the Foundations of Ecclesiology", in *The Church as Communion*, Permanent Seminar Studies No. 1, ed. J. PROVOST, Washington, D.C., CLSA, 1984, especially pp. 140-143. On p. 140, KRESS stresses that we must comprehend *perichoresis* as applied to the trinity and to *communio* in a dynamic sense: the Greek word means "to dance". Thus, the divine being is "dancing together -- that is, the very nature of the Father, Son, and Spirit is to dance together." KRESS then applies this to the relationship between the particular and the entire Church, and concludes by stating on p. 149, "in Judeo-Christian ontology, being is understood primarily as communion."

1.2.2. The function of the bishop

Collegial unity forms the particular context for the episcopal function as discussed in article 23. Collegial unity finds expression in the relationship between a bishop and a specific portion of the people of God entrusted to his care, as well as in the relationships of bishops among themselves, with the entire Church, and with the "Roman Pontiff."

The relationship between the particular church and the entire Church implies a two-fold dynamism within the episcopal office. A particular bishop is "the visible principle and foundation of unity" (l. 9) in his own particular church and is responsible for the pastoral government of those placed within his care.⁴⁶ But at the same time he must also exercise care and concern for the whole Church (*sollicitudo pro universa ecclesia*). The latter takes concrete form in the episcopal obligation

to promote and defend the unity of faith and discipline common to the whole Church, to instruct the faithful in the love of the whole mystical body of Christ -- especially those members who are poor and suffering and those who are undergoing persecution for righteousness' sake (see Mt 5,10) -- and finally, to promote every activity that is common to the whole Church, especially that which is aimed at the spread of the faith.⁴⁷

⁴⁶ The bishop is the visible principle in distinction to the invisible principle, the Holy Spirit. See K. RAHNER et al., "The Hierarchical Structure", p. 205.

⁴⁷ In N.P. TANNER, *Decrees*, p. 867, l.22-27: "promovere et tueri unitatem fidei et disciplinam cunctae ecclesiae communem, fideles edocere ad amorem totius corporis mystici Christi, praesertim membrorum pauperum, dolentium et eorum qui persecutionem patiuntur propter iustitiam (cf. Mt 5, 10), tandem promovere omnem actuositatem quae toti ecclesiae communis est, praesertim ut fides incrementum capiat [...]."

All such activity derives from the obligation to proclaim faithfully the good news of Jesus Christ.

This common obligation implies a sharing of people, of spiritual and material goods, and aid (*fraternum adiutorium*) to neighboring Churches, following the practice of the early Church. The bishop thus holds responsibility for the unity of the particular community with which he has been entrusted and at the same time is also responsible for the entire Church. The latter responsibility, common to the whole episcopate, concretely manifests the concept of "episcopal collegiality".⁴⁸ In the following paragraphs, we shall summarize the treatment of this topic given in article 22 and then introduce the equally complex concept of "hierarchical communion".

The college (*collegium*, l.29, or body, *corpus*, l.13, or order, *ordo*, l.18) of bishops exists as a continuation of the apostolic college (l.19-20).⁴⁹ Yet we cannot identify the two bodies: the continuation occurs "in a similar way" (*pari ratione*; l.29).

⁴⁸ E. GUERRY, "Les résultats positifs de la première session du Concile", a pastoral letter reprinted in *DC*, 60 (1963), cols. 175-190. Archbishop GUERRY was one of the Council Fathers. See also B. KLOPPENBURG, *Ecclesiology*, pp. 182-189, especially 185-186. The topic of episcopal collegiality is extremely complex, involving a number of principles and theological issues which we cannot enter into here. In addition to the commentaries cited above, see also Y. CONGAR, ed., *La collégialité épiscopale. Histoire et théologie*, Paris, Editions du Cerf, 1965, 393p. (Coll. *Unam Sanctam*, No. 52); J. RATZINGER, "The Pastoral Implications of Episcopal Collegiality", in *Concilium*, 1.1 (1965), pp. 20-33; L. VISCHER, "The Reception of the Debate on Collegiality", in *The Reception*, pp. 233-248 and S. WOOD, "The Theological Foundation of Episcopal Conferences and Collegiality", in *SC*, 22 (1988), pp. 327-338. A succinct but comprehensive discussion of this issue is found in R. SOBĄŃSKI, "The Theology and Juridic Status of Episcopal Conferences at the Second Vatican Council", in *J*, 48 (1988), pp. 68-81.

⁴⁹ *Nota explicativa praevia*, 1, in N.P. TANNER, *Decrees*, p. 899, l. 6-8, states that "*Collegium non intelligitur sensu stricte iuridico, scilicet de coetu aequalium, qui potestatem suam praesidi suo demandarent, sed de coetu stabili, cuius structura et auctoritas ex revelatione deduci debent.*"

Membership in the college occurs "by virtue of episcopal consecration and by hierarchical communion with the head and members of the college" (l.10-12).

The college as the subject of supreme and full power over the whole Church has this authority only "when this is understood in terms of union with the Roman pontiff, Peter's successor, as its head" (l.13-14).⁵⁰ Thus bishops throughout the world can exercise this collegial power in conjunction with the pope, provided the "head of the college" invites them to act, approves, or willingly accepts this united action (l.1-4).⁵¹

Article 22 refers to several manifestations of the collegial "character and nature of the episcopal order". For example, councils convened to settle important issues in common, a practice especially confirmed by ecumenical councils. A second example derives from the ancient custom of several bishops participating in episcopal ordinations. Finally, the text recalls the ancient Church practice of bishops

⁵⁰ In reference to papal authority, the text declares that the pope has "plenam, supremam et universalem potestatem" (l.17) but the college of bishops is the "subiectum [...] supremae ac plenae potestatis in universam ecclesiam" (l.22). K. RAHNER et al., "The Hierarchical Structure", p. 200, states that the absence of *universalis* in the latter "makes no difference, since authority which is *full* and supreme is necessarily universal."

⁵¹ On the complex issue of whether supreme authority in the Church is single or two-fold, K. RAHNER summarizes his position in "The Hierarchical Structure", p. 203 : "[J]uridically speaking, there is only one wielder of supreme power: the college constituted under the Pope as its primatial head. That does not exclude, but rather implies, that the Pope for his part can act 'alone' as primate, since in such an action he need not make use of a regularly constituted collegial act in the strict sense. But even so he always acts as head of the college [...] every primatial act of the Pope contains *de facto* a reference to the college as a whole." See also his article, "On the Relationship Between the Pope", p. 55, where he states his thesis as follows: "Thus there is only one subject endowed with supreme power in the Church: the college of bishops assembled under the pope as its head. But there are two modes in which this supreme college may act: a 'collegiate act' properly so-called, and the act of the pope as head of the college."

maintaining communion with each other and with the bishop of Rome by bonds of unity, charity, and peace.

As stated previously, the dynamic relationship between particular churches and the entire Church manifests a reciprocity which does not destroy but rather builds up unity. This internal dynamism is analogous to the *perichoresis* within the Trinity. As a consequence of this, the essential structure of the Church demands two focuses: the papal and the episcopal, neither of which can be reduced to the other.⁵² In this way, hierarchical communion is understood as an "essential organic expression of the essential structure of the Church, its unity in catholicity, and its catholicity in unity."⁵³

J.-M.-R. Tillard interprets the role of the bishop of Rome as a very special form of the *sollicitudo omnium Ecclesiarum* in which all bishops share by their reception of the sacrament of orders. This *sollicitudo* does not make the bishop of Rome a "super-bishop". Rather,

a bishop like all other members of the episcopal college, he is a bishop, on the *cathedra* of the local Church of Rome, whose bond with Peter and Paul invests it with a special responsibility (a *sollicitudo*) for the communion of all the Churches in faith, witness, and service. It is from this primacy of *his* local Church in the bosom of *all* the local Churches that the bishop of Rome holds his primacy within the college of bishops.⁵⁴

⁵² See W. KASPER, *Theology and Church*, p. 160; and K. RAHNER, "On the Relationship Between the Pope", pp. 55-57.

⁵³ W. KASPER, *Theology and Church*, p. 160.

⁵⁴ J.-M.-R. TILLARD, *Église d'églises*, p. 328: "Évêque comme tous les autres membres du collège épiscopal, il l'est, lui, sur la *cathedra* de l'Église locale de Rome, que son lien avec Pierre et Paul investit d'une responsabilité spéciale (une *sollicitudo*) pour la communion de toutes les Églises dans la foi, le témoignage et le service. C'est de cette primauté de *son* Église locale au sein de *toutes*

But we cannot understand this responsibility and primacy in a static way. Tillard expresses this by stating that a synergy (*synergie*, a word associated with the vocabulary of communion) among the functions of the bishop of Rome, of the entire college of bishops, and of each bishop

better expresses the interpenetration of the dynamisms in question than complementarity, more the inseparability of the actors than their plurality, more the unbreakable unity of the effect which results than the sum of its influences.⁵⁵

The unifying role of the bishop of Rome guarantees the legitimate diversity of particular churches.

Of course, this understanding of hierarchical communion is abstract, must be placed within a broader theological system, and then find expression on the empirical level. History clearly demonstrates the difficulties inherent in the process of achieving and keeping a just balance between the need for unity and the necessary recognition of legitimate diversity. But we must strive to reach this goal for a "Church in which the principle of communion in diversity and diversity in communion reigns can

les Églises locales que l'évêque de Rome tient sa primauté dans le collège des évêques." He states that this position agrees both with *Pastor aeternus* of Vatican I and *LG* 18, 23. This perspective is not a denial but rather a post-Vatican II contextualization of the pope's authoritative role.

⁵⁵ J.-M.-R. TILLARD, *Église d'églises*, p. 338: "Il exprime plus la compénétration des dynamismes en cause que leur complémentarité, plus l'inséparabilité des agents que leur pluralité, plus l'unité infrangible de l'effet qui en résulte que la somme des influences."

establish an authentic epiphany in this world of the mystery of the divine life."⁵⁶ In a word, it becomes a sacrament.

1.2.3. Eastern Churches and patriarchates

The Decree on Eastern Catholic Churches, *Orientalium ecclesiarum*, discusses specific issues derived from the existence of the Eastern Churches and patriarchates.⁵⁷ But article 23 contains an important reference to these Churches: through their variety, they are a concrete example of "the catholicity of the undivided Church" (l.18).

⁵⁶ J. WILLEBRANDS, "Églises particulières", p. 14: "Une Église dans laquelle règne le principe de la communion dans la diversité et de la diversité dans la communion peut constituer une authentique épiphanie dans ce monde du mystère de la vie divine." We should reiterate in this context that *LG* operates on the level of theory, by teaching general principles which need to be inserted within a coherent system or doctrine, for example, a theological or juridical viewpoint. The understanding of hierarchical communion (and episcopal collegiality and particular churches) as presented in this chapter is one attempt to situate the general principles in a coherent way. At the same time, we should acknowledge that other understandings or emphases exist. One author representative of another school of thought is G. GHIRLANDA. See especially his *Hierarchica communio: significatio della formula nella Lumen gentium*, Analecta Gregoriana, v. 216, Roma, Università Gregoriana editrice, 1980, xix, 653p; and his "La notion de communion hiérarchique dans le Concile Vatican II", in *AC*, 25 (1981), pp. 231-254. His latest work is *Il diritto nella Chiesa mistero di comunione. Compendio di diritto ecclesiale*, Milan, Edizioni Paoline, Rome, Editrice pontificia Università Gregoriana, 1990, 711p. GHIRLANDA does a thorough analysis of the material but, at the risk of being unjust to his position, we believe that he holds an overly juridic understanding of hierarchical communion; see, for example, *Il diritto nella Chiesa*, p. 49. Y. CONGAR raises certain issues in reference to GHIRLANDA'S interpretation of Vatican II; see "Bulletin d'Ecclésiologie", in *RSPT*, 66 (1982), pp. 93-97.

⁵⁷ For commentary on the Decree, see, for example, J. HOECK, "Decree on Eastern Catholic Churches", trans. L. ADOLPHUS, in *Documents*, I, pp. 307-331; R. ESPOSITO, *Il decreto conciliare sulle Chiese Orientali, "Orientalium Ecclesiarum". Testo e commento*, Roma, Edizioni Paoline, 1965, 375p; J. MADEY, *Orientalium Ecclesiarum More Than Twenty Years Later. A New Commentary on Vatican II's Decree on the Oriental Catholic Churches*, Paderbon, West Germany, Eastern Church Services Publications, 1987, 176p; and V. POSPISHIL, *Orientalium Ecclesiarum. The Decree on The Eastern Catholic Churches of the II Council of Vatican. Canonical and Pastoral Commentary*, New York, John XXIII Center for Eastern Christian Studies, 1965, 75, 13p.

This statement emphasizes the necessity of diversity within unity. Church unity does not -- cannot -- demand uniformity. For the Church finds concrete existence in particular places and times, comprising different peoples and a variety of legitimate traditions. Further, this diversity can assist the Church in determining how it may better express itself as a communion. For example, the Eastern Churches perceive the concept of synodality (or *sobornicity*) as a

characteristic expected to pervade every expression of ecclesial life. [...] Eastern theologians state that the Church expresses communion in Christ through its synodal character.⁵⁸

An examination of how the Eastern Churches incarnate sobornicity can offer suggestions for ecclesial life in the Latin Church.

Article 23 also establishes an important principle. The text ascribes the origin of the Eastern Churches to "divine providence" (*divina providentia*; 1.8-9) rather than to the will of Jesus Christ. For K. Rahner, this ascription of divine providence to historical findings establishes a principle by which other particular manifestations of ecclesial life could develop. For example,

Major Churches with their own discipline, their own liturgy, and their own spiritual and theological heritage could be formed in the future by divine providence, say, in Africa, Asia, or South America.⁵⁹

⁵⁸ M. FAHEY, "Eastern Synodal Traditions: Pertinence for Western Collegial Institutions", in T. REESE, *Episcopal Conferences*, p. 254.

⁵⁹ K. RAHNER et al., "The Hierarchical Structure", p. 207. G. PHILIPS, *L'Église*, I, believes the creation of a new patriarchy, for example, on a particular continent does not seem opportune, for this establishment would be "artificial and anachronistic" (p. 315). He would rather emphasize the role of the conferences of bishops.

These, or other, analogous groupings, would reflect the dynamic character of diversity and unity in the Church. Further, the creation of these ecclesial groupings would also require a new and different articulation of the bishop of Rome's role.

1.2.4. Conferences of bishops and the synod of bishops

Both conferences of bishops and the synod of bishops are means by which the Church demonstrates its fundamental unity. Further, they reflect the dynamic aspect of *communio*. At the same time, questions concerning their nature, role, and authority remain disputed, demonstrating the difficulties in moving from the level of theory and intention to that of empirical reality.

Article 23 of *Lumen gentium* succinctly states that conferences of bishops "can today make a manifold and fruitful contribution to the concrete application of the spirit of collegiality" (l.19-21). The issue of these conferences and their authority clearly illustrates the various levels of theory present in *Lumen gentium*: the text establishes as a general principle the importance of these conferences but leaves to others the task of further articulating both the theory and its manifold implications.⁶⁰ The importance of conferences of bishops lies in the fact that they exist as expressions of episcopal collegiality, reflecting the unity of bishops among themselves

⁶⁰ Conciliar documents, however, do not totally ignore the practical element. Conciliar texts, especially *CD* and *SConc*, give episcopal conferences very important tasks. See the notes in R. SOBAŃSKI, "The Theology and Juridic Status of Episcopal Conferences", pp. 95-103. An international colloquium on the nature and future of episcopal conferences was held in Salamanca, 3-6 January, 1988. The documentation produced is found in *J*, 48 (1988). See also T. REESE, ed., *Episcopal Conferences. Historical, Canonical and Theological Studies*, Washington, D.C., Georgetown University Press, 1989.

and with the bishop of Rome.⁶¹ In addition, since each bishop has his own specific relationship to a particular church, when bishops gather together, they reflect the *communio* of particular churches with one another.⁶²

In reference to the synod of bishops, *Lumen gentium* 23 lacks an explicit citation. Nonetheless, the text establishes means for situating the synod within the Church as *communio*. CD 5 gives a summary understanding of the synod:

Bishops chosen from different parts of the world [...] will give more effective and helpful service to the supreme pastor of the Church by meeting in a council which shall be called the *Synod of Bishops*. Acting on behalf of the whole catholic episcopate, it will show that all the bishops in hierarchical communion participate in the care of the whole Church.⁶³

CD 5 thus sees the synod as expressive of the bishops' solicitude for the entire Church.

⁶¹ See R. SOBAŃSKI, "Theology and Juridic Status of Episcopal Conferences", pp. 104-105; he states that the "ordinary power of conferences must be understood to be collegial" (p. 105). See also J.-M.-R. TILLARD, *Église d'églises*, pp. 262-265; on pp. 262-263 he states: "En effet, la question n'est pas alors de savoir si les évêques rassemblés sont 'représentants' du 'collège', mais -- ce qui est tout différent -- de reconnaître qu'ils sont membres de celui-ci et agissent *en tant que membres*. Il s'agit d'un acte *dans* le 'collège,' n'impliquant certes pas l'autorité de celui-ci *comme tel*, mais ne pouvant pourtant pas être considéré comme la simple rencontre d'individus dont chacun, parce que évêque, est habité par le sentiment collégial (*affectus collegialis*)."

⁶² See J. PROVOST, "Episcopal Conferences as an Expression of the Communion of Churches", in T. REESE, *Episcopal Conferences*, pp. 268-269.

⁶³ In N.P. TANNER, *Decrees*, p. 922, l.20-25: "Episcopi e diversis orbis regionibus selecti [...], supremo ecclesiae pastori validiorem praestant adiutricem operam in consilio, quod proprio nomine *Synodus episcoporum* appellatur, quae quidem, utpote totius catholici episcopatus partes agens, simul significat omnes episcopos in hierarchica communione sollicitudinis universae ecclesiae participes esse."

Paul VI established the synod of bishops in his *motu proprio Apostolica sollicitudo* of September 15, 1965.⁶⁴ In this document (in I), he defined the synod as a perpetual, central, ecclesiastical institute, representative of the entire catholic episcopate. Discussion continues on the nature of the synod and the exercise of its role.⁶⁵ But Pope John Paul II, in his "Address to Council of General Secretariat of Synod of Bishops", stated that the synod is "at the service of all the local Churches and their reciprocal communion" and "is a particularly fruitful expression and the very valuable instrument of episcopal collegiality."⁶⁶

From his relationship to his particular church, the bishop fulfills his function of "preserving the communion between his people and the other local churches."⁶⁷ Further, in addressing specific issues and questions confronting the Church, the bishops demonstrate in action their solicitude for all the churches. Consequently, we can clearly situate the synod within the context of *communio* as envisaged in *Lumen gentium* 23.

⁶⁴ The text is in *AAS*, 57 (1965), pp. 775-780.

⁶⁵ See, for example, W. BERTRAMS, "De Synodi Episcoporum potestate cooperandi in exercitio potestatis primatialis", in *Periodica*, 57 (1968), pp. 528-549; J. JOHNSON, "The Synod of Bishops: an Exploration of its Nature and Function", in *SC*, 20 (1986), pp. 275-318; G. THILS, "Le Synode d'évêques: image de 'l'unité dans l'Église' ou de 'la communion qu'est l'Église'?", in *RTL*, 18 (1987), pp. 212-221; J. TOMKO, "Le Synode des Évêques et la collégialité", in *SC*, 18 (1984), pp. 239-252.

⁶⁶ Text is in *L'Osservatore romano*, English Edition, no. 21, 23 May, 1983, p. 9.

⁶⁷ J. JOHNSON, "The Synod of Bishops", p. 308.

1.3. *Lumen gentium* 32

Chapter 4, "The Laity", forms the context for article 32. During the Council, this Chapter underwent extensive alteration; the first draft gave at least the appearance of a negative role in relation to the laic in the Church and in the world.⁶⁸ During the revision process, it became clear that some conciliar Fathers regarded the laity as a passive element and their relationship to the hierarchy to be merely one of obedience.⁶⁹ This context serves to emphasise the positive statements made in Chapter 4 on the laity.

Article 30 reflects the unity of the people of God in the "church's whole mission of salvation to the world" (l.3-4), a mission in which laics cooperate by "their ministries and charisms" (*ministraciones et charismata*, l.5).

Article 31 attempts to offer a general description of laics: "all Christ's faithful, except those who are in sacred orders or are members of a religious state recognized by the Church" who have been incorporated (*concorporati*) into Christ by baptism.⁷⁰

⁶⁸ We prefer the more general term *laic* to describe "a member of the laity"; see this definition, for example, in P.B. GOVE, ed., *Webster's Third New International Dictionary of the English Language*, Springfield, Massachusetts, G. and C. Merriam, 1981, 102a, 2662p.

⁶⁹ F. KLOSTERMANN, "The Laity", summarizes the revision process; see pp. 231-234. See also G. PHILIPS, *L'Église*, II, pp. 5-8.

⁷⁰ The *relatio* on this chapter states that the Council did not intend to settle the question whether religious or members of secular institutes are to be considered lay persons and if so in what sense. Further the Council was not proposing an "ontological" but a "typological" definition of laity. See SACROSANCTUM OECUMENICUM CONCILIUM VATICANUM, *Acta synodalia sacrosancti concilii oecumenici Vaticani secundi*, cura et studio archivi concilii oecumenici Vaticani II, Civitate Vaticana, Typis polyglottis Vaticanis, 1973 (=AS), in Volume 3-3-1, Congregatio Generalis LXXX, "Relatio de n. 31, olim n. 23, §4", (A), p. 282. See also JOHN PAUL II, *Codex Canonum Ecclesiarum Orientalium*, in AAS 82 (1990), canon 399, which uses this general description of laics.

Thus, laics constitute the People of God; they participate in Christ's priestly, prophetic, and royal office; and they have a role in the Church's mission, with their own special characteristic, namely, the secular character.

Article 32 discusses diversity and unity within the one people of God. For our purposes, the order is important: "Holy Church, by divine institution, is ordered and directed with wonderful variety [*mira varietate*]" (1.34-35). The text then refers to unity, citing Romans 12, 4-5 (diversity in the one body of Christ) and Ephesians 4,5 ("one Lord, one faith, one baptism"). The text sees diversity as the first characteristic of the Church, one which reveals the Church's fundamental unity.

Diversity forms an important aspect of the Church's life: not all in the Church walk along the same path, and some persons are appointed teachers and pastors for others. A distinction exists between the lay people of God and sacred ministers: the church's pastors and teachers minister to each other and for the rest of the faithful whereas the faithful cooperate with them. But this distinction cannot remove the "true equality of all with regard to the dignity and action common to all the faithful concerning the building up of the Body of Christ" (1.2-4). The text clearly indicates the source of this equality:

There is the common dignity of the members from their regeneration in Christ; they share in common the grace of being heirs, the call to perfection, one salvation, one hope and one undivided charity. There is, therefore, no inequality in Christ and in the Church.⁷¹

⁷¹ In N.P. TANNER, *Decrees*, p. 875, 1.39-42, "*communis dignitas membrorum ex eorum in Christo regeneratione, communis filiorum gratia, communis ad perfectionem vocatio, una salus, una spes indivisaque caritas. Nulla igitur in Christo et in ecclesia inaequalitas [...]*." The *relatio* on Article

Baptism establishes a real equality within the community, and this equality "builds up the communitarian dimension within the Church and it should be considered as a 'unifying matrix' of the diversity of all subjective positions, which are thus possible *only consecutively*."⁷²

Thus, "true equality" indicates that *communio* must first exist as a relationship between God and humanity and then, as a consequence, of humanity within itself. According to Y. Congar, *communio* (*koinōnia*) in its fundamental Christian meaning is

the community which believers have with Christ; it is thus the community of Christian goods: faith, the body and blood of Christ, the Spirit; it is finally the community formed by reason of all these things.⁷³

But a relationship with God through Christ in the Spirit must exist before the community. R. Kress discusses this point in reference to difficulties in articulating the Church's nature:

32 refers to "*communis nobilitas ut urgeatur koinōnia seu solidaritas; in eodem sensu dicitur una salus, una spes.*" See AS, Volume 3-3-1, Congregatio Generalis LXXX, "Relatio de n.32, olim n.23" (C), p. 283.

⁷² P. BONNET, "The Christifidelis Restored to His Role as Human Protagonist in the Church", in *Vatican II: Assessment and Perspectives*, volume I, ed. R. LATOURELLE, trans. R. SWAY, A. WADE and L. WEARNE, New York, Paulist Press, 1988, p. 553, his emphasis.

⁷³ Y. CONGAR, *L'Église. Une, sainte, catholique, et apostolique*, Paris, Les éditions du Cerf, 1970. (Coll. *Mysterium Salutis*, No. 15), p. 57. CONGAR traces the etymology of the word *communio*, relating it to either *cum moenus* (having a common defense) or *cum munus* (having a common task) but both of these are eclipsed by its ecclesial meaning as a translation of the Greek *koinōnia*. See his discussion on pp. 13-65. For development of his thought, see, for example, his "Note sur les mots 'confession', 'église', et 'communion'", in *Irénikon*, 23 (1950), pp. 3-36; and *Jalons pour une théologie du laïcat*, 2^e éd., Paris, Éditions du Cerf, 1954, 683p. (Coll. *Unam Sanctam*, No. 23).

Christian *communio* is further complicated by its thoroughly historical nature. For precisely ecclesiological considerations this means, among other things, that the Church had already been in existence for some time before it knew that it was the Church. Ecclesiology, in one sense at least, is really nothing other than the reflection of the Christian community upon its already existent and at least initially structured self.⁷⁴

From this perspective, the relationship between *communio* and God's salvific will receives its proper emphasis.

But this does not deny the necessity of the community or the experience of individuals who come to a recognition of the reality of God's salvific will through the shared experience of a Christian community. But we should consider *communio*, at least in theological reflection, as "prior" to the particular and necessary form it assumes in the world.⁷⁵

We are alluding here to an important issue which has surfaced previously, namely, the Church's nature. This topic requires further examination. Therefore, in order to complete our analysis of *Lumen gentium*, we shall now refer to this and to two other important topics.

⁷⁴ R. KRESS, "The Church as *Communio*", p. 130.

⁷⁵ This "priority" does not imply that *communio* does not need to be expressed in the world but rather within the latter priority must be given to the grace dimension. As an example, see the work of G. GHIRLANDA, who gives priority to hierarchical communion, even to the point of stating that this is the key to the interpretation of Vatican II ecclesiology (in "De notione communionis hierarchicae", p. 64; for greater elaboration, see his *Hierarchica communio: significatio*). In other words, emphasis is (we believe, mistakenly) given to the concrete form which graced communion assumes.

2. *Lumen gentium* and related issues

In our analysis of *Lumen gentium*, we have referred to certain issues whose importance requires further examination. We shall now examine three specific topics, namely, the Church's nature, incorporation into the Church, and the *Nota explicativa praevia* appended to *Lumen gentium*. Our analysis shall primarily refer to their influence on *communio*.

2.1. The nature of the Church

By design, Chapter 1 of *Lumen gentium* articulates the complex nature of the Church, giving proper attention to both its visible and its invisible aspects. Article 8, directly relevant to this intention, states in part:

Christ, the one mediator, set up his holy church here on earth as a visible structure, a community of faith, hope and love; and he sustains it unceasingly and through it he pours out grace and truth on everyone. This society, however, equipped with hierarchical structures, and the mystical body of Christ, a visible assembly and a spiritual community, an earthly church and a church enriched with heavenly gifts, must not be considered as two things, but as forming one complex reality comprising a human and a divine element.⁷⁶

The text does not countenance any separation between the divine and the human elements in the Church.

⁷⁶ In N.P. TANNER, *Decrees*, p. 854, 19-16: "Unicus mediator Christus ecclesiam suam sanctam, fidei, spei et caritatis communitatem his in terris ut compaginem visibilem constituit et indesinenter sustentat, qua veritatem et gratiam ad omnes diffundit. Societas autem organis hierarchicis instructa et mysticum Christi corpus, coetus adspectabilis et communitas spiritualis, ecclesia terrestris et ecclesia coelestibus bonis ditata, non ut duae res considerandae sunt, sed unam realitatem complexam efformant, quae humano et divino coalescit elemento."

In this article, *Lumen gentium* attempts to express verbally a mystery whose elements transcend finite limitations. As a result, a clear tension emerges. To do full justice to the Church's nature, one cannot overemphasize either the visible dimension (as, for example, in R. Bellarmine's definition) or the invisible dimension (as in J. Calvin's spiritual community of the predestined). Article 8 does not intend to provide a full listing of the properties of each aspect but rather wishes to "characterize the mystery of the Church as a unity full of tension."⁷⁷ We should neither deny the reality of this tension nor try to overcome it.

Lumen gentium 8 does contain elements of an older ecclesiological tradition. H. Rikhof notes as examples both the identification of the hierarchically organized society with the mystical body and the analogy between the Church and the incarnation.⁷⁸ One possible explanation for the presence of these elements centers on the person of S. Tromp, a significant contributor both to the preliminary text on the Church and to Pius XII's encyclical, *Mystici corporis*.⁷⁹ Nevertheless, although

⁷⁷ A. GRILLMEIER, "The Mystery of the Church", in *Documents*, I, p. 146. G. PHILIPS, *L'Église*, I, p. 115, also calls attention to the fact that Article 8 stresses the unity of the Church. See also Y. CONGAR, *Le concile de Vatican II*, who states on p. 133 that *LG* did not claim to define the Church but even in *LG* 9 it wanted to give a descriptive expression of the reality of salvation at a particular time.

⁷⁸ H. RIKHOF, "The Ecclesiologies of *Lumen gentium*, the *Lex Ecclesiae Fundamental* and the Draft Code", in *Concilium*, 147.7 (1981), p. 56. See also Y. CONGAR, *Le concile de Vatican II*, pp. 123-135.

⁷⁹ Latin text is in *AAS*, 35 (1943), pp. 193-248; English translation in C. CARLEN, *The Papal Encyclicals*, Wilmington, N.C., A Consortium Book, McGrath Publishing Company, volume IV, 1981, pp. 37-63.

Mystici corporis and *Lumen gentium* contain similar statements, *Lumen gentium* strongly nuances these, thus allowing for a more balanced interpretation.⁸⁰

Lumen gentium recognizes, which *Mystici corporis* does not, that we need to nuance carefully such images as "Mystical Body", "Sacrament", "Body of Christ", when applied to the Mystery of the Church. The same principle applies to drawing an analogy between the Church and the incarnation. Any one of these terms or descriptions can be misunderstood in an extreme sense, thereby hindering the original purpose of their usage.⁸¹ As figures of speech, they provide limited access to the spiritual reality they seek to express. Accordingly, we cannot consider these expressions to be exhaustive.

For our purposes, we should note that it is the one "Spirit of Christ who vivifies the church towards the growth of the body" (1.19; see also articles 2, 4, and 49). Through this Spirit the Church "develops . . . spiritual ('pneumatic') life of its own

⁸⁰ For example, Pope PIUS XII also used the analogy between the mystical Body and the Church. But whereas *LG* distinguishes the visible society and the mystical body, PIUS XII identified the two and exclusively with the Roman Catholic Church. On p. 199 in the Latin text, PIUS XII stated, "Iamvero ad definiendam describendamque hanc veracem Christi Ecclesiam -- quae sancta, catholica, apostolica, Romana Ecclesia est -- nihil nobilius, nihil praestantius, nihil denique divinius invenitur sententia illa, qua eadem nuncupatur 'mysticum Iesu Christi Corpus'." And on p. 202, "In Ecclesiae autem membris reapse ii soli annumerandi sunt, qui regenerationis lavacrum receperunt veramque fidem profitentur, neque a Corporis compage semet ipsos misere separarunt, vel ob gravissima admissa a legitima auctoritate seiuncti sunt."

⁸¹ Y. CONGAR, *Le concile de Vatican II*, p. 134, notes the difference arising from the lack of exclusivity in applying images to the Church. Apropos of the Mystical Body, he states, "Enfin, l'identité entre le Corps mystique et l'Église visible et hiérarchisée, est énoncée d'une manière positive, mais qui n'implique pas le sens *exclusif* qu'on trouvait chez le P. Tromp: ce qui permet le fameux 'subsistit in' du no. 8."

in all the forms which are proper to it as a social structure in the Spirit."⁸² In this way, the Church becomes the sacrament of salvation. As such, it is "the unique church of Christ, which in the creed we profess to be one, holy, catholic, and apostolic" (l. 21-22). This same Church "subsists in [*subsistit in*] the catholic church, governed by the successor of Peter and the bishops in communion with him" (l.26-27). The Spirit of Christ knows no limits and offers all people the possibility of salvation.

By this statement, *Lumen gentium* explains that the Church of Christ exists in the world and in history and, as a society, it is discernable to the senses. Although the one Church of Christ is visible in its fullness only *in* the Catholic Church, the text does not make an absolute identification between the two.⁸³ The remarks of the Theological Commission illuminate the important development signified by use of *subsistit in* rather than *est*. In the Council, tendencies existed which wished to broaden or limit the statement by using *est*, *subsistit in*, *subsistit integro modo*, *iure divino subsistit* or *consistit*. The commission unanimously chose to use *subsistit in*.⁸⁴ As a result, article 8 can then state:

⁸² A. GRILLMEIER, "The Mystery", p. 149.

⁸³ A. GRILLMEIER, "The Mystery", p. 150, notes that the text does not say "Roman Catholic Church" and thus the "Roman Church, as a local Church, is only part of the whole Church, though its bishop is head of all the bishops of the Catholic Church. The Pope is designated as 'successor of Peter', not as *Romanus Pontifex* as in 1963." See also G. PHILIPS, *L'Église*, I, p. 119, who states the adjective "Roman" was omitted "parce qu'il entend dégager ce qui est d'importance primordiale, notamment la succession à partir de Pierre et des Apôtres."

⁸⁴ The *Modorum expensis* is in *Synopsis historica*, pp. 504-507. See also J. WILLEBRANDS, "Vatican II's Ecclesiology of Communion", in *One in Christ*, 23 (1987), pp. 178-191.

outside its [the Catholic Church's] structure many elements of sanctification and of truth are to be found which, as proper gifts to the Church of Christ, impel towards catholic unity.⁸⁵

Hence, only in the Catholic Church do we find "the Church of Christ in all its plenitude and all its force."⁸⁶

By distinguishing incorporation into Christ from incorporation into the Church, *Lumen gentium* offers a more comprehensive view of salvation than that present in *Mystici corporis*. J.-M.-R. Tillard maintains that tradition does not support such a distinction. Therefore, "Christ is now inseparable from his ecclesial body. The limits of the latter coincide with those of being-in-Christ."⁸⁷ Furthermore, the change from *est* to *subsistit in* has implications far beyond the juridical or institutional and "has to do with the implications of belonging to Christ. The standpoint is not juridical but Christological."⁸⁸ The universality of grace provides the foundation and context for ecumenical dialogue.⁸⁹

⁸⁵ In N.P. TANNER, *Decrees*, p. 854, 1.28-30: "[...] extra eius compaginem elementa plura sanctificationis et veritatis inveniuntur, quae ut dona ecclesiae Christi propria, ad unitatem catholicam impellunt."

⁸⁶ G. PHILIPS, *L'Église*, I, p. 119: "c'est là [l'Église catholique] que nous trouvons l'Église du Christ dans toute sa plénitude et toute sa force [...]" On this topic, see F. SULLIVAN, "The Significance of the Vatican II Declaration that the Church of Christ 'subsists in' the Roman Catholic Church", in *Vatican II: Assessment and Perspectives*, volume II, pp. 272-287; H. VORGRIMLER, "The Mystery", pp. 149-151; J.-M.-R. TILLARD, *Église d'églises*, pp. 65-66; 89s; and 106s.

⁸⁷ J.-M.-R. TILLARD, *Église d'églises*, pp. 388-389: "Les frontières de celui-ci coïncident donc avec celles de l'être-dans-le-Christ."

⁸⁸ J. WILLEBRANDS, "Vatican II's Ecclesiology", p. 183.

⁸⁹ Article 1 of *UR* states that *LG* provides the doctrinal basis for the later decree. For commentary, see in *Documentis*, II, W. BECKER, "Decree on Ecumenism, History of the Decree", pp. 1-56; J. FEINER, "Commentary on the Decree", trans. R.A. WILSON, pp. 57-64.

Lumen gentium 15 contains the theological assessment of separated Christians and communities. For our purposes, we note that the Church is joined (*coniuncta*) with those baptized who "do not profess the faith in its entirety or do not preserve the unity of communion under the successor of Peter" (1.35-36). Baptism and "a true bond in the holy Spirit" (1.6) form the foundation for this *coniunctio*. Other factors include both external and internal elements, following in general the outline of the three bonds of faith, sacraments, and governance.⁹⁰

The recognition of the Holy Spirit's presence and His gifts outside the visible confines of the Catholic Church comprise the pivotal focus of this assessment. Rather than limiting the Catholic Church, this perspective highlights the universality of God's salvific will. The Catholic Church, through its visibility, becomes the unique witness since we can see there the Church of Christ in its plenitude. Nonetheless, we must understand this statement correctly:

It would seriously misrepresent the thought of the Council to see this "fullness" as deriving solely from juridical and canonical communion with the bishop of Rome. It is conditioned by this communion, but not reducible to it. It is essentially a communion in the whole economy of the means of grace.⁹¹

⁹⁰ See A. GRILLMEIER, "The People of God", pp. 177-182; G. BAUM, "The Ecclesial Reality of the Other Churches", in *Concilium*, 1.4 (1965), pp. 34-46; G. PHILIPS, *L'Église*, I, pp. 200-207; and J.-M.-R. TILLARD, *Église d'églises*, especially pp. 384-398. W. BERTRAMS, "De gradibus 'communiois' in doctrina Concilii Vaticani II", in *Gregorianum*, 47 (1966), pp. 286-305, discusses the bonds of profession of faith and governance and their function in reference to non-Catholics. See also *Synopsis historica*, p. 384, the *adumbratio schematis* of the German bishops, who distinguished between perfect and imperfect communion based on the extent to which these three bonds are complete.

⁹¹ J. WILLEBRANDS, "Vatican II's Ecclesiology", p. 187.

The communion of grace originating in God one and three is broader than an institutional and visible society, even the Catholic Church. From this foundation, we can now discuss the topic of incorporation into this society.

2.2. Incorporation into the Church

Our primary emphasis here centers on *Lumen gentium's* understanding of incorporation into the Church. *Lumen gentium* 14 states:

They are fully incorporated into the society of the church who, possessing the Spirit of Christ, accept its whole structure and all the means of salvation that have been established within it, and within its visible framework are united with Christ, who governs it through the supreme pontiff and the bishops, by the bonds of the profession of faith, the sacraments, ecclesiastical government and communion. That person is not saved, however, who does not persevere in charity; he does indeed remain in the bosom of the church "bodily" but not "in his heart".⁹²

We should note several important points, especially in contrast to *Mystici corporis*, which stated:

Actually only those are to be included as members of the Church who have been baptized and profess the true faith, and who have not separated themselves from the unity of the Body or been excluded by legitimate authority for grave faults committed.⁹³

⁹² In N.P. TANNER, *Decrees*, p. 860, l.20-27: "Illi plene ecclesiae societati incorporantur, qui Spiritum Christi habentes, integram eius ordinationem omniaque media salutis in ea instituta accipiunt, et in eiusdem compage visibili cum Christo, eam per summum pontificem atque episcopos regente, iunguntur, vinculis nempe professionis fidei, sacramentorum et ecclesiastici regiminis ac communionis. Non salvatur tamen, licet ecclesiae incorporetur, qui in caritate non perseverans, in ecclesiae sinu 'corpore' quidem, sed non 'corde' remanet."

⁹³ C. CARLEN, *The Papal Encyclicals*, IV, p. 41; the Latin text, p. 202: "In Ecclesiae autem membris reapse ii soli annumerandi sunt, qui regenerationis lavacrum receperunt veramque fidem profitentur, neque a Corporis compage semet ipsos misere separarunt, vel ob gravissima admissa a

The contrast between the two texts carries important implications for understanding *communio*.

As in other issues, *Lumen gentium* 14 underwent important developments.⁶⁴ *Reapse et simpliciter [...] incorporantur* was changed to *plene incorporantur*; *Spiritum Christi habentes* was added to the text; sacraments were cited as visible factors of incorporation; the expression concerning the sinner in the Church was altered from *non salvatur tamen, licet ad Ecclesiam pertineat, qui in fide, spe et caritate non vivit, sed peccans* to *licet Ecclesiae incorporetur, qui in caritate non perseverans*.⁶⁵ We must note the importance of these changes. This description of full incorporation balances both the external and the internal, without overemphasizing either.⁶⁶

G. Philips explains that the term "full incorporation" comes from Paul VI. He cites the papal allocution to the Council on September 29, 1963, where in no. 36 the pope refers to "the bond of perfect unity."⁶⁷ Further, in his opening address to the third session, September 14, 1964, Paul VI speaks of full and perfect spiritual and

legitima auctoritate seiuncti sunt." On incorporation into the Church, see P. COGAN, *The Understanding of Defection in the 1983 Code of Canon Law*, doctoral dissertation in the Faculty of Canon Law, Saint Paul University, Ottawa, Saint Paul University, 1991, xiii, 216p.

⁶⁴ See G. PHILIPS, *L'Église*, I, pp. 185-200; B. KLOPPENBURG, *Ecclesiology*, pp. 68-76; A. GRILLMEIER, "The People of God", pp. 168-177; and for the history of Church teaching and implications of *Mystici corporis see*, K. RAHNER, "Membership of the Church".

⁶⁵ This list follows that elaborated by A. GRILLMEIER, "The People of God", p. 174; see also *Synopsis historica*, especially pp. 59-60, and the *relatio* on LG 8, pp. 446-447.

⁶⁶ See Y. CONGAR, "Sur la transformation du sens de l'appartenance à l'Église", in *C:RCI*, I (1976), p. 44.

⁶⁷ PAUL VI, Allocution "Salvate fratres in Christo", September 29, 1963, in *AAS*, 55 (1963), p. 852: "vinculo perfectae unitatis Christi [...]."

visible unity.⁹⁸ This phraseology implies that incomplete bonds of union can exist.⁹⁹ Hence, there exists a unity which transcends particular manifestations in various ecclesial communities and churches and even transcends the Catholic Church, a unity founded in and by the Holy Spirit.

The phrase "having the Spirit of Christ" supports this view; moreover, it emphasizes the universality both of God's salvific will and the Spirit's presence. Succinctly, full incorporation into the Catholic Church itself does not -- cannot -- depend on a purely exterior participation. Rather, it requires the bond with the Holy Spirit.¹⁰⁰ This also assists in understanding the emphasis which *Lumen gentium* 14 gives to persevering in charity: without charity, one may have been incorporated into the Church but remains there only "in body" and not "in heart".

Consequently, *Lumen gentium* avoids the temptation to limit its discussion of incorporation only to the visible Church; it implies the reality of *communio* which arises from a relationship with God and which seeks expression in the external order. At the same time, the expression "having the Spirit of Christ" creates difficulties in the external order, specifically, in judging whether a particular person does or does not have the Spirit. But we can understand *Lumen gentium* as expressing a "proto-

⁹⁸ PAUL VI, Allocution "In signo Sanctae Crucis", September 14, 1964, in *AAS*, 56 (1964), p. 815: "plena spirituali et visibili Mystici Corporis integritate [...]."

⁹⁹ G. PHILIPS, *L'Église*, I, p. 194. See also P. COGAN, *The Understanding of Defection*, pp. 85-91.

¹⁰⁰ G. PHILIPS, *L'Église*, I, p. 194. See also F. COCCOPALMERIO, "Quid significant verba 'Spiritum Christi habentes' *Lumen gentium* 14,2", in *Periodica*, 68 (1979), pp. 253-276.

theology" on the level of theory which does not descend to the practico-practical level. In other words, *Lumen gentium* gives us the principle that having the Spirit of Christ is necessary for full incorporation and leaves the task of articulating a coherent synthesis to theology.

2.3. The *Nota explicativa praevia*

As G. Philips explains, the *Nota explicativa praevia* reiterates points taken from the *Expensio modorum* of the Doctrinal Commission, primarily in reference to Chapter III of *Lumen gentium* and the notion of collegiality.¹⁰¹ The *Nota explicativa* was intended to assuage misunderstandings on the part of the minority at the Council and to clarify, not alter, the text of *Lumen gentium* itself.¹⁰² For our purposes, we must refer to No. 2 and the *Nota bene* appended to No. 4.

No. 2 addresses a complex topic, namely, the exercise of episcopal power in the Church and refers to article 22. Through episcopal consecration and hierarchical communion with the head and members of the episcopal college, one becomes a member of that college and "is given an *ontological* participation in the *sacred* functions [*munerum*]" (l.17-18). *Munera* is used in distinction to powers (*potestates*)

¹⁰¹ G. PHILIPS, *L'Église*, II, p. 308.

¹⁰² K. McNAMARA, *The Church*, p. 357. See also J. RATZINGER, "Announcements and Prefatory Notes of Explanation", trans. R. STRACHAN, in *Documents*, I, p. 298, who felt at that time that only future interpretation would determine if, in order to gain an affirmative vote, too high a price had been paid or the doctrine had been too much diminished by the addition of the *Nota*.

to stress that the latter, which can be understood as power ready for action (*ad actum expedita*, l.21), require canonical or juridical determination for their exercise.

We should note two points. The first concerns the form through which functions become powers. This form depends on the particular rules (*normae*) established by the supreme authority. These rules can vary, depending upon historical circumstances and needs.¹⁰³ The second point notes that *communio* forms the context for the entire discussion of functions and powers. *Communio*

indicates the original source and context of law in the Catholic conception [...]. The Church's juridical development comes about through the inter-communion of Churches that are governed by bishops; that is, in an hierarchical fellowship of sacramental content -- such is the precise meaning of the term *hierarchical communion*, which is intended to make it clear as possible that *communio* as conceived of in the ancient Church is both juridically and ontically the fundamental structure of the Church for all time, and therefore in our day as well.¹⁰⁴

We must avoid restricting *communio* to a static system, even when we consider it as determinative of basic structure of the Church.

The *Nota bene* appended to No. 4 refers to another complex issue: the requirement of hierarchical communion for the exercise of the "sacramental-

¹⁰³ See J. RATZINGER, "Announcements", p. 301. He states that the Theological Commission attempted to advance "beyond the *doctrina recepta* of textbooks on canon law, towards a more realistic and historical view." For *communio* as understood in the primitive Church, see L. HERTLING, *Communio: Church and Papacy in Early Christianity*, trans. J. WICKS, Chicago, Loyola University Press, 1972, 86p.

¹⁰⁴ J. RATZINGER, "Announcements", pp. 301-302. On p. 302, RATZINGER also discusses the fortieth proposed amendment to which No. 2 refers (l.32-33) and the decision not to add further specifications (for example, *atque juxta ordinationes supremae Ecclesiae auctoritatis exerci possunt*) because the "concept of *communio* includes everything of importance."

ontological function" and this in reference to the episcopate in Eastern Orthodox Churches. Article 27 of *OE* states that Eastern ministers can confer penance, Eucharist, and Anointing of the Sick on Roman Catholics. *UR* 15 states that the Eastern separated Christians "possess true sacraments, above all by apostolic succession, the priesthood and the eucharist, whereby they are still linked with us in closest intimacy" (1.7-9).

In the *Nota explicativa*, the Theological Commission presents a general principle whose clarification is left to the *disceptationi theologorum*. Nonetheless, the text presents a broader understanding of the Church of Christ. Theologians need to articulate new theories at the same time as they abandon former ideas. They cannot accomplish this "either by taking too centralized a view of collegiality or by unhistorically canonizing the present juridical features of the Church."¹⁰⁵

3. The Pastoral Constitution on the Church in the World of Today, *Gaudium et spes*

We shall now refer to the second conciliar text listed as a *fons* in the Code, *Gaudium et spes* 1. A general introduction to the text and reference to a pivotal idea in article 1 must suffice for our purposes.¹⁰⁶

¹⁰⁵ J. RATZINGER, "Announcements", p. 305.

¹⁰⁶ For commentaries on *GS*, see, for example, H. VORGRIMLER, *Documents*, V. This volume, devoted entirely to *GS*, contains the work of several authors. See also G. CAMPANINI, *Costituzione pastorale sulla Chiesa nel mondo contemporaneo. Gaudium et spes*, Monferrato, Piemme, 1986, 227p; *Gaudium et spes. L'Église dans le monde de ce temps*, Introduction générale par Mgr. G.-M. GARRONE, traduction élaborée par les soins de l'Épiscopat français, Paris, Éditions Fleurus, 1967, 525p. (Coll. *L'aujourd'hui de l'Église*); P. HAUBTMANN, ed., *L'Église dans le monde de ce temps: Constitution pastorale "Gaudium et spes"*, Tours, Mame, 1968, 395p; C. MOELLER,

The text which we know as *Gaudium et spes* had a complex origin and development, with many revisions. At the same time, this history reveals that a substantial identity persisted throughout the various versions.¹⁰⁷ By the intention of John XXIII, the Council addressed issues arising from the Church as seen both *ad intra* and *ad extra*. In other words, the Council responded to questions and concerns related both to the Church (and those belonging to it) and to the world in which the Church finds itself.¹⁰⁸

A pivotal theme appearing in all versions of the text is Christian anthropology. This includes the themes of Christ's dominion, the Servant of God, the dynamic Word, the autonomous nature of secular activities in their own sphere, and the mission of the Church to evangelize. As well, it incorporates the ambivalence and paradox of the very concept of world.¹⁰⁹

Two somewhat contradictory purposes make treatment of these topics difficult. Although the Council wanted to enunciate general principles, it also wanted to avoid becoming too abstract. Thus, as the introductory statement makes clear, we can call

L'élaboration du schéma XIII. L'Église dans le monde de ce temps, Tournai, Casterman, 1968, 150p; P. RIGA, *The Church Made Relevant. A Commentary on the Pastoral Constitution of Vatican II*, Notre Dame, Indiana, Fides Publishers, Inc., 1967, 337p.

¹⁰⁷ C. MOELLER, "Pastoral Constitution on the Church in the Modern World, History of the Constitution" (= "History"), in *Documents*, V, pp. 63-64. This chapter (pp. 1-76) presents a detailed treatment of *GS*'s history; see also his *L'élaboration du schéma XIII*.

¹⁰⁸ C. MOELLER, "History", p. 8. He specifically cites the radio address of JOHN XXIII on September 11, 1962, which mentions this distinction. The Italian original, "La grande aspettazione", is in *AAS*, 54 (1962), pp. 678-685. See also P. RIGA, *The Church Made Relevant*, pp. 1-14; G. CAMPANINI, *Costituzione pastorale*, pp. 11-23.

¹⁰⁹ C. MOELLER, "History", pp. 71-72.

Gaudium et spes a constitution because it depends "on principles of doctrine" and "develops its doctrine about humanity;" we can call it pastoral since it aims "to express the relationship between the church and the world and people of today." Both aspects form one, comprehensive unity.

We must note the relationship between *Gaudium et spes* and *Lumen gentium*. Whereas *Lumen gentium* addresses the Church *ad intra*, *Gaudium et spes* speaks to the Church *ad extra*. These two poles form the central axis -- *Ecclesia Christi, lumen gentium* -- for the Commission which developed the *schema* of *Gaudium et spes*.¹¹⁰

Gaudium et spes 1 expresses this connection with *Lumen gentium* through the themes of the human race's unity, the trinitarian dimension of the community (united in Christ, directed by the Holy Spirit, and on pilgrimage to the Father's kingdom), and the necessity of proclaiming the message of salvation to all people (reflecting particularly *Lumen gentium*, Ch. II).

The unity of the human race, founded in and by the creative and salvific will of God, is necessarily historical and conditioned by time and space. The Church of Christ (in its broad sense) is a reality *within* the world or, in other words, is not separated from it: this is indicated by the expression "disciples of Christ" (*Christi*

¹¹⁰ C. MOELLER, "History", p. 12. In another context, on p. 70, he states that *GS* is one of the four great conciliar texts (along with *DV*, *LG*, and *SConc*). "*Lumen Gentium* is founded on *Dei Verbum*; *Gaudium et Spes* is rooted in *Lumen Gentium* and, in addition, is directed 'ad extra' [...] not only beyond the Church but beyond the sacred domain to that world of men and the created universe for whose salvation the Church is sent" (p. 70). This close connection between *GS* and *LG* helps explain the citation of *GS* 1 in the fontes to canon 209, §1.

We should note that the title "light of the nations" applies first and foremost to Jesus Christ. Nonetheless, as A. GRILLMEIER, "The Mystery", states on p. 139, "[t]he light which is Christ is also the light of the Church, and in Christ the Church is the light of the nations."

discipulorum). The *relatio* explains that this expression was chosen in preference to "the Church" or "the people of God" due to an explicit intention. The document was to address all people -- the universal dimension of the human race.¹¹¹

In other words, this people "does not go to humanity, it is a community of Christ's followers in the midst of the human family."¹¹² We find here an implicit ecumenical perspective: the phrase *Christi discipulorum* refers to all who believe in Jesus Christ and not only to Roman Catholics.¹¹³

The text implicitly contains a specific relationship to *communio*. The citation of *Gaudium et spes* 1 indicates that we cannot consider the *communio* which is the Church as an abstract ideal devoid of particular physical expression. Rather, the *communio* is a reality rooted in the intra-trinitarian life which finds expression in the particular and historical situation of people in the world. The historical event of the life of Jesus Christ necessarily forms the foundation of its historical dimension. But at the same time, we cannot limit the *communio* to only a terrestrial reality. Rather, the *communio*, through its union with Christ in the Spirit, will reach its culmination and fulfillment in the kingdom of God the Father.

Further, *Gaudium et spes* connects *communio* to theological anthropology. In other words, to understand *communio* and its manifestation in the world, we need to

¹¹¹ AS, 4-4-6, "Relatio ad Prooemium", (F), p. 423: "Vitandum videtur hic ut sermo fiat de "Populo Dei", propter universitatem eorum, quos alloquimur."

¹¹² C. MOELLER, "Preface and Introductory Statement", in *Documents*, V, p. 85.

¹¹³ See also Article 2, which refers to "all who call on the name of Christ" (*omnesque Christi nomen invocantes*; l.26).

understand the nature of the human person. More specifically, the person as created by God has the capacity not only to receive God's self-communication, but also to respond to it. In addition, although a personal relationship exists between God and the individual, we cannot isolate this relationship from the person's social nature, the communitarian dimension of faith.¹¹⁴

Thus, *communio* finds its origin in the intra-trinitarian life but at the same time expresses itself in the world. This expression is visible and historical. *Communio* also involves the human person -- considered in isolation and as a member of the one human race -- and the personal response to God's self-communication.

Conclusion

In our Introduction, we proposed the idea that *communio* possesses a polysemous character. We also referred to the philosophical theory of J. Koblér according to which we must apply a particular transcendental pragmatic to a concrete situation. In reference to the documents of Vatican II, Koblér maintains that *Lumen gentium* provides a theoretical view of the Church which needs to descend to the practico-pragmatic level; that is, it needs to be expressed in the empirical life of the Church.

¹¹⁴ For further development of theological anthropology, see, for example, K. RAHNER, "The Theological Dimension of the Question About Man", pp. 53-70 and "The Body in the Order of Salvation", pp. 71-89, both in *TI*, volume XVII, trans. M. KOHL, New York, Crossroad, 1981.

In our examination of conciliar documents, we discovered that these texts often refer to *communio* in a very abstract and theoretical way or, in Kobler's phrase, as proto-theology.¹¹⁵ Further, we have seen that conciliar documents do not give a univocal meaning to the principle of *communio* but rather demonstrate its polysemous character. Texts refer to the *communio* which exists in the internal life of the Trinity, to the *communio* existing by the will of Christ in establishing the one Church of Christ, to the *communio* of all people who belong to the Catholic Church, to the *communio* existing among particular churches and between them and the Church of Rome, and to the concept of hierarchical *communio*.

Thus, it emerges that Vatican II did not elaborate a systematic theology of *communio* in all its dimensions. The process of creating such a systematization presents a continuing task for theologians. At the same time, the Council established new directions for ecclesiological development by emphasizing the importance and role of *communio*. One important aspect to this development is the role and place of canon law. Further, we need to determine in what way the Code of Canon Law understands and applies the principle of *communio*. Thus, in Chapter II, we will begin our analysis of the Code and the place of *communio* therein, specifically in relationship to canon 209, §1 and the obligation to maintain communion.

¹¹⁵ This is clearest, for example, in the reference of *CIC/83/fontes* to *GS* 1.

CHAPTER II

THE REMOTE AND PROXIMATE CONTEXTS OF CANON 209, §1

To arrive at a comprehensive and correct understanding of a particular ecclesiastical law, an interpreter must take into consideration a broad range of issues thus establishing the context of the law, or, in other words, systematizing the particular parameters of that law. These parameters arise, for example, from the technical terms used, their meanings as developed within the legal system, the historical development of the law, its purpose and style, and so forth. Thus, it seems that canonists can offer legitimate interpretations only through an understanding of these factors.¹

¹ In a number of articles, L. ÖRSY discusses the many issues involved in the interpretation of ecclesial laws. See especially the following: "Integrated Interpretation; or, The Role of Theology in the Interpretation of Canon Law", in *SC*, 22 (1988), pp. 245-264; "The Interpretation of Laws: New Variations on an Old Theme", in *SC*, 17 (1983), pp. 95-133; "The Interpreter and his Art", in *J*, 40 (1980), pp. 27-56; "The Meaning of *novus habitus mentis*: The Search for New Horizons", in *J*, 48 (1988), pp. 429-447; "Models of Approaches to Canon Law and Their Impact on Interpretation", in *J*, 50 (1990), pp. 83-101; "*Novus habitus mentis*: New Attitude of Mind", in *J*, 45 (1985), pp. 251-258; and "Theology and Canon Law: An Inquiry into their Relationship", in *J*, 50 (1990), pp. 402-434. We should note here that we are using the term *law* in a very general sense, applying it both to the *CIC/83* and to norms existing outside that text. But, as ÖRSY explains in "Integrated Interpretation", footnote 2, not every canon in the *CIC/83* is necessarily a legal rule: some canons do not establish law; rather, for example, they exhort or teach. See also "The Interpretation of Laws", pp. 107-112. Further, the polysemous nature of these materials obliges us to determine also on which level we should place a particular canon. See also R. CUNNINGHAM, "Invitation, Interpretation and Inspiration: The Canonist's Response to the Code", in *CLSAP*, 47 (1985), pp. 16-34; R. CASTILLO LARA, "Some Reflections on the Proper Way to Approach the Code of Canon Law", in *CLSAP*, 46 (1984), 24-40; J. CORIDEN, "Rules for Interpreters", in *J*, 42 (1982), pp. 277-310; R. HILL, "Reflections on the Interpretation of the Revised Code", in *J*, 42 (1982), pp. 311-319. R. SOBĄŃSKI, "L'ecclésiologie du nouveau *Code de droit canonique*", in *The New Code of Canon Law, Proceedings of the 5th International Congress of Canon Law*, ed. M. THÉRIAULT and J. THORN, Ottawa, Saint Paul University, 1986 (= *The New Code-Ottawa*), discusses juridic language on pp. 245-247.

At the same time, however, the interpreter must also take cognizance of other, more general issues, such as the function and place of law in the Church, the relationship between theology and law, and the particular ecclesiology adopted. These provide the background necessary for any adequate interpretation. Furthermore, to analyze a particular canon or paragraph in the Code, interpreters must, at least in theory, make their own judgment about the Code as a whole. This implies also a judgment on how successfully the Code reflects the teaching of the Second Vatican Council. This applies especially when transposing a theological principle into a juridic context and usage.

As a consequence, our analysis of the remote and proximate contexts of canon 209, §1 shall begin with an investigation of the Code as a unified document, emphasizing the process of its development and its relationship to theology, especially ecclesiology. From this foundation, we shall then discuss the more specific context of canon 209, moving from the general to the particular. This interpretative framework will form the foundation necessary for a correct analysis and interpretation of canon 209, §1.

1. The remote context: *The Code of Canon Law*

John Paul II promulgated the new *Code of Canon Law* on January 25, 1983; after a ten month *vacatio legis*, the new law came into effect on November 27, 1983. This Code found its foundation and source of interpretation in the teachings of the Second Vatican Council. Consequently, we can ask, to what extent does the Code

reflect the teaching of that ecumenical council? To establish reasonable limits to this very broad question, we shall consider it in reference to two issues: the relationship between theology and canon law, and the underlying ecclesiology of the Code.

1.1. The relationship between theology and canon law

On November 20, 1965, Pope Paul VI, addressing the Commission for the Revision of the Code of Canon Law, stated:

Now, however, with changing conditions -- with life evolving more rapidly -- canon law is to be prudently reformed: namely, it must be accommodated to a new way of thinking proper to the Second Vatican Ecumenical Council, by which pastoral care and the new needs of the People of God are met.²

L. Örsy understands this *novus habitus mentis* as "a permanent disposition to raise new questions whenever it is so warranted by a gap in our knowledge."³ Further, as a pre-condition for this new disposition, the necessity exists of entering into a specific field of new visions, new horizons. In general, for canon law, doctrine and theology form an indispensable horizon. More specifically, we should understand theology

² PAUL VI, Allocution "Ad E. mos Patres Cardinales et ad Consultores Pontificii Consilii Codici Iuris Canonici Recognoscendo", November 20, 1965, in *Comm.*, 1 (1969), p. 41: "Nunc admodum mutatis rerum condicionibus -- cursus enim vitae celerius ferri videtur -- ius canonicum, prudentia adhibita, est recognoscendum: scilicet accomodari debet novo mentis habitui, Concilii Oecumenici Vaticani Secundi proprio, ex quo curae pastorali plurimum tribuitur, et novis necessitatibus populi Dei." The text of this allocution is also in *AAS*, 57 (1965), pp. 985-989.

³ L. ÖRSY, "The Meaning", p. 431. On the concept of *novus habitus mentis*, see also D. HEINTSCHEL, ". . . A New Way of Thinking", in *J*, 44 (1984), pp. 41-47 and J. CORIDEN, "Laws and Non-Laws", in *CLSAP*, 45 (1983), pp. 79-81. J. PROVOST, "Approaching the New Code", in *Code, Community and Ministry*, J. PROVOST, ed., Washington, D.C., CLSA, 1983, presents on pp. 15-16 three particular examples by which the Code reflects this new "habit of mind": the sense of the Church as communion; the extension of ministry to include laity; and the Code's ecumenical perspective.

from the perspective of Vatican II's teaching, which developed new horizons in relation to the Church's self-perception.⁴ Consequently, the study of canon law today requires that canonists contextualize the law within a theological system, with particular attention to doctrine.⁵

A. Rouco-Varela offers doctrinal and methodological criteria as a foundation for a theological understanding of canon law.⁶ He suggests that such an understanding begins with a consideration of the Church perceived both as a mystery and as a dynamic entity. He conceptualizes ecclesiology from the description of the Church as the People of God, the visible body of Christ, and the fundamental sacrament of salvation. As a consequence, the socio-communitarian dimension inheres in the very nature of the Church, a dimension he calls (at least analogically) the canonical or juridical-canonical.⁷ This position has similarities with that taken by

⁴ L. ÖRSY, "The Meaning", pp. 442-444. M. PLACE, "A Theologian Looks at the Revised Code", in *J*, 45 (1985), states on p. 264 that the Code "is an attempt to translate the *novus habitus mentis* of the council into practice. As many have said, 'With the revised code those who had hoped the council would go away are finally frustrated because now the council has been translated into concrete structures and norms.'" Canonists must therefore enter into a totally new approach to law in order to assess the revised Code and to assist in the implementation of conciliar teaching. See also G. THILS, "Le nouveau Code de droit canonique et l'ecclésiologie de Vatican II", in *RTL*, 14 (1983), pp. 289-301. E. CORECCO, in A. ROUCO-VARELA and E. CORECCO, *Sacramento e diritto: antinomia nella Chiesa? Riflessioni per una teologia del diritto canonico: dialogo tra A. Rouco-Varela e E. Corecco*, Milano, Jaca Book, 1971, states on p. 52 that even the origin and the existence of canon law form an essentially theological problem.

⁵ For a discussion of issues involved in understanding the science of canon law today, see M. WJLENS, *Theology and Canon Law: The Theories of Klaus Mörsdorf and Eugenio Corecco*, New York, University Press of America, 1992, especially pp. 11-22.

⁶ A. ROUCO-VARELA, "Le statut ontologique et épistémologique du droit canonique: notes pour une théologie du droit canonique", in *RSPT*, 57 (1973), pp. 203-227.

⁷ A. ROUCO-VARELA, "Le statut ontologique", p. 223.

Y. Congar. The latter expresses the nature of the relationship between the two dimensions of the Church as follows: "The Church is a communion (*koinōnia*) which exists historically in the form of society (*politeia*)."⁸

These and similar approaches can help canonists avoid creating a dichotomy within the Church between legal norms and "charity" (or its spiritual reality). Rouco-Varela offers one perspective on the origin of such a division:

The great temptation for canon law and for the canonist in the course of history is "mondanizzazione." Rather than having juridic forms and institutions of each age emerge from the Mystery of the Church, what has often been done is to surrender to a sociological pragmatism and to a fascination with secular law.⁹

In other words, canonists often resort to the paradigm of the civil state (as distinct from the Church's specific nature) to defend and explain ecclesial juridic institutes.

W. Aymans sees this difficulty operative even in conciliar teaching. For instance, in discussing *Lumen gentium* 8, he states that, although placed within the context of the one complex reality that is the Church, canon law nonetheless appears

⁸ Y. CONGAR, "Bulletin d'Écclésiologie", in *RSPT*, 70 (1986), p. 634. He states that his position agrees with that of F. PILGRAM. See F. PILGRAM, *Physiologie de l'Église ou études sur les lois constitutives de l'Église considérée dans son essence naturelle*, trans. P. REINHARD, Paris, Librairie catholique de Périsse Frères, Régis Ruffet et Cie., Successeurs, 1864. For a summary treatment of the work of PILGRAM and his followers, see S. JAKI, *Les tendances nouvelles de l'écclésiologie*, Rome, Casa Editrice Herder, 1957, pp. 44-54.

⁹ A. ROUCO-VARELA - E. CORECCO, *Sacramento e diritto*, p. 18: "La grande tentazione del Diritto Canonico e della Canonistica nel corso della storia è la 'mondanizzazione'. Invece di far emergere teologicamente del Mistero della Chiesa le forme e le istituzioni giuridiche di ogni epoca, ciò che hanno fatto, non di rado, è stato di cedere al pragmatismo sociologico e al fascino tecnico del Diritto secolare."

"directly as an expression of the *societas*, and not as an expression of the mystery."¹⁰

If people perceive canon law as very close to if not identical with secular law, they often have recourse to a false dichotomy between the Church of Charity and the Church of Law.¹¹ Although both aspects of the Church -- its organization in the world and its graced nature -- are necessary, we should nonetheless give priority to the grace of Christ, without which the community could not exist.¹²

The 1969 Synod of Bishops emphasized this relationship. In the declaration *Elapso Oecumenico*, the bishops stated:

¹⁰ W. AYMAN, "Ecclesiological Implications", p. 123. We must note that the first of the ten principles for the revision of the Code of Canon Law approved by the 1967 Synod of Bishops states that "[...] novus Codex indolem iuridicam omnino retineat oportet cum spiritu proprio. *Indolem dicimus iuridicam* quam postulat ipsa natura socialis Ecclesiae, quae in potestate iurisdictionis, ab ipso Christo hierarchiae tributae, fundatur." See *Comm.*, 1 (1969), p. 78; we shall discuss these principles in more depth later in this chapter.

¹¹ On the specific nature of canon law, see, for example, the allocution of PAUL VI, November 20, 1965, cited in footnote 2; J. BEYER, "Sens et rôle du droit ecclésial. La pensée de Paul VI", in *AC*, 27 (1983), pp. 25-36; R. CASTILLO LARA, "La place du droit canonique dans une vision conciliaire de l'Église", in *SC*, 24 (1990), pp. 5-26; E. CORECCO, "Foi et institution dans le CIC", in *AC*, 28 (1984), pp. 19-48; H.-M. LEGRAND, "Grâce et institution dans l'Église: les fondements théologiques du Droit canonique", in *L'Église: institution et foi*, L. MONNERON, et al., Bruxelles, Facultés Universitaires Saint-Louis, 1979, pp. 139-172; and, in the same text, P.-A. LIÉGÉ, "Place à l'institution dans l'Église: légitimations doctrinales", pp. 173-194. LIÉGÉ attempts to articulate a positive usage of the term "institution" as applied to the Church, a usage which, "dépassant les indications pragmatiques, cherche à être fidèle aux fonctionnalités reconnues dans la foi" (p. 187). See also M. LEJEUNE, "Canon Law and the Church Today", in *J*, 47 (1987), pp. 484-492; J. MILET, "Les soubassements philosophiques du nouveau Code de droit canonique", in *AC*, 28 (1984), pp. 67-82. Problems also arise when one or the other dimension is stressed; see, for example, P. EYT, "L'antijuridisme et sa portée dans le vie récente de l'Église", in *AC*, 27 (1983), pp. 17-24; M. LEJEUNE, "Demythologizing Canon Law", in *SC*, 21 (1987), pp. 5-17.

¹² J. MARQUES, "Pueblo de Dios, persona, 'communio' y derechos fundamentales de los fieles", in *Les droits fondamentaux du chrétien dans l'Église et dans la société*, Actes du IV^e Congrès international de droit canonique, Fribourg, 1980, ed. E. CORECCO, N. HERZOG, A. SCOLA, Fribourg, Éditions Universitaires, 1981, states on p. 144 that if we accept the principle of *communio* as the primary "structure" (*configurador*) of the Church and of the faithful, we could avoid the confrontation between the Church of Law and the Church of Charity.

Vatican Council II rightly emphasized the indissoluble unity of each of the constitutive elements of the Church, which are not merely placed in a mutual reciprocity but as that which forms a complete whole [...]. Since therefore this *communio* of the faithful is united simultaneously in both the human and divine elements and since these form its unity of life, the Church is lawfully affirmed to be a sacrament or instrument for the internal union of men with God and of the unity of the entire human race.¹³

In as much as a sacrament cannot exist without the grace of Christ (without which it would become a merely human action), neither can the Church as an organized body exist without this same grace.

From our perspective, we cannot overemphasize the interconnection between canon law and theological doctrine, especially in regards to its inspiration. One of the most important reasons in support of this assertion is that the parallel between the Church and the civil state -- the Church as a society or *societas perfecta* -- with the consequent necessity for and justification of a body of law, can no longer be maintained.¹⁴ Paul VI referred to this contrast when he stated:

¹³ SYNODUS EPISCOPORUM (1969), "Elapso oecumenico. Relatio doctrinalis circa collegialitatem episcoporum in Ecclesia", October 22, 1969, in X. OCHOA, ed., *Leges Ecclesiae post Codicem iuris canonici editae*, volume IV (1969-1972), Roma, Commentarium pro religiosis, 1974, no. 3791, column 5650: "Concilium Vaticanum II unitati indissolubili utriusque elementi constitutivi Ecclesiae merito insistit, quae non mere mutuo iuxta ponuntur, sed aliquod unum et totum efformant [...]. Cum igitur haec *communio fidelium* utroque simul humano et divino elemento coalescat cumque eius vitae unitatem utrumque efforment, iure affirmatur Ecclesiam esse sacramentum seu instrumentum internae hominum unionis cum Deo totiusque generis humani unitatis." *CIC/83 fontes* cites this document as a *fontis* for can. 209, §1.

¹⁴ Certain commentators would agree with this statement to a greater or lesser extent. For example, in footnote 10 in "The Meaning", L. ÖRSY states that the "fatal flaw" in the application of the term *societas perfecta* to the Church occurred when this application was no longer understood in an analogous but univocal way (that is, perfect society - state became equivalent to perfect society - Church). As a consequence, "the idea of the 'perfect society' became the vehicle for the transfer of secular modes of thought, institutions, and proceedings to a religious community." B. FRANCK, in *Vers un nouveau droit canonique? Présentation, commentaire et critique du Code de droit canonique de*

Canon law is a sacred law, altogether distinct from civil law [...]. It is totally woven into the salvific action whereby the Church continues the work of redemption. Since this is so, the juridical institutes of civil society cannot be transferred to the Church without risk.¹⁵

In other words, we cannot consider law in civil society and law in the Church as univocal notions. J. Coriden, agreeing with this position, also maintains that, despite the consequence -- understanding law in civil society and law in the Church as analogous notions -- canon law is "more unlike than like civil law, a major dissimilitude."¹⁶

Law, both in the Church and in civil society, serves a structural function by organizing the community's life.¹⁷ Yet, the teleological purpose of this function and

l'Église Catholique latine révisé à la lumière de Vatican II, Paris, Éditions du Cerf, 1983, p. 280, expresses the same point by stating: "Tout cela illustre bien que la nécessité d'un droit ecclésial ne s'impose pas seulement ni premièrement pour des raisons purement humaines qui relèvent de l'ordre naturel des choses. Malgré la pertinence et l'importance de ces raisons, cela ne suffirait pas à justifier le maintien et le développement d'un droit spécifique de l'Église chrétienne [...] la nature même de l'Église, qui est *sui generis* [...] requiert et exige un tel droit." J. MILET in "Les soubassements philosophiques", pp. 68-70, has a similar perspective but does not (we believe) attach enough emphasis to the *sui generis* nature of the Church.

¹⁵ PAUL VI, Allocution "Iis qui in Gregoriana Studiorum Universitate 'Cursui renovationis canonicae pro iudicibus aliisque Tribunalium administris' interfuerunt", December 13, 1972; English translation in *Canon Law Digest*, 7, p. 70; Latin text in *AAS*, 64 (1972), p. 781: "[...] ius canonicum esse ius sacrum, prorsus distinctum a iure civili [...]. Id totum inseritur in actionem salvificam, qua Ecclesia opus redemptionis continuat. Quae cum ita sint, iuridica instituta societatis civilis nequeunt sine discrimine in Ecclesiam transferri." L. ÖRSY discusses the differences between canon law and theology and also their organic connection in "Theology and Canon Law".

¹⁶ J. CORIDEN, "Laws and Non-Laws", p. 83. He provides an extensive bibliography in footnote 3, p. 79, and states in footnote 7, p. 81, that "virtually all" the authors listed there agree that the two concepts of law are only analogous.

¹⁷ See the discussion of similarities between law in the Church and in civil society in J. CORIDEN, *An Introduction to Canon Law*, New York, Paulist Press, 1991, pp. 5-7.

the means used to achieve it differ greatly between civil society and the Church. Coriden cites six reasons for this major dissimilarity.

First, the Church exists as the sacrament of Christ. Second, rules in the Church, while helping to maintain good order, also serve a transcendent purpose, namely, the salvation of its members. Third, the source of power differs in the Church, for all power therein derives from the Risen Christ and is authenticated by claims of apostolic succession and guidance of the Holy Spirit. Fourth, we must understand canon law as a theological discipline. Fifth, the Church is a voluntary association. Sixth, canon law operates on a different level of reality and possesses a different type of effectiveness.¹⁸ These reasons clearly demonstrate the distinctive nature of Church law.

In recent times, an overemphasis on perceived similarities between the two types of law has resulted in "a church order characterized by an exaggerated juridicism [which has] too little in common with an ecclesial communion."¹⁹ The great difference between law in the Church and law in civil society indicates the polysemous character of the term "law" itself. However, for many people -- canonists and non-canonists, members of the Church and non-members -- law remains equivalent to law, whether enacted by the Church or by a civil power. This has negative implications in the way that people perceive the *communio* of the Church

¹⁸ See J. CORIDEN, "Laws and Non-Laws", pp. 82-84.

¹⁹ J. CORIDEN, "Laws and Non-Laws", p. 84.

and the relationships which exist within it. As a result, canonists require a *novus habitus mentis* even toward the terminology they use and the implications -- both implicit and explicit -- which derive from this usage.²⁰

From this perspective, then, the intimate relationship between theology and canon law gives rise to complex issues and questions which do not possess easy solutions. Nevertheless, we cannot understand this relationship between canon law and theological doctrine simply as an ideal with little practical import or value. To avoid this temptation, we must confront rather than avoid particular problems by endeavoring to find realistic solutions to them.²¹

²⁰ See J. CORIDEN, "Laws and Non-Laws", pp. 81-83. R. SOBAŃSKI, "L'ecclésiologie", pp. 245-247, correctly states that the imperfection present in canonical language stems from its origin. This imperfection follows from the imperfection found in theological language, and not from the language of law (which strives for as much clarity as possible). See also L. ÖRSY, "Integrated Interpretation", especially pp. 257-258.

²¹ L. ÖRSY on p. 444 in "The Meaning" states that although the task can appear "daunting and demanding", no other alternative exists: "If God wanted a Church, he wanted its beliefs and norms of action joined together." This difficulty is clearly not a twentieth century invention. For example, see T. O'BRIEN, "Sacra Doctrina' Revisited: The Context of Medieval Education", in *The Thomist*, 41 (1977), pp. 475-509. O'BRIEN analyzes the content of "sacra doctrina" for St. Thomas Aquinas and, in so doing, he stresses the unicity of Christian teaching. One particular example of why the task appears "daunting and demanding" today is that the term "theology" can encompass various systems and viewpoints. To which system must canon law be referred? At the very least, we can state that theology cannot contradict the teaching of Vatican II, especially the particular dimensions and elements which the Council chose to emphasize. See also L. ÖRSY, *From Vision to Legislation: From the Council to a Code of Laws*, The 1985 Père Marquette Theology Lecture, Milwaukee, Wisconsin, Marquette University Press, 1985, 59p. For a discussion of elements indispensable to conciliar teaching, see A. DULLES, *The Reshaping of Catholicism*, pp. 19-33. J. HUELS, in "The Role of Canon Law in Light of Lumen Gentium", in *The Ministry of Governance*, ed. J. MALLETT, Washington, D.C., CLSA, 1986, pp. 98-120, offers particular examples which result from a theological understanding of canon law.

1.2. The ecclesiology underlying the Code

In a clear essay on the Code's ecclesiology, E. Corecco begins by stating, "The new Code of Canon Law contains *two ecclesiologies*, which can be defined as being of '*societas*' and of '*communio*'."²² Although some might disagree and suggest that more than two or even other combinations of various ecclesiological viewpoints exist within the text, this statement can serve as an introduction to the complex issue of the ecclesiology underlying the Code.

To understand how the Code comprehends the Church we must refer not only to the completed text but also to the sources used in the development of the canons. Likewise, the process of the revision itself, as well as the differing approaches taken by the various individuals and committees involved in that process, exercise an important role in this regard. We cannot take the final form of this complicated revision process in isolation from the people and events that determined it. Otherwise, we risk erroneous interpretation, not only of a given law, but also of the mind-set of the Code itself.

A number of important studies of the revision process have already appeared.²³ For instance, J. Alesandro notes that the revision of canon law elicited

²² E. CORECCO, "Ecclesiological Bases of the Code", in *Concilium*, 185.3 (1986), p. 3; his emphasis.

²³ See, for example, J. ALESANDRO, "The Revision of the Code of Canon Law: A Background Study", in *SC*, 24 (1990), pp. 5-26; J. BEYER, "Le nouveau Code de droit canonique. Esprit et structures", in *NRT*, 106 (1984), pp. 360-382, and 566-583; M. BONNET and B. DAVID, *Introduction au droit ecclésial et au nouveau Code*, Luçon, Les Cahiers du droit ecclésial, especially pp. 33-60; E. CORECCO, "Theological Justifications of the Codification of the Latin Canon Law", in *The*

two very different understandings of the required task. He summarizes these simply as either a refinement of legal principles or a major reform. The first understanding meant that juridic principles and legal discipline determine the reform of Church law, and thus the primary *fontes* would be the Church's canonical tradition and current needs. As a result, the documents of the Second Vatican Council formed only a distant and third *fontes*.²⁴

The second approach, however, placed conciliar teaching as the primary *fontes* and as the model for law reform. In other words, "the 'canonical *aggiornamento*' depended *essentially* on the framework of the 'pastoral *aggiornamento*' sought by the conciliar documents."²⁵ As one consequence, the revision of the Code required consultation of all the faithful and not only of legal scholars and canonists.

If we were to ask which approach guided the process of revision, we would have to answer, both. This reflects the diversity among the individuals involved in the

New Code-Ottawa, pp. 69-96; and his "Les présupposés ecclésiologiques et culturels du nouveau code", in *Théologie et droit canon*, pp. 223-248; J. CORIDEN, *An Introduction*, pp. 35-41; F. D'OSTILO, *La storia del nuovo codice di diritto canonico. Revisione - Promulgazione - Presentazione*, Città del Vaticano, Libreria editrice Vaticana, 1983, 143p. (*Studi giuridici*, No. 6); V. FAGLIOLO, *Il codice del postconcilio, I: Introduzione*, Roma, Città Nuova Ed., 1984, pp. 29-48; G. FELICIANI, *Le basi del diritto canonico. Dopo il codice del 1983*, Bologna, Società editrice il Mulino, 1984, pp. 7-55; B. FRANCK, *Vers un nouveau*, especially pp. 25-66; 205-298; G. FRANSEN, "Le nouveau Code de droit canonique. Présentation et réflexions", in *RTL*, 14 (1983), pp. 275-288; F. MORRISEY, "The Revision of the Code of Canon Law", in *SC*, 12 (1978), pp. 177-198; and P. VALDRINI et al., *Droit canonique*, Paris, Dalloz, 1989, pp. 18-22.

²⁴ J. ALESANDRO, "The Revision", pp. 93-94.

²⁵ J. ALESANDRO, "The Revision", p. 96. See also L. ÖRSY, "Novus habitus mentis: New Attitude", pp. 256-257, especially footnote 2, where he states that the differing "attitudes of mind" resulted in conflicting trends, citing as an example a new exaltation of the dignity of the Christian faithful coexisting with a certain distrust in their prudence and wisdom.

process and the development or change in their own positions. As a consequence, the Code reflects the "creative tension" present during the revision process which "at times produced harmony, at other times compromise, sometimes synthesis, at other times simply juxtaposition."²⁶

The several ecclesiologies expressed in the Code thus reflect the presence of these two approaches and the diversity both of the participants in the revision process and of canonical and theological thought. E. Corecco gives many examples illustrating the use of the *societas perfecta* model in the Code: the fact of codification itself; the placement of general norms in Book I and thus the application of legal rules even to theological matters; the use of *potestas regiminis seu jurisdictionis* in lieu of the Vatican II preference for *potestas sacra*; references to the exercise of the power of governance in sacramental and extra-sacramental fields; and Books V, VI, and VII, which present an image of the Church analogous to that of an independent secular state.²⁷

²⁶ J. ALESANDRO, "The Revision", p. 97. Further, we should recall that whereas the 1917 codification was primarily under the direction of one man, Cardinal GASPARRI, the present Code did not have such a guiding hand. Consequently, we can perhaps more easily understand a certain lack of consistency in terminology or approach in the *CIC/83* as a whole. M. PLACE, in "A Theologian", approaches certain issues -- church law, ecclesiology, marriage -- from a five point approach: preconciliar experience or praxis; the conciliar response by a new theory; how well *CIC/83* translates the theory into practice; the source of any dissonance between theory and practice; and the canonist's response to this dissonance.

²⁷ E. CORECCO, "Ecclesiological Bases", pp. 3-7; his emphasis. Despite the presence of a *societas perfecta* model, CORECCO claims reasons of a more theological nature can justify the process of codification. See "Theological Justifications", where he discusses the three elements that intrinsically justify the re-use of codification for Church law: the change in the epistemological principle (that is, in place of the previous principle of philosophical and legal reason, the new codification uses the principle of faith); the constitutional character of the new norms, and the individuation of the member of the faithful as the protagonist-subject in the canonical order. See also

Nevertheless, Corecco notes that the "ecclesiology of *communio* lies at the roots of all three levels on which the Church exists: the '*communio fidelium, Ecclesiarum, et ministeriorum*'.²⁸ For Corecco, the immanence and the inseparability of all the elements that constitute the Church form a unified foundation established from the principle of *communio*. In this regard, he mentions, for example, the relationship between the particular and the entire Church; the series of duties and rights for the individual within the community; and the relationship between the Church and the world.²⁹

Other authors echo this perception of *communio*'s importance to our understanding of the Code. R. Sobański notes several important points in which the conciliar ecclesiology of *communio* reveals itself in the Code.³⁰ First, this text proceeds from the concept of "the People of God" as inclusive of all members of the Church. Second, the Code no longer follows the Roman law *schema personae - res - actiones*, but rather a *schema* grounded on the functions of teaching, sanctifying, and

P. BONNET, "De momento codificationis pro iure ecclesiae", in *Periodica*, 70 (1981), pp. 303-368.

²⁸ E. CORECCO, "Ecclesiological Bases", p. 10; his emphasis. See also W. AYMANS, "Ecclesiological Implications", pp. 134s.

²⁹ However, we should also note the limitations to *communio* which E. CORECCO perceives in the Code, summarized as "an excess of pragmatism": adoption of the ecclesiological principle *Sacramenta et Verbum ab Ecclesia* instead of *Ecclesia a Sacramentis et Verbo*, the minimization of the *sensus fidei* of all the faithful; inadequate articulation of lay participation in the *munus regendi*; lack of stronger references to the principle of immanence; the absence of references to charism; the alteration of LG 14 by dropping *spiritum Christi habentes*. For fuller development of these points, see his articles, "Ecclesiological Bases", pp. 7-10; and "Aspects of the Reception of Vatican II in the Code of Canon Law", in *The Reception of Vatican II*, pp. 249-296.

³⁰ See R. SOBAŃSKI, "L'ecclésiologie", especially pp. 247-250.

providing pastoral care. For his part, J. Beyer develops the relationship between *communio* and an organized society, especially in reference to the fundamental rights of the faithful.³¹

H. Müller asserts that *communio* forms a formal canonical principle of the new codification.³² V. De Paolis emphasizes the renewed importance attached to *communio* by Vatican II and then analyzes the resulting implications for the daily life of the Church.³³ Most importantly, G. Ghirlanda has attempted to develop a systematic approach in which *communio* forms the foundational principle for the place and nature of Church law, for ecclesiology, and for the interpretation of the Code.³⁴ The work of Ghirlanda and the other writers mentioned demonstrates the thinking that canonists are to interpret the Code from the perspective of *communio*.

A very important question results from this discussion: how do we reconcile the differing ecclesiologies expressed in the Code? The operative and fundamental principle is that we need to interpret the Code from the perspective of the teaching

³¹ See J. BEYER, "La 'communio' comme critère des droits fondamentaux", in *Les droits fondamentaux*, pp. 79-96.

³² See, for example, H. MÜLLER, "Utrum 'communio' sit principum formale-canonicum novae codificationis iuris canonici ecclesiae Latinae?", in *Periodica*, 74 (1985), pp. 85-108.

³³ See, for example, V. DE PAOLIS, "Communio in novo Codice iuris canonici"; and "Communio et excommunicatio", in *Periodica*, 70 (1981), pp. 271-302.

³⁴ See especially G. GHIRLANDA's most recent work, *Il diritto nella Chiesa*. This text was preceded by a number of articles and his doctoral dissertation, in which he reveals his familiarity with conciliar documents. We shall refer further to his position in Chapters III and IV of this dissertation.

of Vatican II.³⁵ Consequently, we must accept the recognized emphases of conciliar ecclesiology -- for example, the principles of *communio* and collegiality, the theological value of the particular church -- and consequently interpret Church law in light of them. The Church exists as a society in the world and thus requires means of social organization and governance. But we cannot demand that these instruments reproduce those used by civil states (even if this were possible), nor can we consider the Church exclusively as a society. It would be as wrong to describe the Church as only "a spiritual community of the redeemed" as it would be to describe it only as a *societas perfecta*.

To increase our understanding of the Code, we shall now examine two important processes. The first concerns the revision of the law and the developments from which our current text emerged. The second centers on the internal arrangement of the canons within the Code.

1.3. The process of revising the Code

In 1963, Pope John XXIII established the Pontifical Commission for the Revision of the Code of Canon Law (*Pontificia Commissio Codici Iuris Canonici Recognoscendo*). Although Pope Paul VI had appointed seventy consultors to assist this Commission in April 1964, its work formally began only on November 20, 1965,

³⁵ The "mind of the legislator" plays an important role in this regard. In addition to the constitution promulgating the *CIC*, *Sacrae disciplinae leges*, see also J. ALESANDRO, "The Revision", p. 98, who lists five connections between canon law and Vatican II teaching as enunciated by Paul VI and John Paul II.

shortly before the Second Vatican Council officially closed. In January, 1966, the Commission established ten committees (*coetus*) to oversee the revision of the Code, dividing consultors according to categories derived from the 1917 Code. They used this division for practical reasons only and without prejudice to any new arrangement which might be established for the revised Code.³⁶

From the beginning, some persons -- including Pope Paul VI -- questioned whether one book would sufficiently fulfill the needs of the Church. Aymans notes that some Commission members envisaged a tripartite codification, consisting of a *Lex Ecclesiae Fundamentalis* serving as an introduction to two law Codes, one for the Eastern Churches, the other for the Latin Church.³⁷ Ultimately, of course, the structure of a fundamental law (although central to the revision process) was omitted, and two codes were enacted for the Latin and Eastern Churches.³⁸

³⁶ "Haec materiae distributio cum ordine systematico Codicis vigentis congruebat tantum ob exigentias practicas laboris, quin ullum praecudicium afferret novo ordini Codici iuris Canonici, qui quidem ex ipsis studiis peractis ac peragendis apparere debebat." See *Comm.*, 1 (1969), p. 44. The categories are as follows: General Norms; Clerics, Religious, Sacramental law, matrimonial law in particular, ecclesiastical magisterium, temporal goods, procedural law, and penal law. J. ALESANDRO in "The Revision", notes on p. 105 that the use of these categories "resulted in the ultimate retention of many organizational elements from the 1917 Code and the older canonical tradition." He also provides on pp. 101-104 a listing of the personnel within the Commission. J. FOX and G. CORBELLINI have provided both a chronology of the revision process and a synthesis of the materials published in *Communicationes*, "Synthesis generalis laboris Pontificiae Commissionis Codici iuris Canonici Recognoscendo", in *Comm.*, 19 (1987), pp. 262-308; English version in *J*, 48 (1988), pp. 800-840.

³⁷ See W. AYMANS, "Ecclesiological Implications", p. 123. AYMANS maintains that such a division better expresses the concept of unity in diversity founded in conciliar teaching. See also *Comm.*, 1 (1969), pp. 114-115.

³⁸ For a discussion of the revision process, see, for example, J. ALESANDRO, "The Revision", pp. 104-130; see also B. FRANCK, *Vers un nouveau*, pp. 25-66.

In 1967, Cardinal P. Felici, President of the Commission, as well as chairman of the coordinating committee, undertook with the latter group the task of developing principles to guide the revision process. The Synod of Bishops approved these principles -- *Principia quae Codici iuris canonici recognitionem dirigant* -- in October, 1967. Their main purpose

was to guarantee harmony between the Church's revised law and the conciliar documents. Throughout the revision process, the principles regulated the task of translating the pastoral decisions of the Council into the juridical content of the canons.³⁹

As one consequence, canon law no longer exists as an isolated discipline but as an instrument of articulating conciliar teaching in the Church's life.

On May 28, 1968, after the Commission approved a new systematic arrangement of the material to be contained in the revised Code, Cardinal Felici established thirteen new *coetus* for the revision process.⁴⁰ These produced *schemata* which were then submitted to a fairly broad evaluation by various bishops' conferences, the unions of superiors general, the Roman Curia, and pontifical

³⁹ J. ALESANDRO, "The Revision", p. 106. For the work of developing, discussing and approving these principles, see *Comm.*, 1 (1969) pp. 54-56; 77-100. The principles are found on pp. 78-85; for an English translation, see *CIC/83*, xx-xxii. See also B. FRANCK, *Vers un nouveau*, pp. 30-32. See also H. MÜLLER, "Utrum 'communio'", who notes on p. 92 that two theories of ecclesial law are found in these principles, namely, a theological theory (which understands ecclesial law as deriving from the Church's theological nature) and a social-philosophical theory (in which ecclesial law originates from the Church as society and from the principle, *ubi societas, ibi ius*).

⁴⁰ See *Comm.*, 1 (1969), pp. 29-34 and 112-113; the categories were the following: the systematic organization of the Code; the fundamental law of the Church; general norms; sacred hierarchy; institutes of perfection; laity and associations of the faithful; physical and moral persons in general; matrimony; sacraments excepting matrimony; ecclesiastical magisterium; patrimonial law of the Church; processes; penal law. The Latin preface to the Code in *CIC/83 fontes* (and the English translation in *CIC/83*) omits the category "fundamental law of the Church." See also J. ALESANDRO, "The Revision", pp. 105-106.

universities. During 1978 and 1979, the various *coetus* evaluated the results of this consultation process and revised the original *schemata*.

After completing and collating the emendations, the Commission issued a one volume version of the proposed Code.⁴¹ In 1981, rather than requesting a second broad consultation, Pope John Paul II appointed fifteen new members to the Commission as representatives of various bishops' conferences.⁴² The Commission members then submitted written comments which were summarized and incorporated into a comprehensive report, the *Relatio*.⁴³ In this work, the Commission staff members decided also to include thirty-eight canons from the 1980 version of the *Lex Ecclesiae Fundamentalis* since it had become clear that this text would not be promulgated at this time.

The Commission held a final, plenary session from October 20 to 28, 1981. At its conclusion, the members approved the new proposed Code and unanimously voted to submit the text to the Pope for promulgation. On March 25, 1982, the

⁴¹ See PCCICR, *Schema Codicis iuris canonici iuxta animadversiones S.R.E. Cardinalium, Episcoporum Conferentiarum, Dicasteriorum Curiae Romanae, Universitatum Facultatumque ecclesiasticarum necnon Superiorum Institutorum vitae consecratae recognitum*, Vatican City, Libreria editrice Vaticana, 1980, xciii, 382p. (=1980 schema).

⁴² B. FRANCK, *Vers un nouveau*, notes on p. 59 that by this action, the Commission for Revision was no longer limited only to cardinals but included 18 archbishops and bishops, each of whom had pastoral responsibilities. Further, FRANCK also states here that JOHN PAUL's intention was to appoint men "ayant de la vie ecclésiastique une expérience vivante, plus différenciée que les anciens dont un bon tiers étaient uniquement des hommes de bureau."

⁴³ See PCCICR, *Relatio complectens synthesim animadversionum ab Em.issis atque Exc.issis Patribus Commissionis ad novissimum schema codicis iuris canonici exhibitarum, cum responsionibus a secretaria et consultoribus datis*, Città del Vaticano, Typis polyglottis Vaticanis, 1981, 358p. (=Relatio).

revised version of the Code -- the *Schema novissimum* -- was issued.⁴⁴ John Paul II studied this text, incorporated changes in it, and announced in December, 1982 that he would promulgate the Code on January 25, 1983.

1.4. The arrangement of the Code

We should consider the outline of the Code as extremely important, because it "is not only a means of logical arrangement, but also a means of expressing the theological content."⁴⁵ Ultimately, any arrangement -- either one desired by individuals or that which we now have in the Code -- reflects a particular juridical and ecclesiological outlook. This concerns especially the juridical expression of theological insights derived from conciliar teaching.

Further, the importance of the systematic which organizes the Code applies not only to the broadest categories -- for example, the very question of whether or not a new codification was necessary for the Church -- but also to the placement of particular canons.⁴⁶ Given its importance and influence in interpretation, the process of choosing a particular systematic became quite complex and involved much

⁴⁴ See PCCICR, *Codex Iuris Canonici. Schema novissimum iuxta placita Patrum commissionis emendatum atque Summo Pontifici praesentatum*, Civitate Vaticana, Typis polyglottis Vaticanis, 1982, xviii, 308p. (= *Schema novissimum*).

⁴⁵ W. AYMANS, "Ecclesiological Implications", p. 127.

⁴⁶ For example, L. ÖRSY in "The Interpretation of Laws", footnote 18, p. 110, mentions the importance held by an introductory canon which may assist in determining the meaning of the following canons. ÖRSY credits F. MORRISEY of the Faculty of Canon Law, Saint Paul University, for drawing his attention to this point.

adaptation and discussion. The tenth principle guiding the revision of the Code recognized these difficulties: a definite arrangement must wait until after the work of revision had been almost completed.⁴⁷

According to the official texts, the outline of the revised Code is based upon the system present in the 1917 Code adapted to conciliar teaching through a theological framework derived from the three-fold offices (*munera*) in the Church.⁴⁸ The latter reflect the three-fold functions of Christ, priest, prophet, and king.⁴⁹ Although such a structure *seems* eminently applicable to a collection of Church law which guides Church praxis, the result does not fully express this framework.

From the beginning, this scheme was criticized for attempting

to combine two basically different criteria: on the one hand, the pure juridically abstract *schema* of *personae, res, actiones*, derived from Roman civil law; and on the other hand, the triple-office *schema* arising from theological influences.⁵⁰

⁴⁷ See *CIC/83*, p. xxii. For commentary on the arrangement of the Code, see, for example, W. AYMANS, "Ecclesiological Implications", especially pp. 126-132; and J.-M. GONZALEZ DEL VALLE CIENFUEGOS, "The Method of the Codex iuris canonici", in *The New Code-Ottawa*, pp. 141-154. See also *Comm.*, 1 (1969), pp. 101-120.

⁴⁸ See the "Nota" in *Comm.*, 9 (1977) p. 230, in which the *coetus* entitled this systematic as an "ordinatio systematica provisorio." W. AYMANS, "Ecclesiological Implications", in footnote 44, p. 130, states that the text in *Communicationes* does not clearly present who inaugurated this outline, important especially since the outline deviates in some notable points from the *schema adumbratum* elaborated in 1968 and adopted by the Commission of Cardinals.

⁴⁹ See R. SOBAŃSKI, "L'ecclesiologie", especially pp. 247-250, where he traces the basis for this tripartite division to the teaching of Vatican II, especially to *LG* 20-21 and 32. See also J. BEYER, "La 'communio' comme critère"; J. CORIDEN, "Highlights of the Revised Code", in *J*, 44 (1984), pp. 28-40; E. CORECCO, "Les présupposés ecclésiologiques et culturels", pp. 232-233 and 242-244; and W. ONCLIN, "The Church Society and the Organization of Its Powers", in *J*, 27 (1967), pp. 1-17. See also Y. CONGAR, "Sur la trilogie: prophète-roi-prêtre", *RSPT*, 67 (1983), pp. 97-115.

⁵⁰ W. AYMANS, "Ecclesiological Implications", p. 130.

Sobański attempts to evaluate positively the present arrangement, despite the absence of a book on the Church's office of governing. Aymans, on the other hand, believes that the Code Commission failed in its attempt to use a tripartite principle: a partial use of the principle (as in the titles given to Books III and IV) remains self-contradictory.⁵¹ Nevertheless, both authors agree on the importance of the ecclesiological implications involved in the new arrangement of the Code. The previous systematic has been abandoned, and the new plan, though still presenting difficulties, testifies to a renewed ecclesiological vision, one not necessarily or totally determined by juridical requirements.⁵²

1.5. A formal principle of the Code

From these discussions concerning the relationship between theology and canon law, as well as the ecclesiology and the organization of the Code, an important question arises: is there a formal principle operative, at least implicitly, in the Code? If this query elicits an affirmative response, the principle could then serve a determinative function in the interpretation of the Code and of particular canons.

⁵¹ See R. SOBAŃSKI, "L'ecclésiologie", pp. 247-250; as well as W. AYMANS, "Ecclesiological Implications", pp. 130-132.

⁵² P. VALDRINI, *Droit canonique*, pp. 22-23, notes that, although scholars have often emphasized the differences between *CIC/17* and *CIC/83*, these differences are less marked in a comparison of the outlines of the two Codes. Rather, the content and the purpose express the fundamental difference: whereas *CIC/17* aimed at presenting the traditional discipline of the Church in a modern and coherent form. *CIC/83* has the task of transforming into juridical language conciliar theological insights, for example, the Church as the people of God, the participation of all members in the triple *munera* of Christ, and the principle of *communio* with its juridic implications.

In other words, we are asking if a foundational principle exists which assists canonists in the interpretation and application of Church law.

In our discussion of the ecclesiology of the Code, we referred to a number of authors who stress the importance of *communio* for the Code and its interpretation.⁵³ Among these, H. Müller directly addresses this issue. He believes that *communio* forms a formal canonical principle of the new codification. He bases his position on the teaching of Vatican II, the principles guiding the revision of the Code, the intention of the legislator, as well as particular canons and their placement in the Code, more specifically, the canons in Books II-IV.⁵⁴

At the same time, Müller recognizes that vestiges of the older ecclesiology of *societas perfecta* and *societas inaequalis* still remain within the Code (concepts which were also contained in the principles of revision). Due to these elements, he states that we can consider the Code to be "transitional" (*transitorius*) in as much as the principle of *communio* is not completely applied to all canonical norms and institutes. In the Code, the Church has taken an important step. Nonetheless, it must continue to progress farther and move more completely from a social-philosophical to a theological concept and presentation of canon law.⁵⁵

⁵³ See above, pp. 65s.

⁵⁴ See especially H. MÜLLER, "Utrum 'communio'".

⁵⁵ See H. MÜLLER, "Utrum 'communio'", pp. 106-108. MÜLLER notes that this transformation in canon law is founded in the movement from a christomonistic ecclesiology (that is, an ecclesiology which uses christology as a unique principle to explain the Church as a hierarchy) to a trinitarian ecclesiology (in which the principle of *communio* expresses the intrinsic connection among the Trinity, the Church, and Redemption). See his discussion on pp. 85-86.

Other writers concur with Müller's assessment that *communio* forms a foundational principle in the Code. For example, the statement that the Church exists as communion forms the basic premise in J. Beyer's work.⁵⁶ He develops further implications from *communio* and from the doctrine found in *Lumen gentium* 8: the Church is a spiritual *communio* founded on participation in the divine life of God and it exists in visible form as an organized society. Although we may distinguish these two elements, we cannot -- indeed, must not -- separate them.

As one consequence of these and similar opinions, we should contextualize canon law within the mystery that is the Church. Beyer states:

Organized ecclesial society favors and protects the communion, the basis of this community of faith, of hope and charity which is the Church animated by the Spirit. From this interior life and from its social expression, we can understand why Paul VI and John Paul II have spoken of ecclesial law as "law of communion", "law of grace", "law of charity", "law of the Spirit."⁵⁷

⁵⁶ See, for example, J. BEYER, *Du concile au Code de droit canonique: la mise en application de Vatican II*, Paris, Éditions Tardy, 1985, p. 33. In this text, BEYER quotes Pope Paul VI: "Magna illa *communio* quam efficit Ecclesia." This citation is taken from the papal address "Ad Tribunalis Sacrae Romanae Rotae Decanum, Praelatos Auditores, Officiales et Advocatos, novo Litibus Iudicandis ineunte anno, de protectione iustitiae perfectiore reddenda", February 4, 1977, in *AAS*, 69 (1977), p. 148. See also by J. BEYER, "La 'communio' comme critère"; "Droit ancien, droit nouveau", in *Vie consacrée*, 55 (1983), pp. 157-172; "Le nouveau Code de droit canonique"; "Principe de subsidiarité ou 'juste autonomie' dans l'Église", in *NRT*, 108 (1986), pp. 801-822; and "Principe de subsidiarité: son application en Église", in *Gregorianum*, 69 (1988), pp. 435-439.

⁵⁷ J. BEYER, *Du concile au Code*, p. 27, footnote 3: "La société ecclésiale organisée favorise et protège la communion, qui fonde cette communauté de foi, d'espérance et de charité qu'est l'Église animée par l'Esprit. A partir de cette vie intérieure et de son expression sociale, on comprend que Paul VI et Jean-Paul II ont pu parler du droit ecclésial comme 'droit de communion', 'droit de grâce', 'droit de charité', 'droit de l'Esprit.' In his Allocution "Ad Tribunalis Sacrae Romanae Rotae", p. 149, Paul VI stated that "Haec ergo exterior et iuridica Ecclesiae structura non solum non obest vitae eius interiori, seu spirituali, ipsique Ecclesiae, quatenus est mysterium. sed etiam praesentiae et moderamini Spiritus Sancti inservit eaque fovet et tuetur."

As one consequence, canon law can thus allow the principle of *communio* to act as an enabling device to avoid creating a false dichotomy between the spiritual and societal dimensions of the Church.⁵⁸

As was already noted, the principle of *communio* is also foundational to G. Ghirlanda's work. In his text on ecclesial law, he describes the Church as

the new people of God, constituted by the communion among all the baptized, hierarchically united among themselves according to different categories, through the work of the Holy Spirit, in the same faith, hope and charity, in the sacraments and ecclesiastical governance.⁵⁹

As with Beyer, *Lumen gentium* 8 and the fundamental unity of the two aspects of the Church form the foundation for Ghirlanda's interpretation of canon law.⁶⁰ Similarly,

⁵⁸ See, for example, the discussion in P. GRANFIELD, "The Church Local and Universal: Realization of Communion", in *J*, 49 (1989), pp. 449-471. GRANFIELD states on p. 451 that an ecclesiology of *communio*, unlike a perfect society, ultramontanist or universalist ecclesiology, "views the entire Church as an interdependent network or communion of churches rather than one large bureaucratic organization. It affirms the legitimacy and importance of the local church; it recognizes a variety of gifts within the one Church; it encourages an active participation in church life; it repudiates triumphalism, clericalism and elitism; and it understands ecclesial authority as service." For another approach to the issue of expressing the Church's fundamental unity, see D. COMPOSTA, *La Chiesa visibile. La realtà teologica del diritto ecclesiale*, Roma, Tipografia poliglotta Vaticana, 1976, especially Chapter Five, "La fondazione e l'istituzionalità della Chiesa", pp. 103-156, where the author discusses various ecclesiological descriptions of the Church as the People of God, as sacrament, as the Body of Christ, as community, and as society. See also Chapter Six, "Il carattere delle componenti specifiche della ecclesiologia giuridica", pp. 157-177.

⁵⁹ G. GHIRLANDA, *Il diritto nella Chiesa*, p. 31: "il nuovo Popolo di Dio, costituito dalla comunione tra tutti i battezzati, gerarchicamente uniti tra di loro in diverse categorie, per opera dello Spirito Santo, nella stessa fede, speranza e carità, nei sacramenti e nel regime ecclesiastico." See also his "De obligationibus et iuribus christifidelium in comunione ecclesiali deque eorum adimpletione et exercitio", in *Periodica*, 73 (1984), pp. 329-378; and *Ius gratiae -- Ius communionis*, *Cursus theologiae iuris ecclesialis*, Class notes for the use of students, Roma, Pontificia Università Gregoriana, 1986-1987, 59p.

⁶⁰ We should note that important differences may exist between the *acceptance* of a principle and the *interpretation* of that principle. Thus, for example, the interpretation and implications of *communio* are not the same for J. BEYER as they are for G. GHIRLANDA.

W. Aymans maintains that since *communio* forms an essential principle for understanding the Church, its law, and especially its constitutional law, must reflect this principle.⁶¹ Other writers holding similar positions would include E. Corecco,⁶² V. De Paolis,⁶³ and W. Bertrams.⁶⁴

In summation, then, we perceive that a number of authors maintain that an interpretation of the Code or any canon therein should take into account the principle of *communio*. Canonists can no longer consider canon law in isolation, as a scientific discipline independent from theology. Although canon law forms a distinct branch of study, the canonist must always contextualize his work within theology. We believe that an ecclesiology of *communio* can provide significant contributions to this process. As already noted, canonists need to develop a *novus habitus mentis* in order to surmount the inadequacies of understanding the Church as a perfect society and to analyse the implications resulting from the great dissimilarities between law in civil society and law in the Church.

⁶¹ See, for example, W. AYMANS, "Ecclesiological Implications", p. 134.

⁶² See for example, E. CORECCO, "Ecclesiological Bases", p. 10, and "Théologie du droit canon", in *Théologie et droit canon*, p. 83, where he states, "le principe de la *communio* doit être considéré comme le principe formel du droit canonique."

⁶³ See, for example, V. DE PAOLIS, "Communio in novo Codice" and "Communio et excommunicatio".

⁶⁴ See, for example, W. BERTRAMS, "De gradibus 'communio' in doctrina Concilii Vaticani II"; and "Communio, communitas et societas in Lege fundamentali Ecclesiae", in *Periodica*, 61 (1972), pp. 553-604.

We shall now direct our attention to a general introduction to Book II of the Code of Canon Law, the People of God.

2. The proximate context: Book II of the Code: The People of God

Both the material treated in Book II and the number of canons it contains (543), clearly demonstrate its importance. The three major divisions of this Book concern the Christian faithful (the *christifideles*, canons 204-329), the Church's hierarchical constitution (canons 330-572), and institutes of consecrated life and societies of apostolic life (and 573-746). Given the significance of these themes, the preparation and revision of the text formed a complex project.⁶⁵

The *coetus* entrusted with the task of developing Book II devoted two sessions to discussions concerning an appropriate title for the text.⁶⁶ The predominant issue

⁶⁵ For the 1977 *schema* of Book II, see PCCICR, *Schema canonum Libri II de Populo Dei*, Città del Vaticano, Typis polyglottis Vaticanis, 1977, 158p. (= *Schema 1977*). For an English translation, see PCCICR, *Draft of the Canons of Book Two: The People of God*, translated under the auspices of the CLSA, under the direction of W. SCHUMACHER, Rome, The Vatican Polyglot Press, 1977, vii, 147p. (= *Draft of Bk II*). See also 1980 *Schema* and *Schema novissimum*. For a discussion of this particular process, see, for example, D.-J. ANDRÉS GUTIERREZ, "Las ideas que han inspirado la evolución última de la constitución jerárquica del Pueblo de Dios. Análisis documental", in *Revista española de Derecho canónico*, 38 (1982), pp. 39-65; F. D'OSTILIO, *La storia*, pp. 32-44; V. FAGIOLO, *Il codice del postconcilio*; J. KOMONCHAK, "A New Law for the People of God: Some Theological Reflections", in *CLSAP*, 42 (1981), pp. 14-43. T. GREEN has written a number of studies on this topic; see his "Critical Reflections on the *Schema* of the People of God", in *SC*, 14 (1980), pp. 235-322; "Persons and Structures in the Church: Reflections on Selected Issues in Book II", in *J*, 45 (1985), pp. 24-94; and "The Revised Code of Canon Law: Some Theological Issues", in *TS*, 46 (1986), pp. 617-652.

⁶⁶ These two meetings were held on October 15, 1979, and May 13, 1980. See *Comm.*, 12 (1980), pp. 51-52 and *Comm.*, 13 (1981), pp. 298-300, respectively. In the latter discussion, the consultors suggested a number of titles, but difficulties arose with each of these. W. AYMANS, "Ecclesiological Implications", footnote 41, p. 129, clearly expresses the problem with the title "De Populo Dei": "The term is too broad here and does not express the specific reality it is meant to describe. The second book might just as well have been given the title 'De Ecclesia'; the mistake

centered on the disparate material contained there as well as its organizational principle. This, in turn, depended upon the adoption of a particular ecclesiological perspective. In other words, the foundational question confronting the *coetus* was which ecclesiology -- either an ecclesiology emphasizing the Church as a *communio* or one emphasizing its organizational structure -- would predominate in the text.⁶⁷

Following the principal commentators, we maintain that the promulgated version of Book II reflects primarily a *communio* ecclesiology.⁶⁸ This orientation results in part from certain critical changes adopted during the revision process.

would merely be more obvious."

⁶⁷ See the discussion in *Comm.*, 12 (1980), p. 50. While some consultors wished to emphasize the notion of *communio*, others felt that the Commission should concern itself with norms regulating the Church's structure and institutes but not with doctrinal declarations.

⁶⁸ For commentaries on Book II, see, for example, *Code de droit canonique annoté*. Traduction et adaptation françaises des *Commentaires de l'Université pontificale de Salamanque*, trans. A. SORIA-VASCO, H. LAPLANE, M.-A. CHUECA, Paris, Les Éditions du Cerf, 1989 (=CDC *annoté*); *La nuova legislazione canonica. Corso sul nuovo Codice di diritto canonico 14 - 25 Febbraio 1983*, Roma, Pontificia Universitas Urbaniana, 1983, especially pp. 133-242, (Coll. *Studia Urbaniana*, No. 19); F. BOLOGNINI, *Lineamenti di diritto canonico. Ristampa riveduta e aggiornata*, Torino, G. Giappichelli, 1989; J. CORIDEN, T. GREEN and D. HEINTSCHEL, eds., *The Code of Canon Law: A Text and Commentary*, New York, Paulist Press, 1985 (=CLSA *Commentary*); L. CHIAPPETTA, *Il codice di diritto canonico. Commento giuridico-pastorale*, volume I: Libri I-II-III, Napoli, Edizioni Dehoniane, 1988. For detailed commentary on the introductory canons concerned with the Christian faithful and the laity, see P. BONNET and G. GHIRLANDA, *De christifidelibus: de eorum iuribus, de laicis, de consociationibus*, Romae, Pontificia Universitas Gregoriana, 1983, 134p. From another, entirely different, perspective see the introductory commentary on Book II in *Código de derecho canónico. Edición anotada, a cargo de P. LOMBARDIA y J. ARRIETA*, Pamplona, Ediciones Universidad de Navarra, 1983 (=CDC-Navarra). This text does not comment on canon 209; but see the commentary on canon 149, especially the description of communion found there. See also *Manual de derecho canonico. Obra a cargo del Instituto Martin de Azpilcueta*, Pamplona, Ediciones Universidad de Navarra, S.A., 1988, especially Chapter III, "El Pueblo De Dios" by J. ARRIETA. Here, the principle of *communio* is subsumed under the "Dimensión comunitaria de la Iglesia" and occupies only four paragraphs. J. CALVO-ALVAREZ, in footnote 1, p. 31, of Chapter I, "Iglesia y derecho" states that law in the Church is explained, above all, by "the dimension of justice inherent in the total mystery of the Church" (his emphasis), but notes that, for other canonists, other foundations are assumed, principally that of "ecclesiastical communion."

These modifications were strongly supported by various commentators on the 1977 *schema*.

An influential meeting on this *schema* was held in Ottawa in 1978.⁶⁹ There, Bishop K. McNamara eloquently expressed the foundational intent of Book II. His presentation centered on the importance of *communio* for the new Code. He stated:

Implied in the *communio* (which is the Church) therefore, is on the one hand a basic equality of all God's people, and on the other hand a difference of function which is built into the constitution of the Church as determined by Christ and the Spirit. [...]. In this general framework, the basic reality is the life of sonship which baptism imparts.⁷⁰

These and other interventions encouraged various conferences of bishops to urge substantial changes in the *schema* so that it would better reflect principles derived from conciliar ecclesiology.⁷¹ Three pivotal examples of the effected changes must suffice here.

⁶⁹ According to W. AYMAN, "Ecclesiological Implications", footnote 56, p. 133, the texts of this Conference have not been published "since it was meant to serve as an instrument for the formation of opinions among the Bishops' Conferences represented at the meeting." Further, AYMAN maintains on p. 133 that the comprehensive alternative suggestion eventually adopted by the Conference has many basic agreements with the revised *schema*.

⁷⁰ As quoted by G. SHEEHY, "Reflections on the Current State of Law in the Church", in *SC*, 12 (1978), p. 206.

⁷¹ For other commentaries on the 1977 *Schema* of Book II, see AUSTRALIAN CATHOLIC BISHOPS' CONFERENCE, *Response of the Australian Episcopal Conference to the Schema canonum Libri II. De Populo Dei*, Sydney, Australian Bishops' Conference, 1978 (=Response); and also CLSA Task Force For the Revision of the Code of Canon Law, *CLSA Task Force Critiques of the Initial Schemata for the Revision of the Code of Canon Law*, unpublished photocopy of committee reports, with various pages, (1978) (=Critiques). This text contains both the first (July 18, 1978) and second (December 15, 1978) reports on the *schema* of Book II.

The original *schema* of Book II contained two divisions; part one was divided into two titles, the first concerning the canonical status of physical persons and the second the status of juridic persons.⁷² At its last session, the *coetus* voted to transfer these two sets of norms to Book I.⁷³ The Plenary Session of the Code Commission reaffirmed this decision. Both ecclesiological and juridic reasons motivated this modification: Book I is the more appropriate place to deal with concepts which concern the entire Code.⁷⁴ Further, this transfer of canons also reflects a change of emphasis: whereas the previous Code stressed juridic institutions as supports for the personal authority of the hierarchy, the present Code places more emphasis on the functions performed by persons within the Church.⁷⁵

The second example refers to the ecclesiological perspective adopted in the first *schema*, and more particularly, to its implications. To many writers, this text embodied an "overly hierarchical ecclesiology" and a "stratified ecclesiology reflecting more clearly the 1917 Code than Vatican II."⁷⁶ This was demonstrated, for example,

⁷² See the Table of Contents in *Schema 1977*. See also T. GREEN, "Persons and Structures", pp. 31-32.

⁷³ See *Comm.*, 13 (1981), p. 301. The vote in favor of transferring the norms on physical persons was 6 to 3; on juridic persons, 5 to 2, with two abstentions.

⁷⁴ See *Comm.*, 14 (1982), p. 155, in response to a suggestion to reintroduce the canons on physical and juridic persons (prefaced by two introductory canons) into Book II.

⁷⁵ J. ALESANDRO, "Law and Renewal: A Canon Lawyer's Analysis of the Revised Code", in *CLSAP*, 44 (1982), p. 3.

⁷⁶ T. GREEN, "Persons and Structures", p. 47. See also *Critiques*, especially the first and second reports on *Schema II* which criticize the presence of an overly hierarchical ecclesiology.

in its treatment of the laity. Although canons 16-38 dealt with the obligations and rights of all Christian faithful, the obligations and rights specific to laity were placed last (canons 523-533). In other words, the *schema* relegated the laity to an inferior location, one which inadequately reflected both conciliar ecclesiology and the fact that laity comprise the majority of the Christian faithful.⁷⁷ Book II now begins with the concept of the Christian faithful in general, prior to any distinction. This equality derives from valid reception of baptism.

W. Aymans notes a third, very important, modification in the text. According to him, the most important change in Book II was the movement from the individualistic tendency present in the 1917 Code to a structural emphasis in the revised Code. In other words, constitutional law -- the structure of the Church itself --- now determines the nature of Book II, replacing the law of persons as in the 1917 Code.⁷⁸

Thus, the new emphasis centers on the structure of the Church and not on particular institutions *within* it.⁷⁹ Further, in as much as *communio* forms a

⁷⁷ See J. KOMONCHAK, "A New Law for the People of God", pp. 28-30. See also T. GREEN, "Critical Reflections", p. 261. In footnote 1 in "Theology and Canon Law", L. ÖRSY cites another example where the location of canons is important. According to ÖRSY, a significant change occurred with the promulgation of the *Codex canonum Ecclesiarum orientalium*. In this text, the *christifideles* form the subject of chapter one in lieu of general norms, which have been moved to the end of that Code. ÖRSY explains that, although this alteration may seem small, "it shows that a better understanding of Vatican Council II is gaining ground."

⁷⁸ See W. AYMANS, "Ecclesiological Implications", pp. 129-143.

⁷⁹ W. AYMANS, "Ecclesiological Implications", p. 134. The Australian Bishops made a similar statement in their *Response*, p. 7: "Church structure is not so [much] a question of specific clerical offices which are constitutive of or which contribute to the *aedificatio*. Rather it is a question of the whole Church, the association of particular Churches and the particular Churches themselves."

foundational principle for understanding the Church, the latter's constitutional law should be characterized by *communio*. But some consultors expressed reservations about using this principle. For example, one observed that a preoccupation with *communio* could lead to a too democratic tendency within the Church.⁸⁰

E. Corecco agrees with the importance of *communio*, especially as a foundation for developing a theology of canon law. He states that "canon law is engendered by the specific dynamism inherent in the nature of the Church of which its social character is a product."⁸¹ Further, the existence and purpose of canonical organization is to bring about the realization of *communio*.⁸² This principle forms the context for various intersubjective relationships within the Church -- for example, between particular Churches and the entire Church, among the Christian faithful themselves, or within the episcopal college.

Book II does reflect the principle of *communio* and its ecclesiological implications. However, at the same time, we also recognize that some deficiencies nonetheless remain present in the text.⁸³ The presence of the latter evoke varying

⁸⁰ See *Comm.*, 12 (1980), p. 50. Another consultor had similar reservations: "Bisogna poi evitare la confusione che potrebbe originare una concezione democratica della Chiesa, la quale è il popolo di Dio gerarchicamente ordinato."

⁸¹ E. CORECCO, "Théologie du droit canon", p. 80: "En effet, le droit canonique [... est] engendré par le dynamisme spécifique inhérent à la nature de l'Église, dont le caractère social est un produit." This is in distinction to the traditional understanding which based canon law upon the natural law axiom, *Ubi societas, ibi ius*. CORECCO cites the work of A. ROUCO-VARELA for significant contributions to this new theory.

⁸² See E. CORECCO, "Théologie du droit canon", p. 83.

⁸³ We are referring here to general issues, for example, the placement of the canons on seminary formation in Book II rather than Book III, in the context of the Church's teaching office,

responses; we maintain (with H. Müller) that further revision of the Code will be necessary so that it may better reflect a *communio* ecclesiology.

In order to clarify further the process of revising Book II, we shall now examine the *Lex Ecclesiae Fundamentalis*.

2.1. Book II and the *Lex Ecclesiae Fundamentalis*

As first anticipated, the *Lex Ecclesiae Fundamentalis* (or *LEF*) was intended to contain a foundational series of norms conceived as a *ius constitutum* for the entire Church.⁶⁴ Although the *LEF* has not been promulgated (for reasons which have not yet been officially promulgated), the text influenced Book II of the Code

or the weak implementation of the principle of subsidiarity, rather than deficiencies within particular canons.

⁶⁴ See W. LaDUE, "A General Analysis of the Proposed *Schema* on the *Lex Fundamentalis*", in *CLSAP*, 32 (1970), p. 30. For other studies, see P. FEDELE, *Lex Ecclesiae Fundamentalis*, Roma, Officium Libri Catholici, 1974, (Coll. *Studia et documenta iuris canonici*, No. 6); G. ALBERIGO, "Une constitution pour la restauration", in *Concilium*, 137.1 (1978), pp. 157-162; J. BEYER, "De legis Ecclesiae Fundamentalis. Redactione, natura et crisi", in *Periodica*, 61 (1972), pp. 525-551; P. d'AVACK, "Rilievi preliminari su di una *Lex fundamentalis Ecclesiae*", in *Liber amicorum Monseigneur Onclin: actuele thema's van kerkelijk en burgerlijk. Thèmes actuels de droit canonique et civil*, eds. J. LINDEMANS and H. DEMESTER, Gembloux, Éditions J. Duculot, 1976, pp. 77-85; A. GAUTHIER, "The Progress of the '*Lex Ecclesiae Fundamentalis*'", in *SC*, 12 (1978), pp. 377-388; and *Notes for a Critical Analysis of the Scheme of Lex Ecclesiae Fundamentalis*, Bologna, Istituto per le scienze religiose, 1971. F. D'OSTILIO, *La storia*, summarizes the revision process on pp. 45-48; see also *Comm.*, 1 (1969), pp. 114-120. Three *schemata* of the *LEF* were prepared: *Schema I*, "Prima quaedam adumbrata propositio Codicis Ecclesiae fundamentalis", was discussed in June, 1966. (See PCCICR, *Schema Legis Ecclesiae Fundamentalibus cum relatione*, Vatican City, Typis polyglottis Vaticanis, 1969). Then "*Lex Ecclesiae Fundamentalis. Altera quaedam adumbratio propositionis*" was prepared and discussed in April, 1967. (See PCCICR, *Schema Legis Ecclesiae Fundamentalibus. Textus emendatus cum relatione de ipso schemate deque emendationibus receptis*, Vatican City, Typis polyglottis Vaticanis, 1971). Revision continued until January, 1980 with agreement on a definitive text. (See PCCICR, *Lex Ecclesiae Fundamentalibus seu Ecclesiae Catholicae Universae Lex Canonica Fundamentalibus*, Romae, 1980). Other "interim" versions, generally unpublished but photocopied, are available; for example, there is a June, 1976 version. (See PCCICR, *Lex Ecclesiae Fundamentalibus seu Ecclesiae Catholicae Universae Lex Canonica Fundamentalibus*, Romae, 1976). *Schemata* and interim versions will be indicated hereafter by *LEF* and year of publication.

and contributed to the complexity of the revision process.⁶⁵

One issue adding to this complexity centered on the content of the *LEF*. The Consultors who reviewed the first draft of the *LEF* submitted three recommendations, namely:

1. That the *Lex Fundamentalis* should articulate a truer picture of the reality of the Church, and be animated by an easily discernable ecumenical spirit;

2. that the notion of the Church as People of God should receive the central emphasis, in accord with the teaching of Vatican II, and that the rights and prerogatives of the Church people should be delineated within this context;

3. that the *Lex* should explicitate, at least in a general way, the relationship between the Church and mankind, in terms of the Church's rights and responsibilities *vis à vis* the world.⁶⁶

⁶⁵ The decision not to promulgate the *LEF* was anticipated at least by late 1981. The 1981 *Relatio* contains an appendix listing the canons to be inserted into the *CIC/83* "si ipsa 'Lex Ecclesiae Fundamental' non promulgabitur." See *Comm.*, 16 (1984), pp. 91-99. Earlier, in reference to the *LEF*, Cardinal Felici reported to the 1969 Synod of Bishops that "Iam dixi meam mentem de hoc; multum adlaboravit nostra Commissio et multum laborat, sed difficultates multae sunt. Si potestis nos adiuvere, adiuuate nos." See *Comm.*, 1 (1969), p. 117. Difficulties centered on both the concept and content of the *LEF*. A broad consultation of bishops regarding the *LEF* in 1971-1972 resulted in a mixed review of the text and concept. See the report of this consultation (by W. ONCLIN) in *Comm.*, 4 (1972), pp. 122-160; see also *Comm.*, 3 (1969), pp. 45-46. Further, authors raised questions concerning the concept of a fundamental law and its proposed content, especially in regard to ecclesiology, ecumenism, and the relationship between divine and ecclesiastical law. On these issues, see W. LaDUE, "A General Analysis", pp. 35-46; G. ALBERIGO, "Une constitution"; J. BEYER, "De legis Ecclesiae"; and B. FRANCK, *Vers un nouveau*, pp. 292-298. One of the most strident and negative critiques is by G. ALBERIGO, "A Constitutional Law for the Church", in *Concilium*, 8.7 (1971), pp. 135-170. Among other criticisms, the author believes the *LEF* is extremely unfaithful to the teaching of Vatican II. For a response to his position, see A. GAUTHIER, "The Progress", footnote 2, pp. 377-378.

⁶⁶ English translation is from W. LaDUE, "A General Analysis", p. 30. For the official summary of this meeting, see *Comm.*, 1 (1969), pp. 114-115.

These suggestions, particularly number two, indicate that certain material could -- and in fact was -- expressed both in the *LEF* and Book II.⁸⁷

Despite the intention to include in the *LEF* "the rights and prerogatives of the Church people" or "the rights and duties of all the Christian faithful", the norm that became can. 209, §1, did not appear in the *LEF*. Rather, the concept of "ecclesiastical communion" appeared in canon 5 of the *LEF* as a "negative control" on the exercise of duties and rights. That is, by baptism one is incorporated and constituted a person in the Church. However, the individual can exercise duties and rights only in so far as he or she remains in ecclesiastical communion and no legitimate sanction stands in the way.⁸⁸

The absence of the obligation to maintain communion is difficult to explain, especially given its fundamental character. However, the various *schemata* of the *LEF* do contain references to full communion. For instance, canon 205 of the

⁸⁷ See also the notes of the *coetus* on the *LEF* which met from December 17 to 22, 1973. The Relator noted that the *LEF* "clare exponi debent [...] iura et officia fundamentalia omnium christifidelium." See *Comm.*, 6 (1974), p. 62. The *coetus* on Book II, meeting on October 15, 1979, recognized the danger of repetition. To avoid this, the Relator noted that the *LEF* would contain fundamental norms while more particular ones more directly pertinent to the Latin Church would be inserted in the Code itself. The *coetus* was to apply this general principle to each individual norm. See *Comm.*, 12 (1980), pp. 48-49. Commentators on the various drafts of the *CIC/83* also noted this relationship. For example, G. SHEEHY, in "Reflections on the Current State", states on p. 210 "it is simply not possible to comment fully on the *Schemata* either 'De Populo Dei' or 'De Ecclesiae Munere Docendi' without having [...] the most recent version of the 'Lex Fundamental'."

⁸⁸ The text of canon 5 is as follows: "Baptismo homo Ecclesiae Christi incorporatur et in eadem constituitur persona, cum officiis et iuribus quae christianis, attenta quidem eorum conditione, sunt propria, quatenus in ecclesiastica sunt communione et nisi obstet lata legitime sanctio." This became canon 96 in the *CIC/83*. A. GAUTHIER, "The Progress", calls attention on p. 384 to "the extremely careful wording of the canon [by] which is implied that there are Christian rights belonging to those not in full communion with the Catholic Church." For another view, see the opinion offered by a consultor at the last revision of the *LEF* (September 24 to 29, 1979): "Sermo praeterea semper fit de plena communione." See *Comm.*, 12 (1980), p. 33.

present Code, which describes the necessary requirements for full communion, expresses this in the same wording as the 1980 draft of the *LEF* (canon 6).⁸⁹

Further, one version of the introduction to the *LEF* contains a more positive usage of *communio*. At a meeting in 1973, the special *coetus* discussed a more theological introduction in which statements regarding the purpose and function of law would explicitly refer to the principle of *communio*.⁹⁰ Although this pleased certain consultors at the time, the text did not appear in the final, 1980 draft of the *LEF*, and no official explanation has been given for its absence.⁹¹

At the same time, we should recognize that certain consultors either implicitly or explicitly expressed their unease with the principle and the implications of a *communio* ecclesiology. For example, one consultor suggested that the juridical dimension of the introduction to the *LEF* ought to be further developed, summarizing his remarks by rephrasing a traditional formula: "ubi societas (= *communio*), ibi

⁸⁹ See *LEF 1980*. We should note that the earlier drafts of the same canon described the bonds of faith, sacraments and governance in greater detail; see *LEF 1969* and *LEF 1971*. In the latter text, can. 9 states that full communion requires "1. *Communio in una fide* [...]. 2. *Communio sacramentorum* [...]. 3. *Communio in regimine Ecclesiae* [...]."

⁹⁰ See *Comm.*, 6 (1974), p. 64. The text, found in footnote 2, begins with the following paragraph: "Communio quae inter diversas Ecclesias in universa catholica Ecclesia adest, normas requirit, canones scilicet fundamentales, omnibus Ecclesiis particularibus necnon coetibus ex iisdem constitutis communes, quibus unitas communionis Ecclesiae catholicae universae servatur et roboratur. His canonibus, qui ius Ecclesiae suprarituale revera constituunt, insimul manifestatur qua autonomia in propria disciplina stabilienda gaudent Ecclesiae peculiare seu Ecclesiarum particularium coetus, inter se distincti et aequales."

⁹¹ See G. ALBERIGO, "Une constitution", p. 158. The interim draft of the *LEF 1976* does not contain this introduction.

ius."⁹² Further, canon 1 of the *LEF 1969* and *LEF 1971* describes the Church as a spiritual community (*communitas spiritualis*) of the faithful, visible on this earth as a hierarchically organized society.⁹³

Scholars still continue to debate the question of whether or not the Church needs or would benefit from a fundamental law. But we should note that a majority of favorable comments on the concept of such a law (as distinct from its content) stress the necessity of articulating the theological foundations of canon law. For example, W. Aymans, arguing in favor of a fundamental law, states that such a text would better express the conciliar doctrine of unity in diversity.⁹⁴ Such a perspective further emphasizes the necessity of articulating the close relationship that exists between law and theology.

Having offered this overview of the revision process for Book II, *De Populo Dei*, and for the *LEF*, we shall now turn to the more immediate context of canon 209, §1, within Book II of the Code.

⁹² See *Comm.*, 6 (1974), p. 63. Such an identification demonstrates the difficulties in expressing newer theological developments in canon law. Whereas "society" was a familiar term, "communion" was not. Therefore, the temptation existed (and still does) to define the latter in terms of the former.

⁹³ This usage might reflect a certain lack of understanding concerning *communio*. In one discussion about the *LEF*, *communio* and *communitas spiritualis* are understood to be equivalent. See *Comm.*, 3 (1971), p. 51.

⁹⁴ See W. AYMAN, "Ecclesiological Implications", pp. 123-124.

2.2. Book II, Part I: the Christian Faithful

Part I of Book II of the Code is entitled "The Christian Faithful" (*De christifidelibus*). The text begins with an introduction consisting of four canons describing the Christian faithful, followed by sixteen canons comprising Title I, "The Obligations and Rights of all the Christian Faithful." Both the term *christifidelis* and the listing of the "obligations and rights" subsume within themselves several issues with important implications for ecclesiology and canon law. In our discussion, we shall first present an overview of the introductory canons as a whole and then refer to principles important for understanding the concept of "obligations and rights."

2.2.1. Canons 204-207, the Christian Faithful

The four introductory canons, although brief, are extremely important both for theology and canon law.⁹⁵ Their placement at the beginning of Book II indicates their foundational importance, necessary for the proper interpretation of the other

⁹⁵ For more detailed treatment of canons 204-207 (and also 208-223), see, for example, F. BOLOGNINI, *Lineamenti*, pp. 151-159; M. BONNET and B. DAVID, *Introduction*, pp. 86-88; P. BONNET, "The *Christifidelis* Restored", pp. 540-567; P. BONNET and G. GHIRLANDA, *De christifidelibus*, especially pp. 3-18; R. CASTILLO LARA, "Some General Reflections on the Rights and Duties of the Christian Faithful", in *SC*, 20 (1986), pp. 7-32; M. CONDERELLI, "I fedeli nel nuovo *Codex iuris canonici*", in *The New Code - Ottawa*, pp. 319-344; G. DIQUATTRO, "Lo statuto giuridico dei 'christifidelis' nell'ordinamento di diritto canonico", in *Apollinaris*, 59.1-2 (1986), pp. 77-114; M. ELEKWACHI, *An Exegetical Study of Canons 204-207 in the Light of Canon 129*, Romae, Pontificia Universitas Urbaniana, Facultas Iuris canonici, 1988, xvii, 205p; G. GHIRLANDA, "De obligationibus et iuribus christifidelium", pp. 329-378; J. KOMONCHAK, "The Status of the Faithful in the Revised Code of Canon Law", in *Concilium*, 147.7 (1981), pp. 37-44; *CDC-Navarra*, pp. 168-172; J. PROVOST, *CLSA Commentary*, pp. 117-134; P. VALDRINI, *Droit canonique*, pp. 27-41. For the development of canon 204 and the concept of laity and christifidelis, see F. COCCOPALMERIO, "De conceptibus 'christifidelis' et 'laici' in Codice iuris canonici: evolutio textuum et quaedam animadversiones", in *Periodica*, 77 (1988), pp. 381-424.

canons in the Code. These canons offer a summary presentation of the Christian faithful who constitute the Church of Christ which subsists in the Roman Catholic Church.

Canon 204, §1 begins with a description of those persons who comprise the Christian faithful. Baptism constitutes the foundational act by which an individual is incorporated into Christ, made a member of the People of God, and given participation in the three-fold *munera* of Christ, priest, prophet, and king.⁹⁶ The baptized individual shares in the Church's mission in the world, according to his or her proper condition. Most importantly, the canon establishes the fundamental equality of all *christifideles*, prior to any distinction.⁹⁷ Canon 204, §2 reiterates the conciliar teaching that the Church of Christ subsists in the Catholic Church.

Canon 205 establishes criteria for full communion with the Catholic Church. Through the bonds of the profession of faith, sacraments, and ecclesiastical governance, a baptized person is joined with Christ in the Church's visible

⁹⁶ For more detailed treatment of this participation, see, for example, H. RIKHOF, "The Competence of Priests, Prophets and Kings: Ecclesiological Reflections About the Power and Authority of Christian Believers", in *Concilium*, 197.3 (1988), pp. 53-62, with references to other works. See also J. PROVOST, *CLSA Commentary*, p. 125. We must note the relationship between canon 204 and 96: the latter presents the baptized as a *subiectum iuris* in the Church, and thus has a more juridical character, whereas canon 204 offers a theological notion of the baptized as a member of the people of God. See R. CASTILLO LARA, "Some General Reflections", p. 25, footnote 54; see also P. VALDRINI, *Droit canonique*, pp. 28-30.

⁹⁷ See *CDC annoté*, p. 169; F. BOLOGNINI, *Lineamenti*, p. 152; J. PROVOST, *CLSA Commentary*, pp. 122-126. See also canon 208.

structure.⁹⁶ Canon 206 then describes the relationship between the Church and catechumens.

Canon 207 presents the basic categories of Christians who have a specific role in the Church's mission, either in virtue of the Church's hierarchical constitution (clergy -- laity), or through the profession of the evangelical counsels.

Before turning to Title I, we must discuss the term *christifidelis*, which also appears in canon 209, §1. The word appeared only four times in the 1917 Code.⁹⁷ From the context and content of these canons, we discover that, in the 1917 Code, the term *christifidelis* applied only to Catholics.

To whom does canon 204, §1 of the present Code refer in its use of the same term? We maintain that in this specific context, *christifideles* refers to all people who have received baptism and not only to members of the Catholic Church. This interpretation formed the basis of an intervention against this canon which, although theologically correct, was not accepted. According to the consultors' intention,

⁹⁶ See, for example, *CDC-Navarra*, p. 170; J. PROVOST, *CLSA Commentary*, pp. 126-129. We shall further develop the implications of this canon in reference to *communio* in Chapters III and IV.

⁹⁷ In canons 931 (which refers to the sacraments of Penance and Eucharist in the context of indulgences); 1161 (which defines the term "church"); 2003 and 2023 (which concern the beatification process). See A. LAUER, *Index verborum Codicis iuris canonici digessit Arcurus Lauer Heidelbergensis*, Romae, Typis polyglottis Vaticanis, 1941, p. 81. R. CASTILLO LARA, in "Some General Reflections", states on p. 26 that the term *Christian* as used in *CIC/17*, canon 87, is "equal undoubtedly to *Christian faithful*"; this view is supported by other scholars, see, for example, A. MOLIEN, "Chrétien", in *DDC*, volume III, pp. 710-712. Here, MOLIEN states that "christifidelis" is the juridic equivalent of "Christian."

christifideles in the Code refers to those in full communion with the Catholic Church by the bonds of faith, sacraments, and ecclesiastical governance.¹⁰⁰

This response, although plausible, does not take into account the context of canon 204. Canon 204, §1 broadly describes who the Christian faithful are, while §2 and canon 205, referring to full communion with the Catholic Church, offer specific limitations to the term. Further, this understanding aids in interpreting the phrase *secundum propriam cuiusque condicionem* which

distinguishes the involvement of all Christians in the mission of the Church of Christ according to their degree of communion with the Church and for Roman Catholics also according to their standing in their Church.¹⁰¹

All baptized persons possess -- in diverse degrees -- a relationship with the Catholic Church.

Thus, the term *christifidelis* does not possess one definition applicable to all usages of the term, but rather it remains polysemous. More specifically, differences in application arise primarily from the extent of its content, from the more general (all the baptized) to the more specific (those who belong to the Catholic Church). Thus, in the Code, even in particular cases where the juridic context and application

¹⁰⁰ See *Comm.*, 14 (1982) pp. 156-157. The response given stated that this position was theologically correct "quia ipsi baptisate Christo incorporantur et in quadam cum Ecclesia catholica communionem, etsi non perfecta constituuntur", and cited the decree *Unitatis redintegratio*, 3. At the same time, however, "hic et in toto Codice tantummodo agitur de christifidelibus catholicis, qui nempe sunt in plena communionem cum Ecclesia vinculis professionis fidei, sacramentorum, et ecclesiastici regiminis."

¹⁰¹ J. PROVOST, *CLSA Commentary*, p. 124. See also P. COGAN, *The Understanding of Defection*, p. 196, footnote 32, who, however, argues that the limitation of *christifidelis* to Latin Catholics begins with canon 209.

imply a limitation to Latin Catholic Christian faithful, the possibility nonetheless exists that a theological context and application imply a general inclusion of all the baptized.

Specifically in reference to canon 204, §1, we hold that the principles enunciated here and in canon 208 (on the true equality of all the baptized and their participation in the three-fold office of Christ) apply to all Christians and not only to Catholics. Canon 18 supports this broader interpretation of the term *christifidelis* -- we should exercise care in restricting the effects of baptism. This implies that, in interpreting other canons, we should not facilely limit *christifidelis* to Latin Catholics but do so only after an analysis of a canon's particular context and always mindful of the broader theological application of the term.¹⁰²

2.2.2. Title I: Rights and Obligations of all the Christian Faithful

Title I, canons 208-223, builds upon the foundation established by canons 204-207 and establishes the "juridical status" of the *christifidelis*.¹⁰³ Their placement here reflects an important ecclesiological perspective: the Code presents the rights and obligations of all the Christian faithful before expressing the more particular rights

¹⁰² Canon 11 does not directly pertain here since it refers to "merely ecclesiastical laws" and not to theological principles such as are established by canon 204. At the same time, non-Catholic Christians cannot exercise rights and obligations within the Catholic Church. The distinction, therefore, is between a *theological* and a *juridic* understanding of baptism's effects.

¹⁰³ R. CASTILLO LARA, "Some General Reflections", notes on p. 18 an important qualification: the juridic status presented in Title I is not exhaustive but needs to be complemented by other elements and constituent factors. The majority of these canons derive from the *LEF*; however, canons 209; 220, §2, and 222, §2, were developed by the *coetus* on the People of God.

and obligations of certain persons or groups dependent upon their status within the Church.¹⁰⁴

We cannot overemphasize the importance of the common status of the *christifideles* outlined in canons 208-223: these canons are necessary for

a correct understanding of the laws of the Code as well as of the theological and canonical culture -- that of the Second Vatican Council -- that is the basis on which the new Code is founded.¹⁰⁵

In addition, the Christian faithful in general receive emphasis, and not the hierarchy or the latter's function in the Church.¹⁰⁶

Differing opinions exist among scholars and canonists concerning the nature of this common status of the Christian faithful. More specifically, they ask whether or not these canons are "fundamental" or "constitutional" and, if so, with what

¹⁰⁴ See P. COGAN, *The Understanding of Defection*, pp. 181-182. He also notes in footnote 2 here that the other principal classifications of obligations and rights apply to laity (cc. 224-231); clerics (cc. 273-289); and religious institutes and members (cc. 662-772). P. BONNET, "The *Christifidelis* Restored", develops the conciliar teaching for this interpretation; he states on pp. 547-548 that "the one mission entrusted to all the *christifideles* is rendered living and vital by becoming incarnated pluralistically in a varied diversity of ministries, some of which are of necessity linked with the hierarchical priesthood, whereas others are connected with the common priesthood." Sharing in one mission, all the Christian faithful share in certain rights and obligations. See also P. BONNET, "Est in Ecclesia diversitas ministerii sed unitas missionis", in *Les droits fondamentaux*, pp. 291-308.

¹⁰⁵ P. BONNET, "The *Christifidelis* Restored", p. 561. For the historical development of the concept of obligations and rights, see E. CORECCO, "Il catalogo dei doveri-diritti del fedele nel CIC", in *I diritti fondamentali della persona umana e la libertà religiosa*, Atti de V colloquio giuridico, a cura di F. BIFFI, "Utrumque Ius", Città del Vaticano, Libreria editrice Vaticana, and Roma, Libreria editrice Lateranensis, 1985, pp. 101-126, (Coll. *Pontificiae Universitatis Lateranensis*, No. 12); and J. BERNHARD, "Les droits fondamentaux dans la perspective de la *Lex fundamentalis* et de la revision du Code de droit canonique", in *Les droits fondamentaux*, pp. 367-396. His notes contain extensive bibliographical data.

¹⁰⁶ See E. CORECCO, "Aspects of the The Reception of Vatican II", n. 265. P. BONNET in "The *Christifidelis* Restored" agrees with this judgement.

meaning and implications.¹⁰⁷ For our purposes, the important point centers on the general context and the intention of canons 208-223, namely, the establishment and edification of the *communio* that is the Church. E. Corecco, for example, develops his understanding of the obligations and rights of the faithful in reference to this principle.

As noted earlier, the formula from *Lumen gentium* 23, "in and from the particular Churches (*in quibus et ex quibus*) there exists the one unique Catholic Church", forms the foundation for Corecco's understanding of *communio*. Applying this formula to anthropology, he states:

The personality of the Christian, as a new man who has abandoned the old man, is determined by communion. His metaphysical and juridic identity is given by the fact that in virtue of his baptism he has been structurally rooted [...] into Christ. A Christian represents Christ since the whole Christ with his Mystical Body is present in him. Thus the Christian can no longer be considered as an individual entity in opposition to a collective entity, but as a subject to whom the entire Christian community finds itself mysteriously but really present in an immanent way.¹⁰⁸

¹⁰⁷ For example, *CDC-Navarra*, p. 173, describes Title I as "the fundamental rights and obligations of the faithful", whereas R. CASTILLO-LARA in "Some General Reflections", pp. 15-18, judges the term "fundamental" to be inappropriate. See also E. CORECCO, "Considérations sur le problème", pp. 130-133; J. BERNHARD, "Les droits fondamentaux", pp. 380-382; J. BEYER, "De statuto iuridico christifidelium iuxta vota synodi episcoporum in novo codice iuris condendo", in *Periodica*, 57 (1968), pp. 550-581 and "De iuribus humanis fundamentalibus in statuto iuridico christifidelium assumendis", in *Periodica*, 58 (1969), pp. 29-58. For ancillary issues, such as the origin, nature and protection of obligations/rights, see, for example, R. CASTILLO LARA, "I doveri ed i diritti dei christifidelis", in *Salesianum*, 48 (1986), pp. 307-329; F. COCCOPALMERIO, "De conceptibus 'christifidelis' et 'laici'". In *Les droits fondamentaux*, see A. ROUCO-VARELA, "Fundamentos eclesiológicos de una teoría general de los derechos fundamentales del cristiano en la Iglesia", pp. 175-180; M. ZUROWSKI, "Les fondements des droits des fidèles dans la communauté ecclésiale", pp. 175-180; and J. MARQUES, "Pueblo de Dios", pp. 139-154.

¹⁰⁸ E. CORECCO, "Considerations sur le problème", p. 135: "La personnalité du chrétien, en tant qu'homme nouveau qui a abandonné l'homme ancien, est déterminée par la communion. Son

Since the Church exists previous to the individual's act of joining it or actualizing his membership in it, a person exists as a Christian only in relation "to the salvific vocation given by Christ, the vocation to accede to communion with the Father and the rest of the faithful."¹⁰⁹

Consequently, canon 209, §1, the obligation of living in *communio* with the Church, deliberately appears as the first obligation of the faithful and as the source from which other obligations and rights of the Christian derive.¹¹⁰

identité métaphysique et juridique est donnée par le fait qu'en vertu de son baptême, l'homme a été structurellement enraciné [...] dans le Christ. Le chrétien représente le Christ puisqu'en lui est présent tout le Christ avec son Corps mystique. Le chrétien ne peut donc plus être considéré comme une entité individuelle opposée à l'entité collective, mais comme sujet auquel toute la communauté chrétienne se trouve mystérieusement mais réellement présente de façon immanente."

¹⁰⁹ E. CORECCO, "Theological Justifications", p. 93. Thus, the relationship "Christian -- Church" is not identical with the relationship "person -- State": in the latter the person pre-exists the State and must protect his or her own autonomy. Further, since in the Church "Christian liberty is the possibility to freely assume the duties immanent to the Christian vocation of being inserted into the Trinitarian communion", Corecco maintains that the "ontological and logical priority of 'obligations' over 'rights'[...] is not rooted [...] in a nominalistic and voluntaristic philosophical pre-understanding of the reality of the Church."

¹¹⁰ E. CORECCO, "Theological Justifications", p. 93. The SECRETARIAT FOR PROMOTING CHRISTIAN UNITY, "Ecumenical Aspects of the New Code of Canon Law", in *Information Service*, 60, I-II (1986) (=SPCU--Ecumenical), refers to this position and states on p. 59 that "*communio*, even if not *plena*, undeniably establishes certain rights for baptised non-Catholics, such as the right to the Word of God and the sacraments, etc." The discussion on the origin of obligations and rights continues. While the phrase "obligations and rights" reverses the traditional wording found in the *CIC/17*, the 1981 *Relatio* states on p. 62 that the order is not important since both come from the sacraments. J. PROVOST, *CLSAP Commentary*, pp. 137-138, judges this response to be significant, since some scholars had argued that obligations (and, consequently, rights) arose from one's state in life. Provost states that, while this view is true in some respects, the "Church has recognized human nature and the common dignity flowing from it as the bases for fundamental human rights, and within the Church baptism produces other fundamental rights that are prior to any differentiation by states in life." See also by J. PROVOST, "Ecclesial Rights", in *CLSAP*, 44 (1982), pp. 35-44; and "Protecting and Promoting the Rights of Christians: Some Implications for Church Structure", in *J*, 46 (1986), pp. 289-342; M. CONDERELLI, "I fedeli", pp. 319-344; G. DIQUATTRO, "Lo statuto giuridico", pp. 77-114; and H. RIKHOF, "The Competence of Priests", pp. 53-62.

Other writers agree with this assessment. Among these G. Ghirlanda's work assumes an important position. His argumentation resembles that of Corecco: once an individual joins the Church, that person enters into a different realm in which adhering to the Church's faith becomes the first and highest value. More specifically,

since the Church itself is a *communio* among all those who profess the one faith and live in charity, the primary obligation [of the Christian faithful] is to keep that communion with the Church (c. 209, §1) and with God; namely, to remain steadfast to the truth to which the Church adheres naturally as saving truth (cc. 748, §1; 750; 752-754; 212, §1) and to lead a holy life (c. 210) in the exercise of charity.¹¹¹

We may not perceive "remaining steadfast to the truth" and "leading a holy life" as two obligations. Rather, one obligation exists due to a reciprocal relationship: a person maintains *communio* with the Church and with God only by proclaiming the one true faith and exercising charity, while at the same time only ecclesial *communio* nourishes this one faith and this charity.¹¹²

Similarly, J. Beyer states that we must contextualize the fundamental rights of the Christian faithful and the expression of their full value and extent within the

¹¹¹ G. GHIRLANDA, "De obligationibus et iuribus christifidelium", p. 331: "Quia Ecclesia ipsa est *communio* inter omnes qui unam fidem profitentur et in caritate vivunt, obligatio primaria est illam *communio* servandi cum Ecclesia (c. 209, §1) et Deo, manendi, scilicet, fidelis veritati cui tamquam veritati salutari sua sponte adhaesit (cc. 748, §1; 750; 752-754; 212, §1) et vitam sanctam ducendi (c. 210) in exercitio caritatis." See also his text, *Il diritto nella Chiesa*, especially pp. 39-45 and 87-95.

¹¹² G. GHIRLANDA, "De obligationibus et iuribus christifidelium", footnote 6, pp. 334-335.

communio.¹¹³ J. Bernhard summarizes the position of P. Hinder on the rights of the faithful by stating that

the juridic institution governs the fundamental relationships in the ecclesial community in such a manner that the *Communio* and its members can freely fulfill fundamental ecclesial acts.¹¹⁴

Thus, it seems appropriate to state that the obligations and rights contained in canons 208-223 form the context within which the *christifideles*, as the People of God, participate in the Church's mission. Pope John Paul II explicitly links the obligations and rights of the faithful with their participation in the three-fold office of Christ.¹¹⁵

Further, we can divide these canons into two categories: one-third of them derive from baptismal participation in this three-fold office, while the other two-thirds fall either under natural law or the general principles of law.¹¹⁶ But the determinative factor remains the gift of God's grace, a call which demands a response from the individual.¹¹⁷

¹¹³ See J. BEYER, "La 'communio' comme critère", p. 79. See also his general conclusions on pp. 94-96, where he cites allocutions of PAUL VI and JOHN PAUL II in this regard.

¹¹⁴ J. BERHNARD, "Les droits fondamentaux", p. 380: "[...] l'institution juridique, réglant les relations fondamentales dans la communauté ecclésiale, de manière telle que la *Communio* et ses membres puissent accomplir librement les actes ecclésiaux fondamentaux."

¹¹⁵ See JOHN PAUL II, *Sacrae disciplinae leges*, in *CIC/83*, p. xv; and *Christifideles laici*, nos. 14-15.

¹¹⁶ See *SPCU--Ecumenical*, p. 59. The text also acknowledges on p. 61 that the latter rights and obligations are transformed by baptism: "they are made to operate for the protection of values of divine law and not of natural law." Further, in view of their origin, these obligations and rights hold "a certain priority over all other norms."

¹¹⁷ See R. SOBAŃSKI, "L'ecclésiologie", p. 251.

Thus, canons 208-223 provide the "infrastructure of communion."¹¹⁸ In other words, these canons serve the *communio* by expressing some of the means whereby the Christian faithful articulate in their lives and actions the implications of their supernatural calling, the universal salvific will of God. This common mission, deriving from baptism, establishes the equality of all the Christian faithful previous to any distinction on the basis of a particular state in life.

Conclusion

This Chapter, building upon the Introduction to this dissertation and Chapter I, has established the theological and canonical context for an interpretation of canon 209, §1, the obligation to maintain communion. The complex inter-relationship between theology and canon law, introduced in Chapter I, has now become more clearly articulated, especially through an analysis of the Code revision process. This relationship demonstrates the importance of possessing a *novus habitus mentis* for canonical interpretation today.

We have addressed certain issues necessary to provide an informed interpretation of the obligation to maintain communion -- the relationship between theology and canon law, the ecclesiology and guiding principles of the Code, and the importance of the principle of *communio*. Consequently, we noted a new orientation

¹¹⁸ This phrase utilized by P. COGAN, *The Understanding of Defection*, on p. 184, recalls the phrase of W. AYMANS, "the constitutional structure of the Church" (in "Ecclesiological Implications", pp. 133-135).

in canon law, founded on the concept of the People of God and the radical equality of all the Christian faithful prior to any subsequent distinction.

This new orientation holds important implications for canon law. For example, understanding the Church as a *societas perfecta* (in analogy with the secular state) no longer provides canonists with the proper context for interpretation of the Code. Although canonists now recognize the great dissimilarities between law in the civil state and law in the Church, the implications and changes demanded by this recognition need further discussion and development.

Canonists will also need to reinterpret traditional perceptions and Church teaching on select issues, even including concepts constitutive of the Church by the will of Jesus Christ such as its hierarchical structure. The framework within which we must now operate centers on the principle of *communio* and its edification by all members of the Church, a mission entrusted to them by their baptism.

Now, from the perspective of conciliar teaching, the general context of the Code of Canon Law, and the particular context of Book II, we shall direct our attention in Chapter III to the obligation to maintain communion, as expressed in canon 209, §1.

CHAPTER III

CANON 209, §1: THE OBLIGATION TO MAINTAIN COMMUNION

As discussed in Chapter II, both the remote and the proximate contexts exercise an important function in the interpretation of a particular canon. We have already established the context of canon 209, §1, namely, the documents of Vatican II and the Code of Canon Law in general and Book II in particular. Through this process, we established the foundation for our examination of canon 209, §1, more specifically, the obligation incumbent upon all the Christian faithful to maintain communion with the Church.

We shall begin our study of the canon by considering its textual development. Then we shall refer specifically to the technical terminology used and the wording of the canon as found in the Code. From this foundation, we shall then examine the opinions of authors who have commented on canon 209, §1, cataloguing these according to the author's emphasis either on the external or spiritual (internal) dimensions of *communio*. We shall then offer what we consider to be four principles constitutive of *communio*, inherent in any application of the concept.

The last section of the Chapter will refer to three issues related to communion: the requirements for full communion with the Catholic Church, the differences between incorporation and communion, and the nature of the obligation expressed by canon 209, §1.

1. The development and revision of canon 209, §1

The evolution of the wording of canon 209, §1 reveals certain nuances which assist in its interpretation. These will become clearer as we trace the various formulations of the canon and, consequently, of the obligation to maintain communion.

1.1. The text

The first reference to this obligation appears in the discussions of the *coetus* "De laicis deque associationibus fidelium", which met from January 28 to 31, 1970.¹ Under the rubric "Fundamental statute for all the Christian faithful", one consultor suggested that, within the context of rights and duties, the Code should include the obligation of maintaining ecclesial communion or communion with the hierarchy.

More specifically, he suggested the following articulation of this obligation:

In the exercise of rights or duties acknowledged by the Church, all the Christian faithful are held to maintain the bond of ecclesiastical communion by fulfilling current canonical legislation.²

The other consultors agreed to including references to such an obligation, although one judged that placing the canon within the *LEF* would be more suitable. Other consultors offered alternative expressions, omitting the reference to current

¹ See the Appendix for a systematic presentation of the various recensions of the obligation to maintain communion.

² See *Comm.*, 18 (1986), p. 322: "In exercendis iuribus sive officiis in Ecclesia agnitis, cuncti christifideles servare tenentur vinculum ecclesiasticae communionis canonicam adimplendo legislationem vigentem."

legislation.³ Finally, another consultor suggested that the proposed norm should also refer to the necessity of maintaining internal communion.

By way of response, the assistant Secretary said that the hierarchy must judge the absence or failure to maintain internal *communio* through external principles.⁴

Further, he suggested this wording for the proposed norm:

All the Christian faithful are held to the obligation of seeing to it that they always maintain communion with the Church, which is governed on earth by the Successor of Peter and the bishops in communion with him.⁵

After further discussion, the *coetus* agreed to the following wording of the proposed norm, which they placed immediately after can. 3:

Since by baptism they are irrevocably incorporated into the Church of Christ, the Christian faithful are bound by the obligation of taking care [*obligatione tenentur curandi*] that they always maintain communion with the Church, which is governed on this earth by the successor of Peter and the Bishops in communion with him.⁶

³ Two examples are given in *Comm.*, 18 (1986), pp. 322-323: "Cuncti christifideles sciant se ligari vinculo ecclesiasticae communionis" and "Omnes christifideles in suis actionibus debent esse in communionem cum Ecclesia."

⁴ *Comm.*, 18 (1986), p. 323: "Attamen animadvertunt Rev.mus Secretarius Adiunctus cum duobus sociis quod si deest interna communiō de hoc ex externis quoque elementis iudicare debet Hierarchia."

⁵ *Comm.*, 18 (1986), p. 323: "Omnes christifideles obligatione tenentur curandi ut communionem semper servant cum Ecclesia, his quidem in terris a Successore Petri et Episcopis in eius communionem gubernata."

⁶ See *Comm.*, 18 (1986), p. 323: "Baptismate irrevocabilliter in Ecclesia Christi incorporati cum sint, christifideles obligatione tenentur curandi ut communionem semper servant cum eadem Ecclesia, his quidem in terris a Successore Petri et Episcopis in eius communionem gubernata."

The canon thus phrased explicitly refers to the relationship which exists between baptism and maintaining communion. The report of the *coetus* contains no further reference to its position within the *LEF*.

The newly formed *coetus* "*De christifidelium iuribus et associationibus deque laicis*" met from April 7 to 11, 1975. At its first meeting, the assistant Secretary explained that the *coetus* was to examine and revise canons concerned with the juridic statute of all the Christian faithful as well as of the laity and associations of Christian faithful. This material included canons 3-26 from the *LEF*.⁷

As discussed by the *coetus*, canon 3*bis* (now canon 4) had already been changed by the addition of one phrase, "in their way of acting" (*agendi ratione quoque*) and also by use of the adjective "the same" (*eadem*) for the Church.⁸ The *coetus* approved this text in general but suggested one minor alteration: in place of *baptismate* they suggested using *baptismo*. Thus, with this revision, canon 4 stated:

Since by baptism they are irrevocably incorporated into the Church of Christ, the Christian faithful are bound by the obligation of taking care that, even in their way of acting, they always maintain

⁷ See *Comm.*, 18 (1986), p. 365. One reason for including in this evaluation the canons from the *LEF* (which had already been revised after a world-wide consultation of bishops) was to determine the proper location for certain canons (either in the *LEF* or Book II) and also to avoid the presence of the same canons in both books. We should mention two issues here. First, the various *coetus* involved in developing and revising canons were aware that some canons, to avoid duplication, might need to be suppressed if the *LEF* were approved. See, for example, the commentary on the canons *De omnium christifidelium obligationibus et iuribus* in *Comm.*, 9 (1977), p. 239. Second, as noted in Chapter II, the obligation to maintain communion was not mentioned in the *LEF*. See *Comm.*, 16 (1984), pp. 91-99, an appendix which is entitled "Canones 'Legis Ecclesiae Fundamentalibus' qui in Codicem Iuris Canonici inserendi sunt, si ipsa 'Lex Ecclesiae Fundamentalibus' non promulgabitur" and where canon 209, §1 does not appear.

⁸ The volumes of *Communicationes* published to 1991 do not indicate the source of these changes.

communion with the same Church, governed on this earth by the successor of Peter and the Bishops in Communion with him.⁹

As now phrased, the canon explicitly states that the Christian faithful must fulfill this obligation in the external forum ("even in their way of acting").

The *coetus "De Populo Dei"*, meeting from October 15 to 20, 1979, examined animadversions on the *schema* of Book II. In reference to the canon now numbered 19 (the same as canon 4 above), three suggestions were offered. The Secretary proposed two revisions. First, he suggested the deletion of the introductory clause (*Baptismate irrevocabiliter in Ecclesia Christi incorporati cum sint*), since this repeated material contained in other canons. Second, he also suggested deleting the phrase *his quidem in terris* because the fact that the Vicar of Christ governs the Church in its earthly existence is self-evident.

Finally, another consultor recommended the omission of the verb *curandi*, for its usage appeared to lessen the obligation. The *coetus* agreed to these proposals. As a result, canon 19, §1 expressed the obligation to maintain *communio* as follows:

The Christian faithful are held to the obligation that, even in the way they act, they always maintain communion with the Church, governed by the successor of Peter and the Bishops in communion with him.¹⁰

⁹ *Comm.*, 18 (1986), p. 367: "Baptismo irrevocabiliter in Ecclesia Christi incorporati cum sint, christifideles obligatione tenentur curandi ut, agendi ratione quoque, communionem semper servent cum eadem Ecclesia, his quidem in terris a successore Petri et Episcopis in eius communione gubernata." The one change in wording appears to be more stylistic than substantive.

¹⁰ See *Comm.*, 12 (1980), pp. 80-81: "Christifideles obligatione tenentur ut, agendi ratione quoque, communione semper servent cum Ecclesia, a Successore Petri et Episcopis in eius communione gubernata."

As a result of these changes, the *coetus* strengthened the obligation while, at the same time, it weakened the explicit connection with baptism.

Part 1, Book II of the 1980 *schema* of the revised Code, *De christifidelibus*, contains only two canons; except for minor changes, these became canons 204, §1 and 207 of the present Code. Other canons present in earlier *schemata* were omitted from the 1980 *schema* to avoid duplicating canons already present in the *LEF*.¹¹

During the final revision process, from July 1980 to March 1982, and which included a final plenary session of the Code Commission, further changes were introduced into Part I of Book II.¹² On March 25, 1982, a revised version of the Code was issued -- the *Schema novissimum*. In this text, the obligation to maintain communion, canon 209, §1, was phrased as follows:

The Christian faithful are bound [*astringuntur*] by an obligation, even in their own patterns of activity, always to maintain communion with the Church, governed by the Roman Pontiff and the bishops in hierarchical communion with the head and members of the same Church.¹³

¹¹ On this process, see, for example, T. GREEN, "Persons and Structures", pp. 33-36.

¹² For a discussion of this revision process, see J. ALESANDRO, "The Revision", pp. 115-129. We should recall that certain changes were required because of the decision not to promulgate the *LEF*.

¹³ *Schema novissimum*, canon 209, §1: "Christifideles obligatione adstringuntur, sua quoque ipsorum agendi ratione, ad communionem semper servandam cum Ecclesia, a Romano Pontifice et Episcopis in hierarchica communione cum eiusdem Ecclesiae capite et membris gubernata."

The obligation has been further strengthened by use of the verb *astringere* in place of *tenere*. Whereas *tenere* denotes possession, *astringere* denotes the presence of an obligation or necessity.¹⁴

Revision of the canon continued during the period from 1982 to the promulgation of the Code in 1983, as a result of which canon 209, §1 appears in the latter text as follows:

The Christian faithful are bound [*astringuntur*] by an obligation, even in their own patterns of activity, always to maintain communion with the Church.¹⁵

Thus, the canon omits the explicit reference to the Roman Pontiff and to the bishops in communion with him.

From a preliminary assessment of the various versions of canon 209 §1, we maintain that we can draw two legitimate conclusions. The first concerns the importance of the obligation to maintain communion. The various drafts evince a distinct strengthening of the canon's obligatory force, summarized by omitting the verb *curare* and by using the verb *astringere* in the final redaction.

The second conclusion lends support to our contention that the principle of *communio* is polysemous. The various versions demonstrate a progressive removal

¹⁴ See C. LEWIS and C. SHORT, *A Latin Dictionary*, London, Oxford University Press, 1955, xiv, 2019p.

¹⁵ "Christifideles obligatione adstringuntur, sua quoque ipsorum agendi ratione, ad communionem semper servandam cum Ecclesia." According to J. ALESANDRO, "The Revision", p. 128, JOHN PAUL II, with the assistance of R. CASTILLO LARA as well as other canonists (whom ALESANDRO lists in footnote 25), personally studied and authorized changes in the 1982 text.

of excess verbiage from the canon. This simplification of terminology cannot depend solely on the fact that certain material was already contained in other canons. Rather, we believe that *communio* itself exercised an important determinative function in this regard. In other words, the various meanings and connotations of *communio* are substantially interconnected, and the word *communio* necessarily includes all these meanings. As one consequence, then, we should not isolate one meaning from the others.

These preliminary conclusions founded on the redaction of canon 209, §1 require further investigation to determine their validity and usefulness. But the material requires one further examination. We shall first discuss three important terms, namely, *communio*, *christifideles*, and "the Church".

1.2. Terminology

The way in which we understand *communio*, *christifideles* and "the Church" will determine our interpretation of the canon. Thus, we need to delineate certain limits or guidelines for these three terms.

Communio as polysemous comprises within it (at least implicitly) all levels of meaning -- the empirical, the theoretical, and the intentional. For example, the final redaction of canon 209, §1 omitted the references to the Supreme Pontiff and to the hierarchical communion of bishops with the Pope. The principle of *communio* as applied to the Catholic Church implicitly contains them, thus obviating the need for their explicit mention.

This polysemous character strongly influences the interpretation both of canon 209, §1, and of other canons which include or imply a *communio* ecclesiology. But, in reference to understanding the principle itself, two temptations exist, both of which we should avoid.

On the one hand, we cannot limit *communio* to an abstraction, as an ideal with little relevance either in the lives of the faithful or in canonical or theological interpretation. We can recall here the passage in the *Nota explicativa praevia* of LG, which states that *communio*

is understood, however, not as consisting in some vague *disposition*, but as an *organic reality* which requires a juridical form and at the same time is animated by charity.¹⁶

In other words, we cannot understand *communio* only as an abstract ideal, effective only within theological or canonical speculative thought. *Communio* does exist in our world and in the experience of believers, and expresses itself through various means depending upon particular circumstances.

On the other hand, cognizant of the polysemous character of *communio*, we should recall one of the *regulae iuris* attributed to JAVOLENUS, "Every definition in civil law is dangerous: for it is rare for the possibility not to exist of its being

¹⁶ *Nota explicativa praevia*, 2; N.P. TANNER, *Decrees*, p. 899, l.30: "[Communio] non intelligitur autem de vago quodam affectu, sed de realitate organica, quae iuridicam formam exigit et simul caritate animatur." See also W. BERTRAMS, "De gradibus 'communiois'", pp. 286-287, where he emphasizes the necessity of a visible expression of communion.

overthrown."¹⁷ This aphorism equally applies to canon law. Thus, we would consider any attempt to articulate a comprehensive definition of *communio* as a self-defeating enterprise. Although we may use one aspect of *communio* within a particular context, we are also referring at the same time to its other dimensions, at least implicitly. Consequently, no one definition can fully express the reality which is *communio*. We may attribute one aspect of this difficulty to the inadequacy of language in defining a living reality. Further complications ensue since we are also concerned with the finite (human) and infinite (divine) dichotomy.

Thus, in interpreting canon 209, §1, we need to keep these two temptations in mind and avoid both extremes, which have similar results. We cannot attempt to comprehend *communio* either in very abstract or in very strict terms, for then *communio* would lose its usefulness in the life of the contemporary Christian.

In reference to the terms "the Church" and *christifideles*, the foundational question for us centers on the referent proper to each of these. In other words, given the particular context of canon 209, does the term "Church" by itself refer to the Church of Christ or to the Latin Catholic Church? Does the term *christifideles* refer to all baptized Christians or only to baptized Latin Catholics?

In Chapter II, we argued that within the context of the introductory canons on the Christian faithful, specifically referring to canon 204, §1, *christifideles* encompassed

¹⁷ "Omnis definitio in iure ciuili periculosa est: parum est enim, ut non subuerti posset." (A footnote offers *rarum* as an alternative to *parum*.) Cited in *The Digest of Justinian*, volume IV, Latin text edited by T. MOMMSEN with the aid of P. KRUEGER; English translation edited by A. WATSON, Philadelphia, Pennsylvania, University of Pennsylvania Press, 1985, p. 969, #202.

all baptized Christians and not only those baptized into the Latin Catholic Church. Canon 204, §1 expresses a basic theological premise, which is given a precise limitation by canons 204, §2 and 205, specifically through establishing criteria to determine who are in full communion with the Catholic Church in its visible structure.

From this perspective, do the terms "the Church" and *christifideles* demand a broad or narrow interpretation? Within the specific context of the title, "The Obligations and Rights of all the Christian Faithful", we maintain that both terms refer to the Latin Catholic Church and to baptized Roman Catholics united with it.¹⁸ As one consequence, then, the term *communio* as used in canon 209, §1, refers to full or ecclesiastical communion.¹⁹

At the same time, however, we should also recognize the broader foundation for the obligation to maintain communion, namely, its ultimate theological basis. In other words, canon 209 -- as included in the Code of Canon Law -- applies specifically to baptized Latin Catholics. Nevertheless, the ultimate reasons for this

¹⁸ Many writers (whether or not they broadly interpret *christifideles* in canon 204) limit the term here to baptized Catholics. See, for example, J. PROVOST, *CLSA Commentary*, pp. 124 and 141-142; L. CHIAPPETTA, *Il codice*, I, p. 267, canon 204; and P. VALDRINI, *Droit canonique*, p. 28. Further, commentators limit the canon by referring to canon 205 which outlines the requirements for full communion with the Catholic Church. Consequently, then, in the rest of this Chapter, in referring to the Church or to Christians, this limited sense is to be understood, unless otherwise noted.

¹⁹ See P. COGAN, *The Understanding of Defection*, p. 196. See also his discussion of *communio ecclesiastica* on pp. 191-193. In footnote 23, p. 192, COGAN, noting that an important distinction exists between *ecclesiastica* and *ecclesialis*, states that "The adjective *ecclesialis* is employed in the Code only with the noun *communitas* (cf. cc. 364, 6°; 463, §3; 713, §2; 869, §2; 908; 933; 1124; 1183, §3) to express the ecclesiological character of a church or communion separated from the Roman Catholic Church. The term is a neologism devised at Vatican II in order to properly distinguish from the juridical associations of *ecclesiasticus*."

application arise from theological doctrine, primarily from the Church's teachings on the sacrament of baptism and on grace.

Canon 204, §1 expresses a general theological premise concerning the participation by all the baptized in the triple *munera* of Jesus Christ. Such participation necessarily requires that the baptized person remain "in *communio*" with the Church to which he or she belongs. From the perspective of Church teaching, these persons also possess the possibility of being called to the fullness of communion and to profess their acceptance of this in the external forum.²⁰

2. Canonical analysis of canon 209, §1

Commentaries -- either on canon 209, §1 or on *communio* in general -- are not uniform in their content but rather emphasize various aspects implied by the principle. This lack of uniformity arises from the nature of *communio* itself, a position with historical support. An historian such as L. Hertling, for example, asserts that, in the early Church, *communio* formed one of the central concepts for the Church's self-understanding. Further, in as much as *communio* described a reality which found expression in the lives of believers, it was not an abstract or vague concept for them. Although *communio* included ideas necessary to ecclesiology,

²⁰ For example, see *LG* 8, which states that, although many elements of sanctification and truth are found outside the structure of the Catholic Church, these elements nonetheless "impel toward catholic unity" (*ad unitatem catholicam impellunt*), in N.P. TANNER, *Decrees*, p. 854, l.30.

believers had as yet not brought these ideas to conscious reflection, much less integrated them into a systematic ecclesiology or theology.²¹

From a current perspective, however, much theological reflection on *communio* has occurred, which in turn exercises an important role in the Church's self-understanding. This reflection increases the complexity of our task. The early Church reflected on its lived experience alone, whereas we need to consider both experience and theological reflection on that experience. In other words, any commentary on *communio* must distinguish (at the very least) between these two levels: the level of experience and that of reflection.²²

In addition to distinguishing between the experience of *communio* and reflection upon it, we can also distinguish (without mitigating an underlying unity) between those authors who emphasize the external (or visible) aspect and those who stress the internal (or spiritual or faith) dimension of *communio*. If the various authors who have commented on canon 209, §1 generally recognize the necessity of both dimensions, they also tend -- either implicitly or explicitly -- to emphasize one dimension over another. Thus, we can categorize authors according to their emphasis either on the internal or external dimension of *communio*.

²¹ See L. HERTLING, *Communio*, p. 15.

²² In the Introduction to this dissertation, we introduced these levels under the same titles of "experience" and "reflection". From the perspective of our discussion thus far, we should further nuance these terms. From the foundation of *communio* in God's self-revelation, we may understand the notion of "experience" as "the certitude of faith" and the notion of "reflection" as "theological understanding". In other words, the process of determining the nature of *communio* is that of *fides quaerens intellectum*.

This process, although apparently divisive at the outset, will ultimately permit us to achieve greater clarity, and thus greater unity, in our understanding of *communio*. At the completion of this process, we should be able to articulate principles which are constitutive of communion and which demonstrate its fundamental unity despite the different emphases given to it or different manifestations in the life of the faithful.

2.1. The external or visible dimension of *communio*

We shall consider here five of the commentators who have written on communion. In the course of their analysis, they emphasize the external bond of governance. Accordingly, we shall summarize the work of L. Chiappetta, J. Hervada, G. Ghirlanda, L. Legaspi, and V. De Paolis.

L. Chiappetta, while recognizing that *communio* with the Church "has as its condition and foundation intimate communion with God", nonetheless emphasizes the external dimension.²³ He states that the first and fundamental obligation to maintain communion requires the Christian "always to maintain, in every manifestation in individual and social life, a vital communion with the Church."²⁴ Canon 205 indicates the means whereby the *christifideles* express in their lives this "vital communion": it "is expressed concretely by means of union with one's brothers (and sisters) and

²³ L. CHIAPPETTA, *Il codice*, p. 275, canon 209: "ha come condizione e fondamento l'intima comunione con Dio."

²⁴ L. CHIAPPETTA, *Il codice*, p. 275, canon 209, §1: "conservare sempre, in ogni manifestazione della sua vita individuale e sociale, una comunione vitale con la Chiesa."

above all with one's legitimate pastors."²⁵ His emphasis remains on the manifestation or concrete expression of communion rather than on the spiritual, internal relationship with God.

J. Hervada, writing in the *CDC-Navarra*, does not explicitly comment on canon 209 but discusses the principle of *communio* as expressed by the phrase "in the communion of the Church" (*in Ecclesiae communione*) found in canon 149. He maintains that we should not interpret this obligation negatively, that is, with a judgment that an individual is not presently in the juridic state of excommunication.

Rather, we must understand it as

a positive requirement verifiable by the union of the candidate with legitimate pastors, by assent to their teaching and by participation in the means which really vivify and unite the ecclesial community.²⁶

In other words, Hervada refers to the three bonds mentioned in canon 205, faith, sacraments and governance. But by use of the adjective "verifiable" (*constable*), he emphasizes the external aspect of *communio*, referring to the forum in which a juridical judgment can be made. Hervada makes no explicit reference to an internal aspect.

²⁵ L. CHIAPPETTA, *Il codice*, p. 275, canon 209: "si esprime concretamente mediante l'unione con i fratelli di fede e soprattutto con i legittimi pastori."

²⁶ *CDC-Navarra*, pp. 142-143, canons 149-150: "una exigencia positiva, constable por la unión del candidato con los legítimos pastores, por el asentamiento a su magisterio, y la participación en los medios que realmente vivifican y congregan a la comunidad eclesial." This quotation seems to rephrase canon 205. A further question arises from the phrase "in the communion of the Church": does this refer to full communion? Given the canon's purpose (providing competent persons for ecclesiastical offices) and in view of our discussion concerning the referent of "the Church" and *christifideles* in canon 209, the canon intends full communion to be understood here. For a similar position, see P. COGAN, *The Understanding of Defection*, p. 196, footnote 31.

From another perspective, G. Ghirlanda maintains that the principle of *communio* necessarily depends upon the nature of the Church itself. As he explains:

Because the Church is the communion among all who profess the one faith and live in charity, the primary obligation which arises from baptism is that of maintaining communion with the same Church (see c. 209, §1) and God, namely, to remain faithful to the truth freely accepted as salvific truth (see cc. 748, §1; 750; 752-754; 212, §1) and to lead a holy life (see c. 210) in the exercise of charity.²⁷

The obligation to maintain communion and to live a holy life has a complementary relationship with the profession of the one true faith and the exercise of charity. Each of these presupposes the other.

In this same context, Ghirlanda implicitly mentions the concept of "hierarchical communion". He relates the latter to the various orders or conditions of persons which exist in the Church. Although we can categorize these orders juridically, we should also recognize their foundation in the various charisms given to individuals with the gift of faith and baptism. As a result of the latter, individuals become the subject of particular obligations and rights which they should fulfill in a specific way. Further, within the context of this charismatic origin, ecclesial communion forms the

²⁷ G. GHIRLANDA, *Il diritto nella Chiesa*, p. 63, number 41: "Poiché la Chiesa è la comunione tra tutti coloro che professano l'unica fede e vivono nella carità, l'obbligo primario che scaturisce dal battesimo è quello di conservare la comunione con la stessa Chiesa (cfr. c. 209, §1) e Dio, cioè di rimanere fedele alla verità a cui si ha liberamente aderito come verità salvifica (cfr. cc. 748, §1; 750; 752-754; 212, §1) e di condurre una vita santa (cfr. c. 210) nell'esercizio della carità." Here and in his other writings, GHIRLANDA favors the expression "unica fede" or "integra fede", relating it to the canons cited here from Book III. The relationship between *communio* and the various levels of Church teaching is extremely important and will be discussed in Chapters IV and V of this dissertation.

essential framework for an individual's specific condition and for the exercise of rights and obligations.²⁸

But despite this emphasis on fidelity to salvific truth and charisms, Ghirlanda nonetheless emphasizes the external dimension of *communio*. For example, referring to "salvific truth", he cites canons 750 and 752-754. These canons state the response of the faithful to various levels of Church teaching, from the deposit of faith through the authentic magisterium to constitutions and decrees of legitimate authority. Understandably, the canons give primary emphasis to external assent. But Ghirlanda refers neither to the spiritual dimension necessary for such an external assent, nor to the hierarchy of truths in reference to Church teaching. As far as he is concerned, it seems that the faithful must simply obey legitimate authority in their outward behavior.

Further, Ghirlanda's understanding of the phenomenology of law does not allow *communio* to exercise a determinative role. Thus, he establishes the necessity of law within the Church from the perspective of traditional philosophical axioms such as *ubi homo ibi societas*, *ubi societas ibi ius*, and *ubi homo ibi ius*. As a result,

²⁸ G. GHIRLANDA, *Il diritto nella Chiesa*, p. 94, number 73. On pp. 51-58 and especially numbers 35-37, GHIRLANDA discusses the Church's charismatic and institutional structure. He defines charism as "un dono di grazia che Dio fa a chi lui chiama per adempiere una missione, un ministero, nella e per la Chiesa" (p. 53, number 35). Examples of particular charisms are the "lay charism", the charism of sacred ministry, the charism of following Christ in consecrated life (see pp. 54-56, number 36) and the charism of conjugal love within the sacrament of matrimony (p. 330, number 391). This emphasis on the role of charisms in the Church is extremely important, for it demonstrates the active presence of the Holy Spirit within the Church. We should also note that the complex topic of hierarchical communion arises either implicitly or explicitly with any commentary on *communio*. We will discuss this particular aspect as well as other manifestations of communion expressed in and through the Church's life, in Chapters IV and V of this dissertation.

this foundation applies to any organized society, whether it claims an origin in the divine salvific will or in the will of a specific ethnic or national group.²⁹ Thus, Ghirlanda places great stress on the external maintenance of *communio*.

For his part, L. Legaspi begins his analysis of the Code's ecclesiology with certain preliminary observations. Among these is his statement that "the Church's doctrine will always be richer than Canon Law, since not everything can be formulated into laws."³⁰ But his commentary reveals that his emphasis lies upon the autonomous nature of legal norms, without specific theological references.

Although *communio* forms a foundational principle for ecclesiology, Legaspi understands this primarily through its external manifestation. For example, he defines the Church communion as "a differentiated community whose pastors are constituted as such through the sacrament of Holy Orders."³¹ He derives this definition from the bonds of "mutual exchange and of interdependence" among the faithful, the distinction between clergy and laity, and the limitation of a person's

²⁹ See G. GHIRLANDA, *Il diritto nella Chiesa*, pp. 15-18, numbers 1-6. On the differences between secular law and law in the Church, see, for example, J. CORIDEN, "Laws and Non-Laws".

³⁰ L. LEGASPI, "Ecclesiology of Vatican II and the New Code of Canon Law", in *Boletín eclesialístico de Filipinas*, 70, 680-681 (1986), p. 417.

³¹ L. LEGASPI, "Ecclesiology of Vatican II", p. 421.

mission according to condition and office.³² Thus, Legaspi emphasizes the external, juridic, and hierarchically organized aspect of *communio*.

Finally, V. De Paolis, while sharing this emphasis, extends its implications much further. He begins his analysis of *communio* by referring to its sacramental basis. He summarizes his position by affirming: "The foundation of *communio* is always sacramental, whether by baptism or sacred orders."³³ From a basis both in conciliar teaching and the legislation of the Code, De Paolis then states that the reception of one and the same baptism establishes *communio* among all the faithful. Likewise, the sacrament of orders establishes hierarchical communion, which serves the Christian faithful. But, despite this sacramental basis, he develops an entirely juridic understanding of full communion, which raises certain serious canonical and theological difficulties.

For instance, in analyzing canon 149, §1 (which requires that a person be in communion in order to be promoted to an ecclesiastical office), De Paolis notes that this norm does *not* bar from office a person who incurs a *latae sententiae*

³² L. LEGASPI, "Ecclesiology of Vatican II", p. 421. An emphasis on the hierarchical dimension is also present in his study "The Theology of the Particular (Local) Church in the New Code", in *Philippiniana sacra*, 21 (1986), pp. 245-257.

³³ V. DE PAOLIS, "Communio in novo CIC", p. 523: "Fundamentum communionis est semper sacramentale, sive baptismus, sive ordo sacer."

excommunication which is completely occult (*omnino occultum*). In other words, "excommunication as such does not remove full communion."³⁴

The difficulty with this assessment centers on its lack of reference to the internal or faith-dimension of *communio*. Someone who appoints a person to an ecclesiastical office should presume the absence of an occult *latae sententiae* excommunication, or the person's good faith, or both. If someone deliberately conceals the truth so as to acquire an ecclesiastical office, it is difficult to maintain that he or she is living in full *communio* both with the Church and with God.³⁵ We presume here that the person is both aware of having committed such a delict and understands canon 149, yet does not remove him- or herself as a candidate. At the very least, there should be a juridic presumption of good faith on the part of the individual.³⁶

From this discussion, it becomes clear that *communio* requires external manifestation, as the *Nota explicativa praevia* states. At the same time, however, the absence of a reference to *communio*'s faith-dimension can cause certain difficulties

³⁴ V. DE PAOLIS, "Communio", p. 539: "excommunicatio qua talis non tollit plenam communionem." He does not refer to canon 1331, which lists the effects of excommunication. DE PAOLIS also cites canon 171, §1 and canon 316, §1, by which a *latae sententiae* excommunication does not prevent one from voting in an election, nor prevent one from being validly received into a public association. Therefore, despite the presence of such an excommunication, the individual is "not considered outside full ecclesiastical communion" ("Hic non consideratur ergo extra plenam communionem ecclesiasticam", p. 540).

³⁵ We are presuming here that the individual can use another excuse (and not the *latae sententiae* excommunication) to explain why he or she does not wish to be considered for this office; this interpretation safeguards the individual's reputation (see canon 220).

³⁶ Reference could also be made here to canon 124 (which concerns the validity of juridic acts) and canon 63 (which states that subreption invalidates a rescript).

to arise, either in understanding the role of law within the Church or even in its application. Even if Church law operates on the level of the external forum, it should nonetheless acknowledge the Church's necessary spiritual dimension. We find such an acknowledgement in certain authors. We shall now turn to a survey of those whom we believe emphasize the internal dimension of *communio*.

2.2. The internal or faith dimension of *communio*

Five other authors who have commented on this canon have placed a clear emphasis on the internal or faith dimension of *communio*. They are: P. Valdrini, J. Provost, R. Sobański, L. Örsy, and J. Beyer.

P. Valdrini begins his commentary by stating that *communio* "forms a general framework for the exercise of rights and duties."³⁷ He notes that canon 209, by speaking of obligation, "shows the importance of the will in belonging to the Church."³⁸ Valdrini also develops the important distinction between a juridic and a "moral" consideration of *communio*. From a juridic perspective, this obligation is assessed in the external forum. Failure to maintain communion has juridic effects relative to the exercise of rights and obligations in two cases. The first occurs when

³⁷ P. VALDRINI, *Droit canonique*, p. 53, number 80: "forme un cadre général d'exercice des droits et devoirs."

³⁸ P. VALDRINI, *Droit canonique*, p. 53, number 80: "Il montre par là l'importance de la volonté dans l'appartenance à l'Église."

this failure is manifested in the external forum; the second, when this failure has been declared as such by the law or by Church authority.³⁹

Nonetheless, the obligation to maintain communion concerns also the internal forum or that of conscience. As a result, Valdrini can conclude by stating that the duty to maintain communion "appears more as a moral obligation than as a juridic one."⁴⁰ In other words, the external manifestation of *communio* is important in as much as it reflects the interior disposition of the individual.

For his part, J. Provost states that communion is a theological reality, grounded in the intra-trinitarian life. As a result of this foundation, the Holy Spirit "is the bond of communion that holds the Church together and bonds each Christian in a divine communion with God and with one another."⁴¹ This bond of communion, as an internal reality, finds visible expression in various ways. At the same time, however, Provost notes that canon 209 limits its content to these external elements.

Provost then discusses various implications of *communio* in the Church's life, referring to its external manifestation. For example, *communio* finds its "sacramental expression" through the Eucharist. In addition, the Church exists in the world as a communion of churches. Provost also discusses the possibility of a break in communion, a separation which arises from the action of an individual (and not of

³⁹ P. VALDRINI, *Droit canonique*, p. 53, number 80.

⁴⁰ P. VALDRINI, *Droit canonique*, p. 54, number 80: "apparaît plus comme un devoir moral que comme une obligation juridique."

⁴¹ J. PROVOST, *CLSA Commentary*, pp. 141-142, canon 209.

the Church). In other words, the Church can declare that a break in communion exists but it bases this judgement on the particular actions of a specific person.⁴² It is evident that *communio* must have a spiritual foundation to give these various aspects meaning.⁴³

From his perspective, R. Sobański recognizes that the Code contains various ecclesiological viewpoints, summarized as either a society or a *communio* ecclesiology. The presence of both ecclesiologies reveals a fundamental problem or inconsistency revealed in the Code.

The Code contains a *communio* ecclesiology, reflected in a triple axis within Church structures, namely, the communion of the faithful, hierarchical communion, and a communion of the local and universal Churches. Sobański also refers to the manifestation of the Church's "communitarian conscience."⁴⁴

But simultaneously a society-ecclesiology predominates in reference to the Church's hierarchical structures, the concept of ecclesial power, and the origin of law. For one instance, Sobański concludes that the titles within Book I indicate that

the Church has not elaborated to this day its own theory of law and that it must borrow it from other social systems [...]. We do not see expressed the fact that ecclesial law follows from premises absolutely

⁴² J. PROVOST, *CLSA Commentary*, p. 142, canon 209.

⁴³ J. PROVOST, *CLSA Commentary*, p. 142, canon 209, states that, for a Christian, religion "touches every aspect of one's life. Whatever a Christian does is done in the power of the Spirit and in solidarity with other Christians."

⁴⁴ R. SOBAŃSKI, "L'ecclésiologie", p. 265: "la conscience communautaire de l'Église." He cites canons 208; 209; 368; 369 and 383 in reference to this conscience.

different from secular law, and that as the law of the communion of the faith, is regulated by its own mechanisms.⁴⁵

Problems arise from such a dependency on secular society and structures. For example, this relationship can give rise to a dichotomous image of the Church as *communio* and as society, as a Church of law and as a Church of charity.⁴⁶

Sobański concludes by stating that the lives of the faithful will determine whether the Church will possess a communion or society model of law. In other words, the determinative model will be either a law of society, similar to civil societies, or a law of communion. In the latter, charity would form the fundamental right and the realization of faith would comprise the fundamental task.⁴⁷ Thus, for Sobański, the spiritual dimension of *communio* must influence the entire Church. This would also include primarily external aspects, such as the exercise of ecclesiastical power and the origin of law. The Church has not yet interpreted such areas from the perspective of a *communio* ecclesiology.

L. Örsy offers a particular example of communion's external manifestation and, in so doing, adds important nuances to our discussion. In analyzing the

⁴⁵ R. SOBAŃSKI, "L'ecclésiologie", p. 264: "[...] l'Église n'a pas élaboré à ce jour de théorie propre du droit et qu'elle doit l'emprunter aux autres systèmes sociaux [...]. Nous n'y voyons pas s'exprimer le fait que le droit ecclésial découle de prémisses absolument autres que le droit séculier, et qu'en tant que droit de la communion de foi, il est régi par des mécanismes propres."

⁴⁶ R. SOBAŃSKI, "L'ecclésiologie", p. 260.

⁴⁷ R. SOBAŃSKI, "L'ecclésiologie", p. 269: "[...] si notre droit sera un droit de la 'société', en quelque sorte d'une des sociétés de ce monde, ou un droit de la 'communio', pour lequel la charité est le droit fondamental, et la réalisation de la foi, la tâche."

relationship between Catholic universities and the magisterium of the Church, Örsy distinguishes between Catholic universities which "build their relationship on some kind of communion with the Catholic community" as distinct from institutions which "are legally incorporated into the canonical structures of the Church."⁴⁸ He thus distinguishes among various degrees of affiliation with the Church.

Örsy describes the first relationship, the bond of communion, as "a bond of common beliefs, mutual trust and respect, revealing itself in practical support and help."⁴⁹ But we cannot describe this bond as a legal relationship since the superior-subject correlation is absent. This absence, however, does not make this bond weaker than a legal relationship. The latter necessarily implies the bond of communion, as well as the level of obligations arising from its placement within Church structures. Thus, *communio* forms the basis for a variety of relationships with the Church.

Örsy admits that he is assuming that "those who live by communion are determined to uphold it."⁵⁰ To us, this assumption appears not only valid but also necessary. If an institution (or an individual) claims to exist in communion with the Church, this claim finds validity through its (or the person's) visible expression of *communio*. The latter cannot remain on the level of the interior but requires some exterior manifestation.

⁴⁸ L. ÖRSY, *The Church*, p. 129.

⁴⁹ L. ÖRSY, *The Church*, p. 129.

⁵⁰ L. ÖRSY, *The Church*, p. 132.

J. Beyer furthers our analysis by stressing the broader context of *communio*, which includes the historical dimension of God's salvific will. He asserts that the most profound communion

is that which unites all the faithful to the one Christ, according to the will of the Father in the power of the Spirit so as to form the one Body of Christ, the Church.⁵¹

Further, Beyer notes that the Church's life on earth is situated between two times of essential communion. The first is its communion of origin or trinitarian communion; the second, final communion or communion in glory.⁵²

In its earthly existence, the Church exists as a unity consisting both of a spiritual and an organized community. *Communio* exercises a determinative function on the latter. Thus, for example, Beyer states that, to have ecclesial communion,

all are to participate in the mission of the head and of the College -- clerics and laity to whom the head and the college entrust a part of the responsibility and a part of the corresponding ecclesial power.⁵³

⁵¹ J. BEYER, "La 'communio' comme critère", p. 80: "est celle qui unit tous les fidèles au Christ unique, selon la volonté du Père dans la force de l'Esprit pour ne former qu'un seul Corps du Christ, l'Église."

⁵² J. BEYER, "La 'communio' comme critère", p. 86: "Si l'Église est communion, il faut cependant admettre que sa vie sur terre se situe nécessairement entre deux types de communion, ou mieux, entre deux temps de communion essentiels: sa *communio d'origine*, celle d'où elle tire son unité, *communio trinitaire* comme nous le rappelle le Concile et sa *communio finale*, *communio dans la gloire où le peuple rassemblé auprès du Père, dans et avec son Fils, par la force de leur amour qui est l'Esprit, ne fait plus qu'un corps glorieux du Christ dans l'unité de Dieu.*" (His emphasis)

⁵³ J. BEYER, "La 'communio' comme critère", p. 84: "Pour faire communion ecclésiale, tous participent à la mission du chef and du Collège -- clerics et laïcs auxquels ceux-ci confient une part de responsabilité et un pouvoir ecclésial correspondant."

Beyer situates hierarchical communion within the context of both the *communio* of origin and that of finality, emphasizing the mystical dimension of the Body of Christ.

At the same time, however, he notes that if the Church exists as communion, then the latter should determine the whole of ecclesial life, including the fundamental rights of all the Christian faithful. Further, Beyer expresses the desire

to move beyond the rigor of the law and its indetermination in negative formulas to arrive at an ecclesial law which would be the positive expression of the life of the Church as a *communio of Charity* manifested and sustained by these hierarchical and organizational structures.⁵⁴

Consequently, the spiritual dimension of *communio* -- founded in the trinitarian life and striving for its fulfillment in glory -- ought to exercise a determinative role on the visible structure of the Church.

These authors allow that the faith-dimension of *communio* exercises an explicit function within the Church's visible structure. In so doing, they offer a proper balance to a primarily "societal" perception of *communio*. Further, they also stress the Holy Spirit's role in the Church's life. But we cannot forget that both the external and the faith dimensions are constitutive of the Church in its present existence. Thus, an ecclesiology of *communio* should give proper emphasis to both aspects. We will return to this topic in subsequent sections of this chapter.

⁵⁴ J. BEYER, "La 'communio' comme critère", p. 86: "[...] dépasser la rigueur du droit et son indétermination dans ses formules négatives pour arriver à un droit ecclésial qui soit l'expression positive de la vie de l'Église comme *communio de Charité* manifestée et soutenue par ses structures organisatrices et hiérarchiques."

2.3. *Communio* as composite of the interior and the external

Communio arises from the internal faith dimension which must find visible expression in the life of believers and of the Church. In discussing communion, we need to give proper attention to both aspects.

Difficulties arise from an overemphasis on either aspect. It appears to us that V. De Paolis creates serious theological and canonical difficulties by overemphasizing the juridical or external aspect of *communio*. But complications also arise when an author overemphasizes the faith dimension.

For example, E. Corecco strongly emphasizes the role which *communio* should exercise in the Church's external life. Referring to canon 209, §1, he asserts that this obligation

shows that communion invests the ontological structure of the faithful, delineating their anthropological and ecclesial identity. Effectively, the duties and rights of living in communion with God and the Church form the ontological basis and immanent logic of a series of duties and rights [...].⁵⁵

From our perspective, a problem arises from the implications of this "ontological structure", especially in reference to *communio*'s visible dimension. While we agree that *communio* requires manifestation in the external realm, we do not agree that *communio* is identical with that external manifestation. We can perceive in and through the latter the reality of God's self-revelation (the intra-trinitarian *communio*)

⁵⁵ E. CORECCO, "Ecclesiological Bases", p. 10.

but cannot thereby deduce that the two realities are one and the same.⁵⁶ Succinctly put, finite language and concepts cannot contain the infinite.

Reference to the sacraments can assist us in this distinction. A sacrament exists as an effective means of God's self-communication to a person and to the community. The visible or audible signs reveal the presence of God's grace while still remaining signs; further, they do not exhaust the reality of grace. In other words, a sacrament is a real symbol, making present another reality, namely, grace. A real symbol reveals that which is symbolized and allows this to actualize itself in reality.⁵⁷

Similarly, the visible society of the Church -- the experiential expression of *communio* -- exists as a real symbol of God's salvific will. As such, it requires God's grace to exist and also reveals this grace. At the same time, the visible Church is not equivalent to or exhaustive of this divine reality. The Church is the primordial sacrament of salvation.

R. Castillo Lara agrees with this need to express both the internal and the visible. He states:

The two aspects, the interior and the exterior, are similar to the obverse and the reverse of the same medal: they are inseparable and

⁵⁶ Important implications result from such an identification. M. WJLENS, *Theology and Canon Law*, pp. 174-175, states that CORECCO's refusal to accept the societal aspect of the Church leads to his difficulties in his understanding of law. See also the criticism expressed by Y. CONGAR, "Bulletin d'ecclésiologie", in *RSPT*, 70 (1986), p. 634 referring to "Aspects of the Reception of Vatican II" by E. CORECCO.

⁵⁷ On the complex topic of real symbols, see, for example, K. RAHNER, "The Theology of the Symbol", in *TI*, volume IV, trans. K. SMYTH, Baltimore, Helicon Press, 1966, pp. 221-252; E. JOHNSON, ed., *Religious Symbolism*, New York, Harper and Brothers, 1955; and T. FAWCETT, *The Symbolic Language of Religion*, London, SCM Press, 1970.

indivisible. The one does not exist without the other and cannot establish only by itself authentic ecclesial communion.⁵⁸

As with a medal, we may emphasize or analyze the particular qualities of one aspect presented to our inspection, but this emphasis does not deny the presence of a second, equally important, aspect.

Thus, we have progressed in our understanding of *communio*. We may legitimately describe communion as a real symbol of God's self-revelation, or grace. As such, *communio* consists of an internal, faith dimension which finds expression in space and time through the visible society of the Church. In as much as the latter constitutes a real symbol, the visible Church exists as a necessary means of God's self-revelation. But the visible Church -- as situated within finite reality -- cannot fully express this internal, divine, reality from which the symbol originates.

From the new perspective offered by our understanding of *communio* as a real symbol, we shall now introduce certain principles constitutive of *communio*. These pertain to any application of *communio*, and thus unify various particular emphases or determinate manifestations.

⁵⁸ R. CASTILLO LARA, "La communion ecclésiastique dans le nouveau Code de droit canonique", in *SC*, 17 (1983), p. 336: "Les deux aspects, intérieur et extérieur, sont comme la face et le revers de la même médaille: inséparables et indivisibles. L'un n'existe pas sans l'autre et ne peut constituer à lui seul l'authentique communion ecclésiastique."

2.3.1. Principles constitutive of *communio*

From the discussion thus far, we contend that *communio* includes four foundational principles which express certain inherent characteristics or elements. In other words, we consider them necessary in an application of *communio*. The first principle states the divine origin of *communio*; the second, its necessary external manifestation; the third, its dynamic nature; the fourth, the existence of various grades or levels of *communio*.⁵⁹

i. The first principle

The first axiom asserts the divine origin of *communio*, founded upon the divine salvific will. *Unitatis redintegratio* states:

Whenever the sacrament of baptism is duly administered as our Lord instituted it, and is received with the right dispositions, a person is truly incorporated into the crucified and glorified Christ, and reborn to a sharing of the divine life.⁶⁰

Through baptism, an individual participates in the divine life and, through this participation, enters into the communion which exists within the Trinity.

J.-M.-R. Tillard, for example, emphasizes this trinitarian dimension when he asserts:

⁵⁹ These principles apply *primarily* to the human expression of *communio*, and *secondarily* (and by analogy) to the trinitarian *communio*. Thus, for example, we could not claim the necessity of external expression as operative within the divine *communio*.

⁶⁰ UR 22, in N.P. TANNER, *Decrees*, p. 919: "Baptismi sacramento, quodcumque iuxta Domini institutionem rite confertur ac debita animi dispositione accipitur, homo vere Christo crucifixo et glorificato incorporatur atque ad vitae divinae consortium regeneratur." See also, for example, LG 15.

The *communio* of Christians is not separable from that of the Father, the Son and the Spirit. All ecclesial reality, existence and action, can only be understood in light of this.⁶¹

In other words, the self-communication of the triune God creates, fosters, and encourages the growth of *communio*.

ii. The second principle

But stressing its origin in the divine life does not imply that *communio* exists only on the level of faith. Thus, the second principle asserts that *communio* requires external expression. From another perspective, the *Nota explicativa praevia* expresses this principle by stating that *communio* requires a juridical form. This necessity arises in part from the nature of the human person as a social being. Human nature demands that an individual's relationship with God and his or her participation in God's salvific plan occur within the context of humanity as a unity and not only with individuals taken in isolation. Further, Jesus Christ willed the external expression of

⁶¹ See J.-M.-R. TILLARD, *Église d'églises*, p. 73: "La *communio* des chrétiens n'est pas séparable de celle du Père, du Fils et de l'Esprit. Toute la réalité ecclésiale, être et action, ne se comprend qu'à cette lumière." TILLARD then states that the Gospel of John, Chapter 17 "[doit] être considéré le grand texte révélé sur la profondeur intérieure de la *communio* qui fait l'Église de Dieu" because it speaks of "being communion" and not "having communion". For TILLARD, *communio* is a concrete reality founded in the intra-Trinitarian relationship. The expression "being communion" also recalls K. RAHNER's analysis of Heidegger's philosophy, especially in regard to the concept of *Dasein*. See, for example, "Introduction au concept de philosophie existentielle chez Heidegger", in *Recherches de sciences religieuses*, 30 (1940), pp. 152-171; reprinted in English under the title "The Concept of Existential Philosophy in Heidegger", in *Philosophy Today*, 13, 3/4 (Summer, 1969), pp. 126-137. Such application offers an extremely fruitful area for future inquiry, that is, the development of a metaphysics of *communio*.

communio through establishing the Church as a continuing sign of God's salvific presence in the world.⁶²

iii. The third principle

From this basis, we maintain as our third principle that *communio* exists as a dynamic and not as a static reality. Since *communio* exists in process, men and women participate in the salvific reality of "being communion" which finds its source in God's divine life and his self-communication. Participation in *communio* arises both from baptism and the personal decision in response to God's grace.

Two further points arise from this dynamic nature. One centers on the teleology of communion, that is, the ultimate realization of communion. This fulfillment coincides with the fulfillment of the Church's definitive purpose, namely, "the coming of God's kingdom and the accomplishment of salvation for the whole human race."⁶³ The world forms the context within which Christians fulfill this

⁶² K. RAHNER developed a systematic theology in which theological anthropology occupies a pivotal place. On this issue, see, for example, "The Body in the Order of Salvation," pp. 71-89. In this article, he summarizes his position on p. 88 by stating: "The body is therefore nothing other than the self-consummation of the spirit in space and time. But this self-consummation of everything except God is of such a kind that it is essentially ambiguous and takes place in a sphere of existence in which all men and women communicate with one another from the very beginning." He also states on p. 79 that this "theology of bodily existence [...] also asserts itself in the doctrine of the Church and the sacraments." See also his article, "The New Image of the Church". The basic principle centers on the rejection of any Manichean or Platonic dualism, separating the body from the spirit.

⁶³ GS 45: "Ecclesia [...] ad hoc unum tendit ut regnum Dei adveniat et totius humani generis salus instauretur" (N.P. TANNER, *Decrees*, p. 1099). See also, for example, LG Chapter 7, "The eschatological character of the pilgrim church and its union with the heavenly church", in N.P. TANNER, *Decrees*, pp. 887-891. We should make an important nuance in our discussion of the Church's "purpose" and the realization of communion. According to A. DULLES, *The Reshaping of*

mission of the Church. In other words, they express *communio* through their lives and actions.⁶⁴

Lumen gentium 49 explicitly describes this dynamic aspect of *communio*. Until the parousia,

some of [Christ's] disciples are pilgrims on earth, others who have departed this life are being purified, while others are in glory gazing "clearsighted on God himself as he is, three in one"; all of us, however, though in a different degree and manner, communicate in the same love of God and our neighbour and sing the same hymn of glory to our God. For all who are in Christ, possessing his Spirit, are joined together into one church and united with each other in him.⁶⁵

The communion of saints and the communion of the Church on earth exist as different manifestations of the one salvific reality willed by God and not as separate realities. Thus, as participants in the dynamic reality of *communio*, Christians need, with God's grace, to express their belief through their actions. This brings us to our second point.

Since *communio* itself is dynamic, we must also conceive the obligation to maintain communion dynamically. Canon 210 succinctly expresses this aspect. It

Catholicism, p. 152, "purpose" as used here "is a normative, not a descriptive, term. It expresses not what empirically exists but what is intended to be [...]. The exalted goals of the church set forth by Vatican II constitute a challenge to the church as a whole and to each of its members to become in actuality what they are called to be and to put into practice the principles inherent in their faith."

⁶⁴ See A. DULLES, *The Reshaping of Catholicism*, p. 158. See also his discussion on pp. 149-153.

⁶⁵ N.P. TANNER, *Decrees*, pp. 888-889: "Alii e discipulis eius in terris peregrinantur, alii hac vita functi purificantur, alii vero glorificantur intuentes 'clare ipsum Deum trinum et unum, sicuti est'; omnes tamen, gradu quidem modoque diverso, in eadem Dei et proximi caritate communicamus et eundem hymnum gloriae Deo nostro canimus. Universi enim qui Christi sunt, Spiritum eius habentes, in unam ecclesiam coalescunt et invicem cohaerent in ipso."

states that the Christian faithful have the obligation "to live a holy life and to promote the growth of the Church and its continual sanctification." G. Ghirlanda cites this norm as a primary obligation since it "depends upon the universal vocation to sanctity and establishes ecclesial communion."⁶⁶

Believers who participate in the dynamic nature of *communio* need to remain aware both of its origin and its ultimate purpose. This will affect the way in which they lead their lives, and their approach to the rights and obligations which apply to all the faithful. Further, this dynamic nature implies that individuals (and communities) grow in their relationships within the *communio*, both in the external as well as in the faith dimension. This brings us to our last principle.

iv. The fourth principle

The divine foundation and dynamic nature of *communio*, as well as the nature of the person, lead to the conclusion that various levels of communion exist. These levels pertain both to the spiritual and to the external dimensions of *communio*. From our limited perspective, we can only judge the latter. But various grades of *communio* exist, depending on one's relationship to the Catholic Church.

This principle arises, first of all, from sacramental theology. More specifically, we base it upon the validity and efficacy of baptism among non-Catholic Christians.

⁶⁶ G. GHIRLANDA, *Il diritto nella Chiesa*, p. 95, number 75: "[c. 210] dipende dalla vocazione universale alla santità e costituisce la stessa comunione ecclesiale" and cites *LG* in this regard. He also cites the corresponding obligation on the part of bishops and pastors to promote the holiness of the faithful; see canons 387 and 528, §2.

Lumen gentium 15 states that individuals who have received valid baptism thus possess a true bond in the Holy Spirit with the Catholic Church. This remains true even if these persons do not profess the faith in its entirety or do not preserve the unity of communion. They are nonetheless joined with the Catholic Church, in which the Church of Christ subsists in its fullness.⁶⁷

Thus, in this and in other texts, the Council took a positive rather than negative perspective towards baptized non-Catholics. In other words, it stressed the positive factors of faith and unity which arise from the one sacrament of baptism rather than any negative factors. The latter refer to the lack of a full profession of faith and the consequent lack of full communion with the Catholic Church. Thus, to include this positive dimension within the principle of *communio*, the Second Vatican Council recognized that various grades of communion exist.⁶⁸

According to canon 205, a juridic judgement concerning the presence or absence of full communion depends on three specific elements which it enunciates as follows:

Those baptized are fully in communion with the Catholic Church on this earth who are joined with Christ in its visible structure

⁶⁷ See also UR 17; 22; and CS 92. On the topic of those outside full *communio*, see J.-M.-R. TILLARD, *Église d'églises*, especially pp. 384-398.

⁶⁸ See W. BERTRAMS, "De gradibus 'communio' in doctrina Concilii Vaticani II", pp. 286-288 and *passim*.

by the bonds of the profession of faith, of the sacraments, and of ecclesiastical governance.⁶⁹

Since the Catholic Church possesses the fullness of the means of salvation, an individual Catholic possessing full communion through these three bonds has a primary obligation of maintaining this communion.⁷⁰

Through these four principles, we have demonstrated that *communio* finds its origin in the intra-trinitarian life, constituting the individual a person within the People of God, within the Church of Christ. But *communio* cannot remain merely interior; it needs to be manifested in space and time. Due to its origin and need for expression, *communio* as a dynamic reality impels people to the fullness of life with God. Consequently, various grades of communion exist, depending upon a particular individual's relationship with the Catholic Church, in which the Church of Christ subsists.

3. *Communio* and related canonical issues

To specify further our understanding of *communio*, we need to address three additional topics. First, in reference to canon 205, two questions arise concerning the internal or spiritual dimension implicit in canon 205 and the bonds of faith,

⁶⁹ "Plene in communionem Ecclesiae catholicae his in terris sunt illi baptizati, qui in eius compage visibili cum Christo iunguntur vinculis nempe professionis fidei, sacramentorum et ecclesiastici regiminis." See also canon 96, which states that individual Christians exercise duties and rights "to the extent that they are in ecclesiastical communion and unless a legitimately issued sanction stands in the way."

⁷⁰ See J. BEYER, "La 'communio' comme critère", especially pp. 81-82.

sacraments, and governance themselves. Second, we need to examine more closely the concepts of "communion" and "incorporation" and determine what differences, if any, exist between them. Finally, we need to determine the type of obligation imposed by canon 209, §1.

3.1. Canon 205 and *communio*

Canon 205 names three bonds as indicative of the presence of full communion, namely, the profession of faith, the sacraments, and ecclesiastical governance. To discuss canon 205 systematically, we need to understand its origin. The *fontes* to the Code cite *Lumen gentium* 14 as the explicit source of this canon. In addition, *Unitatis redintegratio* specifically provides a context for situating communities which do not enjoy full communion with the Catholic Church within the one Church of Christ.

Commenting on *Lumen gentium* 14, A. Grillmeier states that the use of "fully" (*plene*) exercises a decisive role in the interpretation of the text. The word *plene*, replacing *reapse et simpliciter loquendo* found in the earlier versions of the text, indicates that different levels of relationship with the Catholic Church exist.⁷¹ Further, Grillmeier asserts that "full membership is realized on two levels, the inward or spiritual and the visible."⁷² On the external level, the bonds consist of the

⁷¹ A. GRILLMEIER, "The People of God", p. 176. J. PROVOST in the *CLSA Commentary*, p. 127, canon 205, states that the expression "full communion" "has become a technical term and protects the distinction between incorporation into the Church of Christ and degrees of communion with the Catholic Church."

⁷² A. GRILLMEIER, "The People of God", p. 176.

profession of faith, the reception of sacraments, and recognition of Church government. On the spiritual level, union with Christ and communion form the bonds. The latter "goes beyond the juridical and also takes in a life lived by a common faith and full participation in the sacramental and liturgical life of the community."⁷³

Reflecting the importance of this relationship with the Church, canon 205 originated in the *LEF*. In the *LEF 1969* and *LEF 1971* the canon followed the text of *Lumen gentium* 14 more explicitly. However, in the *LEF 1980*, as in the present Code, the canon deletes two phrases: "having the Spirit of Christ" (*spiritum Christi habentes*) and a fourth bond, that of communion. The omission of these phrases, particularly the first, has occasioned much debate on the interpretation of the canon.

E. Corecco asserts that the omission of the phrase *spiritum Christi habentes*

is a further example of the tenacious resistance offered by juridical positivism to the reception at the institutional level of the full formal dynamism inherent in the ecclesiological principle of *communio*, which has its roots in the mystery of the Trinity.⁷⁴

Thus, according to him, its omission indicates a lack of appreciation for the faith-dimension of *communio*.

The phrase and its absence from canon 205 continue to arouse discussion. Corecco situates V. De Paolis and F. Coccopalmerio on opposing sides. According

⁷³ A. GRILLMEIER, "The People of God", p. 177.

⁷⁴ See E. CORECCO, "Aspects of the Reception of Vatican II", p. 276. See also the discussion in P. COGAN, *The Understanding of Defection*, pp. 121-123.

to him, the former, along with W. Aymans, argue that the phrase *spiritum Christi habentes* "is juridically unimportant". On the other hand, F. Coccopalmerio, as well as H. Müller, rightly assign "a constitutional significance to the text."⁷⁵ For his part, J. Provost believes that the canon "restricts itself to the legally verifiable external criteria for determining who is a Roman Catholic." Yet he also recognizes the canon's reference to the spiritual dimension through the phrase "joined with Christ."⁷⁶

Although Corecco's assessment possesses a certain validity, we do not attach as much importance to the absence of *spiritum Christi habentes*. As a real symbol of God's grace, *communio* necessarily implies the presence of the Holy Spirit. Thus, given that *communio* has its ultimate foundation in the intra-trinitarian life, participation in which is communicated through the Church of Christ, particularly through the sacraments (and especially baptism), the Holy Spirit's presence is constitutive of the reality which *communio* symbolizes.⁷⁷

⁷⁵ E. CORECCO, "Aspects of the Reception of Vatican II", footnote 65, p. 276. For the positions of these authors, see W. AYMANS, "Die kanonische Lehre der Kirchengliedschaft im Lichte des II. Vatikanischen Konzils", in *Archiv für katholisches Kirchenrecht*, 142/2 (1973), pp. 397-417; F. COCCOPALMERIO, "Quid significant verba 'Spiritum Christi habentes'"; V. DE PAOLIS, "Communio et excommunicatio"; and H. MÜLLER, "Zugehörigkeit zur Kirche als Problem der Neukodifikation des kanonischen Kirchenrechts", *Österreichisches Archiv für Kirchenrecht*, 28 (1977), pp. 81-98.

⁷⁶ J. PROVOST, *CLSA Commentary*, canon 205, pp. 127 and 128. He also notes that deletion of the bond of communion (*vinculo communionis*) might have been due to difficulties in evaluating this bond in the external forum.

⁷⁷ On the role of the Holy Spirit in the Church's life, see, for example, Y. CONGAR, *I Believe in the Holy Spirit*, volume II. Succinctly, the Spirit's presence is necessary for *communio* -- for the Church -- to exist. See also J. PROVOST, *CLSA Commentary*, canon 205, p. 128 where he states "the ultimate reality of full communion transcends legally verifiable bonds. The Church

As a result, although canon 205 establishes juridic means for determining full communion, it "above all makes reference to the invisible reality of union with Christ."⁷⁸ This position raises difficult issues in applying canon law. For example, questions arise concerning canon 1055, §2 and the sacramental marriage of all the baptized.⁷⁹ Yet, the relationship between theology and canon law requires that canonists address such issues, especially from the perspective of Church doctrine. At the very least, canon law should recognize that its field -- law and juridically verifiable criteria -- cannot encompass all aspects of Christian life. Given the Church's divine nature and the Spirit's continuing presence and guidance, canonists should recognize the inherent limitations of merely external criteria.

This reading of the canon will necessarily influence our understanding of the three bonds required for full communion. Canon 205 states as the first bond the external manifestation (*professio*) of an interior reality, faith. But this external manifestation presupposes the presence of an interior faith-relationship between God

is a mystery, and the fullness of its reality goes beyond what can be expressed in law." Thus, even if the omission is considered an example of "juridical positivism", its absence does not mean that canonists can ignore the internal, spiritual dimension, even if the presence of the Holy Spirit can only be presumed.

⁷⁸ G. GHIRLANDA, *Il diritto nella Chiesa*, p. 92, number 72: "Il canone fa innanzitutto riferimento alla realtà invisibile della congiunzione a Cristo [...]." He continues by stating, "Primo elemento fondamentale è lo Spirito di Cristo, la grazia, partecipazione alla vita divina." Thus, without the Spirit, an individual cannot exercise certain rights, for example, receive or celebrate the Holy Eucharist (canons 915-916). L. CHIAPPETTA, *Il codice*, pp. 267-268, canon 205, states that the canon refers to the visible Church which is organized as a society. But full communion in this sense is not enough for salvation (*non basta ai fini della salvezza*), citing in this regard LG 12 and the distinction between those who belong to the Church both in the body and in the heart, as distinct from those who belong only to the body.

⁷⁹ See our discussion on this canon in Chapter V.

and the person. For example, canon 865, §1 expresses the requirements for adult baptism whereas §2 of the same canon modifies these when the danger of death exists. In the latter situation, and at the least, an adult who is not a catechumen "must give serious indication of conversion to Christ".⁸⁰ This bond thus presupposes some response to God's offer of grace.

Canon 205 next refers to the bond of the sacraments. Canon 840 describes the role of the sacraments in the Church's life as follows:

The sacraments of the New Testament, instituted by Christ the Lord and entrusted to the Church, as they are the actions of Christ and the Church, are the signs and means by which the faith is expressed and strengthened, worship is rendered to God and the sanctification of humankind is effected, and they thus contribute in the highest degree to the establishment, strengthening and manifestation of ecclesial communion [...].⁸¹

Through the sacraments, the Church explicitly fulfills its mission in the world as the universal sacrament of salvation.⁸² According to *Sacrosanctum concilium*, the intention of the sacraments "is to make people holy, to build up the body of Christ,

⁸⁰ Rituale Romanum, *Ordo Initiationis Christianae Adultorum*, English edition, Ottawa, Canadian Conference of Catholic Bishops, 1987, number 279. Latin text in Rituale Romanum, *Ordo Initiationis Christianae Adultorum*, Civitate Vaticana, Typis polyglottis Vaticanis, 1972, number 279: "Si non est catechumenus, oportet ut seria signa ostendat conversionis ad Christum."

⁸¹ "Sacramenta Novi Testamenti, a Christo Domino instituta et Ecclesiae concredita, utpote actiones Christi et Ecclesiae, signa exstant ac media quibus fides exprimitur et roboratur, cultus Deo redditur et hominum sanctificatio efficitur, atque ideo ad communionem ecclesiasticam inducendam, firmandam et manifestandam summopere conferunt [...]."

⁸² See, for example, K. RAHNER, "What is a Sacrament?", in *TI*, volume XIV, pp. 135-148.

and finally, to express a relationship of worship to God."⁸³ Further, the sacraments "not only presuppose faith; they also nourish it, strengthen it and express it, both through words and objects."⁸⁴ Thus, the bond of sacraments presumes the presence of an interior relationship with God.

The third bond, that of governance, refers to the Church's hierarchical structure. The Code considers this dimension in canons 330-572, "The Hierarchical Constitution of the Church". This bond pertains much more than the others to the external forum and to the Church's visible organization. However, it also presupposes not only an internal acceptance of the Church's constitution but also the bonds of faith and sacraments. Further, we may perceive the Church's governing structure as a means to ensure the profession of faith and the administration of the sacraments.

From the context of union with Christ, we suggest that the bonds express a progressive change in emphasis. They move from the primarily interior realm of faith through the sacramental mediation of the spiritual and visible realm to the primarily external realm of governance. Acceptance of these bonds as well as union with Christ in the visible Church indicate that a person lives in full communion with the

⁸³ *SConc* 59, in N.P. TANNER, *Decrees*, p. 832, l. 20-21: "Sacramenta ordinantur ad sanctificationem hominum, ad aedificationem corporis Christi, ad cultum denique Deo reddendum."

⁸⁴ *SConc* 59, in N.P. TANNER, *Decrees*, p. 832, l. 22-23: "Fidem non solum supponunt, sed verbis et rebus etiam alunt, roborant, exprimunt."

Catholic Church. We must now discuss the specific relationship between "incorporation into the Church" and "communion with the Church".

3.2. The relationship between "incorporation into the Church" and "full communion"

To deepen our understanding of "full communion", we need to contextualize it in reference to "full incorporation into the Church." To do this, we must once again refer to baptism. Through this sacrament, a person is incorporated into Christ and into his Church. We perceive the latter in its fullness, and thus participate in all the means of salvation given by God, only in the Catholic Church. At the same time, however, according to *Lumen gentium* 8, we cannot make an absolute identification between the Church of Christ and the Catholic Church.

Further, we should distinguish this "incorporation into the Church of Christ" from "full incorporation into the Catholic Church." According to *Lumen gentium* 14, the latter requires the bonds of faith, sacraments, and governance, as well as the Spirit of Christ. Thus, full incorporation demands faith in the sense of a personal relationship with God. This reading agrees with the opinion that *christifideles* in canon 204 refers to all the baptized and not just to those baptized into the Catholic Church. The canon speaks of incorporation, without the adjective "full" as a modifier.

Authors often assess the necessity for a person's faith commitment by referring to baptism. *The Rite of Christian Initiation* expresses this clearly by stating:

Therefore baptism is, above all, the sacrament of that faith by which men and women, enlightened by the Spirit's grace, respond to the gospel of Christ. That is why the Church believes it is her most

basic and necessary duty to inspire all [...] to that true and living faith by which they adhere to Christ and enter into or confirm their commitment to the new covenant.⁸⁵

Reflecting this concern, canon law also recognizes the importance of faith for adult baptism, as in canon 865 §1. For a child, the faith of the parents or those responsible for its care supplies.

K. Rahner has analyzed the relationship between faith and baptism. Every person receives the offer of God's grace prior to any personal decision; he or she must freely accept or reject this grace. With baptism, the person responds positively to God's offer and expresses this response through the desire for and reception of the sacrament. But the relationship between God and the individual cannot remain static after the reception of baptism. No matter when baptized, the ultimate and decisive acceptance of the sacrament occurs throughout the totality of a human and Christian life.⁸⁶

From this perspective, then, we can understand the distinction expressed in *Lumen Gentium* 14:

⁸⁵ Rituale Romanum, *Ordo Initiationis Christianae Adultorum*, number 3: "Quare Baptismus est in primis sacramentum illius fidei, qua homines, gratia Sancti Spiritus illuminati, respondent Evangelio Christi. Ecclesia igitur nihil antiquius nihilque sibi magis proprium habet quam ut omnes [...] excitentur ad illam veram et actuosam fidem, qua, Christo adhaerentes, pactum foederis novi ineant vel confirmant."

⁸⁶ This does not deny the validity or efficacy of infant baptism. Through the sacrament, the infant becomes a member of the Church, participates in the life of the Spirit and remains bound to the Church. But baptism achieves its proper meaning and full realization when a person actually accepts this offer, that is, in the adult life. See K. RAHNER, "Baptism", in *The Practice of the Faith. A Handbook of Contemporary Spirituality*, eds. K. LEHMANN and A. RAFFELT, New York, Crossroad Publishing Company, 1984, pp. 47-50.

That person is not saved, however, even though he might be incorporated into the Church, who does not persevere in charity; he does indeed remain in the bosom of the church "bodily" but not "in his heart".⁸⁷

The text here distinguishes between "incorporation into the Church" and "salvation." This distinction also applies to the terms "incorporation" and "full incorporation"; in the former, a specific activity, "persevering in charity", may be absent. A. Grillmeier stresses the importance of this *caritas* by stating:

Incorporation into the Church must ultimately be the fruit of personal decision for God, inspired by love. Without this *caritas*, to belong to the Church by professing the faith, receiving the sacraments, and acknowledging the government remains external and unavailing for salvation.⁸⁸

Thus, from a theological perspective, "full incorporation" is analogous to "full communion".

Communio from a theological perspective exists as participation in God's self-communication, a free gift to which a person must respond and allow to deepen and grow within. Without at least a hesitant yes to God's offer, the offer remains merely that, an offer. The person has not appropriated the grace of God already given.

But this does not mean that the sacramental character is somehow lost; the person remains "incorporated into the Church" but only in his "body" and not in his "heart". The permanence of this incorporation is expressed in the axiom, *semel*

⁸⁷ LG 14, in N.P. TANNER, *Decrees*, p. 860: "Non salvatur tamen, licet ecclesiae incorporetur, qui in caritate non perseverans, in ecclesiae sinu 'corpore' quidem, sed non 'corde' remanet."

⁸⁸ A. GRILLMEIER, "The People of God", p. 177.

*Catholicus, semper Catholicus.*⁸⁹ Thus, once validly baptized, a person cannot permanently and completely separate from the Church; that person remains "incorporated into the Church."⁹⁰

Emphasis centers on the theological notion of sacramental character. This finds external and verifiable expression in the valid conferral of baptism. The person remains incorporated into the Church but not fully.⁹¹

For its part, the juridic perspective and usage of *communio* serve a useful purpose in determining, for example, whether or not an individual can be appointed to an ecclesiastical office. But any limitation of *communio* to external, verifiable, criteria does not -- cannot -- fully express the reality which *communio* symbolizes. A presumption should exist that full communion implies more than certain elements verifiable in the external forum. This presumption is expressed by the phrase in canon 205, *cum Christo iunguntur*.

Thus, "full communion" implies a certain personal and active relationship with God, as does "full incorporation." Incorporation, like communion, admits of varying

⁸⁹ See E. CORECCO, "La sortie de l'Église pour raison fiscale", in *Austritt aus der Kirche. Sortir de l'Église*, ed. L. CARLEN, Freiburg, Universitätsverlag, 1982, p. 52.

⁹⁰ For one treatment of this teaching, see P. COGAN, *The Understanding of Defection*. Chapter I, "Historical Understanding of Defection", presents an overview of the historical development on the permanency of membership in the Church.

⁹¹ A number of important issues arise from a discussion of the permanency of baptism and the traditional understanding that an individual cannot leave the Church. Although the sacramental character perdures whatever the personal actions of the individual, it does not seem to ensue that an individual cannot leave the Catholic Church. This complex topic requires further reflection and discussion; P. COGAN has addressed a number of these issues in his dissertation, *The Understanding of Defection*.

degrees: non-incorporation, incorporation, and full incorporation. From a juridic perspective, external criteria determine the presence or absence of communion and incorporation. But both full communion and full incorporation presume the presence of some personal faith.

On the basis of the foundation established by the above discussion, we can now determine the specific nature of the obligation to maintain communion.

3.3. The nature of the obligation expressed in canon 209, §1

The majority of authors surveyed in this chapter do not explicitly determine the type of obligation expressed in canon 209, §1. Some refer to the issue in general. For example, P. Valdrini asserts that this obligation is more moral than juridic. J. Coriden, in commenting on the various literary forms in the Code, cites canon 209 as a norm of action, more specifically, as a directive.⁹²

The concept of literary forms establishes the context for our analysis of canon 209, §1. For his part, L. Örsy has developed a number of principles necessary to evaluate a specific norm contained in the Code. The evaluation begins with the principle of literary form as determinative of a canon's meaning from which derive several different categories. These include, for example, statements of belief, theological statements, moral statements, exhortations, metaphysical or scientific

⁹² J. CORIDEN, *An Introduction*, p. 32. Since he merely cites the canon as an example of this literary form, he does not develop his rationale for so describing this obligation. We should note that a typographical error in the text cites canon 210 instead of 209.

explanations, and right and duty situations.⁹³ We can ascribe a specific category to a particular norm.

In reference to canon 209, §1, we maintain that we can approach this canon from two perspectives, both of which reflect *communio*'s polysemous character. From the first perspective, the canon expresses a moral obligation, which derives from God's self-communication to an individual and the concomitant necessity of a response. The second perspective understands the canon as establishing a right and duty situation. It presupposes the underlying moral obligation. In other words, canon 209, §1 -- the dynamic of "maintaining communion" -- originates in God's salvific will, and finds further specification in baptism and in the social nature of the person. We must elaborate on this further.

As a result of God's salvific will, every person has the capacity not only to hear God's self-revelation but also to respond to this communication. God invites all men and women to enter into his trinitarian life, the *communio* of Father, Son, and Holy Spirit. A positive response establishes *communio* between the individual and God. But this *communio* represents a dynamic reality, a process that lasts throughout an individual's lifetime. The person must strive to deepen the relationship with God.

⁹³ See L. ÖRSY, "The Interpretation of Laws", pp. 107-111. See also L. ÖRSY, *Marriage in Canon Law. Texts and Comments, Reflections and Questions*, Wilmington, Delaware, Michael Glazier, 1986, p. 35; and R. CASTILLO LARA, "Some Reflections", p. 34, who states that "The code is not, however, a manual of law, tied down to the scientific severity proper to this kind of work; it is even not identified with canon law, not only in the sense that it does not intend to comprise all canon law of the Latin Church but also because *not all that it contains is necessarily, in the strict sense of the word, a juridical norm.*" (Emphasis added).

All people who positively respond to God's offer are placed within some degree of communion with the Church, which is the definitive sign of God's salvation. At the same time, God invites the individual to manifest externally his or her relationship with God through reception of baptism. This act furthers the *communio* relationship.⁹⁴

Baptism is the sacrament of faith and justification, the entrance into the Church, by which a person participates through the Holy Spirit in the Church's life and receives a share in Christ, in grace and righteousness.⁹⁵ The grace of baptism, as the life of the Spirit, seeks to be embodied in space and time. This is not always necessary; the Church recognizes the baptism of desire or of blood. But because this divine life always seeks to incarnate itself in the visible and social realm of the Church, whose essence and life is the grace of Christ, the embodiment of this grace is necessarily ecclesial (in its nature and in the form through which it is manifested) and not something which is left to a person's free choice.⁹⁶

Consequently, when a person lives in a situation in which this embodiment of God's grace called baptism is possible, then "he or she may not say that he or she indeed wishes the divine life and simultaneously decline its 'evidentiation,' its emer-

⁹⁴ As we have already noted, baptism itself establishes varying degrees of communion, which reaches its fullness in the Catholic Church.

⁹⁵ See K. RAHNER, "Baptism", trans. D. WHITE, in *Meditations on the Sacraments*, New York, Seabury Press, 1975, pp. 6-7.

⁹⁶ See K. RAHNER, "Baptism", in *The Practice of Faith*, p. 46.

gence to manifestation."⁷ In other words, a type of "existential command" exists which requires a person to express externally this cooperation with God's grace; a refusal to do so reflects a rejection of God. Baptism is both the effect and cause of grace precisely because here grace is fully realized and made present.

Since the relationship between God and a given individual cannot remain static after baptism, so one's participation in and maintenance of *communio* form not a static but rather a dynamic obligation. This obligation is centered on the person's growth in faith, in a relationship with God, and with the community of believers.

As one consequence, the person must specifically apply the theological and juridic necessity of maintaining *communio* to his or her own existential situation. This applies also to persons living in full communion with the Catholic Church. An individual, conscious of this obligation and guided by Church teaching and norms, must determine how to maintain communion in his or her life. This external manifestation should reflect an interior openness to God's grace. A second consequence also follows. The individual, by maintaining *communio* with the Church, can exercise rights and responsibilities.

Canon 209, §1 thus expresses an obligation arising from God's free self-communication to all men and women. God offers grace, but grace works with nature and not against it. As a result, the individual must dynamically respond, either

⁷ K. RAHNER, "Baptism", in *The Practice of Faith*, p. 46. Since the Church also recognizes the baptism of desire and of blood, if a person has no possibility of receiving baptism and yet lives his or her life orientated to God, then he or she participates, to some degree, in *communio*.

positively or negatively, to this offer. Further, we cannot separate this juridic norm from its divine origin: an individual remains in communion with the Church, and fulfills rights and obligations, in order to deepen further a personal relationship with God.

Conclusion

At the beginning of this chapter, we reviewed the redaction of canon 209, §1. From the perspective of the revision process as well as of Chapters I and II of this dissertation, we offered two tentative conclusions relative to the concept of *communio*. First, we noted the importance attached to the necessity of maintaining communion; second, the evidence supports the understanding of *communio* as polysemous.

In the course of this Chapter, we have demonstrated the foundation of and justification for these two propositions. Authors consistently state the importance of canon 209, §1 as a fundamental obligation on the part of the Christian faithful. This remains true, even if this understanding remains implicit, emerging, for example, only from a discussion of the requirements for appointing a person to an ecclesiastical office.

Further, the importance of maintaining communion finds its basis not only in the necessity for good order within the community, but also from the action of God's self-revelation, and the sacramental reality which is the Church. God desires to establish a faith relationship with all persons, and invites them to participate in his

own divine life. This salvific will necessarily involves the nature of the person as a social being, for a person cannot limit a relationship with God only to the internal sphere.

As a result, this participation in the life of grace assumes a social dimension, and with baptism, individuals are constituted the People of God. This participation reaches its fullest expression through communion with the Catholic Church. *Communio* assists the person's growth in relation both to God and to fulfillment of the mission given at baptism which involves a sharing in the three-fold office of Christ.

Thus, *communio* exercises a function within the visible society of the Church, assisting in the maintenance of good order within the community. But we cannot view this function in isolation, any more than we can view the Church only as a human society. Both have their foundation in God's salvific will; both reflect the presence of the Holy Spirit as a sign of God's permanent fidelity, guiding the community as it participates in its mission of proclaiming the good news of Jesus Christ. Thus, *communio* exists as a real symbol or the visible manifestation and communication of God's grace.

Furthermore, *communio* finds its ultimate purpose in the divine plan of salvation. Through theological and juridical consideration and discussion, *communio* finds the intellectual articulation of its nature, purpose, and function in the Church's life. The Christian faithful experience the reality of *communio* in their prayer, common worship, service, and fulfillment of their baptismal mission. This last process

is the most important, for abstract concepts remain merely abstract unless they find some correlation in concrete, everyday experiences.

This understanding of *communio* requires further analysis and development, especially in reference to the life of the Church. In Chapter IV, we shall begin this process by examining other references to *communio* contained in the Code of Canon Law.

CHAPTER IV

OTHER REFERENCES TO *COMMUNIO* IN THE CODE

After having established the remote and proximate foundations for canon 209, §1, we provided a canonical and theological commentary on the obligation that it expresses. To deepen our understanding of the canon, we shall now examine other references to *communio* in the Code. To proceed logically, we shall organize these references from the perspective of a three-fold division into *communio fidelium*, *communio Ecclesiarum*, and *communio hierarchica*.¹

To elucidate further the canonical interpretation and uses of *communio*, we need first to refer to one of the principles of canonical interpretation, namely, that of value. L. Örsy states that we can appreciate a law only when we know the value which it intends to uphold.² He elaborates further his understanding of this principle through references to anthropology.

¹ E. CORECCO, in "Ecclesiological Bases", p. 11, uses the expression *communio ministeriorum* rather than *communio hierarchica*. The majority of authors use the latter term. W. AYMANS, "Ecclesiological Implications", p. 134 notes that this three-fold division refers only to a means for approaching the structure of the Church and thus does not reflect various structures in the Church.

² L. ÖRSY, *Marriage in Canon Law*, p. 38. See also his article, "The Relationship Between Values and Laws", in *J*, 47 (1987), pp. 471-483. In the latter, referring to the ultimate purpose of Church laws, he concludes, "The values that the Church is seeking are not only what is fitting for our human nature but also what brings eternal life. Therefore laws in the Church have the task to minister (imperfectly, no doubt) in the distribution of divine gifts."

The nature of the person requires change, growth, and development. This process necessitates the search for and appropriation of "whatever can sustain life and enrich it, physically, emotionally, intellectually, and spiritually."³ Since the People of God, as individuals and as a community, also needs to grow and develop, the Church must discover specific values to assist it in its progress. Legal norms serve a beneficial purpose for the community only in as much as they uphold a specific value and assist the community in learning about and appropriating this value. Consequently, to interpret a specific norm, a canonist must discover the particular value it intends to communicate.⁴

It would appear that canon 209, §1, as a fundamental obligation, would uphold a fundamental value or values. But to determine the latter, we must first specify further the practical implications of this canon. In theory, we could discuss the entire Code in this regard. But to set specific boundaries to our investigation, we shall limit our inquiry to the canons which explicitly use the term *communio*.⁵

³ L. ÖRSY, *Marriage in Canon Law*, p. 41.

⁴ See L. ÖRSY, *Marriage in Canon Law*, pp. 41-43. In footnote 2, p. 43, he makes an important qualification: "In studying the connection between a system of laws and the values that it intends to promote, we should keep in mind also that some values are permanent, some are historically conditioned. A legal system may lose its effectiveness if it tries to uphold values that have lost their significance."

⁵ H. ZAPP, *Codex iuris canonici: Lemmata Stichwortverzeichnis*, Freiburg, Verlag Rombach, 1936, pp. 133-134, cites thirty-five references to *communio* in the *CIC/83*, either alone or in conjunction with specific adjectives or phrases. His references to *communio* begin with the term by itself, followed by *communio cum Apostolica Sede*; *communio cum Ecclesia*; *communio cum Ecclesia universa*; *communio cum Episcopis*; *communio Ecclesiae*; *communio ecclesiastica*; *communio fraterna*; *communio hierarchica*; *communio paroecialis*; *communio plena cum Ecclesia catholica*; and *communio plena Ecclesiae catholicae*.

We need to express one word of caution. We should understand this three-fold division of *communio* as a distinction, not a separation. These distinctions, which arise from a particular emphasis or perspective, should not obfuscate the fundamental unity of communion.

1. *Communio fidelium*

According to the divisions of *Lumen gentium*, this Constitution stresses the fundamental equality of all the faithful, established as the new people of God through baptism. This view serves as a corrective to a traditional understanding of the Church as a *societas inaequalium*. In the Code, Book II follows this pattern by enunciating first the common status of all the baptized (canon 204), prior both to articulating the distinction between clerics and laity and to the discussion of the Church's hierarchical constitution. Both *Lumen gentium* and the Code thus offer us an image of the Church primarily as the *communio fidelium*.^o

Consequently, we may consider the communion of the faithful as foundational to the Church as the sacrament of salvation. The acceptance and expression of,

^o W. AYMANS, "Ecclesiological Implications", p. 135. See also W. KASPER, *Theology and Church*, who states on p. 161, "The communion of the churches and the collegiality of the bishops is based on the more fundamental communion which is the church, the people of God itself." See also J. HAMER, "Dix thèses sur l'Église comme communion", in *Nova et vetera*, 59 (1984), pp. 172-174, where he develops his seventh thesis: "Par la communion ecclésiale -- réalité ontologique et pas seulement psychologique -- chaque fidèle est partie d'un tout numériquement un. Il participe à cette réalité unique dans la diversité des sacrements et autres dons spirituels qu'il a reçus." Although we may consider all persons who have received the gift of faith and have acted upon this gift as participants in the *communio fidelium*, in general we shall limit our analysis here to its particular expression with the Roman Catholic Church. The exception concerns references to grades of communion.

along with growth in, the gift of faith determines the empirical situation of the baptized. The *communio fidelium* finds its origin in the intra-trinitarian *communio*, a participation in which God confers with grace. As a result of this participation, the faithful become both participants and possessors of spiritual goods, such as the gifts of faith and the Holy Spirit. This common participation and possession engender union, both with one another and with God. This comprises the fundamental characteristic of *communio*.⁷

We can now turn to an examination of the Code and its references to the *communio fidelium*.

1.1. "Being-communion"

Canon 209, §1 provides a foundational orientation for all the baptized. The individual person, responding to God's invitation to establish a personal relationship, expresses this response in the external forum (either personally or through others) and receives baptism. The person is thus constituted a member of the People of God. As a consequence, this person is obliged to live in communion with God and with the community into which he or she has been baptized. Further, this *communio* relationship -- on both levels: with the community and with God -- is not static but

⁷ See, for example, R. CASTILLO LARA, "La communion ecclésiale dans le nouveau Code", pp. 335-336, and J. HAMER, "Dix thèses sur l'Église comme communion", p. 161. His first thesis states in part: "La communion suppose à la fois la possession conjoint d'un même bien et les liens de corrélation (ou de 'correspondance') qui en résultent."

dynamic. It requires the person's active cooperation. Finally, the obligation to live in communion finds empirical expression in various ways in the life of the Christian.

Canon 205 expresses the requirements determinative of those who live in full communion with the Catholic Church. The *sine qua non* is reception of baptism from which ensues union with Christ in the visible structure by the bonds of faith, sacraments, and governance. Canon 96 articulates the consequences of baptism, namely, a person enjoys the duties and rights proper to Christians. The canon also notes two requirements. Participation in duties and rights depends on the individual's remaining in ecclesiastical communion. Further, a "legitimately issued sanction" can prevent the exercise of duties and rights.

The relationship between canons 96 and 204 forms the basis for much canonical discussion. If R. Castillo Lara believes that canons 204 and 96 are so alike that we could consider their presence in the Code "an unnecessary duplication", he nonetheless notes the distinctiveness of each canon's perspective. He states:

C. 96 in a more juridical slant presents the baptized as a "person" in the Church, that is as *subiectum iuris*, and is placed therefore in book I which has a more refined juridical character, while c. 204 presents a theological notion, which has been appropriated to define the baptized as a member of the people of God and therefore introduces book II, which treats precisely of the people of God.⁸

While we would more strongly emphasize the theological perspective of canon 204 and, as a general theological principle, apply it to all the baptized, Castillo Lara

⁸ R. CASTILLO LARA, "Some General Reflections", p. 25, footnote 54.

focuses on the singular nature of canon 96 as describing a baptized person as a *subiectum iuris*.

The exercise of rights and duties by the baptized occurs within a particular context. Canon 209, §2 specifies this context by exhorting the *christifideles*

to fulfill with great diligence the duties which they owe to the universal Church and to the particular Church to which they belong according to the prescriptions of law.⁹

According to canon 102, Catholics belong to a particular church, that is, either to a parish or a diocese. Canon 529, §2 requires the parish priest to assist the faithful so that they realize they are members both of the diocese and of the entire Church.

Further, the sacramental life serves an important function in reference to Church *communio*. Canon 840 states that the sacraments are

the signs and means by which the faith is expressed and strengthened, worship is rendered to God and the sanctification of humankind is effected, and they thus contribute in the highest degree to the establishment, strengthening and manifestation of ecclesial communion [...].¹⁰

The canon thus offers valuable insights into the nature of ecclesial communion. *Communio* aims at the deepening of faith and its social expression. The latter involves public worship of God, mutual support within the community, and the active participation of the faithful in bringing about the Reign of God.

⁹ "Magna cum diligentia officia adimpleant, quibus tenentur erga Ecclesiam tum universam, tum particularem ad quam, secundum iuris praescripta, pertinent."

¹⁰ "[...] signa exstant ac media quibus fides exprimitur et roboratur, cultus Deo redditur et hominum sanctificatio efficitur, atque ideo ad communionem ecclesiasticam inducendam, firmandam et manifestandam summopere conferunt [...]."

This active participation is one positive effect of living in full communion. The Code in canon 512 specifies a particular opportunity for such participation, stating that the members of the pastoral council are to be "Christian faithful who are in full communion with the Catholic Church."¹¹ But more often the Code uses *communio* in reference to certain negative consequences which ensue if a person does not remain in full communion with the Church.

For example, canon 149, §1, requires that an individual remain "in the communion of the Church" in order to receive promotion to an ecclesiastical office. A person loses an ecclesiastical office if he or she "has publicly defected from the Catholic faith or from the communion of the Church" (canon 194, §1). Canon 171, §1, 4° removes eligibility for voting from one who has "notoriously defected from the communion of the Church." Canon 316, §1 debars from reception into a public association a Catholic who has "publicly rejected the catholic faith or abandoned ecclesiastical communion."¹²

The canons distinguish between defection from the communion of the Church and from the Catholic faith. The first implies defection from "full communion", for "only defection from the condition of full communion is possible; defection from a

¹¹ "Consilium pastorale constat christifidelibus qui in plena communione sint cum Ecclesia catholica [...]."

¹² For a discussion of the terms "defection", "public defection", and "notorious defection", see P. COGAN, *The Understanding of Defection*, pp. 133-163. He asserts on p. 156 that "public" enjoys a lesser degree of awareness by the community than 'notorious'. Nevertheless, it must be recognized that the distinction between the two concepts is very nuanced and frequently difficult to apply."

lesser condition is not possible."¹³ Consequently, we may use the bonds articulated by canon 205 to determine if one lives in full communion or not.¹⁴

In reference to the phrase "Catholic faith", canon 750 requires the Christian faithful to believe "with divine and catholic faith" all that which is

contained in the written word of God or in tradition, that is, in the one deposit of faith entrusted to the Church and also proposed as divinely revealed either by the solemn magisterium of the Church or by its ordinary and universal magisterium.¹⁵

F. Sullivan expresses this requirement by stating, "The faith of the Church is normative for the individual who wishes to belong to it."¹⁶ The gift of faith to an individual requires a free response, one manifestation of which is entrance into the Church. But once individuals have chosen to enter the Church, they cannot choose which particular beliefs they will accept. Through baptism, then, a person joins a "community that is united in the profession of the same apostolic faith."¹⁷

¹³ P. COGAN, *The Understanding of Defection*, p. 162.

¹⁴ Although a judgment concerning the presence or absence of the bonds of faith, sacraments, and governance is founded primarily upon external criteria, we should nonetheless presume the presence of a personal faith dimension for full communion.

¹⁵ "[...] verbo Dei scripto vel tradito, uno scilicet deposito Ecclesiae commisso, continentur, et insimul ut divinitus revelata proponuntur, sive ab Ecclesiae magisterio sollemni, sive ab eius magisterio ordinario et universali."

¹⁶ F. SULLIVAN, *Magisterium*, p. 12.

¹⁷ F. SULLIVAN, *Magisterium*, p. 12. In discussing the normative character of the profession of faith on pp. 15-16, he also states that "[...] 'orthopraxy' is more important than 'orthodoxy'. No errors in belief, however egregious, will keep a person from the love and mercy of God, as long as the person's heart is in the right place. The last judgment is not going to be an examination of catechism, where knowing the right answers will assure us of salvation."

Canon 751 expresses three serious ways in which a person abandons communion with the Church, namely, through heresy, apostasy, or schism. The first two refer to rejection (in part or in entirety) of that which "must be believed with divine and catholic faith." The canon then defines schism as "the refusal of submission to the Roman Pontiff or of communion with the members of the Church subject to him."¹⁸

The understanding of schism has undergone numerous changes in Church history, many of which are dependent upon a particular ecclesiological perspective. C. Dumont states that, previous to Counter-Reformation theology, "the drama of separation was conceived of as taking place *within* the Church, considered essentially as a *fellowship*."¹⁹ As a prerequisite for this understanding, schism, while harming Church unity, could not involve serious differences in the faith and would maintain the sacramental and hierarchical Church organism (that is, the episcopate and priesthood of apostolic succession). But with a different ecclesiology, a different understanding arose:

By defining the Church as a hierarchically constituted *society* under the supreme authority of the Bishop of Rome, and by identifying the Church purely and simply with the Roman Catholic Church, the Counter-Reformation made out schism to be a separation *from the Church itself*.²⁰

¹⁸ "[...] subiectionis Summo Pontifici aut communionis cum Ecclesiae: membris eidem subditis detrectatio."

¹⁹ C. DUMONT, "Schism", in *Sacramentum Mundi. An Encyclopaedia of Theology*, volume VI, ed. K. RAHNER, New York, Herder and Herder, 1970, p. 7.

²⁰ C. DUMONT, "Schism", p. 7.

Consequently, schism not only harmed Church unity but separated a person or group from the Church.

Due to Vatican II's influence, especially its teaching on various grades of communion, many theologians are returning to the earlier understanding of schism. But as a result, C. Dumont believes that we must distinguish two different meanings of schism:

Canonically, [schism] is a breach of jurisdictional relations with the See of Rome; *theologically*, without excluding full participation in the mystery of the Church, it places an obstacle to the full and manifest realization of its unity -- a realization and manifestation which require the unanimous profession of the faith, effective membership of a unique, hierarchical, sacramental organism, and the common celebration (reception) of the same sacraments, particularly the Eucharist, the internal bond and external sign *par excellence* of the unity of the Church.²¹

In other words, schism -- at the very least -- breaks one of the bonds which are necessary for full communion, that of governance.

In summary then, we may say that the obligation to maintain communion expresses itself through the lives of the baptized. The positive dimension centers on the mission of sanctification of self and of the world deriving from baptism; the negative dimension -- loss of communion -- focuses on the loss of the ability to exercise or fulfill certain rights and duties.

²¹ C. DUMONT, "Schism", p. 8.

We shall now turn to three specific examples of the positive dimension of *communio fidelium*, namely, the *sensus fidelium*, the common priesthood, and the *vita fraterna* which exists in religious life.

1.1.1. The *sensus fidelium*

At its most foundational level, the *communio fidelium* finds expression through the *sensus fidelium*, or the objective articulation of the *sensus fidei*. Y. Congar explains the correlation between these two terms as follows:

On the one hand, there is the *sensus fidei*, which is a quality inherent in the *subject*, on whom the grace of faith, charity, the gifts of the Spirit confer a *faculty of perceiving the truth of the faith and of discerning anything opposed to it*. The *sensus fidelium*, on the other hand, is what can be grasped from the outside, objectively, about *what the faithful, and especially layfolk, believe and profess*.²²

Thus, the *sensus fidei*, as a supernatural gift of God, inheres in a particular believer whereas the objective expression of individuals' beliefs is known as the *sensus fidelium*.

The concept of *sensus fidelium*, although present in canon 55, §2, of the *LEF 1971*, does not explicitly appear in the present Code. Canon 750 refers to "the common adherence of the Christian faithful under the leadership of the sacred magisterium", which adherence manifests the deposit of faith.²³ This statement, with

²² Y. CONGAR, "Toward a Catholic Synthesis", in *Concilium*, 148.8 (1981), p. 74, his emphasis. See also in the same issue, L. SARTORI, "What is the Criterion for the *Sensus Fidelium*?", pp. 56-60; and P. GRANFIELD, *The Limits of the Papacy. Authority and Autonomy in the Church*, New York, Crossroad, 1987, pp. 135-140.

²³ "[...] communi adhaesione christifidelium sub ductu sacri magisterii."

its emphasis on the magisterium, does not adequately echo conciliar references.

More specifically, *Lumen gentium* 12 states:

The universal body of the faithful who have received the anointing of the holy one (see 1 Jn 2, 20 and 27), cannot be mistaken in belief. It displays this particular quality through a supernatural sense of the faith in the whole people when "from the bishops to the last of the faithful laity", it expresses the consent of all in matters of faith and morals.²⁴

The Constitution then refers to the guiding role of the sacred magisterium. But this conciliar text more clearly expresses the teaching that the entire People of God, and not only the magisterium, exercise an active role in matters of faith.²⁵

From a more positive aspect, the Code often refers to the faithful's active role in proclaiming the faith. For example, all *christifideles* are obliged to promote the Church's growth and sanctification (canon 210) as well as help disseminate the good news of salvation (canon 211). Parents are obliged to educate their children in the faith (see canons 226, §2; 774, §2; 793, §1). Canon 225, §2 states that lay faithful have a special duty to bring the spirit of the gospel to temporal affairs. E. Corecco notes that canon 23 refers to the role of the community of the faithful (*communitas*

²⁴ In N.P. TANNER, *Decrees*, p. 858, l.17-21: "Universitas fidelium, qui unctionem habent a sancto (cf. 1 Io. 2, 20 et 27), in credendo falli nequit, atque hanc suam peculiarem proprietatem mediante supernaturali sensu fidei totius populi manifestat, cum 'ab episcopis usque ad extremos laicos fideles' universalem suum consensum de rebus fidei et morum exhibet." In the *LEF 1969*, canon 55, §2 contains this one sentence; in the *LEF 1971*, the canon adds the following sentence: "Illo enim sensu fidei, qui a Spiritu veritatis excitatur et sustentatur, Populus Dei sub ductu sacri magisterii, cui fideliter obsequens, iam non verbum hominum, sed vere accipit verbum Dei (cf. 1 Th 2, 13), 'semel traditae sanctis fidei' (Iud. 3), indefectibiliter adhaeret, recto iudicio in eam profundius penetrat eamque in vita plenius applicat."

²⁵ E. CORECCO, "Aspects of The Reception of Vatican II", p. 267, asserts that canon 750 "seriously mutilates" the meaning of the *sensus fidei*.

fidelium) in introducing new customs. Further, canon 27 states "Custom is the best interpreter of laws."²⁶ These references indicate the broad scope of the faithful's mission in the world.

1.1.2. The common priesthood of the faithful

The doctrine of the *sensus fidelium* finds a correlation in the common priesthood of all the baptized, that is, a participation in the *munus* of Christ the priest. This participation reflects the invitation of Jesus Christ to enter into his mission of bringing about the Reign of God.

D. LeTourneau notes that this participation in the priesthood of Christ is founded, on the one hand, upon the sacraments of baptism and confirmation and, on the other, upon the sacrament of orders.²⁷ Baptism establishes the sacerdotal quality of the people of God. But some members of this people are also called by Christ to the ministerial priesthood and receive the sacrament of orders to fulfill this purpose.

Lumen gentium 10 states that an essential difference, and not merely one of degree, exists between the common and the ministerial priesthood. The constitutive necessity of the ministerial priesthood arises from the salvific will of Christ. In other words, this ministry of Word and Sacrament is the means by which "the Church is

²⁶ E. CORECCO, "Aspects of the Reception of Vatican II", p. 255. Yet, at the same time, he notes that the canons are too general and do not sufficiently acknowledge the faithful's role.

²⁷ D. LeTOURNEAU, "Le sacerdoce commun et son incidence sur les obligations et les droits des fidèles en général et des laïcs en particulier", in *RDC*, 39 (1989), p. 156.

established and continues to exist as the people of God."²⁸ But the ministerial priesthood is at the service of the common priesthood of the people of God, the *conditio fidelis*. Thus, the common priesthood is conceptually (but not functionally or chronologically) anterior to the ministerial priesthood.

Despite the great importance of the concept, the Code does not adequately recapitulate conciliar teaching on the common priesthood. Canon 836 refers to the exercise of the "common priesthood of the Christian faithful" (*sacerdotium commune christifidelium*) in Christian worship. We need to compare this, for example, with *Lumen gentium* 34, which states:

[Jesus Christ] associates [the laity] intimately with his life and mission and has also given them a share in his priestly office of offering spiritual worship [...]. For all their works, if done in the Spirit, become spiritual sacrifices acceptable to God through Jesus Christ: their prayers and apostolic works, their married and family life, their daily work, their mental and physical recreation, and even life's troubles if they are patiently borne (see 1 Pt 2, 5).²⁹

The Code omits this specific foundation for the mission of the baptized. For example, canon 225, §2 -- the lay mission to bring the spirit of the gospel to temporal affairs -- does not refer to the common priesthood. Canon 216 states that all the

²⁸ D. LeTOURNEAU, "Le sacerdoce commun", p. 159: "[...] que l'Église puisse se constituer et continuer d'exister en tant que peuple de Dieu."

²⁹ *LG* 34, l. 9-17: "Illis enim, quos vitae et missioni suae intime coniungit, etiam sui muneris sacerdotalis partem tribuit ad cultum spiritualem exercendum, ut glorificetur Deus et salventur homines [...]. Omnia enim eorum opera, preces et incepta apostolica, conversatio coniugalis et familiaris, labor quotidianus, animi corporisque relaxatio, si in Spiritu peragantur, imo molestiae vitae si patienter sustineantur." See also *LG* 10.

christifideles participate in the Church's mission but does not specify the origin of this participation in the *munus* of Jesus Christ the priest.³⁰

The absence of a fuller recognition of the common priesthood of the faithful and of the sacramental basis for the apostolate common to all *christifideles* can have important implications.³¹ For example, some may misunderstand the faithful's participation in the Church's mission as something delegated to them (for example, by the hierarchy) rather than an inherent right conferred by baptism. This mission applies to all members of the communion of the faithful, and not to either the laity or the hierarchy in isolation.

Further, acknowledgement of a *communio* ecclesiology demands such a recognition. W. Kasper asserts:

But substantially speaking, this meaning of *communio* is fundamentally part of the doctrine about the common priesthood of all the baptized, which was revived by the council (*Lumen gentium* 10), and the *actuosa participatio* of the whole people of God, which is based on that common priesthood (*Sacrosanctum concilium* 14 and

³⁰ Discussing the relationship between the common priesthood and the ministerial priesthood, E. CORECCO, "Aspects of the Reception of Vatican II", states on p. 269 that we cannot limit the first to the sphere of private life. "In the Church, however, it is impossible to demote the common priesthood, which is the first and irreplaceable pole of the Church as an institution, to the sphere of private life, once it is realized that the function of representing the institution cannot be assigned exclusively to the other pole, namely, the ministerial priesthood. [...] Because the common priesthood continues even in the ministerial priesthood, and because the ministerial priesthood exists only to serve the common priesthood, which is primary in relation to it, it is not possible to split their unity and structural reciprocity by using the criteria of public and private."

³¹ We are referring here to a specific context, namely, the title concerned with the "The Obligations and Rights of all the Christian Faithful".

frequently). This does not apply merely to the liturgy. It affects the whole life of the Church.³²

In other words, the common priesthood of the faithful and the ensuing dignity and mission of all the baptized form the foundational manifestation of *communio* in general and of the *communio fidelium* in particular. This reflects the fundamental unity intrinsic to communion, founded upon common participation and possession of spiritual goods.

1.1.3. *Vita fraterna*

Canon 207, §2, states that, among both sacred ministers and laity, there are *christifideles* who

are consecrated to God in their own special manner and serve the salvific mission of the Church through the profession of the evangelical counsels by means of vows or other sacred bonds recognized and sanctioned by the Church.³³

The canon then asserts that this state of life, while part of the Church's life and holiness, does not pertain to its hierarchical structure. Consequently, as J. Provost explains, the basis of this state

³² W. KASPER, *Theology and Church*, p. 161. He also states that, through this aspect of *communio* ecclesiology, "the idea about the church as an 'unequal society' has in principle been surmounted. It means that the common existence of the people of God precedes all differences of functions, charismata and ministries." Thus, it seems that our task is to concretize this principle in the Church's life.

³³ "[...] professione consiliorum evangelicorum per vota aut alia sacra ligamina, ab Ecclesia agnita et sancita, suo peculiari modo Deo consecrantur et Ecclesiae missioni salvificae prosunt."

lies not in the Church's hierarchical structure but in the more complex mystery of the Church itself which combines human and divine elements, hierarchical structure and charisms.³⁴

From this perspective, then, we may consider communion within a particular institute as one example of the *communio fidelium*.

One explicit reference to this communion occurs in canon 602, which states in part:

Moreover, by their communion as brothers or sisters, rooted in and built on love, the members are to be an example of universal reconciliation in Christ.³⁵

S. Holland explains that the context for this *fraterna communio*, the *vita fraterna*, refers not to life in community but rather to

the spirit of oneness, rooted in baptism, binding together even more closely in Christ those who have been called in a common vocation of charism, life and mission.³⁶

The *fraterna communio* carries this notion further, for its foundation is "charity in union with Christ", and, as such, it forms "a model of reconciliation in Christ."³⁷ We

³⁴ J. PROVOST, *CLSA Commentary*, p. 133, canon 207.

³⁵ "Fraterna autem communione, in caritate radicata et fundata, sodales exemplo sint universalis in Christo reconciliationis."

³⁶ S. HOLLAND, *CLSA Commentary*, p. 467, canon 602.

³⁷ J. BEYER, *Le droit de la vie consacrée. Normes communes*, volume I, Paris, Éditions Tardy, 1988 p. 135: "la charité en union au Christ [...] un modèle de réconciliation dans le Christ." See also E. GAMBARI, *Vita religiosa: secondo il concilio e il nuovo diritto canonico*, Roma, Edizioni Monfortane, 1985, pp. 343, 349, 354, 452, 455.

should understand this reconciliation in the sense of "a very profound union with God, of fraternal pardon, of collaboration and union in charismatic fraternity."³⁸

Canon 716, §2 contains a second reference to this *vita fraterna*:

Members of the same institute are to maintain communion among themselves, carefully fostering unity of spirit and genuine relationship as brothers or sisters.³⁹

As with canon 602, this canon does not primarily refer to life in community but rather to a common spirit among the members. This common spirit derives from a shared charism.⁴⁰ Thus, we should recognize that this unity arises from an individual's relationship with God, from the acceptance of a particular vocation given to him or to her, an acceptance shared with the other members of the institute and expressed in one's daily life.

From these two canons, we may understand *fraterna communio* as one particular manifestation of the communion of the faithful. In other words, it forms a specific example of the way in which some of the *christifideles* give expression to *communio* through their lives and actions.⁴¹ Canons 602 and 716, §2 exhort the

³⁸ J. BEYER, *Le droit de la vie consacrée*, p. 134: "La réconciliation ayant ici un sens très profond d'union à Dieu, de pardon fraternel, de collaboration et d'union en fraternité charismatique." BEYER also cites canons 619 and 640 in reference to this *fraterna communio*.

³⁹ "Eiusdem instituti sodales communionem inter se servant, sollicite curantes spiritus unitatem et genuinam fraternitatem."

⁴⁰ See S. HOLLAND, *CLSA Commentary*, p. 529, canon 716.

⁴¹ R. CASTILLO LARA, "La communion ecclésiale", states on p. 349, "Cette fraternité, inspirée par l'exemple de l'Église primitive, devient modèle et paradigme de la communion ecclésiale qui devrait trouver dans leur mode de vie sa concrétisation et son expression visible et exemplaire."

members of an institute to allow their intimate relationship with God -- their participation in the divine *communio* -- to determine the specific modality of their baptismal participation in the Church's mission. This participation affects not only their relationship with their brothers or sisters within the institute, but also with all men and women. Through their witness, they assist in bringing about the Reign of God.

1.2. References to grades of *communio*

The Code also contains certain references to conciliar teaching concerning grades of communion. These canons thus recognize that the sacrament of baptism creates a common bond among all those within the one Church of Christ.

Canon 383, §3 exhorts the diocesan bishop

to act with kindness and charity towards those who are not in full communion with the Catholic Church, fostering ecumenism as it is understood by the Church.⁴²

The canon as a whole emphasizes the pastoral responsibility of the bishop. Among the sources cited in the *fontes* of this canon, *Christus Dominus* 16 insists on the bishop's role to witness to the love of Jesus Christ before all people. This role arises from his place as "the proper, official, and immediate" shepherd of his particular

⁴² "Erga fratres, qui in plena communione cum Ecclesia catholica non sint, cum humanitate et caritate se gerat, oecumenismum quoque fovens prout ab Ecclesia intellegitur."

church.⁴³

The bishop's care for all the baptized extends even to the diocesan synod whose members assist the bishop "for the good of the entire diocesan community."⁴⁴ According to canon 463, §3, its membership may include as observers "some ministers or members of churches or ecclesial communities which are not in full communion with the Catholic Church."⁴⁵

Most importantly, the Church extends its pastoral care by making available, under specific conditions, certain sacraments to members of the Eastern Churches and to separated Christians. Canon 844, §1 articulates a basic principle that "the administration/reception of the sacrament presupposes, even in the visible sign, full Catholic communion between minister and recipient."⁴⁶ The following paragraphs

⁴³ See CD 11. On ecumenism, the *fontes* cite the SACRA CONGREGATIO PRO EPISCOPIS, *Directorium de pastoralis ministerio episcoporum*, Civitate Vaticana, Typis polyglottis Vaticanis, 1973, nos. 48 and 158. The latter text begins by stating, "Zelo et caritati Episcopi commendantur fratres christiani a catholica Ecclesia seiuncti; eodem spiritu etiam clerici et laici affici debent." As one consequence, therefore, the Bishop "proxim fovet oecumenismi: oecumenismum spiritualem in primis, idest interiorem christianorum conversionem, deinde orationem, cuius iam pervulgata forma laudanda est qua dicitur *hebdomada pro unione*, nam denique oecumenicam cum fratribus seiunctis, constituta quoque, ubi fieri possit, commissione oecumenica diocesana." See also canons 364 and 755.

⁴⁴ Canon 460: "in bonum totius communitatis diocesanae."

⁴⁵ "[...] aliquos ministros aut sodales Ecclesiarum vel communitatum ecclesialium, quae non sunt in plena cum Ecclesia catholica communiōne." The *fontes* also cite SECRETARIATUS AD CHRISTIANORUM UNITATEM FOVENDAM, *Directorium ad ea quae a Concilio Vaticano Secundo de re oecumenica promulgata sunt exsequenda*, in AAS, 59 (1967), pp. 574-592 (= *Directorium*), numbers 3-6 and 25-63. Numbers 3-6 refer to the diocesan ecumenical commission and its function; 25-63 comprise the last section: "IV. De communicatione in spiritualibus cum fratribus seiunctis."

⁴⁶ *SPCU-Ecumenical*, p. 66. Citing *Directorium*, numbers 29-31, commenting on the administration/reception of sacraments, the text states that canon 844 refers specifically to *communicatio in sacris* and does not pertain to *communicatio in spiritualibus* nor to *communicatio in sacris* in other acts of worship. A related issue concerns the inherent unity in the three sacraments

express exceptions to this principle.⁴⁷

From the perspective of *communio*, this canon emphasizes the fundamental unity arising from belief in Jesus Christ and from the reception of baptism. Thus, all the baptized share a responsibility to promote efforts which strive for the unity intended by Jesus Christ. But at the same time, this unity remains inchoate in the visible dimension. Very important issues continue to divide the various Christian communities. Further, the forced creation of unity could ultimately lead to greater divisiveness.⁴⁸

The Code thus acknowledges the teaching of *Lumen gentium*: the common foundation of faith in Jesus Christ unites all the baptized among themselves and places them in a relationship with the Catholic Church. At the same time, it recognizes the importance of faith's necessary social expression, the visible

of initiation. Canon 883, 2° reflects this unity by granting to priests the faculty to confirm a baptized person who is being admitted to full communion with the Catholic Church.

⁴⁷ Paragraphs 3 and 4 distinguish between "members of the the oriental churches which do not have full communion with the Catholic Church" (§3) and other non-Catholic Christians (§4). The latter establishes more stringent conditions, reflecting a belief that these persons possess a lesser degree of communion with the Catholic Church.

⁴⁸ The Code recognizes this by articulating various norms guiding relationships between Catholics and non-Catholics. For example, canon 908 forbids Catholic priests from concelebrating the Eucharist with priests or ministers of churches or ecclesial communities which do not enjoy full communion with the Catholic Church. Canon 933 requires that a priest have the express permission of the local ordinary and a just cause to celebrate the Eucharist in the sacred edifice of these churches or communities. In reference to marriage, canon 1124 forbids a mixed marriage without the express permission of the competent authority. According to T. Doyle, *CLSA Commentary*, canon 1124, p. 801, "This prohibition is based on the presumption that a marital relationship between persons of different denominations will impede their spiritual communion. Although the prospective spouses may profess a common belief in Jesus Christ, the expression of this belief can vary greatly. Thus, although two persons may share a common belief in Jesus Christ, the absence of a shared, communal articulation of this belief may strain the relationship."

community, and the necessary unity expressed through common profession of this belief. A common faith has encouraged and continues to encourage ecumenical dialogue between the Catholic Church and other churches and ecclesial communities which do not enjoy full communion with it.

2. *Communio ecclesiarum*

Canon 368 refers to the communion of churches through its citation of *Lumen gentium* 23, thus recognizing the reciprocal relationship existing among particular churches and the Catholic Church. The canon states:

Particular churches in which and from which exists the one and unique Catholic Church are first of all dioceses [...].⁴⁹

Since the Church as an entirety is realized in each particular church, "all local Churches are ontologically immanent in each local Church."⁵⁰ But in addition to the reciprocal relationship existing among particular churches and the entire Church, Corecco states that a relationship also exists among particular churches with each other.

J.-M.-R. Tillard reflects this understanding when he states:

The local Church as *koinonia* of faith, love, and hope -- the church where each bishop presides -- is not simply a part of the Church of God. It is the Church of God in one of her manifestations in the here and now. The eucharistic synaxis brings about the emergence of

⁴⁹ "Ecclesiae particulares, in quibus et ex quibus una et unica Ecclesia catholica existit, sunt imprimis dioceses [...]."

⁵⁰ E. CORECCO, "Ecclesiological Bases", p. 10.

the Church of God (*ekklesia tou Theou*) in this place and this historical situation. The eucharistic community is not a fragment of the mystery of the universal Church, but an appearance of this Church in communion with the Father and in the communion of brotherhood, through the Spirit of Christ the Lord.⁵¹

These and other authors (for example, W. Aymans and R. Castillo Lara) use *communio* to indicate the means by which the entire Church truly exists as a visible entity in the world, and in this way avoid conceiving the Church either as a mere association or as a "superdiocese."⁵²

The Code does not often use the term *communio* in its few references to the *communio ecclesiarum* and its inherent relationships.⁵³ Thus, we need to illustrate this concept through those canons which implicitly speak of this communion. We

⁵¹ J.-M.-R. TILLARD, *The Bishop of Rome*, pp. 150-151.

⁵² R. CASTILLO Lara, "La communion ecclésiale", pp. 345-346, notes that Vatican II used the expression *communio ecclesiarum* only once in a secondary context (*AG 19: "Intima permaneat ecclesiarum novellarum communio cum tota Ecclesia"*) but that the Code "n'ignore cependant pas la réalité sous-jacente à cette expression." Further, he uses the term "mutual co-presence" to reflect the reciprocity among particular churches and the entire Church, and concludes, "En bref, nous nous trouvons devant la réalité mystique et profonde de la communion." See also J. HAMER, "Dix thèses", pp. 168-171, where he develops his fifth thesis concerned with the relationship between the particular church and the entire Church. He describes this relationship as a *perichoresis* or compenetration. Further, this relationship establishes the means by which the Church manifests its catholicity.

⁵³ Authors continue to raise questions concerning canons 368-372 and this treatment of the particular church, specifically in reference to conciliar teaching. See, for example, R. AUSTIN, "The Particular Church and the Universal Church", pp. 339-357. AUSTIN states on p. 343: "In the final analysis what one discovers beneath the surface of cc. 368-372 is an ecclesiology of communion that has been 'reduced to merely organizational questions and to problems which simply relate to powers.'" He cites here and elsewhere the Synod of Bishops in support of his position. On the latter, see SYNODE DES ÉVÊQUES, *Les Laïcs dans l'Église et dans le monde*. Note especially that participants often requested clarification of the relationship between the particular and the entire Church, which issue the Final Report did not address. On this matter, see *Concilium*, 188.6 (1986) entitled, "Synod 1985 -- An Evaluation", especially J. KOMONCHAK, "The Theological Debate", pp. 53-63.

shall first examine the specific function of the pope and then refer to the relationship among particular churches.

2.1. The papal function within the *communio ecclesiarum*

The bishop of Rome has a specific role within a *communio* ecclesiology, namely, promoting the unity of the communion of churches and assisting these in assuring their continued fidelity to the faith. Referring to the relationship among particular churches and the entire Church, Corecco cites canons 331 and 349.⁵⁴

Canon 331 states that

the bishop of the Church of Rome [...] is head of the college of bishops, the Vicar of Christ and Pastor of the universal Church on earth; therefore, in virtue of his office he enjoys supreme full, immediate and universal ordinary power in the Church, which he can always freely exercise.⁵⁵

The canon first reiterates titles applicable to the pope and then describes the nature of papal power. These titles are important in understanding the pope's unifying function.

According to J. Provost, this canon wishes to bridge the gap between two different approaches to the papal function. One approach stresses the intimate relationship between a particular church and its bishop. The second emphasizes the

⁵⁴ E. CORECCO, "Ecclesiological Bases", p. 10. For another treatment of the papal role in the communion of Churches, see P. GRANFIELD, *The Limits of the Papacy*, pp. 107-133.

⁵⁵ "Ecclesia Romanae Episcopus [...] Collegii Episcoporum est caput, Vicarius Christi atque universae Ecclesiae his in terris Pastor; qui ideo vi muneris sui suprema, plena, immediata et universali in Ecclesia gaudet ordinaria potestate, quam semper libere exercere valet."

college of apostles and their successors, who continue the mission given the apostles by Christ.⁵⁶ Canon 331 attempts to unify these two approaches by referring first to the pope as bishop of the particular church of Rome and then to him as Peter's successor and head of the college of bishops.

For his part, J.-M.-R. Tillard believes that the title "servant of the servants of God" best summarizes both approaches to the papal function, which exists to serve the communion of churches.⁵⁷ At the same time, he also stresses his role as bishop of a particular church. His comments thus assist us in this context.

Tillard begins with the collegial nature of episcopal ministry and the bond of each bishop with his church. As a result of these, the Church on the one hand exists as one in the unity proper to *communio*. On the other hand,

in his own local Church, each bishop, especially by teaching the faith and presiding at the Eucharist, has the mission to guard the community in a fidelity without fail to that which has been transmitted and received from the Apostles and in total harmony with that which is taught and lived *hic et nunc* in the other communities of the same apostolic tradition, thus guaranteeing its insertion into the *communio*.⁵⁸

⁵⁶ J. PROVOST, *CLSA Commentary*, canon 331, p. 267.

⁵⁷ See, for example, J.-M.-R. TILLARD, *L'Église d'églises*, pp. 324-355. P. GRANFIELD, "The Church Local and Universal", evinces the unity of these approaches when, on p. 462, he states, "Of all the pope's titles, the most theologically significant are those which deal with the core of his mission -- Bishop of Rome, Successor of Peter, and Servant of the Servants of God."

⁵⁸ J.-M.-R. TILLARD, *Église d'églises*, p. 325: "D'autre part, en son Église locale, chaque évêque, surtout par l'enseignement de la foi et la présidence eucharistique, a mission de garder la communauté dans une fidélité sans faille à ce qui s'est transmis et vécu depuis les Apôtres et dans une harmonie totale avec ce qui s'enseigne et se vit *hic et nunc* dans les autres communautés de même tradition apostolique, garantissant ainsi son insertion dans la *communio*." For a fuller elaboration of this role, see *The Bishop of Rome*, *passim*.

Essential to the bishop's function is ensuring the unity of faith, which does not, however, deny the local community its own customs and traditions. The Church as a *communio* of particular churches does not require uniformity. Through episcopal ordination, the bishop shares in a common responsibility for all the Churches, striving to ensure the continued preservation of the received faith.

From this foundation, Tillard states that the function of the bishop of Rome exists as a "very special modality" of this solicitude for all the Churches, a role summarized by the title "Servant of the servants of God." This modality consists of "service within the global mission of the episcopal college" which is founded in the primacy of his local Church.⁵⁹ This service provides a "particular and necessary function precisely concerning the cohesion of bishops and their unity in the faith which Peter and Paul had sealed by their martyrdom."⁶⁰ In addition, this service ultimately extends to the Church's mission derived from Jesus Christ, that is, to proclaim the good news of salvation.⁶¹

⁵⁹ J.-M.-R. TILLARD, *Église d'églises*, p. 328: "un service dans la mission globale du collège épiscopal, la fonction du 'serviteur des serviteurs de Dieu.'"

⁶⁰ J.-M.-R. TILLARD, *Église d'églises*, pp. 328-329: "il assure une fonction particulière et nécessaire touchant précisément la cohésion des évêques et leur unité dans la foi que Pierre et Paul ont scellée par leur martyre." He also states that "La constitution *Pastor aeternus* de Vatican I, et *Lumen gentium* de Vatican II qui la relit, ne disent pas autre chose", citing the pertinent texts. See also *The Bishop of Rome*, especially pp. 124-164, where he demonstrates that this understanding of the papal role is consistent with the teaching both of Vatican I and Vatican II. TILLARD also notes on pp. 18-19 an important distinction between a theological and a "popular" understanding of the papacy. The latter can overemphasize certain aspects of the papal role, making the pope "more than a pope." As one example, TILLARD cites an official leaflet for Catholic teaching in Canada (in 1980), which defined the pope as "successor of God."

⁶¹ See also J. PROVOST, *CLSA Commentary*, canon 331, p. 267, especially his comments on the "Office of Peter." His position has a number of similarities with that of J.-M.-R. Tillard.

Thus, from the perspective of the *communio ecclesiarum*, the pope has the specific function of ensuring that the fundamental unity intended by Jesus Christ continues to be present and develop within the context of fidelity to the faith handed on from the apostles.⁶² Canon 333, §2 echoes this understanding when it states that

the Roman Pontiff, in fulfilling the office of supreme pastor of the Church is always united in communion with the other bishops and with the universal Church.⁶³

This paragraph refers to *communio* from two aspects: that which exists between the pope and bishops, and that which exists between the pope and the entire Church.

Thus, although the pope exercises his office personally, he does so

always in communion with the college of bishops and even -- what the Code specifies here is important -- with the whole Church [...]. Here again community is primary in the Code, authority is exercised as a service and this service is to the communion.⁶⁴

⁶² In his introduction to L. HERTLING, *Communio*, J. WICKS states: "If *communio* is to be extended and to endure, the bishop of Rome must be satisfied that his brother bishops are proclaiming the authentic gospel of Christ to their people. The root of the papal teaching office appears to lie in this duty of discernment and evaluation that is the critical prelude to extending *communio*. Since this process of discernment is essential to the unity of the whole Church, one can expect the Holy Spirit to be granted to the pope in a special way to help him recognize the contours of the gospel in the various forms it will be proposed in churches throughout the world."

⁶³ "Romanus Pontifex in munere supremi Ecclesiae Pastoris explendo, communionem cum ceteris Episcopis immo et universa Ecclesia semper est coniunctus [...]." The canon continues, stating that the Roman Pontiff has the right to "determinare modum, sive personalem sive collegialem, huius muneris exercendi."

⁶⁴ *SPCU--Ecumenical*, p. 56.

According to canon 349, the cardinals assist the Roman Pontiff "in the daily care of the universal Church" (*in cura praesertim cotidiana universae Ecclesiae*). Thus, they participate in his solicitude for all the Churches.⁶⁵

2.2. The relationship among particular churches

E. Corecco states that the *communio ecclesiarum* derives not only from the constitutive relationship between a particular church and the Church of Rome, but also from the relationship existing among various particular churches.⁶⁶ He cites two conciliar sources for his position. We have already examined *Lumen gentium* 23, which applies the term *corpus Ecclesiarum* to the Church. Corecco also cites *Unitatis redintegratio* 14. Particularly relevant is the following passage:

Hence a matter of primary concern and care among the easterns has been and still is, to preserve the family ties of common faith and charity which ought to exist between local churches, as between sisters.⁶⁷

⁶⁵ On this topic, see *Concilium*, 127.7(1979), which is entitled, "The Roman Curia and the Communion of Churches". This volume appeared before the revision of the Curia by JOHN PAUL II through his Apostolic Constitution *Pastor bonus*, in *AAS*, 80 (1988), pp. 841-923. Despite certain revisions, questions still remain concerning how well the Curia serves the diversity of the Church as a *communio*.

⁶⁶ E. CORECCO, "Aspects of the Reception of Vatican II", p. 275. He also states here that although this relationship is derivative, "it is no less essential for understanding the nature of the *communio ecclesiarum*."

⁶⁷ In N.P. TANNER, *Decrees*, p. 916, l.12-15: "Proinde apud orientales praevaluit atque praevalet sollicitudo et cura servandi fraternas illas in fidei caritatisque communionem necessitudines, quae inter ecclesias locales, ut inter sorores, vigere debent."

Thus, reciprocity exists among particular churches, founded on an internal bond of shared faith and charity. This bond ensures that the relationship is not merely associative.

Corecco finds this relationship expressed in the canons concerned with ecclesiastical provinces and regions (canons 431-434) and with particular councils (canon 439). Canon 447, which concerns conferences of bishops, describes the latter as a "grouping of bishops" (*coetus episcoporum*) whereas canons 431 and 439 refer to particular churches (*ecclesiae particulares*). In other words, ecclesiastical provinces and regions, as well as particular councils, arise "as a product of the *communio ecclesiarum* that exists among particular Churches."⁶⁸

J. Provost states that particular councils

are presented first as an expression of communion [...]. Their origin lies in the bonds which linked local Churches and in light of which bishops gathered on their own accord. Their purpose is presented in terms of communion as well: to work for the common good as well as the good of individual Churches.⁶⁹

Thus, these councils concretely express the nature of the Church as communion and also emphasize the common participation in the Church's mission.

⁶⁸ E. CORECCO, "Aspects of the Reception of Vatican II", p. 275.

⁶⁹ J. PROVOST, "Particular Councils", in *New Code-Ottawa*, pp. 537-562. He also states: "It would be difficult to find a more fundamental principle on which to base an ecclesial institute, for key to the conciliar understanding of Church is its nature as communion."

2.3. Collegiality

Within the Church, the term *collegiality*

describes the unique relationship that exists within the College of Bishops under the leadership of the Pope. The concept of collegiality involves theological, pastoral, canonical and ecumenical ramifications.⁷⁰

According to *Lumen gentium* 22, Peter and the other apostles were constituted an apostolic college by the will of Jesus Christ. In a similar way (*pari ratione*), the Roman pontiff (as Peter's successor) and the bishops (as successors of the apostles) also constitute a college. From both the *Nota explicativa* 1 and *Lumen gentium*'s use of other terms to describe this reality (*corpus* and *ordo*), it becomes clear that "college is not to be understood as a moral unity in which all members have exactly the same powers."⁷¹ Individuals become members of the college "by reason of their sacramental consecration and their hierarchical communion with the head and members of the college."⁷² Further, the papal role is constitutive for the college to exist.

⁷⁰ P. GRANFIELD, *The Limits of the Papacy*, p. 82. On pp. 82-88, he elucidates three essential principles of collegiality: 1. collegiality is primarily a theological and evangelical reality and not a juridical structure; 2. collegiality depends on the papacy; and 3. collegiality is dialogic.

⁷¹ K. RAHNER et al., "The Hierarchical Structure", p. 197.

⁷² See CD 4, in N.P. TANNER, *Decrees*, p. 922, 1.5-6: "Episcopi, vi sacramentalis consecrationis et hierarchicae communionis cum collegii capite atque membris, constituuntur membra corporis episcopalis."

At the same time, however, the concept of collegiality possesses important implications which transcend the collegial relationship existing among bishops and the pope. Thus,

by its existence, the interaction of its members, the networks of relationships it stimulates, and by the ways in which it acts corporately, the college becomes an instrumental sign of the complex and heterogeneous unity that characterizes the universal communion of churches.⁷³

In other words, we may perceive collegiality as a symbol of the Church as a *communio ecclesiarum*.

Thus, the dichotomy "unity - diversity" arising from the relationships among particular churches and with the one Church also finds expression through the episcopal college. Referring to a bishop as a member of this college, J. Linnan maintains that conciliar documents assume his pastoral relationship with a particular church. As a result, he understands the episcopal college as

the institutionalization of the relationship existing between the pope and the bishops precisely because they are leaders of particular churches which are, and need to be, in communion with one another. The college is the sign and agent of that communion.⁷⁴

In other words, the episcopal college reflects the fundamental diversity or multiplicity of the Church: each particular church is a realization of the one Church of Christ in

⁷³ J. LINNAN, "Subsidiarity, Collegiality, Catholic Diversity, and Their Relevance to Apostolic Visitations", in *J*, 49 (1989), pp. 425-426. See also L. VISCHER, "The Reception of the Debate on Collegiality", especially pp. 233-234.

⁷⁴ J. LINNAN, "Subsidiarity", p. 428. He states in footnote 80 on the same page that "the existence of auxiliary and titular bishops, and even more their membership in the college, tends to obscure the relationship between episcopal ordination, pastoral responsibility in a particular church, and membership in the college."

a specific space and time. Simultaneously, the bishop of Rome, as Peter's successor, serves to symbolize, encourage, and ensure the Church's fundamental unity.⁷⁵

Lumen gentium 22 refers to this "unity - diversity" dichotomy when it states:

This college, in so far as it is composed of many, expresses the variety and the universality of the people of God, but in so far as it is gathered under one head it expresses the unity of the flock of Christ.⁷⁶

While this text only implicitly refers to particular churches, it nonetheless recognizes legitimate diversity arising from a specific manifestation of the one Church in a particular place and time.

2.4. Other references to *communio ecclesiarum*

The importance of the particular church as a manifestation of the one Church cannot obscure the latter's fundamental unity. In other words, a particular church does not -- or should not -- exist in isolation but only in a relationship both with other

⁷⁵ This does not deny a unifying role to the episcopal college as such. J. LINNAN, "Subsidiarity", states on p. 432 that while both the pope and the college must promote Church unity, differences exist due to "the particular aspect or dimension of unity or communion which each is charged to maintain." On the one hand, the pope's task "is to enable the multiplicity of churches to recognize in themselves and in one another the apostolic Tradition on which every particular church must be built." On the other hand, the episcopal college "promotes unity experienced in terms of mutuality, harmony, charity, fraternity, assistance, collaboration, and peace [...]. It is a unity which arises out of the contribution each bishop makes to the richness of the whole Church by authentically representing the uniqueness of the particular people God assembles around the altar at which he ministers." We will return to the relationship among pope and bishops in our discussion of hierarchical communion.

⁷⁶ See N.P. TANNER, *Decrees*, p. 866, 1.28-29: "Collegium hoc quatenus ex multis compositum, varietatem et universalitatem populi Dei, quatenus vero sub uno capite collectum unitatem gregis Christi exprimit."

particular churches and with the Church of Rome. Two canons refer to this foundational unity.

Canon 529, §2, exhorts the parish priest to remind the lay *christifideles* that they are members not only of their parish and diocese, but also of the entire Church. They have a responsibility to edify their particular *communio* as well as that of the entire Church. In the context of religious institutes, canon 675, §3 states that

apostolic action, to be exercised in the name and by the mandate of the Church, is to be carried out in its communion.⁷⁷

Thus, religious institutes, participating in the Church's mission, also edify the *communio* through their apostolates.

A second area in which the Code implicitly discusses the *communio ecclesiarum* concerns the authority of the diocesan bishop.⁷⁸ Canon 381 states that a diocesan bishop in his own diocese "possesses all the ordinary, proper, and immediate power which is required for the exercise of his pastoral office."⁷⁹ This recognition of episcopal authority finds its theological justification in the nature of the particular church as a constitutive element of the whole Church.⁸⁰ The same reason

⁷⁷ "Actio apostolica, nomine et mandato Ecclesiae exercenda, in eius communione peragatur."

⁷⁸ W. AYMANS, "Ecclesiological Implications", p. 140.

⁷⁹ "[...] competit potestas ordinaria, propria et immediata, quae ad exercitium eius muneris pastoralis requiritur [...]." The canon also notes the exception to bishops' authority: "exceptis causis quae iure aut Summi Pontificis decreto supremae aut alii auctoritati ecclesisticae reserventur."

⁸⁰ W. AYMANS, "Ecclesiological Implications", p. 140. See also LG 23 which applies the same term -- *visibile principium et fundamentum sunt unitatis* -- both to the pope and to individual

applies to canon 87, which acknowledges the dispensing power of diocesan bishops.⁸¹

E. Corecco notes a difficulty present in the Code's treatment of particular churches. According to canon 113, §1, "The Catholic Church and the Apostolic See have the nature of a moral person by divine law itself."⁸² Canon 114, §1 states that juridic persons are constituted either by the law itself or by concession of competent authority. Based upon this distinction, therefore, canon 373 states:

It is within the sole competence of the supreme authority of the Church to erect particular Churches; once they have been legitimately erected these churches enjoy juridic personality by reason of the law itself.⁸³

But despite this competence, particular churches nonetheless "exist prior to the canonical organization of things insofar as they are necessary ecclesiological entities."⁸⁴ Further, if canon 113 intends "Catholic Church" to refer both to the Church in its entirety and in a particular manifestation, then we should also define particular churches as moral persons as well.⁸⁵

bishops in their own particular churches.

⁸¹ On this canon, see also E. CORECCO, "Aspects of the Reception of Vatican II", who states on p. 283: "The shift from a system of concession to a system of reservation has thus brought about an almost Copernican revolution within the canonical order."

⁸² "Catholica Ecclesia et Apostolica Sedes, moralis personae rationem habent ex ipsa ordinatione divina."

⁸³ "Unius supremæ auctoritatis est Ecclesias particulares erigere; quæ legitime erectæ, ipso iure personalitate iuridica gaudent."

⁸⁴ E. CORECCO, "Aspects of the Reception of Vatican II", p. 254.

⁸⁵ E. CORECCO, "Aspects of the Reception of Vatican II", p. 254.

Thus, *communio ecclesiarum* manifests the bond of faith and charity which unites particular churches with each other and with the Church of Rome. Its ultimate foundation is the salvific will of God and the Church's mission to proclaim the gospel to all people.

3. *Communio hierarchica*

G. Ghirlanda maintains that the expression "hierarchical communion" first occurs officially in a discourse of Paul VI at the opening of the third period of Vatican II.⁸⁶ This term refers to a very complex reality, one which involves, for example, the Church's constitutional structure, the function both of the pope and of bishops, papal primacy, and collegiality. In this context, we shall refer to the values within *communio* which receive emphasis through the concept of hierarchical communion. We shall organize our material into two sections. The first concerns

⁸⁶ G. GHIRLANDA, *Hierarchica communio*, p. 291. For the text, see the allocution of PAUL VI, "In signo Sanctae Crucis", September 14, 1964, p. 148: "Alio quoque argumento has catholici Episcopatus laudes confirmare placet, ut manifesto pateat quantum eius dignitati, quantum eius caritati prosint haec hierarchicae communionis vincula, quae Episcopus cum Apostolica Sede coniungunt [...]." GHIRLANDA's text is extremely helpful for the development of the *schemata* and final text of *LG*. But difficulties have arisen concerning his distinction between the *munus sanctificandi* and the *munera docendi et regendi*. For example, Y. CONGAR, reviewing this text in "Bulletin d'ecclésiologie", *RSPT*, 66 (1982), states on p. 95, "Je ne crois pas, pour ma part, que cette interprétation réponde à l'intention du concile telle que nous l'avons comprise et voulu traduire dans la Commission théologique." He cites G. PHILIPS, *L'Église*, I, in support of his position. Especially important is CONGAR's quotation on p. 696 from PHILIPS: "La très grande majorité du concile était convaincue que le sacre épiscopal confère ontologiquement et sacramentellement la charge pastorale tout entière, bien que l'exercice de cette fonction doive être réglée selon les normes de la communauté hiérarchisée." For the original text, see PHILIPS, *L'Église*, I, p. 278.

communio hierarchica in general; the second, the role of the episcopacy within this manifestation of *communio*.

3.1. *Communio hierarchica* in general

To understand the concept of hierarchical communion, we must first examine its content. More specifically, we should determine the proper referent of this concept. This referent is extremely important, for it exercises a normative function in reference to how we understand the Church's nature and structure. In other words, a given author's understanding of hierarchical communion often determines his ecclesiological perspective.

For his part, R. Castillo Lara states that we may distinguish between a strict and a broad understanding of *communio hierarchica*. In a strict sense,

hierarchical communion represents the organic and structural level which binds members of the hierarchy among themselves, especially within the episcopal college, but it equally embraces their relationships with their priests as well as their relationships with their deacons.⁸⁷

Thus, for example, canon 757 states that deacons serve the Christian faithful through their ministry of the word "in communion with the bishop and his presbyterate" (*in communione cum Episcopo eiusque presbyterio*). In this strict sense, then, *communio hierarchica* refers to relationships among members sharing in the ministerial priesthood.

⁸⁷ R. CASTILLO LARA, "La communion ecclésiale", p. 341: "[...] la communion hiérarchique représente le noeud organique et structurel qui lie entre eux les membres de la hiérarchie, surtout à l'intérieur du collège épiscopal, mais elle comprend également les relations avec les prêtres entre eux, et aussi les relations des diacres."

But Castillo Lara also asserts that it would be inexact to limit *communio hierarchica* only to relationships among the hierarchy. As a result,

we cannot separate the communion of the faithful from that of the hierarchy. In the Church, all communion is hierarchical because the Church is the people of God hierarchically structured.⁸⁸

According to his position, hierarchical communion finds its origin in the Church's very nature which is hierarchical.

A particular emphasis on either the Church as *communio* or as *communio hierarchica* has important implications for the Church's nature and for its daily life. Many authors agree with Castillo Lara that only one communion, the *communio Ecclesiae*, exists. But a variety of nuances derive from different emphases given to distinct manifestations of the one *communio*.

For example, Castillo Lara disagrees with J.-M.-R. Tillard, who, in his opinion, affirms that the right to participate in the triple *munera* of Christ precedes any distinction between the hierarchy and the other members of the faithful.⁸⁹

For his part, J. Beyer takes a position similar to that of Tillard. Beyer first establishes his understanding of *communio* by stating:

⁸⁸ R. CASTILLO LARA, "La communion ecclésiale", p. 346: "[...] il ne faut pas séparer la communion des fidèles de celle de la hiérarchie. Dans l'Église, toute communion est hiérarchique parce que l'Église est un Peuple de Dieu hiérarchiquement structuré."

⁸⁹ R. CASTILLO LARA, "La communion ecclésiale", p. 347, footnote 67. CASTILLO LARA here cites J.-M.-R. TILLARD, "L'Église de Dieu est une communion", in *Irénikon*, 53 (1980), p. 456.

The most profound ecclesial communion is that which unites the faithful to the one Christ, according to the will of the Father in the power of the Spirit so as to form the one Body of Christ, the Church.⁹⁰

From this perspective, he can then define hierarchical communion as follows:

Finally, we can give [hierarchical communion] a broader meaning: the entire Church forms a hierarchical communion, not because it is a hierarchy which governs it, but as a life that is hierarchically structured according to diverse ecclesial orders. These arose from liturgical usage which was the first external structure of the assembly: the Church celebrating the Eucharist and gathering itself around the altar.⁹¹

Although both Castillo Lara and Beyer emphasize the reality of the Church as hierarchically organized, Beyer places a much stronger emphasis on the spiritual dimension, that is, on the relationship between the faithful and Christ. This relationship finds external expression in the Church's social life and in the celebration of the sacraments, especially the Eucharist.

Using a dichotomy suggested by R. Sobański, we maintain that the issue focuses on that aspect of the Church which one chooses to emphasize. *Communio* requires some organized external manifestation. But should we stress the societal dimension of *communio*, and thus understand authority as primarily a means by which this particular society is organized? Or should we emphasize the spiritual dimension

⁹⁰ J. BEYER, "La 'communio' comme critère", p. 80: "La communion ecclésiale la plus profonde est celle qui unit tous les fidèles au Christ unique, selon la volonté du Père dans la force de l'Esprit pour ne former qu'un seul Corps du Christ, l'Église." He then cites LG 3.

⁹¹ J. BEYER, "La 'communio' comme critère", p. 83: "On peut enfin lui donner un sens plus large: toute l'Église forme une *communio hierarchica*, non pas parce qu'elle est hiérarchie qui gouverne mais comme vie hiérarchisée selon les divers ordres ecclésiaux selon l'usage liturgique qui fut la première structure externe de l'assemblée qu'était l'Église célébrant l'Eucharistie et se réunissant autour de l'autel." He cites LG 11 and 51 in support of this position.

of *communio* and see this as determining not only the purpose of the society as such, but also the role of authority within that manifestation?

W. Aymans agrees with the latter opinion. He avers: "The Church is not partly *communio* and partly *societas*; it is wholly and entirely *communio* -- and this even from the legal standpoint."⁹² We believe that R. Sobański would also choose the second option. For him,

the principle of authority, even if it appears in numerous places in the Code, especially in the context of the whole Church, has lost its character of being an absolute criterion; in conformity with the teaching of the dogmatic Constitution on the Church (no. 23), it has become the principle of unity of the Church, and not the principle and foundation of the Church as such.⁹³

From the perspective of a *communio* ecclesiology, we must emphasize the inherent unity which arises from a relationship with God and which finds visible expression. The Church must not only safeguard and encourage this unity but also strive so that this unity will find full expression among all Christians.

All members of the Church participate in this mission of unity, along with the mission of sanctification. Thus, for example, canon 675, §3 states that religious institutes exercise apostolic action within Church communion. This reflects the fundamental unity necessary to the Church. For its part, the hierarchy has a specific

⁹² W. AYMANS, "Ecclesiological Implications", pp. 139-140.

⁹³ R. SOBAŃSKI, "L'ecclesiologie", p. 267: "Le principe d'autorité, bien qu'il apparaisse en de nombreux endroits du Code, surtout dans le contexte de l'Église universelle, a perdu son caractère de critère absolu; conformément à l'enseignement de la Constitution dogmatique sur l'Église (no. 23), il est devenu principe de l'unité de l'Église, et non plus principe et fondement tout simplement de l'Église."

function. Through the sacrament of orders, the bishops have been consecrated and deputed to shepherd the people of God.⁹⁴ Further, as canon 330 states, both the role of the pope and the episcopal college are of divine law and intrinsically necessary to the Church. Consequently, *communio hierarchica*, as *communio* in general, reflects both the internal and the external aspects of Christian life. As expressed by Castillo Lara:

Founded on the sacrament of Orders, hierarchical communion is a bond both *spiritual*, anchored in the gift of the Holy Spirit, in the mystical reality of the Church, and *juridic*, concretized in obligatory exterior forms.⁹⁵

Both aspects are necessary; but the spiritual has precedence as origin and support of the exterior manifestation.

Thus, canon 205 requires for full communion the bond of governance, that is, an acceptance of the constitution of the Church. This bond finds its general referent in canon 204, §2. The latter states that the Church of Christ, established as a society in this world and subsisting in the Catholic Church, is governed by the successor of Peter and bishops in communion with him.⁹⁶ The latter phrase is extremely important, for the pope and bishops together form a unity reflecting the fundamental unity of the Church.

⁹⁴ See, for example, canon 1008.

⁹⁵ R. CASTILLO LARA, "La communion ecclésiale", p. 107. "Fondée sur le sacrement de l'ordre, la communion hiérarchique est un lien à la fois *spirituel*, dans la réalité mystique de l'Église, et *juridique*, concrétisé en des formes extérieures obligatoires."

⁹⁶ "[...] a successore Petri et Episcopis in eius communionem unita." *Canon 204, §2*

We shall now discuss the specification of *communio hierarchica* which is manifested in the episcopal office.

3.2. The relationship between episcopacy and *communio hierarchica*

According to W. Kasper, the concept of hierarchical communion assists in incorporating the episcopal office into the whole Church, or, more specifically, "into the communion with the pope and with the college or body of bishops."⁹⁷ Kasper bases his position on the *Nota explicativa*. A *communio* relationship establishes the means by which the triple *munera* conferred in episcopal ordination become *potestates* in action.

J.-M.-R. Tillard shares this understanding of *communio hierarchica*. He states that the *Nota*

distinguishes between the *munera* implied in sacramental ordination (using *munera* [...] to include the responsibilities and the powers needed to fulfil them); and *potestates* in practice, by which it means the discharge of the *munera*. The sacrament of ordination gives *all* the first group, duly pointed towards the action for which they exist and equipped with the necessary powers. This action, however, will only be in practice all that it should be -- functions and powers of communion - - thanks to the *canonica determinatio*.⁹⁸

⁹⁷ W. KASPER, *Theology and Church*, p. 158.

⁹⁸ J.-M.-R. TILLARD, *The Bishop of Rome*, p. 155.

Thus, the pope does not bestow the *munera* but rather a place where a bishop can exercise his role within the communion of Churches.”

Christus Dominus articulates the foundation for this role of each bishop. In Chapter 5, the decree states:

For, by divine institution and the exigency of their apostolic function, each one of the bishops in union with the others is responsible for the welfare of the church.¹⁰⁰

This responsibility is succinctly expressed by the phrase *sollicitudo ecclesiarum* present in *Christus Dominus* 3 and 5, *Lumen gentium* 23, and elsewhere in conciliar documents.¹⁰¹

To fulfill this responsibility, a bishop must remain in communion with the head of the episcopal college and with its members. One example found in the Code is canon 437, §1 which requires a metropolitan to request the pallium from the pope; the latter “signifies the power with which the metropolitan is invested by the law itself within his own province in communion with the Roman Church.”¹⁰² J. Provost states

⁹⁹ J.-M.-R. TILLARD, *The Bishop of Rome*, p. 155. He also states that when the pope places a bishop within communion, his action is more “a condition than a ‘cause.’” The “cause” is the sacrament of orders. TILLARD cites G. PHILIPS in support of his position. But TILLARD also maintains that this act forms the pope’s “supreme act of jurisdiction.” Thus, it reflects the pope’s particular *munus*, an instance of the “potestas vere [episcopalis]” which he receives as bishop of Rome. See pp. 156-157.

¹⁰⁰ In N.P. TANNER, *Decrees*, p. 922, 1.28-29: “[...] cum ex Dei institutione et praecepto apostolici muneris unusquisque ecclesiae una cum ceteris episcopis sponsor sit.”

¹⁰¹ In the Code, canons 791 and 792 manifest this solicitude by stating that particular Churches and conferences of bishops are to support missionary endeavors and help provide personnel.

¹⁰² “[...] quidem significatur potestas qua, in communione cum Ecclesia Romana, Metropolita in propria provincia iure instruitur.”

that the previous Code understood a metropolitan's role as "a participation in papal power", a view no longer directly maintained.¹⁰³ The metropolitan exercises his authority only in so far as he maintains communion with his fellow bishops and the bishop of Rome.

This necessity of maintaining communion with the head of the college and with its members also applies to the teaching authority of the college of bishops. Canon 749 states that bishops exercise their infallible teaching authority in two ways. The first occurs when they gather in an ecumenical council (canons 337 to 341). Canon 338 specifically articulates the constitutive role of the pope in them.¹⁰⁴

The second transpires when the bishops, dispersed throughout the world but "united in a bond of communion" (*communio nexum [...] servantes*) with the Roman Pontiff, determine that a specific opinion must be held as definitive. Further, canon 753, which discusses authentic (but not infallible) episcopal teaching authority, refers also to this necessary communion.

The unity within the college of bishops and with its head also finds expression through the "ordinary and universal magisterium" (*magisterio ordinario et universali*). This phrase, found in canon 750, originated in the dogmatic constitution *Dei Filius* of Vatican I. F. Sullivan, after examining its use in this context, states:

¹⁰³ J. PROVOST, *CLSA Commentary*, p. 355, canon 437.

¹⁰⁴ On ecumenical councils, see, for example, J. KOMONCHAK, "The Ecumenical Council in the New Code of Canon Law", in *Concilium*, 167.7 (1983), pp. 100-105 and, in the same issue, P. RICCA, "Should the Ecumenical Council Be an Expression of the Collegiality of Bishops", pp. 85-91; and J. MEYENDORFF, "What Is an Ecumenical Council?", in *St. Vladimir's Theological Quarterly*, 17 (1973), pp. 259-273.

It is also clear from the *Acta* of Vatican I that the term "universal magisterium" refers to the teaching of the whole episcopate with the pope, and not to the teaching of the pope alone, even when this is directed to the universal Church.¹⁰⁵

This form of teaching exists as a particular expression of the common solicitude for the entire Church inherent in the episcopal office.

This understanding of the episcopacy has important implications. According to J.-M.-R. Tillard,

you share in ecclesial communion in so far as you are in communion with the bishop of your local church, who is himself in communion with all his brother bishops because he and they are in communion with the bishop of Rome [...]. To speak only of communion with the bishop of Rome while considering communion with the local bishop as "incidental and secondary" is, to use an expression from the debates during Vatican I, to go *ad destructionem Ecclesiae*.¹⁰⁶

This perception reflects the various relationships existing within the Church, all of which must serve to promote the unity of the *communio*.

In reference to the pope, canon 333, §2 states that the Roman Pontiff, in fulfilling his office, "is always united in communion with the other bishops and with the universal Church."¹⁰⁷ According to Castillo Lara,

¹⁰⁵ F. SULLIVAN, *Magisterium*, p. 123. See also J. BOYLE, "The Ordinary Magisterium: Towards a History of the Concept", in *Heythrop Journal*, 20 (1979), pp. 380-398 and 21 (1980), pp. 14-29 and his article "Church Teaching Authority in the 1983 Code", in *J*, 45 (1985), pp. 136-170.

¹⁰⁶ J.-M.-R. TILLARD, *The Bishop of Rome*, p. 129. This view is implicitly present in J. HAMER, "Dix thèses", pp. 169-170. In discussing the relationship between the particular church and the whole Church, HAMER emphasizes the bishop's function in promoting the unity of his particular church through the celebration of the Eucharist. Especially pertinent is his citation of Ignatius of Antioch, Letter to Smyrna, on p. 170, "Là où paraît l'évêque, que là soit la communauté, de même que là est le Christ Jésus, là est l'Église catholique."

¹⁰⁷ "[...] *communione cum ceteris Episcopis immo et universa Ecclesia semper est coniunctus [...].*"

this means that, for the Roman Pontiff, communion is not a subjective voluntaristic behavior, that is to say, dependent on his free choice, but a structural reality: by the sole fact of being pope, he is already in communion with the Church. The Roman Pontiff cannot escape from communion with the Church without losing by that fact itself his office of supreme Pastor. If by hypothesis he falls into heresy or apostasy, he would certainly place himself outside communion as well as outside his supreme jurisdiction.¹⁰⁸

The dominant value is the unity of the Church which arises from *communio* itself.

At the same time, we cannot perceive the episcopacy's function as a diminution of papal authority. Canon 331 states that the bishop of Rome, by virtue of his office, "enjoys supreme, full, immediate, and universal ordinary power in the Church, which he can always freely exercise."¹⁰⁹ *Lumen gentium* 22 precedes this statement by asserting that the "body of bishops does not have authority unless this is understood in terms of union with the Roman Pontiff."¹¹⁰ This position, however, does not deny the existence of certain limits to papal authority.¹¹¹

¹⁰⁸ R. CASTILLO-LARA, "La communion ecclésiale", pp. 342-343: "Ce qui signifie que, pour le Pontife Romain, la communion n'est pas un comportement subjectif, volontariste, c'est-à-dire dépendant de son libre choix, mais une réalité structurelle: par le seul fait d'être Pape, il est déjà en communion avec l'Église. Le Pontife Romain ne peut s'écarter de la communion avec l'Église sans perdre par le fait même son office de Pasteur suprême. Si par hypothèse il tombait dans l'hérésie ou l'apostasie, il se mettrait certainement en dehors de la communion, mais aussi de sa charge suprême." The latter situation raises the historical question of Pope Honorius and his status within the communion of the Church.

¹⁰⁹ "[...] suprema, plena, immediata, et universali in Ecclesia gaudet ordinaria potestate, quam semper libere exercere valet."

¹¹⁰ In N.P. TANNER, *Decrees*, p. 866, l.13-14: "[...] corpus episcoporum auctoritatem non habet, nisi simul cum pontifice Romano [...] intellegatur [...]."

¹¹¹ See *Synopsis historica*, "X. A. Observationes Pauli Papae VI a Secretario generali Concilii ad Commissionem doctrinalem missae", p. 432, l.28-29. Paul VI wished to add the phrase "uni Domino devictus (sic)" to *LG* 22, to indicate that the pope was answerable to God alone. In July, 1964, the assembled Fathers rejected this addition. The Doctrinal Commission rejected the

We cannot enter here into the question of whether two or one bearer(s) of authority exist in the Church.¹¹² Yet, W. Kasper presents important insights into this complicated topic. He states that, due to the reciprocity existing among particular churches and the one Church, the latter's structure (by divine law) requires two focuses, one papal and one episcopal, neither of which derives from the other. Kasper concludes his analysis by stating:

This unity in tension is the foundation of the union in communion. The communion which is both episcopal and papal is the essential organic expression of the essential structure of the Church, its unity in catholicity, and its catholicity in unity.¹¹³

Each focus has its own proper function in edifying the Church community.

The papal office exists to ensure that the requisite unity (*communio*) among the bishops would continue throughout history. *Lumen gentium* 18 expresses this clearly when it states:

So that the episcopate itself, however, should be one and undivided, [Jesus Christ] placed blessed Peter over the rest of the apostles, and in him he instituted a perpetual and visible principle and foundation for the unity of faith and communion.¹¹⁴

phrase, partly "quia formula est *nimis simplicata*: Romanus Pontifex enim etiam observare tenetur ipsam Revelationem, structuram fundamentalem Ecclesiae, sacramenta, definitiones priorum Conciliorum, etc. Quae omnia enumerari nequeunt." See *Synopsis historica*, "Relatio commissionis doctrinalis (iul. 1964) c. III", p. 456, l. 401-402. See also P. GRANFIELD, *The Limits of the Papacy*, especially pp. 51-76.

¹¹² See, for example, K. RAHNER, "On the Relationship Between the Pope".

¹¹³ W. KASPER, *Theology and Church*, p. 160.

¹¹⁴ In N.P. TANNER, *Decrees*, p. 863, l.5-8: "Ut vero episcopatus ipse unus et indivisus esset, beatum Petrum ceteris apostolis praeponit in ipsoque instituit perpetuum ac visibile unitatis fidei et communionis principium et fundamentum."

We should not understand the pope's role as "visible principle and foundation" as "a triumphalistic exaltation of the function of Peter" but rather as necessary so that the unity willed by Christ for his Church would not fail.¹¹⁵

At the same time, however, *Lumen gentium* 23 states that the bishops are "the principle and visible foundation of unity in their particular churches."¹¹⁶ Further, all bishops share a common responsibility for the good of all the churches. The college of bishops united in itself and with its head manifests the essential and fundamental diversity in unity which is the Church.

Thus, from a *communio* ecclesiology, the predominant value inherent to *communio hierarchica* focuses on the importance, protection, and encouragement of unity. This unity, fostered in a community through the work of the parish priest, finds its heart in the ministry of the diocesan bishop (joined with his presbyterium). But the bishop's focus is not only inward, toward his own diocese, but also outward, toward the entire Church. This focus finds expression in the union among bishops in the episcopal college and with the head of the college, the pope. The papal

¹¹⁵ See R. CASTILLO LARA, "La communion ecclésiale", p. 343. He also cites L. HERTLING, *Communio*. In the latter, HERTLING, referring to the image of Peter as the rock on which the Church is built, states that the basic function of the pope is "simply that he be present" (pp. 71-72). Referring to the unity of the Church, L. VISCHER, "The Reception of the Debate", pp. 243-244, maintains that we may interpret conciliar texts in two ways. One stresses the role of the pope as shepherd of the whole Church who thus stands over and above all other bishops. A second interpretation holds that, while the pope has an indispensable role in the college, "the unity of the Church can only be represented by the combined action of the members of the college." VISCHER believes that the latter position respects the teaching of both Vatican I and Vatican II.

¹¹⁶ In N.P. TANNER, *Decrees*, p. 867, l.10-11: "Episcopi autem singuli visibile principium et fundamentum sunt unitatis in suis ecclesiis particularibus [...]."

function centers on his particular *sollicitudo universalis* (and necessary authority to fulfill this role) as the heart of the *communio ecclesiarum*.¹¹⁷

Conclusion

In this chapter we have deepened our insights into the nature of *communio*. Using the Code as a general context, and explicit use of the word *communio* as a specific one, we have organized references on the basis of a three-fold distinction among *communio fidelium*, *communio ecclesiarum*, and *communio hierarchica*. We have thus discovered certain values inherent in the principle of communion. These values, which assist us in interpretation, shed further light on the obligation in canon 209, §1.

Rather than causing separation, our analysis of three particular expressions of *communio* demonstrates the fundamental unity intrinsic to the Church. As a result, this unity finds its source and life-giving encouragement in the intra-trinitarian life. Since all the baptized share in this life, they also share in the common priesthood of the people of God and in the mission entrusted to the Church by its founder. This mission aims at the sanctification of individuals and of the world, and is a participation in the salvific life, death, and resurrection of Jesus Christ.

The particular churches "in which and from which exists the one and unique Catholic Church" form the context within which the faithful participate in the

¹¹⁷ Our use of the expression "particular *sollicitudo universalis*" is influenced by the treatment of the papal function in J.-M.-R. TILLARD, *The Bishop of Rome*, especially pp. 34-50.

Church's life and worship. This life finds its unifying center in the diocesan bishop. At the same time, these particular Churches are not *sui generis* realities but specific manifestations of a greater reality, the entire Church.

The bishop thus serves as focus not only for intra-diocesan unity, but also for the unity of the entire Church. He expresses the latter through his union (*communio*) with his brother bishops in the episcopal college and with the head of the college, the pope.

The pope, as successor of Peter, the bishop of Rome, exercises a very significant role in the Church. He serves as the "visible principle and foundation" of unity for all particular Churches. He fulfills this function united with these particular Churches, with his fellow bishops in the episcopal college, and with all the faithful.

Communio thus bears within itself the fundamental unity of the Church. It finds its origin and principle of life in the intra-trinitarian *communio*. Its visible expression operates through the Church as a unity, and through the unity of all faithful joined with one another.

Important implications for the life of the faithful arise from the obligation to maintain communion and from the values which this obligation seeks to uphold. We shall now turn, in Chapter V, to several specific examples of these implications.

CHAPTER V
QUAESTIONES DISPUTATAE

Our investigation thus far into *communio* has revealed its richness and its depth. At the same time, however, there remain a number of issues which would benefit from more systematically applying the principles of a *communio* ecclesiology. In this chapter, we shall introduce specific topics which would profit from such an application.

Given the complexity of the underlying issues, applying *communio* principles involves much reflection and development as well as familiarity with various disciplines. As a result, we will raise more questions than provide answers. But since growth and development are as much a part of the Church's life as they are in human life, further research into the possibilities of *communio* assists us in entering more fully into the Church's mission in the world.

This approach agrees with various colloquia held by canonists and theologians. One example is the fifth International Congress of Canon Law organized by Saint Paul University in 1984. At its closing session, F. Morrissey presented a paper entitled, "Applying the 1983 *Code of Canon Law*: The Task of Canonists in the Years

Ahead".¹ At the beginning of his paper, Morrisey states that the recent promulgation of the Code is not the "final word" on the Church's mission. Further,

because the Church is truly "alive and well", it is only natural that we expect it to continue to guide us along the path that leads to salvation. New situations will arise that will have to be addressed; new difficulties will have to be resolved; new developments will call for changes in structures.²

Morrisey then suggests that we assess the current situation and determine where future inquiry will lead us.³

In the following discussion, we intend to "determine where future inquiry will lead us" specifically in reference to the ecclesiology of *communio*. To discuss these questions and issues in as logical a manner as possible, we shall organize our material on the basis of the three bonds that establish full communion with the Catholic Church. The first section, therefore, will refer to questions related to faith and the second, to topics pertaining to the sacraments. Finally, in the third section, we shall raise issues associated with governance.

¹ For the text, see *The New Code-Ottawa*, pp. 1143-1160.

² F. MORRISEY, "Applying the 1983 Code", p. 1143.

³ Three sections of his paper are concerned with "Matters not Resolved by the Pontifical Commission for the Revision of the Code of Canon Law"; "Contemporary Problems Still to be Resolved"; and "Towards Future Development".

1. Questions Pertaining to Faith

Canon 205 states that the profession of faith is one of three conditions for living in full communion with the visible Catholic Church. A number of questions arise concerning this condition, its precise theological meaning, content, and its application in diverse circumstances and to particular individuals. Further questions focus on faith in Jesus Christ outside the visible Catholic Church.

In this section, though, we shall concern ourselves with two specific questions pertaining to non-Catholics. The first is whether or not they can be subjects of specific rights and obligations expressed by the Code. The second question focuses on the concept of "ecumenical council" in reference to Churches and ecclesial communities not in communion with Rome.

1.1. Applicability of rights and obligations to non-Catholics

According to the Vatican II Decree *Unitatis redintegratio*, the fullness of the means of salvation exists only within the Catholic Church. But it also recognizes that all people "who have been justified by faith in baptism are members of Christ's body."⁴ The basis for this relationship is the reception of valid baptism and the presence of the Holy Spirit. In other words, both the Holy Spirit and the implications

⁴ UR 3, in N.P. TANNER, *Decrees*, p. 910, l.13-15: "iustificati ex fide in baptisate, Christo incorporantur."

arising from baptism transcend the visible boundaries of the Catholic Church.⁵ A proper emphasis, therefore, needs to focus on the *communio* relationship. This relationship is founded on God's self-communication and a person's response to the gift of faith in the external forum.

From this perspective, a number of questions arise concerning the applicability to or influence of the Code of Canon Law (or of particular canons therein) on non-Catholics. Canon 1 clearly states that the norms of the Code affect only the Latin Catholic Church, and canon 11 asserts that "merely ecclesiastical laws" bind only those baptized or received into the Catholic Church. At the same time, the Code explicitly refers to non-Catholics. For example, canon 1476 gives the unbaptized the right to act in an ecclesiastical trial. Canon 804 asserts that the local ordinary should concern himself with the credentials of those persons who teach religion in schools, even if the latter are non-Catholic. Canon 256, §1 requires that the seminary instruct students in conducting relationships with non-Catholics or non-believers.

The following question forms one specific issue facing canonists and theologians. How may a *communio* ecclesiology help us understand the relationship of non-Catholics to canon law? More specifically, what canons are applicable to non-

⁵ This basis was recognized by the instruction "De motione Oecumenica" from the Holy Office on December 20, 1949, in *AAS*, 42 (1950), pp. 142-147. The text states on p. 142 that the grace of the Holy Spirit helps increase the desire for a return to unity among those separated from the Catholic Church. W. BECKER, "Decree on Ecumenism. History of the Decree", in *Documents*, II, p. 2, states that we must regard this instruction as "the turning point in the Catholic Church towards the ecumenical movement."

Catholics? To delineate reasonable boundaries to our investigation, we will refer to canons which express specific rights and obligations of the Christian faithful.⁶

According to canon 96, baptized persons can exercise certain rights and obligations provided that they are in ecclesiastical communion and that no legitimate sanction has been placed on them. Canons 208-233 list certain rights and obligations of the *christifideles* and canons 224-231 list the rights and obligations of lay *christifideles*. Do any of these canons apply to non-Catholics, that is, to individuals who are not in full communion with the Catholic Church?

The basis for a possible response begins with Vatican II's teaching that varying degrees of *communio* exist. Admittedly, all the baptized have some relationship with the Catholic Church. The degree or depth of relationship depends upon the extent to which the person is united to the Catholic Church by the bonds of faith, sacraments, and governance.⁷

⁶ L. PIVONKA, "The Revised Code of Canon Law: Ecumenical Perspectives", in *J*, 45 (1985), p. 531, offers one pertinent clarification. He notes that, while non-Catholic Christians are bound by divine law, they are not bound to ecclesiastical laws unless the law specifies so. We will refer to this issue later in our discussion.

⁷ See W. BERTRAMS, "De gradibus 'communiois'", who states on pp. 288-289 the general principle that non-Catholic Christians do not enjoy the exercise of obligations and rights in the Catholic Church due to a defect in the profession of faith and in the unity of the Church hierarchically organized. He, however, carefully nuances this in footnote 10, pp. 289-290. Supposing valid baptism, the Church does not -- and cannot -- affect sacramental causality as such, since this is an action of Jesus Christ. But the Church can recognize (or not recognize) the *effects* of baptism in its external organization. Consequently, "In hoc casu baptizatus, etsi per baptismum Ecclesiae devincitur, in Ecclesia non incorporatur, ita ut facultatibus sacramentaliter quidem constitutus deficiat structura externa, debita, quae praecise habetur cum incorporatione in Ecclesia. Deficiente structura externa deficit elementum constitutum iuris essentialia." And, in as much as we find *elements* of faith and unity outside the visible Catholic Church, the Church can recognize the exercise of specific rights and obligations by non-Catholic Christians. For fuller elaboration of this argument see pp. 291-292. See also *SPCU-Ecumenical*, p. 58, which, in reference to rights, states, "Those who meet the requirements of can. 205 will enjoy all those rights in as much as they are in full communion with the

Canon 204 contains the doctrinal statement that all the baptized participate in the three-fold mission of Christ. Consequently, any rights or obligations deriving from this participation apply to all who have received valid baptism. This broad usage applies independently of their recognition in the Code.⁸ *Unitatis redintegratio* 3 reminds us that separated Christians celebrate sacred actions which "can truly engender a life of grace" and which "must be held capable of giving access to that communion in which is salvation."⁹ Consequently, for one evident example, canon 208 refers to the fundamental equality arising from baptism. Since this equality derives from baptism, it applies to all Christians, and not only to Catholics.

This inquiry would be determined further by the fact that not all rights and obligations derive from baptism. Thus, each canon needs examination to determine whether its content arises from natural, divine, or ecclesiastical law. This determination would assist in judging the applicability of certain canons to non-Catholics. For one instance, canon 220, which asserts the rights to good reputation and to privacy, transcends the visible Catholic Church and applies to all people. Other examples include canons 226, §1 (the vocation of the married state); 793, §1

Catholic Church; others will enjoy them in part and will do so because of their baptism."

⁸ We realize that the norms of the Code apply only to Latin Catholics (see canon 1; see also the discussion in *Comm.* 9 [1982], p. 157). But, as explained in the previous footnote, we can distinguish between the salvific effects of baptism and the recognition of these effects in the external order. Thus, the Code recognizes certain effects of baptism in reference to Latin Catholics; it does not deny these effects for those who are not members of the Catholic Church.

⁹ In N.P. TANNER, *Decrees*, p. 910, 1.25-27: "vitam gratiae reapse generare possunt atque aptae dicendae sunt quae ingressum in salutis communionem pandant."

(the rights of parents in educating their children); and 835, §4 (the role of Christians in the sanctifying *munus*, with special mention of parents).

Other canons give rise to more difficult questions. For example, do baptized non-Catholics have a *right* to receive the other sacraments? A proper response to this question requires analysis of the pertinent canons concerning reception of sacraments. In particular, canonists must focus their attention on canon 844 which restricts the reception of certain sacraments in reference to Christians who do not have full communion with the Catholic Church and to members of the separated oriental Churches.

Different issues concern membership in associations of the faithful. Canon 215 recognizes the freedom of the Christian faithful to establish and govern associations to fulfill certain religious or charitable purposes, or to foster vocations. May non-Catholics join such associations, and, if so, what is the theological and canonical basis for such membership?¹⁰ A *communio* ecclesiology can help provide a response to this query. For example, a particular association may choose to follow the exhortation of *Unitatis redintegratio* 4 and actively work for Christian unity. It

¹⁰ On this topic, see JOHN PAUL II, Apostolic Exhortation *Christifideles laici*, no. 30, who, under the heading "Criteria of Ecclesiality" for Lay Groups" refers to "the responsibility of professing the Catholic Faith" and "the witness to a strong and authentic communion in filial relationship to the Pope." We should also note, however, that in the 1982 *schema*, canon 307, §2 (omitted during the final redaction) explicitly prohibited non-Catholic membership in public associations, and gave the local ordinary responsibility to judge non-Catholic membership in private associations. These references raise many questions, for example, on the nature and weight of an apostolic exhortation. On this, see, for example, F. MORRISSEY, "Papal and Curial Pronouncements: Their Canonical Significance in Light of the 1983 Code of Canon Law", in *J*, 50 (1990), pp. 102-125. For one commentary on *Christifideles laici*, 30, see, for example, R. PAGÉ, "Note sur les 'critères d'ecclésialité pour les associations de laïcs'", in *SC*, 24 (1990), pp. 455-463. See also the discussion on associations in *SPCU-Ecumenical Aspects*, pp. 60-61, which, however, predates *Christifideles laici*.

may choose to include both Catholics and non-Catholics. *Communio* can help provide a foundation and a context for this association's work, by illuminating, for instance, beliefs common to all Christians.

Another example arises from canon 221, and the right of *christifideles* to vindicate and defend the rights which they enjoy in the Church. If on the basis of canon 806, §1, a diocesan bishop wishes to dismiss a baptized, non-Catholic teacher from a Catholic school, would that teacher have a right to recourse? What form would this take? Further, on what grounds is that person to be judged? The specifics of the case would further determine our response. For example, differences would exist if science rather than religion were being taught. Further, the case might also involve natural rights, such as right to a good reputation, as well as civil law.

We could also adduce here other questions, equally if not more complex. But the majority of examples and issues demonstrate the need not only to develop fully the implications of a *communio* relationship for all Christians but also to determine how we can use the Code in clarifying this relationship.

1.2. Ecumenical Councils

Canons 337-341 directly refer to ecumenical councils, and these comprise the majority of the material found in the section of the Code concerned with the episcopal college. Canon 337, §1 states that "the college of bishops exercises power over the universal Church in a solemn manner in an ecumenical council."¹¹

The ensuing canons articulate the nature of the papal role in these councils.

Canon 338, §1 states:

It is for the Roman Pontiff alone to convoke an ecumenical council, to preside over it personally or through others, to transfer, suspend or dissolve it, and to approve its decrees.¹²

The second paragraph assigns to the pope the role of determining and approving the matters such a council would treat. Canon 340 provides that, during the vacancy of the Apostolic See, a council is interrupted until a new pope decides to continue or

¹¹ "Potestatem in universam Ecclesiam Collegium Episcoporum sollemni modo exercet in Concilio Oecumenico." J. KOMONCHAK, "The Ecumenical Council in the New Code of Canon Law", p. 100, notes that, while the adjective "supreme" is omitted from the text, this must be presumed because the preceding canon refers to the episcopal college as the subject of supreme and full authority over the entire Church and also because the *fontes* to the canon (*LG* 22 and *CD* 4) state that the council's authority is supreme. *SPCU-Ecumenical Aspects*, p. 62, holds the same position.

We need also note the differing connotations arising from the term "ecumenical". In the Greek original, the term signified the whole of the inhabited world. When now used as a modifier of the nouns "movement" or "discussion", it refers to efforts which aim at restoring unity among religious groups sharing the name Christian. When used to modify the noun "council", it can bear a more limited connotation for Catholics. In the latter usage, it refers to a gathering "in which all the Catholic bishops of the *oikoumene*, the world in communion with the Apostolic See, would take part." See A. BEA, *The Unity of Christians*, ed. B. LEEMING, New York, Herder and Herder, 1963, p. 129; and the collection of articles grouped under the heading "Ecumenism" in *Sacramentum Mundi*, volume 2, pp. 192-212.

¹² "Unius Romani Pontificis est Concilium Oecumenicum convocare, eidem per se vel per alios praesidere, item Concilium transferre, suspendere vel dissolvere, eiusque decreta approbare."

dissolve it. Finally, canon 341 assigns to the pope the function of approving (with the conciliar fathers), confirming, and promulgating the conciliar decrees.

The topic of ecumenical councils raises a number of issues. For example, questions arise concerning the reception of conciliar decrees, the nature of conciliarity in the Church, and the role of such councils in the Church's life.¹³ Other questions also arise in reference to the papal function in such councils.¹⁴

One topic of particular relevance today concerns the very definition of a council as *ecumenical*. Paul VI himself recognized some of the difficulties derived from the use of this term by the Catholic Church. On the occasion of the seventh centenary of the Second Council of Lyons, he referred to that Council as "the sixth general synod held in the West."¹⁵ For his part, J.-M.-R. Tillard states that, although

¹³ For one overview, see, for example, J. VAN LAARHOVEN, "The Ecumenical Councils in the Balance: A Quantitative Review", in *Concilium*, 167.7 (1983), pp. 50-60. See also F. OAKLEY, *Council Over Pope? Towards a Provisional Ecclesiology*, New York, Herder and Herder, 1969, 190p; and V. PERI, "La synergie entre le pape et le concile oecuménique. Note d'histoire sur l'ecclésiologie traditionnelle de l'Église indivise", in *Irenikon*, 56 (1988), pp. 163-193. For a history of ecumenical councils (to Vatican I), see, for example, K.-J. HEFELE, *Histoire des conciles d'après les documents originaux*, traduite en français avec des notes critiques et bibliographiques par H. LECLERCQ, 11 volumes in 21 books, Paris, Librairie Letouzey et Ané, 1907-1952, or G. DUMEIGE, ed., *Histoire des conciles oecuméniques*, Paris, Éditions de l'Orante, 12 volumes, 1963-1964. From an ecumenical view, see, for example, P. J. McCORD, ed., *A Pope for all Christians*, New York, Paulist Press, 1976, vi, 212p; J.M. MILLER, *The Divine Right of the Pope in Recent Ecumenical Theology*, Roma, Università Gregoriana Editrice, 1980, xvi, 322p. (Coll. *Analecta Gregoriana*, No. 218). For an Eastern Orthodox view, see, for example, M. AGHIORGOUSSIS, "Theological and Historical Aspects of Conciliarity: Some Propositions for Discussion", in *Greek Orthodox Review*, 24 (1979), pp. 5-19. For conciliar texts, see, for example, N.P. TANNER, *Decrees*, volumes 1 and 2.

¹⁴ The history of ecumenical councils clearly shows development and change. F. WOLFINGER, "Ecumenical Councils and the Reception of Their Decisions", in *Concilium*, 167.7 (1983), states on p. 80 that the ecumenical councils of the first thousand years of the Church -- and which are recognized as truly ecumenical by all the Churches -- do not conform to present canon law. Although he is referring here to the 1917 Code, his comments are still applicable under the new Code.

¹⁵ See "Questions d'actualité. VII^e centenaire du concile de Lyon", in *Proche-Orient chrétien*,

the Catholic tradition recognizes as ecumenical all councils received by the Roman see, "it would, however, be more accurate to reserve the title 'ecumenical' for the seven councils of the undivided Church."¹⁶

One question before canonists, then, is the following. In what ways would a *communio* ecclesiology contribute to a discussion of the meaning and use of the term *ecumenical* to describe a council? As in our preceding discussion, the foundation for research centers on the principle that varying grades of communion with the Catholic Church exist. Further, *Unitatis redintegratio* clearly refers to the presence of grace operative outside the visible dimensions of the Catholic Church. For example, *Unitatis redintegratio* 3 states:

It follows that the separated churches and communities as such, though we believe them to be deficient in some respects, have by no means been deprived of significance and importance in the mystery of salvation. For the Spirit of Christ has not refrained from using them as means of salvation whose efficacy comes from that fullness of grace and truth which has been entrusted to the catholic church.¹⁷

25 (1975), which includes on p. 55 a letter from Paul VI to J. WILLEBRANDS, President of the Secretariate for Christian Unity. The pertinent phrase is the following: "Ce concile de Lyon, compté comme le sixième des Synodes généraux tenus en Occident, fut convoqué en 1274 [...]." See also P. RICCA, "Should the Ecumenical Council Be an Expression of the Collegiality of Bishops", pp. 85-91.

¹⁶ J.-M.-R. TILLARD, *The Bishop of Rome*, p. 16. J. VAN LAARHOVEN, "The Ecumenical Councils", states on p. 50, "First, although the tradition is historically untenable, ecclesiology false and ecumenically intolerable, I have felt constrained, in this survey, to keep to the traditional term 'ecumenical council' that is reserved for twenty-one of the Church's councils that have taken place over seventeen centuries." Thus, the topic directly relates to such subjects as historical criticism, ecclesiology and ecumenism.

¹⁷ In N.P. TANNER, *Decrees*, p. 910, l.28-32: "Proinde ipsae ecclesiae et communitates seiunctae, etsi defectus illas pati credimus, nequaquam in mysterio salutis significatione et pondere exutae sunt. Iis enim Spiritus Christi uti non renuit tamquam salutis mediis, quorum virtus derivatur ab ipsa plenitudine gratiae et veritatis quae ecclesiae catholicae concredita est."

In reference to the "special position" held by the Eastern Churches, the decree recognizes that "the ecumenical councils held in the East [...] defined the basic dogmas of the Christian faith."¹⁸

The Holy Spirit does operate outside the visible bounds of the Catholic Church. Recognizing this reality and as a consequence applying the adjective *ecumenical* only to the first seven councils of the undivided Church might "avoid giving the impression of an irritating ecclesiological self-sufficiency."¹⁹ This position would not lead us to reject the doctrine taught, for example, by Trent or Vatican II. Rather,

it is a question of setting beside them the positions taken by other partners, especially those who are admitted to be sister churches, who care as much as she does about faithfulness to Christ and to his Spirit.²⁰

In other words, if we truly believe in the work of the Spirit in other Christian communities, we should acknowledge the broader context within which God makes known his salvific will.

From this foundation, and from further research and analysis, canonists and theologians would be able to investigate further the nature and role of ecumenical councils within the Catholic Church; the particular contribution that the separated Churches and ecclesial communities may make to the "reception" of councils held in

¹⁸ UR 14, in N.P. TANNER, *Decrees*, p. 916, l.19-20: "[...] fundamentalia dogmata christianae fidei [...] in conciliis oecumenicis in oriente celebratis definita esse."

¹⁹ J.-M.-R. TILLARD, *The Bishop of Rome*, p. 16.

²⁰ J.-M.-R. TILLARD, *The Bishop of Rome*, p. 17.

the West; and the implications arising from the historical nature of those ecumenical councils held in the first thousand years of Church history.

2. Questions Pertaining to Sacraments

Canon 840 expresses certain essential theological statements concerning the sacraments of the New Testament. Implications arising from the bond of the sacraments are extremely important for Church life. From the perspective of a *communio* ecclesiology, we could address a number of subjects relating to the sacraments. In this section, however, we shall limit ourselves to questions arising from two specific issues. The first concerns the role of faith in the sacrament of marriage; the second, the role of the community in preserving the apostolic tradition, with particular reference to the Catholic Church's recognition of ordained ministries in the Anglican Church.

2.1. The sacrament of marriage and the role of faith

One of the most important topics relating to the sacrament of marriage pertains both to Catholics and to non-Catholics. Succinctly, we may phrase the question as follows. Is every marriage between two baptized persons always and necessarily a sacrament? Indeed, canon 1055, §2 states:

For this reason, a matrimonial contract cannot validly exist between baptized persons unless it is also a sacrament by that fact.²¹

²¹ "Quare inter baptizatos nequit matrimonialis contractus validus consistere, quin sit eo ipso sacramentum."

Nevertheless, the issues involved are not as clear as this paragraph seems to indicate.²²

From a *communio* perspective, canonists need to address the role of faith in the sacraments in general and in marriage in particular. An individual participates in the trinitarian *communio* through a personal relationship with God. Further, this relationship, since it involves human nature, requires growth and development, personal response, and active appropriation for it to have meaning.

No sacrament exists as a static event. To have meaning, it must be dynamic and interactive with individuals (the person receiving the sacrament and the community to which he or she belongs). A specific case may serve to illustrate the issues involved. A person is baptized as an infant but has received no training in the Catholic faith. That person has not affirmatively responded to the offer of grace given by the sacrament. Can an ontological state -- arising from the character

²² An extensive bibliography exists on this topic. See, for example, D. BAUDOT, *L'inséparabilité entre le contrat et le sacrement de mariage: la discussion après le Concile Vatican II*, Roma, Editrice Pontificia Università Gregoriana, 1987, 396p. (Col. *Analecta Gregoriana*, No. 245); and J.B. SEQUEIRA, *Tout mariage entre baptisés est-il nécessairement sacramentel? Étude historique, théologique et canonique sur le lien entre baptême et mariage*, Paris, Les Éditions du Cerf, 1985, lxxix, 683 pp. For a discussion of these two authors and an examination of Rotal jurisprudence, see J. VERNAY, "Mariage et foi: à propos de deux thèses", in *Unico Ecclesiae servitio: Canonical Studies Presented to Germain Lesage, O.M.I. on the Occasion of his 75th Birthday and of the 50th Anniversary of his Presbyteral Ordination*, ed. M. THÉRIAULT and J. THORN, Ottawa, Faculty of Canon Law, Saint Paul University, 1992, 213-238. See also *Comm.*, 9 (1977), pp. 117-146; and COMMISSIO THEOLOGICA INTERNATIONALIS, "Sessio 1977: Propositiones de quibusdam quaestionibus doctrinalibus ad matrimonium christianum pertinentibus", in *Gregorianum*, 59 (1978), pp. 453-464; English translation in *Origins*, 8 (1978-1979), pp. 235-239; M. HIMES, "The Intrinsic Sacramentality of Marriage: The Theological Ground for the Inseparability of Validity and Sacramentality in Marriage", in *J*, 50 (1990), pp. 198-220; P. L'HUILLIER, "L'indissolubilité du mariage dans le droit et la pratique orthodoxes", in *SC*, 21 (1987), pp. 239-260; T. MACKIN, *What Is Marriage?*, New York, Paulist Press, 1982, viii, 366p; J. MEYENDORFF, *Marriage: An Orthodox Perspective*, New York, Saint Vladimir's Press, 1970, 69p; for works by L. ÖRSY, see *Marriage in Canon Law*; and "Ecumenism and Marriage", in *The New Code-Ottawa*, pp. 1041-1046.

imprinted with valid reception of baptism -- substitute for personal assent in the reception of another sacrament?²³

Other questions consequently arise. For example, if a person exercises the natural right to marriage, and chooses -- for any number of reasons -- not to follow Church norms on the form of marriage, must he or she necessarily be denied access to the Eucharist, for example, or to other sacraments as is generally the case today?

Other issues develop from the perspective of religious freedom. Canon 748, §2 states the principle that "persons cannot ever be forced by anyone to embrace the Catholic faith against their conscience."²⁴

This position agrees with our understanding that a person freely responds to God, freely enters into divine *communio*. Is this assertion consistent with the principle stated in canon 1055, §2? By stating that every marriage between the baptized is a sacrament, does the Church recognize the teaching authority of other Christian denominations? In other words, if a non-Catholic person agrees with the teaching of his or her ecclesial community that marriage is not a sacrament, can the Catholic Church require such a profession of faith?²⁵

²³ See, for example, K. RAHNER, "Considerations on the Active Role of the Person in the Sacramental Event", in *TI*, volume XIV, trans. D. BOURKE, London, Darton, Longman and Todd, 1976, pp. 160-184. His theological anthropology presupposes not only the capability of the human person to respond to God's grace but the necessity of responding by some manifestation.

²⁴ "Homines ad amplectendam fidem catholicam contra ipsorum conscientiam per coactionem adducere nemini umquam fas est."

²⁵ The statement in canon 1055, §2, was discussed during the revision process. See, for example, *Comm.*, 9 (1977), p. 122. Certain conferences of bishops and universities raised questions concerning its placement in the Code; in response, the Consultors unanimously agreed that their role was not to resolve theological questions. See also the 1980 *Relatio*, pp. 244-245, where this question

These and other complex issues (for example, the meaning of sacramental validity) require answers intelligible to educated Christians of today. A *communio* ecclesiology could offer positive contributions and insights to this process. For example, this ecclesiology stresses the person's free response to God's grace. Grace operates with human nature, not against it, and, thus, the Christian life of grace must involve free assent.²⁶

2.2. Apostolic "continuity" and the specific case of Anglican orders

One of the most important and complex issues present in ecumenical dialogue centers on the nature and function of ordained ministry. Further complexity derives from the fact that we cannot separate the concept of ordained ministry from specific theological issues such as Christology, ecclesiology, sacramental theology, the episcopacy, apostolicity, as well as Church unity.

From the perspective of Catholic and Orthodox dialogue, the function of ministers in the Church

was also discussed. On p. 245, the text states that the canon only intends to affirm the inseparability of contract and sacrament for the baptized, and not to refer to the requirements for the sacrament of matrimony according to theological doctrine. It seems that the inseparability of contract and sacrament is as yet a disputed issue in theology, that is, not yet definitively resolved by the Church's teaching authority.

²⁶ This raises further questions concerning the relationship between sacramental validity and the role of personal faith. This relationship needs further research and reflection so that theology will take cognizance of both sacramental validity as originating in God's grace, and the person's free response to the grace offered. Even Saint Thomas Aquinas described personal faith as an active cause in the sacrament. See the discussion in L. VILLETTE, *Foi et sacrement*, volume II: *De Saint Thomas à Karl Barth*, Paris, Bloud et Gay, 1964, (Coll. *Travaux de l'Institut catholique de Paris*, No. 6) pp. 51-52.

is above all to maintain, guarantee and promote the growth of communion in faith and sacraments. As ministers of the sacraments and doctors of the faith, the bishops, assisted by other ministers, proclaim the faith of the Church, explain its content and its demands for Christian life and defend it against wrong interpretations which would falsify or compromise the truth of the mystery of salvation.²⁷

Further, communion in faith and communion in the sacraments comprise one single reality, fostered by the work of the Holy Spirit.²⁸

Despite agreement on the function of ministers, significant differences in this and other areas still exist between the Catholic Church and the Orthodox Churches, and between the Catholic Church and other separated Churches and ecclesial bodies.²⁹ The topic before us concerns the insights and developments which might arise from an examination of ministry from the perspective of a *communio* ecclesiology. Such an ecclesiology -- for example, through its understanding of the *communio fidelium* -- could assist us in understanding more clearly the Catholic tradition, as well as providing means for recognizing ministry in other Christian communities.

In reference to the *communio fidelium*, J.-M.-R. Tillard offers one possible approach. He discusses the role of the community in maintaining full communion

²⁷ JOINT INTERNATIONAL COMMISSION FOR THEOLOGICAL DIALOGUE BETWEEN THE ROMAN CATHOLIC CHURCH AND THE ORTHODOX CHURCH, "Faith, Sacraments and the Unity of the Church" (=JIC-Faith), approved at the Commission's plenary session, June 9-16, 1987, in *One in Christ* 23 (1987), p. 337.

²⁸ *JIC-Faith*, p. 337.

²⁹ These differences concern doctrine, and Church discipline and structure. *UR* discusses these differences in Chapter III, Articles 13-24, in N.P. TANNER, *Decrees*, pp. 915-920. For commentary on *UR* 3, see, for example, J. FEINER, "Commentary on the Decree", in *Documents*, II, pp. 57-158.

with the faith and will of the apostolic Church, or, in other words, "apostolic continuity."³⁰ Citing *Lumen gentium* 8 and *Unitatis redintegratio* 2, Tillard states that elements of ecclesial reality existing outside the visible boundaries of the Catholic Church reflect the work of the Spirit and thus manifest apostolic "continuity."³¹

Thus, through this concept of apostolic "continuity", Tillard articulates a broader foundation for understanding ministry, apostolic succession, and validity of ordination in ecclesial communities which, although separated from Rome, maintain the episcopate. In reference to the ecumenical issue of recognizing ministries, Tillard states:

The problem really is one of knowing whether or not a particular ecclesial community is in communion with the Church of the apostles, and therefore whether one "recognises" in it the essential features of the apostolic community as these have been understood and explained by the great Tradition.³²

Tillard acknowledges that his position is broader than the traditional Catholic understanding. But other scholars take a similar perspective.

³⁰ J.-M.-R. TILLARD, "Sacrements et communion ecclésiale. Les cas de Lambeth et d'Écône", in *NRT*, 111 (1989), p. 642. He explains the concept as follows: "La 'continuité' apostolique, elle, concerne l'Église locale *comme telle*. Il s'agit formellement de sa fidélité au dépôt apostolique (la *parathêkê*) perçu en toute sa richesse: doctrine, *sacramenta Domini* (rayonnant autour de ce que Thomas d'Aquin verra comme les *sacramenta maiora* et incluant le ministère), exigence éthique (dans la ligne de ce que la *Didachè* dit des deux voies). C'est ce que, bien comprise, la vieille formule *Faith and Order* entend couvrir, *faith* y englobant orthodoxie et orthopraxie." This concept includes that of apostolic succession. See also his article, "Recognition of Ministries: What Is the Real Question?", in *One in Christ*, 21 (1985), pp. 31-39.

³¹ J.-M.-R. TILLARD, "Sacrements", p. 647.

³² J.-M.-R. TILLARD, "Recognition of Ministries", p. 32.

For example, T. Ryan, drawing from various ecumenical documents, believes we should situate ministry within the context of the community. This approach has close connections with the Orthodox understanding of ministry, particularly as represented by Ignatius of Antioch. From this perspective,

the episcopal ministry is seen within the community as a sign and icon of the community, all the while being in the service of its unity. [...] The bishop is thus the expression of the apostolic character of the *community*. He is successor to his predecessor within the faith of *the community*.³³

An emphasis on this "Ignatian approach" would find strong support in a *communio* ecclesiology. For example, such constitutive elements as the *sensus fidelium* or the common priesthood of the faithful would accentuate the community's active participation in the preservation of tradition. A *communio* ecclesiology recognizes not only the faith of a certain *person*, but also the necessary role of the *community* in preserving the faith. This would form the context within which we might further nuance and enlarge such concepts as apostolic succession.

These developments can assist the Catholic Church in understanding not only its own ministry but also in acknowledging the graced dimension of ministry in other separated Churches and ecclesial bodies. One particular example concerns ecumenical discussions between the Catholic and Anglican Churches, especially on this topic.³⁴

³³ T. RYAN, "Reflections on a New Context for Discussing Anglican Orders", in *One in Christ*, 22 (1986), p. 231.

³⁴ We discuss Anglican ministry here due to the issue of the validity of Anglican orders. The bibliography on Anglican-Roman dialogue is extensive. See, for example, J. WITMER and J.R.

In reference to Churches and ecclesial communities separated from Rome, *Unitatis redintegratio* 13 states:

Among those in which catholic traditions and institutions in part continue to subsist, the Anglican communion occupies a special place.³⁵

Thus, the Anglican communion testifies in its spiritual life to the reality of apostolic "continuity."³⁶

At the same time, however, the Catholic Church does not now recognize the validity of Anglican Orders. The Catholic Church's position was expressed by Leo XIII in his letter *Apostolicae curae et caritatis* of September 13, 1896.³⁷ In this document, Leo stated that for him Anglican orders are "absolutely null and utterly

WRIGHT, eds., *Called to Full Unity. Documents on Anglican-Roman Catholic Relations 1966-1983*, Washington, D.C., Office of Publishing and Promotion Services, United States Catholic Conference, 1986, 349p; A. CLARK and C. DAVEY, eds., *Anglican/Roman Catholic Dialogue. The Work of the Preparatory Commission*, Toronto, Oxford University Press, 1974, 129p; ANGLICAN/ROMAN CATHOLIC INTERNATIONAL COMMISSION (ARCIC), *The Final Report*, Cincinnati, Forward Movement Publications, 1982, vi, 122p; the CONGREGATION FOR THE DOCTRINE OF THE FAITH and the PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY, "Vatican Response to ARCIC I", December 5, 1991, in *Origins*, 21 (1991-1992), p. 441, 443-447. For the importance of a *communio* ecclesiology to this dialogue, see, for example, ARCIC II, "The Church as Communion", in *Origins*, 20 (1990-1991), pp. 719-727.

³⁵ In N.P. TANNER, *Decrees*, p. 915, l.38-39: "Inter eas, in quibus traditiones et structurae catholicae ex parte subsistere pergunt, locum specialem tenet communio anglicana."

³⁶ See J.-M.-R. TILLARD, "Sacraments", p. 649.

³⁷ LEO XIII, Litterae apostolicae *Apostolicae curae et caritatis*, September 13, 1896, in *Acta Sanctae Sedis*, 29 (1896-1897), pp. 193-203.

void."³⁸ His argumentation centered on the form of the sacrament and the intention involved.³⁹

The issue confronting canonists, therefore, concerns the fact of catholic traditions within the Anglican communion and the invalidity of Anglican orders. The necessary function of the community as understood from a *communio* perspective could assist us in reconciling these positions. For example, approaching the issue from apostolic continuity as an element of *communio*

would allow the Roman Catholic Church to recognize that the Anglican Communion has maintained the apostolic tradition in and through her succession of communities of faith even if, at some particular point historically, the valid succession of ordaining bishops is in doubt. In this perspective, if the faith of the community was and is apostolic faith, then the presbyters and bishops ordained are true ministers of the true apostolic faith.⁴⁰

Emphasis is thus placed on the active role of the community in maintaining fidelity to apostolic faith.

Of course, we cannot perceive this fidelity in isolation from other important factors such as the Eucharist, the bishop's role within his particular church, and his relationships with other bishops, the substance of the sacraments, and sacramental

³⁸ LEO XIII, *Apostolicae curae et caritatis*, p. 202: "pronunciamus et declaramus, ordinationes ritu anglicano actas, irritas prorsus fuisse et esse, omninoque nullas."

³⁹ See the discussion in K. OSBORNE, *Priesthood: A History of Ordained Ministry in the Roman Catholic Church*, New York, Paulist Press, 1989, pp. 294-298. See also G. TAVARD, *A Review of Anglican Orders: The Problem and the Solution*, Collegeville, The Liturgical Press, 1990, 167p. (Coll. *Theology and Life Series*, No. 31); and J.-M.-R. TILLARD, "What Priesthood Has the Ministry?", in *One in Christ*, 9 (1973), pp. 237-269.

⁴⁰ T. RYAN, "Reflections on a New Context", p. 232.

validity. Nevertheless, in view of current ecumenical discussions, G. Tavard states, "it is no exaggeration to say that the recognition of Anglican orders by the Catholic hierarchy has now become imperative."⁴¹

Tavard offers a number of options by which the Church could now recognize Anglican orders.⁴² Other issues -- including the question of women's ordination -- are being addressed by the Anglican-Roman Catholic Dialogue. The importance of a *communio* ecclesiology to these issues finds clear expression in the final report of the (first) Anglican-Roman Catholic International Commission. The Introduction to the report states: "fundamental to all our Statements is the concept of *koinōnia* (communion)."⁴³ *Communio* forms the basis for discussing the Church's nature. The eucharist is the effectual sign of *communio*; episcopacy is service for the *communio*; and the primacy is a visible connection and focus of *communio*.⁴⁴ This dialogue continues, with the hope of achieving the unity intended by Jesus Christ.

⁴¹ G. TAVARD, *A Review of Anglican Orders*, p. 134.

⁴² See G. TAVARD, *A Review of Anglican Orders*, pp. 136-142. These options include presumption of validity; implications of ecclesial status (similar to the concept of "apostolic continuity"); *Ecclesia supplet*; and supplemental regularization (denoting a mutual recognition of ministries when two Churches decide to become one).

⁴³ "The Final Report. Anglican-Roman Catholic International Commission", in *Called to Full Unity*, p. 231, No. 4.

⁴⁴ See "The Final Report", p. 232, No. 6.

3. Questions Pertaining to Governance

The third bond for full communion with the Catholic Church, that of ecclesiastical governance, refers to the Church's hierarchical constitution. This bond necessarily presupposes the other bonds of faith and sacraments. As with the latter, we could examine it from a number of perspectives. However, in the following discussion, we shall raise two specific issues in reference to Church unity. The first concerns the issue of dissent against authentic but not definitive teaching of the Church, and the second, the situation of Eastern Orthodox Churches in reference to the Catholic Church.

3.1. Does dissent vitiate communion?

The issue of a Catholic's response to authoritative Church teaching forms one of the most difficult and delicate areas discussed today. In order to understand the particular question which we wish to raise, we need to situate the issue of "response" within a more general framework. L. Örsy refers to this context in his book *The Church: Learning and Teaching*. In his first chapter, he states:

The fundamental theme of this book is the progress of the Christian community toward the whole truth. It is about the Word of God that was given to the church, and about the interplay that takes place between those who possess the Word (that is, the whole church) and those who within that community have a special power to proclaim it and authenticate it (that is, the episcopate).⁴⁵

⁴⁵ L. ÖRSY, *The Church*, p. 13. In footnote 2 to this quotation, he explains that by "episcopate" he means "the episcopal college in the sense that it is described and explained in Chapter 3 of *Lumen gentium*." That is, the college "which has for its head the pope, and for its other members

What is this "interplay"? More specifically, how may a *communio* ecclesiology contribute to understanding a believer's response to authentic Church teaching?

In reference to this response, canon 752 states:

A religious respect of intellect and will [*religiosum (...) intellectus et voluntatis obsequium*], even if not the assent of faith, is to be paid to the teaching which the Supreme Pontiff or the college of bishops enunciate on faith or morals when they exercise the authentic magisterium even if they do not intend to proclaim it with a definitive act; therefore, the Christian faithful are to take care to avoid whatever is not in harmony with that teaching.⁴⁶

The canon distinguishes between "religious respect of intellect and will" and the assent of faith. The latter, as expressed by canon 750, refers to the one deposit of faith, including all that is contained in the word of God and tradition.

The meaning of the terminology used in these canons and in related documents is still under discussion. For example, the appropriate English translation for *authenticum* and for *religiosum intellectus et voluntatis obsequium* has given rise to much debate.⁴⁷ Further, the terminology describing possible responses has also been

the bishops."

⁴⁶ "Non quidem fidei assensu, religiosum tamen intellectus et voluntatis obsequium praestandum est doctrinae, quam sive Summus Pontifex sive Collegium Episcoporum de fide vel de moribus enuntiant, cum magisterium authenticum exercent, etsi definitivo actu eandem proclamare non intendunt; christifideles ergo devitare curent quae cum eadem non congruant."

⁴⁷ For a discussion of terminology, see, for example, L. ÖRSY, *The Church*, pp. 46-62 and 82-93; and F. SULLIVAN, *Magisterium*; B.C. BUTLER, "Infallible; Authenticum: Assensus; Obsequium. Christian Teaching Authority and the Christian's Response", in *Doctrine and Life*, 31 (1981), pp. 77-89. On response to official Church teaching, see, for example, Y. CONGAR, "Le droit au désaccord", in *AC*, 25 (1981), pp. 277-286; L. ÖRSY, *The Evolving Church and the Sacrament of Penance*, Denville, New Jersey, Dimension Books, 1978, pp. 56-86; F. SULLIVAN, "The Response Due to the Non-Definitive Exercise of the Magisterium (Canon 752)", in *SC*, 23 (1989), pp. 267-284; and F. URRUTIA, "La réponse aux textes du magistère pontifical non infaillible", in *AC*, 31 (1988), pp. 95-115. See also C. CURRAN and R. McCORMICK, eds., *Readings in Moral Theology*, No. 3:

questioned.⁴⁸ We must express one further fact which is vital to this discussion, namely, that official Church teaching has changed and will continue to change.⁴⁹

Numerous examples of such changes exist. We may see this, for instance, in a comparison of Vatican II teaching with previous statements of the magisterium.

A. Dulles adduces several examples: he contrasts *Dei Verbum* with Biblical Commission decrees; *Unitatis redintegratio* with *Mortalium animos* of Pius XII; and the

The Magisterium and Morality, New York, Paulist Press, 1982, especially the following: A. DULLES, "Doctrinal Authority for a Pilgrim Church", pp. 247-270; J. KOMONCHAK, "Ordinary Papal Magisterium and Religious Assent", pp. 67-90; B. SCHULLER, "Remarks on the Authentic Teaching of the Magisterium of the Church", pp. 14-33; and O. SEMMELROTH and K. LEHMANN, "The Ecclesiastical Magisterium and Theology", pp. 151-170. See also C. CURRAN, *Faithful Dissent*, Kansas City, Sheed and Ward, 1986, v, 287p; L. SWIDLER and P. FRANSEN, eds., *Authority in the Church and the Schillebeeckx Case*, New York, Crossroad, 1982, 267p.

⁴⁸ L. ÖRSY, *The Church*, discusses use of the term "dissent." He states on pp. 91-92 that "dissent" is too much of an ambivalent word, with too many existential connotations beyond a purely intellectual significance to be a useful term in theological debates, which by definition are supposed to move on a rational level." He concludes, however, by noting that, at this time, we must use an unsuitable word.

⁴⁹ Although we cannot here treat this material to the depth it requires, we should make some general remarks. First, we must recognize that a specific teaching of the non-infallible magisterium may contain matters integral to the deposit of faith. On this point, see L. ÖRSY, *The Church*, pp. 58-59. Second, we should note that one of the most explicit references to the fact of change within Church teaching was expressed by the German bishops in a letter of September 22, 1967. In reference to official Church teaching, the letter states in part: "We refer to the fact that in the exercise of its official function this teaching authority of the Church can, and on occasion actually does, fall into errors." This citation is taken from K. RAHNER, "The Dispute Concerning the Church's Teaching Office", in *TI*, XIV, trans. D. BOURKE, London, Darton, Longman and Todd, 1976, p. 85. In footnote 1, p. 85, Rahner states, "The text was published by the Secretariat of the Conference of German Bishops in the autumn of 1967 as a semi-private document and disseminated at the diocesan level. Hence it is relatively difficult to achieve access to it." See also F. SULLIVAN, *Magisterium*, pp. 156-157. Third, the concept of the development of dogma exercises a determinative role in this discussion. See, for example, *DV* 8; K. RAHNER, "Concerning Our Assent to the Church as She Exists in the Concrete", in *TI*, XII, trans. D. BOURKE, New York, Seabury Press, 1974, pp. 142-161; and L. ÖRSY, *The Church*, pp. 19-25.

evolutionary view of history found in *Gaudium et spes* with previous denunciations of modern civilization.⁵⁰

One possible manner in which a *communio* ecclesiology may assist our discussion arises from the historicity of *communio* on both the personal and the communitarian levels. On the personal level, the individual's response to God's self-communication is dynamic, not static; it unfolds through time. As such, the relationship between God and the person changes; it grows and deepens. The same applies analogically to the Church as community. The community's comprehension and articulation of God's self-revelation in and through Jesus Christ is a dynamic process, even with (or because of) the closure of revelation with the end of the

⁵⁰ A. DULLES, "Doctrinal Authority", p. 264. Pertinent here is the official Church attitude towards some theologians in the period preceding Vatican II. As DULLES states on pp. 264-265, the Council "rehabilitated many theologians who had suffered under severe restrictions concerning their ability to teach and publish. [...] Some of the thinkers who had resisted official teaching in the pre-conciliar period were among the principal precursors and architects of Vatican II." J. KOMONCHAK, "Ordinary Papal Magisterium", pp. 72-73, quoting theological manuals, cites cases of errors officially taught by the ordinary magisterium; F. SULLIVAN, *Magisterium*, in Chapter IV, note 37, p. 223 cites the questionable (if not heretical) position of Honorius.

Another question which needs to be addressed concerns the role and authority of the Roman dicasteries -- particularly the Congregation for the Doctrine of the Faith -- in Church teaching. Of particular interest to the concept of *communio* is the document, CONGREGATION FOR THE DOCTRINE OF THE FAITH, "Notificatio de scripto P. Leonardi Boff, O.F.M., 'Chiesa: Carisma e Potere'", in *AAS*, 77 (1985), pp. 756-762. This text, specifically approved by the Pope, interprets the word *subsistit* in *LG* 8. In part, the text states, "Il Concilio aveva invece scelto la parola 'subsistit' proprio per chiarire che esiste una sola 'sussistenza' della vera Chiesa, mentre fuori della sua compagine visibile esistono solo 'elementa Ecclesiae' che -- essendo elementi della stessa chiesa -- tendono e conducono verso la Chiesa cattolica (*LG* 8), Il Decreto sull'ecumenismo esprime la stessa dottrina (*UR* 3-4), la quale fu di nuovo precisata nella Dichiarazione *Mysterium Ecclesiae*, n. 1 (*AAS* LXV (1973), pp. 396-398)." F. SULLIVAN, *The Church*, states on p. 29 that, while the expression "there exists only one subsistence" is somewhat obscure, the interpretation intended by the Congregation is clear: "(1) it is only in the Catholic Church that the church of Christ can be said to 'subsist', and (2) it subsists in the Catholic Church in so exclusive a way that outside of her limits there can be found *only elements* of church." Whether or not one agrees with SULLIVAN, it is clear that the document from the Congregation requires further analysis in reference to interpretation, intention and force.

apostolic age. The self-revelation of God remains definitive and final; yet people in every age need to appropriate this revelation as their own and make it effective in their lives.⁵¹

Within this context, therefore, we would maintain that dissent does not necessarily vitiate *communio*. In fact, the process may assist the community to appropriate more deeply the truths of revelation and thus deepen *communio* among believers. One prior condition, however, is paramount.

The possibility -- perhaps, the right -- of dissent must occur within *communio* and aim at its edification, not its destruction. In other words, any right of dissent would have a concomitant obligation: to edify *communio*. This obligation derives from Church unity as willed by Jesus Christ. As one consequence, a theory of "rightful dissent" from a *communio* perspective would need to focus on the nature of this obligation. This foundation, although demanding the virtue of charity as a prerequisite, does not demand uniformity. A basis of unity and charity establishes the general context within which persons not only "think with the Church" but also feel that they must disagree with a specific teaching.

The latter statement requires much further elaboration. A theory of "rightful (and respectful) dissent" within *communio* must take into consideration such concepts as the deposit of faith, the development of doctrine, the *sensus fidelium*, the virtue

⁵¹ See, for example, by K. RAHNER, "Yesterday's History of Dogma and Theology for Tomorrow", pp. 3-34; and "The Death of Jesus and the Closure of Revelation", pp. 132-142, both in *TI*, volume XVIII, trans. E. QUINN, New York, Crossroad Publishing Co., 1983; and "Mysterium Ecclesiae", in *TI*, volume XVII, pp. 127-138.

of charity, and the distinction between public and private dissent.⁵² But a *communio* ecclesiology does not demand uniformity or silence; it respects the different manifestations which are the fruit of the Holy Spirit working in the world.⁵³

Church authority, for its part, must recognize the legitimate diversity that is constitutive of the Church as *communio*. Further, it needs to acknowledge that legitimate dissent may benefit the Church. For example, L. Örsy suggests the possibility that a theologian who proposes an answer other than the one given by authority may not be dissenting but rather contributing to the development of doctrine.⁵⁴

Disagreement has existed and will continue to exist in the Church; communion is not necessarily ruptured by its presence.⁵⁵ But the task of appropriating and making effective God's revelation in our world involves the whole people of God in a dynamic interplay which reflects human reality.

⁵² On the last topic, see, for example, UNITED STATES BISHOPS, "The Teaching Ministry of the Diocesan Bishop: A Pastoral Reflection", in *Origins*, 21 (1991-1992), pp. 484-490.

⁵³ This understanding would also apply to the revised version of the official "Profession of Faith" and the new "Oath of Fidelity" issued by Congregation for the Doctrine of the Faith and published in *AAS*, 81 (1989), pp. 104-106. For commentary on these documents, see, for example, L. ÖRSY, *The Profession of Faith and the Oath of Fidelity. A Theological and Canonical Analysis*, Wilmington, Delaware, Michael Glazier, Inc., 1990, 71p, and R. PAGÉ, "Le document sur la profession de foi et le serment de fidélité", in *SC*, 24 (1990), pp. 51-68.

⁵⁴ See L. ÖRSY, *The Church*, p. 98.

⁵⁵ This position is supported by historical evidence, for example, the late 2nd century discussion (which developed into a dispute) between Rome and the Asian Churches concerning the proper date for celebrating Easter. This experience demonstrates that "regional *koinônia* could have a different practice without breaking the universal *koinônia*." See J. LYNCH, "The Limits of *Communio* in the Pre-Constantinian Church", in *J*, 36 (1976), p. 173. See also N. BROX, "The Conflict Between Anicetus and Polycarp", in *Concilium*, 8-1 (1972), pp. 36-45.

3.2. The Relationship between the Roman Catholic Church and the Orthodox Churches

In reference to the separated churches of the East, *Unitatis redintegratio* 15 states:

These churches, though separated from us, yet possess true sacraments, above all, by apostolic succession, the priesthood and the eucharist, whereby they are still linked with us in closest intimacy.⁵⁶

In article 14, the text also notes that the western church has drawn extensively from the spiritual treasury of the East, especially in liturgical practice, spiritual tradition, and canon law. In article 17, the decree states that various theological expressions ought to be considered complementary rather than conflicting.

In light of this foundation, *OE* 30 establishes the context for our first, general question. The decree states:

All these provisions of the law are made according to present conditions and until the Catholic Church and the separated eastern churches come together into the fullness of union.⁵⁷

The question which follows, then, is this: how does the Catholic Church understand and evaluate the Tradition of the separated Eastern Churches?

In other words, given the fact that the East possesses true sacraments and apostolic succession, how do we reconcile *Lumen gentium* 8 and the Orthodox belief

⁵⁶ In N.P. TANNER, *Decrees*, p. 917, l.7-9: "Cum autem illae ecclesiae, quamvis seiunctae, vera sacramenta habeant, praecipue vero, vi successionis apostolicae, sacerdotium et eucharistiam, quibus arctissima necessitudine adhuc nobiscum coniunguntur [...]."

⁵⁷ In N.P. TANNER, *Decrees*, p. 907, l.25-28: "hae omnes iuris dispositiones pro praesentibus conditionibus statuuntur, usquedum ecclesia catholica et ecclesiae orientales seiunctae ad plenitudinem communionis convenient."

that their Church is "the living embodiment [...] of the one true 'Tradition of the undivided Church'"?⁵⁸ Does the reference in *Unitatis redintegratio* 4 to "that fullness of grace and truth which has been entrusted to the Catholic Church" take cognizance of the history and Tradition of the East?⁵⁹

We can situate one particular issue within this general context. The *Nota explicativa* makes a distinction between functions (*munera*) and powers (*potestates*); this distinction serves to emphasize the necessity of hierarchical communion. Powers can be exercised only by means of a canonical or juridical determination given by hierarchical authority. At the conclusion of the *Nota*, a *Nota Bene* has been appended, which states:

Without hierarchical communion the sacramental-ontological function, which is to be distinguished from the canonico-juridical aspect, *cannot* be exercised. The commission decided that they should not get into questions about *licity* and *validity*; these are left for the discussion of theologians, especially with regard to the power that is in fact exercised among our eastern separated brothers and sisters and there is a variety of opinions on how this is to be explained.⁶⁰

⁵⁸ F. LITSAS, ed., *A Companion to the Greek Orthodox Church*, New York, Department of Communication, Greek Orthodox Archdiocese of North and South America, 1984, p. 5.

⁵⁹ On these questions, see, for example, A. DeHALLEUX, "Fraterna communio", in *Irenikon*, 58 (1985), pp. 291-310; C. DAVEY, "Further Steps Towards Unity. 1972-1984", in *Aksum - Thyateira: a festschrift for Archbishop Methodios of Thyateira and Great Britain*, ed. G. DION, London, Thyateira House, 1985, pp. 485-512; and M. FOUYAS, *Orthodoxy, Roman Catholicism, and Anglicanism*, London, Oxford University Press, 1972, xxi, 280p.

⁶⁰ In N.P. TANNER, *Decrees*, p. 900, 1.12-16: "Sine communionē hierarchica munus sacramentale-ontologicum, quod distinguendum est ab aspectu canonico-iuridico, exerceri non potest. Commissio autem censuit non intrandum esse in quaestiones de licitate et validitate, quae relinquuntur disceptationi theologorum, in specie quod attinet ad potestatem quae de facto apud orientales seiunctos exercetur, et de cuius explicatione variae exstant sententiae."

In other words, the Eastern Churches possess true sacraments and apostolic succession; they thus exercise power derived from episcopal ordination. But how is this power exercised without hierarchical communion?

This question could receive further clarification and, perhaps a solution, through a *communio* ecclesiology. P. Granfield contrasts this ecclesiology with a universalist one. The latter, which reached its acme in the nineteenth and early twentieth centuries, stresses the pope's central authority and leaves little opportunity for initiative in particular churches.⁶¹ A *communio* ecclesiology, on the other hand,

views the entire Church as an interdependent network or communion of churches rather than one large bureaucratic organization. It affirms the legitimacy and importance of the local church; it recognizes a variety of gifts within the one Church; it encourages active participation in church life; it repudiates triumphalism, clericalism, and elitism; and it understands ecclesial authority as service.⁶²

This change in perception can strongly influence the mutual understanding between the Catholic and Eastern Churches.⁶³ For example, it allows for more recognition and acceptance of the legitimate diversity present in the East.

W. Bertrams specifically approaches this issue from a *communio* perspective. He maintains that Vatican II affirmed that the triple *munera* are conferred sacramentally but that their exercise requires incorporation and coordination within hierarchical communion. In the East, since full hierarchical communion does not

⁶¹ P. GRANFIELD, "The Church Local and Universal", p. 450.

⁶² P. GRANFIELD, "The Church Local and Universal", pp. 451-452.

⁶³ For example, M. FOUYAS, *Orthodoxy*, pp. 7-8, asserts that differing ecclesiologies -- monarchical in the West, oligarchical in the East -- led to differences in the theology of the Trinity.

exist, "episcopal power is not fully constituted in the social-juridical order."⁶⁴ But, in as much as the Eastern Churches possess a true episcopate and sacraments, the Catholic Church recognizes, to a degree, that hierarchical communion exists in these Churches. This communion is not limited to celebration of cult but also includes the exercise of governance.⁶⁵ This recognition, however,

does not mean that the Church admits that their episcopal power agrees totally with the objective order established by the Lord. But this recognition does mean that the bishops of these churches enjoy true episcopal power.⁶⁶

Thus, Bertrams asserts that various grades of hierarchical communion exist. This position offers possibilities for further investigation into the nature and exercise of episcopal power.

In another area, the question of papal primacy forms one of the most important issues dividing these Churches. A different understanding of the papal function arises from a *communio* ecclesiology. Within the latter, emphasis centers on the pope's unifying function among diverse particular Churches. In addition, greater attention is given to the pope as a bishop of a particular church. Consequently, the proper referent for papal authority is the particular Church of Rome. More research

⁶⁴ W. BERTRAMS, "De gradibus 'communiois'", p. 300: "[...] deficiente potestas episcopalis non est plene constituta, scilicet ipsa non est constituta in ordine sociali-iuridico."

⁶⁵ See W. BERTRAMS, "De gradibus 'communiois'", pp. 302-303. He also states on p. 303 that "etiam communio hierarchica gradus admittit."

⁶⁶ W. BERTRAMS, "De gradibus 'communiois'", p. 303: "Haec recognitio quidem non significat Ecclesiam admittere potestatem eorum episcopalem in omnibus congruere ordini obiectivo a Domino instituto. Attamen haec recognitio significat Episcopos harum ecclesiarum gaudere vera potestate episcopali."

and development of ideas concerning these and other concepts would also assist in clarifying divisive issues. Such research could assist in making distinctions between the pope as Roman Pontiff and as Patriarch of the West.

Further, such a distinction could conceivably allow for a plurality of patriarchates united in communion with one another under the pastoral solicitude of the Bishop of Rome. In addition, within this *communio* relationship, the concept of hierarchical communion could apply to the Patriarchate of the West, and "fraternal communion" to the relationship between the Churches of the East and the Bishop of Rome.⁶⁷

These and other possibilities arising from a communion ecclesiology are demanded if the Church truly desires to cooperate with God in bringing about the unity of all Christians.

⁶⁷ On this topic, see A. DeHALLEUX, "Fraterna communio". Acceptance of hierarchical communion or the doctrine of papal infallibility does not seem necessary for a recognition of "true" sacraments, as is the case today of Eastern Churches seen from a Roman Catholic perspective. J. RATZINGER, "Primacy and Episcopacy", in *Theology Digest*, 19 (1971), states on pp. 206-207 that "Unity of faith is the pope's function; this does not prohibit independent administrative agencies like the ancient patriarchates. The extreme centralization of the Catholic Church is due not simply to the Petrine Office but to its being confused with the patriarchal function which the bishop of Rome gradually assumed over the whole of Latin Christianity. [...] Then accepting unity with the pope would no longer mean joining a unified administration but simply fitting into the unity of faith and fellowship, along with recognizing the pope's authority to expound the Christian revelation in binding form. The Eastern Churches would not have to change anything in their way of life." There are some indications that Cardinal Ratzinger has changed his conception of the separated eastern Churches. The above quotation appears more in line with conciliar views than his reference to "allowing the Orthodox to remain at a level of lesser development" in reference to the doctrine of the primacy. This quotation is from a letter to the editor in *The Tablet*, 245 (26 October 1991), p. 1310.

Conclusion

In this chapter, we introduced the process of applying the principles of a *communio* ecclesiology to specific issues which the Church faces today. As has become clear, this discussion remains "introductory" due to the complexity of the topics involved, the inter-relationship among various forms of Church teaching, and the continuing process of appropriating the insights and teachings of the Second Vatican Council.

Nonetheless, despite its introductory character, the discussion has demonstrated the importance and applicability of a *communio* ecclesiology in the Church's life. The three bonds which express the reality that a baptized person lives in full communion with the Catholic Church on this earth form a general context for an analysis based on the concept of *communio*. Principles derived from the latter allow us to appropriate and deepen Vatican II insights into the Church's nature and the way in which it can best fulfill its mission in the world.

But the Church can no longer understand itself in isolation, as totally separate from the world. Consequently, the same context offers us opportunities for assessing the Church's relationship with other Churches and ecclesial communities separated from it. Further, the universality of the Holy Spirit's presence offers the Catholic Church means for positively assessing the contribution of these Christians.

But perhaps the most important insight derived from our analysis concerns the historicity of the *communio* that is the Church. This historical dimension of God's

self-communication definitively and fully revealed in Jesus Christ can be a difficult concept to understand correctly. Nonetheless, this dimension emphasizes the human response to God, both on the level of the person and on that of the community. The deposit of faith does not change, for the truths of our salvation remain true and the same due to God's fidelity. But finite human appreciation, understanding, appropriation, preservation and communication must become dynamic. We -- both as individuals and as community -- must allow the truths of our salvation to be effective in our world and time.

Communio is dynamic in all of its manifestations. This dynamism arises from its origin in the *perichoresis* of the Father, Son, and Spirit. It finds expression in the dynamic mission of the Church to incarnate the salvific will of God in a particular space and time. Its finality is the dynamic mystery of everlasting union with God. A *communio* ecclesiology, to be true to its origins, must reflect this dynamic dimension.

Final Observations

Our analysis of *communio* has clearly manifested its importance for the Church today. Various papal pronouncements reflect the renewed emphasis on *communio* found in the conciliar documents. Numerous authors -- specialists in such fields as ecclesiology, sacramental theology, ecumenism, and canon law -- are continuing the process of articulating the significance and implications of a *communio* ecclesiology.

We have demonstrated that the relevance of *communio* to current ecclesiology manifests itself in various disciplines. From our perspective, three specific topics, namely, the Church's self-understanding, its daily life, and the place and function of canon law therein, served as a focus. We shall examine each of these in turn.

Firstly, for John XXIII, *aggiornamento* became the fundamental concept for understanding the task of Vatican II.¹ This term, often translated as "renewal" or "modernization", reflects a process which has been part of the Church from its inception. Since the "council" of Jerusalem, described in Acts 15, the Church has faced the necessity of addressing new issues and concerns, in a diversity of cultural and ethnic milieux. Simultaneously, the Church has had to remain faithful to God's

¹ See, for example, the discussion in A. DULLES, *The Reshaping of Catholicism*, p. 20.

revelation. The Second Vatican Council was the latest historical event in this process, and the Church today still struggles to incorporate conciliar teaching in its life.

In *Lumen gentium*, the Council examined the Church's nature in itself. It began the difficult and painful process of renewal within an institution that seemed unwilling to change. In *Gaudium et spes*, the Council analyzed the relationship between the Church and world. In so doing, it initiated a new vision, one of dialogue and responsibility. K. Rahner maintains that, with Vatican II, the Church has truly entered into the process of becoming a world Church.²

But to accomplish this vision, to make it live, the Church needs to rediscover itself and express once again, in this particular time and space, its nature and its mission. For only by this process can the Church be seen and understood as the definitive sign of the salvation accomplished through the life, death, and resurrection of Jesus Christ. The theological principle of *communio* offers a framework for such a renewal. Its polysemous character allows its application to various dimensions of the Christian life.

Through its emphasis on its divine origin, *communio* reminds us that a relationship with God -- a response to his self-communication -- remains primary both for the individual and for the community. This relationship, however, cannot persevere solely on the level of a person's transcendental or spiritual dimension, for

² See, for example, K. RAHNER, "Towards a Fundamental Theological Interpretation of Vatican II", in *Vatican II: The Unfinished Agenda*, pp. 9-21. See also A. DULLES, *The Reshaping of Catholicism*, especially Chapter 3, "The Emerging World Church and the Pluralism of Cultures", pp. 34-50.

persons are comprised of body and soul. Since salvation occurs through both, *communio* itself requires physical manifestation. But we must not confuse the latter manifestation with the spiritual reality. In fact, as Church history demonstrates, the temptation exists for us to overemphasize the external, and give scant attention to its spiritual foundation. But *communio* in the Church makes sense only if we take cognizance of its foundation in God's salvific will. We can understand and perceive the Church as sacrament -- revealer and bestower of grace through the Spirit -- to the degree that the Church, as *sign*, is intelligible and meaningful.

Further, *communio* exists as a process, as a dynamic within humanity and the world. This reflects the "already" and "not yet" dimensions of salvation. Salvation is a reality, in this time and place. But its total manifestation, its fulfillment, will occur only with the parousia. The world, all men and women of every age, are engaged in the mission of bringing about the reign of God. Thus, the Church -- as the People of God -- exists in pilgrimage. Guided by the Holy Spirit, it dynamically proceeds to its fulfillment. Therefore, in its finite expression, *communio*, too, is in process towards its ultimate realization.

As the Church progresses toward its consummation, it is truly becoming a world Church. That is, as it incarnates the message of salvation in a particular space and time, in a particular milieu, it must do so in a way that people can not only understand and appropriate the message but also assume their legitimate role in extending it. In our time, the Church is leaving behind its Greco-Roman or European cultural and philosophical emphasis. The axis has shifted: no longer east -

- west but rather north -- south, or, in other words, towards the acceptance of a more pluralistic and world-wide perspective.

The *communio ecclesiarum* exists as a reflection of the Church's universal message. As such, it reflects the fundamental unity derived from participation in the divine *communio* and from salvation through the God-man, Jesus Christ. This unity founded in *communio* with God does not -- and, due to human diversity, cannot -- demand uniformity. But uniformity is not necessary for *communio* with God and with one another.

It may be difficult for us to realize that such an ecclesiological perspective developed only in the first half of this century. It is appropriate here to recall the words of J. Ratzinger, who stated in 1986:

[U]ntil World War I, the Catholic Church had been considered an ossified apparatus obstinately resisting the achievements of the modern age. In theology, the question of papal primacy had predominated to such an extent that the Church appeared to be essentially a centrally governed institution which one stubbornly defended but which somehow still confronted one only from the outside. Now it was apparent again that the Church is much more; that all of us carry it together in faith in a living way, just as it carries us. It became apparent that it grows organically, just as it has through the centuries, so too today.³

From this perspective, the Church reveals itself more as a living organism than an unchanging institution. But difficulties arise, however, in expressing abstract concepts in the Church's daily life.

³ J. RATZINGER, "The Ecclesiology of the Second Vatican Council", p. 240.

This process finds a strong resource in *communio's* emphasis on the fundamental equality of all the baptized. God invites all persons in the Church -- in virtue of their baptism and not necessarily in virtue of their reception of orders -- to take an active role in its mission. *Apostolicam actuositatem* clearly reflects this equality by stating:

As in the connected whole of a living body no organ is merely passive but each shares, together with life, in the activity of the body, so in the body of Christ which is the church, the whole body, "when each part is working properly, makes bodily growth" (Eph. 4,16). Moreover, such is the connection and conjunction in this body (see Eph. 4, 16) that a member not working according to its capacity towards the growth of the body cannot be said to profit the church or itself. In the church, there is diversity in ministry but unity in mission.⁴

The Church as *communio* is founded upon the *communio* among its members and the *communio* between an individual and God. This dynamic interplay of relationships requires that each person assume his or her own proper responsibility, and take an active part in cooperating with the Church and with God in bringing about God's reign.

Secondly, this assumption of responsibility forms the crux for transforming abstract ecclesiological principles into the Church's active life. The Church cannot merely state the fundamental equality of all the baptized as a foundational principle;

⁴ AA 2, in N.P. TANNER, *Decrees*, p. 982, l. 16-24: "Sicut in viventis corporis compage, nullum membrum mere passive sese gerit, sed simul cum vita corporis eiusdem operositatem quoque participat, sic in corpore Christi, quod est ecclesia, totum corpus 'secundum operationem in mensuram uniuscuiusque membri, augmentum corporis facit' (Eph. 4, 16). Quinimmo tanta est in hoc corpore connexio et membrorum compactio (cf. Eph. 4, 16), ut membrum quod ad augmentum corporis secundum suam mensuram non operatur, nec ecclesiae nec sibi prodesse dicendum sit. Est in ecclesia diversitas ministerii, sed unitas missionis."

it must allow all the faithful the means to participate actively in the Church's life. The baptized receive charisms from the Spirit, given for the edification of the Church. Further, *Apostolicam actuositatem* 3 states that the faithful have "the right and duty to exercise them in the Church."

The Church can no longer treat the faithful, especially laics, as docile recipients of Church teaching and sacraments. Thus, for example, Church authorities should no longer simply state a position without also presenting the reasons for it. In this way, the Church would recognize the intelligence and education of many laics, the reality of the *sensus fidelium*, and the necessity of active appropriation of God's truth. Such a perspective is not only demanded by a *communio* ecclesiology, but also by conciliar teaching. It requires the Church to face diversity and the lack of uniformity as a gift of the Spirit rather than as a threat.

Thirdly, we must acknowledge that articulating this ecclesiology in the Church's life can create certain difficulties. This applies particularly to the Code of Canon Law, for law by its nature strives for clarity and distinctions so that those bound by it can recognize and implement their responsibilities. A *communio* ecclesiology, however, lacks sharp distinctions due to its dynamic nature and its spiritual foundation. For example, the existence of various grades of communion with the Catholic Church stresses an important theological principle. Nonetheless, the specific differences between two specific grades form a grey area, dependent on a variety of factors, and which, therefore, do not clearly offer externally verifiable criteria for judgment. This issue centers on faith, both the personal relationship with God and

its external manifestation. A distinction forces itself upon us between faith as a theological virtue and the actual profession of faith. But, again, this forms a grey area, difficult to judge in the external forum.

Nonetheless, the advantages of a *communio* ecclesiology for the Church outweigh any difficulties created in the legal realm. An emphasis on "society" or on "perfect society" might have served a specific purpose at a given historical period. But in time, its weaknesses clearly emerged. The most obvious, and most dangerous, deficiency concerns the Church's spiritual dimension. An ecclesiology which perceives the Church only as a visible society, organized and maintained along the lines of a civil society, can easily overemphasize the institutional to the detriment of the spiritual. But the Church's very existence depends on God's salvific will, redemption in Jesus Christ, and the presence of the Holy Spirit. If we do not give these realities full recognition, then we lose sight of the Church's essence. In the Church, law should occupy an inferior -- albeit necessary -- place in relation to its mission.

This position does not deny the Church's societal dimension. The Church does not exist as an amorphous community of persons related by a shared experience of God. There is a necessary social dimension to the human person; salvation occurs within the context of an organized community. But society -- and law -- cannot become ends in and of themselves; we must understand them in relation to the Church's sacramental function.

At the 1967 Synod of Bishops and in reference to the revision of the Code, W. Bertrams stated:

The external structure of the Church visibly manifests the internal structure. Truly all the external activities of the Church proceed from its internal life and are ordained to unifying and increasing this internal life, that is, the life of the Spirit. [...] It is better for both (the external and internal) to be taken simultaneously, and indeed to take each element as essentially constitutive so as to produce the unity of the Church's life. In this way, the external structure may be in the way of a sacramental sign, which is created and increased by the Church's internal life.⁵

From the perspective of the Church's nature as the definitive sign of salvation in our world, we should give priority to the life of the Spirit.

Where do we go from here?

Canon 1752 states that the supreme law of the Church is the salvation of souls. We can take this seriously by inculcating a *novus habitus mentis*, through a renewed emphasis on the Church's mission and on those characteristics which distinguish the Church from any civil society. A *communio* ecclesiology presents one positive option to replace a perfect society ecclesiology. Further, we would maintain that this ecclesiology offers the best means for the Church to understand itself in today's world.

But to do this, theological and canonical reflection, discussion and development must continue. A theological foundation already exists for this ecclesiology. First and foremost, we cite the work of K. Rahner. Although he does

⁵ This text is quoted in H. MÜLLER, "Utrum 'communio'", pp. 89-90, where he ascribes it to W. Bertrams. The text originally appeared in *Comm.* 1 (1969), footnote 1, pp. 97-98, where it simply states, "Unus enim Pater dixerat." The text also notes in no. 14, "Ipse non vocarem ius, sacramentum. Sed cum hodie vox 'sacramentum' multiplicis sit significationis, cum data explicatione potest aliquatenus sustineri."

not often utilize the principle of *communio*, Rahner's theological system establishes a solid foundation within which we can situate a *communio* ecclesiology. He demonstrates the intrinsic unity among the Trinity, salvation, and the Church. This intrinsic unity remains fundamental to *communio*. In other words, his unified system presents the foundational principles for a *communio* ecclesiology.

J.-M.-R. Tillard significantly developed *communio* and a communion ecclesiology throughout his text *Église d'églises*. He continues to make significant contributions in this area. Further, his work on the Anglican -- Roman Catholic Dialogue Commission, for example, demonstrates the contributions of *communio* to ecumenical dialogue.

In reference to canon law, the task of incorporating a *communio* ecclesiology into a legal system can appear daunting. A number of canonists have begun the process -- for example, J. Beyer, P. Bonnet, E. Corecco, G. Ghirlanda, H. Müller, and A. Rouco Varela. But the process has only begun. We need to develop further the theology and ecclesiology of *communio* as well as increasing its incorporation into the Church's law. In view of this task, we agree with H. Müller's assessment. We consider the Code of Canon Law as transitional (*transitorius*) in as much as it contains both a *communio* ecclesiology and an earlier, social-philosophical one. We need to apply *communio* to all canonical norms and institutes. The reason for this task is

that the juridic structure of the Church can never be separated from its salvific reality, and also that *communio*, which the Church ought to create, is in a profound way created from that communion which Christ

the Lord gives in the Holy Spirit and which moreover he gives in ecclesial *communio*. Therefore, the further revision of canon law, which will be required in the future, will refer to building the organic ecclesial *communio* and to confirm its more profound life, so that "*the documents will take up faith, nourish the communio of charity, and direct hope to God and to that eternal good which is the heavenly Jerusalem.*"⁶

This task for canonists is clear. We must continue searching while at the same time fulfilling our assigned mission of service to the People of God so that it may indeed live in *communio*.

⁶ H. MÜLLER, "Utrum 'communio'", pp. 107-108: "quod structuræ iuridicæ Ecclesiæ a realitate salutifera separari nequeunt, sed quod illa *communio*, quam Ecclesiæ efficere debet, modo profundiore ab illa *communione* efformatur, quam Christus Dominus in Spiritu Sancto dedit quamque in *communione* ecclesiali porro dat. Quare ulterior iuris ecclesialis renovatio, quæ in futuro requiritur, pertinet ad illam organicam *communione*m ecclesialem exstruendam et ad profundio-rem suam vitam roborandum, ut '*ipsa fidei documenta assumat, caritatis communionem foveat, spem in Deum erigat et in bona aeterna coelestis sunt Jerusalem.*'" MÜLLER acribes the last, italicized, quotation to J. BEYER, "Constitutio Apostolica", p. 192.

APPENDIX
THE DEVELOPMENT AND REVISION OF CANON 209, §1

The *coetus, De laicis deque associationibus fidelium*, met from January 28-31, 1970. At this meeting, the consultants suggested and developed the first draft of a proposed norm concerned with the obligation to maintain communion. The coetus discussed three articulations of this norm and approved the last one, Canon 3bis. See *Comm.* 18 (1986), pp. 322-323.

No. 1:

In the exercise of rights or duties acknowledged by the Church, all the Christian faithful are held to maintain the bond of ecclesiastical communion by fulfilling the canonical legislation now in force.

In exercendis iuribus sive officiis in Ecclesia agnitis, cuncti christifideles servare tenentur vinculum ecclesiasticae communionis canonicam adimplendo legislationem vigentem.

No.2:

All the Christian faithful are held by the obligation of taking care that they always maintain communion with the Church, which is governed on earth by the Successor of Peter and the bishops in communion with him.

Omnes christifideles obligatione tenentur curandi ut communionem semper servent cum Ecclesia, his quidem in terris a Successore Petri et Episcopis in eius communione gubernata.

No. 3 (approved):

Since by baptism they are irrevocably incorporated in the Church of Christ, the Christian faithful are bound to the obligation of taking care that they always preserve communion with the same Church, governed on this earth by the successor of Peter and the Bishops in communion with him.

Baptismate irrevocabiliter in Ecclesia Christi incorporati cum sint, christifideles obligatione tenentur curandi ut communionem semper servent cum Ecclesia, his quidem in terris a Successore Petri et Episcopis in eius communione gubernata.

The *coetus, De christifidelium iuribus et associationibus deque laicis*, met from April 7-11, 1975, and discussed canon 4 (canon 3*bis* cited immediately above). This canon had already been modified; the *coetus* discussed the revised version and changed *baptismate* to *baptismo*. See *Comm.* 18 (1986), p. 367.

Since by baptism they are irrevocably incorporated into the Church of Christ, the Christian faithful are bound to the obligation of taking care that, even in their way of acting, they always preserve communion with the same Church, governed on this earth by the Successor of Peter and the Bishops in communion with him.

Baptismo irrevocabiliter in Ecclesia Christi incorporati cum sint, christifideles obligatione tenentur curandi ut, agendi ratione quoque, communionem semper servent cum eadem Ecclesia, his quidem in terris a Successore Petri et Episcopis in eius communione gubernata.

The *coetus, De Populo Dei*, met from October 15-20, 1979, and discussed the animadversions submitted in reference to canon 19 (canon 4 cited immediately above). The *coetus* revised the canon by omitting two phrases and a verb. See *Comm.* 12 (1980), pp. 80-81. The modifications resulted in the following norm:

The Christian faithful are held to the obligation that, even in the way they act, they always preserve communion with the Church governed by the Successor of Peter and the Bishops in communion with him.

Christifideles obligatione tenentur ut, agendi ratione quoque, communione semper servent cum Ecclesia, a Successore Petri et Episcopis in eius communione gubernata.

The 1980 schema of the Code did not include this canon. However, due to the decision not to promulgate the *Lex Ecclesiae Fundamental*is, canon 19 and certain other canons were reinserted into the text. In the 1982 *Schema novissimum*, canon 19 (now canon 209, §1) stated the following obligation:

The Christian faithful are held to the obligation that, even in the way they act, they always preserve communion with the Church, governed by the Roman Pontiff and the Bishops in hierarchical communion with the head and members of the same Church.

Christifideles obligatione adstringuntur, sua quoque ipsorum agendi ratione, ad communionem semper servandam cum Ecclesia, a Romano Pontifice et Episcopis in hierarchica communione cum eiusdem Ecclesiae capite et membris gubernata.

After further revisions, John Paul II promulgated the Code of Canon Law on January 25, 1983. In this text, canon 209, §1 states:

The Christian faithful are bound by an obligation, even in their own patterns of activity, always to maintain communion with the Church.

Christifideles obligatione adstringuntur, sua quoque ipsorum agendi ratione, ad communionem semper servandam cum Ecclesia.

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