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**THE APPLICABILITY OF THE PRINCIPLE OF SUBSIDIARITY
ACCORDING TO THE *CODE OF CANON LAW***

by
© Rachel Mary HARRINGTON, S.N.D.

A dissertation submitted to the Faculty of Canon Law,
Saint Paul University, Ottawa, Canada, in partial
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RESUMÉ

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

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

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

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

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INTRODUCTION

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

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

Pius XII first envisioned the application of the principle in the Church and so inaugurated the continuing debate as to its suitability in this unique society. Mentioned frequently during the Second Vatican Council, the principle of subsidiarity certainly influenced many of the conciliar documents, although the only three explicit references relate to civil society. Within the Church, it was advocated as a means of structuring decentralisation, of allowing bishops to function truly as vicars of Christ, exercising all the

“ordinary, proper and immediate power required” by this pastoral office. Such decentralisation of power would lead to greater inculturation and to the wider participation of lay people in the mission of the Church. In accordance with the principle of subsidiarity, religious congregations were encouraged to rewrite their constitutions in the light of their rediscovered charism. The conciliar documents repeatedly expressed appreciation of the rich diversity of nations, cultures and charisms with which the Church is gifted.

Although the Synod of Bishops in 1967 approved the principle of subsidiarity as one of the ten revision principles¹ to guide the work of the Pontifical Commission charged with the revision of the Code of Canon Law, the Code, like the conciliar documents, makes no reference to the principle in relation to the Church. From the discussions reported in *Communicationes*, however, it becomes obvious that the members of the Commission, aware of the principle of subsidiarity, endeavoured to implement it in the canons. Meanwhile, the validity of the principle itself for the Church continues to give rise to debate at successive synods. Given this ambivalence, it seemed worthwhile to read the Code in the light of the fifth revision principle. In legislating for governance structures within the Church, do the canons reflect the values which, according to conciliar and papal teaching, subsidiarity safeguards?

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

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

²W.BERTRAMS, “De principio subsidiaritatis in iure canonico,” in *Periodica*, 46 (1957), pp.3-65.

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

In a doctoral thesis, Joseph S. George traced the influence of the principle through the documents of the Second Vatican Council.³ He began with a study of the principle in human society, then of its application in the Church. As had Bertrams, he concluded that “the dignity of the person in relation to the common good is still an important consideration and therefore his right to pursue his proper end when he is competent is paramount. This necessitates that the principle of subsidiary function be employed in the Church.”⁴

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

³J.S.GEORGE, *The Principle of Subsidiarity, with Special Reference to its Role in Papal and Episcopal Relations in the Light of «Lumen gentium»*, Canon Law Studies, no.463, Washington, DC, Catholic University of America, 1968, Ann Arbor University Microfilms International, 1988.

⁴Ibid., p.49.

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

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

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

⁵Cardinal J.HAMER, “Discours à la réunion plénière des cardinaux,” in *Synode extraordinaire: célébration de Vatican II*, Paris, Les Éditions du Cerf, 1986, pp.598-604.

⁶J.BEYER, “Principe de subsidiarité ou «juste autonomie» dans l’Église,” in *Nouvelle revue théologique*, 108 (1986), pp.801-822; and “Le principe de subsidiarité: son application dans l’Église,” in *Gregorianum*, 69 (1988), pp.435-459.

⁷W.KASPER, “Der Geheimnischarakter hebt den Sozialcharakter nicht auf: Zur Geltung des Subsidiaritätsprinzips in der Kirche,” in *Herder-Korrespondenz*, 41 (1987), pp.232-236.

⁸O.von NELL-BREUNING, “Subsidiarität in der Kirche,” in *Stimmen der Zeit*, 204 (1986), pp.147-157.

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

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

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

⁹See, for example, J.A.CORIDEN, "The Canonist's Vocation and a New Church Order," in *The Jurist*, 51 (1991), pp.67-80. T.J.GREEN, "Subsidiarity during the Code Revision Process: Some Initial Reflections," in *The Jurist*, 48 (1988), pp.18-36: J.H.PROVOST, "Prospects for a More 'Democratised' Church," in *Concilium*, (1992/5), pp.131-142.

¹⁰J.A.KOMONCHAK, "Subsidiarity in the Church: The State of the Question," in *The Jurist*, 48 (1988), pp.298-349.

¹¹*Ibid.*, p.342.

principle for *communio*.¹² His analysis does not include the principle's canonical aspects. The most recent major study, titled *Das Subsidiaritätsprinzip im kirchenlichen Recht* by Paul-Stefan Freiling, deals with the principle of subsidiarity from several perspectives.¹³ The principal themes which the author analyses in this book are: first, the use of subsidiarity as a "social organizational principle" within the human community with particular reference to the Church-State relationship and inter-states organisation in Germany; and secondly, subsidiarity as an organisational principle within the ecclesial community. The treatment of the latter subject matter is extensive as it examines several aspects of the Church's structures and legislation with particular focus on some selected areas of the 1983 Code, which will be partly covered in our study as well.

The topic continues to surface in the published talks and writings of individual bishops.¹⁴ Whether the principle will ever be in the peaceful possession of the Church remains to be seen.

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

¹²A.LEYS, *Ecclesiological Impacts of the Principle of Subsidiarity*, Kerk en Theologie in Context - Church and Theology in Context, no.28, Kampen, The Netherlands, Uitgeverij Kok, 1995.

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

¹⁴For example, Archbishop J.QUINN, "Considering the Papacy," in *Origins*, vol.26, no.8, July 28, 1996, pp.119-128; Cardinal J.BERNARDIN, "Death as a Friend," in *The New York Times Magazine*, December 1, 1996, pp.112-115.

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

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

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

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

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

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

CHAPTER ONE
THE PRINCIPLE OF SUBSIDIARITY
ACCORDING TO CONCILIAR AND PAPAL TEACHING

Introduction

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

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

²Allocution of Pope Paul VI to the Cardinals and Consultors of the Pontifical Commission for the Revision of the Code, 20 October 1965, in *Acta Apostolicae Sedis* (= *AAS*), 57 (1965), p.988. Translation in *Readings, Cases, Materials*, p.85.

³*Comm.*, 1 (1969), p.78.

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

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

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

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

⁴*Comm.*, 1 (1969), p.81. The original Latin text is as follows: "Principium confirmat unitatem legislativam quae in fundamentis et maioribus enunciationibus iuris cuiuslibet societatis completae et in suo genere compactae servari debet. Propugnat vero convenientiam vel necessitatem providendi utilitati praesertim institutionum singularium tum per iura particularia ab iisdem condita tum per sanam autonomiam regiminis potestatis executivae illis recognitam."

⁵The three references are: SECOND VATICAN COUNCIL, Declaration on Christian Education, *Gravissimum educationis* (=GE), 28 October 1965, in *AAS*, 58 (1966), pp.702-739. English translation of this, and other Council Documents, in A.FLANNERY (gen.ed.), *Vatican Council II: The Conciliar and Post Conciliar Documents*, vol.1 (=FLANNERY 1), 1992, new rev. ed., Dublin, Dominican Publications, 1992, pp.725-737, nn.3 and 6, and Pastoral Constitution on the Church in the Modern World, *Gaudium et spes* (=GS), 7 December 1965, in *AAS*, 58 (1966), pp.1025-1115, and in FLANNERY 1, pp.903-1001, n.86.

⁶J.S.GEORGE, *The Principle of Subsidiarity - with Special Reference to its Role in Papal and Episcopal Relations in the Light of Lumen gentium*, Canon Law Studies, no. 463, Washington, DC, Catholic University of America, 1968, Ann Arbor University Microfilms International, 1988, p.86. See also W.W.BASSETT, "Subsidiarity, Order and Freedom in the Church," in *The Once and Future Church: A Communion of Freedom, Studies in Unity and Collegiality in the Church*, J.A.CORIDEN (ed.), New York, Alba House, 1971, pp.205-265, at p.250. For another point of view, see J.-B.D'ONORIO, *Le pape et le gouvernement de l'Église*, Paris, Éditions Fleurus-Tardy, 1992, p.198,

elements as follows: "a renewed awareness of the excellence of liberty, of personal responsibility and dignity."⁷ In his survey of the documents he elected to omit the references to the dignity of the human person as too numerous. He did consider, however, that: "The greater responsibility and latitude for judgement given the bishops also witnesses to a more developed sense of the importance of subsidiary function and its increased operation in the Church."⁸

1. 1 - Conciliar Documents

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

footnote 8, where D'Onorio quotes O.KARRER, *L'Église de Vatican II*, Paris, Le Cerf Coll. «*Unam Sanctam*», no.51b, t.II, 1966, p.575: "La subsidiarité revient comme un leitmotiv d'un bout à l'autre de la Constitution *Lumen gentium*, ou du moins son principe car le mot n'apparaît pas." D'Onorio comments: "Mais ses exemples, pour nombreux qu'ils soient, sont trop forcés pour être totalement convaincants et, en toute hypothèse, ils relèvent plus de la théologie ou de l'exégèse que du droit." Karrer's enthusiasm for the principle does appear somewhat excessive.

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

⁸Ibid. In "Subsidiarity, Order and Freedom in the Church," p.250, Bassett, whose survey of the documents is clearly dependent on that of George, adds that "the rights and responsibilities of self-determination and freedom for persons and communities in the Church" are implicit in the responsibilities given the bishops.

documents relevant to the issues to be raised later have been studied. The documents include two constitutions, three decrees, and two declarations.

1. 1. 1 - *Lumen gentium*

The constitution on the Church emphasises the unique dignity of the human person as called to union with Christ.⁹ The Council, while describing the Church in scriptural imagery as a sheepfold, a cultivated field, the building of God, the spotless spouse of the spotless Lamb,¹⁰ concentrates particularly on developing the imagery offered by St Paul concerning the Mystical Body.¹¹ Common to all these images, even the apparently static one of the building - which is composed of living stones - is the notion of growth and therefore of change. The breath of life comes from the Spirit.

Baptism incorporates people into this community. It establishes the fundamental equality of all the members of the People of God and consecrates them all in the common priesthood, requiring of them that they witness to Christ in the world and strive to bring about on earth the kingdom of God.¹²

The hierarchical structure of the Church provides both for order and for the preservation and encouragement of diversity in this kingdom.¹³ The emphasis on authority

⁹SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church, *Lumen gentium* (=LG), 21 November 1964, in *AAS*, 57 (1965), pp.5-67. English translation in FLANNERY 1, pp.350-423, nn.2,3,7,9,32 and *passim*.

¹⁰LG, n.6.

¹¹LG, n.7.

¹²LG, n.11.

¹³LG, nn.10, 13, 32 and the whole of Chapter III, nn. 18-29.

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

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

¹⁴LG, nn.18, 24, 27.

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

¹⁶LG, n.22.

¹⁷LG, n.23. See J.FAMERÉE, “Collégialité et communion dans l’Église,” in *Revue théologique de Louvain*, 25 (1994), pp.199-203. Famerée argues that the extent to which *Lumen gentium*, nn.22 and 23, have been implemented indicates the extent to which episcopal collegiality has been received in the Church. He concludes that the reception of LG, n.22, despite its inadequacies, which he enumerates, has been global, but that of n.23 is less clear. He cites a letter from the Congregation for the Doctrine of the Faith, “Some aspects of the Church understood as Communion,” in

Within the diocese, the bishop, solicitous for the welfare of his flock, must listen to them.¹⁸ The presbyterium "dedicated to a variety of duties" also provides a collegial model.¹⁹ The priests, called to preside and to serve, are encouraged to collaborate with the bishop in order to "eliminate division and dissension."²⁰ The interrelationship of the functions of bishop, priests, and deacons focuses on dedication to the People of God. Clearly, subsidiarity pertains to the presbyterium.

The laity, the point of unity between the Church and the world, "in their own way share the priestly, prophetic and kingly office of Christ."²¹ The whole fourth chapter of *Lumen gentium* celebrates the contribution made by the laity to the building up of the

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

¹⁸LG, n.27.

¹⁹LG, n.28.

²⁰LG, n.28.

²¹LG, n.31.

kingdom.²² The stress on harmony, diversity, common dignity and equality,²³ on common activity and co-operation,²⁴ on sharing in the priestly office,²⁵ highlights again the richness of the People of God. Anointed by the Spirit who transforms their "works, prayers and apostolic undertakings, family and married life, daily work, relaxation of mind and body ... the laity consecrate the world itself to God."²⁶

The role of the Spirit appears also in the fifth chapter, "The Call to Holiness", again fostering a variety of gifts.²⁷ The response to this call assumes innumerable forms, and all achieve sanctity through fulfilling the duties of their state, co-operating with others in different ways. Still the call to holiness essentially grounds the unique dignity of the person.

Certainly, there is nothing static about the language of this Constitution.²⁸ The Church, guided by the Spirit and animated by his creativity, constantly grows and changes both horizontally and vertically.

²²LG, nn.30-38.

²³LG, n.32.

²⁴LG, n.33.

²⁵LG, n.34.

²⁶LG, n.34.

²⁷LG, n.41.

²⁸See A.DENAUX, "L'Église comme communion," in *Nouvelle revue théologique*, 110 (1988), pp.16-37: "Enfin, l'expression «Peuple de Dieu *en marche*» connote une dimension historique, dynamique et missionnaire. Elle souligne le caractère historique de l'Église, son lien essentiel avec Israël, le Peuple de Dieu de l'Ancien Testament, sa marche continue à travers l'histoire, son orientation dynamique, qui entraîne toute l'humanité dans le mystère du salut, son regard tendu vers l'accomplissement eschatologique."

1. 1. 2 - *Christus Dominus*

Although the Decree, *Christus Dominus*, begins with the primacy of the Roman Pontiff, his position is immediately balanced with a statement about the role of each bishop as vicar of Christ for his diocese.²⁹ The next section, moreover, describes the collegial nature of “the instruction and direction of the universal Church.”³⁰ The rest of the document elaborates these three themes.

Indeed, the establishment of the Synod of Bishops witnesses to the Council’s concern for practical, visible, structural provision for collegiality.³¹ Such an institute enables the unity and diversity of the Church to be expressed. Individual bishops are responsible not only for their own dioceses, but also for the whole Church. The Synod, as well as facilitating communication from the dioceses, also serves as a means to promote this worldwide pastoral office.³² The following sections (*CD*, nn.8-10) give guidelines for determining roles and functions to ensure that uniformity is not imposed, but rather that every effort is made to enable a more universal spirit to breathe through the Church.³³

²⁹SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus* (= *CD*), 28 October 1965, in *AAS*, 58 (1966), pp.637-696. English translation in *FLANNERY* 1, pp.564-590, n.2.

³⁰*CD*, n.3.

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

³²*CD*, nn.6, 7.

³³*CD*, nn.8, 9, 10.

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

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

³⁴CD, nn.11-21.

³⁵CD, n.15.

³⁶CD, nn.16, 17.

³⁷CD, n.12.

³⁸CD, n.13.

clergy and laity, bishops are encouraged to focus particularly on catechetical instruction and, almost as an afterthought, on the preparation of catechists.³⁹ In promoting the sanctity of his people, the bishop is urged to respect the vocation of each, and so to live out his own life that a relationship of affection and trust exists between him and his priests.⁴⁰

“In exercising his ministry, he should ensure that the faithful are duly involved in Church affairs; he should recognise their right and their duty to play their part in building up the Mystical Body of Christ.”⁴¹ Forming people as Christians forms them also as citizens of the earthly city and promotes “social and civil progress and prosperity.” The Decree, therefore, recommends active and appropriate co-operation with public authorities, another instance of subsidiarity in action.⁴²

The bishop facilitates the interweaving of responses to the constant challenge of the Spirit to his people. He respects the uniqueness of each, promotes and co-ordinates initiatives, overseeing a harmonious growth. The Decree demands of the bishop, moreover, that he show special concern “for those members of the faithful who, on account of their way of life, are not adequately catered for by the ordinary pastoral ministry of the parochial clergy or are entirely deprived of it.”⁴³

³⁹*CD*, n.13.

⁴⁰*CD*, n.16.

⁴¹*CD*, n.16, 17.

⁴²*Ibid.*

⁴³*CD*, n.18.

For this to be possible the diocese must be of reasonable size, and to this topic the Decree turns next. It proposes three criteria.⁴⁴ The first takes account of the “variety and composition of the People of God” and their links with “the civil offices and institutions which constitute their organic structure.” The Council shows signs of an awakening sensitivity in the Church to national, psychological, economic, geographical, and historical diversity. The second criterion concerns the feasibility of effective management by the bishop of all the apostolic activities within the diocese, and of there being scope for the exercise of the energies of himself and his priests. Finally, the diocese should be such that “the nature of the Church be clearly manifested” in it. That is, those offices, institutions, and activities shown to be necessary to reveal the nature of the Church can, in fact, be provided. Recommendations regarding changes in diocesan boundaries are to be submitted to the Apostolic See, but the competent conference of bishops is charged with examining the question and the “views of the bishops of the provinces or regions involved should always be taken especially into consideration.”⁴⁵ Subsidiarity works for decision-making at the supra-diocesan level.

In every respect, the internal organisation of the diocese should model unity and order. The Decree stipulates that there should be councils and committees so that advice is always available to the bishop.⁴⁶ Clergy, religious, and laity are repeatedly described as

⁴⁴CD, n.23.

⁴⁵CD, n.24.

⁴⁶CD, n.27. LEYS, *Ecclesiological Impacts*, pp.143-144 comments: “The task of the [Diocesan Pastoral] Council is limited, but within that limitation we find an extensive mandate: research, consultation, practical conclusions... But Vatican II was hardly finished and the *motu proprio*, *Ecclesiae sanctae*, emphasised the difference between the bishop and the other members. First of all,

collaborators of the bishop.⁴⁷ One matter on which the bishop may act on his own authority, namely the erection and suppression of parishes, is notably singled out.⁴⁸ The value upheld by the Decree is clearly that of maximum involvement on the part of all concerned. This is especially evident in the section of the Decree which deals with synods, councils, and conferences of bishops: "It is often impossible, nowadays especially, for bishops to exercise their office suitably and fruitfully unless they establish closer understanding and co-operation with other bishops."⁴⁹

Finally, the Decree turns to the questions of boundaries, and of bishops who discharge an interdiocesan function.⁵⁰ The concern expressed relates to clarity regarding rights, duties, privileges, and spheres of competence. At this level, subsidiarity operates as an instrument of the practical reason.

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

⁴⁷CD, nn.27, 30, 34.

⁴⁸CD, n.32.

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

⁵⁰CD, nn.39-43.

1. 1. 3 - Gravissimum educationis

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

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

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

⁵¹GE, n.1.

⁵²GE, n.2.

⁵³GE, n.3.

the pluralism which exists today in many societies.”⁵⁴ The Council clearly regards the principle of subsidiarity as the protector of rights, the promotor of progress and harmony, and the safeguard of diversity in civil society.

1. 1. 4 - *Apostolicam actuositatem*

The principle of subsidiarity, though never explicitly invoked in the Decree on the Apostolate of Lay People, nonetheless informs it throughout. The Decree describes the scope of the lay apostolate, stressing its necessity. Although the Council commends initiative, still it repeatedly points out that the ecclesiastical hierarchy directs and co-ordinates the whole.⁵⁵ Relationships between the hierarchy and laity should be characterised by mutual respect and esteem, each for the competence of the other.⁵⁶ Lay persons can only grow into Christ when they exercise their Spirit-given gifts in the service of the apostolate.⁵⁷

The Decree expresses appreciation for the diversity of gifts and talents granted to the laity⁵⁸ and seeks to provide the means for the laity to utilise these gifts in co-operation with the clergy.⁵⁹ The laity exercise their apostolate both within the Church and in the world, where they endeavour “to infuse the Christian spirit into the behaviour, laws and structures

⁵⁴GE, n.6.

⁵⁵SECOND VATICAN COUNCIL, Decree on the Apostolate of Lay People, *Apostolicam actuositatem* (=AA), 18 November 1965, in AAS, 58 (1966), pp.837-864. English translation in FLANNERY 1, pp.766-798, nn.20, 23, 24.

⁵⁶AA, n.2.

⁵⁷AA, n.4.

⁵⁸AA, n.10.

⁵⁹AA, nn.10, 26.

of the community” in which they live.⁶⁰ The hierarchy provide support, training, and encouragement.⁶¹ An awareness of the principle of subsidiarity orders the intermeshing of these activities. The creation of “a secretariat at the Holy See for the service and promotion of the lay apostolate” is advised, and explicitly given the mandate “to assist (*adiuvare*) the hierarchy and laity in the field of apostolic activities.”⁶² Earlier, the Decree, while commending the establishment of councils for co-ordination “of the various lay associations and undertakings,” adds the phrase “the autonomy and particular nature of each remaining untouched.”⁶³

Training for the apostolate, as described in the Decree, must take account of the “variety of circumstances, persons and duties” to which the apostolate will be directed,⁶⁴ as well as respecting the society and culture from which the apostle comes.⁶⁵ This section recognises the need for training to be on-going and asserts the need “to improve and perfect oneself by working with others” and for “continual adaptation.”⁶⁶ Clearly the practical application of subsidiarity here presupposes and requires the Church’s teaching on the dignity of the person.

⁶⁰ *AA*, n.13.

⁶¹ *AA*, nn.22, 25, 28-29.

⁶² *AA*, n.26.

⁶³ *Ibid.*

⁶⁴ *AA*, n.28.

⁶⁵ *AA*, n.29.

⁶⁶ *Ibid.*

1. 1. 5 - *Dignitatis humanae*

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

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

⁶⁷SECOND VATICAN COUNCIL, Declaration on Religious Liberty, *Dignitatis humanae* (=DH), 7 December 1965, in *AAS*, 58 (1966), pp.947-990, n.9. English translation in FLANNERY I, pp.799-812. For an account of the difficult passage of this document through its various stages, see HEBBLETHWAITE, *Paul VI*, pp.400-407, 416-420, 433-441.

⁶⁸DH, n.14, and cf. n.12.

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

⁷⁰DH, n.3.

members to practise their religion and strengthen them with religious instruction and promote institutions in which members may work together to organise their own lives.”⁷¹

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

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

⁷¹DH, n.4.

⁷²Ibid.

⁷³DH, nn.7, 8, 9, 15.

⁷⁴DH, nn.6, 7, 8.

⁷⁵GEORGE, *The Principle of Subsidiarity*, p.109.

1. 1. 6 - *Ad gentes*

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

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

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

⁷⁷SECOND VATICAN COUNCIL, Decree on the Church's Missionary Activity, *Ad gentes* (=AG), 7 December 1965, in *AAS*, 58 (1966), pp.947-990. English translation in FLANNERY 1, pp.813-856, nn.9, 11, 15, 16, 18, 21, 22, 26.

⁷⁸AG, nn.6, 10.

⁷⁹AG, n.19.

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

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

⁸⁰AG, n.29.

⁸¹AG, n.15.

⁸²AG, n.4.

⁸³AG, n.6.

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

1. 1. 7 - *Gaudium et spes*

The Pastoral Constitution on the Church in the Modern World, in the tradition of the great social encyclicals, although directed outwards towards the world, nevertheless highlights values intrinsic to the Church as a society, albeit a unique one. Human dignity realised in the fullest possible development of each person becomes a central theme. This development comes through a just sharing of the goods of the earth so that everyone has the freedom, the education, and the opportunity for self-determination.⁸⁴ It meets the two criteria discussed above.

The Constitution repeatedly asserts the dignity of man.⁸⁵ From this follows each person's right to participate fully in the society to which he belongs, whatever and wherever it is.⁸⁶ The Council bases this teaching on an interpretation of Jesus' prayer to his Father, "that they may all be one...even as we are one" (*Jn.* 17:21-22). This prayer implies, say the Council Fathers, "a certain parallel between the union existing among the divine persons and the union of the sons of God in truth and love. It follows, then, that if man is the only

⁸⁴SECOND VATICAN COUNCIL, Pastoral Constitution on the Church in the Modern World, *Gaudium et spes* (= *GS*), 7 December 1965, in *AAS*, 58 (1966), pp.1025-1115. English translation in *FLANNERY* 1, pp.903-1001, n.9.

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

⁸⁶*GS*, n.23.

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

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

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

⁸⁷GS, n.24.

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

⁸⁹GS, n.31.

⁹⁰GS, n.40.

⁹¹GS, n.41.

as citizens of the world, are called “to shoulder their responsibilities” both in the world and in the Church.⁹²

The first part of the document ends with an analysis of the reciprocity between the Church and the world: “The Church has a visible social structure, which is a sign of its unity in Christ: as such it can be enriched, and it is being enriched, by the evolution of social life - not as if something were missing in the Constitution which Christ gave the Church, but in order to understand this Constitution more deeply, express it better and adapt it more successfully to our times ... The Church is happy to feel that, with regard to the community it forms and each of its members, it is assisted in various ways by men of all classes and conditions.”⁹³ This section affirms the benefits to the Church of change and adaptation brought about by the prompting of the world and even that caused by “the opposition of its enemies and persecutors.”

The second part of the Constitution focuses on “some more urgent problems.” Once again, in the section dealing with the proper development of culture, the Council reiterates the high value to be placed on human achievements and the unique forms which these take in the rich diversity of civilisations.⁹⁴ The civilising role of human beings acting freely and autonomously contributes to the unity of the world. In this process the Church must “enter into communion with different forms of culture, thereby enriching both itself and the cultures

⁹²GS, n.43.

⁹³GS, n.44.

⁹⁴GS, nn.53, 54.

themselves.”⁹⁵ The aim is to enable all to contribute “in an authentically human way to the common good.”⁹⁶ Education holds an important place in promoting the common good. When difficulties arise in “harmonising culture with Christian thought” such difficulties “do not necessarily harm the life of faith, but can rather stimulate a more precise and deeper understanding of that faith.” The faithful are encouraged, therefore, to “incorporate the findings of new sciences and teachings and the understanding of the most recent discoveries with Christian morality and thought.”⁹⁷ Theological research, pursued even by lay people, should maintain contact with its own times. So theological reflection depends on practical subsidiarity.

In Chapter III, “Economic and Social Life,” the Council restates and develops the principles already proposed by several popes in their social teaching. We read, “It is only right, that in matters of general interest as many people as possible, and, in international relations, all nations, should participate actively in decision-making,” and, “All citizens should remember that they have the right and the duty to contribute according to their ability to the genuine progress of their own community.”⁹⁸ The many references to previous papal and other documents in the footnotes to sections 68-71 on the workers’ right to participate actively in the administration of their businesses and institutions, show how important and constant has been the insistence on this point.

⁹⁵GS, n.58.

⁹⁶GS, n.60.

⁹⁷GS, n.62.

⁹⁸GS, n.65.

This theme continues in Chapter IV, “The Political Community.” Implicit throughout this chapter are values protected by the principle of subsidiarity:

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

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

Conclusion

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

⁹⁹GS, n.73.

¹⁰⁰GS, nn.73.

¹⁰¹GS, n.74.

¹⁰²GS, n.75.

¹⁰³GS, n.75.

¹⁰⁴GS, n.86.

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

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

These documents, however, constitute but one step in the Church’s developing recognition of the dignity, and therefore of the rights, of the human person. Gustav Thils cites papal and other authoritative pronouncements dating from 1888 which dismiss the “rights of man” as odious and dangerous. He refers his readers to *L’Osservatore romano*’s mixed reception even of the Universal Declaration of Human Rights in 1948.¹⁰⁶ Nevertheless, the socio-political consequences of preaching that God created human beings in his own image led to a whole new category of papal teaching which began at the end of the nineteenth century.

¹⁰⁵GEORGE, *The Principle of Subsidiarity*, p.118.

¹⁰⁶See G.THILS, “Le mouvement théologique au XXe siècle,” in *Revue théologique de Louvain*, 25 (1994), pp.289-309, at pp.297-298: “En fait, à l’arrière-plan des réticences et méfiances à l’endroit des «droits humains», se présente toujours à l’esprit des autorités ecclésiastiques de nos régions européennes le spectre de la Révolution française de 1789... Or, si des méfaits et des massacres ont eu lieu..., cette époque a connu aussi une série de gestes et de décisions bénéfiques...Et petit-à-petit, la situation évolua. La réflexion de nombreux penseurs, philosophes et théologiens catholiques, les initiatives de paix développées après les guerres de 1914 et 1940, donnèrent naissance à une mise au point de grand format. Le 10 décembre 1948, une «Déclaration universelle des droits de l’homme» était adoptée et proclamée par l’Assemblée générale des Nations Unies réunie à Paris.”

1. 2 - Papal Encyclicals

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

1. 2. 1 - Leo XIII: *Rerum novarum*

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

¹⁰⁷LEO XIII, Encyclical letter, *Rerum novarum* (= RN), 15 May 1891, in *Acta Sanctae Sedis* (= ASS), 23 (1891), pp.641-670. English translation in *Catholic Social Thought: The Documentary Heritage*, D.J.O'BRIEN and T.A.SHANNON (eds.), Maryknoll, New York, Orbis Books, 1992, pp.14-38. The original document does not have paragraph numbers. Those adopted for reference are those in the text of this English translation. For a detailed history of the development of Catholic social doctrine, with particular reference to the principle of subsidiarity, see LEYS, *Ecclesiological Impacts*, Chapters I-IV, pp.1-57. Leys, p.57, concludes that Leo XIII stopped short of formulating the principle of subsidiarity because of his inability to integrate liberal thought and the organological concept of the state.

¹⁰⁸W.J.BYRON, "Foreword," in *Proclaiming Justice and Peace: Papal Documents from «Rerum novarum» through «Centesimus annus»*, M.WALSH and B.DAVIES (eds.), expanded North American edition, Mystic, Connecticut, Twenty-Third Publications, 1991, p.iv.

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

- the dignity of man who by nature has the right to provide for himself;¹⁰⁹
- the legitimate autonomy and consequent rights of the family, in which the state must not interfere except “justly and properly to safeguard and strengthen” these rights;¹¹⁰
- the state’s duty to provide for the prosperity and well-being of all the citizens, acting with strict, that is distributive, justice towards every class;¹¹¹
- authority, as a gift from God, a participation in the highest of all sovereignties, should be exercised as God’s power is exercised. The law must do no more than is absolutely necessary.¹¹²
- man’s natural right to form associations conditioned by culture.¹¹³

¹⁰⁹RN, nn.4-8.

¹¹⁰RN, nn.9-12.

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

¹¹²RN, nn.28-34. Cf. LEYS, *Ecclesiological Impacts*, p.45, footnote 15.

¹¹³RN, nn.36-42.

Stated thus in "The Workers' Charter", these values, fundamental to the exercise of justice in society and in the state, foreshadowed the principle of subsidiarity as enunciated in the next social encyclical.

1. 2. 2 - Pius XI: *Quadragesimo anno*

Whereas Leo XIII had focused on the institutional aspects of the state, Pius XI in *Quadragesimo anno* sought to complement this doctrine with the doctrine of social and economic institutions.¹¹⁴ The Pope addressed his teaching not only, as is usual, to "Our Venerable Brethren, the Patriarchs, Primate, Archbishops, Bishops and other Ordinaries in peace and communion with the Apostolic See," but also to "all the Faithful of the Catholic world."¹¹⁵ He was clearly teaching Catholic doctrine.

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

¹¹⁴PIUS XI, Encyclical letter, *Quadragesimo anno* (= *QA*), 15 May 1931, in *AAS*, 23 (1931), pp.177-228. English translation in O'BRIEN and SHANNON, *Catholic Social Thought*, pp.42-80. The paragraph numbers are those of this translation. See also LEYS, "*Quadragesimo anno* and the Principle of Subsidiarity," in *Ecclesiological Impacts*, pp.58-85. Leys concludes, pp.84-85: "There has been a fundamental change in ecclesiastical thinking. The modern ideas about the value of the individual person characterise from now on the social doctrine of the church, starting from the irreplaceable value of the individual person and seeing in him also the final goal of society (*GS*, n.25). The position of political authority especially is really relativised in this encyclical in comparison to the political encyclicals of Leo XIII. The primacy of authority is replaced by the primacy of freedom. The strong ethical authority which in Leo was so needed to bring all to the common goal, finds in Pius its role in the support for the development of the individual person, who (in Häring's terminology) is 'morally mature'. In this way there is a distinction made between the ethical order and the legal order. That makes it possible for the free initiative of individual persons and associations to realise the moral and cultural goals of society on their own authority. In this way we can say that every social order is built on the awareness of the responsibility of the individual person, who can develop, in free self-determination, his own potential and talents, which are rooted in the security of his immediate surroundings." The bishops arguing at successive synods for freedom to "inculturate" seem to have understood this.

¹¹⁵This interesting innovation recognises the "faithful" as equal recipients with the hierarchy, presumably not, therefore, as passive.

to clarify some issues and answer such doubts as had arisen. He also attempted to confront the evil of fascism.¹¹⁶

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

The Church's response to this situation is formulated in *Quadragesimo anno*:

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

¹¹⁷O.von NELL-BREUNING, *The Reorganisation of Social Economy; The Social Encyclical Developed and Explained*, English edition prepared by B.W.DEMPSEY, New York, Bruce, 1936, p.202.

¹¹⁸*Ibid.*, p.203.

¹¹⁹*Ibid.*, p.204.

It is indeed true, as history clearly shows, that owing to the change in social conditions, much that was formerly done by small bodies can nowadays be accomplished only by large organisations. Nevertheless, it is a fundamental principle of social philosophy, fixed and unchangeable, that one should not withdraw from individuals and commit to the community what they can accomplish by their own enterprise and industry. So, too, it is an injustice and at the same time a grave evil and a disturbance of right order to transfer to the larger and higher collectivity functions which can be performed and provided for by lesser and subordinate bodies.¹²⁰ Inasmuch as every social activity should, by its very nature, prove a help (*subsidium*) to members of the body social, it should never destroy or absorb them.

The State authorities should leave to other bodies the care and expediting of business and activities of lesser moment, which otherwise become for it a source of great distraction. It then will perform with greater freedom, vigour and effectiveness, the tasks belonging properly to it, and which it alone can accomplish, directing, supervising, encouraging, restraining, as circumstances suggest or necessity demands. Let those in power, therefore, be convinced that the more faithfully this principle of "subsidiarity" is followed and a hierarchical order prevails among the various organisations, the more excellent will be the authority and efficiency of society, and the happier and more prosperous the condition of the commonwealth.¹²¹

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

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

¹²¹*QA*, nn.79-80. For a detailed analysis of this section of the encyclical, see LEYS, *Ecclesiological Impacts*, pp.79-81. Those who seek a Scriptural basis for the principle of subsidiarity will notice a correspondence between the Pope's advice here and the advice of Moses' father-in-law, *Exodus*, 18:17-26. D'ONORIO, *Le pape et le gouvernement*, p.94, footnote 1, also recognises this scriptural example.

Gundlach: "The pertinent content was known earlier; nevertheless, Gundlach was the first to formulate that primordial insight as the principle and to name it. Since then, under that name, it became so famous and - hardly conceivable - it was subject to many misunderstandings."¹²² Presumably, the recent teachings of the magisterium have helped to clarify this doctrine of Christian action.

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

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

¹²³NELL-BREUNING, *Reorganisation of Social Economy*, pp.208-209.

organisation.¹²⁴ It surely safeguards the dignity of the individual and protects the rights of the community.

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

The fiftieth anniversary of *Rerum novarum* did not pass unmarked. Pius XII addressed a radio broadcast to a world at war. Given the circumstances, few can have entertained any hope of the realisation of his exhortation that "every legitimate and beneficial interference of the state in the field of labour should be such as to safeguard and respect its personal character, both in the broad outlines and, as far as possible, in what concerns its execution."¹²⁵ The next social encyclical in the series did not appear until John XXIII published *Mater et Magistra* in 1961.¹²⁶ In this encyclical, however, Pope John adopts a somewhat different attitude to the state. Whereas Leo and Pius XI had emphasised limiting the state's activity, John saw the state as having an important role to play in the lives of its

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

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

¹²⁶JOHN XXIII, Encyclical letter, *Mater et Magistra* (= *MM*), 15 May 1961, in *AAS*, 53 (1961), pp.401-464. English translation in O'BRIEN and SHANNON, *Catholic Social Thought*, pp.84-127. The paragraph numbers are those of the English translation.

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

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

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

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

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

¹²⁷MM, nn.91-103.

¹²⁸MM, nn.51-52.

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

¹³⁰Cf. MM, n.59.

social doctrine, more fundamental than property because its goal and measure is man and his perfection.¹³¹

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

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

¹³¹J.B.GREMILLION, *The Gospel of Peace and Justice: Catholic Social Teaching since Pope John*, Maryknoll, New York, Orbis Books, 1976, p.33. Cf. *MM*, n.65.

¹³²GREMILLION, *The Gospel of Peace and Justice*, p.37.

manifest and genuine requirements of the common good so require, and then with safeguards, lest the possessions of private citizens be diminished beyond measure, or, what is worse, destroyed.”¹³³ The Pope went on to advise the state to supervise the work of those entrusted with the management of public goods: structures of accountability should follow on the implementation of subsidiarity.

Pope John XXIII returned to the principle of subsidiarity again in a later section of the encyclical, where he dealt with the question of aid to less developed areas. Here he described the responsibility of the state as including the stimulation of initiative, especially on the part of private citizens: “Those in authority should favour and help private enterprise in accordance with the principle of subsidiarity, in order to allow private citizens themselves to accomplish as much as is feasible. For a citizen has a sense of his own dignity when he contributes the major share to progress in his own affairs.”¹³⁴ Once again, subsidiarity is linked to the transcendent nature of the individual person.

¹³³*MM*, n.117. Given the Gospel teaching that the true riches of humanity consist in the spiritual gifts of intellect and will, one expects to find the Church equally concerned for the free exercise and development of these, especially in promoting the kingdom of God.

¹³⁴*MM*, n.152. The foundation of all this teaching is given in n.219: “The cardinal point...is that individual men are necessarily the foundation, cause and end of all social institutions. We are referring to human beings, insofar as they are social by nature, and raised to an order of existence that transcends and subdues nature.”

1. 2. 4 - John XXIII: *Pacem in terris*

The encyclical *Pacem in terris*, like *Quadragesimo anno*, marked a new departure in papal teaching in that the Pope addressed it to “all men of good will.”¹³⁵

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

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

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

¹³⁶M.WALSH commenting on PT, nn.46-79, in *Proclaiming Justice and Peace: Papal Documents from «Rerum novarum» through «Centesimus annus»* M.WALSH and B.DAVIES (eds.), expanded North American edition, Mystic, Connecticut, Twenty-Third Publications, 1991, p.5. The large number of citations of previous papal teaching in this section of the encyclical shows to what extent the Church’s present understanding of this issue is traditional.

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

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

¹³⁷PT, n.140.

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

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

1. 2. 5 - Paul VI: *Populorum progressio*

Pope Paul VI produced two basic economic and social documents, the encyclical, *Populorum progressio*, and an apostolic letter, *Octogesima adveniens*.¹⁴⁰ This Pope's concern was to implement the teaching of the Second Vatican Council and to present to the world a loving, serving Church. He did not mention the principle of subsidiarity, but Gremillion's assessment of his pontificate highlights an aspect of the principle which is relevant to this study. He described Pope Paul as:

Par excellence a man of the Church, of the institutional Church, the organised People of God with its diverse structures of community and ministry - whose basic corporate institution is the College of Bishops. So in implementing the collegiality stressed by Vatican II, Paul primarily expects and encourages the *episcopal bodies* to create the loving serving Church: three synods deal with the subject, 1969, 1971, and 1974; he encourages the new national and regional conferences of bishops to give the poor and oppressed central place in their pastoral concern; ... [he] establishes the Pontifical Commission for Justice and Peace... Encouraged by Paul some sixty conferences of bishops have formally established bodies or secretariats comparable to the pontifical commission... But there exist hundreds, even thousands, of less formal organisations and movements having national or continental impact... These are often the creation of lay leaders... They provide precious feedback of inspiration and openness and flexibility to the formal institutions of the Church.¹⁴¹

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

¹⁴⁰PAUL VI, Encyclical letter, *Populorum progressio* (= PP), 26 March 1967, in AAS, 59 (1967), pp.257-299. English translation in O'BRIEN and SHANNON, *Catholic Social Thought*, pp.240-262. PAUL VI, Apostolic letter, addressed to Cardinal Roy, President of the Council for the Laity and of the Pontifical Commission for Justice and Peace, *Octogesima adveniens* (=OA), 14 May 1971, in AAS, 63 (1971), pp.401-441. English translation in O'BRIEN and SHANNON, *Catholic Social Thought*, pp.265-286.

¹⁴¹GREMILLION, *The Gospel of Peace and Justice*, pp.128-129.

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

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

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

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

¹⁴³JOHN PAUL II, Encyclical letter, *Centesimus annus* (=CA), 1 May 1991, in *AAS*, 83 (1991), pp.793-867. English translation in O'BRIEN and SHANNON, *Catholic Social Thought*, pp.439-484, n.13.

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

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

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

¹⁴⁴CA, n.15.

¹⁴⁵CA, n.48.

¹⁴⁶CA, nn. 5, 6, 7, 9, 11, 16, 19, 22, 24, 25, 29, 32, 34, 36, 38, 41, 43, 45, 46, 47, 49, 53, 54, 59.

will gain credibility more immediately from the *witness of actions* than as a result of its internal logic and consistency.”¹⁴⁷ In other words, the Church must also implement this principle of subsidiarity wherever possible and desirable.

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

- bishops, as *national and continental* leaders, will take more initiative in the transnational community;
- small and basic communities will provide the primary unit of God’s people in a much more self-conscious way;
- the structures of the universal Church will agglomerate around religio-cultural geopolitical regions; there will be a partial transfer of ecclesiastical authority from the papacy “outward and downward,” and from diocese and national conference “upward,” to gradually form (*sic*) regional ecclesial jurisdictions. Ecumenical councils will meet more often, perhaps about every twenty or thirty years, with triennial and special synods, with growing authority keeping oversight of the universal Church during the intervals;
- ecumenical community and ministry among all Christians will increase from “below” in the local church and its basic groups, to guide and inspire the next stage toward Church unity at national, regional, and global levels;
- co-operation will increase markedly between the Christian Church and the dominant transcendental faith of each area;
- religious orders will reorient their apostolates to provide leadership and examples for this ministry and community of loving service, and to advance the transformation of Church structures;
- although the structures for the laity are less clear, they will certainly take leadership in the formation and direction of the small communities, function as chairpersons, and perhaps evolve into preachers, presiders over the liturgy, and community leaders. “If this role becomes permanent, they will really become ministers without benefit of sacred orders. Shall we see then a closer convergence

¹⁴⁷ CA, n.57.

of clergy and laity?...Or will we see more laypersons as part-time ministers, and vice-versa?"¹⁴⁸

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

1. 2. 7 - Pius XII: *Mystici Corporis*

The encyclical *Mystici Corporis* gave new impetus to the Church's growth in self-understanding. After the Reformation, the doctrine on the Church had developed along apologetic and defensive lines. Ecclesiology became, in fact, "hierarchology."¹⁴⁹ The visible society of the Church consisted of those who recognised the triple power of the hierarchy and submitted to it. In this theology there was no place for such ideas as the universal priesthood of the faithful, nor even for fundamental doctrines such as the Trinity, the Holy Spirit, or the Eucharist.

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

¹⁴⁹Y.-M.-J. CONGAR, *Lay People in the Church: A Study for a Theology of Laity*, translated by D.ATTWATER, rev.ed. with additions by the author, Westminster, Maryland, The Newman Press, 1967, p.51.

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

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

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

¹⁵⁰See *Cyclopaedia of Biblical, Theological and Ecclesiastical Literature*, edited by J.M'CLINTOCK and J.STRONG, 10v, Grand Rapids, Michigan, Baker Book House, 1969-1970, vol.6, p.429, where Möhler is described as "the greatest theologian the Roman Catholic Church has known since Bellarmine and Bossuet." DENAUX, in "L'Église comme communion," p.22, also pays tribute to the work of Möhler. Cf. LEYS, *Ecclesiological Impacts*, p.34, footnote 57, where he identifies Möhler as one of the influences on Ketteler, whose thought, in turn, influenced Leo XIII. Leys also, pp.34-35, gives Ketteler's arguments at Vatican I against papal infallibility. Cardinal J.Ratzinger, in a paper presented at a regional church conference at Foggia, Italy, 21 October 1985, also pays tribute to the work of Möhler: "J.A.Möhler was the great renovator of Catholic theology after the desolation of the Enlightenment." The Cardinal then quotes Möhler as follows: "A certain erroneous theology might be summed up in caricatured fashion in this statement: 'In the beginning Christ founded the hierarchy and in so doing provided sufficiently for the Church until the end of time.' But it must be said, in opposition to that, that the Church is the mystical body, that is, that

His expositions proved so influential that the truth of the Mystical Body as a first principle of the doctrine concerning the Church reached the first *Schema de Ecclesia Christi* which was distributed to the bishops assembling in Rome for Vatican I in January 1870. Of the 639 bishops who were present 230 commented on the *Schema*. Twenty-nine expressed reservations: four regretted the mention, considering the doctrine "vague, ill-understood, too mystical." The other twenty-five of these desired a "simpler, more practical definition." Émile Mersch is surely rather sanguine in attributing a favourable interpretation to the silence of the 400 who did not respond.¹⁵¹ A second *Schema* which took account of these criticisms and suggestions was never examined or discussed, but the doctrine did not fade into oblivion. After figuring in the teaching of Leo XIII¹⁵² and responding to the needs of the liturgical movement, the Pauline figure eventually reached its most influential expression in *Mystici Corporis*.¹⁵³

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

Christ himself is its ever-new foundation, that he is never only its past, but is always and above all the present and the future." See, J.RATZINGER, "The Ecclesiology of Vatican II," in *Origins*, vol.15, n.23, November 21, 1985, pp.370-376, at p.371.

¹⁵¹É.MERSCH, *The Whole Christ: The Historical Development of the Doctrine of the Mystical Body in Scripture and Tradition*, translated by J.R.KELLY, Milwaukee, Bruce Publishing Company, 1938, pp.556-565.

¹⁵²LEO XIII, Encyclical letter, *Satis cognitum*, 25 June 1896, in *ASS*, 28 (1895-96). pp.708-739.

¹⁵³PIUS XII, Encyclical letter, *Mystici Corporis* (= MC), 29 June 1943, in *AAS*, 35 (1943), pp.193-248. English translation by G.C.TREACY, *The Encyclical on the Mystical Body*, New York, New York, Paulist Press, 1943. Paragraph numbers are from the English text.

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

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

The Pope made clear the necessity of exercising these gifts:

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

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

¹⁵⁵MC, nn.100-106.

¹⁵⁶MC, nn.15-31.

¹⁵⁷MC, nn.85-91.

¹⁵⁸MC, nn.92-93.

¹⁵⁹MC, nn.54-55 and cf. nn.16. and 72.

Moreover, the members' response to the gifts of the Holy Spirit in carrying out this work of redemption, will always be free, and ordered.¹⁶⁰ Émile Mersch described the nature of the Church's governance as follows:

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

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

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

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

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

¹⁶⁰MC, n.122.

¹⁶¹É.MERSCH, *The Theology of the Mystical Body*, translated by C.VOLLERT, St. Louis, Missouri, B.Herder Book Co., 1951, pp.539-540.

luggage, but guides them and nourishes them and surrounds them with loving care; "for no man ever hated his own flesh." (*Eph.5, 29*).¹⁶²

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

1. 3 - Papal allocutions

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

1. 3. 1 - Allocutions of Pius XII

Pius XII elaborated his understanding of the structure of the Church in a now famous allocution.¹⁶³ It was delivered at a consistory of thirty-two new Cardinals. Just as *Quadragesimo anno* is cited as the *locus classicus* for the principle of subsidiarity, so quotations from this allocution occur in all discussions about applying the principle specifically to the Church.

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

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

¹⁶³PIUS XII, Allocution at a Consistory of newly created Cardinals, 20 February 1946, in *AAS*, 38 (1946), pp.141-151. English translation in V.A. YZERMANS (ed.), *The Major Addresses of Pope Pius XII*, St Paul, Minnesota, North Central Publications, 1961, vol.1, pp.76-85. Yzermans, although he entitled the allocution, "The Function of the Church," says that the Italian title, "The Power and Influence of the Church in the True Restoration of the World," "better signifies its nature." He also asserts that the address was delivered in Latin, but the text in *AAS* is in Italian, without any title. The references are to the page numbers of the text of Yzermans.

he said, exercised an influence on "the foundation, structure and activity of human society."¹⁶⁴ He rejected any notion of the Church as an earthly empire:

Her development is before all else in depth, then in length and breadth. She seeks out above all man as such. Her study is to form man, to model and perfect in him the Divine Image. Her work is done in the depth of each man's heart, but has its effects, extending throughout his life, in all his activities. Through men thus formed the Church prepares for human society a basis on which it can rest securely.¹⁶⁵

By linking the Church's action to perfecting the divine image of each person, Pius XII anticipates the later emphases of Vatican II.

No foundation, however, could support a structure which lacked cohesion and equilibrium. Developing his architectural metaphor, the Pope pointed out that the Church's contribution to the cohesion and equilibrium of the social structure was internal. External props and buttresses could not support a tottering edifice. The Church, the Pope said, worked on what is most intrinsic to man's being, "on man in his personal dignity as a free creature, in his infinitely higher dignity as a son of God. This man the Church forms and educates because he alone, complete in harmonious combination of his natural and supernatural life, in an orderly development of his instincts and inclinations, his rich qualities and varied reactions, is at the same time the beginning and the end of life in human society, thus also the principle of its equilibrium."¹⁶⁶

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

¹⁶⁴YZERMANS, *The Major Addresses*, p.78.

¹⁶⁵Ibid.

¹⁶⁶Ibid., p.79.

who, "in his encyclical *Quadragesimo anno* on social order, drew a practical conclusion from this thought when he announced a principle of general application, viz: that what individual men can do by themselves and by their own forces, should not be taken from them and assigned to the community."¹⁶⁷

Most significantly, Pius XII added the following comment: "It is a principle that also holds good for smaller communities and those of lower rank in relation to those which are larger and in a position of superiority. For - as the wise Pontiff said, developing his thought - every social activity is by its nature subsidiary; it must serve as a support to members of the social body and never destroy or absorb them. These are surely enlightened words, valid for social life in all its grades and also for the life of the Church without prejudice to its hierarchical structure."¹⁶⁸ In the thought of Pius XII subsidiarity represents an ecclesial principle.

The next sentence assumes that this is both the doctrine and the practice of the Church - as contrasted with the tendencies of imperialism which evolve, the Pope argued, "in the direction of an ever-greater centralisation and more stringent uniformity. As a result, their equilibrium, their very cohesion, are maintained solely by force and by dominating material conditions and juridical experience, events and institutions, and not by the power of the conscientious assent of their intellectual convictions and readiness to take the initiative or assume responsibility."¹⁶⁹

¹⁶⁷Ibid.

¹⁶⁸Ibid., p.79.

¹⁶⁹Ibid., p.80.

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

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

¹⁷⁰Ibid., pp.80-81.

¹⁷¹Ibid., pp.81 and 82.

¹⁷²Ibid., p.82.

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

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

¹⁷³Ibid., p.83.

¹⁷⁴Nell-Breuning commented on this phrase as follows: “As a matter of fact, opponents cling to this addition saying that it cancels the theoretical-abstract statement on the practical-concrete level, that it empties the statement of its concrete content and thus practically abolishes it. However, one should not deal so lightly with such a papal statement which so clearly is carefully thought through and formulated with equal care. Though I must confess that I, too, was struck by this addition when I first read it and I would have preferred to see the text without this addition. Yet then I realised that precisely this addition helps to give the papal statement its full weight. The addition cuts short the objection that the principle of subsidiarity is valid only for social structures of a democratic nature, and that the principle of subsidiarity and hierarchical structure are mutually exclusive. In opposition to this objection the Pope specifically states in the addition that subsidiarity and hierarchical structure can live with each other.” See O.von NELL-BREUNING, “Subsidiarität in der Kirche,” in *Stimmen der Zeit*, 204 (1986), pp.147-157, at p.150. For this and all subsequent translations from the original German, I am indebted to Dr. Marianne BURKHARD, OSB.

The application of the principle of subsidiarity within the Church is an integral part of the Pope's argument. He is not simply contrasting the social *doctrine* of the Church to the tendencies of modern imperialism; he is also contrasting the Church's *practice* of cultivating the inner dimensions of the person and of providing him opportunities for responsibility and initiative while modern empires deprive him of these by centralisation and uniformity. It is adult, solidly grounded, responsible individual citizens that the Church contributes to society; in fact they, particularly the laity, alone and in associations, *are* the Church in the world, the ones through whom the Church is society's "vital principle." That subsidiarity applies in the Church is thus clearly not an afterthought, much less a simple hypothesis, but a central point of the Pope's whole argument.¹⁷⁵

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

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

¹⁷⁵J.A.KOMONCHAK, "Subsidiarity in the Church: The State of the Question," in *The Jurist*, 48 (1988), pp.298-349, on pp.305-306. Cf. also LEYS, *Ecclesiological Impacts*, pp.86-87.

authority is to apply the principle of subsidiarity; to entrust to the lay person those tasks which he can accomplish as well as or even better than the priest, and, within the limits of his role and those which affect the common good of the Church, he should be able to act freely and to exercise his responsibility.¹⁷⁶ The Pope went on to quote extensively from his February 1946 allocution to the Cardinals. The formation of responsible lay persons ready to take initiatives and assume responsibility was clearly an important theme in his teaching. In these ways, he prepares for the more official recognition of these themes in Vatican II.

1. 3. 2 - Allocutions of Paul VI

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

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

Pontiff, provides the primary and cohesive structure of the Mystical Body.”¹⁷⁷ The Pope went on to speak of the communion that exists between the bishops as distinct from the *foederatio* which links civil institutions. He seems to be recommending the principle of subsidiarity, rightly understood, as a structure for communion within the Church.

Over a year later, addressing the Cardinals, the Pope expressed some fears about a misunderstanding of the Council leading to a “reinvention” (or a “rediscovery”) of the Church, the dissolution of ecclesiastical magisterium, a free interpretation of doctrine and an understanding of subsidiarity as autonomy, which leads to a vision of the local church as detached and self-sufficient.¹⁷⁸ Here again, the principle of subsidiarity appears to be assumed as a good in itself, but like other, even essential, aspects of the Church susceptible to misinterpretations and distortions.

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

¹⁷⁷PAUL VI, Allocation to the Presidents of the European Bishops’ Conferences, 25 March 1971, in *AAS*, 63 (1971), pp.292-294, at p.294: “Huiusmodi rationi non solum principium subsidiaritatis, quod appellant, dummodo recte intellegatur, repugnat, sed ipsa etiam natura Ecclesiae adversatur. Pro nobis Ecclesia localis, circa Episcopum suum constituta, qui toti Ecclesiae obligatur et communione Romano Pontifici iungitur, efficit structuram primariam et cohaerentem Corporis mystici.”

¹⁷⁸PAUL VI, Allocation to the Cardinals bringing him greetings for his name-day, 23 June 1972, in *AAS*, 64 (1972), pp.496-505, at pp.498-499: “Da queste opposte tensioni deriva uno stato di disagio, che non possiamo e non dobbiamo nasconderci: anzitutto una falsa e abusiva interpretazione del Concilio, che vorrebbe una rottura con la tradizione, anche dottrinale, giungendo al ripudio della Chiesa pre-conciliare, e alla licenza di concepire una Chiesa «nuova», quasi «reinventata» dall’interno, nella costituzione, nel dogma, nel costume, nel diritto...Le reazioni negative a cui abbiamo accennato sembrano altresì aver di mira la dissoluzione del magistero ecclesiastico: sia equivocando sul pluralismo, concepito come libera interpretazione delle dottrine e coesistenza indisturbata di opposte concezioni; sulla sussidiarietà, intesa come autonomia; sulla Chiesa locale, voluta quasi staccata e libera, e autosufficiente...”

founded was this fear. Thomas De Koninck argues that the human mind grasps new concepts most easily by a process of rejection of the opposites.¹⁷⁹ Gradually this refinement leads to a more precise formulation. The documents studied both in this chapter and in the next highlight misapprehensions of subsidiarity which distort its validity for ecclesial governance, as well as indicating aspects of the principle which recommend its use in the Church.

Conclusion

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

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

From all these documents, there emerge the following themes:

- that the Church repeatedly teaches the unique dignity of the individual human person created in the image of God;**
- that for this very reason each deserves a respect which recognises his right to participate in the decisions which affect his life. Neither state nor Church can usurp this inalienable responsibility;**
- that within the Church each individual as a member of Christ's Body has both the duty and the right to participate in building up this Body;**
- that the role of authority in the Church is to serve, to promote, to facilitate, to co-ordinate this activity in all its diversity;**
- that, in this context, the principle of subsidiarity, developed in the Church's social teaching as a guide for the just structuring of civil societies, offers a means also of preserving unity while promoting legitimate diversity within the Church.**

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

CHAPTER TWO

THE PRINCIPLE OF SUBSIDIARITY

IN THE LIGHT OF SYNODAL DISCUSSIONS

Introduction

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

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

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

²JOHN PAUL II, Allocution to the Roman Curia, 28 June 1986, in *AAS*, 79 (1987), pp.189-200, at pp.198-199. This text is in Italian. For a French translation, see *La documentation catholique*, 10-24 août 1986, no.1923, pp.765-769, at p.769. For the English text, see *Origins*, vol.16, no.10, August 19, 1986, pp.191-195, at p.195.

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

2. 1 - Synod 1967

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

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

⁴R.LAURENTIN, *L'Enjeu du Synode, suite du Concile*, Paris, Éditions du Seuil, 1967, p.155: "Ce malaise tend à s'accroître du fait que l'homme moderne n'accepte plus de subir une loi dans l'absolu: qu'il ne la conçoit dans un développement et une collaboration." Cf. also P.HEBBLETHWAITE, "The Synod: Opening Bars," in *The Month*, November 1967, pp.249-252, and F.X.MURPHY and G.MacEOIN, *Synod '67: A New Sound in Rome*, Milwaukee, Bruce Publishing, 1968, pp.45-72.

the Christian 'energies' would be freed, according to a formula of John XXIII, whose technique of governing consisted in putting men in situations where the unexpected could come to birth."⁵ Only in such circumstances, they felt, could the Holy Spirit continue to give life to the Church. Flexibility should characterise the new Code:

It should be open to adaptations, and more profoundly to the continual springing forth which is the very law of the Gospel, and which is becoming a more urgent necessity in the accelerated evolution of our modern world. In keeping with this, the Council invites the Code of Canon Law to make room for organisms of adaptation and of diversification, notably conferences of bishops. It should also give scope to the initiatives and responsibilities newly recognised as belonging to the People of God. The Code should establish regulations for pilot-experiments which will be more and more necessary to adapt the Church to the evolving realities of the present day. To do so would be to return to very ancient usages, never codified, difficult to codify, perhaps, those which constitute the best part of the Church's patrimony.⁶

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

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

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

⁶Ibid., p.151, "Il doit être ouvert aux adaptations, et plus profondément au jaillissement continu qui est la loi même de l'Évangile, et qui devient nécessité plus urgente dans notre monde en évolution accélérée. Dans cette ligne, le Concile invite le Droit canon à faire place aux organismes d'adaptation et de diversification que sont notamment les conférences épiscopales. Il faudrait aussi donner du champ aux initiatives et responsabilités nouvelles reconnues au peuple de Dieu. Il faudrait que le Droit canon parvienne à établir le statut des expériences-pilotes qui seront de plus en plus nécessaires pour l'adaptation de l'Église aux réalités évolutives d'aujourd'hui. Ce serait là revenir à des usages fort anciens, jamais codifiés, difficilement codifiables, peut-être, ceux qui ont constitué le meilleur du patrimoine de l'Église."

bishops were canon lawyers and “intimately familiar with the law through the daily practice of government.”⁷ The voting figures reflect the high level of interest taken by the bishops.⁸ As Laurentin comments, the *non-placets* were rare that day (only 5 altogether), but the high number of *placet iuxta modum* (434) showed a remarkable lack of unanimity.⁹ Such a vote expressed agreement, but also a certain caution, and sent a message to the Commission to take note of the concerns expressed in the debate.

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

Both Gino Concetti and Laurentin present analyses of the main lines of the debate.¹⁰ Concetti's, the more concise, identifies the main themes as the primacy of the human person, liberty and authority, the principle of subsidiarity, the salvation of souls, and the pastoral nature of the new Code. He asserts that the principle of subsidiarity was favourably received by all.¹¹

⁷LAURENTIN, *Le premier Synode: histoire et bilan*, Paris, Éditions du Seuil, 1968, “intimement familiarisés avec le droit par la pratique quotidienne du gouvernement” (p.78).

⁸*Comm.*, 1 (1969), p.99.

⁹LAURENTIN, *Le premier Synode*, p.87.

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

¹¹CONCETTI, *Bilancio e documenti del Sinodo dei Vescovi*, p.103, “Il principio sussidiarietà è accolto favorevolmente da tutti.” The actual text on which the bishops voted was: “What has just been said pertains without doubt to the application of the *principle of subsidiarity* in Canon Law. Yet, what has been said above is still a far cry from the broader and more complete application of the same principle to church legislation. The function of this principle of subsidiarity is to strengthen and

Caprile's account of the discussion on 2 - 4 October 1967 indicates that of the forty-nine speakers the eleven who mentioned the principle of subsidiarity did so approvingly.¹² Their approval focused on the flexibility which the implementation of the principle would allow to the hierarchy in each country to formulate laws suitable for their unique circumstances.¹³ They looked to the principle to strengthen the law,¹⁴ to improve relationships between the hierarchy and the faithful, to make the apostolate of both laity and religious more

confirm legislative unity in all the fundamental and major pronouncements of law of any society that is complete and compactly structured within itself. This principle of subsidiarity also has the function of defending the reasonableness or need especially of individual institutions to provide for their own advantage by particular laws enacted by themselves as well as by a reasonable amount of autonomous executive power and authority." The translation is from *Readings, Cases, Materials in Canon Law*, J.HITE and D.J.WARD (eds.), pp.87-88. Johnson comments: "This lengthy principle gives only guarded approval to the use of subsidiarity as a model for church law. It justifies applying subsidiarity by referring to *Christus Dominus*, n.8, a: simply by being a bishop, the diocesan ordinary has all of the sacred power he needs to teach, rule and sanctify the local church entrusted to his care. The principle begins by referring to a prior citation of this passage (the antecedent of 'What has just been said' with which the text begins is a reference to CD, 8, in the immediately preceding paragraph) and later echoes the reference by quoting the passage in full. The principle therefore situates the discussion of subsidiarity between two poles: the legitimate autonomy of the diocesan bishop, who is a successor of the apostles, on the one hand, and the supreme power of the pope to specify the limits of this autonomy on the other." See JOHNSON, "Subsidiarity and the Synod," p.492.

¹²G.CAPRILE, *Il Sinodo dei Vescovi; prima assemblea generale, 29 settembre - 29 ottobre 1967*, Roma, Edizioni "La Civiltà Cattolica," 1968, (= CAPRILE, *Il Sinodo dei Vescovi*, 1967). For the debate on subsidiarity, see pp.94-122.

¹³CAPRILE, *Il Sinodo dei Vescovi*, 1967, see the interventions by Cardinal Urbani (Italy), p.95; Bishop Lourdousamy (India), pp.102-103; Cardinal Döpfner (Germany), p.106.

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

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

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

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

¹⁵Ibid., see Cardinal Suenens (Belgium), p.107.

¹⁶Ibid., see Bishop Hermaniuk (Canada [Ukrainian]), p.109.

¹⁷Ibid., see Cardinal Roy (Canada), p.115.

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

For commentary on this synod, see also KOMONCHAK, "Subsidiarity in the Church," at pp.313-314, and LEYS, *Ecclesiological Impacts*, pp.89-93.

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

2. 2 - Synod 1969

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

¹⁹MURPHY and MacEOIN, *Synod '67; A New Sound in Rome*, p.71.

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

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

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

²¹See G.CAPRILE, *Il Sinodo dei Vescovi: prima assemblea straordinaria, 11 - 28 ottobre, 1969*, Roma, Edizioni "La Civiltà Cattolica," 1970, (= CAPRILE, *Il Sinodo dei Vescovi, 1969*), pp.438-454. For comments, see J.F.X. HARRIOTT, "The Second Synod: The Third Floor," in *The Month*, December 1969, pp.308-321, and D.R.CAMPION, "Letter from the Synod V: Balancing the Results," in *America*, November 15, 1969, pp.457-462.

²²CAPRILE, *Il Sinodo dei Vescovi, 1969*, pp.467-473 for the Latin original, and pp.70-71 for a summary in Italian. Harriott credits Cardinal Seper with defusing a potentially explosive argument: "By stating that the the bishops had rights which were not, so to speak, in the Pope's gift, and that the Pope himself could not exercise his primacy in a purely arbitrary way, in short by re-affirming the doctrine of Vatican I, the Seper *relatio* gracefully acknowledged the justice of the bishops' complaint. With that acknowledgement the heat went out of the argument...the primacy of the Pope as defined by Vatican I was not being challenged, only the way in which it is exercised: authority was not under attack, only the way in which it is experienced." See HARRIOTT, "The Second Synod: The Third Floor," p.311.

the *relatio* set a high value on the diversity of local churches and on the preservation of unity in the Church. Consequently, as the subsequent discussion showed, the bishops felt the need for a deeper philosophical and theological study.²³

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

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

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

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

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

²⁵See *ibid.*, p.127, "L'attività pastorale è per sua natura un'azione pedagogica e perciò va adattata alle condizioni spirituali delle singole Chiese particolari: i primi e immediate giudici ne sono dunque coloro che, come vicari e legati di Cristo, reggono le Chiese ad esse affidate. In campo dottrinale, invece, si invertono i rapporti: la verità rivelata infatti e la legge divina è una sola nella Chiesa, quella cioè che insegna l'autorità del magistero in nome di Cristo, che si estende alla Chiesa intera, cioè il collegio dei vescovi sotto la guida del Romano Pontefice oppure lo stesso Romano Pontefice che insegna personalmente in qualità di dottore e maestro della Chiesa universale. Perciò l'ultimo giudizio sulla stessa dottrina o sulla pedagogia della fede e della legge morale, pur non essendo sottratto all'autorità dei singoli vescovi, per natura sua rientra primo et per se nella competenza della suprema autorità di magistero, il che va riconosciuto sia sul piano teorico sia su quello pratico." Bishop Colombo's distinction here between the exercise of subsidiarity in the pastoral and doctrinal spheres was made also by Pope Paul in his closing address to the Synod, 27 October 1969, in *AAS*, 61 (1969), pp.726-730, on p.729. Cf. J.SCHASCHING, "Das Subsidiaritätsprinzip in der Soziallehre der Kirche: Reflexionen zu einer Anfrage," in *Gregorianum*, 69 (1988), pp.413-433, where, after repeating this distinction between the Church and civil society, the author maintains that the principle of subsidiarity is valid also for religious values which find their meaning and framework in the Church which, as a divinely organised institution, has its competencies and its constitutive elements which are not part of the subsidiary function.

²⁶CAPRILE, *Il Sinodo dei Vescovi, 1969*, pp.141-142.

clarification. The vote showed that there was overwhelming support for the proposal and for its execution by the newly formed International Commission of Theologians.

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

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

²⁷D.R.CAMPION, "Letter from the Synod V: Balancing the Results," in *America*, November 15, 1969, pp.457-462, at p.461.

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

²⁹CAPRILE, *Il Sinodo dei Vescovi*, 1969. For the original Latin of his report, see pp.474-482. There is a summary given in Italian on pp.156-158.

principle of 'solidarity.'³⁰ It can therefore be said that the responsibility of the bishops to care for the good of the Church universal as well as of the particular churches is more effectively achieved by the correct application of the principle of subsidiarity."³¹ He went on to say that the new Code would give clear norms by which the principle could be effectively elaborated.³² The use of quotation marks and the stress on "*recte*" witness to the caution induced by the *placet iuxta modum* votes at the 1967 Synod.

The principle of subsidiarity therefore headed the agenda for the *circuli minores*. Enthusiastic endorsement came from three groups: the first English language group, the

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

³¹CAPRILE, *Il Sinodo dei Vescovi, 1969*, p.476: "Principium itaque 'subsidiaritatis' recte intellectum, ipsius Ecclesiae naturae ratione, principium 'solidaritatis' secumfert. Dicitur igitur potest Episcoporum responsabilitatem in bono Ecclesiae tam universae quam Ecclesiarum particularium procurando, per recte applicatum principium 'subsidiaritatis' magis ad effectum adduci."

³²*Ibid.*, p.477: "Novi Codicis profecto erit in hac provincia praesertim certas tradere normas, quibus revera principium 'subsidiaritatis' ad effectum deducatur."

second Spanish-Portuguese group and the Latin group.³³ Nonetheless, the bishops expressed some concerns.

Monsignor Gérard Philips (principal drafter of *Lumen gentium*), reporting the discussion of the second French language group, said that the principle was difficult in practice because of its different meanings in civil and canon law: it was necessary to conserve the concept, but also to set limits. The Church exists in an order different from that of civil society and so articulation from level to level presents problems.³⁴ He spoke of the powers of the bishops as vicars of Christ, recognised by *Christus Dominus*, n.8. He stressed the Pope's right to reserve cases to himself whenever the common good of the Church requires it.³⁵

³³Ibid., p.167, Cardinal Dearden (USA), *relator* for the first English language group: "Da questa mutua comunicazione potra scaturire nella Chiesa un valido progresso verso il principio di sussidiarietà." Bishop Pironio (Colombia), *relator* for the second Spanish-Portuguese group: "Il principio di sussidiarietà da tutti ammesso." Ibid., p.180. Patriarch Batanian, *relator* for the Latin group: "Tutti ammettono l'applicazione del principio di sussidiarietà già entrato nella prassi della Chiesa." Ibid., p.185.

³⁴LEYS, in *Ecclesiological Impacts*, p.108, summarises Bertrams, Metz, and Pampaloni, as also making this distinction between the tasks of the Church and those of civil society: "The fundamental problem for them lies in the very nature of the Church: it is a *societas sui generis*. The initiative for the Church and the main lines of its (authority) structure are not dependent on the faithful: the initiative lies with God. The Church is at one and the same time a natural society of people and a supernatural society which exercises salvation/grace activity: something which a purely human society cannot do.

"The real difference with civil society and the state lies in the fact that the structural order, the hierarchical structure is a value *per se* in the Church. Or, for these authors, it is definite that God wants *this* ecclesiastical structure, but that he does not want any specific structure for society: that is a fundamental difference. Because the hierarchical structure is such a value in itself it cannot be reduced to the same subsidiary service function as the governmental functions in state and society." To implement the principle of subsidiarity in the Church thus challenges the assumption that subsidiarity serves merely as a principle of decentralisation. The principle preserves other values enshrined in the Church's teaching about human nature.

³⁵See CAPRILE, *Il Sinodo dei Vescovi*, 1969, p.173: "Il principio di sussidiarietà è di difficile uso, giacché ha un diverso significato a seconda che se ne parli nel contesto del diritto civile o in quello del diritto ecclesiastico ... il passaggio da quel piano al piano ecclesiale non è senza

Although the second Spanish-Portuguese group accepted the principle of subsidiarity, they looked to the new Code to provide practical norms and suggested areas where these might be necessary.³⁶ The Italian group seemed to be divided on the issue: some expressed fear and perplexity, whereas others said the principle of subsidiarity had already been accepted in the Code.³⁷

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

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

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

³⁷Ibid., p.183: "Non pochi hanno espresso timori e perplessità sull'applicazione del principio di sussidiarietà specialmente riguardo alle Conferenze Episcopali, con possibile danno del primato pontificio o dei singoli vescovi. Altri tuttavia, facendo forza sul fatto che esso è stato accettato nella revisione del Codice e che è già stato applicato alle Conferenze in alcuni documenti postconciliari, pensano che si debba procedere per questa via, determinando chiaramente l'ambito delle competenze e sempre salvo il diritto di primato del Papa. Alla fine tutti sono stati d'accordo che esso è accettabile, tenendo analogamente presente la singolare costituzione della Chiesa ed il principio di solidarietà. In tale contesto si comprende meglio anche la reciprocità del medesimo principio: nelle missioni o nei paesi in cui la Chiesa è perseguitata, la maggiore ed a volte l'intera responsabilità delle Chiese particolari si riversa sulla Sede Apostolica." This quotation has been given in full because it picks up a theme seemingly at odds with the discussion at an earlier stage in the Synod. This was the emphasis placed by Cardinals Wysinski (Poland), and Zoungana (Upper-Volta), on the need experienced by persecuted or young churches for the unifying influence and support of a central authority whose embodiment is the Pope. See *ibid.*, pp.75-76, and 82-83, and HARRIOTT, "The Second Synod: The Third Floor," p.313. These two interventions present the case for the implementation of the principle of subsidiarity as a means, not of weakening the power of the local church, nor of itself appearing merely in a "subsidiary" (=subordinate) role. Where the local church, for whatever reason, is weak, the central authority provides its strength. To do so in no way diminishes either the standing or the effectiveness of the central authority.

useful, fitting, and required by the times.³⁸ He added that an examination of the principle from the standpoints of both theology and philosophy seemed to be required. The voting figures on the principle of subsidiarity indicated support for a better determination of the competence of the bishops as pastors of the particular churches and the role of the Supreme Pontiff in deciding what matters required norms common to the entire Church.³⁹

Pope Paul VI attended almost every session of the Synod. In his opening address to the members, he referred to the principle of subsidiarity. The context was the bishops' exercise of the powers recognised by *Christus Dominus*, n.8, as theirs by reason of their episcopal ordination and *communio* with the Apostolic See. The Pope, although he warned of the danger to the *communio* of the Church in the event of multiple and excessive forms of local autonomy, nonetheless asserted that, when the principle of subsidiarity was applied,

³⁸CAPRILE, *Il Sinodo dei Vescovi, 1969*, p.206: "A proposito del principio di sussidiarietà si può dire unanime il parere che la sua concreta applicazione nella vita della Chiesa sia valida e perciò utile, conveniente e richiesta dai tempi."

³⁹Ibid., pp.216-217. The results were: *Placet*, 98; *Placet iuxta modum*, 37; *Non placet*, 7; *Astenuto*, 1. Only one other proposal received a lower number of *placets* and a higher number of *non placets*, namely the proposal that there should be expert consultants available to the bishops during the Synod, p.218. Komonchak writes of this vote: "At the end of their discussions, the members were asked to vote on the principle, and once again it received a very high majority of votes." KOMONCHAK, "Subsidiarity in the Church," p.317. This comment blurs the Synod's obvious reluctance to commit itself to an unqualified implementation of a principle which many clearly felt they had not wholly understood. See also R.LAURENTIN, in *Le Synode permanent: naissance et avenir*, Paris, Éditions du Seuil, 1970, pp.190-193, where he writes: "Ce principe n'est pas une simple application à l'Église du schéma séculier que les encycliques pontificales rappelaient aux gouvernements temporels. Il est requis (et spécifié) par la nature même de l'église particulière où se trouvent intégralement donnés tous les principes d'une existence complète: l'Évangile, l'Eucharistie, l'Esprit, l'évêque." The bishops' caution is understandable.

tempered with a humble and wise prudence, neither would the bishops' powers be constrained nor would *communio* be broken.⁴⁰

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

We are also very willing to respond to all legitimate desires to open the way for fuller concessions to local churches and to approve their proper character, specific needs and requests by means of a good and appropriate application to the matter of what they call the principle of "subsidiarity." This principle, indeed, certainly requires deeper understanding and clarification both in theory and in practice, but precisely in its specific meaning we accept it. However, the principle cannot in any way be confused with a certain demand for that "pluralism" which would harm the moral law and the primary forms of sacramental, liturgical, and canonical discipline, especially to the extent that these preserve the unity necessary in the entire Church.⁴¹

⁴⁰PAUL VI, Allocution at the opening of the Second Synod of Bishops, 11 October 1969, in *AAS*, 61 (1969), pp.716-721, at p.719: "Nos diligenter curabimus, ut Nostris in episcopatu Fratribus aequiore ratione agnoscamus eam privilegiorum et facultatum summam, quam iis tribuunt hinc sacramentalis character, quo ad pastoralia perfungenda munia in Ecclesia sunt vocati, hinc eorum germana cum hac Sede Apostolica communio. Neque huiusmodi norma coëceri vel interscindi poterit, si pertinens ad ipsum principium «subsidiarietatis», cum in usum deducitur, recte humili ac sapienti prudenti temperabitur, adeo ut nihil detrimenti commune totius Ecclesiae bonum capiat ex multiplicibus nimisve particularis autonomiae formis, quae quidem unitati et caritati obsunt, qua Ecclesia fieri debet *cor unum et anima una*, et favent ambitiosis aemulandi cupiditatibus et immoderatis suarum tantum utilitatum studiis." It is worth noting that the Pope uses the present indicative in the clause "*cum...deducitur*," and the future indicative for the verb "*temperabitur*;" he seems to have no doubt that the principle will be applied prudently in the Church.

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

⁴¹PAUL VI, Allocution at the closing of the Second Synod of Bishops, 27 October 1969, in *AAS*, 61 (1969), pp.726-730, at pp.728-729: "Itemque animo promptissimo sumus ad omnia legitima optata, quae patefiant, ut locorum Ecclesiis plenior in modum concedantur ac probentur propriae notae peculiaresque necessitates et postulata, bene apteque in rem deducto principio illo «subsidiarietatis», uti aiunt: quod sane principium postulat procul dubio ut cogitatione et re penitus usque intellegatur atque illustretur, Nosque idem in sua praecipua significatione prorsus admittimus. Attamen haudquaquam fieri potest, ut hoc principium cum quadam illius «pluralismi» postulatione confundatur,

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

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

2. 3 - Synod 1971

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

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

⁴²Cf. P. HEBBLETHWAITE, "The Synod on Priests", in *The Month*, December 1971, pp. 163-168, at p. 163.

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

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

- a permanent commission of bishops, elected by their colleagues throughout the world, took part in the preparatory work;
- the International Theological Commission was also involved in the preparations;
- the whole Church at every level had the opportunity to contribute to the discussion of the working papers;
- twenty-six priests, chosen by the Pope, were invited to attend the debate on the priesthood, and a number of lay people, including two women, were invited to take part in the discussion on Justice. Two female religious were also invited to be auditors;
- many of those involved in the preparatory work went to Rome for the Synod to maintain contact with the bishops.⁴⁴

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

⁴⁴ *The Tablet*, 2 October 1971, p.961.

Addressing the Synod, mindful of the world-wide interest in the proceedings, Cardinal Dearden said, "The Christian community has truly exercised 'shared responsibility.'"⁴⁵

Before the Synod, the very fact that there had been such widespread consultation had stirred hopes of change. One of the priests canvassed for an opinion by *America* reminded his readers that celibacy was a disciplinary rather than a doctrinal matter and expressed the hope that: "Questions of the lifestyle of the Catholic ministry should be solved by the Church on a regional and not on a world-wide basis. The chief function of the Synod should be to recognise this fact and point it out or at least to keep alive the hope that a reasonable subsidiarity and pluralism will eventually flourish in the Church."⁴⁶ Fears, as easily generated as hopes by such comments, provoke powerful reactions.

Cardinal Krol, an elected member of the Synod, considered that regular synods actualised collegiality.⁴⁷ Another elected member, Bishop Carter, while acknowledging that "every time the bishops meet something happens," seemed disappointed that the merely consultative function of the Synod did not fulfil the intention of Vatican II with regard to collegiality. In his opinion, the lack of a permanent structure to ensure a follow-up meant

⁴⁵CAPRILE, *Il Sinodo dei Vescovi, 1971*, pp.146-147, "La comunità cristiana ha esercitato veramente una 'responsabilità partecipata.'"

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

⁴⁷*America*, September 25, 1971, p.193.

that many fruits of the debates were lost.⁴⁸ In a more realistic vein, however, Cardinal Dearden, after first explaining collegiality as shared responsibility, wrote: "The Synod cannot be seen as an isolated event in the life of the Church. It is part of a continuing process by which the Church seeks to define its role in light of both unchanging principle and changing circumstances. It is also part of a new, post-conciliar movement toward broader participation in the Church's decision-making."⁴⁹ These three elected representatives focus on the concern for participation as one of the chief aspects of the synodal process, but none brought out the logic as clearly as another contributor to *America's* canvass, Bishop J.W. Malone. His hope for the spirit of collegiality to prevail recognised that only then would the Synod's recommendations be rooted in reality. He concluded his "hopes and expectations" with the remark, "Collegiality, candour and a receptiveness are indispensable elements, if the Synod's deliberations are to have any worthwhile or lasting impact on a society in turmoil."⁵⁰ They equally stand for values upheld by the principle of subsidiarity.

Once the Synod opened, commentators reported the clash between two theologies or methods that surfaced in the initial debate.⁵¹ The supporters of what Cardinal Suenens called "the classical, Latin, scholastic"⁵² method expected first a doctrinal, theological

⁴⁸Ibid., pp.196-197.

⁴⁹*Origins*, vol.1, no.16, October 14, 1971, p.275.

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

⁵¹D.R.CAMPION, "Synod Notebook II," in *America*, October 16, 1971, p.278; P.HEBBLE-THWAITE, "The Synod Debates the Priesthood," in *The Tablet*, 9 October 1971, p.988, and 16 October 1971, p.1012, also "The Synod on Priests," in *The Month*, December 1971, p.163-168.

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

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

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

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

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

⁵⁴HEBBLETHWAITE, "The Synod on Priests," p.165.

⁵⁵CAPRILE, *Il Sinodo dei Vescovi, 1971*, p.142: "La dottrina ecclesiological del nostro testo sembra ed è rigida, parlando unicamente della struttura della Chiesa Romana."

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

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

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

By far the most significant contribution with respect to the principle of subsidiarity came from Cardinal Enrique y Tarancón, Primate of Spain, who opened the second week of

clarté; on peut donc se demander s'il n'y a pas lieu de reconnaître la possibilité d'une différence d'organisation du ministère dans les diverses Églises." CAPRILE, *Il Sinodo dei Vescovi*, 1971, on pp.161-162, gives the Italian version of this speech which was delivered in French.

⁵⁷The reports can be read in CAPRILE, *Il Sinodo dei Vescovi*, 1971, pp.267-289.

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

the Synod with a long report.⁵⁹ Commentators remarked principally on the length of his speech - over two hours - and then on the debate which followed. Since the debate seemed to focus on the celibacy issue, what the Cardinal had to say about Church structures did not receive the attention it deserved. He began with the assertion that the Church is a unique society, "a communion with Christ and with one's brothers." Peter Hebblethwaite reported as follows: "Cardinal Tarancón stated a far-reaching principle, 'The organisation of the Church and its juridical order have as their sole purpose to strengthen and protect the liberty of the children of God.' He therefore encouraged those structures which involve people in the life of the Church, such as priestly councils and pastoral councils, and set a question-mark against others 'which might obscure the image of Christ present in the Church and set an obstacle to preaching the Gospel.'"⁶⁰ The point which the Cardinal is making is that

⁵⁹CAPRILE, *Il Sinodo dei Vescovi, 1971*, gives a summary in Italian, pp.300-303, and the full Latin text on pp.655-678. Summaries in English are to be found in *Origins*, vol.1, no.17, October 21 1971, pp.287-290, and, with commentary, by P.HEBBLETHWAITE, "Synod Chronicle: I," in *The Tablet*, 16 October 1971, p.1012., and also in "The Synod on Priests," pp.166-167; by D.R.CAMPION, "Synod Notebook III," in *America*, October 23, 1971, p.308. In French, LAURENTIN provides a summary and comment in *Réorientation de l'Église après le IIIe Synode*, pp.79-83, and CAPRILE mentions the report in his article "Le Synode de 1971," p.49.

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

"Quam ob rem mirum non est quod nonnullae formae structurarum, tempore labente, factae sint quasi adhaerentiae innecessariae quae eo usque quandoque pervenire possunt, ut imaginem Christi in Ecclesia praesentem obscurant ac de facto actioni evangelizatrici obstant." See *ibid.*, p.664-665.

the image of Christ appears more clearly in a Church whose members all participate actively in decision-making processes.

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

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

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

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

⁶¹CAPRILE, *Il Sinodo dei Vescovi*, 1971, p.666.

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

⁶³Ibid., pp.306-307 Cardinal Ricketts (Peru); p.308 Archbishop Plourde (Canada); pp.314-315 Bishop Soekoto (Indonesia); p.322 Cardinal Etchegaray (France); pp.323-324 Bishop Galvin (Philippines: as the man who helped to pin down the Pope's would-be assassin in Manila he was widely reported, cf. also *Origins*, vol.1, n.18, October 28, 1971, pp.314-315, and *The Month*,

subsidiarity, the Melkite Patriarch Hakim of Antioch and Bishop Gran from Oslo.⁶⁴ The latter, representing the Scandinavian Conference of Bishops, introduced the topic in the context of co-responsibility and decentralisation, suggesting that, given diverse social and cultural circumstances, some problems could best be solved by conferences of bishops at the national level. He stated his opinion that the process of decentralisation, initiated by the Holy See after the Council, should be continued in accordance with the principle of subsidiarity, thus giving life to regional structures which should be able to take up all that does not require, *per se*, a uniform solution to preserve the unity of the Church. The unity of the Church would not suffer; on the contrary, freedom from disciplinary bonds, properly understood and respected, would help to set up true pluriformity in unity.⁶⁵ The basic debate was not so much about celibacy, as about the freedom to choose, not yet for the individual priest, but for the conferences of bishops to work out a formula appropriate for their particular church.

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

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

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

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

A further significant point is that like Bishop Gran, some speakers spoke on behalf of their entire conference or even, like the Canadians, who received much praise on this account, also on behalf of the priests and laity whom they had consulted widely before the Synod. Consequently, what Bishop Alexander Carter had to say expressed the considered opinion of the entire Canadian church.⁶⁶ He was also careful to indicate minority views. The other Canadians who spoke attracted the same attention. Archbishop Plourde offered the model *Christ - Church - Ministries* as an alternative to the proposed model, *Christ - Apostles - Church*, which appears to present the Church as the creation of the hierarchy.⁶⁷ Cardinal Flahiff made headlines with his intervention on the place of women in the Church.⁶⁸ The shepherd who speaks on behalf of his flock speaks with more authority. For this reason, many delegates were anxious that the voting should not be anonymous: it was important for the Holy Father to know the weight that was attached to the individual votes.⁶⁹

⁶⁶Ibid., pp.334-335. See also *Origins*, vol.1, no.17, October 21, 1971, pp.294-295, and "Pastoral Tasks for Married Clergy," in *The Tablet*, 23 October 1971, p.1038.

⁶⁷CAPRILE, *Il Sinodo dei Vescovi, 1971*, pp.308-310, on p.309.

⁶⁸Ibid., pp.342-344. See also *Origins*, vol.1, no.17, October 21, 1971, pp.295-296; "The Ministry of Women," in *The Tablet*, 30 October 1971, p.1059; "Synod Notebook VI," in *America*, November 13, 1971, p.391, and "The Synod on Priests," in *The Month*, December 1971, p.168.

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

"In loyalty towards the Pope to whom we should give the fullest and most exact information on the real ideas of our Churches, and in loyalty towards our respective Churches, towards other

Caprile in his "Panorama del dibattito" remarked that the bishops had affirmed that disciplinary uniformity was not only impossible in the Church today, but not even necessarily required.⁷⁰ D.R.Campion, commenting on the celibacy debate, at a point when it still seemed that there might be some relaxation of the obligation to celibacy, wrote:

More important by far for the life of the universal Church, however, will be a decision on how the change should be introduced. Here the debate is back to the central issue of the 1969 Synod; the authority and responsibility of the Holy See. Again my impression is that the present Synod's delegates more frequently talk the language of decentralisation and a greater sharing of effective responsibility on the part of the national conferences. In other words, a principal function of a Synod is to educate the Church at large to a new awareness of its true identity and complexity.⁷¹

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

When the bishops separated for a second time into the *circuli minores*, co-responsibility in pastoral action was one of the topics on their agenda. One English-speaking group preferred the expression "shared responsibility," arguing that the bishop's responsibility is greater, and the priests are his collaborators.⁷² From the reports of the discussions it seems that the main focus of interest was on improving relationships between bishops and priests, principally through the practical use of the diocesan organisms recommended by the

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

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

⁷¹D.R.CAMPION, "Synod Notebook III," in *America*, October 23, 1971, p.308.

⁷²CAPRILE, *Il Sinodo dei Vescovi*, 1971, p.515.

Second Vatican Council.⁷³ Some also requested that clear statutes should be provided so that competencies between the various organisms would be clearly defined.⁷⁴

Only one group expressly mentioned the principle of subsidiarity, asserting that co-responsibility was founded on this principle in virtue of which the authority of the bishop and the collaboration of his priests constituted a unique service to the advantage of the diocesan community.⁷⁵

The dissatisfaction of the media with this Synod appears due in part to the continued insistence on a universal rule of celibacy within the Latin Church, in part to unrealistic expectations, and in part to the practical difficulties inherent in producing any document accurately representative of such an event.⁷⁶ Cardinal Krol struck a more positive note before the Synod when he pointed out that, as an organ for gathering information from all over the world, the Synod cannot fail.⁷⁷ After the Synod, one editor wrote: "Better this

⁷³Ibid., pp.511-551. See, for example, p.511 circolo inglese A; pp.518-9 circolo inglese C; pp.524-526 circolo francese C; p.529 circolo francese A; p.532 circolo tedesco, p.535 circolo spagnole-portoghese B; pp.540-541 circolo spagnole-portoghese C.

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

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

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

⁷⁷"Hopes and Expectations for the Synod," in *America*, September 25, 1971, p.195.

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

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

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

⁷⁸Editorial comment in *America*, December 4, 1971, p.473.

⁷⁹*Origins*, vol.1, no.22, November 18, 1971, pp.370-371, at p.371.

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

2. 4 - Synod 1974

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

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

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

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

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

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

⁸³PAUL VI, 22 September 1974, in *AAS*, 66 (1974), pp.545-549. The address was delivered in English.

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

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

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

⁸⁴For a synopsis, see *Origins*, vol.4, no.16, October 10, 1974, p.255. For the Italian version, see G.CAPRILE, *Il Sinodo dei Vescovi; terza assemblea generale, 27 settembre - 26 ottobre 1974*, Roma, Edizioni "La Civiltà Cattolica," 1975, (= CAPRILE, *Il Sinodo dei Vescovi, 1974*), pp.137-145.

During the synodal deliberations, four delegates speaking on their own behalf and two as spokesmen for their *circuli minores* explicitly mentioned the principle of subsidiarity.⁸⁵ The most forceful endorsement came from Archbishop Samuel Carter of Jamaica. After declaring that Vatican II clearly recognised the principle of subsidiarity, he said that it had been insufficiently implemented and pleaded for greater decentralisation and for an adaptation of canon law. He saw the current attempt to codify the law as betraying a static rather than a dynamic view of the Church: unless the law was open to further substantial adaptations to meet changing needs, it would be an obstacle to the preaching of the Gospel.⁸⁶

One of the Eastern Metropolitans, Bishop Varghese Thangalathil (India) saw the need to recognise "*una sana pluriformità*" and offered the example of the Eastern Churches where fruitful co-operation between clergy and laity followed the implementation of the principle of subsidiarity.⁸⁷

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

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

⁸⁷CAPRILE, *Il Sinodo dei Vescovi*, 1974, p.258: "Soddisfacente, in tali Chiese, è la cooperazione tra clero e fedeli; il principio di sussidiarietà è già da tempo attuato con frutto."

Father Tarcisio Agostoni, a representative of the Superiors General, spoke of the Lord's generous provision for the needs of the Church which has to discern the infinite variety of complementary and interdependent ministries. Co-responsibility and subsidiarity do not detract from the powers of the hierarchy who remain at the centre, not at the head of the people of God.⁸⁸

Bishop Worlock (England and Wales) reporting the discussions of his *circulus minor*, asserted that this group had seen the necessity for an opportune application of the principle of subsidiarity to all the problems concerning culture, customs, and traditions of the different peoples where a balance was required between the exercise of authority over the whole Church and the legitimate autonomy of the local church.⁸⁹

A French-speaking *circulus minor* maintained that personal and community conversion should be based, among other things, on a sense of true freedom which presumes maturity and which expresses itself in responsible government of the diocese and in the concern to promote, at every level, the principle of subsidiarity and of personal and community responsibility.⁹⁰

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

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

⁹⁰Ibid., p.349: "La conversione personale e comunitaria deve basarsi specialmente su questi punti: ...senso di vera libertà che suppone maturità e che si esprime nel governo responsabile della diocesi e nella cura di promuovere, ad ogni grado, il principio di sussidiarietà e di responsabilità personale e comunitaria." Bishop Matagrín, France, acted as the *relator*.

In a personal intervention, Cardinal Cooray (Sri Lanka) lamented the distorted interpretations of the Second Vatican Council, interpretations which constituted an obstacle to evangelisation. He struck the only note of caution regarding subsidiarity: he emphasised the need for clarity lest plurality and subsidiarity weaken unity.⁹¹ The tone of his brief speech reflects anxiety over new trends whose authenticity, he said, would depend on their acceptance by both the *Chiesa credente* and the *Chiesa docente*.

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

The relationship between the local churches and the Apostolic See needs study. The universal Church is the communion of local churches, over which the Roman Church and its bishop presides as the principle of unity and bond of universal charity. The reality of the local church must be fully recognised and its legitimate authority needs to be acknowledged and promoted. This requires that the principle of subsidiarity be truly applied and that a decentralisation take place so that local bishops can actually assume the responsibility that belongs to them. Greater authority should also be granted to episcopal conferences so that they can make necessary decisions by themselves. In summary, what is needed is that the emphasis should pass from the centre to the local churches on a national, regional, and diocesan level.⁹²

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

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

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

for inculturation, for a recognition of the variety and richness of native culture, for indigenisation, for room to exercise initiative, pleas far too numerous to be cited here.⁹³ Using all these different phrases, the bishops gave voice to the groundswell of belief that "the emphasis should pass from the centre to the local churches." In other words, the bishops were asking for the implementation of the principle of subsidiarity.⁹⁴

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

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

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

Three books, in Italian, published some of the speeches and commented on them: G.BUTTURINI, *Le nuove vie del vangelo: i vescovi africani parlano a tutta la Chiesa*, Bologna, EMI, 1975; D.COLOMBO, *I semi del vangelo: studi e interventi dei vescovi d'Asia*, Bologna, EMI, 1975; B.SORGE, *Evangelizzazione e promozione umana: stimoli dalle giovani chiese*, Bologna, EMI, 1975. Butturini, in assessing the contribution made by the bishops of Africa, (see *Le nuove vie del vangelo*, pp.310-313) explicitly identifies elements of the principle of subsidiarity in the interventions of Cardinal Malula (Zaire), a papal appointee (see CAPRILE, *Il Sinodo dei Vescovi, 1974*, pp.253-254), of Bishop Sangu (Tanzania) (ibid., pp.146-151), of Archbishop Yago (Ivory Coast) (ibid., p.371), of Archbishop Biayenda (Congo) (ibid., pp.255-256), and of Bishop Maanicus

2. 5 - Synod 1977

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

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

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

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

⁹⁵It is worth noting that the composition of both language groups which mentioned subsidiarity, the English and the French, reflects the universality of the Church. In both groups there were bishops from Asia, America, Africa, Europe and, in the case of the English-speaking group, also from Australia.

to perform a not inconsiderable service to catechesis. So it recommended a new impulse to promote the growth of these communities, based on the principle of co-responsibility and of subsidiarity, with a view to the better fulfilment of their catechetical task.⁹⁶

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

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

⁹⁶G.CAPRILE, *Il Sinodo dei Vescovi: quarta assemblea generale, 30 settembre - 29 ottobre 1977*, Roma, Edizioni "La Civiltà Cattolica," 1978, (= CAPRILE, *Il sinodo dei vescovi, 1977*), pp.253-261, at p.255: "Poiché siamo tutti peccatori e bisognosi di conversione, la comunità non può essere perfetta. Tuttavia...tutti devono cooperare alla costruzione della Chiesa cioè del Regno. Ciò presenterà difficoltà, il Circolo ritiene che il Sinodo potrà rendere un non piccolo servizio alla catechesi se conferirà un nuovo impulso al sorgere di queste comunità, basate sul principio della corresponsabilità e della sussidiarietà, in vista d'un migliore adempimento del loro compito catechistico."

⁹⁷*Origins*, vol.7, no.18, October 20, 1977, pp.284-286, on p.285. Caprile does not include this intervention in his book, *Il Sinodo dei Vescovi, 1977*. Archbishop Bernardin had the distinction of being elected by an absolute majority in the first ballot to the Councils to prepare both this Synod and the subsequent one. See D.R.CAMPION, "The Slumbering Synod - II," in *America*, November 19, 1977, p.357.

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

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

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

⁹⁹See *ibid.*, p.276: "In questo ogni vescovo è responsabile in comunione col Romano Pontefice e col collegio episcopale, in forza della sua missione di garante dell'ortodossia."

responsibility in diocesan catechesis share in the formulation of catechetical plans, the more the catechesis itself will be effective."¹⁰⁰ Subsidiarity, far from being a mere technique of decentralisation, serves as an instrument of Christian formation.

Values and concerns germane to the principle of subsidiarity which had surfaced at previous synods proved thematic at this Synod also. The community dimension, so clearly dependent on an understanding of subsidiarity, recurred throughout the papers and oral interventions from the Pope's opening address to the final "Message to the People of God."¹⁰¹

Within the community, participation and the assumption of responsibility for the community recognise the gifts, duties, and rights of all the baptised. Again, diverse cultures require a diversity of community structures.¹⁰² Most importantly, the bishops stressed,

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

¹⁰¹PAUL VI, Allocution at the opening Mass of the Synod, 30 September 1977, in *AAS*, 69 (1977), pp.625-629. For an English translation, see *Origins*, vol.7, no.17, October 13, 1977, pp.257-260. For the "Message to the People of God," see *Origins*, vol.7, no.21, November 10, 1977, pp.323-328. Among other speakers who also emphasised the importance of the community in the Christian formation of the individual were: Archbishop J.Bernardin (USA), see CAPRILE, *Il Sinodo dei Vescovi 1977*, p.57; Bishop R.-E.Aubry (Bolivia), *ibid.*, pp.54-55; Archbishop J.Whealon (USA), *ibid.*, p.123; Bishop R.Lucker (USA), *ibid.*, p.107; Bishop C.Daly (Ireland), *ibid.*, pp.222-223. English translations of these speeches are available in *Origins*, vol.7, nos.17, 18, and 21, October 13, 20, and November 10, 1977.

¹⁰²For an emphasis on the cultural aspect of catechesis, see especially P.Arrupe, in CAPRILE, *Il Sinodo dei Vescovi, 1977*, pp.146-147, English translation in *Origins*, vol.7, no.18, October 6,

catechesis must relate to the reality of the contemporary world as experienced variously by children, young people, and adults in modern society.¹⁰³

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

1977, pp.282-283. Father Arrupe caused a stir later when he advocated inculturation of the Gospel even into Marxist societies, CAPRILE, *Il Sinodo dei Vescovi*, 1977 pp.234-238, briefly reported in *Origins*, vol.7, no.21, November 10, 1977, p.328; for a comment, see D.R.CAMPION, *America*, November 12, 1977, p.329. Archbishop Nguyen van Binh (Vietnam) echoed this call, see CAPRILE, *Il Sinodo dei Vescovi*, 1977, pp.119-120, and *Origins*, vol.7, no.21, November 10, 1977, pp.328-330. Cf. H.KAY, "After the Synod: A New Prophecy," in *The Month*, January 1978, p.3.

¹⁰³Cardinal Suenens (Belgium), in CAPRILE, *Il Sinodo dei Vescovi*, 1977, pp.102-104 and *Origins*, vol.7, no.19, October 27, 1977, pp.296-298, called for catechesis to encourage the development of an adult sense of responsibility in the Church. This point was also made by Bishop Mwoleka (Tanzania), see CAPRILE, *Il Sinodo dei Vescovi*, 1977, p.71, and *Origins*, vol.7, no.18, October 20, 1977, pp.280-281, and Bishop Zubeir-Wako (Sudan), see CAPRILE, *Il Sinodo dei Vescovi*, 1977, pp.137-138, and *Origins*, vol.7, no.19, October 20, 1977, pp.303-304. The latter two bishops stressed the desirability of some form of shared leadership within the community.

While mentioning the concerns listed above, the following members focused rather on the need to make catechetics relevant to the modern world: Cardinal Hume (England and Wales), see CAPRILE, *Il Sinodo dei Vescovi*, 1977, pp.60-61, and *Origins*, vol.7, no.17, October 13, 1977, p.264; Bishop G.E.Carter (Canada), see CAPRILE, *Il Sinodo dei Vescovi*, 1977, pp.58-60, and *Origins*, vol.7, no.18, October 20, 1977, pp.277-279; Cardinal Manning (USA), see CAPRILE, *Il Sinodo dei Vescovi*, 1977, p.96, and *Origins*, vol.7, no.19, October 27, 1977, pp.300-301; Bishop Bluysen (Netherlands), see CAPRILE, *Il Sinodo dei Vescovi*, 1977, pp.98-99, and *Origins*, vol.7, no.19, October 27, 1977, p.300.

¹⁰⁴See D.R.CAMPION, "The Slumbering Synod - II," in *America*, November 19, 1977, pp.355-358, at p.358: "As an exercise in collegiality, however, the synod seems clearly still to be in the process of growth and evolution. It is unlikely that it will move quickly to even an occasional exercise of that formal deliberative function also provided for in the statutes originally laid down for it by Pope Paul. Still, 'it moves,' and that is enough for now." Cf. also, G.ZIZOLA, "The Synod of Bishops," in *The Tablet*, 1 October 1977, p.932; F.X.MURPHY, "The Fifth Roman Synod," in *ibid.*, 15 October 1977, p.998; Editorial, "The Sense of the Synod," in *ibid.*, 5 November 1977, p.1049; "After the Synod," in *ibid.*, p.1067; H.KAY, "After the Synod: A New Prophecy," in *The Month*, January 1978, p.3, and P.O'CONNOR, "A Journalist at the Bishops' Synod," in *The Clergy Review*, vol.63, no.5, May 1978, pp.182-187.

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

This was the most modest, unadventurous, unnoticed, unnewsworthy, invisible and ignored synod there had so far been. Even Monsignor W.H.Paradis, an expert in Catechetics, confessed that most of the interventions were trite: "Many reflect things that have been said before, often in more appealing language. For the most part they were couched in stiff ecclesiastical language that means nothing to almost everyone except professional church people. The Bishops were talking to one another and not to the world."¹⁰⁵

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

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

¹⁰⁵HEBBLETHWAITE, *Paul VI*, p.688. He is quoting W.H.PARADIS, "Synod Verdict Mixed not Final," in *The National Catholic Reporter*, 18 November 1977, p.3.

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

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

2. 6 - Synod 1980

At first glance, the 1980 Synod on the Family does not raise any expectation of debate on the issue of subsidiarity. The topic does, however, touch these modern concerns most intimately. After so many years of theoretical discussion, the time for practical implementation had, to some extent, arrived. Commentaries before, during, and after the Synod drew attention to the widespread consultation by the bishops of married people.¹⁰⁸ Needless to say, some of the commentators questioned the selection criteria for those lay people who actually attended the Synod, even unearthing the fact that most, if not all, belonged to groups or organisations which promoted natural family planning.¹⁰⁹

¹⁰⁶KAY, "After the Synod: A New Prophecy," p.3.

¹⁰⁷This is the view expressed by ZIZOLA, "The Synod of Bishops," p.932, and by Cardinal Hume in his account of the Synod published in both *The Times*, 31 October 1977, and as "Cardinal Hume on the Synod," in *The Tablet*, 5 November 1977, p.1066.

¹⁰⁸Archbishop J.Quinn (USA) reported to the US bishops that about 40 lay men and women had taken an active part in the Synod, to the extent even of participating in the *circuli minores*. See *Origins*, vol.10, no.23, November 20, 1980, pp.353-357. Cf.S.TUTAS, "The 1980 Synod: A Sign of Hope," in *America*, September 27, 1980, pp.163-166.

¹⁰⁹J.F.X.HARRIOTT, "The Synod's Absent Auditors," in *The Tablet*, 11 October 1980, p.986. See also T.J.REESE, "The Close of the Synod," in *America*, November 8, 1980, p.281. Reese repeated his criticism in "Reporting the Synod," in *America*, December 20, 1980, pp.407-411, at p.410. The anonymous author of "Summing up the Synod," in *The Tablet*, 1 November 1980, p.1059, makes the same point. A more general condemnation of the Vatican's alleged manipulation of lay opinion is the subject of an entire book written, the author maintains, from a neo-Marxian perspective, namely J.-G.VAILLANCOURT, *Papal Power: A Study of Vatican Control over Lay*

Writing before the Synod, one delegate identified as one objective for the meeting the formulation of the right questions for further study, "a most important element of growth in any Christian community. And in asking these questions the Synod needs to express the confidence that all the members of the Christian community can learn from each other in seeking to answer these basic questions in terms appropriate to our time and place." He listed the issues - responsible parenthood, sexuality, mixed marriages, divorce, abortion, and sterilisation - and added, "In all these the Church has a responsibility to teach, but the teaching must flow from the reflection of the entire Christian community in applying the Gospel to the realities of our time."¹¹⁰ This, presumably, constitutes the pastoral responsibility of the Church.

Defining the word "pastoral", one commentator asserted that it involved "paying attention to what is going on here and now, to what people are thinking, doing, worrying or puzzling over."¹¹¹ Another hoped that the Synod's official pronouncements would be "a reflection of the rich and variegated experience of all the Church's members. People can believe what is remote from their own experience, but they cannot believe what is false to their own experience."¹¹² There seemed to be lively hopes that the bishops would hear

Catholic Elites, Berkeley, University of California Press, 1980. See also J.GROOTAERS and J.A.SELLING, *The 1980 Synod of Bishops "On the Role of the Family"; An Exposition of the Event and an Analysis of its Texts*, Leuven, University Press, 1983, p.179.

¹¹⁰TUTAS, "The 1980 Synod: A Sign of Hope," p.165.

¹¹¹The Rome correspondent of *The Tablet*, 11 October 1980, p.1003.

¹¹²J.F.X.HARRIOTT, "The Real Test of the Synod," in *The Tablet*, 27 September 1980, p.938.

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

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

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

¹¹³T.J.REESE, "Report from the Synod," in *America*, October 11, 1980, p.199. Maybe Reese meant to write "continental (and therefore non-English-speaking) European reporters."

¹¹⁴M.CAMPBELL-JOHNSTON, "Reflections on the Synod 1980," in *The Month*, December 1980, p.407, commented: "Obviously no-one held that statistics should shape dogma, but nor can they be deemed irrelevant to pastoral practice."

¹¹⁵For the Archbishop's intervention and clarification, see G.CAPRILE, *Il Sinodo dei Vescovi: quinta assemblea generale, 26 settembre - 25 ottobre 1980*, Roma, Edizioni "La Civiltà Cattolica," 1982, pp.91-93, (= CAPRILE, *Il Sinodo dei Vescovi*, 1980). For the texts in English, see *Origins*, vol.10, no.17, October 9, 1980, pp.263-267.

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

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

¹¹⁶CAPRILE, *Il Sinodo dei Vescovi, 1980*, pp.99-100. For English translations and commentaries, see *Origins*, vol.10, no.18, October 16, 1980, pp.275-276; "A Wind of Change," in *The Tablet*, 4 October 1980, p.978, no author named; and CAMPBELL-JOHNSTON, "Reflections on the Synod 1980," p.408.

¹¹⁷Among bishops who raised the issue of the *sensus fidelium* as an important factor were: Cardinal Enrique y Tarancón (Spain), see CAPRILE, *Il Sinodo dei Vescovi, 1980*, pp.97-98, see also *The Tablet*, 11 October 1980, p.1003; Archbishop MacNeil (Canada), who also made a plea for the special authority of women in this field, see CAPRILE, *Il Sinodo dei Vescovi, 1980*, pp.115-116, and *Origins*, vol.10, no.18, October 16, 1980, pp.278-280; Cardinal G.E.Carter (Canada), see CAPRILE, *Il Sinodo dei Vescovi, 1980*, pp.129-131, and *Origins*, vol.10, no.18, October 16, 1980, pp.276-277.

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

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

¹¹⁸CAPRILE, *Il Sinodo dei Vescovi*, 1980, pp.415-416. For English translation and commentary, see *Origins*, vol.10, no.20, October 30, 1980, p.308, and *The Tablet*, 25 October 1980, p.1050. The Canadian bishops, on their return, shared this image with their fellow bishops, see *Origins*, vol.10, no. 21, November 6, 1980, p.330.

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

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

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

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

¹²⁰JOHN PAUL II, Homily at the close of the Synod, 25 October 1980, in *AAS*, 72 (1980), pp.1079-1085, at p.1083. For an English translation, see *Origins*, vol.10, no.21, pp.325-329, at p.328. For further comments, see CAMPBELL-JOHNSTON, "Reflections on the Synod 1980," p.406.

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

¹²²Among those who raised this issue were: Archbishop Zubeir-Wako (Sudan), see CAPRILE, *Il Sinodo dei Vescovi*, 1980, pp.119-120, and *Origins*, vol.10, no.18, October 16, 1980, p.288; Cardinal Rugambwa (Tanzania), see CAPRILE, *Il Sinodo dei Vescovi*, 1980, pp.183-184, and *Origins*, vol.10, no.20, October 30, 1980, pp.310-311. For a comment, see REESE, "Reporting on the Synod," p.407. *Origins*, vol.10, no.20, October 30, 1980, pp.310-314, quoted the remarks made at a press conference by Cardinal Motunga (Kenya), and Archbishop Tzadua (Ethiopia), also on this issue, and on pp.314-315 in a summary of the points on which the *circuli minores* reached consensus reported: "Bishops' conferences, especially in Africa, need greater flexibility in adapting marriage rites to local cultures."

interventions and summaries to his office for transmission to the press, met with mixed response in practice.¹²³ Nonetheless, the notion of openness had gained a foothold; only those in possession of all the relevant facts can contribute validly to any decision.

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

A much more detailed examination of the *Lineamenta*, the *Instrumentum laboris*, the texts of the interventions, and of the 43 Propositions submitted by the Synod to the Pope, carried out by two laymen, both well-qualified for the task, resulted in a much more pessimistic assessment of that Synod in particular and of the synodal structure in general.¹²⁴ Grootaers and Selling compared all the above documents with one another and with the Apostolic exhortation, *Familiaris consortio*, published as the fruit of the synodal

¹²³CAPRILE, *Il Sinodo dei Vescovi*, 1980, p.79, gives only a brief summary of his appeal, but the full text can be read in *The Tablet*, 4 October 1980, pp.979-980. Before detailing the practical methods, Bishop Andrew said: "We should...remind ourselves that what these professionals seek from us is simply - the truth. And the Church has nothing to fear from the truth." For the response, see REESE, "Reporting on the Synod," p.409. Cf. Archbishop Quinn (USA) "New Context for Contraception Teaching," in *Origins*, vol.10, no.17, October 9, 1980, p.266.

¹²⁴GROOTAERS and SELLING, *The 1980 Synod of Bishops*. For a review of the book, see P.HEBBLETHWAITE, "Synod 1980 about Birth Control, Some Compassion," in *The National Catholic Reporter*, October 28, 1983, p.18.

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

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

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

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

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

¹²⁵JOHN PAUL II, Apostolic exhortation, *Familiaris consortio*, 22 November 1981, in *AAS*, 74 (1982), pp.81-191.

¹²⁶GROOTAERS and SELLING, *The 1980 Synod of Bishops*, p.263.

meaning of its existence and fully exercise its function, only when the ecclesiological problem of the post-Vatican II era has been solved.¹²⁷

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

2. 7 - Synod 1983

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

¹²⁷Ibid., p.175.

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

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

All the English translations from the canons of *CIC/83* are taken from *The Canon Law: Letter and Spirit: A Practical Guide to the Code of Canon Law* (= *Letter and Spirit*), prepared by the Canon Law Society of Great Britain and Ireland (= CLSGBI), Collegeville, Minnesota, The Liturgical Press, 1995.

PAUL VI, through his *motu proprio*, *Apostolica sollicitudo*, 15 August 1965, in *AAS*, 57 (1965), pp.775-780, established the Synod with these words: "We erect and establish in this city of Rome a permanent consultative body of bishops for the universal Church subject directly and immediately to Our authority, and to be known as the Synod of Bishops." Under the heading "General and Special Ends", the Pope decreed, "From its very nature the Synod of Bishops has for its purpose to give information and counsel. It may also have deliberative power when this is given to it by the Sovereign Pontiff, to whom it shall pertain in such case to ratify the decision of the

assembly with the words: "The Synod of Bishops is a curious creature. Everybody knows it is important, but nobody knows quite why."¹²⁹ It seems that six synods had failed to make an appreciable difference to the Church.

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

Synod." The translation is from *The Canon Law Digest*, Vol.6, pp.388-393. The two quotations given here are from p.389 and p.390 respectively.

L.ÖRSY, "Three Questions for the Synod," in *America*, September 17, 1983, pp.125-128, wrote, p.125: "The Synod of Bishops in the present constitutional structures of the Church is an advisory body with no deliberative power whatsoever. Clearly it could be more. The Second Vatican Council stated firmly and explicitly that the College of Bishops in union with the Pope has full, supreme and universal power over the Church. It has the capacity to decide questions of doctrine with authority, and it can make binding laws for the people. Such is the case when an ecumenical council is in session. But ecumenical councils are rare events, while this God-given power is always there. That is, we have this episcopal college, with its latent energy and power, not sufficiently used. Should we not assume that the whole Church is the poorer for that.

"It seems, then, that it is an urgent task to find ordinary ways and means to give a broader scope to the power of this college. We should have constitutional structures through which it could take initiatives, seek a common mind and speak to the people, doing all that in unity with the Pope, the head of the college. There is not a shade of conciliarism in such a proposal. It is the unadulterated teaching of Vatican II. If the burden of deciding doctrinal issues and making laws is always put on the Pope alone, he not only becomes overtaxed, but much of the latent energies of the college remain unused. There should be no fear of letting such hidden strength come into the open and play a significant role, since that strength is, after all, a gift of the Spirit."

¹²⁹R.SHAW, "The Synod in Search of a Subject," in *America*, September 17, 1983, pp.325-328, at p.325.

¹³⁰GROOTAERS and SELLING, *The 1980 Synod of Bishops*. For Archbishop Tomko, see P.HEBBLETHWAITE, "Bishops Round the Pope," in *The Tablet*, 8 October 1983, pp.987-988.

perceive that this 'counsel' must at the same time carry great weight in the Church. It is, therefore, even more important that the documents which appear after the Synod, reflect the common thought of the synodal assembly and of the Pope who presides *ex officio*.¹³¹ As long as the bishops maintained the practice of dispersing before agreeing on a document, the risk of an imbalance between the "synodal" and "curial" approaches remained.¹³²

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

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

¹³²J.A.Selling also wrote two articles in which he analysed the synod-process and singled out as weaknesses both the lack of openness, and the concluding phase. See J.A.SELLING, "How the Synod Works," in *The Tablet*, 3 September 1983, pp.842-846, and "Crisis of Identity," in *The Tablet*, 17 September 1983, pp.890-893.

¹³³Bishop P.Verschuren (Finland), in G.CAPRILE, *Il Sinodo dei Vescovi, 1983, sesta assemblea generale, 29 settembre - 29 ottobre 1983*, Roma, Edizioni "La Civiltà Cattolica," 1985, pp.138-139. See also P.HEBBLETHWAITE, "The Synod on Social Sin," in *The Tablet*, 22 October 1983, pp.1042-1043, at p.1042.

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

2. 8 - Synod 1985

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

¹³⁴See "A Reconciling Church," editorial in *The Tablet*, 5 November 1983, pp.1087-1088. For English translations of many of the interventions, especially those of the American bishops, see *Origins*, vol.13, nos.18-23, October 13 - November 17, 1983.

¹³⁵J.RATZINGER, *The Ratzinger Report: An Exclusive Interview on the State of the Church*, with V.MESSORI, translated by S.ATTANASIO and G.HARRISON, San Francisco, Ignatius Press, 1985. For reviews of the book, see "Ratzinger's Sad Book," *The Tablet*, 13 July 1985, pp.723-724 (no reviewer is named); P.STEINFELS, "Vatican II Stands in a Twilight," in *America*, November 30, 1985, pp.388-391. A favourable response came from A.NICHOLS, "In Support of Cardinal Ratzinger," in *The Tablet*, 20 July 1985, p.749. For further comment, see G.G.HIGGINS, "The Extraordinary Synod," in *America*, September 28, 1985, pp.150-153; S.CALLAHAN, in *ibid.*, pp.158-159; G.W.HUNT, "Of Many Things," in *ibid.*, December 14, 1985, pp.412-413; R.LAURENTIN, *Un synode extraordinaire: pour un réalisme chrétien au-delà des idéologies de droite et de gauche*, Paris, OEIL, 1985, pp.15-19; G.O'CONNELL, "The Extraordinary Synod - Part I: Turnabout to Jerusalem," in *The Month*, February 1986, pp.41-46.

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

rumours that "the Synod would be used by the Roman Curia to roll back the reforms of the Council."¹³⁶ So pervasive did this rumour prove that, even when the Synod was already in session, the *relator*, Cardinal Danneels, had to reply to journalists' questions about it.¹³⁷

From 7-11 October 1985, representatives of the bishops of Europe met in Rome for their regular *Symposium*.¹³⁸ The timing of their meeting and the theme, "Secularisation and Evangelisation in Europe Today," arranged long in advance, in no way constituted the formation of a lobby group for the Synod.¹³⁹ Inevitably, however, in reflecting on this theme, the bishops aired many of the topics that would soon surface again at the synod - the

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

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

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

¹³⁸See "Le VI^e symposium des évêques d'Europe," in *La documentation catholique*, no.1906, 17 novembre 1985, pp.1065-1087.

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

bishops' duty to protect legitimate diversity and variety (*LG*, nn.13 and 23), collegiality, the Church as *communio*, ecumenism, and the role of women. The President of the European Conference of Bishops, Cardinal Hume, defined *communio* as "a communion in which each has his or her own responsibility and can rely on the support of others,... if we turn to technical language - dialogue, co-responsibility and diakonia." The Cardinal then explained each of these terms. "Dialogue," he said, "includes an authentic conversation and mutual respect within the Church itself." His definition of co-responsibility describes the ideal of subsidiarity already in practice: "In the particular church, the bishop, as a source and minister of unity, and at the same time as a protector of diversity, should gather around him other ministers and ministries. The priests, religious and laity, around their bishop, are truly the Church of God in this particular place - accepting their specific responsibilities, exercising their specific ministries, working together for the coming of the kingdom."¹⁴⁰ The Cardinal proves consistent in his recognition of the values of subsidiarity, and optimistic about the synod.¹⁴¹

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

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

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

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

¹⁴²For the reports of the different language groups, in French, see "Voeux des évêques européens pour le synode sur Vatican II," in *La documentation catholique*, no.1907, 1 décembre 1985, pp.1139-1142. CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.37-42, gives summaries of the same reports in Italian. Cardinal Hume used the term "celebration" at a press briefing before leaving London for the Synod. See "Getting the Synod in Balance," in *The Tablet*, 9 November 1985, p.1193.

¹⁴³See "Voeux des évêques européens pour le synode sur Vatican II," pp.1141-1142.

Universae.¹⁴⁴ Although the proposed reforms remained secret until the actual meeting, advance reporting proved, in some respects, remarkably accurate, and dismissive: "This scheme falls short of the reform we need. It would impose uniformity, not unity, and would impoverish the developing variety and pluralism of the Catholic Church today."¹⁴⁵ The Cardinals apparently agreed; they postponed the reform. "All language groups agreed that it was necessary to make explicit mention of the theological basis for the curia and to show how it should be placed within the structure of the Church. This should appear as a preface to the reform."¹⁴⁶ As became clear at the subsequent Synod, the bishops were reacting strongly against any weakening of the powers recognised by *Christus Dominus*, n.8. How remarkable that they did not perceive the *Code of Canon Law* as sufficient protection.

Each conference of bishops received a set of questions to aid their preparation for the Synod.¹⁴⁷ The Bishops of England and Wales, among others, published their responses

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

¹⁴⁵Editorial, "Not the Reform We Need," in *The Tablet*, 2 November 1985, p.1147, and in the same edition, a correspondent's report at p.1163, "Threat to Unity Secretariat."

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

¹⁴⁷See CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.475-476, for the four general and nine more particular questions, in Latin.

in full.¹⁴⁸ They began by indicating that their responses had included a widespread consultation among their people. They acknowledged difficulties and failures, but also listed benefits, reflections and suggestions on the following four themes:

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

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

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

¹⁴⁸See "Bishops for Renewal," in *The Tablet*, 3 August 1985, pp.814-819. A summary of the response of the Dutch bishops appeared as "The Dutch Response to the Synod," in *The Tablet*, 12 October 1985, p.1078. The Canadian bishops took as the theme of their annual general assembly "Vatican II, Twenty Years Later." A full report of their mandate to their representatives at the Synod, "Agenda for the Synod," appeared in *The Tablet*, 16 November 1985, pp.1213-1214. CAPRILE, *Il Sinodo dei Vescovi, 1985*, pp.43-73, gives summaries of some of the responses submitted by various conferences of bishops, individuals or groups. See also *Synode extraordinaire: célébration de Vatican II* (= *Synode extraordinaire*), Paris, Les Éditions du Cerf, 1986, pp.65-295, for fourteen of the ninety-five reports submitted.

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

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

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

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

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

¹⁴⁹See "Bishops for Renewal," p.815.

¹⁵⁰*Ibid.*, p.819.

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

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

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

¹⁵²See "Vatican Clampdown on Synod Responses," in *The Tablet*, 12 October 1985, p.1074. CAPRILE recorded this in *Il Sinodo dei Vescovi*, 1985, p.47.

¹⁵³KOMONCHAK, "Subsidiarity in the Church," pp.320-325.

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

The appeal to this principle is unnecessary because the ecclesiology of Vatican II perfectly expresses why and how the proper competence of the particular church must be respected. It is enough to refer to *Lumen gentium*, n.27 on the ordinary and immediate power of the bishops responsible for particular churches and on its regulation. No model drawn from the civil community can take account of an ecclesiology such as that expressed in the following characteristic statements: "Individual bishops are the visible principle and foundation of unity in their particular churches, *formed in the image of the universal Church, in which and out of which the one and unique Church exists*" (LG, n.23); "A diocese is a portion of the People of God...so that...it might constitute a particular church, *in which is truly present and active the one, holy, catholic and apostolic Church of Christ*" (CD, n.11).¹⁵⁵

To answer Cardinal Hamer one might comment first, that repeated episcopal demands at successive synods for the principle of subsidiarity show quite plainly that, in practice, the mere reiteration of doctrinal statements on the Church changes nothing. Secondly, in an era when the Church is opening itself to the world both to teach and to learn, this assertion, that social philosophy can offer no insights, rings somewhat disharmoniously. For centuries, the government of the Church modelled itself much more on that of the secular realms than on the model of the New Testament. As a human society, it will always necessarily reflect, to some degree, its historical setting.¹⁵⁶ Thirdly, none of those who promote the principle

it says that the power which belongs to the bishop is 'in its exercise ultimately regulated by the supreme authority of the Church and it can be limited in view of the advantage of the Church or of the faithful' (LG, n.27; CD, n.8). That is a function which is understandable as a competency-over-competencies." He cites as his authorities, Congar, Kasper, Kaufmann, and Nell-Breuning.

¹⁵⁵Ibid., p.321. See also, *Synode extraordinaire*, pp.602-604. LEYS, in *Ecclesiological Impacts*, pp.104-105, questions the Cardinal's understanding of the principle of subsidiarity. He does seem to regard it somehow as an expression of inferiority.

¹⁵⁶Cf. L.ÖRSY, *Theology and Canon Law: New Horizons for Legislation and Interpretation*, Collegeville, Minnesota, A Michael Glazier Book, The Liturgical Press, 1992, p.51: "Religion is rooted in human nature. Therefore, not even Christian faith can be well understood if it is not put into the context of those sciences that enquire about human nature, such as philosophy (on a more abstract level), psychology, anthropology and sociology (on a more concrete level). Values recognised by Christian doctrine or sound philosophies must play their part in the understanding of

of subsidiarity ever envisages the relationship between the universal and the particular Churches in the way that the Cardinal describes as "simply substitutive."¹⁵⁷ Cardinal Hamer appears preoccupied with what his Dominican and, eventually, Cardinalatial confrère, Yves Congar, once called "hierarchology."

Komonchak writes that at least eight of the submissions to the Synod from the bishops' conferences referred favourably to the principle of subsidiarity. He summarises: "It was used to criticise Roman centralisation and to support greater self-responsibility, autonomy and diversity in the local churches, to articulate the competency of episcopal conferences, and to promote a greater role for the laity."¹⁵⁸ The principle of subsidiarity seems to have acquired a rather daunting versatility.

In the course of the debates, nine speakers mentioned the principle. Archbishop Hurley (South Africa), the first to do so, recommended it twice - in the context of determining competency between the Holy See and the local church, the role of the

the laws of the Christian Church." As a social philosophy propounded by several popes, subsidiarity may surely be described as "sound."

¹⁵⁷For a more extended treatment of Cardinal Hamer's arguments against the principle of subsidiarity, see chapter 4, note 1.

¹⁵⁸KOMONCHAK, "Subsidiarity in the Church," p.321. Cf. *Synode extraordinaire*, p.71, where the North African bishops wrote: "The principle of subsidiarity has its full sense in the Church where it guarantees the dynamism of the Spirit who gives to each his proper responsibility." The Brazilian bishops asserted, pp.127-128, that the principle of subsidiarity should continue to be applied and a healthy decentralisation stressed: questions should be debated first by bishops' conferences and only then referred to Rome. The bishops of Scandinavia and Finland said, p.274: "The principle of subsidiarity, in our opinion, should be followed in a more consistent manner in the Church, in order that the local churches may be able to develop without being troubled by interventions from without (for example, by papal representatives). Likewise, recourse to Rome, in the sense defined by the Council, should be limited to what is strictly necessary. In general, we would like to underline that, for good relations, it is always important to have this confidence which should imbue the unity of the world-wide Church."

conference of bishops and of other regional or continental groupings of bishops. He went on to point out that although the Holy See had confidence in each local church as regards the responsibility for a vast field of evangelisation, nonetheless when it came to minute questions of canon law or of doctrine, the same confidence in their competence was not so evident. He felt that the unfavourable publicity attracted by the silencing of Leonardo Boff could have been avoided, had the principle of subsidiarity been respected: "We ought to have more faith in the presence and power of Christ and of the Holy Spirit in all parts of the Church."¹⁵⁹

A frequent critic of centralisation and ardent supporter of the principle of subsidiarity, Bishop Gran (Norway) spoke of it in the context of collegiality, participation, and co-responsibility in decision-taking (*nel prendere le decisioni*). Once power has been delegated, one must trust and intervene only to overcome initial difficulties or, obviously, to avoid dangerous aberrations.¹⁶⁰

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

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

¹⁶⁰CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.136-138.

He had hoped, however, that the Council would be considered as a light and not a limit (*lumen non limen*) to the future way, that wisdom be deepened and the opportunity and necessity for the principle of subsidiarity in the life of the Church be examined.¹⁶¹

Archbishop Hayes (Canada) spoke of the growth of communion in the Church due to the recognition in practice of the equal dignity of men and women and the consequent assumption of co-responsibility. In the field of ecumenism he considered that local bishops should be granted a certain measure of subsidiarity.¹⁶²

Bishop Ndingi Mwana 'A Nzeki (Kenya) linked collegiality and subsidiarity as good fruits of the Council. In explanation, he added that the conference of bishops sustained and encouraged the individual bishops, gave the Church an identity on the national level, and put it in a better position to carry out its proper mission. At the diocesan level, different colleges of consultors were functioning, as were presbyteral and pastoral councils. He spoke of the need for generous directives from the Holy See which diocesan bishops could interpret, in order to achieve true inculturation.¹⁶³

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

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

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

¹⁶³CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.183-185. Cf. "Local Churches," in *The Tablet*, 7 December 1985, p.1296: "Pleas for greater freedom for the local church came from third world bishops. It is known, for example, that some African and Asian bishops fear that the ban on further experimentation in the liturgy condemns their churches to be considered foreign in their own land."

that, on the part of the Holy See, there should be a greater acknowledgement of, and trust in, the relative autonomy of the local church; that the Holy See should recognise in the conferences of bishops a level of subsidiarity, and of discernment and decision which corresponded to their ecclesial responsibility. He also asked for the creativity and freedom of the laity to be respected.¹⁶⁴

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

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

¹⁶⁴CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.200-202.

¹⁶⁵*Ibid.*, pp.214-215.

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

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

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

¹⁶⁷Ibid., p.222: "Il nuovo Codice sia conosciuto, studiato, accolto con il dovuto rispetto e messo fedelmente in pratica, con amore." The Cardinal seems recently to have changed his mind as regards the validity of the principle of subsidiarity. See Cardinal R.J.CASTILLO LARA, "La sussidiarietà nella dottrina della Chiesa," in *Salesianum*, 57 (1995), pp.443-463. For a discussion of the objections voiced against the principle, see chapter 4, pp.223-244.

Vatican II. The inclusion of subsidiarity in this list doubtless made at least one curial cardinal uneasy.¹⁶⁸

As at previous synods, so at this one, many speakers described the principle of subsidiarity in practice, but without identifying it. On this occasion, Komonchak singles out the intervention of Archbishop S.E.Carter (Jamaica), but just as significantly, Bishop Sudartanto Hadisumarta (Indonesia) argued that too much centralisation in the exercise of authority could prove an obstacle to the originality of the young churches and requested freedom to adapt in specific areas.¹⁶⁹ Cardinal Lorscheider (Brazil) asked for greater decentralisation - without damaging the unity with the centre, and said that the Church of the future should be a model of communion and participation, by analogy with the Trinity.¹⁷⁰

Bishop Winning (Scotland) struck a practical note when he remarked that lay people who wanted to participate coresponsibly in the life of the Church would, in many cases, need formation. He recognised the fear of bishops and priests who felt threatened by genuine lay involvement. He identified the absence of diocesan and parish structures as a weakness; still the essentially hierarchical structure of the Church was not incompatible with the mission of the laity.¹⁷¹

¹⁶⁸CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.242-243.

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

¹⁷⁰Ibid., pp.174-175.

¹⁷¹Ibid., pp.179-181. His contribution was reported as "The Role of the Laity," in *The Tablet*, 7 December 1985, p.1299.

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

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

¹⁷²CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.240-242.

¹⁷³Ibid., pp.275-276.

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

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

¹⁷⁴Ibid., pp.277-278.

¹⁷⁵For Komonchak’s analysis, see “Subsidiarity in the Church,” pp.321-322. For the original text in Italian, see CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.299-301.

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

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

¹⁷⁶For Cardinal Danneels' opening *relatio*, in Italian, see CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.108-112, in Latin, pp.477-516. It can be read in French as "Synthèse des réponses au questionnaire préparatoire," in *La documentation catholique*, no.1909, 5 janvier 1986, pp.31-35. There is a summary, "Cardinal Danneels Sets the Tone," in *The Tablet*, 30 November 1985, pp.1269-1270. For his closing *relatio*, in Latin, see CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.537-552. He treats of subsidiarity at pp.541-542.

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

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

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

¹⁷⁸For an analysis in English of each of the group reports, see G.O'CONNELL, "The Final Report of the Synod," in *The Month*, May 1986, pp.170-172.

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

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

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

The Latin-speaking group, which consisted of only five members, agreed unanimously on the ecclesial validity of the principle of subsidiarity, if well understood. Although they warned against misinterpretations which envisaged the particular church as completely independent of the Roman Pontiff, they did conclude that, if they translated unity into action

remembered, episcopal conferences as requiring theological clarification, and that the discussion was extended to the principle of subsidiarity. There were twenty-three in the *circulus* of whom six were papal nominees to the Synod.

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

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

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

¹⁸¹ CAPRILE, *Il Sinodo dei Vescovi, 1985*, p.350. Caprile provides footnotes with references to two articles in German by, respectively, O. von NELL-BREUNING, ("Subsidiarität in der Kirche,") published in 1986, and W. KERBER, published in 1984. This latter, presumably the only one available to the bishops in 1985, argues that within the principle as articulated by Pius XI there is a dynamic which is critical of institutions. Although it is senseless to call all existing social structures into question, nonetheless, there is a sense in which the principle applies "completely and without limitation" to the structures of the Church as a visible society. See "Die Geltung des Subsidiaritätsprinzips in der Kirche," in *Stimmen der Zeit*, 202 (1984), pp.662-672.

in a just way and considered that their primary task, they would be able to care well for the portion of the Lord's flock entrusted to them, and also to speak with integrity (*rentamente*) of the consequences of subsidiarity. It seems, they added, that the good of the Church requires it.¹⁸²

There were twenty-three in the first English-speaking group.¹⁸³ Their report indicates divided opinions on the manner in which subsidiarity could be applied in the Church. Eight voted in favour of a recommendation that "In view of a more effective application of Church discipline and pastoral practice to local and regional conditions and to their cultural and pastoral practices, a study be made of the advisability of increasing the exercise of subsidiarity for submission to a meeting of the Synod of Bishops and to subsequent decisions of the Holy See." Nine members voted against this proposal and one abstained.¹⁸⁴ In the groups who did not specifically mention subsidiarity, English B, French B, and Spanish A in particular focused on open structures, *communio*, inculturation, and participation.¹⁸⁵

After the reports from the *circuli minores*, two further references to subsidiarity occurred. Cardinal Law (USA) suggested that the final document of the Synod should

¹⁸²CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.364-366. Cf. KOMONCHAK, "Subsidiarity in the Church," p.324. There were two curial Cardinals in this group, no papal nominees. All five members had been present at all sessions of the Council. G.W.HUNT, "Of Many Things," in *America*, December 21, 1985, pp.432-433, said of this group "They sounded as though they had torn a page from Torquemada's diary." The reactions to subsidiarity seem not to depend on a predisposition to one side rather than the other of the conservative/progressive divide.

¹⁸³Cardinal Hume, the Moderator, was the only European.

¹⁸⁴CAPRILE, *Il Sinodo dei Vescovi*, 1985, p.374.

¹⁸⁵*Ibid.*, English A, pp.336-338; French B, pp.344-347; Spanish A, pp.350-354. Cf. O'CONNELL, "The Final Report," pp.171-172.

include some mention of the role of the laity, especially that of women, and a word on the notion of doctrinal authority and subsidiarity.¹⁸⁶ The other contribution came from Cardinal Castillo Lara. He said that some questions on which study had been recommended had already been adequately regulated by the Code, for example, the application of the principle of subsidiarity. "If it is correctly applied, it tends to determine the scope of the respective powers in the particular churches and in the Holy See. This has already been done sufficiently. What, then, is the point of this proposal in the text? That we should change the discipline of the Code, published only in 1983?"¹⁸⁷ Neither doctrine, nor the Code, nor even the invocation of the principle of subsidiarity seems able to resolve the tension between the universal and the particular churches.

The suggestion in the Final Document remains: "It is recommended that a study be made to examine if the principle of subsidiarity, in use in human society, can be applied in the Church and to what degree and in what sense such an application can and should be made (see Pius XII, *AAS*, 38 [1946] p.144)."¹⁸⁸

¹⁸⁶CAPRILE, *Il Sinodo dei Vescovi*, 1985, pp.390-391.

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

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

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

For the English text of the Final Document, see "The Final Report," in *The Tablet*, 14 December 1985, pp.1324-1329. The quotation of the proposal is from II, C, 8 (c), at p.1328. For the French text, see "Synthèse des travaux de l'assemblée synodale," in *La documentation catholique*, no.1909, 5 janvier 1986, pp.36-42, at p.41. For a commentary on the Final Document, see Komonchak's introduction to *Synode extraordinaire*, pp.9-37. He deals with subsidiarity on pp.30-31. See also O'CONNELL, "The Final Report," pp.172-175.

¹⁸⁹Editorial, "Stocktaking in Rome," in *The Tablet*, 23 November 1985, p.1223.

¹⁹⁰CAPRILE, *Il Sinodo dei Vescovi, 1985*, pp.127-128. Cf. "Liberation Theology," in *The Tablet*, 7 December 1985, p.1296. The writer concludes, "This would mean that the Curia would be a purely executive body."

and Catholic Oriental churches. With extreme skill the Roman Curia has so far managed to head off that development.”¹⁹¹

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

Singling out the theme of *koinonia/communio*, Cardinal Hume reported back to the people of England and Wales that this concept meant “that structures in the Church and relationships should reflect and express this *communio*. They should protect the unity of faith and charity, while at the same time promoting the diversity which arises from the richness and profusion of the gifts of the Holy Spirit to the baptised. Unity and diversity should characterise every level of the Church’s life and activity. This profound concept of the Church gives a new meaning to the College of Bishops and to structures like parish councils, diocesan pastoral councils and senates of priests.”¹⁹² The Cardinal appreciates the value of subsidiarity as the structural principle for *communio* in practice.

¹⁹¹F.X.MURPHY, “The Politique of the Synod,” in *America*, January 25, 1986, pp.49-51.

¹⁹²See “Twenty Years On,” in *The Tablet*, 14 December 1985, pp.1323-1324. Cf. PAUL VI, Allocution to Presidents of European Bishops’ Conferences, 25 March 1971, in *AAS*, 63 (1971), pp.292-294, where the Pope makes the same link between subsidiarity and structures appropriate to the Mystical Body.

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

None of the reports on the 1987 Synod mentions the principle of subsidiarity.¹⁹⁵

¹⁹³L.ÖRSY, "The Extraordinary Synod," in *America*, September 28, 1985, pp.153-156. Örsy returned to this theme in an interview with T.H.Stahel, "Structures for the Vision," in *America*, October 7, 1995, pp.10-14.

¹⁹⁴See "Lay Element at the Synod," in *The Tablet*, 19 September 1987, p.1006: "Laity at the Synod," in *ibid.*, 24 October 1987, p.1146; "Warning Lights for the Synod," in *ibid.*, 7 November 1987, p.1203. See also G.O'CONNELL, "The Synod on the Laity: Dichotomies or Distinctions?" in *The Month*, March 1988, p.573, and S.O'RIORDAN, "The Synod on the Laity, 1987," in *The Furrow*, vol.39, no.1, January 1988, p.6.

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

The discussion, however, highlighted related topics - *communio*, collaborative ministry, co-discipleship, participative leadership, and the importance of the parish as the point of convergence for all these manifestations of laity-clergy co-operation.¹⁹⁶ Another issue, the appointment of women to decision-making roles, repeatedly raised, although subject to

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

¹⁹⁶For *communio*, see, for example, the *Instrumentum laboris*, in *Origins*, vol.17, no.1, May 21, 1987, pp.6-7: Bishop de Wit, "Which Way for the Laity?" in *The Tablet*, 12 September 1987, p.962: Bishop Devine, quoted by O'CONNELL, "Dichotomies or Distinctions," p.579.

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

For "co-discipleship," the word used by the US bishops, see "Life and Mission of the Laity," in *The Tablet*, 10 October 1987, p.1098; cf. Archbishop May, "Parishes in the Laity's Life," in *Origins*, vol.17, no.20, October 29, 1987, pp.353-356.

For "participative leadership," see Bishop P.D'Souza (India), in *Laics dans l'Église et dans le monde vingt ans après Vatican II: textes choisis et présentés avec le concours de J.POTIN*, Paris, Le Centurion/Le Cerf, 1987, p.117.

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

some editing in the text of the final propositions, eventually figured both there and in *Christifideles laici*, the Pope's Apostolic Exhortation, published over a year later.¹⁹⁷

Perhaps the most controversial discussion focused on the New Movements, perceived by some as divisive, by others as evidence of the Spirit's moving among the laity. The bishops sought principles for discernment and encouraged the spread of these movements only in so far as they did not lead to parallel churches. Associations which reflect a "participative understanding of the ecclesiology of communion," which promote greater involvement in the parish, received commendation.¹⁹⁸

Protests about secrecy made about previous synods faded by comparison with the outrage which punctuates all the reports and commentaries on this Synod.¹⁹⁹ The

¹⁹⁷JOHN PAUL II, Apostolic exhortation, *Christifideles laici*, 30 December 1988, in *AAS*, 81 (1989), pp.393-521. English translation in *Origins*, vol.18, no.35, February 9, 1989, pp.561-595.

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

¹⁹⁸The most comprehensive and concise report on the "New Movements" is that of O'CONNELL, "Riches in Diversity," in *The Month*, May 1988, pp.699-702. See also "Debate on Movements and Ministries," in *The Tablet*, 17 October 1987, pp.1130-1131.

¹⁹⁹The complaints were numerous. See, for example, "The Vatican Curtain," in *The Tablet*, 17 October 1987, pp.1117-1118; "Warning Lights for the Synod," editorial, in *ibid.*, 7 November 1987, p.1203-1204, and "Leaving it to the Pope," in *ibid.*, p.1217. See also G.O'CONNELL, "The Synod of Great Expectations," in *The Month*, February 1988, pp.531, 533, 535; P.R.DIVARKAR, "A Letter from Rome," in *ibid.*, p.350; P.HEBBLETHWAITE, "'Unloved' Synod Dies 'Unmourned'"

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

with Few Assets," in *The National Catholic Reporter*, November 6, 1987, p.19; and S.MacRÉAMOINN, *The Synod on the Laity: An Outsider's Diary*, Dublin, Columba Press, 1987, *passim*, but especially pp.123-127.

Participants in the synod made similar remarks: Ms.Aspell, USA, quoted in "Catholics in the Communications Media," in *Origins*, vol.17, no.19, pp.340-342; Ms.Chooi, Malaysia, *Synode des évêques Rome 1987*, pp.175-183; Archbishop Chiasson, "Nothing of Significance," in *The Tablet*, 7 November 1987, pp.1226-1227.

For similar comments on previous synods, see, for instance: Editorial, "The Sense of the Synod," in *The Tablet*, 5 November 1977, p.1049; J.F.X.HARRIOTT, "The Real Test of the Synod," in *ibid.*, 27 September 1980, p.938; "Synod Strategy," in *ibid.*, 1 November 1980, p.1064; J.SELLING, "Crisis of Identity," in *ibid.*, 17 September 1983, pp.891-892; G.W.HUNT, "Of Many Things," *America*, December 14, 1985, p.413, and in *ibid.*, December 21, 1985, pp.431-432.

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

The bishops produced "Propositions" for the Pope, a Message to the People of God, but no final document. *Christifideles laici*, a "masterly synthesis of what was often a confused debate," when it did appear, bore "the Pope's personal stamp, reflecting his characteristic style and approach and his leading ideas."²⁰¹ But he insists that this 'is not something in contra-distinction to the Synod, but is meant to be the faithful and coherent expression of it.' The claim is true."²⁰² This document went some way towards assuaging the fear that consultation of the laity would prove fruitless.

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

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

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

²⁰¹JOHN PAUL II, Apostolic exhortation, *Christifideles laici*, 30 December 1988, in *AAS*, 81 (1989), pp.393-521. English translation in *Origins*, vol.18, no.35, February 9, 1989, pp.561, 563-595.

²⁰²Editorial, "Working in the Lord's Vineyard," in *The Tablet*, 4 February 1989, p.115.

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Although the acceptance of the principle of subsidiarity could have provided structures, or, at the least, guidelines for discussion of "The Formation of Priests in the Circumstances of the Present Day," the topic of this synod, no mention of the principle occurs in the reports. The "circumstances of the present day" vary so much from country to country, that any attempt to prescribe a universal system of training could only result in vague generalisations.²⁰³ Recognising this, the bishops tended to speak about different aspects of the "crisis" - involving more lay people in the ministry, employing lay people, even women, as seminary staff, improving morale among priests, caring for psychosexual development, academic training in universities, stressing the importance of prayer - uncontroversial approaches already in place.²⁰⁴ Proposals to reconsider the requirement of

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

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

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

celibacy, to ordain *viri probati*, raised and duly reported ultimately came to nothing.²⁰⁵

1990, pp.449-450.

On the morale of priests, see Bishop Mulkearns (Australia), Bishop Dorado Soto (Spain), Bishop Chemello (Brazil), and Cardinal Simonis (Netherlands), in CAPRILE, *Il Sinodo dei Vescovi*, 1990, pp.110-111, pp.141-142, pp.204-205, and pp.244-245. There is a summary of Bishop Mulkearns' intervention in *L'Osservatore romano*, English edition, 15 October 1990, p.3.

On psychosexual development, see Bishop Henry (Canada), in CAPRILE, *Il Sinodo dei Vescovi*, 1990, pp.130-132; for the English, see "Programme of Psychosexual Development," in *Origins*, vol.20, no.19, October 18, 1990, pp.304-305. Cf. the contributions made by non-voting auditors, a papal appointee, Father T.Costello (New Zealand), and a married couple, both professors of psychology at the Sorbonne, M.and Mme.Gagey, in "The Bishops' Mosaic," in *The Tablet*, 13 October 1990, pp.1314-1315.

On university training, see Bishop Goudreault (Canada), in CAPRILE, *Il Sinodo dei Vescovi*, 1990, pp.330-332; for the English, see "Training Future Priests in Universities," in *Origins*, vol.20, no.21, November 1, 1990, pp.343-345.

On prayer, see Cardinal Bernardin (USA), Cardinal Falcao (Brazil), and Archbishop Worlock (England and Wales), in CAPRILE, *Il Sinodo dei Vescovi*, 1990, pp.85-86, pp.83-84, and pp.102-103. There are English translations of Cardinal Bernardin's intervention, "Celibacy and Spirituality," in *Origins*, vol.20, no.19, October 18, 1990, pp.300-302, and of Archbishop Worlock's, "Priest as Evangeliser," in *The Tablet*, 29 September 1990, pp.1288-1289.

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

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

Several speakers advocated a more positive approach to celibacy. See, for example, in CAPRILE, *Il Sinodo dei Vescovi*, 1990, Bishop Barquero Arce (Costa Rica), pp.221-222; Bishop

Evidence of the diversity, flexibility, and creativity possible when local churches take initiatives surfaced in the contributions of some speakers who were seeking approbation for their ideas.²⁰⁶

Gaidon (France), pp.227-228; Bishop Wendelin Mtega (Tanzania), pp.297-298, and Archbishop Agustoni, Congregation for the Clergy, pp.320-321. The *circuli minores* endorsed this approach, see *ibid.*, pp.440-443.

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

See also Bishop Wewitavidanelage (Sri Lanka), in CAPRILE, *Il Sinodo dei Vescovi, 1990*, pp. 145-146; for the English, see "Formation in a Multi-religious Culture," in *Origins*, vol.20, no.21, November 1, 1990, p.341. Bishop Wewitavidanelage said that in Sri Lanka all seminarians should be obliged to study in depth one of the major non-Christian religions.

Father Drouin, a Canadian, the General of the Eudists, said that his community had adopted many varied forms of seminary training, adapting them as necessary to the needs of their candidates: see CAPRILE, *Il Sinodo dei Vescovi, 1990*, pp.161-162. For an English translation, see "Diversified Forms of Formation," in *Origins*, vol.20, no.21, November 1, 1990, pp.342-343. Bishop Herrera Heredia (Ecuador) described the different approaches necessary in the training of indigenous candidates for the priesthood, who needed to remain in close touch with their people and culture throughout the process. See CAPRILE, *Il Sinodo dei Vescovi, 1990*, pp.152-153, and for an English translation, "Formation for Indigenous Candidates," in *Origins*, vol.20, no.21, November 1, 1990, pp.345-346.

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

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

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

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

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

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

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

To mark the twenty-fifth jubilee of *Apostolica sollicitudo*, this Synod opened with contributions from Cardinals Willebrands, Cordeiro, Lorscheider, Zoungana, and Clancy representing respectively Europe, Asia, the Americas, Africa, and Oceania.²⁰⁸ Each Cardinal reflected on the synod-experience, emphasised the benefits to the participants, to the universal Church and to the particular churches in their part of the world. As well as indicating weaknesses in the synodal procedures, each also made constructive suggestions for the improvement of the process.

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

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

²⁰⁸For their respective speeches, see CAPRILE, *Il Sinodo dei Vescovi, 1990*; for Cardinal Willebrands, pp.41-48; for Cardinal Lorscheider, pp.51-57; for Cardinal Cordeiro, pp.57-63; for Cardinal Zoungana, pp.63-70, and for Cardinal Clancy, pp.70-75. An English translation of Cardinal Lorscheider’s speech, “Evaluating Synods Themselves,” can be found in *Origins*, vol.20, no.19, October 18, 1990, pp.308-310.

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

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

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

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

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

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

²⁰⁹See "Evaluating Synods Themselves," in *Origins*, vol.20, no.19, October 18, 1990, p.309.

²¹⁰*Ibid.*

He asserted that several bishops would like to see the synod take on a deliberative character and become a collegial action in between one ecumenical council and another. "In this way, the Synod of Bishops would have to be seen as an intimate and ongoing participation of the delegates of the college of bishops in the ministry of solicitude which is exercised for the universal Church along with and under Peter." He also proposed a greater involvement of laity and questioned whether "there would be a new and vital ecclesial structure close to the pope, a structure that is as fully catholic as it is necessary for our time. The time has come to take another look at the goals of the synod and to raise again the fundamental question, What have these assemblies given the pope and the bishops at a time when the Church is trying to meet and reply to the vital questions which the world of our day is posing to it? Is a permanent synod possible, one that might meet each year?"²¹¹ The image behind the Cardinal's comments seems collegial. He focuses on the exchanges and the group-dynamics among the bishops (including the pope) as fitting them better for the task of governing their dioceses and the Church. The papacy, the competency-over-competencies, to use Leys' phrase, listens, considers the good of the whole, and proclaims teachings to be interpreted locally in accord with the common mind.

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

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

²¹¹CAPRILE, *Il Sinodo dei Vescovi*, 1990, p.56. Cardinal Clancy (Oceania) agreed with much of what Cardinal Lorscheider had said. See *ibid.*, pp.70-75.

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

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

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

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

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

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

²¹²CAPRILE, *Il Sinodo dei Vescovi*, 1990, pp.41-48. Cardinal Willebrands spoke in French and the original version of his speech is in *La documentation catholique*, 4 novembre 1990, pp.961-964. The English translation in *L'Osservatore romano*, English edition, 8 October 1990, pp.9-10, has "inter-ecclesial" for the French "ces activités «intra-ecclésiales» des fidèles laïcs."

²¹³JOHN PAUL II, Closing address to the 1983 Synod, 29 October 1983, in *AAS*, 76 (1984), pp.281-289. English translation in *The Tablet*, 5 November 1983, pp.1089-1092.

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

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

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

²¹⁴JOHN PAUL II, Closing address to the 1990 Synod, 27 October 1990, in *AAS*, 83 (1991), pp.494-499. English translation from *L'Osservatore romano*, English edition, 5 November 1990, pp.7-8

²¹⁵See *L'Osservatore romano*, English edition, 5 November 1990, p.7.

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

By its nature the synod carries out a consultative role. Still, in certain circumstances, a deliberative power can be conferred on it by the Sovereign Pontiff, who must ratify its decisions (cf. *Apostolica sollicitudo*, and *CIC/83*, c.343). The experience of previous synods makes clear the meaning of this distinction between consultative and deliberative. The extensive consultation which the synod structure allows for during every assembly has never failed to yield results and decisions as well. Given the way they function, synods are never able to immediately publish (*sic*) a document which takes on a deliberative form. That notwithstanding, the post-synodal document takes its inspiration from and, one might say, contains, what was planned out in common. It therefore can be asserted that a synod's *proposals* indirectly assume the importance of *decisions*. For, when following the synod, the Sovereign Pontiff publishes the corresponding document, he takes great care to express the full wealth of the reflections and discussion which led up to the synodal *propositiones*, as well as the views of the synodal assembly, as much as possible.²¹⁶

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

²¹⁶Ibid. The Apostolic exhortation, *Pastores dabo vobis*, published as a result of this Synod, 3 August 1992, is in *AAS*, 84 (1992), pp.657-804.

involvement of truly representative lay people in the Synod itself would be yet another possible development.

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

Conclusion

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

With hindsight, the gradual evolution in the synod-experience itself highlighting the values of preparation, consultation, communication, open debate, first at the local level and

then the rich interchange of cultural diversity at the Synod, reveals that all these often confusing, muddled, imperfect methods produce incalculable, long-term effects.

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

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

CHAPTER THREE

THE IMPLEMENTATION OF THE PRINCIPLE OF SUBSIDIARITY

IN THE 1983 CODE

Introduction

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

¹Among the adherents are, for example: H.KÜNG, *Structures of the Church*, New York, T.Nelson, 1964, pp.238-244; F.G.MORRISSEY, "The Significance of Particular Law in the Proposed New Code of Canon Law," in *Canon Law Society of America Proceedings of the 43rd Convention (= CLSA Proceedings)*, 43 (1981), pp.1-17; L.ÖRSY, "Church Law and Christian Freedom: 3," in *The Tablet*, 18 September 1971, pp.918-919; K.RAHNER, *Theology of Pastoral Action*, Freiburg, Herder, 1968, pp.128-129; J.-M.-R.TILLARD, *Church of Churches: The Ecclesiology of Communion*, translated by R.C.De PEAX, Collegeville, Minnesota, The Liturgical Press, 1992, Ch.4, pp.256-283. Among the opponents are, for example: E.CORECCO, "Aspects of the Reception of Vatican II," in *The Reception of Vatican II*, G.ALBERIGO, J.-P.JOSSUA, and J.A.KOMONCHAK (eds.), translated by M.J.O'CONNELL, Washington, DC, Catholic University of America Press, 1987, pp.249-296; G.GHIRLANDA, "Universal Church, Particular Church, and Local Church at the Second Vatican Council and in the New Code of Canon Law," in *Vatican II: Assessment and Perspectives: Twenty-five Years after (1962-1987)*, R.LATOURELLE (ed.), New York, Paulist Press, 1988, pp.233-271. The 1985 Synod of Bishops set up a Study Commission which has yet to report: see chapter 2, p.139. Apart from the conference at Salamanca, to which reference is made in the next note, there was also one in Paris: see J.-B.D'ONORIO, *La subsidiarité, de la théorie à la pratique: actes du XIIe colloque national de la Confédération des juristes catholiques de France*, 20-21 novembre 1993, Paris, P.Téqui, 1995. As examples of articles in favour of the principle's application in the Church, see W.KASPER, "The Church as Communio," in *New Blackfriars*, 74 (May 1993), pp.232-244; J.MAHONEY, "Subsidiarity in the Church," in *The Month*, November 1988, pp.968-974. Two theses, recently published are: P.-S.FREILING, *Das Subsidiaritätsprinzip im kirchenlichen Recht*, Essen, Ludgerus Verlag, 1995, and A.LEYS,

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

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

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

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

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

Ecclesiological Impacts, 1995. These references by no means exhaust those available.

²D'ONORIO, *Le pape et le gouvernement*, p.202. He is quoting from H.-M. LEGRAND, *Les conférences épiscopales: théologie, statut canonique, avenir: actes du colloque international de Salamanque, 3-8 janvier 1988*, publiés sous la direction de H.-M.LEGRAND, J.MANZANARES, et A. GARCIA y GARCIA, Paris, Cerf, 1988, p.459. The proceedings can be read in English in *The Jurist*, 48 (1988), pp.1-412.

³KOMONCHAK, "Subsidiarity in the Church," p.326. This article was one of the papers read at the Salamanca conference.

ecclesiology of the Church as *communio*. Moreover, there are different understandings of what the principle means for the Church. Those who oppose its implementation in the Church seem to do so on the premise that in some way it will diminish, degrade or inhibit the pope's "supreme, full, immediate and universal ordinary power in the Church" which he can always freely exercise (c.331).⁴

On the other hand, those who affirm the principle of subsidiarity recognise it as an operational principle which provides for flexibility in applying the universal law to local circumstances: they see this capacity for healthy adaptation as a strength. In any organism, when each part fulfils its role, the whole functions more effectively. In the Church, a correct understanding and practice of this principle could provide for an improved experience of *communio*.⁵

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

⁴See, for example, J.BEYER, "Le principe de subsidiarité: son application en Église," in *Gregorianum*, 69 (1988), pp.435-459.

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

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

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

⁶Cf. R.P.McBRIEN, *Catholicism*, rev.ed., San Francisco, HarperSanFrancisco, 1994, pp.1006-7, quotes and comments on the US Bishops Pastoral Letter (1986), "Economic Justice for All," as follows: "Government action, to be sure, must be guided and restrained by the principle of subsidiarity, but this does not mean that 'the government that governs least governs best'... Perhaps the most significant portion of the whole pastoral letter is its application of its moral principles to the Church itself: '*All the moral principles that govern the just operation of any economic endeavour apply to the Church and its agencies and institutions; indeed the Church should be exemplary.*' Although the pastoral letter does not appeal explicitly to the principle of sacramentality, it is that principle that theologically undergirds its position. This means that the Church must put into practice what it urges upon government, business, labour ..." It is surely of paramount importance in recognising individual human dignity and allowing for the free exercise of autonomy.

of the Church. Since the term itself appears nowhere in the Code, the search for the principle is necessarily conducted in terms of whether recognised elements of subsidiarity are, or could be, implicit in the canons. The basis of the principle, the dignity of the human person with all that this implies for personal autonomy, forms one of these elements as does the most frequently cited aspect - namely, clearly defined competencies between higher and lower authorities, so that the higher or larger body should not supplant the lower or smaller body, but rather should support its exercise of autonomy and supply for any deficiencies.

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

⁷Cf. J.H.PROVOST, "The Nature of Rights in the Church," in *CLSA Proceedings*, 53 (1991), pp.1-18, at p.7: "To affirm the fundamental equality of all the baptised is a revolution compared to the views held on a very official level earlier this century, but such is the effect of Vatican II in our Church today. It will take some time for us to work out the full implications of this changed focus, but let me suggest two areas which may help us explore these implications in our canonical practice: participation in church life, and the criteria used in making decisions." The difficulty in shaking off the "views held on a very official level earlier this century" is alluded to by another author who writes: "The sections of the Code... on 'The Obligations and Rights of all Christ's Faithful' (cc.208-223) and on 'The Obligations and Rights of Lay Members of Christ's Faithful' (cc.224-231) are interesting in this regard. Most of the obligations listed have always been recognised and insisted upon, but the rights concern matters that have not always been recognised and hence needed to be expressed in these canons, for they require the changing of inherited attitudes." See G.J.ROBINSON, "The Challenge of Justice," in *CLSA Proceedings*, 55 (1993), pp.1-16, at p.9.

The opening canon of this book, canon 204, describes the Christian faithful as “those who, since they are incorporated into Christ through baptism, are constituted the people of God. For this reason they participate in their own way in the priestly, prophetic, and kingly office of Christ.” The qualification “in their own way” serves to point the implementation of that aspect of subsidiarity which defines competencies. The canon continues, carefully repeating the qualification: “They are called, each according to his or her particular condition, to exercise the mission which God has entrusted to the Church to fulfil in the world” (c.204, §1). The second part of the canon says that the governance of the Church is entrusted to the “successor of Peter and the bishops in communion with him.” Thus, this one canon defines competency three times: not all the Christian faithful share in the kingly office of Christ to the same degree. Subsequent canons specify more closely the areas proper to “both groups”, called “sacred ministers” and “laity” (c.207, §§1 and 2).

3. 1 - The Obligations and Rights of All Christ's Faithful, cc.208-223

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

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

The reiteration of this balance between equality of dignity and action and competence. noted in canon 204, distinguishes the principle of subsidiarity as applied in the Code. The share that all the *Christifideles* have in the functions of Christ is determined by their condition - clerical or lay - and is subject always to the hierarchical constitution of the Church, governed as a society in this world. Successive canons in this title articulate the delicate equilibrium required between the exercise of rights and the responsibilities of hierarchical office. This cautious explication reveals the analogous nature of the principle of subsidiarity as applied within the Church.

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

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

rejects the validity of the principle of subsidiarity for the Church. The unique nature of the Church, however, surely permits an analogous or limited application of certain principles of social philosophy: developments in ecclesiology depend to some extent on a healthy interaction between theology and the secular sciences. This section of the Code, so reminiscent of the *United Nations Declaration of Human Rights*, shows most clearly how this interaction has occurred. The fundamental ecclesiological fact remains the radical equality of the Christian faithful (c.208).¹⁰

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

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

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

that of announcing salvation, of apostolic action and of the right to associate.¹¹

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

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

¹¹CASTILLO LARA, “Some General Reflections,” pp.29-30.

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

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

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

¹²For the role of the canonist in education in the rights of persons in the Church, see J.J.CUNEO, "Education in the Rights of Persons at Canonical Training Workshops," in *CLSA Proceedings*, 53 (1991), pp.98-123.

Council.¹³ The novelty and originality of setting out obligations and rights in the Church in this way owe much to the secular movements promoting human dignity which the Church eventually encouraged and adopted. To be sure, Scriptural insights enriched and refined the political and sociological theories expressed in the great encyclicals noted in the first chapter of this study.

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

The canons on "Associations of the Christian Faithful" had an interesting and significant history, for they were transplanted at the very last minute from being an appendix, as it were, to the canons on the consecrated life.¹⁴ The parallels are obvious, in that many congregations began as associations of the lay faithful. Gianfranco Ghirlanda treats of both as charismatic movements and uses the canons in the section on the consecrated life to interpret those in this section. He writes: "Fidelity to the charism on the part of those who have received it and respect for it on the part of all - as a gift for the whole Church - must, together with charity, be the principles governing the integration of movements into the life

¹³See PONTIFICIA COMMISSIO CODICI IURIS CANONICI AUTHENTICE INTERPRETANDO, *CIC auctoritate Joannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, Città del Vaticano, Libreria editrice Vaticana, 1989, cc.204-231, pp.55-62.

¹⁴To facilitate access to the discussions among the members of the Pontifical Commission for the revision of the Code of Canon Law (= the Code Commission), see J.FOX and G.CORBELLINI, "Synthesis generalis laboris Pontificiae Commissionis Codici Iuris Canonici Recognoscendo," in *Comm.*, 19 (1987), pp.262-308. An English translation of the text of the synthesis by J.FOX, slightly modified, is available in *The Jurist*, 48 (1988), pp.800-840. For the discussions relating to this section of the Code, see *Comm.*, 17 (1985), pp.164-239; 18 (1986), pp.210-251, 275-406. For an analysis of the discussion regarding the concept of "laity," see F.COCCOPALMERIO, "De conceptibus «Christifidelis» et «laici» in Codice iuris canonici: evolutio textuum et quaedam animadversiones," in *Periodica*, 77 (1988), pp.381-424. For an analysis of the Vatican II theology which informed these discussions on the meaning of the term "laity," see, for example, K.B.OSBORNE, *Lay Ministry in the Roman Catholic Church: Its History and Theology*, Mahwah, New York, Paulist Press, 1993, especially pp.527-564.

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

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

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

¹⁵G.GHIRLANDA, “Movements within the Ecclesial Communion and their Rightful Autonomy,” in *Christifideles laici: Comments and Reflections*, Vatican City, Pontificium Consilium Pro Laicis, *The Laity Today*, Bulletin 32-33 (= *Bulletin*), (1989-90), pp.51-52.

¹⁶*Ibid.*, p.52.

¹⁷JOHN PAUL II, Apostolic exhortation, *Christifideles laici*, 30 December 1988, in *AAS*, 81 (1989), pp.393-521. English translation in *Origins*, vol.18, n.35, February 9, 1989, pp.561, 563-595. The discussion here focuses particularly on n.30.

the apostolic exhortation.¹⁸ It would appear that the papal document offers *subsidium* in this area.

The general nature of these canons (cc.298-329) gives flexibility and adaptability, further characteristics of the principle of subsidiarity, which develop when smaller/lower bodies are allowed rightful autonomy. According to the published records of the Code Commission, the members had the principle in mind while drawing up the canons in this title. They recognised the need to provide for some decentralisation, but not at the expense of legislative unity.¹⁹ As they refined the texts of what became cc.298-311, the secretary reminded the consultors of this principle in particular.²⁰ At the conclusion of a discussion about co-ordination between associations, the consultors voted and concluded that they should not legislate for this so that the freedom of the associations should not seem to be suffocated and the principle of subsidiarity should not be put at risk.²¹ The Commission later assessed

¹⁸R.PAGÉ, "Note sur les «critères d'ecclésiàlité pour les associations de laïcs», in *Studia canonica*, 24 (1990), pp.455-463.

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

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

²¹Ibid., p.309: "Maioritati Consultorum placet ut de hac co-ordinatione nihil per legem statuatur: ne suffocari videatur libertas consociationum neque principium subsidiarietatis in discrimen ponatur."

the text of c.305, §1 in terms of the principle of subsidiarity and agreed that the provisions of this canon did indeed conform closely to the principle.²²

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

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

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

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

²³Ibid., pp.239-240: "Co-ordinatio enim numquam intelligi potest - hoc quidem esset abusus auctoritatis - sicut quaedam «uniformatio» vel «planificatio» apostolatus. In vita Ecclesiae pluralitas viget apostolica, ex diversitate charismatum promanans..." They go on to quote from *LG*, n.32 to the effect that variety in the Church is of divine institution, and from *AA*, n.3: "Ex horum charismatum, etiam simpliciorum, acceptione, pro unoquoque credentium ius et officium oritur eadem in bonum hominum et aedificatione Ecclesiae exercendi in Ecclesia et in mundo, in libertate Spiritus Sancti qui ubi vult spirat." Another reference to the principle of subsidiarity in relation to the work of this Commission occurs in a brief overview which they give of their labours. Their concern here seems to be to avoid over-legislation in the Code. See *Comm.*, 6 (1974), pp.50-52, at p.52: "Mentre, in applicazione del principio di sussidiarietà le ulteriori determinazioni più particolareggiate vengono rimandate ai singoli statuti, da sottoporre alla competente autorità ecclesiastica (Vescovo diocesano, Conferenza Episcopale o Santa Sede)."

mean a levelling-down, nor, even less, negation of the unique and unrepeatable character of the individual member of the Church (or of individual groups, associations, movements and many other realities present and active in the Church). It is not uniformity, but pluriformity that characterises the Church in what it is and does, a pluriformity destined to guarantee and promote communion and unity.”²⁴

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

The recognition of the right to found associations and the provision of canons to regulate its exercise in themselves implement the principle of subsidiarity which a philosopher of law working in Britain describes as a principle of justice. On associations he writes: “[The principle of subsidiarity] affirms that the proper function of association is to help the participants in the association to help themselves, or, more precisely, to constitute themselves through the individual initiatives of choosing commitments (including commitments to friendship and other forms of association) and of realising these commitments through personal inventiveness and effort in projects (many of which will, of course, be co-operative in execution and even communal in purpose).”²⁵

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

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

²⁵J.FINNIS, *Natural Law and Natural Rights*, Oxford, Clarendon Press, 1980, pp.146-147.

finds in c.298, §2 "a guarded uneasiness regarding membership in any association that has not been granted endorsement by competent ecclesiastical authority."²⁶ There needs to be a balance maintained between control and vigilance.

Another commentator, John Amos, remarks on the positive tone even in these juridic canons (cc.299-304), in that they provide greater flexibility in the kinds of association that may be founded.²⁷ The law differentiates only between public and private associations neither limiting initiatives to clerics nor ends to those specified.²⁸

Although these canons determine guidelines, they allow for variations "paying due regard to what is necessary or useful in the circumstances of the time and place" (c.304, §1). These provisions are wholly in accord with the principle of subsidiarity which, in the

²⁶E.KNEAL, "Associations of the Christian Faithful," *The Code of Canon Law: A Text and Commentary*, J.A.CORIDEN, T.J.GREEN and D.E.HEINTSCHEL (eds.), (= *CLSA Commentary*), New York, Paulist Press, 1985, p.244.

²⁷J.R.AMOS, "Associations of the Christian Faithful: History, Analysis, and Evaluation in the 1983 Code of Canon Law," in *CLSA Proceedings*, 50 (1989), pp.129-138. This presentation is a concise summary of pp.175-264 from the author's doctoral dissertation, *Associations of the Christian Faithful in the 1983 Code of Canon Law: A Canonical Analysis and Evaluation*, Washington, DC, Catholic University of America, Canon Law Studies No.516, Ann Arbor University Microfilms International, 1986. Amos refers throughout to Kneal in the *CLSA Commentary*, pp.243-257; to L.DE ECHEVERRIA, "De las asociaciones de fieles, (cc.298-329)," in *Código de derecho canónico*, L.DE ECHEVERRIA et al. (eds.), Madrid, Biblioteca de Autores Cristianos, 1983, pp.177-190; to G.DALLA TORRE, "Le associazioni dei Fedeli," in *Commento al Codice di diritto canonico*, P.V.PINTO (ed.), Rome, Pontificia Università Urbaniana, 1985, pp.172-193; and to J.L.GUTIÉRREZ, "De las asociaciones de fieles (cc.298-329)," in *Código de derecho canónico*, P.LOMBARDIA et al. (eds.), Pamplona, Ediciones Universidad de Navarra, 1983, pp.229-238. An English translation of the fifth edition of this last commentary can be read in *Code of Canon Law Annotated* (= *CCLA*), E.CAPARROS, M.THÉRIAULT, J.THORN (eds.), Montréal, Wilson and Lafleur Limitée, 1993, pp.197-215.

²⁸Cf. *Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae auctoritate promulgatus*, (= *CIC/17*), Romae, Typis polyglottis Vaticanis, 1917, c.685, which limited associations to three ends, fostering spiritual perfection, performing works of piety or charity, and promoting public worship.

ecclesial setting, recognises that the competent ecclesiastical authority "is to ensure that integrity of faith and morals is maintained in them (i.e. in the associations) and that abuses in ecclesiastical discipline do not creep in" (c.305, §1).²⁹

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

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

³⁰For an example of how the Code manifests sensitivity to cultures, cf. c.787: "By the testimony of their words and of their lives, missionaries are to establish a sincere dialogue with those who do not believe in Christ, so that, taking their native character and culture into account, ways may be opened up by which they can be led to know the message of the Gospel." An anecdote reported in *America*, March 19, 1988, p.282, about Cardinal Hume at the 1987 Synod illustrates an often ignored aspect of cultural disparity: "Cardinal Hume told all those assembled, 'I had a terrible dream the other day. I was worried in Westminster about these women bringing up the cruets, women who are taking more and more part in the church. And there are people who are disturbed about it. I thought I'd talk to the nuncio about this. I called up the nuncio, but she wasn't at home - and I talked to her husband, and he said she was over in church preparing her Scripture reading for Sunday. So I went back to sleep, and I was terribly disturbed about what's going on. Then I woke up - I woke up in a country where a woman runs the government, where a woman is leading company after company, and where a woman is doing this and this ... Now you have all talked about your culture, and some of the countries of the world have said if we grant all these rights to women, it will be against their culture, it will tear up the life of the church in their culture. Well I say we have a culture too, and our culture tells us different things.'"

offers another example, this time encouraging spontaneity: "Public associations can, on their own initiative, undertake projects which are appropriate to their character, and they are governed by the statutes, but under the higher direction of the ecclesiastical authority mentioned in c.312, §1."³¹ As always, any encouragement of initiative is balanced by the requirement that it be subject to the competent authority.³²

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

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

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

³³Cf. the Code Commission's discussions in *Comm.*, 18 (1986), p.232: "Iurisdictio seu munus regendi ad Hierarchicam pertinens intelligi non debet tamquam rigida vigilantia quae suffocet, quia pars praecipua huius muneris regendi est actuositas tendens ad impellendas, stimulandas ac fovendas iniciativas associationum, necnon ad observandum iustam libertatem quae iisdem competit etc. His assentiunt Consultores."

reassures the faithful desiring to join it. Of course, recognition provides a voice for the association.”³⁴

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

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

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

³⁴See PAGÉ, “Associations of the Faithful,” p.200.

Canons 317, §1, 318, §2 and 320, §3 incorporate norms of the canons on the rights of all the Christian faithful (enumerated in cc.220 and 221). All the canons which require that the competent authority "hear" the views of others before making a decision must be interpreted in the light of canon 127.³⁵ In canon 317 the phrases "where this is expedient" weakens the officials' right to be heard, but the language of canon 320, §3 is quite emphatic that an association must not be suppressed unless the officials have been heard.³⁶

Although private associations are allowed a considerable freedom, yet they too are "subject to the vigilance of ecclesiastical authority" (c.323).³⁷ As has been said, this vigilance on the part of the diocesan bishop is not to be perceived as intrusive, for it reveals an aspect of the role of the pastor in relation to his flock. In accordance with the principle

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

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

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

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

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

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

³⁷On this vigilance, see PAGÉ, "Associations of the Faithful," p.195: "This vigilance is applied to three major areas which sum up well all the aspects of ecclesial Christian life: faith, morals, and discipline."

of subsidiarity, the higher authority is to provide the conditions, help, stimulus, space, and challenge necessary for these associations to achieve the “self-constitution” of their members in promoting the common good of the local and universal Church. As Pagé so rightly indicates:

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

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

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

³⁸Ibid., pp.198-199.

³⁹AMOS, *Associations of the Christian Faithful in the 1983 Code of Canon Law*, p.138.

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

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

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

⁴⁰JOHN PAUL II, *Christifideles laici*, n.9.

⁴¹*Ibid.*, n.23.

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

Conclusion

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

⁴²See "Working Paper for the Synod of Bishops," in *Origins*, vol. 17, no.1, May 21, 1987, p.6.

3. 4 - The Internal Ordering of Particular Churches

The importance of the local church and its relationship with the universal Church has proved to be one of the richest insights to emerge from Vatican II.⁴³ Gifts emerge first in the local churches, inspired and formed by widely differing cultures and, after being tried and tested, contribute to the diversity of the whole Church. Walter Kasper emphasises the reciprocity of this movement:

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

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

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

⁴⁴W.KASPER, "The Council's Vision for a Renewal of the Church," in *Communio*, 17 (Winter 1990), p.486.

make to its life and mission.⁴⁵ As a "principle of unity in catalyzing the ministerial resources of the Church in service to the world," the diocesan bishop has the responsibility to ensure that *communio* is realised in his local church.⁴⁶ One way of doing this is by implementing the principle of subsidiarity.

Kasper indicates the direction which plans should take:

The Church as *communio* is also to be understood as one body whose varied members cooperate and complement each other in diverse ways for the good of the whole. All - lay people, religious, and the ordained - have their own tasks and carry responsibility in their own state in life. A properly understood *communio*-ecclesiology puts an end to all one-directional conceptions of pastoral care. *Communio*-ecclesiology aims at a Church in which all will become subjects.⁴⁷

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

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

⁴⁶T.J.GREEN, "The Diocesan Bishop in the Revised Code: Some Introductory Reflections," in *The Jurist*, 42 (1982), p.326.

⁴⁷KASPER, "The Council's Vision," p.488.

competence, a concern for the person, and allows a just autonomy, they each represent in varying degrees the principle of subsidiarity in practice.

3. 4. 1 - The Diocesan Synod, cc.460-468

The Diocesan Synod is an ancient institute in the Church.⁴⁸ The revised Code describes the synod as “an assembly of selected priests and other members of Christ’s faithful of a particular Church which, for the good of the whole diocesan community, assists the

⁴⁸The literature is extensive. There is no specific reference in the conciliar documents except for a passing comment in *CD*, n.36. See most recently, for example, W.J.MOR-ROW, “The Diocesan Synod in the Light of CIC 1983,” in *Canon Law Society of Australia and New Zealand Newsletter*, 1 (1996), pp.46-78, where the author gives ample references to original sources for research into the history of synods. See also P.COLLINS, “The Diocesan Synod,” in *The Jurist*, 33 (1973), pp.399-411; J.A.CORIDEN, “The Diocesan Synod: An Instrument of Renewal for the Local Church,” in *The Jurist*, 34 (1974), pp.68-93; J.H.PROVOST, “Preparing for Particular Legislation to Implement the Revised Code,” in *The Jurist*, 42 (1982), pp.348-382; M.DORTEL-CLAUDOT, “L’évêque et la synodalité dans le nouveau Code de droit canonique,” in *Nouvelle revue théologique*, 106 (1984), pp.641-657; T.J.GREEN, “Persons and Structures in the Church,” in *The Jurist*, 45 (1985), pp.24-94, at pp.54-56; L.J.JENNINGS, “A Renewed Understanding of the Diocesan Synod,” in *Studia canonica*, 20 (1986), pp.319-354; P.J.PRATICO, *The Purpose and Function of the Diocesan Synod. A Canonical Analysis and Critique of the Second Synod of the Diocese of Scranton*, Doct. diss., Romae, Pontificia Studiorum Universitas a S. Thoma Aq. in Urbe, 1987; J.BEYER, “Il sinodo diocesano,” in *Vita consacrata*, 27 (1991), pp.381-385; G.CORBELLINI, “Il sinodo e la comunità diocesana,” in *Monitor ecclesiasticus*, 116 (1991), pp.456-461; D.M.ROSS, *Diocesan Synods: The Application of the Law in Three Dioceses in the USA*, Doct. diss., Ottawa, Faculty of Canon Law, Saint Paul University, 1992; G.GHIRLANDA, “Il sinodo diocesano,” in *Ius in vita et in missione Ecclesiae: acta symposii internationalis iuris canonico occurrente X anniversario promulgationis Codicis iuris canonici*, Città del Vaticano, Libreria editrice Vaticana, 1994, pp.577-592. Earlier authoritative historical studies of the involvement of the laity in the governance of the Church through participation in synods and councils can be found in H.KUNG, *Structures of the Church*, trans. by S.ATTANASIO, New York, T.Nelson, 1964, esp. pp.71-105, and in CONGAR, *Lay People in the Church*, pp.247-270. Despite the sometimes chequered history of this participation, and the probable problems that will follow from it, Rahner also argued in favour of “lay advisory committees and similar institutions which aim at giving the laity greater responsibility and cooperation in the decision-making of the Church.” See K.RAHNER, “Democracy in the Church?” in *Grace in Freedom*, London, Burns Oates, 1969, pp.150-168. See also: P.VALDRINI, “La synodalité dans l’Église: l’expérience française depuis le Concile Vatican II,” in *Studia canonica*, 26 (1992), pp.5-24; G.ROUTHIER, “La synodalité de l’Église locale,” in *ibid.*, pp.111-161. For the significance of the placing of these canons, see F.DANEELS, “De diocesanis corresponsabilitatis organis,” in *Periodica*, 74 (1985), pp.301-324, at p.306: “Primum locum in titulo de interna Ecclesiarum particularium ordinatione obtinet synodus diocesana. Ita confirmatur eminentia huius instituti traditionalis, de quo miro modo, in *Christus Dominus*, n.27, non fit mentio.” For a descriptive account of the organisation of the institute, see A.REHRAUER, “The Diocesan Synod,” in *CLSA Proceedings*, 49 (1987), pp.1-15. For the discussions of the Code Commission, see *Comm.*, 12 (1980), pp.314-319; 14 (1982), pp.209-212; 24 (1992), pp.251-257, 265-266.

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

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

The diocesan synod, which is convoked and moderated by the bishop and to which the clergy, religious and laity are summoned according to the norms of law, is the assembly in which the bishop - using the help of experts in theology, pastoral and law, and drawing upon the advice of the diocesan community's various associations - officially fulfils his function and ministry of feeding the flock entrusted to him, by adapting the laws and norms of the universal Church to local conditions, by pointing out the policy and programme of apostolic work in the diocese, by resolving problems encountered in the apostolate and administration, by giving impetus to projects and undertakings, and by correcting errors in doctrine and morals if any have crept in.⁴⁹

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

The ordering of the various activities deemed appropriate for the synod clearly gives priority to that of adapting universal laws and norms, as does the later emphasis in the Code (c.466), on the bishop's role as sole legislator.

Whereas *CIC/17*, c.356, §1 had mandated a synod every ten years - a mandate which was largely ignored - the revised Code leaves the bishop free to decide when and how frequently to celebrate the event.⁵⁰

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

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

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

⁵¹See GREEN, "Persons and Structures," p.54, where he reports on the fears of some during the revision process that "some norms seemed to personalise the synod as an instrument of the bishop rather than viewing it as an assembly of the people of God in which the bishop assumes a preeminent apostolic leadership role." Cf. Archbishop R.WEAK-LAND, "Local Implementation - Ecclesial Life under the 1983 Code," in *CLSA Proceedings*, 46 (1984), pp.12-23, where the author comments: "The Code is wonderful in this respect. It tells you almost nothing, is very flexible about how to do a synod." The Code Commission dismissed two suggestions that would have ensured a majority membership for the clergy. See *Comm.*, 14 (1982), pp.210-211: "... quia intelligi posset quasi suspicio quod Episcopus non sit prudens, vel quod laici sint periculosi."

to participate: they have to exercise their rights in the Church.⁵² Ideally the latitude offered both by canon 460, "other members of Christ's faithful,"⁵³ and by this canon, 463, both focusing on persons, will result in a membership truly representative of the *communio* of the local church, and function in a manner that builds up this *communio*.⁵⁴

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

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

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

The autonomy of the synod depends to a large extent on the membership, but also on the measure of control exercised by the diocesan bishop while it is in session.⁵⁵ Canon 465 requires "free discussion of the agenda."⁵⁶ Interpretation will take account of canons 212, 217, 218, 220 and also the ancient canonical principle: "*quod omnes tangit, ab omnibus tractari et approbari debet.*"⁵⁷ The Code frequently affirms that the bishop is the sole legislator in the diocese, and canon 466 emphasises his unique role four times.⁵⁸ Canon 468 provides for cessation which can occur at the bishop's discretion, but the phrase

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

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

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

⁵⁸Canon 466 - The diocesan Bishop is the *sole* legislator in the diocesan synod. Other members of the synod have *only* a consultative vote. The diocesan Bishop *alone* signs the synodal declarations and decrees, and *only* by his authority may these be published (emphasis added). This insistence is to preserve legislative unity.

"prudent judgement" implies that he must have a just cause.⁵⁹ Nevertheless this institute provides for a measure of subsidiarity at local church level.⁶⁰

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

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

3. 4. 2 - The Presbyteral Council, cc.495-501

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

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

entre l'évêque et son église." Without mentioning the principle of subsidiarity, he has here described precisely what its advocates imagine when they argue for its applicability to the Church.

⁶¹For the history of the institute, see, for example, in French, P.EYT, "Le fondement doctrinal du presbyterium," in *Revue de droit canonique*, 20 (1970), pp.128-143, and in English, G.D'ERCOLE, "The Presbyteral Council in the Early Church," in *Concilium*, 7/2 (1966), pp.12-18, where the author's footnotes refer the reader to the New Testament, and to other 1st-3rd century sources, such as the Letters of St Ignatius of Antioch, and of St Cyprian. A more recent history, using the same sources, is given by the NATIONAL CONFERENCE OF CATHOLIC BISHOPS (= NCCB), "United in Service: Reflections on the Presbyteral Council," in *Origins*, vol.21, no.26, December 5, 1991, p.409, 411-421. The principal conciliar source is *PO*, n.7, but cf. *LG*, n.28; *CD*, n.28; *AG*, n.39. Paul VI made the establishment of a presbyteral council obligatory in *Ecclesiae sanctae* I, n.15.

⁶²The principal post-conciliar documents which refer to the Presbyteral Council are: SACRED CONGREGATION FOR THE CLERGY, Circular Letter, *De consiliis presbyter-alibus*, 10 October 1969, in *AAS*, 62 (1970), pp.459-465. This document is available in French in *La documentation*

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

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

catholique, vol.67, n.1564, 7 juin 1970, pp.527-530, and in English in *CLD*, vol.7, pp.383-390; SYNODUS EPISCOPORUM, Documentum, *Ultimis temporibus*, 9 December 1971, in *AAS*, 63 (1971), pp.897-922, at pp.918-919; and *Ecclesiae imago*, n.203. *De consiliis* states, n.5: “Ex communione hierarchica, quae exstat inter Episcopum et presbyteros, necessario sequitur scopus et munus Consilii Presbyteralis quod quidem ipsam communionem aliquo modo institutionaliter manifestat.” In *Ultimis temporibus*, we read at p.919: “Communione hierarchicae inter Episcopos et presbyteros (cf. *PO*, n.7) inveniendae sunt novae rationes, quibus Ecclesiae locales magis inter se pateant et agant, quaerendi sunt modi communis operare presbyterorum cum Episcopis in institutis et in inceptis plurium dioecesium.” For an important point about the shared priesthood of bishop and priests, see J.BEYER, “De consilio presbyterii adnotat-iones,” in *Periodica*, 60 (1971), pp.29-103, where he writes, at p.100: “Concilium affirmavit sacramentalitatem episcopatus: Episcopi in ordinatione triplex accipiunt munus docendi, sanctificandi et regendi. Quae tria munera etiam a presbyteris, sed subordinate, exercentur, non tamen ut derivatio potestatis episcopalis sed ut participatio sacramentalis sacerdotii Christi.” For the Code Commission’s discussions about the presbyteral council, see *Comm.*, 13 (1981), pp.128-134; 14 (1982), pp.214-218; 24 (1992), pp.70-82, 95-97, 129, 161-163.

⁶³ On representation, *De consiliis* states, n.6: “Si quaedam in Consilio ita componendo difficultas exoritur, praeferenda videtur repraesentatio proportionata per praecipua sacerdotum ministeria.” On the balance of elected and appointed members, the same document says, n.7: “Consilii sodales designandi ratio commissa est Episcopis. Ii vero, uti ex ipsorum responsionis patet, consensu fere unanimo statuerunt ut notabilius sodalium pars eligeretur libero sacerdotum suffragio. Patribus autem Plenariae placuit propositum ut maior pars sodalium seligeretur per suffragium omnium sacerdotum.” The object of leaving the bishop free to appoint certain members seems to be to secure a true representation of the diocese; see *ibid.*: “Haec compositio ... securitatem tribuit Episcopo ad servandum aequilibrium et possibilitatem praebet indolem repraesentativam eiusdem Consilii aliquando melius exprimendi.”

whether or not to hold a diocesan synod (c.461);
 erecting, modifying and suppressing parishes (cc.515, 518, 520);
 determining the disposition of the "parochial fund" (c.531);
 deciding whether or not to make parish councils mandatory (c.536);
 authorising the building of a new church (c.1215);
 converting an existing church building to secular purposes (c.1222);
 imposing a tax on the faithful and on public juridical persons (c.1263).⁶⁴

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

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

easily.”⁶⁵ The concern of the bishop and the presbyteral council is to be for the enhancement of *communio* in the diocese, the enhancement of persons.

The canons fulfil the intent of the Council to involve the priests with the bishop in the government of the diocese. The decision-taking remains the responsibility of the bishop, but only after he has listened to the advice of those who will be involved in its implementation.⁶⁶ The provision of canon 501 for renewing and revitalising the membership

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

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

indicates a concern that as many priests as possible should have the experience of contributing to the bishop's pastoral decisions.⁶⁷ Moreover, by not legislating in detail for the council, the Code allows each diocese to establish its own procedures in accordance with its own unique character and needs. This implementation of the principle of subsidiarity ensures flexibility, autonomy, and allows for the exercise of a certain dynamism in response to local needs.⁶⁸

forgotten. On this point, see also the conclusion of CALVO, *Consultation and the Presbyteral Council*, pp.292-293: "The overall finality of the consultative function of the presbyteral council is the promotion of the mission of the Church. Its immediate and mediate finality is dual: the effectiveness of a decision and the fostering of the relationship between the diocesan bishop and the presbyterate. This finality shifts the focus of assessing the presbyteral council's influence from the question of the distribution of power to that of the quality of the decisions rendered and the ability of consultation itself to advance the mission of the Church. In summary, in the *ratio legis* for the presbyteral council's consultative function the emphasis is not on actions that bind but on the strength of the bond for action and the quality of decisions."

⁶⁷For the importance of this experience for the education of the clergy, see PAGÉ, *Les églises particulières*, at p.151: "Le renouvellement des membres pourra favoriser le renouveau des idées, des expériences et des approches des questions discutées, sans compter qu'après un certain nombre d'années, beaucoup de prêtres auront eu l'occasion de connaître de l'intérieur l'exercice du gouvernement diocésain et ainsi d'avoir une vision plus large des questions pastorales."

⁶⁸For the present Pope's assumption that local councils will lead to more awareness of their uniqueness on the part of the local churches, see JOHN PAUL II, Encyclical letter, *Redemptor hominis*, 15 March 1979, in *AAS*, 71 (1979), pp.257-324. The English translation is available in *Origins*, vol.8, no.40, March 22, 1979, pp.625, 627-644. The Pope writes, n.5: "It was the Council's idea, an idea consistently put into practice by Paul VI, that structures of this kind (synods), with their centuries of trial by the Church, and the other forms of collegial collaboration by bishops, such as the metropolitan structure - not to mention each individual diocese - should pulsate in full awareness of their own identity and, at the same time, of their own originality within the universal unity of the Church. The same spirit of collaboration and shared responsibility is spreading among priests also, as is confirmed by the many councils of priests that have sprung up since the Council." It is worth noting that the Pope began here by talking about synods, i.e., legislative assemblies.

For a discussion of some of the questions that arise from the Code's silence on certain issues, such as, for example, the interpretation of the bishop's "prerogative ... to preside over" the council, see PAGÉ, *Les églises particulières*, pp.142-144. Pagé also questions the role in the council of the bishop's "vicars," pp.137-140, and highlights the possibly embarrassing situation that could arise when the vicars, after expressing their opinion freely, find they disagree with the bishop and the matter comes to a vote: "Rien n'empêche un Évêque qui s'en abstiendrait d'inviter ses Vicaires à faire de même, ou dans certains cas ou en tous. Le vote sera toujours nécessaire dans les cas de

However, the canons also enable the bishop to exert considerable control over the presbyteral council. The diocesan bishop approves the statutes (c.496), determines the membership (c.497), convokes the council, decides on the agenda, and alone divulges what was discussed (c.500, §1). Local statutes could so interpret these canons as to ensure maximum participation, regularly scheduled meetings, and committees to prepare both the agenda and reports of the discussions. How the diocesan bishop exercises his role could prove crucial for the expression of *communio*.⁶⁹

The conciliar understanding of authority as service was emphasised in the context of the bishop's powers by Julian Herranz, who served on the Code Commission, when he said:

"The bishops know well that in the Church the greatest dignity of power is because *salus*

consentement à donner. Et comme le consentement a une portée juridique beaucoup plus grande que l'opinion, il sera important que la possibilité de s'abstenir de voter pour l'Évêque et ses Vicaires soit examinée avec soin, indépendamment bien sûr de celle qu'ils ont naturellement, comme tous les membres." The Synod of Bishops recognised in 1971, in *Ultimis temporibus*, p.919: "Navitas huius Consilii lege plene definiri non potest; eius efficacia pendet praesertim ex iterato conamine omnium opiniones audiendi, ut ad consensum perveniatur cum Episcopo, cuius decisionem finalem ferre." These words accept both the possibility of local variations and the recognition that the final decision rests with a higher level.

⁶⁹On the apparently dominant role of the diocesan bishop, see ALESSANDRO, *CLSA Commentary*, p.405: "Canon 500 might seem overly restrictive if one thinks of the presbyteral council as separate from the diocesan bishop. Such an image may arise from the civil model of government in which a 'balance of powers' is struck to protect and promote the common good. The canon in fact is not based on such a secular model but on the uniqueness of the Church as a hierarchical communion. The unity of priests and bishop should make the debate over consultative and deliberative vote an academic issue, at least in the best of circumstances. The norms are meant to stabilise the relationship of the bishop and council and foster their harmonious collaboration for the overall pastoral good of the diocese." Cf. PASSICOS, "Reflexions sur le conseil du presbyterium," p.154, where the author also refers to the danger of seeing the Church too much in terms of civil government: "Il s'agit du caractère original du gouvernement de l'Église: en termes classiques, on dirait que l'Église ne connaît «la séparation des pouvoirs» à l'instar des régimes démocratiques; mais elle connaît un «aménagement des pouvoirs», une séparation toute relative mais néanmoins réelle (ainsi de l'exercice du pouvoir judiciaire)." Cf. NCCB, "United in Service," pp.418-419: "The presbyteral council must not view itself as the 'loyal opposition' or the 'minority party.' The language of confrontation, power tactics and intimidation are out of place in the council."

animarum is its supreme goal and because it is conferred and exercised *in nomine Christi Capitis*. From this comes the profound theological and pastoral necessity that they feel of exercising their personal power as pastors justly and prudently, not in an arbitrary manner or in a way which would be a renunciation of their proper rights and duties.”⁷⁰ If this is the case then the statutes which the bishop approves for the presbyteral council will reflect his desire to ensure that the various diocesan structures which help him in governing are “adequate instruments for fostering exchange of insights, for gathering broad information, for articulating policy options and diocesan goals, for judging which option is advisable in a given set of circumstances and even for forming a prudent personal judgement about eventual norms of a legislative nature.”⁷¹ Pagé draws attention to the shift in *PO*, n.7, where the enumeration of the *tria munera* changes *regendi* to *pascendi* thus serving as a reminder of the bishop’s pastoral role.⁷²

As a natural consequence of its existence as an expression of the presbyterium in the diocese, the presbyteral council ceases when the see is vacant (c.501, §2). The requirement, also in canon 501, §2, that a new bishop must establish a presbyteral council within a year of taking possession of the diocese, emphasises the importance attached by the Code to the

⁷⁰J.HERRANZ, “The Personal Power of Governance of the Diocesan Bishop,” in *CLSA Proceedings*, 49 (1987), p.34. We find the same emphasis on authority as service in *Ultimis temporibus*, where the Synod of Bishops wrote, p.919: “Servitium auctoritatis, ex una parte, et exercitium oboedientiae non mere passivae, ex altera parte, in spiritu fidei, mutua caritate, filiali atque amicali fiducia, constanti et patienti dialogo fieri debent, ita ut sociata opera et *responsabilis* cooperatio presbyterorum cum Episcopo sincera, humana simulque supernaturalis evadat.” Similarly, the NCCB devotes considerable attention to this reality in “United in Service,” at p.414.

⁷¹See, HERRANZ, “The Personal Power,” p.25.

⁷²PAGÉ, *Les églises particulières*, p.121.

role of the council and to the value of participatory decision-making at diocesan level (c.501, §2). Similarly, the bishop can dissolve the council (c.501, §3), but his power to do so is strictly controlled by the wording of this canon and the requirement that he consult with an ecclesiastical superior, and he is bound to reconstitute the council within a year.

As a member of the college of bishops, each diocesan bishop has a responsibility not just for his own diocese but for the universal Church. All the members of the local church have a mission by reason of their baptism and confirmation to the Church universal. A major function of the leaders of the local church is to call their members out of isolation into a broader sense of mission.⁷³

3. 4. 3 - The Diocesan Pastoral Council, cc.511-514

The Diocesan Pastoral Council owes its presence in the Code to the evolving theology of the laity in the course of this century.⁷⁴ The conciliar documents *Lumen gentium* and *Apostolicam actuositatem* share three basic concerns: first, to vindicate the laity's right to share in the building up of the Church and in its central saving mission. Secondly, they clarified the nature and basis of the lay apostolate, giving the laity a genuine initiative and autonomy. Thirdly, Vatican II affirmed the truly Christian character of the laity's daily secular activity. This involvement in the world grounds the laity's contribution to the Church

⁷³See J.H.PROVOST, "Structuring the Church as a *Communio*," in *The Jurist*, 36 (1976), p.213. See also J.J.O'ROURKE, "The Office of Bishop and its Relevance to the Papacy and to the Universal Church," in *Studia canonica*, 5 (1971), p.243.

⁷⁴One of the most significant contributions to this was CONGAR's *Lay People in the Church*, but see also the works cited in footnotes on Diocesan Synods.

where their secular involvement qualifies them to make that contribution unique and irreplaceable.⁷⁵

Canon 511, however, despite the undoubted encouragement offered by repeated references to the council in official Church documents, does not mandate a diocesan pastoral council, but, in accordance with the principle of subsidiarity, leaves it to the diocesan bishop to decide whether or not it is necessary "in so far as pastoral circumstances suggest."⁷⁶

The canon mandates the diocesan pastoral council to investigate, evaluate, and propose

⁷⁵Cf. particularly *LG*, nn.30-38; *CD*, n.27; *AA*, nn.2-10, 26; *AG*, n.30: and see J.A.KOMONCHAK, "Clergy, Laity and the Church's Mission in the World," in *Official Ministry in a New Age*, J.H.PROVOST (ed.), Washington, DC, CLSA, 1981, pp.168-193. Diocesan Pastoral Councils are mentioned, presumed, recommended, and/or described in the following official documents: *Ecclesiae sanctae* I, nn.16-17; PAUL VI, *motu proprio*, *Sacrum diaconatus ordinem*, 18 June 1967, in *AAS*, 59 (1967), pp.697-704, n.24 (this section is omitted in the English translation in *CLD*, vol. 6, pp.577-584. It reads: "In Consiliis pastoralibus diaconi, ut fieri potest, suam partem habeant"); *Ultimis temporibus*, Part II, II, 3; CONGREGATION FOR THE CLERGY, Circular letter, *Omnes Christifideles*, 25 January 1973, (original text in OCHOA, *Leges Ecclesiae*, vol. 5, n.4166, pp.6444-6449: there is an English translation in *CLD*, vol. 8, pp.280-288); *Ecclesiae imago*, n.204; CONGREGATIONS FOR RELIGIOUS AND FOR BISHOPS, Directives, *Mutuae relationes*, 14 May 1978, in *AAS*, 70 (1978), pp.473-506, n.56 (English translation in *CLD*, vol. 9, pp.296-339); *Christifideles laici*, n.25. Of these documents *Omnes Christifideles* offers the most substantial guidance. One of the first post-conciliar studies on the Diocesan Pastoral Council is that by R.PAGÉ, *Le conseil diocésain de pastorale, lieu du dialogue entre les laïcs, les religieux, les clercs et l'évêque*, Montréal, Fides, 1969. See also J.BEYER, "De consilio pastoralis adnotationes," in *Periodica*, 61 (1972), pp.31-46. On pp. 32-33 of his article, Beyer offers list of works on the diocesan pastoral council which "utiliter consultari possunt." For a summary of the expectations outlined by the documents published up to 1975, see S.E.SHOEMAKER, *Lay Participation in Selected Structures of Church Government since Vatican II*, Washington, DC, Catholic University of America, Canon Law Studies no.490, 1976, Ann Arbor University Microfilms International, 1988, pp.41-44.

⁷⁶See T.J.GREEN, "Persons and Structures in the Church," in *The Jurist*, 45 (1985), pp.24-94, at pp.56-57 where he writes: "Such councils were not mandatory but rather facultative, and unfortunately their desirability was expressed much less forcefully than in other noteworthy conciliar and postconciliar documents. Furthermore, the norms made no mention of episcopal responsibility to foster the creation of such councils. It may be unrealistic to expect that a similar structure for diocesan pastoral councils could be required throughout the Church, given differences in local pastoral needs and resources. However, universal law could certainly specify at least a general expectation that in every diocese there be institutionalised some way of facilitating the expression of the voice and charisms of the faithful at large in diocesan decision-making."

practical conclusions about the pastoral activity in the diocese.⁷⁷ These concerns focus on *communio*.

Commentaries on the role of the diocesan pastoral council reflect the still continuing debate on lay jurisdiction. The Code Commission clearly distinguishes between it and the presbyteral council by removing from the pastoral council any say in the administration of the diocese.⁷⁸ James Provost defines the pastoral council's responsibilities as follows:

If a distinction can be drawn between the presbyteral council and the diocesan pastoral council it would seem to be that the pastoral council is concerned

⁷⁷For a comparative study of the roles of the Diocesan Synod, the Presbyteral Council and the Diocesan Pastoral Council, see PRATICO, *The Purpose and Function of the Diocesan Synod*, pp.137-150, where the author concludes: "The pastoral council is a body which advises the bishop in a broad and general way: consultation with this council concerns the overall picture of the diocese. Unlike the council of priests, the pastoral council should not be involved with the ordinary or regular administration of the diocese, nor should it be the highest 'court of appeals' to co-ordinate the overall pastoral work of the diocese. My sense of c.511 sees the role of the pastoral council as a kind of loosely defined diocesan 'think-tank' by which the remote and general discussion of issues and needs can be addressed by the diocesan bishop. For specific matters, the pastoral council could be given a more precise role such as co-ordinating the preliminary plans for a diocesan synod, setting up a consultation or study process for a determined pastoral problem, etc." Such a general and rather negative remit risks reducing the pastoral council to no more than a "talking shop" with consequent frustration and disillusion on the part of those involved. In "De consilio pastorali adnotationes," Beyer proposes a more positive role, p.34: "Finis consilii pastoralis est manifestatio caritatis, quae, vi publicae institutionis, tum necessitudines Populi Dei, tum eiusdem adiutorium in missione Ecclesiae proseguenda patefaciat. Quae participatio sollicitudinis et actionis pastoralis propria ratione hic subsidiaria est cum actionem sacerdotum Episcopi et presbyterorum, proprio munere sustineat et adiuvet." He adds: "Consilium pastorale est, ad imaginem Ecclesiae, participatio unius sacerdotii communis et unius missionis Ecclesiae" which appears to recognise the important role of the council in empowering lay people to take their rightful part in the decision-making process. However, he draws this distinction, p.35: "Pastorale opus aliud est pastoris, aliud est gregis cuius munus est collaborandi et sustinendi, non dirigendi et ducendi. Ipsa autem collaboratio Christifidelium alia est cooperationis, alia simplicis testimonii vitae associative vel personaliter expressi."

⁷⁸See *Comm.*, 24 (1992), p.79: "Munus eius praeterea respicit opera pastoralia dioecesis, exclusis quaestionibus quae ad dioecesis regimen pertinent." Cf. *ibid.*, p.82: "Consilium presbyterale in tractandis causis quae ad regimen spectant operum pastoralium rationem habeat earum quae consilium pastorale de operibus pastoralibus perpenderit atque proposuerit." It is probably fair to assume that the Commission's use here of the word "regimen" is closely linked to its cognate verb "regere." For their earlier discussions on the diocesan pastoral council, see *Comm.*, 13 (1981), pp.138-146; 14 (1982), pp.219-220. The latest published are in *Comm.*, 24 (1992), pp.79-82, 124, 129.

with long-range planning and pastoral development in the diocese, while the presbyteral council is to focus on more specific governance issues within that long-range planning. It is not a question of one body being more powerful than the other, but of their responsibilities being addressed toward diverse dimensions of the development of life within the diocese. Both should be concerned about the welfare of the full diocese rather than any one particular group within it; each should express its concern with a particular expertise, whether of planning or of effective governance. ... The advantage of involving presbyteral councils and diocesan pastoral councils, the pre-eminent consultative bodies in a diocese, in drafting local legislation is that they represent broad cross-sections of the Church. Particularly if both bodies are involved there is the potential of an integrated approach toward both long-range and short-range decision making, careful respect for the authority of the bishop while involving adequate participation by representative members of the people of God.⁷⁹

Provost's vision corresponds closely with that outlined in *Omnes christifideles*, n.9, whereas Pagé finds this document somewhat vague in distinguishing between the fields of competence of the presbyteral and pastoral councils and understands that of the pastoral council as pastoral action broadly conceived and as a practical implementation of the church's mission by the action of all the members.⁸⁰

Canon 512 lays emphasis on the need for "especially lay people" to be involved in the pastoral council and for the membership to be truly representative of the various regions of the diocese. The model of civil government does not offer a suitable parallel. Representatives are representative of the whole people of God, but not of any particular constituency.⁸¹ A key episcopal responsibility lies in creating a climate in which the

⁷⁹See PROVOST, "Preparing for Particular Legislation," p.365.

⁸⁰PAGÉ, *Le conseil diocésain de pastorale*, pp.187-188.

⁸¹Cf. DANEELS, "Organa diocesana corresponsibilitatis," where he writes, p.321: "Dioecesis per eos configuratur, non repraesentatur."

diverse gifts of the Spirit can be exercised and in which the fundamental, substantive and procedural rights of believers are protected.⁸²

Canons 511, 512, and 513 severely circumscribe the autonomy of the diocesan pastoral council. The diocesan bishop determines its necessity, competence, membership and duration. In other words, the legislation does not seem to have advanced *pari passu* with the theology.⁸³

Conclusion

The gradual shift to more participative methods of governing within the Church since Vatican II is particularly evident in the establishment in the diocese of so many consultative bodies, three of which have been examined here: the diocesan synod, the presbyteral council, and the diocesan pastoral council.⁸⁴ There is much to commend in the legislation. Nonetheless, some inadequacies also appear.

The Code attempts to give new life to the ancient institutes of the diocesan synod and the presbyteral council. The prominent position accorded the former indicates its importance,

⁸²See ALESANDRO, *CLSA Commentary*, p.411. Cf. also T.J.GREEN, "Rights and Duties of Diocesan Bishops," in *CLSA Proceedings*, 45 (1983), pp.18-36, at p.24. Green had made the same point in "The Diocesan Bishop in the Revised Code: Some Introductory Reflections," in *The Jurist*, 42 (1982), pp.320-347, at p.324.

⁸³This seems to be the lament of W.KASPER, *Theology and Church*, Selections translated by M.KOHL, London, SCM Press, 1989, p.163: "At present it is obvious that something has gone very wrong with Vatican II's great idea, the *communio fidelium*. In this situation, the first task of the Church's ministry and its service for unity seems to me to be to restore dialogue and communication, and to introduce the binding doctrine of the Church, as far as possible by means of reasoned argument, into the process of communication within the Church, in order to build up once more a full and undivided *communio* and *communicatio fidelium*." Kasper sees the resulting tension as indicative of a living communion that ideally should build up truly ecclesial congregations of priests and lay people.

⁸⁴The others are: the episcopal council, c.473, §4; the finance council, cc.492-494; the college of consultors, c.502; in certain instances, the chapter of canons, cc.503-510.

but by omitting to *require* the celebration of this event, the Code risks depriving laity and clergy of the opportunity to collaborate in formulating diocesan legislation. Although in leaving to the diocesan bishop, after consultation with the council of priests, the decisions about whether and when to hold the synod, the Code moves these decisions from the centre, it could still be argued that in this situation the common good requires the *subsidium* that a more precise imposition would give. Moreover, the canons leave unchecked the bishop's power over the synod. Some accountability of the bishop to "the portion of the people of God entrusted to him" (c.369) would redress this imbalance and show greater respect for the charisms present among them.

Similarly, the bishop's control over the presbyteral council, evident, for example, in canon 497, 1° which stipulates the free election only of "about half" the members, could stifle that organ's potential. One reading of canons 497 and 500 could see them as liberating the bishop to draw up statutes appropriate to the circumstances of his diocese. However, the same canons render possible an authoritarian reading focused on the letter rather than on the spirit of the new law.

The optional nature of the diocesan pastoral council makes this the weakest of the three institutes. The diocesan pastoral council, the only means offered to the laity regularly to interact with the bishop, clergy, and religious in examining and providing for the pastoral needs of the diocese, requires firmer foundation in law. Even where it is established, the diocesan bishop, as in the cases of the diocesan synod and the presbyteral council, can exert control over membership, agenda, frequency of meetings and the action which ensues. The Code certainly implements the principle of subsidiarity in enhancing the decision-making power of the diocesan bishop, but does not legislate for the requisite balance to this in

requiring the consultation, participation and collaboration of all who will be affected by such decisions. If “those members of Christ’s faithful who are outstanding in firm faith, high moral standards and prudence” (c.512, §3) are in practice denied the means to serve the diocese, the whole Church will be the poorer.

The diocesan synod, the presbyteral council, and the diocesan pastoral council, in so far as they prove representative of the entire diocese, truly consultative, in that the members, fully informed on the issues to be debated, are able to speak freely, and effective in that the bishop obviously heeds their advice and suggestions, to that extent these institutes implement the teaching of Vatican II, respond to the challenges of the modern world and maintain the flexibility that results from good legislation.

The statutes of each institute must, therefore, in accordance with the principle of subsidiarity, clearly establish the limits of the competency of each. The law in each case leaves great scope to the particular diocese to draw up statutes which best suit its situation, personnel, and needs. As early as 1987, Provost reported on a wide variety of interpretations in the USA.⁸⁵ Such plurality manifests a healthy sign of the presence and implementation of the principle of subsidiarity.

The structures are there for the bishop to implement as he sees fit. Referring to convocation, the canons include phrases such as “when ... circumstances suggest it” (c.461) and “according to the needs of the apostolate” (c.514), but the possibility exists for the diocesan bishop to determine these very narrowly. Similarly, with the statutes, agenda, and membership, the power accorded to the diocesan bishop is remarkable. As an example of

⁸⁵J.H.PROVOST, “Presbyteral Councils and Colleges of Consultors: Current Law and Some Diocesan Statutes,” in *CLSA Proceedings*, 49 (1987), pp.194-211.

the implementation of the principle of subsidiarity, understood as the decentralisation of decision-making from Rome to the local churches, the provisions for these consultative bodies make a welcome break with the traditions of the recent past. The danger remains, however, that the implementation will stop there without further recognition by diocesan bishops that priests and people have a right and a duty to make genuine contributions to decisions at the diocesan level.

Thomas Green has written: "The respect for legitimate diversity integral to the principle of subsidiarity is operative not simply in Rome-particular church relationships; it is also a vital legal pastoral imperative throughout the individual particular church."⁸⁶ Green consequently urges canonists to encourage bishops to take advantage of the latitude and flexibility allowed by the law - with appropriate accountability controls.⁸⁷ Since most diocesan decisions are administrative, rather than legislative or judicial, there is a great need for the diocesan bishop to ensure that the competencies of the various bodies are, in accord with the principle of subsidiarity, clearly defined and respected. The existence of any confusion or overlapping as seems to be the case with the presbyteral council and the diocesan pastoral council will prove a counter-witness to that unity towards which the Church directs her mission. These words of Cardinal Bea are an apposite reminder of the principle:

⁸⁶GREEN, "Rights and Duties of Diocesan Bishops," p.28.

⁸⁷In *Ecclesiae imago* six General Principles of Pastoral Rule are given, nn.93-98. The fourth of these is The Principle of Subsidiarity, n.96: "The bishop takes care that he does not ordinarily take upon himself what can well be done by others; rather he carefully respects the legitimate competencies of others and also gives his co-workers the powers they need and favours the just initiatives of individual believers and groups." The other five principles (of the Common Good, of Unity, of Responsible Cooperation, of Coordination, and of Placing the Right People in the Right Places) could well be subsumed under this heading.

"As in any society, so also in the Church it is not the role of authority to substitute itself for individual members in matters which they can accomplish by themselves. It can help them and see to it that the activity of the various members is coordinated and directed to the good of the whole."⁸⁸ Professor Beyer, although he foresees that a multiplication of councils, commissions and committees without proper coordination could lead to the detriment rather than the improvement of pastoral action, nonetheless admits that the difficulties are not insurmountable.⁸⁹ The implementation of the principle of subsidiarity could facilitate the articulation of norms for each of these bodies.

At the heart of the Church lies a tension between primacy and collegiality, hierarchy and communion. Subsidiarity appears as collegiality or communion in practice. Its implementation indicates that authority is fulfilling its true role in service to those subject to it, liberating them to assume responsibility for their decisions and their lives. Authority as service proved a key conciliar theme and remains therefore basic to the understanding of the exercise of authority in the Code.⁹⁰ In the local church the diocesan bishop is responsible for creating a climate in which all the people feel free to speak openly, confident that they will be taken seriously when they present their concerns to their pastors.

The phrase "only consultative" occurs in canons 466, 500 and 514 on the authority of each of the institutes studied here. Archbishop Weakland admits that this phrase gives the

⁸⁸Cardinal A.BEA, *Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II*, Vatican City, Typis polyglottis Vaticanis, 2/4. 1978-1980, pp.482-483, quoted in KOMONCHAK, "Subsidiarity in the Church," p.312.

⁸⁹BEYER, "De consilio pastoralis adnotationes," pp.45-46.

⁹⁰Cf. GREEN, "Rights and Duties of Diocesan Bishops," p.28.

impression that consultation is nothing so the theology behind it requires exploration and explication.⁹¹ According to Sidney Marceaux the problem lies in the mystery of the Church's constitution in that the Church is neither a democracy nor a monarchy. In the context of either of these two forms of government "only consultative" could well be meaningless and suggestive of no authority: "In the ecclesial setting, which espouses such values as shared responsibility and hierarchical communion, consultation is not trivialised but assumes a value all its own."⁹² Moreover, the phrase must be interpreted in the light of canon 127, §2, 2°, which reveals the mind of the legislator on this issue. Green also points

⁹¹WEAKLAND, "Local Implementation," p.18.

⁹²S.J.MARCEAUX, "Presbyteral Councils," in *CLSA Proceedings*, 44 (1982), pp.204-205. Cf. L.ÖRSY, *The Church: Learning and Teaching: Magisterium, Assent, Dissent, Academic Freedom*, Wilmington, Delaware, Michael Glazier, 1987, where the author writes, p.42: "A well informed laity can direct the attention of the episcopate to current problems, they can help the bishops to formulate the questions correctly before an answer is attempted; more importantly, when the official response is given, they can evaluate it." The significance and importance of baptism is a major theme in Örsy's commentaries on the Code. See also "Structures for the Vision," in *America*, October 7, 1995, where he is quoted, p.12: "Remember, the people of God is one. We are all Christians before we can speak of any division or distinction among us ... Because the laity belongs to the 'chosen people, the royal priesthood, a nation set apart' (1 Pt.2:9), they are the Church, and therefore they also have a sacred mission within the Church. For the time being we have no channels, no institution, to take advantage of their gifts within the Church. The most they can do is give advice, or 'cooperate,' as canon law now puts it, but it is always up to the cleric to decide whether or not he will heed that advice or even accept their cooperation ... They can say something, they even have a right to, but there is no way of making sure that they will be listened to ... The practice ... is not to admit the laity into any kind of decision-making processes, and consequently not to use the *sacra potestas* that is given to the people of God at large by the Holy Spirit and that every single Christian shares." Örsy argues cogently in favour of a return to "synodality" as a means of channelling the immensely rich gifts that the Spirit gives to all the people of God. Cf. G.B.WILSON, "'The Church isn't a Democracy' - Meaning?" in *America*, September 22, 1990, pp.157-159, at p.159: "If it remains true that there are certain senses in which 'the Church is not a democracy' can be true it is also true that the Church is ever called to become more democratic." The author gives as an example the long tradition which recognises the *sensus fidelium* as a significant "font" for discovering the belief of the Church and concludes that the Church is therefore committed to implement processes which will facilitate listening to the faithful.

out the tendency to focus on the decision alone, whereas there is a much broader procedural context:

creative idea-production
factual data-gathering
making a decision
implementation of the decision
evaluation of the decision.⁹³

To the extent that all the members of the local church are involved in this whole process as bishop, priest or lay person, exercising their share in the *tria munera* in accordance with the principle of subsidiarity, to that extent the local church becomes a *communio*.

3. 5 - Institutes of Consecrated Life: Religious Institutes, cc.573-709

The sub-commission for the section of the Code which deals with religious institutes, finding the ten basic principles of revision insufficiently precise to guide their work, adopted a further five, including the principle of subsidiarity.⁹⁴ As a result: "The new Code

⁹³GREEN, "Rights and Duties of Diocesan Bishops," p.22. Cf. R.KENNEDY, "Shared Responsibility in Ecclesial Decision-making," in *Studia canonica*, 14 (1980), pp.5-23.

⁹⁴For a guide to the Code Commission's discussions on cc.573-746 published in *Communicationes*, see J.FOX, "A General Synthesis of the Work of the Pontifical Commission for the Revision of the Code of Canon Law," in *The Jurist*, 48 (1988), pp.800-840. The references are too numerous to be given here and continue in *Comm.*, 25 (1993), pp.230-326; 26 (1994), pp.32-74, 171-233; 27 (1995), pp.32-174, 213-329; 28 (1996), pp.33-165. The principles are explained in *Comm.*, 9 (1977), pp.52-61, where the benefits of a generous and prudent application of the principle of subsidiarity are highlighted as flexibility and diversity, p.57: "Flexibilitas huius propositae legislationis clare elucescit ex ampla applicatione secundi principii directivi [on preserving the spirit and charism of the founder] quae necessario secum trahit amplam simulque prudentem applicationem principium subsidiarietatis ... Confert etiam flexibilitati huius legislationis notabilis reductio casuum in quibus necessarium erit recurrere ad auctoritatem hierarchicam externam ad actum aliquem ponendum ... Ut dictum est supra, propter maximam varietatem Institutorum vitae consecratae et consequenter propter diversitatem exigentiarum horum Institutorum in canonibus huius Schematis non multa statui possunt quoad repraesentationem et cooperationem omnium sodalium in regimine exercendo et in decisionibus ferendis. Hoc tamen non obstante, quaedam media proponuntur quibus Schema in tuto ponere intendit illam participationem in regimine et in decisionibus ferendis de qua Patres Concilii locuti sunt (cf. *PC*, nn.3, 14)." Participatory decision-making follows logically from the implementation of the principle and is seen to be entirely in the spirit of Vatican II. For further

requires proper law specification in seventy-four of the one hundred and fifty three canons that apply to religious institutes. In other words, in nearly half of the canons concerning religious, the institute itself must or may determine specific elements of the life of its members, both individually and collectively.⁹⁵ The Commission, faced with the multiple forms of religious life, recognised that the principle of subsidiarity would be an essential instrument for their work.⁹⁶ The consequent provision for the proper law of each institute to make so many determinations represents the most striking implementation of subsidiarity in the whole of Book II. In large measure, this provision indicates the Church's concern to preserve the uniqueness of the charism of each religious institute, but equally the Church,

comment on these principles, see K.D.O'ROURKE, "The New Law for Religious: Principles, Content, Evaluation," in *Review for Religious*, 34 (1975), pp.23-49, at pp.24-26, where the author lists them as the principles of spirituality, individuality, subsidiarity, shared responsibility, and equality. He explains, pp.26-27, that these principles enshrine respect for the activity of the Holy Spirit, for suitable autonomy, for the theological element, for maturity, and for the rights of the Church. Cf. F.G.MORRISEY, "Introduction," in *A Handbook on Canons 573-746*, rev.ed., J.HITE, S.HOLLAND, D.WARD (eds.), Collegeville, Minnesota, The Liturgical Press, 1990, pp.13-30, at pp.17-19.

⁹⁵E.McDONOUGH, "Canonical Considerations of Autonomy, and Hierarchical Structure," in *Review for Religious*, 45 (1986), p.671. For a comprehensive commentary on this section of the Code, see E.GAMBARI, *Religious Life according to Vatican II and the New Code of Canon Law*, translated by the Daughters of Saint Paul, Boston, Saint Paul Editions, 1986. See also A.URRU, "Principio di sussidiarietà e diritto dei religiosi nel nuovo Codice di diritto canonico," in *Vita consacrata*, 19 (1983), pp.501-511, where the author lists the 14 documents issued by the Apostolic See from *Cum admotae*, 31 May 1966, in *AAS*, 59 (1967), pp.362-364 to *Mutuae relationes*, 14 May 1978, which gradually relaxed the centralised control over religious life until *CIC/83* came into effect.

⁹⁶A reading of the volumes of *Communicationes* so far published reveals that there are 31 references to the principle of subsidiarity, not all of them in the course of discussion on the canons. Of the 18 references that are related to the formulation of the law, 10 occur in the discussions on religious law: cf. *Comm.*, 2 (1970), pp.168-181; 6 (1974), p.49; 10 (1978), pp.162-163, 171-172; 25 (1993), pp.286, 312; 26 (1994), p.44; 27 (1995), p.237; 28 (1996), pp.109-110, 113. None of the other revision principles receives so much attention. The context of each mention indicates a desire for decentralisation, for autonomy, for respect for the charism, and for participatory decision-making. See also T.J.GREEN, "Subsidiarity during the Code Revision Process: Some Initial Reflections," in *The Jurist*, 48 (1988), pp.771-779.

guided by the Council's vision of the human person and his or her dignity, recognised the need to adapt the existing structures of religious life to contemporary cultures which emphasise coresponsibility, collegiality, collaboration and participation.⁹⁷

The introductory canons of this section repeatedly stress that this form of life is a gift to the Church, freely received by some of the members. The gift is given, however, in the form of a call to a specific religious institute - a point made in various ways in canons 573-578. These canons, among the most inspirational in the whole Code, seem to revel in this diversity and emphasise that the responsibility of protecting the uniqueness of each gift belongs not just to the members of the institute, but to all - hence the freedom granted by the universal law.⁹⁸

⁹⁷See GAMBARI, *Religious Life*, pp.483-513. The author explains the principle of subsidiarity clearly and concisely, with particular reference to its application in religious law on pp.488-491.

⁹⁸This freedom was not granted without some qualms on the part of the Code Commission. See, for example, the discussion recorded in *Comm.*, 10 (1978), pp.162-163, pp.171-172, where recognition of the charism struggles with the desire for control: "Chiede inoltre se, al di fuori del Codice, esisteranno o meno altre norme di rango inferiore: perché i Capitoli Generali debbono sapere con precisione quali sono i limiti entro i quali possono prendere decisioni ... L'Ecc.mo Segretario suggerisce che il criterio potrebbe essere quello di seguire una via di mezzo: non stabilire cioè una legislazione comune troppo stretta, che potrebbe soffocare i carismi dei singoli Istituti e, contemporaneamente, evitare un diritto generale insufficiente. Su questo criterio tutti si dicono d'accordo." Somehow the tone of the request that General Superiors should know the exact limits of their powers suggests a fear lest they presume too much rather than a care that competencies should be clearly defined. However, in the records of a later meeting, *Comm.*, 28 (1996), pp.109-110, we read: "*Ceterum, Instituta perfectionis omnia ... ius habent ad vitam suam normaliter et pacifice agendam. Auctoritas altior illa quae intra Institutum habetur abstinere debet a qualibet actione quae vitam internam Instituti tangit, nisi sit necessarium vel admodum utile pro ipso Instituto aut pro Ecclesia. Hoc postulat principium subsidiarietatis cuius applicatio non modo admissa est sed et commendata et etiam imposita. Dicitur enim in principio 5 ... «Propugnat [principium subsidiarietatis] vero convenientiam vel necessitatem providendi utilitati praesertim institutionum singularium tum per iura particularia ab iisdem condita tum per sanam autonomiam regiminis potestatis executivae illis recognitam» (Comm., I [1969], p.81). Quapropter unus canon in hunc titulum introductus est quo ista autonomia Institutorum sancitur et in tuto ponitur.*" The canon referred to is canon 586.

Canon 587, §1 directs each institute “to protect more faithfully [its] particular vocation and identity” by drawing up its own “fundamental code.” The Church fulfils its role by providing in the Code norms to be common to all institutes of consecrated life regulating the erection and suppression of institutes, their relationship to ecclesiastical authority and the evangelical counsels - a mere thirty canons (cc.573-602). More detailed legislation follows for religious institutes covering the erection and suppression of houses, governance, temporal goods, the admission and formation of members, religious profession, obligations and rights, apostolate, and separation. These canons (cc.607-704) offer to religious institutes a base on which to establish their own constitutions.

Canon 670 lays on each religious institute the obligation to “supply the members with everything that, in accordance with the constitutions, is necessary to fulfil the purpose of their vocation.” The minimum regarded as necessary would be:

- sound, complete, approved proper law,
- structural provision for general chapters, superiors and councils,
- systematic formation,
- stable community life,
- suitable options for apostolic action or internal work in accord with the institute’s mission, and
- appropriate material goods and opportunities for ongoing formation, work and renewal.⁹⁹

The first of these essentials correlates again with the Church’s obligation to approve the proper law. This offers another example of the Church’s providing *subsidium*, just as the bishop exercises vigilance. The Latin verb used for the Church’s protection of this gift

⁹⁹McDONOUGH, “Canonical Considerations,” p.678. Cf. D.F.O’CONNOR, *Witness and Service: Questions about Religious Life Today*, New York, Paulist Press, 1990, pp.48-59. This author adds to the obligations listed above two others based on the virtue of charity, namely providing aid to the parents of members and providing for departing members.

is *tuere*, to watch over, gaze upon, defend, support (c.586).¹⁰⁰ Other verbs which express this relationship are *fovere*, to keep warm, cherish, assist (c.574), *promovere*, to move forward, advance (c.574), *curare*, to be solicitous for (c.576), and *servare*, to keep unharmed, preserve (cc.578 and 586). The nuances of this vocabulary reveal the principle of subsidiarity very clearly.

The approval of constitutions, however, does not occur frequently in the life of a religious institute. In day to day affairs the relationship of religious to the diocesan bishop is, to quote Elizabeth McDonough again, a much more likely "flashpoint." She writes: "Opposition and conflict, indeed utter conflagrations at times have been regrettable and are

¹⁰⁰For an explanatory note on this canon, see *Comm.*, 28 (1996) pp.113-114: "Canon iste magni momenti est pro Institutis perfectionis cuiusvis generis et potissimum pro iis quae exemptionem adeptae non sunt. Sicut quaelibet associatio inter homines, ita etiam, et forsitan magis propter totalem dedicationem sodalium servitio Dei et Ecclesiae, Instituta perfectionis indigent illa interna libertate vel autonomia qua vitam et activitatem suam ordinare possunt sicut postulatur a propria peculiari indole, a proprio fine, a propriis consuetudinibus et traditionibus atque a peculiaribus adiunctis in quibus sodales vitam agere et operari debent. Etiam in hac parte, ex applicatione principii subsidiarietatis, fluit quod Institutum liberum debet relinqui ut suam vocationem adimpleat modo suo. Auctoritas altior non solum non debet, per indebitas ingerentias illud impedire vel evolutionem et actionem suam retardare, sed illud adiuvere ut melius et celerius ad perfectionem pertingat et missionem suam in Ecclesia compleat." The whole Church will be impoverished if the gifts unique to each institute are not allowed to flourish. Cf. T.MOORE, *Care of the Soul*, New York, Harper Collins Publishers, 1992, p.126: "In general, we keep our power when we protect the power of others." Power here is understood as autonomy and maturity. The rewriting of religious constitutions and the struggle to have them approved by the variously named Congregation for Religious dominated religious life in the 1970's and 80's. For a brief discussion of the problems involved, see O'CONNOR, *Witness and Service*, pp.31-47. Cf. also I.MACPHERSON, *The Exercise of Authority in Apostolic Religious Institutes of Women according to the 1983 Revised Code of Canon Law*, Doct. diss., Ottawa, Saint Paul University, 1984. The author considers, pp.110-250, the principles and exercise of authority from both external and internal "superiors," and concludes, p.257: "The exercise of authority is a service rendered by external and internal superiors 'to facilitate an orderly development in the life both of the ecclesial society and of the individual persons who belong to it'." The quotation is from JOHN PAUL II, Apostolic Constitution, *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75, special ed. (1983), pp.vii-xiv, English translation in *Letter and Spirit*, p.xiv.

certainly not to be excused, but in the interaction of religious charism and ecclesial institution they will always be potentially present.”¹⁰¹

Mutuae relationes offers guidelines for this at times delicate relationship and so provides a background for the interpretation of canon 586.¹⁰² If the diocesan bishop has a much closer connection with institutes of diocesan right (c.594), still the institute retains its autonomy.

The major superiors of clerical religious institutes enjoy greater autonomy, as do exempt institutes where these continue to exist. Most commonly, the definitions of competency are required for the relations between diocesan bishops and lay institutes of pontifical right. Canon 678 is the relevant law here:

§1 In matters concerning the care of souls, the public exercise of divine worship, and other works of the apostolate, religious are subject to the authority of the Bishops, whom they are bound to treat with sincere submission and reverence.

§2 In the exercise of an external apostolate towards persons outside the institute, religious are also subject to their own Superiors and must remain faithful to the discipline of the institute. If the need arises, Bishops themselves are not to fail to insist on this regulation.

¹⁰¹McDONOUGH, “Canonical Considerations,” p.684.

¹⁰²CONGREGATIONS FOR RELIGIOUS AND BISHOPS, Directives, *Mutuae relationes*, in *CLD*, vol.9, pp.296-339. The potential for misunderstandings still persists. Cf. R.McDERMOTT, “The Fruits of Consultation: The 1994 Synod’s *Instrumentum laboris*,” in *Review for Religious*, 54 (1995), pp.180-191, where the author shows how the worldwide consultation on the *Lineamenta* for this synod brought about significant changes in the *Instrumentum laboris*. For example, p.185: “The *Lineamenta* (§§34-41)... presented the relations of institutes and members of consecrated life with the hierarchy from a rather rigid authoritarian perspective. It seemed to overlook what had been requested of the bishops and members of consecrated life in *Mutuae relationes*. Words and phrases such as ‘submission,’ ‘subjection,’ and ‘total and ready acceptance of directives’ lacked the collaborative and cooperative qualities encouraged between bishops and religious in the document on mutual relations (§36).”

§3 In directing the apostolic works of religious, diocesan Bishops must proceed by way of mutual consultation.

One commentator, Enid Williamson, explains that the consultation mentioned in the last section of this canon “will include discussions between individual Bishops and religious Superiors, as well as contacts between Bishops’ Conferences and Conferences of Major Superiors.”¹⁰³

In an atmosphere of mutual trust, where communication is good and all the participants imbued with the evangelical desire to promote God’s kingdom and not their own, the various clauses of this canon cause no friction. To the extent that clashes of competencies arise, to that extent within the diocese and/or within the religious institute the principle of subsidiarity has not been implemented. In handing over the governance of the diocese to the diocesan bishop as the Vicar of Christ, and to religious their rightful autonomy, the Code implicitly requires that all structure their relationships in those areas in which interests, obligations, rights and duties coincide as members of a *communio*, that is, according to the principle of subsidiarity. It is an area in which canonists can profitably offer advice and interpretation, if the various parties are agreed that subsidiarity is the principle by which they should function together. As Francis Morrissey has written: “What is important is the mentality in which such norms are prepared, promulgated and implemented. Mentalities vary. We are still in a period of shifting values in the Church, as we continue to move from a Church centred on hierarchy to one founded on communion, from a Church of uniformity

¹⁰³*Letter and Spirit*, para.1363. Cf. *CLSA Commentary*, p.509, where the parties to the discussions are not so precisely named. The commentator in *CCLA*, pp.461-462, refers readers also to *Ecclesiae sanctae* I, nn.22-40, and to *CD*, n.35.

to a Church of unity in pluralism, from a Church identified with structures to a Church centred on the human person and his or her dignity as an adopted child of God.”¹⁰⁴

Commentators recognise the potential for conflict in this area.¹⁰⁵ What remains therefore remarkable is the restraint of the Code in not attempting to legislate for every possible eventuality. The challenge now rests with the diocesan bishops and the competent authorities of the various institutes (cf. cc.680-682).

The 1917 Code reserved to the Apostolic See a whole series of processes now left to particular law. Religious institutes can now control exclaustation, election procedures, organisational structures, enclosure, terms of office, visitation, and the use and administration of goods. Joan Chittister, a writer who is certainly not enthusiastic about the 1983 Code, comments: “In other words, subsidiarity is a very real dimension of a law framed in the spirit of Vatican II.”¹⁰⁶

She continues by remarking that the right to suppress or divide sections or units gives the institute flexibility and permits long range planning and so a sense of control over its future, and it is her opinion that this local control could provide the key to the revitalisation of religious life. Her next comment brings out the link between subsidiarity and *communio*: “The fact that leaves of absence, exclaustations, transfers and even dispensations to a certain

¹⁰⁴F.G.MORRISEY, “Particular Law,” in *CLSA Proceedings*, 49 (1981), p.8.

¹⁰⁵See, for example, R.A.HILL, “The Apostolate of Institutes, Canons 673-683,” in *A Handbook on Canons 573-746*, pp.205-209; J.F.HITE, “The Obligations and Rights of Institutes and Their Members,” in *CLSA Commentary*, pp.508-509; M.E.SHEERAN, “Institutional Relationships: Religious Life in the Church,” in *The Way Supplement*, 65 (Summer 1989), pp.79-81.

¹⁰⁶J.CHITTISTER, “The New Code and the Development of Religious Life,” in *The Way Supplement*, 50 (Summer 1984), p.117.

degree are also now given to the local level to grant gives a clearer picture of the relationships involved ... The new Code reflects the realisation that bonds forged in the community ought to be dissolved there, so that everyone concerned realises that the rupture is personal rather than simply legal. In this capacity then, the new law is indeed a truer and clearer image of the theology of community itself."¹⁰⁷

The Code's norms on government (cc.617-633) offer perhaps the most striking example of the importance attached to subsidiarity. The very first of these canons, canon 617, hands over to the institute itself the responsibility for defining the role of the superiors "in accordance with the norms of the universal law and of their own law." Canons 618 and 619, blending spiritual and juridic language, communicate the themes of individual human dignity, of participation, consultation, and mutual support. All three elements of the principle are present in these canons:

superiors are to govern those subject to them as children of God (c.618)
without prejudice to the superiors' authority to decide and to command what is to be
done (c.618) and
superiors are to give the members opportune assistance in their personal needs
(c.619).

The work of building community appears as a joint enterprise and the balance of authority and individual liberty is expressed as coresponsibility for the life of the institute and for its mission.

¹⁰⁷Ibid., p.118. See also G.LESAGE, *The Principle of Subsidiarity: A New Way of Governing: A Psycho-canonical Study*, Ottawa, Canadian Religious Conference, 1974, p.11: "Since personal development and blossoming forth is to be pursued in the ecclesial state of consecration, by means of the community, each one must contribute to it a worthwhile share. This effective concern for the common good that is known as participation, results from both personalisation or the answering for oneself with an enlightened, upright conscience; and from socialisation or steadfast commitment to mutual fraternal aid."

The structuring, and even the naming, of authority within each institute is left to proper law; the Code confines itself to defining the roles and terms of major superiors (c.620), provinces (c.621), Supreme Moderators, and other superiors (c.622). It guards against abuses by requiring definite terms of office, but it also leaves each institute free to determine both these and election procedures for offices and chapters. The canons require that the proper law provide for a council (c.627, §1) and determine cases when consent or counsel are necessary (c.627, §2). Communication and availability act as priorities for the relationship between superiors and members (cc.628-629) as is also respect for persons (c.630).

The legislation on chapters elaborates these priorities further. The Code prescribes that the chapter: "is to be composed in such a way that, representing the whole institute, it becomes a true sign of its unity in charity" (c.631).¹⁰⁸ The following canons (cc.632 and 633) presume that "other chapters and other similar assemblies of the institute," other "participatory and consultative bodies" are in place.¹⁰⁹ The Code expects that the proper law will provide the means for ensuring that the principle of subsidiarity is implemented.

Nonetheless, this section of the Code provokes criticism. Chittister, for example, writes that the hierarchical theology of the 1917 Code remains basic, although she agrees that

¹⁰⁸The conciliar source for these canons is *PC*, n.14, further elaborated in *Ecclesiae sanctae* II, n.18. For the Code Commission's discussion, see *Comm.*, 26 (1994), pp.43-44.

¹⁰⁹J.F.HITE, "Religious Institutes," in *CLSA Commentary*, pp.483-484, sees provision in these canons on chapters for the principles of participation, representation, and subsidiarity. He explains the cautionary note in c.633, §2 as "urged because institutes have had varying degrees of success in employing different means of participation and consultation." The commentator in *CCLA*, writes on p.439: "It was advisable to maximise the principle of subsidiarity in view of the fact that although there are many forms of participation, not all are equally suitable to all the institutes."

the assumption that consultative and participatory bodies exist shows an advance. She adds: "But a *wise discernment* is to be observed in their establishment and use (c.633, §2). The feeling is that such groups are normative, but suspect, rather than necessary, or even of the essence of Christian leadership. The strong call for participation and personal responsibility that might be expected both from the *Acts of Apostles* as well as Vatican II and contemporary culture is absent from any discussion of authority in this Code."¹¹⁰

This is a rather selective reading of the canons since many of those in the section on religious institutes presume personal responsibility in the choice to respond to the call of Christ. Moreover, the term "Christian leadership" needs definition in the context of the service of authority and the vow of obedience. One former Supreme Moderator who served on the Code Commission, Mary Linscott, has written: "Leadership is a charism, a spiritual reality given freely by God to individuals for some special purpose in a community; authority

¹¹⁰CHITTISTER, "The New Code and the Development of Religious Life," p.118. Enid Williamson, the commentator in *Letter and Spirit*, also detects, approvingly, para.1257, "an implied warning that such groups should not be established rashly, lest a multiplicity of them might simply produce a stultifying effect on good and clear government. When bodies of this kind are established, their terms of reference should be laid down accurately in writing, and it should always be made clear that they do not enjoy any decision making status. At all times they are to operate in accordance with 'the character and purpose of the institute' and for 'the good of the whole institute or community'." "Good and clear government" that fails to take account of the creativity of the "governed" also has a stultifying effect - on the members and on the Spirit.

in religious institutes is a canonico-juridical as well as a spiritual reality."¹¹¹ Leaders in religious communities do not all hold recognised positions or offices.

Conclusion

These pages have done little more than outline significant areas in which subsidiarity is implemented in the one hundred and thirty one canons affecting religious institutes: the insistence on the importance of proper law, *ius proprium*, the Church's obligation to protect the charism, the procedures removed from Rome's control and handed back to the institutes and the assumption that within religious institutes participatory structures provide for subsidiarity at every level - all exemplify the application of the principle.

So obvious then is the principle of subsidiarity in the section of the Code dealing with religious institutes that this section acts as a foil to the other sections studied where structures in the diocese depend entirely on the diocesan bishop.¹¹² Religious institutes are in a

¹¹¹M.LINSCOTT, "Leadership, Authority and Religious Government," in *Review for Religious*, 52 (1993), p.167. The distinction between "leaders" and "superiors" is much discussed in modern writing on religious life. Cf., for example, J.TETLOW, "From Useful Instruments to Willing Agents: Transforming Leadership in the New Millenium," in *Review for Religious*, 54 (1995), pp.851-867; B.M.EICHTEN, "Religious Life Governance: Personal and Organisational Experiences of Power," in *ibid.*, pp.868-880. For the same theories applied this time to the Church, see R.McCORMICK, "Authority and Leadership: The Moral Challenge," in *America*, July 20, 1996, pp.12-17.

¹¹²See MORRISEY, "Introduction," p.25: "When the remarks on the 1977 draft canons on consecrated life were examined by Paul VI he is alleged to have exclaimed: 'This draft is fascinating; it was not understood; perhaps it was ahead of its time'." The quotation is from J.BEYER, "Le deuxième projet de droit pour la vie consacrée," in *Studia canonica*, 15 (1981), p.127. Morrisey continues: "The 1977 draft indeed appeared to be quite radical, even though it simply applied the vision of the Council. It seems that many people were afraid that too much was left to each institute and that the principle of subsidiarity was applied too readily. Once the principle was applied extensively in consecrated life, they thought, there would be little reason why subsidiarity could not also be applied in the particular churches, and even in the parishes." The revised 1980 draft, which was largely the version promulgated, was, he explains, "a work of compromise." However, the reliance on the proper law of each institute was not sacrificed, but the general or common law was given priority. Cf. GREEN, "Subsidiarity during the Code Revision," p.784.

privileged position in the following respects: members have the benefit of a formation that leads them to expect to share in the government and direction of their lives in the Church, and for the most part they are organised into units where sharing in decision-making proves a real possibility.¹¹³ Furthermore, accountability, a necessary consequence of the implementation of the principle of subsidiarity, appears clearly in the exercise of authority in religious institutes. First, the Supreme Moderator of each institute must provide regular reports not only for the Apostolic See (c.592, §1), but also, in many cases, in accordance with the proper law, for the institute's own members. These evaluations are often compiled from data submitted by the lower levels. Secondly, and perhaps most importantly, the universal law (c.624) requires that no one person remains too long in a position of authority. Fixed terms of office act as safeguards against authoritarianism.

Formation is clearly an area which dioceses need to take seriously before bishop, clergy, and laity can act on the challenges and opportunities offered by the Code and work together towards the decisions that will shape the local church as it responds to diverse needs.

¹¹³ According to two writers the reason given for the more liberal application of the principle of subsidiarity in this section of the Code is "Because people in institutes of perfection have answered God's call to vocation and should have greater maturity and responsibility." See O'ROURKE, "The New Law for Religious," p.25; M.SAID, "Particular Law of Institutes in the Renewal of Consecrated Life," in *Review for Religious*, 36 (1977), pp.924-947, at p.936. Even twenty years ago, when these articles were written, the implications of such a comment would have been obvious. O'Rourke's article prompted a heated debate between J.Murphy-O'Connor and his fellow Dominican, M.Said, who was the *relator* for the sub-commission on religious life. Their articles are available as follows: J.MURPHY-O'CONNOR, "The New Law versus the Gospel," in *Review for Religious*, 34 (1975), pp.873-887; M.SAID, "The New Law versus the Gospel: Some Considerations," in *ibid.*, pp.888-900. All three articles were reprinted in *Supplement to Doctrine and Life*, vol.14, no.63 (1976), pp.3-37, pp.38-57, and 58-68, with a further riposte from MURPHY-O'CONNOR, "Reflections on Father Said's Response," pp.69-77. The main criticism Murphy-O'Connor levelled against the draft canons is that they do not reflect an evangelical community that has as its *raison d'être* being rather than doing. This summary obviously oversimplifies the disputation.

The *communio* ecclesiology of Vatican II has to be internalised by the members of the Church so that all can reach their full potential. The local church and the Church universal will be best served by mature Christians who take seriously their baptismal consecration - and that of others.¹¹⁴ Reception of the Code means implementing the principle of subsidiarity as fundamental to the ways in which members of the Church relate to one another. The Synod of 1967 authorised subsidiarity as a principle for the revision of the Code. The canons in Book II of the revised Code are indeed based on it, to varying degrees, and it is up to canonists to reveal the underlying principle so that the structures of the diocese and of the religious community can best serve to promote that maturity which the principle upholds. As we read in the *Letter to the Ephesians*: "Speaking the truth in love we must grow up in every way into him who is the head, into Christ from whom the whole body, joined and knit together by every ligament with which it is equipped, as each part is working properly, promotes the body's growth in building itself up in love" (*Eph.* 4:15-16).

¹¹⁴Reporting on the 1994 Synod of Bishops, P.HEBBLETHWAITE, "Conservative Agenda Shelved as Synod Closes," in *The Tablet*, 5 November 1994, pp.1419-1420, quoted Cardinal V. Fagiolo as saying that subsidiarity should not be confused with "the spirit and practice of civil democracy." Meanwhile, after conducting interviews with some of the female religious allowed to be observers and non-voting participants of the Synod, M.HEBBLETHWAITE, "Hear it from the Women," in *The Tablet*, 29 October 1994, pp.1393-1395, concluded: "While women have been excluded from positions of leadership in the hierarchical structures, they have found room for their gifts in the religious congregations, and this has come about through just the means that some synod bishops have treated as problematic during this last month - through the 'democratic mentality,' - through a system of organisation parallel to that of the local Church, and through a theological formation that is an alternative to the diocesan seminaries."

CHAPTER FOUR

POSSIBLE APPLICATIONS OF THE PRINCIPLE OF SUBSIDIARITY

Introduction

It seems clear from the preceding analysis that, in response to the synodal mandate to incorporate the principle of subsidiarity into the new ecclesiastical legislation, the revised Code has indeed offered to all the *Christifideles*, clerics and lay people, at least a limited opportunity to share in the governance of their local churches. There are of course, several areas where further implementation of the principle is possible and would be desirable. The revision process and its results have certainly confirmed that the principle of subsidiarity has been most readily appropriated by institutes of consecrated life, where systems of formation and accountability, already in place, facilitate the practice of participative governance. For there to be a wider application of the principle in the local churches, at the national, regional and diocesan levels, similar provisions are required. Such structures, in so far as they support initiative, encourage shared responsibility, promote collaboration, and invite creative thinking, incarnate the *communio* ecclesiology endorsed by the Second Vatican Council.

4. 1 - Responses to Objections Raised Against the Principle

Before outlining some examples of the possible application of the principle of subsidiarity, other than those already indicated in the areas of the Code studied in the last chapter, it remains to examine the most frequent objections to the implementation of the principle in the Church. These objections appear to rest on certain apprehensions, valid or not, about the likely effects its application might occasion. In general, it can be said that

those who argue against subsidiarity give to it a power much greater than it, in fact, enjoys as an organising principle for human societies.

The objections are basically four:

that subsidiarity is a principle of social philosophy and as such has no relevance for the Church, which is a society *sui generis*;

that the application of subsidiarity to the Church will inhibit the right of all to appeal directly to the pope;

that the implementation of the principle in the Church will weaken the power of the papacy and lead to the formation of national churches;

that because the principle is based on the premise that power comes from below, from the people, it disregards the immanence of the universal Church in the particular church.

That the principle has been one of those regarded as fundamental to the law of the Church in the thirteen years since the promulgation of the Code, quite apart from the centuries old tradition of subsidiarity in the Oriental Churches, without dire consequences for its unity, holiness, catholicity and apostolicity, should assuage some of the anxieties of those who posit these objections. The problem, however, seems to be basically a problem of the perception: the principle appears as somehow in itself effective, requiring nothing less than full acceptance and total adherence, even to the point of dismantling the divinely given hierarchical structure of the Church. To say that this is not the case, need not be so, and that its application in the Church can be analogous, clearly does not suffice as a response to the objections given above. Each will be handled separately, but fairly briefly since acceptance of the balance of arguments for and against the principle proves its strongest defence.

a) As a principle of social philosophy the principle of subsidiarity has no relevance for the Church which is a society *sui generis*¹

This objection elicits three responses. First, over the centuries the Church has proved itself remarkably permeable to a number of organising principles, most obviously the monarchical, perhaps, because to some extent it still endures.² The Roman Empire

¹This objection seems to have been voiced first by Cardinal J. Hamer. (For a brief refutation of his arguments, see chapter 2, pp.125-127). See J. HAMER, "Discours à la réunion plénière des cardinaux," in *Synode extraordinaire*, pp.598-604, at p.603: "Je ne vois pas pourquoi l'on devrait, pour cela [the sphere of competence proper to the particular church should be respected], faire appel à un principe de philosophie sociale. La doctrine sur l'Église, celle qui, précisément, a été enseignée par le Concile Vatican II, peut suffire. C'est généralement dans le cadre de la communauté politique que ce principe est appliqué." The Cardinal then quotes, in full, the *locus classicus* from *Quadragesimo anno*. At the conclusion of his address, he states: "Le recours, en ecclésiologie, au principe de subsidiarité, présente des inconvénients: pour beaucoup, il garde ses connotations socio-politiques." Since these connotations are wholly positive, it is difficult to understand his reaction. The Cardinal's opinion (it is hardly an argument since he merely repeats the well-known fact of the principle's origins in the social teaching of the popes) was communicated to a much wider audience by a canon lawyer, see BEYER, "Principe de subsidiarité ou «juste autonomie» dans l'Église," at pp.801-802, and again in "Le principe de subsidiarité: son application dans l'Église," at pp.438, 453-458. In this latter article, Beyer does argue the point at length, concluding that the conciliar documents, especially *Lumen gentium* and *Christus Dominus*, offer more theological bases for decentralisation. This is not the issue. The Council's formulation of these documents undoubtedly owed much to the pressure from the bishops for the implementation of the principle of subsidiarity. The dynamic of the interaction between the political philosophy (based on biblical values) and the theological formulation demonstrates the usefulness of the principle. For a contrary view, doubtless influenced by the address given the previous year by Hamer, see JOHN PAUL II, Allocution to the Roman Curia, 28 June 1986, in *AAS*, 79 (1987), pp.189-200, at p.198-199. This text is in Italian. For a French translation, see *La documentation catholique*, 10-24 août 1986, no.1923, pp.765-769, at p.769. For the English text, see *Origins*, vol.16, no.10, August 19, 1986, pp.191-195, at p.195. The Pope says here: "The Council and then the Code while avoiding use of the term *subsidiarity*, encouraged participation and communion among the Church's bodies. As can be seen, it is not just a question of terminology but also of concepts." He continues by explaining that the 1985 Synod asked for a study of the principle and that the first results would be examined that autumn. He ended his comments on subsidiarity: "The ecclesiology of Vatican II, in its various aspects (*communio*, mystery, collegiality, charisms, collaboration), remains unrelated to the philosophical-political principle of democracy, since 'membership (in the Church) has for its source a particular call, united with the saving action of grace' (*Redemptor hominis*, 21)."

²See, for example, R. McBRIEN, *The Remaking of the Church: An Agenda for Reform*, New York, Harper and Row, 1973, where the author indicates several presumptions operative in the Church based on the supposition that the Church is a monarchical society. Cf. H. KÜNG, "Participation of the Laity in Church Leadership and in Church Elections," in *A Democratic Catholic*

providentially, some would say, offered the Church a ready-made structure on which to model itself, and the means of widespread evangelisation.³ The modern era has provided the bureaucratic model for administration, elements of democracy, which now appear as a return to the roots of the synodal structures of the early Church, and advancements in technology which can be harnessed to spread the Gospel. In all these instances, the structures, the models, the theories and elements of human government serve the mission.

Church: The Reconstruction of Roman Catholicism, E.C.BIANCHI and R.R.RUETHER (eds.), New York, Crossroad, 1992, pp.80-93, at pp.81-82: "Some of those who today reject joint decision making with the laity in the Church earlier rejected on the same basis any serious participation through collaboration and advising in the Church. And some of those who protest today against a democratisation of the Church and against any translation of secular sociological models to the Church not too long ago accepted without reflection the secular sociological model of the monarchy for the Church, and even in practice did nothing against the monarchisation of the Church." Küng concludes from this that it is better in the Church to speak of "democracy" because "Only in this way can we show that joint decision making and regulation on the part of the laity is not only a timely concession to modern democratic developments, but is a move thoroughly rooted in the Church's own origins." It is not without irony that the adoption of the monarchical form of government was only granted to the Israelites, who wanted to be like other nations, after negotiations with God (see 1 Sam.8:4-19), and yet the imagery which it has inspired is among the richest in the Bible as, for instance, the psalms exemplify. No human system or philosophy can thwart God's power for good.

³Hindsight permits us to appreciate the way in which this pagan empire facilitated the spread of Christianity. We should, therefore, be cautious before dismissing the possibilities offered by secular systems. Cf. CASTILLO LARA, who gives a very pessimistic view of the contributions of "secular" philosophies, in "La sussidiarietà nella dottrina della Chiesa," pp.456-457: "Va comunque precisato che l'inconveniente grave non si deve vedere soltanto nella provenienza dalla filosofia sociale. Nella storia della Chiesa ed in particolare nella storia del Diritto Canonico si trovano molti concetti o nozioni presi dal diritto romano o da quello germanico, che poi, ove occorreva, sono stati adattati all'indole particolare dell'ordinamento canonico. Il problema pertanto non è la 'provenienza estranea,' quanto l'eventuale incompatibilità, inadattabilità, o forse, la superfluità." It is one of the great strengths of the Church that it does prove possible for it to adapt itself to time and place, periodically ridding itself of outmoded accretions. See the next footnote for the insights of Paul VI on this matter.

By its adoption and adaptation of the means used in secular administration, the Church always maintains the freedom to promote the kingdom of God.⁴

⁴Cf. PAUL VI, Allocation to the Auditors of the Roman Rota, 28 January 1971, in *AAS*, 63 (1971), pp.135-142, at pp.139-140: "It cannot be denied that the Church, in the course of her history, has taken from other cultures some norms for the exercise of her judicial power - Roman law is a well-known example - but it is not the only one. It is unfortunately true that the Church, in the exercise of her power, whether judicial (procedural) or coercive (penal), has in the course of the centuries borrowed from civil legislations certain serious imperfections, even methods which were unjust in the true and proper sense at least objectively speaking. While there is great cause for rejoicing in the great progress made in that respect regarding sensitivity and methods, it must be recognised that the Church - insofar as Roman law is concerned - did well to accept its inspiration, when that law (*ius*) recommended itself through wisdom, balance, and a just appraisal of human affairs. The Church discovered in the body of ancient positive civil law not only the will of a gifted legislator, but also that right reason conforming to nature (*recta ratio naturae congruens*, CICERO, *De rep.* III, 22), which confers on law the prestige of just and human reasonableness. Nor should it be forgotten that the norms of Roman and civil law have undergone profound modifications in the course of time. This is due not only to the influence of other cultures and legislations, but also - and perhaps above all - to the influence that Christian teaching has had upon them through that most interesting phenomenon known as the *common law* (*diritto comune*). This has influenced subsequent legislation both canonical and civil, right down to the legal codes of modern times. It has likewise had an influence in the formulation of human rights, which are universally proclaimed today. Little wonder then that the codifiers of the first Code of Canon Law were inspired to a certain extent by the wisdom of the ancient and secular law, even in the section dealing with judicial processes." The English translation is from *The Pope Speaks*, 16 (1971-1972), p.76. The attitude to the "world" that pervades these sentiments is much more indicative of an incarnational theological standpoint than the more fearful reaction to "principles of social philosophy." See also A.GAUTHIER, *Roman Law and its Contribution to the Development of Canon Law*, Ottawa, Faculty of Canon Law, Saint Paul University, 1996, where the author writes, p.15: "The influence of Roman law on the Code of Canon Law of 1983 may appear to be less visible than was the case in 1917. Nevertheless, not only does the Code retain a number of Roman' traits of the former Code, it has also used Roman concepts and terminology in a number of important cases ..." [some examples follow] ... "We are confronted with a principle developed by the civilian tradition working with Roman sources. It is remarkable that the legislator in such important issues has made use of Roman concepts (or of concepts developed from Roman sources), not assuredly with the mind of an antiquarian, but simply because the concepts did appear suited for the *aggiornamento* of the Code." When concepts developed from secular sources can serve the Church so well, we can surely expect no less from those developed from papal social teaching. See also G.ALBERIGO, "Ecclesiology and Democracy: Convergences and Divergences," in *Concilium*, (1992/5), pp.14-26, where the author asserts, pp.14-15: "The Church and democracy have a history extending over centuries, even millenia ... The Church has had no difficulty in presenting itself as a monarchy ... has reflected the hierarchical structure of feudal society, and has joined forces with the communes, the upper classes and with absolutism ... In the various historical cycles so far it has been the experience of the Church that it constitutes a 'model' for political societies ... However, the most fruitful elements of this relationship have always been characterised by indirect transpositions and analogies, whether from the Church to society or vice versa."

Secondly, as a principle of social philosophy, the principle of subsidiarity has much to commend it. It is based on respect for the human dignity of each individual, recognises personal responsibility, encourages personal initiative, provides for openness to change, flexibility, and dynamism, and supports the hierarchical *communio* model of the post-Vatican II Church. By requiring accountability, the principle could facilitate the inculturation, or “evangelisation of cultures,” so frequently demanded at synods of bishops. The history of the principle indicates clearly how admirably it serves to promote Gospel values.

Thirdly, what the principle does not require is an implementation which perverts the very nature of the Church. Although the principle has been used above as the active subject of the verbs, the application depends rather on intelligent human subjects seeking to promote not just efficiency, but rather *salus animarum*. As Paul VI cautioned, within the Church, the application of the principle should be such that it does not lead to “a ‘reinvention’ of the Church from within, in its constitution, dogma, customs, and law ... nor to the dissolution of ecclesiastical magisterium; nor should it be regarded as equivocal to pluralism, conceived as free interpretation of doctrines and the undisturbed co-existence of opposing concepts.”⁵ Of itself, the principle could not bring this about. Intelligent and accountable adaptation of the insights given by the application of the principle to human societies will preserve the unity of the Church and lead to the enrichment from which the Church has always benefitted through interaction with secular society.⁶

⁵PAUL VI, Allocution to Cardinals bringing him greetings for his name day, 23 June 1972, in *AAS*, 64 (1972), pp.498-499. See chapter 1, note 178 for the original Italian text.

⁶Cf. O.KARRER, “Le principe de subsidiarité dans l’Église,” in *Église de Vatican II: études autour de la constitution conciliaire sur l’Église*, G.BARAUNA and Y.-M.-J. CONGAR (eds.), Paris, Éditions du Cerf, 1967, pp.575-606. The author’s enthusiasm for the principle leads him to discover

Precisely because the Church is a society *sui generis*, of divine origin, it has the capacity to adopt and adapt the structures, systems, philosophies, techniques and insights of secular societies.⁷ As a principle founded on the unique dignity of each human being, the principle of subsidiarity seems particularly apt for use in the Church. No obligation exists

it in almost all aspects of human life. He makes two points relevant to the objection to subsidiarity as a principle of social philosophy. First, he contends that the origin of the principle was biblical, p.576: "Les chrétiens penseront sans doute spontanément aux fondements bibliques: «Justice et paix s'embrassent» (Ps.84:11), texte que Saint Paul a repris comme signe du «règne de Dieu dans l'Esprit-Saint» (Rm.14: 17), et à la charité, le charisme suprême qui porte la communauté (1 Co.13)." Of the quotation from *Ephesians* with which we concluded the last chapter he says it is "comme une circonscription biblique du principe de subsidiarité." This exegesis leads him to a conclusion almost diametrically opposite to that of Hamer and Beyer when he writes: "On comprend que le principe de subsidiarité ecclésial n'ait pu être transposé à la société civile qu'en faisant les adaptations nécessaires." *Tot homines, quot causae!*

Secondly, he writes, p.578: "En soi, cependant, le principe de subsidiarité n'est qu'un principe abstrait; comme tel, il ne dit encore rien de la manière concrète selon laquelle les rapports mutuels de la personne et de la société sont à établir dans l'ordre naturel et surnaturel. D'où les variations de l'histoire et de l'économie du salut. Le Seigneur a fondé son Église sur le principe structural de la coordination réciproque qu'il y a entre le troupeau et le pasteur, mais il ne lui a pas donné d'indications détaillées sur la manière de la réaliser. Les variations historiques dans les rapports des provinces ecclésiastiques et du Siège de Pierre, par exemple, sont bien grandes! Pour bien réaliser les «mises à jour» selon les conditions de l'époque présente, «condiciones huius temporis» (prologue LG, n.1) le Concile implore le secours subsidiaire, du Saint-Esprit." One could question whether the biblical image of the shepherd and flock has much meaning today in predominantly urban settings. The extent to which the Church, with its huge and necessary bureaucratic structure, reflects this divinely inspired image is yet another question. It is stating the obvious to assert that no one image, metaphor, philosophy, or model can adequately express the mystery for all times and places. To do so is the responsibility of the *Christifideles*.

⁷This precise point is made by the most competent exponent of the principle, Oswald von Nell-Breuning, who wrote *Quadragesimo anno*. In an article published fifty-five years after the encyclical, he wrote: "What is valid of social structures as such is valid of the Church as a social structure only in a particular way, characteristic for the Church alone. Consequently, we can say with full certainty: what is valid of social structures as such is with conceptual necessity also valid for the Church." He adds two points: first, that the application to the Church is specific to the Church, and secondly, "It is necessary to observe carefully the distinction between the Church as social structure (*ecclesia ut societas*) and the Church inasmuch as she is *more* than a mere social structure, and thus to avoid the mistake of extending and transferring to the Church as mystery (*ecclesia ut mysterium*) that which is valid for the *ecclesia ut societas*. By definition, the principle of subsidiarity concerns exclusively the *ecclesia ut societas*; this does not exclude the possibility that implications or analogous aspects of this might not also apply to the *ecclesia ut mysterium*." See NELL-BREUNING, "Subsidiarität in der Kirche," at pp.148-149.

to implement the principle to the point of dismantling those divinely given elements of the Church's structure which promote the good of all.

b) The application of the principle of subsidiarity in the Church will inhibit the right of all to appeal directly to the pope.⁸

The response to this objection appears relatively simple. In approving the principle of subsidiarity as a revision principle for the Code, the Synod of Bishops in 1967 asserted:

This principle confirms the legislative unity in all the fundamental and major pronouncements of the law of any society that is complete and compactly structured within itself. This principle of subsidiarity also has the function of reasonableness or need especially of individual institutions to provide for their own advantage by particular laws enacted by themselves as well as by a reasonable amount of autonomous executive power and authority.⁹

Book VII of the *Code of Canon Law* legislates for the conduct of all trials in the Church.

In accordance with the principle of subsidiarity, the canons of this book clarify the competent forum for each type of case. Canon 1417, §1 safeguards the right of appeal to the Roman Pontiff as follows:

Because of the primacy of the Roman Pontiff, any of the faithful may either refer their case to, or introduce it before, the Holy See, whether the case be contentious or penal. They may do so at any grade of trial or at any stage of the suit.

The insertion of this canon at once removes the imagined problem of restricting the right of the faithful to approach the pope. Once again the difficulty seems to lie in the perception of subsidiarity as of itself effective, whereas in practice the exercise of the principle is at the service of the subject, whether as legislator, as here, or as *Christifidelis* involved in any judicial, administrative, or penal procedure.

⁸See BEYER, "Subsidiarité: son application," p.451.

⁹*Comm.*, 1 (1969), p.81. For the Latin text, see chapter 1, note 4.

However, although the principle of subsidiarity in no way restricts the right of appeal, reciprocally it requires of the Holy See that it not encourage the practice of by-passing the local structures.¹⁰ The development of legitimate, local judicial and/or administrative procedures, even if these are adapted to the legal system in that culture, need not result in a breakdown of legislative unity. The function of the primacy must be to strengthen the efficacy of local tribunals, while retaining its own position as ultimate court of appeal.¹¹

When they voted to adopt the principle of subsidiarity as a revision principle for the Code, the bishops recognised its function in strengthening legislative unity. This function

¹⁰Cf. P.GRANFIELD, *The Limits of the Papacy: Authority and Autonomy in the Church*, New York, Crossroad, 1987, p.132: "Roman acceptance of subsidiarity, which encourages local resolution of problems, would help avoid the unwelcome practice of those who bypass the local bishop and the episcopal conference and go directly to Rome with their complaints." In situations which have already reached trial status, canon 1417, §2 does legislate as follows: "Apart from the case of an appeal, a referral to the Apostolic See does not suspend the exercise of jurisdiction of a judge who has already begun to hear a case. The judge can, therefore, continue with the trial up to the definitive judgement, unless the Apostolic See has indicated to him that it has reserved the case to itself."

¹¹The Holy See fulfils its obligation to provide *subsidium* for local tribunals by laying down strict guidelines for the officers of those tribunals. Cf., for example, c.149, §§1 and 2, which require that for promotion to an ecclesiastical office a person "must be in communion with the Church" and "possessed of those qualities which are required by that office by universal or particular law." Canons 1420, §4, 1421, §3, and 1435 prescribe the qualities and qualifications expected of the Judicial Vicar, the associates, the judges, the promotor of justice and the defenders of the bond. John A.Barry, the commentator in *Letter and Spirit*, writes, para. 2867, note 2: "All of this reflects an obviously laudable attempt by the legislator ... to maintain a high level of canonical expertise among those who administer justice in the Church. It must, however, be recognised that in current circumstances, in some parts of the Church particularly, it is not always possible to achieve the ideal of merely academic qualification: there is still a case to be made for those who, in the terms of the 1917 Code, are 'otherwise expert.' Such situations do require the authorisation of the Apostolic Signatura (c. 87, §1; cf. *Comm.*, 16 [1984], p.55, at c.1373, §3) which, it has to be said, has shown itself to be understanding of and sympathetic to submissions in this regard. In this difficult jurisprudential situation, the best way forward would appear to be by way of a mutually trusting cooperation between local tribunals and the Apostolic Signatura." Without mentioning subsidiarity, this comment expresses how the principle is in fact practised in the Church. By setting these standards for the officers of its courts, the Church is protecting the rights of all the *Christifideles*. For the legislation on the role of the Apostolic Signatura, see JOHN PAUL II, Apostolic constitution, *Pastor bonus*, 28 June 1988, in *AAS*, 80 (1988), pp.841-924, Articles 121-125, of which Article 124 is the one most relevant here. An English translation of this text is available in *CCLA*, pp.1166-1261.

operates here in clarifying the distinctive roles of the papacy and the local tribunals. As the support of the local structures of government, the primacy gains in prestige and influence, to the extent that the next objection seems ill-founded.

c) The application of the principle of subsidiarity in the Church will weaken the power of the papacy and lead to the formation of national churches

When discussing the derivation of the word "subsidiarity," writers cite its origins in the technical language of Roman military terms, where *subsidium* as a force in the third line of battle undoubtedly appears less important than the main force.¹² Interesting though this

¹²See G.LESAGE, "Le principe de subsidiarité et l'état religieux," in *Studia canonica*, 2 (1968), pp.98-101. Of its Latin origins, Lesage summarises, p.100: "L'adjectif latin *subsidiarius* conserve le même sens général [a secondary force *quod postea supervenit*] et se dit, au sens strict, des militaires qui au moment de la bataille sont placés derrière l'armée pour secourir au besoin les combattants laissés et les défaillants. Dans un sens dérivé, on nomme subsidiaire les plants laissés par les viticulteurs au cas où les vignes adultes ne porteraient pas de fruit. De même, en droit, une action subsidiaire est prévue contre les magistrats qui auraient assigné, à des mineurs, des tuteurs inaptes." He cites as his authority A.FORCELLINI, *Lexicon totius latinitatis*, t.4, Patavii, Typis Seminarii, 1940, pp.553-554. On its French etymology, he concludes, p.100: "Subsidiarité signifie donc, au sens originel, une suppléance, un appui en quelque sorte accidentel à un agent principal qui fait défaut." His French sources are: «Subsidiaire,» in E.LITTRÉ, *Dictionnaire de la langue française*, Édition intégrale, t.7, Paris, Gallimard-Hachette, 1958, p.500; «Subside,» in P.ROBERT, *Dictionnaire alphabétique et analogique de la langue française*, t.6, Paris, Société du Nouveau Littré, 1962, p.563. This etymology makes the negative reactions to the term on the part of the French-speaking Beyer and Hamer more comprehensible. Lesage concludes with what he regards as the "signification réelle" which differs, he says, from both complementarity and instrumentality, p.101: "Le moyen subsidiaire est une réalité extérieure à l'agent principal, dont l'appui est requis en raison de l'insuffisance de celui-ci; c'est un pis-aller dont l'utilisation doit être minimale et transitoire, jusqu'à ce que l'agent principal soit en état de reprendre par lui-même une action efficace. La subsidiarité se rapproche donc singulièrement de la suppléance; elle assure un secours extérieur à la personne qui ne peut atteindre, comme elle le devrait normalement, sa perfection connaturelle." Even Nell-Breuning admits that the word is unfortunate. See NELL-BREUNING, "Subsidiarität in der Kirche," pp.147-157, at p.147: "The knowledge expressed in the principle of subsidiarity is ancient insight of reason and experiential wisdom of humanity; yet the expression 'principle of subsidiarity' is of very recent origin and obviously not a fortunate choice since it occasions - at least in our language - an altogether ineradicable misunderstanding. To the adjective 'subsidiary' we usually give a pejorative meaning of makeshift replacement, of stopgap measure, and thus one believes to hear this meaning also in the phrase 'principle of subsidiarity'. Yet the very opposite is true. The principle proclaims that it is the duty of the community to help its members (*subsidiarium officium*) and requires furthermore that this help be true help, helpful help, that it not be tutelary for the community

fact is, especially to classicists, there is no logical obligation on us to continue to use the word today in its original, and now outdated meaning.¹³ A supplementary force, held in reserve, may well in ancient Rome have been considered inferior troops, but when the popes in their social encyclicals cautioned higher/larger bodies against usurping the responsibilities of lower/smaller ones, while basing their teaching on the primacy of the individual human person, they were not simultaneously advocating anarchy. When the higher/larger body accords the lower/smaller body its autonomy and so strengthens it, this decentralisation does not necessarily lead to the weakening of the power of the higher/larger authority.¹⁴ On the

members and not declare them as incapable, but rather help them to develop their God-given talents and strengths."

¹³Cf. CASTILLO LARA, "La sussidiarietà nella dottrina della Chiesa," p.460: "Prestiamo infine attenzione al termine 'sussidiarietà' che qualifica il principio. Esso è legato all'idea di aiuto, ma più ancora a quella di sostituzione in caso di assenza della persona principale e porta con sé una inevitabile connotazione di accessorio o secondario." The Cardinal is clearly understanding the term "subsidiarity" in a pejorative sense, and not in the sense in which the popes employed it first (influenced by both Gundlach and Nell-Breuning) in the social encyclicals and then in reference to the Church.

¹⁴This does indeed seem to be the fear of Cardinal Castillo Lara. Cf. *ibid.*, p.460: "La conseguenza di tutto ciò sarebbe un permanente e progressivo allentamento del Primato del Romano Pontefice e la riduzione della sua capacità di intervento, avvicinandosi la sua funzione ad un primato di onore e assimilando la Chiesa universale ad una federazione di Chiese nazionali." This passage has already been quoted on in chapter 3, note 9. See also BEYER, "Subsidiarité ou juste autonomie," p.447: "L'Église est ... présente, vivante, active en chaque église particulière. Cette présence essentielle du tout dans les parties situe le ministère de Pierre en chaque église particulière, diocésaine ou assimilée. Elle n'est pas, à vrai dire, une aide subsidiaire; elle est un élément essentiel, premier, selon sa fonction et son autorité. L'intervention de Dieu ne peut être considérée comme «subsidiaire», si elle est fondamentale." In normal parlance, surely, the position of the person who helps or offers assistance to another is regarded as superior. We find, in *LG*, n.23, bishops exhorted to "come to the aid of the missions," and "of other churches especially neighbouring ones and to those in most need of help." There is no suggestion here that offering aid subordinates one to the other. Cf. also NELL-BREUNING, "Subsidiarität in der Kirche," p.156: "The highest authority of the competence-over-competence in the Church is institutionalised by divine right, by the institution of the primacy by divine right. Actually the principle of subsidiarity does not even need to be 'applied' to the Church; the Church herself is built according to it, and it is among her fundamental structural laws."

contrary, the more responsible, autonomous, creative, flexible, dynamic the lower/smaller community, the more the whole state/Church benefits.¹⁵

Decentralisation, the recognition of the just autonomy of the lower/smaller body, appears as but one aspect of the application of the principle of subsidiarity, and does not deprive the pope of his right and duty to come to the assistance of any particular church that experiences the need of it.¹⁶ The uniqueness of the Church's constitution and of the

¹⁵Cf. NELL-BREUNING, *Reorganisation of Social Economy*, pp.208-209: "The restriction of state activity to the supreme governing of communities is quite to the advantage of state authority. Thereby it will gain in power and resource, as well as in freedom and security. Mainly, however, such moderation increases esteem and prestige. This is the reason for the demand of faithful observation of the principle of subsidiarity." This passage has been quoted already in chapter 1, p.39.

¹⁶Beyer reiterates the right of the pope to undertake such intervention. See "Subsidiarité ou juste autonomie," pp.803, 810-811: "Subsidiarité: son application," pp.442-443, 444, 451, 452. He is concerned that the reciprocal right and duty on the part of the higher/larger authority will be forgotten in the implementation, pp.442-443: "Bien compris, le principe de subsidiarité n'est pas un principe de décentralisation, mais plutôt un principe de stabilisation entre deux pouvoirs, celui des citoyens et celui des gouvernants. Il favorise une décentralisation équilibrée; bien plus, il établit entre diverses autorités une hiérarchie entre pouvoir central, régional, provincial et communal ... Cette décentralisation équilibrée n'est cependant pas son premier but. Ce principe exige et justifie l'intervention de l'autorité là où restent en défaut l'initiative, l'action et les efforts des citoyens." Beyer is quite correct to remind us of this aspect of the principle. It is one reason why it seems so very appropriate to the Church where the pastoral role of the pope can require this intervention. As already noted (chapter 3, note 31), there is a reference to the competent authority supplying for deficiency by the commentator, Aidan McGrath, in *Letter and Spirit*, para. 631. See also D'ONORIO, *Le pape et le gouvernement*, p.204: "Le pape a lui aussi une mission propre d'ordre universel qui est de veiller au bien commun de toute l'Église. Sa responsabilité, première et divine, de la communauté des croyants se traduit par un droit et un devoir de surveillance générale qui peuvent, le cas échéant, devenir un droit et un devoir d'intervention directe pour remédier aux défaillances éventuelles des autorités subordonnées ..." For an example of papal intervention conducted in accordance with the principle of subsidiarity, see J.G.JOHNSON, *The Synod of Bishops: An Analysis of Its Legal Development*, Canon Law Studies no.518, Washington, DC, Catholic University of America, 1986, Ann Arbor University Microfilms International, 1988, pp.194-210, 215-216. Johnson reports, p.195: "Cardinal Willebrands has stated that as early as February of 1972 the Dutch bishops were interested in papal intervention in their problems." In May 1979, the pope decided to hold a particular synod of the Dutch Church "to provide the bishops with an opportunity of discussing their problems freely in an atmosphere free from ideological pressures and propaganda." The object of the synod was to restore *communio* within the Dutch Church. The pope, in this instance, was offering *subsidium* to the smaller/lower group to enable them to make their own decisions. That the synod is generally

relationships within it, expressed since the Council by the increased use of the term *communio*, provide the pastoral context for the exercise of this right and duty.¹⁷ The

regarded as a failure, in that the problems continued, does not invalidate the method used.

¹⁷As regards the issue of safeguarding the pope's right to intervene, see also G.GHIRLANDA, "Universal Church, Particular Church, and Local Church at the Second Vatican Council and in the New Code of Canon Law," in *Vatican II: Assessment and Perspectives: Twenty-five Years After (1962-1987)*, R.LATOURELLE (ed.), New York, Paulist Press, 1988, pp.233-271, at p.269: "While always safeguarding the just autonomy of individual social groups, it is more necessary in the Church than in civil society for higher authority to intervene in matters to be dealt with by lower authority, in order to safeguard and nourish the holiness and unity of the Church, whether universal, particular or local. Indeed, the Church is not made up of a confederation of particular churches but of communion between the churches, in such a way that the one, holy, catholic, and apostolic Church is present in each particular church (cf. *LG*, nn. 23a, 26a). This explains the power of the Roman Pontiff and the college of bishops over all the particular churches." Such assertions as intervention in the Church being "more necessary" require explanation. One would also question whether "intervention" is the only method by which the unity, holiness, catholicity and apostolicity of the Church can be safeguarded and nourished. The formation of pastors, the articulation of good laws, the provision of means for the *Christifideles* to win redress for their grievances and to share their insights with their pastors all spring to mind as equally, if not more efficacious, in this respect. The objection about the immanence of the universal Church in the local church seems also to relate to this point. See D'ONORIO, *Le pape et le gouvernement*, p.204: "C'est donc bien le primat pontifical qui est en question dans le débat sur la subsidiarité. C'est pour le garantir que Pie XII et Paul VI avaient fait les restrictions que l'on sait. Le Code post-conciliaire rappelle clairement que le Pontife romain possède le pouvoir sur l'Église tout entière mais aussi la primauté du pouvoir ordinaire sur toutes les églises particulières et leurs regroupements (c.333, §1), c'est-à-dire tout autant les diocèses que les provinces ecclésiastiques ou les conférences d'évêques. C'est pourquoi tous les clercs sont tenus d'obéir aussi bien au Souverain Pontife qu'à leur propre Ordinaire (c.273); ... Le Souverain Pontificat n'est donc pas universel vaguement ni globalement, mais réellement et juridiquement: le successeur de Pierre est vraiment présent et agissant dans toute l'Église comme dans chaque église particulière; il n'y est pas à titre subsidiaire mais à titre essentiel puisque fondement de l'Église et de son unité." Apart from his use of "subsidiaire" as "subsidiary," presumably in the sense of "secondary," as opposed to "supportive," there is nothing in this argument which is not compatible with the principle of subsidiarity. For a treatment of the "intervention" of the pope from an ecumenical standpoint, see J.-M.-R. TILLARD, *The Bishop of Rome*, Wilmington, Delaware, Michael Glazier, 1983, pp.123-191. In a chapter headed, "The Servant of Communion," he writes in favour of employing the word "synergy," pp.188-191: "If the position of the see of Rome is effectively recognised in what makes it distinctive - its place in the preservation of the unity of faith and communion between the churches - this distinctiveness must be very deeply imprinted on two fundamental solidarities or areas of interdependence. It should be inseparable from the solidarity of the bishop of Rome with other apostolic sees and his solidarity with the authority of the great ecumenical councils. This is a matter of genuine 'synergy'. That term has on the whole richer overtones than subsidiarity, being less juridical and more theological ... If the Roman Catholic Church were to define her mission in terms of synergy and at a juridical level to develop *subsidiarity* in her relations with other sees, would this obscure her deep conviction about the function of the Roman 'primate'?" Tillard goes on to enquire

greater the *effective* collegiality of the bishops with the pope, the stronger the bonds between the churches will become and the likelihood of this extraordinary ministry proving necessary will diminish.

Successive documents issued by the Holy See, culminating in the conciliar Decree, *Christus Dominus*, did not silence the demands for inculturation repeatedly made at the Synods of Bishops.¹⁸ These demands made by the bishops faced daily with immediate pastoral problems, the recognition that a Roman-style Christianity will not prove viable except perhaps in Rome, the questions about the role of conferences of bishops, the dissatisfactions expressed about the "merely consultative" role of synods and councils at all levels of the Church, in tension with fears that any further decentralisation will result in the total disintegration of the entire edifice, could give rise to a debate open to *periti* in many different disciplines.¹⁹ Such tension is indicative of life and growth: the fear voiced by

whether it can really be God's will that the pope, charged with promoting *communio* should have so heavy and complex a task or require such a heavy bureaucracy that it acts as a brake. The juridical implementation of subsidiarity would free the papacy to act more as the "service" which the spirit of Pentecost expects."

¹⁸The documents which gradually restored their powers to diocesan bishops in the Latin Church are: PAUL VI, *motu proprio, Pastorale munus*, 30 November 1963, in *AAS*, 56 (1964), pp.5-12; Apostolic letter, *De episcoporum muneribus*, 15 June 1966, in *AAS*, 58 (1966), pp.467-472. For the synodal requests for greater inculturation, see chapter 2, Synod 1974, p.98, Synod 1977, p.104, Synod 1980, p.112, Synod 1983, p.117, Synod 1985, p.133, and Synod 1990, p.147.

¹⁹For one example of the tension between conferences of bishops and a Roman Congregation, see HEBBLETHWAITE, *Paul VI*, where the author recounts the effects of the interventions of the Congregation for Divine Worship, pp.647-649, and the objection raised by Bishop E.Carter, (London, Canada) chairman of ICEL, who "with his customary frankness ... wrote to Cardinal J.Knox deploring the way the Vatican was increasingly taking decisions that had been delegated to episcopal conferences or groups of them. The effectiveness of liturgical reform, he said, had depended in large measure on the decentralising initiatives of the old liturgical *Consilium*. 'I understand the principle of subsidiarity to mean,' wrote Carter, 'that when a legitimate authority is already in the field, a superior authority does not intervene.'"

Pope Paul that “national churches” may see themselves as “free, detached and self-sufficient,” is more likely to be realised if this tension is not resolved.²⁰

The implementation of the principle of subsidiarity will certainly produce national diversity as people the world over bring their cultural heritage, their current concerns, and their future aspirations to the interpretation of the Gospel for their time and place. Such diversity need not be frightening. Awe-inspiring, maybe, as the stable structures of the past confront and embrace the challenges of adaptation. Built, however on the firm foundation of the Word, the Church has proved flexible in the past, has changed, has recognised that “if this plan or this undertaking ... is of God” (*Acts*. 5:38-39) then it will not fail. The *communio* of the Church, therefore, as Walter Kasper envisions it, fulfils the plan of the Creator:

God does not love anthropological abstractions, but rather concrete people of flesh and blood. The New Testament speaks for this reason of the mixed and manifold wisdom of God, which has appeared in Jesus Christ (*Eph*. 3:10-19). Accordingly, the Church must not appear monotonous, monolithic and boring, but rather diverse, colourful, and imaginative. Only through such diversity is the Church a sign of the freedom and universality of the Gospel, and of her independence from any particular culture or political system - a sign also of the worth and dignity of the freedom of every individual person and of the various cultures. The Church must, therefore, like the Apostle, be all things to all people (1 *Cor*. 9:20-23); she must examine everything and keep the best (1 *Thess*. 5:21). In this sense she must realise herself in the various local churches, according to the givens of history and culture, in diverse forms of proclamation, liturgy, piety, theology, canon law, societal and political engagement, social service, customs and traditions. Such a

²⁰For this cautionary note, see PAUL VI, Allocution, 23 June 1972, in *AAS*, 64 (1972), p.498-499. The original Italian text is given in chapter 1, note 178. The pope is here talking not so much about subsidiarity *per se*, as about local churches separating themselves from *communio*, and also about subsidiarity - misunderstood as autonomy. Cf. BEYER, “Subsidiarité ou juste autonomie,” p.802, where he admits that greater autonomy for particular churches is in keeping with the teaching of Vatican II, but warns that this autonomy could develop to the point of their becoming “églises nationales.” He returns to the same theme in the later article, “Subsidiarité: son application,” p.451.

diversity - of local churches, of their traditions, rites and ordinances, of charisms and roles in the one Church - is an expression of richness and fulness, of catholicism in the original meaning of the word (see *LG* n.13).²¹

Such a Church could not but prove attractive, since the more people are encouraged to celebrate what it is that makes them distinctively themselves the more they correspond to the will of the Creator.²²

In the Church, then, the two aspects of the principle of subsidiarity, first that what smaller and subordinate entities can do and accomplish is not to be done by higher entities, and secondly that these latter should assist the former when the former fail or lack the necessary resources, tend neither to the weakness of the papacy nor to the separation of the

²¹**W.KASPER, "The Church as Sacrament of Unity," in *Communio*, 14 (Spring 1987), pp.4-11, at p.7.**

²²**Cf. W.KERBER, "Die Geltung des Subsidiaritätsprinzips in der Kirche," at p.670: "Ecclesial community is, at least for the normal cases, necessary for attaining salvation. This, however, results in a conclusion that is normative for the organisational constitution of the Church, namely that the Church must develop and offer forms which make it possible for individuals to participate in the Church's life. People have a legitimate claim to find in the Church as the community of the faithful the help which they need for their Christian life. This too arises from the principle of subsidiarity. This help must not be tied to conditions which are unattainable for individuals or for entire cultures and ethnic groups. This results in an immediate claim for inculturation, that is, the possibilities of personal realisation of a Christian life in the language and expressions of the respective culture."**

particular churches from Rome.²³ On the contrary, both benefit from adherence to the principle. If this is recognised, then the fourth objection also has less force.

d) The principle of subsidiarity, based on the premise that power comes from below, from the people, disregards the immanence of the universal Church in the particular church

The response to this objection must take into account first its presuppositions, and secondly the attribution of power to the principle itself.

The objection is founded on the perception that the principle of subsidiarity, effective in and of itself, requires nothing less than a completely rigorous implementation in the Church.²⁴ That this is not the case, that the principle, like any other organisational theory or model, can be applied only analogously to the Mystical Body, the people of God, the *communio*, appears a rather facile response. From what has been seen of its implementation in the Code (of which Cardinal Castillo Lara until recently approved), the very obvious bias in favour of participative decision-making, rather than a complete abrogation of responsibility, indicates an intelligent adaptation.

²³Cf. W.ONCLIN, "The Power of Decision in the Church at the Supra-Diocesan Level," in *Comm.*, 2 (1970), pp.197-212. This is the text of a talk delivered by Professor Onclin at the Annual General Meeting of the Canadian Canon Law Society, in Ottawa, in 1970. Professor Onclin spoke favourably of the principle of subsidiarity, seeing no contradiction between its implementation in the Church and the power of the pope. He writes, p.201: "The supreme authority in the Church holds plenary and supreme power, but only within the limits of its mission. The power is certainly extended to all matters related to the end that the Church has to attain, but only in as much as is required by the task of the supreme authority, for this cannot hinder the exercise of the pastoral mission which the bishops must exercise in their dioceses; nor, at least in principle, may it substitute itself for the government of the dioceses entrusted to the bishops' care." It is fortunate that Professor Onclin, with this understanding of subsidiarity, was for so long a member of the Code Commission.

²⁴See CASTILLO LARA, "La sussidiarietà nella dottrina della Chiesa," p.460: "Se il principio di sussidiarietà fosse veramente valido per la vita della Chiesa queste competenze possibili dovrebbero trasformarsi in reali, perché il principio di sussidiarietà esige la sua coerente applicazione e non dovrebbe essere soggetta a temperamenti in base ad altri criteri. La *Quadragesimo anno* è categorica al riguardo."

The immanence of the universal Church in the particular church is a theological insight, freshly minted at Vatican II.²⁵ The word *communio* while expressing the reality of this relationship founded on the Eucharist nonetheless requires structural support if it is not to remain in the realm of ideas.²⁶ The principle of subsidiarity does not of itself

²⁵LG, n.23. Cf. Y.-M.-J. CONGAR, *I Believe in the Holy Spirit*, translated by D. SMITH, vol. 1, London, G. Chapman, 1983, p.171, where the author writes: "Karl Rahner was of the opinion that the most valuable new element introduced by the Council was the idea of the local church as the realisation of the one, holy, Catholic and apostolic Church. It was defined as such by the Council (LG, n.26; CD, n.11) and both these definitions include an affirmation that the people of God called and gathered together in this way is in fact called 'in the Holy Spirit'. The Church as a whole is presented as a communion of churches, with the Holy Spirit as the principle of that communion." The immanence is dependent then on the presence in both of the Holy Spirit, the same Spirit who breathes over the whole of creation in all its diversity, maintaining it in unity.

²⁶For an authoritative view of the relationship between the universal Church and the local churches, see CONGREGATION FOR THE DOCTRINE OF THE FAITH, "Some Aspects of the Church Understood as Communion," in *Origins*, June 25, 1992, vol.22, no.7, pp.108-112. The letter is signed by Cardinal Ratzinger and stresses the eucharistic basis of the communion between the churches. He sees the universal Church as, p.109: "a reality ontologically and temporally prior to every individual particular church ... the mother and not the offspring of the particular churches." He writes, p.110, of the "Petrine ministry, which is a foundation of the unity of the episcopate and of the universal Church [bearing] a profound correspondence to the eucharistic character of the Church," so any "self-sufficiency" on the part of the local churches based on their celebration of the Eucharist is impossible. For an examination of the issues raised by this document, see E.J. YARNOLD, "The Church as Communion," in *The Tablet*, 12 December 1992, pp.1564-1565. Yarnold writes of the passage quoted above: "Accordingly the universal Church 'becomes present ... with all her essential elements' in local churches ... The document thus reaffirms the teaching of Vatican II that 'the Church' is 'in and formed out of the (local) churches' (LG, n.23). At the same time, however, on the authority of an address by Pope John Paul to the Curia in 1990, it turns this principle inside out, adding a second to the effect that 'the churches' are 'in and formed out of the Church', so that there exists 'a special relationship of mutual interiority.'" In expounding this view the Congregation puts forward an interpretation of the First Vatican Council which may cause surprise. The passage in question is Vatican I's declaration that the pope's jurisdiction over each and every local church is 'immediate' ... The Congregation for the Doctrine of the Faith ... takes this term as evidence for its teaching that the papal ministry is 'interior to each particular church.'" Yarnold sees this as indicative of an "anxiety" in the Congregation lest the "communion which is the life of the Church ... be interpreted in merely functional and sociological terms and not as a reality in the order of grace which is prior to any of the Church's structures." Yarnold goes on to indicate some different understandings of the relationships between Rome and the particular churches held by the Congregation and Catholic theologians (such as TILLARD in *Church of Churches: The Ecclesiology of Communion*). Whether these differences are fundamental, or matters of terminology or emphasis remains to be seen, he hopes, in on-going debate. Yarnold reports that commentators on the work of the Anglican-Roman Catholic International Commission suggested the use of the principle of

overthrow this concept and replace it with a structure based on any power coming from below. That this pertains to its relevance in civil society in no way obliges the Church to employ it in the same way.²⁷ Certainly, by starting from the premise that each individual human being has a unique dignity and a unique contribution to make to Church/society, the principle recognises each one's role but, as Professor Beyer repeatedly reminds us, it does not by that fact remove from the higher/larger body the right and the duty to intervene, when necessary.²⁸

subsidiarity to describe relations between the primacy and local churches. For another critical analysis of this document, see FAMERÉE, "Collegialité et communion," cited in chapter 1, note 17. On the relationship between the universal Church and the local church, see ALBERIGO, "Ecclesiology and Democracy," p.23: In the Church the real point of reference is above all the eucharistic community, i.e., the local church, and not just the universal Church. Moreover, the Eucharistic community is an essential factor in Christian ecclesiology, and therefore an abuse of subsidiarity on the part of the wider authorities is not only a functional *vulnus*, a wound, but also disrupts the fundamental economy of the Church."

²⁷Cf. D'ONORIO, *Le pape et le gouvernement*, p.205: "Le débat doctrinal se poursuivra encore, mais peut-être en sera-t-il de la subsidiarité comme de la collégialité: elle aura dans l'Église un sens particulier, différent de celui de son étymologie. On parlera alors d'une subsidiarité «ecclésiale» pour en souligner implicitement l'originalité propre à l'ecclésiologie catholique... Cette nouvelle problématique ecclésiale suppose donc un certain style de relations institutionnelles fondées sur la confiance réciproque du Pape et des évêques." D'Onorio, who supports Beyer's contention that "just autonomy" is more appropriate in the Church, considers that centralisation occurred as a result of danger threatening the Church from without so that, in an era when episcopal power is more assured, a balance returns "vers un certain équilibre institutionnel" without the need for any such principle as subsidiarity.

²⁸See JOHNSON, *The Synod of Bishops*, where he quotes Pope John Paul's homily at the opening Mass of the Dutch Synod, p.201: "This principle of the reciprocal penetration of the universal Church and the local church is expressed in a special way in this synod. The Church of Jesus Christ, thanks to the Spirit which is the soul of the whole body and all its members, is fulfilled in these two dimensions. It is universal and at the same time is composed of diverse parts. It is universal and local. The goal of our meeting is to manifest the coherence of these two dimensions and to consolidate them." As has already been said, the cooperation between the higher and lower bodies in summoning the Dutch Synod exemplifies the principle of subsidiarity, showing here that the immanence of the universal Church is not put at risk when the principle is applied. For the original of pope's homily on 28 June 1980, see *AAS*, 72 (1980), pp.647-648; English translation in *The Pope Speaks*, 25 (1980), p.256. One of the early proponents of the principle of subsidiarity in the Church emphasises that the right and the duty of the higher/larger is to aid, but not to interfere with, the

As an organising principle, subsidiarity does not interfere with the “vie plus profonde” of the Church. Rather it provides for a greater degree of openness to the gifts of the Spirit, by allowing each group a limited area for self-determination in those areas which are not fundamental to the constitution of the Church.²⁹ The Oriental Churches are a living witness to the viability of the principle:

It has come about through divine providence that, in the course of time, different Churches set up in various places by the apostles and their successors, joined together in a multiplicity of organically united groups which, whilst safeguarding the unity of the faith and the unique divine structure of the universal Church, have their own discipline, enjoy their own liturgical usage and inherit a theological and spiritual patrimony. Some of these, notably the ancient patriarchal Churches, as mothers in the faith, gave birth to other daughter-Churches, as it were, and down to our own days, they are linked with these by bonds of a more intimate charity in what pertains to the sacramental life and in a mutual respect for rights and obligations. This multiplicity of local Churches, unified in a common effort, shows all the more resplendently the catholicity of the undivided Church.³⁰

Far from leading to the dismemberment of the Church, in the view of the Council, the organisational structures of these particular Churches contribute rather to the advantage of the universal Church.

For the Latin Church, Walter Kasper argues that the principle of subsidiarity preserves a unity in diversity intrinsic to the very nature of the Church:

lower/smaller body. See KAISER, “Das Prinzip der Subsidiarität,” pp.4-9

²⁹See NELL-BREUNING, “Subsidiarität in der Kirche,” p.153: “A social scientist can confirm for theology that the ‘rediscovery’ of the particular churches, for which the Council was praised, and the conclusions drawn from it in the new Code represent a truly epochal progress for the principle of subsidiarity.” Cf. KERBER, “Die Geltung des Subsidiaritätsprinzips in der Kirche,” at p.670, where the author argues for the right of individuals to find it possible to live as members of the Church within their own culture.

³⁰LG, n.23.

Subsidiarity does not denote a purely external, alternative and temporal intervention of the higher instance; rather it denotes a total responsibility for the unity which is not external, but essential to each individual who is by his/her very nature ordered towards community; this total responsibility, however, is to be practised in such a way that freedom and the rights of individuals are preserved, so that through this a unity in freedom is created which is truly worthy of human beings. A principle of subsidiarity understood in this manner does not support a unilateral decentralisation, but rather a real equilibrium between unity and plurality, and thus this principle certainly can fully safeguard the immanence of the universal Church in the particular church. ... There is also the danger of misunderstanding and misusing the Church's unity in the sense of seeing it as a deadly uniformity and monotony which does not do justice to the various and diverse pastoral needs in the Church.³¹

The more such institutions as the general Synod of Bishops, and the various continental synods, of European, African and American bishops, assemble to debate their various pastoral challenges, the more the vision of unity in diversity will be realised. The open communication at such meetings promotes the equilibrium and immanence of which Kasper speaks here.

These four objections, on the one hand, serve to clarify the limits of the principle of subsidiarity and, on the other, point to areas where the principle might still prove useful in defining levels of competence or facilitating decision-making procedures in the Church. Already, as a revision principle for the Code, the principle of subsidiarity has served a certain function. Walter Kerber wrote of it:

This principle of subsidiarity contains a dynamic principle which is critical of institutions, and it is probably only today that we are able to appreciate fully this critical principle of which Pope Pius XI, conservative in his orientations, was probably not fully aware: All social regulations which claim

³¹W.KASPER, "Der Geheimnischarakter hebt den Sozialcharakter nicht auf: Zur Geltung des Subsidiaritätsprinzips in der Kirche," in *Herder-Korrespondenz*, 41 (1987), pp.232-236, at p.235. In this article, Kasper was answering the objections voiced by both Cardinal Hamer and Professor Beyer.

to be binding, any authority which proposes to speak or to act in the name of a social totality, all social institutions, regardless of how venerable and proven through centuries [they may be], can and may be questioned with regard to whether they truly serve the personal welfare of the persons bound into a social entity.³²

Discussion of the principle has certainly highlighted anew the urgent need for theologians to resolve at least some of the tensions between primacy and collegiality, to continue to elaborate the theology of the local church and for canon lawyers to work at structures which will support and enhance the *communio* theology of Vatican II. The uses of the principle for the structures of the Church lie most particularly in those areas where the possibility of arbitrary decisions still exists. In view of the limited scope of this study, only three such areas will be considered here: synods of bishops, the resolution of conflict and the process of reception.

³²KERBER, "Die Geltung des Subsidiaritätsprinzips in der Kirche," p.665.

4. 2 - Possible Applications of the Principle

4. 2. 1 - Synods of Bishops

In the course of the study outlined in chapter 2 several criticisms were reported of the way in which synods operated.³³ An examination of the canons legislating for such synods reveals the limited implementation of the principle of subsidiarity in this title of the Code. Future legislation based more confidently on the principle could improve the usefulness of the synods and mitigate the frustrations which are to some extent inevitable in any large gathering which attempts to come to a decision. Canons 334, 342-348 translate into legal language the provisions of the Apostolic constitution, *Apostolica sollicitudo*, with which Paul VI established Synods of Bishops. The Pope had expressed his need for the assistance of the bishops in the governance of the Church, just as the bishops were repeatedly requesting a greater say not just in the decisions of the Holy See which impacted on their governance of their dioceses, but also a more effective role in the governance of the entire Church. John G. Johnson describes the interaction as follows:

The synod of Bishops came into being in the midst of a dialogue between Pope Paul VI and the Second Vatican Council. During the preparatory period and during the discussion of *De Ecclesia* many bishops had indicated their interest in assuming a broader role vis-à-vis the Church as a whole, a role which was their right and duty as individual bishops and as members of the episcopal college. The pope responded to these comments with hints that he would welcome their suggestions about how they might lighten the burdens

³³In addition to the material cited in chapter 2, pp.82, 105, 113, 153, 140, see also JOHNSON, *The Synod of Bishops*, pp.5-239. The author discusses the synods up to and including that of 1983, as well as the Ukrainian and Dutch synods. He concentrates more on the methodology than on the content. In the second half of his thesis he focuses on the documents which have legislated for the synod, gradually changing or adapting the procedures to minimise the frustrations experienced. For an earlier critique of the institute and of the 1967 synod, see D.R.FOLEY, *The Synod of Bishops: Its Canonical Structure and Procedures*, Canon Law Studies, no.481, Washington, DC, Catholic University of America, 1973, Ann Arbor University Microfilms International, 1988.

of his office. Interpreting these remarks as an invitation, the Fathers proposed the establishment of some kind of council of bishops to help oversee the Curia, to make accessible information on the social and cultural contexts in which the particular churches were living, to assist the pope in making major decisions about the governance of the universal Church. Though many bishops spoke in favour of such an institute, they did so from differing points of view. Some wanted only to help the pope. Others wanted to provide the necessary organs for collegiality to become a fact of the Church's governmental life. Still others were somewhere in between. ... There was a consistency in the pope's language both before and after his creation of the Synod: he always discussed it within the context of his own burdensome duties and the assistance the bishops could offer him in discharging them. The pope gave life to the Synod and he did so in order to make his own ministry more effective.³⁴

In theory, the institution of the regularly held, elected assemblies of bishops from all over the world should be able to fulfil both the function of offering assistance to the pope and affording a means for the pope with the bishops to act collegially.³⁵ As Johnson points out,

³⁴JOHNSON, *The Synod of Bishops*, pp.493-494. For a survey of the preconiliar requests for a debate on collegiality, see FOLEY, *The Synod of Bishops*, pp.44-60. The bishops expected from such a debate that there would be more autonomy for them in their diocese and that the missionary work of the Church would be helped and that progress towards Christian unity would accelerate. The possibility of including even lay people in the debate also surfaced. The research of these two authors reveals that the controlling role of the Curia was a source of dissatisfaction. For the use of the principle of subsidiarity in resolving this tension, see A.ANTON, "Episcoporum synodus partes agens totius catholici episcopatus," in *Periodica*, 57 (1968), pp.495-527, at p.521: "Cum unum institutum ab altero diversum sit, utrumque tamen bono Ecclesiae universae sub principio subsidiaritatis, atque in servitio auctoritatis primatialis ipsius Ecclesiae unitatem firmantis, est."

³⁵One of the most prominent supporters of the principle of subsidiarity sees the synod as fulfilling precisely this function. See W.BERTRAMS, "De synodi episcoporum potestate cooperandi in exercitio potestatis primatialis," in *Periodica*, 57 (1968), pp.528-549, where he concludes at p.549: "Itaque plures sunt modi cooperationis collegialis corporis episcoporum cum exercitio potestatis in totam Ecclesiam ex parte supremi Pastoris. Synodus episcoporum talem modum cooperationis, nostro tempore congruentem, constituit, quatenus repraesentantes totius corporis episcoporum, collegialiter exercentes munus «edocendi et consilia dandi», influxum realem et efficacem in exercitium potestatis supremi Pastoris in totam Ecclesiam habent. Hac ratione corpus episcoporum potestatem a Domino sibi concreditam in bonum totius Ecclesiae, per synodum exercet, quatenus synodus partem habet in pascenda Ecclesia per supremum eius Pastorem." The proponents of subsidiarity propose it always as clarifying relationships and competencies, as providing for coordination and cooperation, never as replacing the authority of the pope.

however, neither the canonical provision nor the practice has measured up to the latter expectation, and the synod, at least as described in cc.334, 342-348, is very much the instrument of the pope:

Both in history and in law the synod has been surrounded by papal prerogatives. The pope summons the assembly whenever and for whatever purpose he pleases. Despite the consultation that has recently preceded the selection of the theme, it is he who determines the topic the synod will discuss. His approval is required before the Secretariat can consult the episcopate for their opinions about that topic and before the Secretary General can supply the participants with their working document. He ratifies the election of the members. He appoints the presiding officers, those who guide the discussions, and the experts whose opinions the Fathers may need in order to understand the theme adequately. The participants can express their opinions freely, but they cannot vote on any proposals without the pope's sanction; and the final product of their labours is essentially a private communication to him. He may choose - he regularly has chosen - to publish the deliberations of the synod in some form; but he is under no obligation to do so. He may accept the recommendations with little or no qualification: the proposals of the 1967 synod concerning mixed marriages, the proposals of the 1969 synod concerning the structures of the synod itself, and the conclusions of the 1971 synod concerning mandatory celibacy. On the other hand, the pope has occasionally distanced himself from certain remarks made in synod: one thinks, for example, of Pope Paul VI's cautious attitude towards inculturation at the end of the 1974 synod and of Pope John Paul's remarks at the end of the 1980 synod. Papal freedom in the face of the synod's conclusions is evidence of the purely consultative character of the institute.³⁶

³⁶JOHNSON, *The Synod of Bishops*, pp.494-495. For the same conclusion, see FOLEY, *The Synod of Bishops*, for example, p.163: "Christus Dominus took up the collegial principle and applied it. But, like the principle itself, the application was deceptive. The synod of bishops was to be the acting force of the world's episcopate. Yet the actions of the synod, as indeed was the case with the whole constitution of this new institute, were entirely under the care of the pope." And again, we read, p.183: "The principle of collegiality is not mentioned specifically in *Apostolica sollicitudo*. There and in the *Ordo (Synodi episcoporum celebrandae)*, the synod machinery appears designed to increase the efficiency of the use of papal power. All facets of the synod's operation are subject to the pope's approval, if not totally dependent on his initiative." Although Foley was writing before the publication of *CIC/83*, his remarks still seem to have some validity.

Johnson's analysis, which ends with the 1983 synod,³⁷ reveals that the synods operated more smoothly once "they accepted their function of communicating information and advice to the pope."³⁸ Nevertheless, he quite rightly questions the value of "smoothness" in operation and suggests that "the orderly routine of more recent synods is evidence that the institute might be losing dynamism."³⁹ Undoubtedly, the topic, the constant changes in the participants, the continued use of experts and the active involvement of auditors, will all contribute to the "dynamics" of any particular synod, so some variations in the success (however one might decide to measure this) of each gathering are only to be expected.

Nonetheless, even assessed just as a means of "communicating information and advice to the pope," the institution of the synod exemplifies at least one aspect of the principle of subsidiarity. As a result of his presence at the synods the pope comes "face to face with

³⁷JOHNSON, *The Synod of Bishops*, pp.5-239.

³⁸*Ibid.*, p.495.

³⁹*Ibid.*, p.496.

fresh and vital information about the real-life situations of the particular churches."⁴⁰

Therefore, as Johnson writes:

On matters on which he consults the synod the pope is able to know far more about the potential impact of his decisions than he could have known beforehand. He also has access to the collective and, in some sense, at least, the Spirit-enlightened judgement on those issues on the part of those whom their peers consider to be the best-informed and most prudent. Access to more and better data and the support of good advice do not guarantee wise decisions, but a pope who takes advantage of the synod will probably avoid ignorant and misguided ones. Even as it now exists, therefore, the synod is of great value in enhancing the effectiveness of papal decision-making.⁴¹

In offering a means for the entire Church to become involved in papal decision-making, the synod exemplifies the principle of subsidiarity, albeit in a rather limited respect.

Canon 343 limits the competency of the synod as follows:

⁴⁰Ibid., p.496. Cf. FOLEY, *The Synod of Bishops*, p.232: "The synod of bishops, conceived as a way in which the college could govern the Church effectively, appears more as a useful tool for the pope to employ in the primatial office." In welcoming the bishops as representatives of their conferences of bishops to the first synod, Pope Paul VI expressed his hopes that the unity of the Church would be strengthened by the diversity of the local churches. See PAUL VI, Allocation at the Opening of the First Synod of Bishops, 30 September 1967, in *AAS*, 59 (1967), pp.969-975, where he says, at p.970, that the role of the bishops' conferences is "ad fovendam quandam formarum multipliciter in vita Ecclesiae exprimenda, quae Ecclesiae loci traditionem et indolem plane addecet, ita pariter conferant ad firmandam illam recte ordinatae compaginis unitatem, quae Christi Ecclesiae propria est nota." Later, in the same allocation, the pope emphasised the importance of the synod's consultative role, p.971: "Si officium a vobis in hac synodo episcoporum explendum suapte natura est *consultivum*, illud tamen magnum pondus et momentum habet, sive apud Nos, qui ad hanc consultationem vos advocavimus, quique in quibusdam casibus suffragiis vestris vim *deliberativam* tribuimus, sive etiam apud Ecclesiam universam, quae vos agnoscit magistros, testes et pastores populi Dei in gravissimis et peculiaribus adiunctis celsissimi vestri ministerii."

⁴¹JOHNSON, *The Synod of Bishops*, pp.496-497. For the tradition of participative decision-making in the Church, see FOLEY, *The Synod of Bishops*, pp.3-38. From his study of consistorial history the author concludes, p.229: "The history of the Catholic Church contains, in the origins of consistorial practices, a striking example of participated central government. ... Enough instances of the cardinals' involvement in the exercise of papal governing authority have been adduced to substantiate an assertion that shared responsibility is entirely in line with the traditions of Western Catholicism." In the history of the Church not all cardinals have been bishops.

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

From the reactions of those who have taken part in synods there seems to be a degree of frustration experienced in the practice of this canon. Initial annoyances with a cumbersome method of repetitive speeches have been overcome by a greater use of the *circuli minores*, and the preparation for the synods has improved. As reported in chapter 2, however, the handling of recommendations has come in for criticism. This constitutes a most serious charge, since the point of the whole exercise is precisely to arrive at an improved understanding of the topic under discussion.

There seems to be agreement that Pope Paul's original intention was eventually to make the synod a deliberative body.⁴² Although the canon allows for this, in certain circumstances, it seems, however, that any implementation could prove difficult since the members' representative standing requires some clarification. When the conference of bishops of a particular nation hesitates to impose legislation on all the bishops of that nation, the problems faced in providing for all nations could result in total inaction. To require the pope's ratification implements the principle of subsidiarity in placing the final decision at the

⁴²See chapter 2, p.153, where Cardinal Willebrands voices a hope for this development, and also Pope John Paul II's comments, quoted in chapter 2, p.156. Cf. HEBBLETHWAITE, *Paul VI*, p.433: "As envisaged by *Apostolica sollicitudo*, the synod was not a completely toothless and spineless creation. Though not a decision-making body, there was the hope that it might become one some day: 'By its very nature the task of the synod is to inform and give advice. It may also have deliberative power, when such power is conferred upon it by the Sovereign Pontiff.' Further, its elective system guaranteed a relative autonomy, and its purposes could not be ensured without some freedom of speech. Paul VI in *Apostolica sollicitudo* produced a diplomatic compromise designed to satisfy the bishops at the Council without offending the Roman Curia too much. 'The synod,' he remarked wistfully, 'like all human institutions, can still be more perfected with the passage of time.'" For this to occur, some experimentation would appear to be essential.

appropriate level, but only after a thorough, informed debate on all the implications, as canon 344, 3° seems to expect:

The synod of bishops is directly under the authority of the Sovereign Pontiff, whose prerogative it is:

3° at a suitable time before the celebration of the synod, to prescribe the outlines of the questions to be discussed, in accordance with the special law.

If this procedure is followed and ample time is allowed, everyone who will be affected by the synodal decisions has the opportunity to influence the discussions by providing information, insights, particular talents or gifts, and responsible counsel. Every possible means of ensuring that the Spirit's voice is heard must be safeguarded.

The canons certainly indicate a move in the direction of shared responsibility, but much depends on the style in which the papal power over the synod is exercised: this defies legislation. Similarly, while providing for wide representation from the universal Church, the canons stop short of requiring those elected to the synod to profit from the available expert advice and counsel which would ensure that their role was more truly representative of the particular churches from which they come. Nor do the canons legislate for the attendance at synods of observers, auditors, experts - although their presence has become customary.⁴³ Suggestions for lay participation at the synod of *bishops* meet with

⁴³Before the 1994 Synod on the Consecrated Life, there was considerable opposition to the idea that the world's religious women should have representation there at the synod of *bishops*. Eventually, the women's congregations were invited to elect auditors who also had voice, but not vote. As a result, wrote the editor of *The Tablet*, 29 October 1994, p.1367: "The synod has exercised a certain sovereignty because almost half of the participants are themselves living in the consecrated state ... In this synod consecrated women, granted an unprecedented level of participation in the synodal hall, have stood shoulder-to-shoulder with consecrated men religious. All alike face the same task, of relating the service of the local church to the service of the universal Church. This solidarity should be more embodied in status and practice than it is."

considerable opposition; legislation would forestall the need for repeated discussion about the presence of non-episcopal experts and observers.

The canons also fail to acknowledge the importance of communication. At least in the developed world, the state of communications technology is so advanced that a failure on the part of the Church to employ the best means available at every stage in the synodal process can only appear as nostalgic. Criticisms about apparently unnecessary secrecy have surfaced at some synods: the *arcana imperii* impart a flavour of authoritarianism and are surely out of place in the *communio* that is the Church.⁴⁴

⁴⁴For the importance of communication, see chapter 2, pp.112, 144, 151. See also FOLEY, *The Synod of Bishops*, pp.192-193, 197-198, and p.233: "The synod's potential has proved to be limited ... Secrecy requirements impaired the preparations for the (1967) assembly. Few of the synod members had anything to say about the agenda or the preparation of working papers ... Since the synod of 1967, some changes have been effected which give hope for the future of the synod. ... The secrecy rule has been relaxed somewhat." Cf. JOHNSON, *The Synod of Bishops*, pp.407-408: "Officials who took part in [Vatican] Council sessions were required to take an oath of secrecy ... Even these rules did not prevent a great deal of material from becoming public ... and eventually the *Acta Synodalia* made accessible the information scholars find indispensable in analysing the development of the conciliar texts. A similar body of information is not available for the synod. Arguments could be made in favour of secrecy. It fosters, for example the free expression of opinions that might not be popular, but might nonetheless be of considerable weight. It avoids placing the pope in the invidious position of provoking discontent when he acts against the recommendations of the synod. As Cardinal Willebrands argued one year after the Dutch Synod, however, the less the people of God know about the dynamics of a given synod, the less able they will be to identify with its conclusions. Furthermore, a press that thrives on information can manufacture and disseminate misinformation if kept on too scanty rations." For the views of a journalist, see A.WOODROW, "Free Speech in the Church," in *The Tablet*, 26 August 1995, pp.1093-1095. The author reports on a conference at which the role of the laity in the Church was discussed. One speaker, Christian Duquoc, is reported as saying, p.1093: "The hard reality is the stability of the Church as institution and a return to a centralised, authoritative government. The culprit is Vatican II itself ... for it represented the new vision of the Church as 'people of God', but failed to provide the means to realise the vision or to transform the institution." A second speaker, Daniel Cadrin, agreed, p.1094: "As for the ... laity, they have no recognised forum in which to express their opinion. The promises of Vatican II have not been fulfilled." Woodrow himself offered the conference "Ten Commandments of the Religious Journalist." They are, pp.1094-1095: Independence, Competence, Openness, Truthfulness, Freedom, Respect for the Media, Honesty, Fairness, Equal-handedness and Humility. Under the third of these he writes: "Like all authoritarian and non-democratic institutions, the Catholic Church loves secrecy ... The journalist has a duty to break down these taboos, in the interest of the Church itself."

Johnson concludes his study with a hope for the future of the synod:

The theology of the synod of bishops has to be worked out somewhere within the context of the interaction between the pope and the college of bishops. The context is still foggy. ... Once the Church achieves an understanding of collegiality that answers more of the fundamental questions and is more widely accepted, the synod of bishops may take on a different aspect and require different regulation. Both in the *ius vigens* and in its most recent actions the synod has appeared to be a papal institute. Theological development could change its features almost completely.

Theological development has certainly enhanced the role of the *Christifideles*, but although the canons respect to some extent the values of the principle of subsidiarity in providing for greater participation in decision-making, this participation appears to be limited to the level of the bishops - just as is the case in the title on the internal ordering of the particular church. The legislation does not create channels for other *Christifideles* to express their views on the decisions which will affect their lives in the Church. Since researching opinions has become a highly specialised science in the modern world, the Church could certainly employ these techniques in the pursuit of truth.⁴⁵

⁴⁵Cf. M.NORRIS, "Consulting the Laity," in *The Month*, June 1986, pp.205-207, where the author "warns against amateurism in the sounding of lay opinion" in preparation for synods: "Attempts to discover the opinions of the laity and the clergy will lack credibility if sound methods are not used ... Any information used to guide decision-making by the bishops should be at least as reliable as that regarded as acceptable for ... lay purposes ... Research is a ... skilled professional occupation ... In planning for the future, accurate knowledge is a vital element. If participation by and consultation of the laity is ever intended, this is an area where their expertise should be recruited at an early stage."

4. 2. 2 - The Resolution of Conflict

Another area in which the principle of subsidiarity might usefully be employed is in the resolution of conflict in the Church, such as occurs, for instance, when theologians express "dissent".⁴⁶ In recent years there have been several instances of theologians being disciplined by the Congregation for the Doctrine of the Faith for teaching views held to be contrary to those propounded, even non-infallibly, by the magisterium.⁴⁷ Indeed,

⁴⁶Since this whole issue is immensely complicated, the treatment here focuses solely on the possible use of the principle of subsidiarity in structuring a process which would be respectful of the rights not just of the theologian or teacher involved, but also of the Church, both local and universal.

For a discussion on the use of this word "dissent," see L.ÖRSY, "Magisterium: Assent and Dissent," in *Theological Studies*, 48 (1987), pp.473-497, at pp.490-494. This article seems to be an abbreviated version of the author's book, *The Church Learning and Teaching*, Wilmington, Delaware, Michael Glazier, 1987, where the third chapter is devoted to the theme of "Assent and Dissent." See also F.A.SULLIVAN, *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium*, New York, Paulist Press, 1996, pp.24-26, where the author explains the specific meaning given to this word by the Congregation for the Doctrine of the Faith (= CDF). He quotes Cardinal Ratzinger, commenting on the *Instruction on the Ecclesial Vocation of the Theologian*, as follows: "The *Instruction* distinguishes between healthy theological tension and true dissent, in which theology is organised according to the principle of majority rule, and the faithful are given alternative norms by a 'counter-magisterium.' Dissent thus becomes a political factor, passing from the realm of thought to that of a 'power game.' This is where a theologian's use of the mass media can be dangerous." Sullivan finds evidence in the *Instruction* that only "indiscreet" or "untimely" expression of views contrary to those of the magisterium is discouraged. Moreover, the *Instruction* presumes that theologians will exchange ideas in scholarly journals and at conventions. Conflict arises when it appears that the theologian has gone beyond these parameters.

⁴⁷See, for example, P.HEBBLETHWAITE, *The New Inquisition? The Case of Edward Schillebeeckx and Hans Küng*, San Francisco, Harper and Row, 1980. The "efforts of the Congregation of the Doctrine of the Faith to achieve an appropriate clarification of the controversial views of Dr. Hans Küng" can be read in the collection made by UNITED STATES CATHOLIC CONFERENCE (= USCC), *The Küng Dialogue*, Washington, DC, Publications Office, 1980. This collection serves to balance the view indicated by the title of the previous work. See also C.E.CURRAN, *Faithful Dissent*, Kansas City, Missouri, Sheed and Ward, 1986; P.HÜNERMANN, "Bishops and Theologians," in *The Tablet*, 14 November 1992, pp.1450-1451 (this article, based on the case of Eugen Drewermann and his bishop, Johannes Gegenhardt, asks how such cases can be fairly dealt with); L.BOFF, *Je m'explique: entretiens avec Christian Dutilleux*, Paris, Desclée de Brouwer, 1994. For a lengthier account in English of the dialogue between Leonardo Boff and Cardinal Ratzinger, see L.BOFF and C.BOFF, *Liberation Theology: From Dialogue to Confrontation*, translated by R.BARR, San Francisco, Harper and Row, 1986. Leonardo Boff gives his version of his dialogue with the Cardinal, pp.75-91: his brother, Clodovis, reports on the aftermath, pp.92-100.

discussion continues regarding the relative weight to be attributed to the many documents that emerge from the “*magisterium*”, and the corresponding response of faith required from the *Christifideles*.⁴⁸

Saint Anselm defined theology as “*fides quaerens intellectum*,” a definition that, in its use of the present participle, points to the constant search for truth characteristic of mature reflection on the faith.⁴⁹ Precisely in this constant effort to interpret the faith in various historical and cultural contexts, conflict occurs between the *magisterium*, that is, the pope and the bishops, and academic theologians teaching in Catholic universities and colleges, or preaching in the name of the Church. The need to resolve such conflicts with minimum disturbance requires a process respectful of the rights and dignity of all involved.⁵⁰

⁴⁸For recently published discussions, see, for example, A.NAUD, *Un aggiornamento et son éclipse*, Montréal, Fides, 1996; and SULLIVAN, *Creative Fidelity*. Sullivan offers a definition of *magisterium* as follows, p.1: “In modern Catholic usage, the term ‘magisterium’ has come to be associated almost exclusively with the teaching role of the hierarchy. An even more recent development is that ‘magisterium’ is now often used to refer not to the teaching office as such, but to those who exercise it, namely, the pope and bishops.”

⁴⁹See SULLIVAN, *Creative Fidelity*, pp.5-7, for a helpful explanation of this phrase. He stresses the cultural context of the search. In his balanced statement concerning the “Küng controversy, Cardinal G.Emmett Carter writes: “The fact that we seek the truth means that, in a way, we have found it. But, having found it a little, means only that we must seek it much more. The Church has the right and the duty to tell a theologian that he/she has erred. The Church can never tell a theologian or all theologians to stop searching.” See G.EMMETT CARTER, “Regarding the Küng Controversy,” in USCC, *The Küng Dialogue*, pp.204-205.

⁵⁰In 1969, the Canon Law Society of America (= CLSA) submitted to the National Conference of Catholic Bishops (= NCCB) a report entitled *On Due Process*, suggesting model procedures for the resolution of conflict in local churches. Since the promulgation of *CIC/83* this report has been revised. See CLSA, *Protection of Rights of Persons in the Church: Revised Report of the CLSA on the Subject of Due Process*, Washington, DC, Catholic University of America, 1991. In a commentary on the original report, reprinted in the revised edition, reference is made to the protection offered by a known procedure to both bishops and people. See R.T.KENNEDY, “Commentary,” in CLSA, *Protection of Rights*, pp.45-53, where the author writes, pp.46-47: “The problem we face with regard to human rights and freedom in the Church is not so much injustice as it is *supposed* injustice. What we are seeking in introducing notions of due process into the

The Code legislates for the role of the diocesan bishop as teacher and defender of the faith in canon 386, which states:

§1 The diocesan bishop is bound to teach and illustrate to the faithful the truths of faith which are to be believed and applied to behaviour. He is himself to preach frequently. He is also to ensure that the provisions of the canons on the ministry of the word, especially on the homily and catechetical instruction, are faithfully observed, so that the whole of Christian teaching is transmitted to all.

§2 By whatever means seem most appropriate, he is firmly to defend the integrity and unity of the faith to be believed. However, he is to acknowledge a just freedom in the further investigation of truths.⁵¹

Despite this example of the principle of subsidiarity enshrined in the Code, since “dissent” often involves a university lecturer in a theology faculty of a Catholic university, the most

administrative life of the Church is not protection of the people from the human weakness of bishops or diocesan administrators or pastors; what we seek is protection for all of us from the effects of that human weakness which inclines us to be suspicious of the unknown. When one does not *know* that a particular decision was made fairly, when there is no guarantee that it will be made fairly, human beings are exposed to rather widespread suspicion of arbitrary action. I think that bishops suffer immensely from the effects of this common weakness in the people they serve; you are very often accused unjustly of being arbitrary and unfair simply for the want of structures and procedures of which people are aware and from which they derive assurance of the fairness of your actions.” What is true of bishops and people at the local level is equally so of the relations between the Congregation for the Doctrine of the Faith and those questioned by it.

⁵¹For an impressive explication of the bishop’s responsibilities in this area, see U.S.BISHOPS, “The Teaching Ministry of the Diocesan Bishop: A Pastoral Reflection,” in *Origins*, vol.21, no.30, January 2, 1992, pp.473, 475-492. There is considerable stress in this document on the need for the bishop to keep himself up to date with current theological thinking. Given the very demanding administrative and pastoral role expected of modern bishops, to keep abreast of the vast amount of theological literature currently being published, demands great and consistent effort. Cf., on a specific case, HÜNERMANN, “Bishops and Theologians,” p.1450: “In the eyes of the public the bishop has no special theological skill or competence. Indeed, because of his other pressing tasks, it is impossible for him to keep up with the most recent developments in theology or to have studied with any thoroughness the voluminous works of the theologian he is judging.” For this very reason, the need for a commission becomes apparent.

appropriate level at which to resolve the problem might not, in this case, be the local one, in the sense of the local diocese, for the following reasons.⁵²

First, the "dissent" might be no more than a misunderstanding, or misrepresentation of the teaching by sensation-seeking media, or by ill-informed listeners. As the canon cited above reads, all, not just teachers, have a "just freedom in the further investigation of truths."⁵³ Fully to appreciate the limits of this freedom, the enquiry into any deviation, real or only apparent, has to take into account the current state of the question in academic circles, so the involvement of other universities would seem to be indicated. Secondly, no one diocese is likely to have all the necessary resources for such an appraisal. Thirdly, the

⁵²For a further considered treatment of the different degrees of "dissent," see U.S.BISHOPS, "The Teaching Ministry," pp.486-490, where the bishops distinguish between "deficient reception," "heresy," "error," "non-acceptance of non-definitive teaching," "withholding of assent," "private dissent," and "public dissent," and offer suggestions on how each should be handled.

⁵³Writing to the German bishops, about the case of Hans Küng, Pope John Paul II acknowledged the role of all the faithful in the "infallibility" of the Church, as follows: "The Church must be, moreover, very humble and at the same time secure in remaining in the same truth, in the same doctrine of faith and morals which it received from Christ, who in this sphere gave it the gift of a specific 'infallibility.' Vatican II inherited from the first Vatican Council the doctrine of tradition in this regard, and it confirmed it and presented it in a more complete context, that is in the context of the mission of the Church, which has a prophetic character, thanks to its participation in the prophetic mission of Christ himself. In this context, and in strict connection with the 'way of faith,' in which all the faithful participate, this 'infallibility' has a character of gift and of service." See JOHN PAUL II, "Letter to the West German Bishops' Conference," 15 May 1980, in USCC, *The Küng Dialogue*, pp.184-189. The original of this letter, in German, is in *AAS*, 72 (1980), pp.385-393.

issue may not hinge solely on the questioning of doctrine.⁵⁴ Prudence suggests that the adjudicators be seen to be impartial and therefore at a remove.

The local cultural context, however, remains an important factor in the judgement. Indeed, the International Theological Commission seems to acknowledge this aspect.⁵⁵ The responsibility for preserving unity rests not just with the pope and the bishops, but also with each and every member of the *Christifideles*, as we read in canon 209:

§1 Christ's faithful are bound to preserve their communion with the Church at all times, even in their external actions.

§2 They are to carry out with great diligence their responsibilities towards both the universal Church and the particular church to which they belong.

The handling of a situation where the teachings of a theologian are questioned obviously calls for great tact and sensitivity and offers an area where thought should perhaps be given to the implementation of the principle of subsidiarity, in order to achieve a balance between the

⁵⁴This point is made in reference to the Curran case. See B.HÄRING, "The Curran Case: Conflict Between Rome and a Moral Theologian," in *Readings in Moral Theology, No. 6: Dissent in the Church*, C.E.CURRAN and R.A.McCORMICK (eds.), New York, Mahwah, Paulist Press, 1988, pp.370-386, at p.371, where the author indicates that there had been opposition to Curran's tenure on the part of "conservative bishops on the Board of Trustees" long before the conflict that led to his dismissal. The constitution of the commission/tribunal which enquires into the case should preclude any suspicion of a vendetta, real or imagined.

⁵⁵See INTERNATIONAL THEOLOGICAL COMMISSION (=ITC), "On the Interpretation of Dogmas," English translation in *Origins*, vol.20, no.1, May 17, 1990, pp.1,3-14. This document appears to accept and endorse the development of doctrine as explained by J.H.Newman, J.Pelikan and J.H.Walgrave. Recognising that "cultural upheavals" have an effect on evangelisation the commission asserts that the Church is able to join itself to the historical and universally open nature of human reason and goes on to say, p.4: "In order to achieve inculturation the original meaning of the dogma must be brought to understanding anew in a different cultural context." The judgement then as to how this is being done should surely rest, at least to some extent, with those working in the same cultural context. Cf. U.S.BISHOPS, "The Teaching Ministry," p.477: "If the Church did not ceaselessly transpose the Gospel into contemporary idiom, it could not teach. The inculturation of the Gospel demands its translation into new languages, new images or concepts, and new modes of living and worship ... As the social and cultural situation of believers changes, so is it necessary to situate this timeless revelation within the modes of a new civilisation."

obligations and rights of all those involved - the theologian, the local bishop, the institution, not forgetting the local church. As the International Theological Commission writes:

In a pluralistically structured society and in a Church shaping itself in different ways, the magisterium increasingly fulfils its pastoral office through persuasive argumentation. In this situation, the legacy of the faith tradition can only be transmitted fruitfully if the magisterium and other bearers of pastoral and theological responsibility are prepared for collaboration involving argument, especially prior to definitive decisions on the part of the Church's magisterium. In view of the scientific and technological research of recent times, it seems advisable to avoid premature determinations and rather to favour decisions which offer direction and are finely differentiated.⁵⁶

This statement appears to envisage more than a lone theologian summoned to Rome to defend his thesis before a Roman "court" out of touch with the cultural context of his teaching, which is often the image presented by the media.⁵⁷ Respect for the principle of subsidiarity

⁵⁶ITC, "On the Interpretation of Dogmas," pp.7-8.

⁵⁷For an example of this, see BOFF, *Je m'explique*, p.85, where Boff describes arriving for a dialogue with Cardinal Ratzinger with his own Archbishop, Monsignor Ivo Lorscheiter, and two Brazilian Cardinals, Arns and Aloisio Lorscheider. Cardinal Arns suggested at the meeting that a document on "liberation theology" should be prepared "in consultation with the 'engineers' of that theology, the theologians who for years have been constructing this theological current; second that it should be prepared in consultation with the episcopate, as it is they who perform the pastoral activity among the people, walking with the oppressed along the highways and byways of liberation, so that the ecclesial and pastoral dimensions of this new theological current could enjoy adequate emphasis in the new document; and third, that the document should actually be prepared in the Third World, in Africa or Latin America, for instance, amidst the actual reality of the poverty and oppression in which the theology of liberation has its point of departure since this would tend to bring the text of the new document straight to the heart of things and do justice to the cause of the oppressed." See BOFF, *Liberation Theology*, pp.86-87. Boff comments, pp.87-88: "The major significance of the presence of the two Brazilian Cardinals was, surely, that of testifying to the ecclesial character of the theology being developed in Brazil." Boff says, in *Je m'explique*, p.88: "Il existe un conflit latent entre les vieilles églises européennes et les nouvelles églises répandues dans le monde. Les nouvelles églises vivent un Christianisme enraciné dans les cultures d'Afrique, d'Asie, d'Amérique latine avec leurs défis propres. Ainsi apparaissent de nouveaux visages du Christianisme, des visages qui ne sont pas occidentaux, blancs, européens, romains. Les églises centrales sont héritières d'une tradition liée à la culture dominante. Elles gardent le pouvoir institutionnel, académique, économique et continuent à imposer leur conception traditionnelle et conservatrice. Elles excluent les poles périphériques. L'Église n'a jamais été catholique, elle a toujours été romaine." Boff speaks here of the content of theological teaching, but the cultural context is as significant in the way in which an apparently dissenting teacher is treated. The principle of subsidiarity indicates that

would suggest that perhaps each conference of bishops should develop a strategy for handling such a crisis, a strategy which would be open, just, and academically respectable.⁵⁸ As an

local churches have rights in this area too. That the respect paid to "the right of the local churches to individuality and the importance of this both for themselves and for the Church as a whole" was little more than lip-service was recognised twenty-five years previously by K. RAHNER, "Schism in the Church?" in *Faith in Question*, P. HEBBLE-THWAITE (ed.), Douglas, Isle of Man, Times Longbooks, 1969, pp.9-29, at pp.16-17: "The tendency towards a more pronounced individual life and towards a more clearly-defined independence of the local churches is then something whose recognition by Vatican II is purely theoretical and something in which there lurks material for many conflicts and even dangers of schism. But this tendency is in itself legitimate and should not be suspected in advance of being schismatical. It naturally runs up against the opposition of the existing widespread uniformity of the Western Church. If one sets off from the presumption that every attempt to give a definite individual character to the local churches should only take place within the hitherto existing uniform structure, then this tendency would right from the beginning be emasculated into a purely theoretical ideal." In the local churches of democratically constituted societies there is a widespread expectation that dissent in the Church will be handled at least as fairly as it is in the secular domain.

⁵⁸For an alternative suggestion, see G. GRISEZ, "How to Deal with Theological Dissent," in *Readings in Moral Theology*, pp.463-472. Grisez suggests using the synod of bishops as a forum for the discussion of "new" ideas. See also the suggestion of HÜNERMANN, in "Bishops and Theologians," p.1451: "The German bishops should unanimously - and therefore bindingly - set up a two-level procedure for conflicts of a doctrinal nature. On the first level they would set up two committees, one for north Germany and the other for the south. At the head of each committee should be a theologically qualified bishop. The committees would be made up of six theology professors from different disciplines and two lay people, with a five or six year term of office." For a comprehensive treatment of the question, see *Cooperation Between Theologians and the Ecclesiastical Magisterium: A Report of the Joint Committee of the CLSA and the Catholic Theological Society of America*, L.J. O'DONOVAN (ed.), Washington, DC, CLSA, 1982. In a section entitled "Appropriate Subsidiarity," pp.141-143, P. Granfield writes: "Subsidiarity is also applicable to the dialogue between the magisterium and the theologians. It would mean that doctrinal conflicts should, if possible, be solved at the local level and only if necessary referred to a higher body ... The following four-step process is suggested." Briefly, the four steps are first, "a friendly dialogue between the theologian and the Ordinary, or someone appointed by him." Secondly, if necessary, a meeting between the theologian and the diocesan, or inter-diocesan, or regional, committee on doctrine. Again, only if it is judged necessary, thirdly, the theologian would be allowed to participate in a hearing before a national theological commission established, in this instance by the NCCB. There could be two hearings or reviews before this commission before proceeding to the fourth step, "if all efforts at reconciliation had failed," the intervention of the Congregation for the Doctrine of the Faith. Granfield concludes by insisting that both the theologian and the bishop have rights which must be protected: "The theologian, at every level of resolution, should be allowed to be heard and, if necessary, to appeal to the next higher stage. Second, the bishop, in view of his over-sight function in exercising his teaching authority, has the responsibility both of determining when the discussion has reached a suitable conclusion or an impasse and of making a decision." The principle of subsidiarity, since it defines competencies, protects the bishop's

institution founded on the Word of Truth, protected by the Spirit of Truth, the Church should have nothing to fear from such a process which is in accordance with the tradition of "cheerful disputation."⁵⁹

In the modern world, seemingly authoritarian pronouncements remain unconvincing, especially to an increasingly well-educated and theologically literate laity who are accustomed to subjecting to critical analysis the arguments of academics and politicians as presented by the media. The work of such organisations as *Amnesty International* and the *Catholic Institute for International Relations*, to say nothing of local, church-based Justice and Peace Commissions, has heightened awareness of the human right to a fair trial and has promoted a healthy suspicion of any apparently arbitrary denial of this. However unpopular the views in question may be, in the contemporary world the right to express them is probably among the most sacrosanct, and nothing excites more opposition than a suggestion that the right to

right to make this decision.

⁵⁹In a talk, "The Theological Task of Canon Law," given to the Annual Convention of the Canon Law Society of America, in St Louis, Missouri, on 10 October 1996, Ladislav Orsy said: "In their work [canon lawyers] need the guidance and the support of the magisterium, but, by divine disposition, the teaching authority cannot be at its best unless it listens devotedly to the conversations in the community and makes an effort to collect all the fragments of truth possessed by the faithful. All need freedom to function well. Perhaps we should revive the ancient custom of disputations. They played a large role in the intellectual life of the middle ages - even beyond. Popes and kings, bishops and princes, ministers and minstrels, not to mention the university folk of all ages and grades, loved to watch them. Nothing could excite people so much as 'disputed questions.' Today, in our post-conciliar Church, we often are compelled to listen to bitter exchanges but are rarely invited to attend cheerful disputations. Could they be reintroduced? How fitting they would be, say, in the beginning of an episcopal synod or at the meeting of an episcopal conference. This is not to imply that we never need strong affirmations; we do. Otherwise, how could we say *we believe*? But there is a measure in all good things. Once the parameters of beliefs are drawn, we need the liberating force of - yes, cheerful disputations - to learn more about the riches of the mysteries and to find the right structures and norms to accommodate them in our midst." The quotation is taken from the text, pp.20-21, of the talk to be published in *CLSA Proceedings*, 58 (1996), and kindly offered by the author.

freedom of expression has been curtailed.⁶⁰ When the order comes from outside the teacher's context, sensibilities are even more outraged. As Cardinal Hume is quoted as saying at the 1987 Synod, "We have a culture too."⁶¹ The application of the principle of

⁶⁰Cf. P. HEBBLETHWAITE, "Human Rights in the Church," a paper delivered at the International Colloquium on Authority in the Church held in Leuven, Belgium, 1981, and published in *Authority in the Church and the Schillebeeckx Case*, L. SWIDLER and P. F. FRANSEN (eds.), New York, Crossroad, 1982, pp. 190-201, at p. 199: "It is already evident that human rights, vis-à-vis the state, are one of the major themes of this pontificate, and that they have been emphasised as never before. At the same time, there has also been a restriction of free debate within the Church; hence, the problem becomes more acute than ever, and the contradiction between the exhortations to the world and the actual life of the Church becomes glaring, even dramatic."

It is important in this context to remember that the magisterium also has rights, and indeed the duty to preserve the integrity of doctrine. See, for instance, J. H. MANSFIELD, "A Bill of Rights for the Church: Relevance of the Anglo-American Experience," in *The Case for Freedom: Human Rights in the Church*, J. A. CORIDEN (ed.), Washington, DC, Corpus Books, 1969, pp. 129-161, at p. 154: "One thing is clear. If the members of the Church have a right of free speech, so does the Church itself. She must be free to preach the Gospel and to combat, by her teaching, beliefs that threaten the transformation of the Church by error. This right of the Church derives from her divine constitution and from the impartial application of the norm of free speech itself. The Church as an institution is free to speak even though her utterances, including her condemnations, may result in serious consequences to individuals." The CDF exercises this right in the publication of such documents as the "Declaratio circa Catholicam Doctrinam de Ecclesia contra nonnullos errores hodiernos tuendam," *Mysterium Ecclesiae*, 11 May 1973, in *AAS*, 65 (1973), pp. 396-408; and *Instructio de ecclesiali theologi vocatione*, 24 May 1990, in *AAS*, 82 (1990), pp. 1550-1570. In this latter document, there is a discussion of "dissent," pp. 1562-1569, nn. 32-41.

⁶¹See chapter 3, note 30. As a result of his experiences Charles Curran highlighted some of the deficiencies of the Roman system as compared with what are regarded as normal juridical practices in his cultural context. See CURRAN, *Faithful Dissent*, p. 67: "In addition there is need for juridical structures which better safeguard justice and the rights of all concerned. Some of the problems with the present procedures of the Congregation have already been pointed out in the correspondence. The Congregation, in a letter to me, has defended its procedures because the *Ratio Agendi* is not a trial but rather a procedure designed to generate a careful and accurate examination of the contents of published writings by the author. However, since the process can result in severe punishment for the person involved, it seems that such a process should incorporate the contemporary standards of justice found in other juridical proceedings." Curran then lists some areas where the contrast is most apparent: "The Congregation is the prosecutor, the judge, and jury. Some people have objected strongly to the fact that the Cardinal Prefect has commented publicly on the present case and disagreed in the public media with my position while the case has been in progress. Problems have also been raised against the existing procedures from the viewpoints of the secrecy of the first part of the process, the failure to allow the one being investigated to have counsel, the failure to disclose the accusers and the total record of the accused, and the lack of any substantive appeal process." For an alternative version of Curran's case, see "The Curran Case: CON," in *Readings in Moral Theology*, pp. 498-508. Many of the same charges were made against the CDF in the case of Hans

subsidiarity to procedures for responding to dissent would both acknowledge the Church's real acceptance of cultural differences and protect the rights of all those involved.

4. 2. 3 - The Principle of Subsidiarity in the Process of Reception

Although from the abundance of articles written on the topic, the notion of the "Church's ancient concept of Reception"⁶² would appear to be in peaceful possession in the Church, the Code barely acknowledges its importance.⁶³ Reception, far from being a

Küng, but refuted by Cardinal Carter in USCC, *The Küng Dialogue*, pp.202-205.

⁶²This is the expression used by Cardinal J.BERNARDIN, "Called to be Catholic: Church in a Time of Peril," in *Origins*, vol.26, no.11, August 29, 1996, pp.165, 167-170, on p.169: "An essential element of Catholic leadership must be wide and serious consultation, especially of those most affected by Church policies under examination. The Church's ancient concept of reception reminds us that all the faithful are called to a role in grasping a truth or incorporating a decision or practice into the Church's life." Amazingly, three of the four American Cardinals who criticised Cardinal Bernardin's paper mentioned this, implying in their critiques that reception involved a sort of poll of Catholics to test the viability of magisterial teaching, whereas this is certainly not suggested in Cardinal Bernardin's description. See Cardinal LAW, "Response to 'Called to be Catholic,'" in *ibid.*, pp.170-171; Cardinal MAIDA, "Reaction to the Catholic Common Ground Project," in *Origins*, vol.26, no.13, September 12, 1996, pp.200-201; Cardinal HICKEY, in *ibid.*, pp.202-203. For an answer to their objections, see Bishop K.E.UNTENER, "How Bishops Talk," in *America*, October 19, 1996, pp.9-15. In his commentary on the responses both to Cardinal Bernardin and to Archbishop Quinn's lecture in Oxford (see chapter 3, note 5), Bishop Untener, defines reception as follows: "Reception has to do with the Church, the Body of Christ, incorporating a teaching into its own being ... bringing something from the outside to the inside. Our teachings are not dead letters, museum pieces. They live in the community. Reception is the process by which they take root, come alive. The local churches or individuals receive the faith of the whole Church into their lives, even when it may be difficult to do. It is part of the struggle of faith. In the last century Cardinal John Henry Newman criticised those 'who will believe anything because they believe nothing,' or who 'think that to believe is as easy as to obey.'"

⁶³See, for example, CONGAR, *Lay People in the Church*, pp.250-270, where Congar discusses this role of the laity under the heading of "The Church's Kingly Function"; he wrote specifically on reception as "Reception as an Ecclesiological Reality," in *Concilium*, 77 (1972), pp.43-68; G.J.KING, *The Acceptance of Law by the Church Community as an Integral Element in the Formation of Canon Law: An Historical and Analytical Study*, Canon Law Studies, no.498, Washington, DC, Catholic University of America, 1979, Ann Arbor University Microfilms International, 1991; E.J.KILMARTIN, "Reception in History: An Ecclesiological Phenomenon," in *Journal of Ecumenical Studies*, 21 (1984), pp.34-54; T.P.RAUSCH, "Reception Past and Present," in *Theological Studies*, 47 (1986), pp.497-508; J.A.CORIDEN, "The Canonical Doctrine of Reception," in *The Jurist*, 50 (1990), pp.58-82; M.J.HIMES, "The Ecclesiological Significance of the Reception of Doctrine," in

passive process of assent to the decisions of the magisterium, requires of all the *Christifideles* an active response. Francis A. Sullivan describes it as follows:

More recent studies of the notion of reception of magisterial decisions on the part of the faithful pay more attention to the activity of the Holy Spirit in stirring up and maintaining the "supernatural sense of the faith," by which believers recognise the truth-content of what is authoritatively proposed for their belief. The role of the faithful is seen to be not merely passive obedience to formal authority, but an active sharing in the process by which the whole People of God "clings without fail to the faith once delivered to the saints, penetrates it more deeply by accurate insights, and applies it more thoroughly to life" (*LG*, n.12).⁶⁴

The Church's laws should surely embody some system whereby this active sharing, inspired by the Holy Spirit, can contribute to magisterial decisions at every stage in their formulation. The principle of subsidiarity requires that as far as possible a decision should be taken by those who will have the responsibility of implementing it. It follows, therefore, that the Code, revised in accordance with this principle, should provide for the involvement in the legislative process of all who are to be affected by the laws. Only by making this provision can the legislator ensure that the laws which he makes will be received. The participation of the community in formulating and implementing its own legislation builds *communio*. Giuseppe Alberigo offers an enlightening insight:

The *sensus fidei* of the people of God in all its complexity above all constitutes a crucial link which has still not been analysed sufficiently,

The Heythrop Journal, 33 (1992), pp.146-160; E.LANNE, "La notion ecclésiologique de réception," in *Revue théologique de Louvain*, 25 (1994), pp.30-45; L.ÖRSY, "The Reception of Laws by the People of God: A Theological and Canonical Inquiry in the Light of Vatican Council II," in *The Jurist*, 55 (1995), pp.504-526. Örsy dealt with reception more briefly in his book, *Theology and Canon Law: New Horizons for Legislation and Interpretation*, Collegeville, Minnesota, The Liturgical Press, 1992, pp.83-88.

⁶⁴F.A.SULLIVAN, *Magisterium: Teaching Authority in the Catholic Church*, New York, Paulist Press, 1983, p.111.

particularly in connection with the emphasis put on the *magisterium*. In ecclesial physiology it is the *sensus fidei* above all which plays a decisive and creative role, whereas the *magisterium* has to be limited to the responsibility for authentication, for confirmation in the faith. The profession lived out in faith by some of the faithful, their orthopraxis which constitutes the 'concrete catechism,' is the constant and irreplaceable testimony to and representation of the Gospel for all humanity. In more recent centuries, the scope of the *sensus fidelium* has become increasingly circumscribed, to the point that it has almost become an abstraction. Too many people accept its importance only in terms of 'reception,' i.e., of consent which is given after the event (and often passively, as a matter of duty) to conclusions arrived at previously by the authorities. The scholastic model of bourgeois society, entirely dominated by an exclusively 'descending' sense, has profoundly influenced this tendency to reverse the roles between the *sensus fidelium* and the *magisterium*. ... It is correct, but also too easy to stress the difficulties inherent in the criteria for accepting the consensus of the majority; it remains true that on the historical occasions on which it has been necessary, the discernment of the Church has been effective.⁶⁵

The language of canon 212, §1 speaks, however, of the obedience of Christ's faithful rather than of their active cooperation in the declarations and prescriptions of the "sacred Pastors":

Christ's faithful, conscious of their own responsibility are bound to show Christian obedience to what the sacred Pastors, who represent Christ, declare as teachers of the faith and prescribe as rulers of the Church.

This canon, in the title headed "The Obligations and Rights of all Christ's Faithful" nonetheless seems to make a clear distinction between the "sacred Pastors" as teachers and rulers, and the *Christifideles*.

The canon continues:

§2 Christ's faithful are at liberty to make known their needs, especially their spiritual needs, and their wishes to the Pastors of the Church.

§3 They have the right, indeed at times the duty, in keeping with their knowledge, competence and position, to manifest to the sacred Pastors their views on matters which concern the good of the Church. They have the right also to make their views known to others of Christ's faithful, but in so doing

⁶⁵ ALBERIGO, "Ecclesiology and Democracy," pp.18-19.

they must always respect the integrity of faith and morals, show due reverence to the Pastors and take into account both the common good and the dignity of individuals.

This canon, together with canons 215 and 216 which refer to the right to establish associations and to promote, support and even initiate apostolic action, although providing for a limited "response" on the part of the *Christifideles*, does not establish any means for the vast majority of the *Christifideles*, the laity, to exercise the rights accorded them here.⁶⁶

Aidan McGrath, the commentator in *Letter and Spirit* points to "the various structured forms of consultation set out in the Code" - the presbyteral council, the diocesan pastoral council, the diocesan finance council, the parish finance committee, the parish council, etc. - but of these the finance councils are the only ones involving the laity which are obligatory.⁶⁷

Without some structured method of determining the views of the *Christifideles*, it is difficult to understand how priests can represent their people, and their fellow presbyters to their bishops, or bishops their dioceses at conferences of bishops or synods of bishops, and so determine the degree of reception of either laws or teachings.⁶⁸

⁶⁶It would be unrealistic to expect detailed legislation from the universal law on the means appropriate for exercising these rights, since these will obviously vary from place to place. Acknowledgement of the principle of subsidiarity will facilitate the establishment of structures apt for both the issue and the subjects.

⁶⁷See *Letter and Spirit*, para. 446.

⁶⁸For the expression of a similar view specific to the conferences of bishops newly established by the revised Code, see L.ÖRSY, "Episcopal Conferences: Their Theological Standing and Their Doctrinal Authority," in *America*, November 8, 1986, pp.282-285, at p.285: "As historically conditioned expressions of the communion of bishops, [bishops' conferences] are bound to have built-in limitations. These originate in the fact that the institutional structures of the conferences are not open to others besides bishops. I say, the 'institutional structures' because the members can do much, collectively and individually, to be open to the people at large by soliciting advice, by requesting help and so forth. Thus, practice can remedy the lack of a legal provision. At any rate here are some examples of this lack: The diocesan clergy, who are the presbyterate around the bishop in every diocese and, as a rule, are in direct contact with the bishop's people have no ways or means to bring

No-one appears to deny the importance of the exchanges which would be necessary to the process of reception. Yves Congar writes: "The Church's concrete regime is traditionally one of councils, not of solitary personal decisions," and that the role of the laity in these councils has traditionally been one of information and advice, of consent and publicity.⁶⁹ Further, he describes the active cooperation of the laity in the regulation of its life as taking place in the evolution of custom and of initiatives taken from below: "The Church is not only an institution wherein the faithful simply receive the objective means of grace; she is also a community actively formed by its members on the basis of their baptismal engagement; and this community takes part in the creation of law, for law is often simply a formulation of tradition and custom."⁷⁰ Congar admits that traditionally for

any of their concerns before the conferences as such. Religious institutes, which through their educational apostolate often have an immense and important share in the pastoral work of the dioceses, have no assured access to the conferences. When the bishops of a conference deliberate and decide about the life of the Church, they are not bound to hear any voices other than their own. The temptation to believe they are 'the Church' can be very real, and this is a temptation, not only for them, but even more for the people outside, who can perceive themselves as being called to be mere passive spectators in God's kingdom." Cf. TILLARD, *Bishop of Rome*, pp.170-171.

⁶⁹See CONGAR, *Lay People in the Church*, pp.250-269. He says, p.258: "Throughout this present book we have tried to show the necessity of a twofold consent in the Church: the radically necessary consent of life to incorporate itself in the structure, lacking which we run in vain and life is not the life of the Church; and the consent of the structure to welcome life's needs and developments, lacking which the bases remain firm but there is no movement at all, and the Church, while faithful to her fundamental constitution, fails to fulfil her mission." This sentence describes the process of reception very well. For Congar the place where this reciprocal movement of reception takes place is most likely to be a council or a synod. Such are rare events in the lives of most people.

⁷⁰CONGAR, *Lay People in the Church*, p.256. Congar returns to the theme in *I Believe in the Holy Spirit*, vol.2. See especially pp.30-32, where the author writes, p.31: "These 'signs of the times' are not always clearly defined, but they are sufficiently clear. They are to be found in the situation in which the Church, as the people of God, has to carry out its mission. This situation somehow conveys the presence and plan and therefore the activity of God." Congar goes on to explain that the interpretation of these "signs of the times" is the responsibility of all Christians in the light of the Gospel.

customs to have obligatory or legal worth they must be ratified by the approval of lawful superiors, but he argues that the existence of this tradition “shows the reality of a source from below in the life of the Church.” No canonical provision exists for such an evolution in the present law of the Church.⁷¹

To accord the *Christifideles* a role in the formulation of the Church’s legislation in no way threatens the whole fabric of the institution, but rather contributes to its dynamism.

As Congar writes:

The Church is constructed hierarchically; the life through which she fulfils her mission presupposes the cooperation of the faithful. From the point of view of eucharistic worship, for example, we have seen that to make the presence, participation (communion) and consent (“Amen”) of the faithful a condition of valid consecration would be to overturn the Church’s structure; while to posit the bare structure of worship, its bare reality juridically constituted and valid, without participation and consent by the people, is to disregard the order of life and to fail to forward the Church’s mission. In the same way, to make an act of the body of the faithful the condition for validity of an hierarchical operation, whether of magisterium (dogma) or government (decree), is likewise to overturn the structure; and to give no place to the

⁷¹See ŌRSY, *From Vision to Legislation*, where the author writes, pp.43-44: “For a book of laws to be a good instrument of order and peace in a continuously developing community, two conditions must be fulfilled. One, it must be friendly to changes and flexible enough to accommodate them; two, it must offer some good mechanism for orderly transitions... The very idea of having one Code of laws covering virtually all the aspects of the life of the Church is conducive to a rigidity that hampers growth.” A theologian writing on “The communion of the faithful as the participation and co-responsibility of all,” concludes that the Code fails to provide for this co-responsibility. See KASPER, *Theology and Church*, pp.161-163: “Substantially speaking, this meaning of *communio* is fundamentally part of the doctrine about the common priesthood of all the baptised, which was revived by the Council (*Lumen gentium* n.10), and the *actuosa participatio* of the whole people of God, which is based on that common priesthood (*Sacrosanctum concilium* n.14 and frequently). This does not apply merely to the liturgy. It affects the whole life of the Church. Of especial importance here is the doctrine about the *sensus fidei* or *sensus fidelium* (*Lumen gentium* n.13, 35; *Gaudium et spes* n.43; *Apostolicam actuositatem* n.2f.). Unfortunately the new *Codex Iuris Canonici* has passed over this final aspect in complete silence.” The provision of councils and synods, at least as described in the Code, seems not quite to meet the needs of the contemporary Church.

cooperation and assent of the whole body is to ignore something in the order of life.⁷²

When Cardinal Danneels, during the 1985 Synod, dismissed the idea of subsidiarity as inappropriate and unnecessary in the Church construed as an ecclesial communion based on Eucharistic theology, he would appear to be ignoring the necessity of incarnating this theology into "the order of life," life here on earth.⁷³ The Church has to provide some mechanism first to elicit a response from the intelligent and free beings who *are* the Church and, secondly, to channel this response as effectively as possible.⁷⁴ The present Code does not do this. Örsy writes:

The Code does not offer any good machinery for handling legislative changes. Some kind of constitutional organ is needed to assess new needs, to propose new laws, especially since needs arise and challenges come not only from within the ecclesial community, but from the world itself that the community is called to serve. There is really no provision for such a task in our legal system, a serious deficiency within the structure of a world-wide organisation. There is again a small but significant clue why the Church can be slow to respond to new needs, should they arise from within or without the community. If there is any provision for such a task, it is only implicit in the Code and is left to the particular initiative of the various Roman offices. Since they are not, and cannot be, in direct contact with far-away regions, and have little or no experiential knowledge of distant situations, new needs may go unnoticed, or remain misunderstood, and in one way or another damage follows.⁷⁵

⁷²CONGAR, *Lay People in the Church*, p.262.

⁷³See chapter 2, p.135.

⁷⁴In an address, "Dirons-nous: «Infaillible»?," delivered to the Canadian Canon Law Society in Québec, on 22 October 1996, André Naud drew attention to the need for such a process when he questioned whether there was in fact consensus among the bishops of the world on the issue of reserving priestly ordination to men: "Comment vérifier *aujourd'hui* s'il y a consensus actuel, au sens de contemporain, des évêques dispersés? La réponse à cette question est tellement facile que je me contente de la laisser à votre méditation ..."

⁷⁵ÖRSY, *From Vision to Legislation*, pp.45-46.

Örsy suggests that the Synod of Bishops might eventually evolve into a constitutional organ to fulfil this task. Whatever the means employed, the principle of subsidiarity could prove a useful instrument in structuring the interaction between the “sacred Pastors” and “Christ’s faithful” to facilitate reception vis-à-vis ecclesiastical legislation and promote the dynamic of life in the Spirit with which all are gifted.

Conclusion

Any human organisation or community, faced with serious consideration of introducing new structures or processes, is likely to encounter favourable as well as unfavourable responses from those most likely to be affected by the changes. This natural phenomenon occurs also in the human community of the Church. Therefore, the views of those who express guarded approval of the application of the principle of subsidiarity, while deserving respect, certainly do not seem justifiable in view of the well-founded theological and canonical arguments supporting it.

When the bishops agreed to employ the principle among those guiding the revision of the Code, they were, one assumes, acting under the guidance of the Spirit.⁷⁶ From the lengthy exchanges about the possible use of this principle in the Church, the presence of the Spirit would appear to be encouraging bishops, pastors and people to move further in the

⁷⁶See CONGAR, *I Believe in the Holy Spirit*, vol 1, pp.171-172: “The whole people of God knows that it has the task of building up the Church and that lay people have to contribute their gifts or charisms to this task. The local churches are still looking for ways of life that are peculiar to them. The chapter on conciliarity that was opened by Vatican II has not yet been brought to an end ... The entire life of the Church is unfolding in the breath of the Spirit of Pentecost. Pneumatology, like ecclesiology and theology as a whole, can only develop fully on the basis of what is experienced and realised in the life of the Church. In this sphere, theory is to a great extent dependent on praxis.” To a very great extent the praxis is that of the laity in the local churches. Channelling their involvement is a major challenge for their pastors.

direction of decentralisation - a decentralisation based on the recognition of the Spirit's activity in all the members. Whether the name given to this movement is the implementation of the principle of subsidiarity, the granting of just autonomy, or the creation of more synodal structures, seems irrelevant. The debates on the principle have drawn attention to values which the modern world expects the Church to uphold - appreciation of diversity and flexibility, the encouragement of dynamism and initiative.

The *communio* theology of the Church, based on the Church as a Eucharistic community, also requires a human structure that translates and incarnates its values. The principle of subsidiarity can be adapted to supply this need. Kerber comments:

A widespread opinion says that the observance of the subsidiarity principle in the Church is not in very good shape. The reasons for this ... do not lie in the area of principal theological or philosophical thinking. ... What are the real reasons why Church officials do not perceive the contradiction between the doctrine they proclaim and their own way of acting? The reasons might be the very same which also create and favour centralist structures outside the Church: striving for power, fear of what is uncontrolled and uncontrollable, overestimation of one's self, lack of trust in people and their capability and readiness for appropriate actions.⁷⁷

While arguing in favour of the principle of subsidiarity as applicable to the Church, the author does not claim that "the legal structures would be the sum total of the nature of the Church ...," but he does point out that the visible sign must be capable of referring to that which is signified.⁷⁸ A community restrained by laws based on the reasons listed above would fail to serve the people of God in this way.

⁷⁷Cf. KERBER, "Die Geltung des Subsidiaritätsprinzips in der Kirche," p.671.

⁷⁸Ibid., p.667.

If implementation of the principle of subsidiarity is to prove successful, then there must be in place a system of formation adapted to the specific needs of each particular church, of each particular member of that church, so that levels of competency are clearly defined and understood. As far as possible, all those who will be affected by a decision should be involved at some stage in making that decision. For the counsel and advice to be sound, there should be a free exchange of all the relevant information with those consulted. The opportunities for "cheerful disputation" must be created. Kasper also argues for this:

At present it is obvious that something has gone very wrong with Vatican II's great idea, the *communio fidelium*. In this situation, the first task of the Church's ministry and its service for unity seems to me to be to restore dialogue and communication, and to introduce the binding doctrine of the Church, as far as possible by means of reasoned argument, into the process of communication within the Church, in order to build up once more a full and undivided *communio* and *communicatio fidelium* - communion and communication among the faithful. The ideal of this communion is not harmony without tension. All life moves in tension, as J.A.Möhler showed; where tension ends there is death. And we have no desire for a dead Church. We want a living one! But a distinction must be made between genuine tensions where the poles are related to one another in a complementary way, and unconnected, indeed irreconcilable differences, which shut themselves off mutually and exclude one another, both in logic and in attitude. As Möhler again showed, in the communion of the Church neither one nor all can be everything. 'Only everyone together can be everything, and the unity of all can only be a whole. That is the idea of the Catholic Church.'⁷⁹

Furthermore, a system of accountability should be operative, so that decisions are explained, especially when they go counter to the advice given.

At present, such fora as are available for the free exchange of opinion in the Church manifest only limited implementation of the principle of subsidiarity. To prevent unnecessary public controversy in the media when there is conflict or dissent, local, regional or national

⁷⁹See KASPER, *Theology and Church*, p.163. Kasper quotes frequently from Möhler, the theologian credited with developing the doctrine of the Mystical Body, propounded by Pope Pius XII.

arrangements need to be in place. The process of reception requires a similar structure, so that the role of all the *Christifideles* in contributing to the formulation of law and its translation into practice is seen to be treated with the seriousness which this process deserves.

CONCLUDING REFLECTIONS

As originally formulated by Pope Pius XI, the principle of subsidiarity was intended to define competencies within the civil society, so that the state did not take from its citizens responsibilities that were properly theirs but provided for any necessities which they could not by themselves successfully obtain. The principle is founded on recognition of the dignity of each human being who therefore has an inalienable right to self-determination. To limit this right to decisions in the secular sphere, to deny to intelligent, free, responsible and baptised men and women a real role in the functioning of the Church, in the building up within their parishes, dioceses and nations of the *communio* held to characterise the post-Vatican II Church, appears to go counter to the best interests of the Church as a whole.

It has become obvious in the course of this study that the principle of subsidiarity as an organisational principle has strong support in the Church's teaching. The conciliar documents, in keeping with one strand of papal teaching, explicitly mention the principle in relation only to the state and its responsibilities towards its citizens. Ample evidence exists, however, of the influence exerted by the principle in the conciliar documents, even in defining intra-ecclesial relations. The emphasis on collegiality, on the local churches, the recognition of the position of the bishop in his diocese as vicar of Christ, of the role of national conferences of bishops, of the need for greater participation by the laity in the mission of the Church - all these exemplify the move towards decentralisation, inspired by respect for the dignity and rights of the individual. Reiteration of the principle of subsidiarity in the Church's social teaching, revealed its possible application in these aspects of ecclesial life.

Papal approval of the principle as applicable to the Church appears qualified and warns against the dangers of any imprudent implementation. A sort of “unilateral declaration of independence” on the part of the particular churches seems to be the main fear voiced by Popes Paul VI and John Paul II. Stronger collegial activity, more frequent dialogue and communication between the bishops in national conferences and synods at various levels, would serve to obviate this risk.

Flexibility, adaptation, dynamism, diversity - all appeared as values advocated by the bishops at successive synods in their requests for greater decentralisation. All characterise the implementation of the principle of subsidiarity: all indicate the presence of the Spirit bestowing his charisms in the local churches. Since *communio* requires a living and visible witness, the Code should offer the means to channel these energies and the initiatives which flow from them, by encouraging the establishment at local level of such structures as are appropriate.

In the course of the ten synods held between 1967 and 1990, the bishops repeatedly requested further implementation of the principle. Even during the Council, Pope Paul VI had seen fit to recognise many powers belonging to diocesan bishops. Not even these efforts at decentralisation satisfied the needs reiterated at successive synods. The bishops discussed many issues at length in Rome but remained unable to put their aspirations into effect in their own dioceses without first seeking at least *recognitio* from a central authority. The process of inculturation, or rather “the evangelisation of cultures,” therefore remains painfully slow. Seminary training, for example, as legislated in the Code, does not really respond to the needs of many local churches.

Although the 1967 Synod adopted it as a revision principle for the Code of Canon Law, even after the publication of the Code, the synodal discussions returned to the theme of further implementation. The principle was invoked as essential for promoting inculturation, co-responsibility and participation of the laity. The bishops spoke of the values of dynamism and diversity, of flexibility and adaptability, characteristics of a lively response to the Spirit working in the particular churches, seen to be the fruits of the application of this principle. Properly applied, the principle, while recognising the individual dignity of each member of the *Christifideles*, certainly fosters initiative, frees people to exercise their charisms in the service of the Church and promotes *communio*.

Since there is no explicit mention in the Code of the principle of subsidiarity, one might conclude that as a revision principle it had little or no effect. Nonetheless, it appears that certain sections at least in Book II do, in fact, show evidence of the implementation of the principle, whereas other sections give only very limited evidence that the principle informed the revision process. Such councils as exist in the diocese, for example, remain firmly under the control of the diocesan bishop: application of the principle of subsidiarity stops short of empowering other *Christifideles*, clergy and laity, in any meaningful way.

The canons governing the Institutes of Consecrated Life, however, show the greatest degree of implementation of the principle of subsidiarity, not only in permitting to the institutes the freedom to draw up their own constitutions in accordance with their unique charism, but also in recommending patterns of participative governance within the institutes.

The viability of the principle of subsidiarity in religious congregations shows the conditions necessary for it to become workable within the Church as a whole. In this section of the Code the many canons which allow the final decision on a multitude of issues to the

proper law, determined by the religious themselves as a result of consultations and discussions, demonstrate the Church's capacity to provide in its legislation for flexibility and diversity. In addition to a system of accountability, well-established in religious communities, and a system of communication designed to encourage openness and mutual support, the members all benefit from a formation which leads them to expect a role in government, and they are organised into groups where this becomes possible. Further, no one person can remain in power for too long. In such circumstances the principle of subsidiarity works well as an instrument for structuring government.

Some objections to the principle have been explained and an attempt made to show that the arguments of those who reject subsidiarity as valid for the life of the Church are based on a possibly exaggerated view of what is no more than an organisational model, a possible structural pattern, which can be adapted for use in the Church which is a unique human society albeit of divine origin. Three areas were then singled out as examples of further possible uses of the principle.

The reluctance to loosen the centralising tendencies which characterise the Latin Church seems to be based at least in part on the possibly destructive force of diversity. Yet, without noticeable harm, the Catholic Church has embraced diversity for centuries in the Eastern Catholic Churches. The pattern of government there, where synods are the accepted form, and subsidiarity is a well-established and revered principle offers possibilities to the Latin Church.

The principle of subsidiarity, however, requires certain supports. For it to prove an effective tool in providing for a measure of participation in Church, diocesan or local parish governance, there must be an established system of accountability. Since all decisions

impinge on others, all should be at the service of the *communio*. Moreover, those who take decisions should, therefore, be prepared to report on them, when necessary, to the appropriate and competent authority whose ultimate responsibility it is to oversee the community.

Perhaps most importantly, the principle assumes that there is already in place a system of communication which will facilitate the flow of information and response between all the members of the community. Many of the bishops at the synods repeatedly requested better systems of communication within the Church and between the Church and the world. The present (God-given) advances in communications technology are offering the Church previously undreamed of opportunities for spreading the Word and hearing the responses of the nations.

A long time supporter of the principle of subsidiarity, Cardinal Bernardin, referred to it in response to one of the last questions in his final interview a month before his death in November 1996. The last exchanges were as follows: Asked “What are the issues you think the next Pope will have to face?” Cardinal Bernardin replied:

Two come to mind. The first is what should be the relationship between the centre and the periphery. The Second Vatican Council highlighted the notion of collegiality. And strictly speaking, that refers to the relationship between the Pope and the bishops. We need the Pope. He is the symbol and also the human instrument of unity. But the bishops have a responsibility for the well-being of their dioceses. So, how do these two work in tandem? I see the same thing in the local church. We have to have a central administration, but how pervasive should it be? To what extent can it become overbearing so that it undermines creativity? The other issue has to do with the notion of subsidiarity; that you shouldn't insist that a higher level do something that can be done or should be done at the lower level. Sometimes we don't give enough freedom to people at a lower level.

Q: If we started to do that the Church would be very different, wouldn't it?

A: Yes.

Q: Do you think that's going to happen?

A: I think it has to be resolved.¹

Maybe reliance on the principle of subsidiarity will not resolve the issue, but it has at least focused attention on the tensions.

Eminent though he was, Cardinal Bernardin's word may not prove sufficiently weighty. Pope John Paul II, however, speaking to the Bishops of the Philippines, also seems to be approving of the principle:

This new and deeper evangelisation calls for dedicated and expert leadership. A bishop has a personal responsibility to teach the faith of the Church. He therefore needs time to read, study and prayerfully assimilate the contents of the Church's tradition and magisterium. Many time-consuming demands are made on you in the fulfilment of your prophetic, priestly and pastoral roles, and I am fully aware of the generous way in which you respond. In this respect, the evaluation which the Apostles made of their activities - "It is not right that we should give up preaching the word of God to serve tables" (*Acts* 6:2) - serves as a guideline to their successors in every age, reminding them that certain fundamental duties and far-reaching priorities must be pursued with wise determination. Administrative and social engagements, however unavoidable, must be harmonised with more basic tasks. Bishops also need to practise a subsidiarity which leaves ample room for the cooperation of priests and qualified lay persons in activities not strictly related to their pastoral office.²

This harmonises well with the canonical principle *De minimis non curat praetor* and, as bishops themselves, future popes may also in their practice of subsidiarity provide more room for the cooperation of priests and qualified lay people in the governance of the Church.

¹See "Death as a Friend," in *The New York Times Magazine*, December 1, 1996, pp.112-115. The name of the interviewer is not given. In a discussion of his Oxford lecture, "Considering the Papacy," Archbishop J.Quinn also refers several times to the necessity of the principle for future progress in tackling current problems facing the Church. See "Archbishop Quinn Discusses his Lecture," in *Origins*, vol.26, no.8, July 18, 1996, pp.127-128.

²JOHN PAUL II, Allocution to the Bishops of the Philippines on the Occasion of Their *ad limina* visit, 24 April 1990, in *AAS*, 82 (1990), pp.1396-1400, at pp.1398-1399.

When the study commission, mandated by the 1985 Synod, does eventually produce its report, it may decide that the disadvantages of employing the term “subsidiarity” for the Church as a whole outweigh the benefits. Perhaps “synodality” would serve better to describe the relationships desired.

Canonists could profitably study several other areas of ecclesial life where the possibility exists for implementing the principle of subsidiarity. Such possibilities appear, for example, in the field of ecumenical dialogue, in the arrangements for the selection of bishops, in structuring the relationships between the particular churches and the state, and in the evolving role of conferences of bishops. The need for inculturation, however, as repeatedly requested by bishops at the synods, must be ranked as one of the most important directions for future study. In this respect, more perhaps than in any other, the usefulness of the principle of subsidiarity should become evident as the particular churches themselves are invited to set up such structures as are proven by their experiences and correspond to their cultures and their needs. The whole mission of the Church demands the evangelisation of cultures.

As an organisational principle, subsidiarity has the support of papal approval, unequivocal at least as far as civil society is concerned, qualified in that its application within the Church must be analogous. Although further implementation may ease rather than solve the tensions presently felt, appropriate recognition of the “just autonomy” of particular churches, of parishes, of each of the *Christifideles* would promote the Church’s mission as a witness to human dignity. The principle of subsidiarity offers no more than a possible means of empowering people to assume such responsibility as will prove formative of Christ in them and in their communities.

The *communio* theology of the Church, although based on the Church as a Eucharistic community, also requires a human structure that translates and incarnates its values. The principle of subsidiarity can be adapted to supply this need. For its successful implementation there must be in place a system of formation adapted to the specific needs of each particular church, of each particular member of that church, so that levels of competency are clearly defined and understood. As far as possible, all those who will be affected by a decision should be involved, in appropriate ways, at some stage in making that decision.

As a principle requiring that the Supreme Pontiff safeguards the unity of the whole flock of God, that pastors listen to their people, that all members of the people of God take an active role in the building of the kingdom of God here on earth, the principle of subsidiarity offers a structure for ecclesial *communio*.

BIBLIOGRAPHY

SOURCES

Catechism of the Catholic Church, Libreria editrice Vaticana, 1992. English translation published in Ottawa, Publications Service, Canadian Conference of Catholic Bishops, [1994], 698p.

Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae auctoritate promulgatus, Romae, Typis polyglottis Vaticanis, 1917, xlv, 852p.

Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, Libreria editrice Vaticana, 1983. American version of English-language translation: *Code of Canon Law, Latin-English Edition*, translation prepared under the auspices of the Canon Law Society of America (= CLSA), Washington, DC, Canon Law Society of America, 1983, xliii, 668p.

Communicationes, Romae, PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO [vols. 1-15 (1969-1983)], PONTIFICIA COMMISSIO CODICI IURIS CANONICI AUTHENTICE INTERPRETANDO [vols.16-20, (1984-1988)], PONTIFICIUM CONSILIUM DE LEGUM TEXTIBUS INTERPRETANDIS [vols.21- , (1989-)].

JOHN XXIII, Encyclical letter, *Mater et Magistra*, 15 May 1961, in *Acta Apostolicae Sedis* (=AAS), 53 (1961), pp.401-464. English translation in *Proclaiming Justice and Peace: Papal Documents from «Rerum novarum» through «Centesimus annus»*, edited by M.WALSH and B.DAVIES (= *PJP*), expanded North American edition, Mystic, Connecticut, Twenty-Third Publications, 1991, pp.81-124.

———, Encyclical letter, *Pacem in terris*, 11 April 1963, in *AAS*, 55 (1963), pp.257-304. English translation in *PJP*, pp.125-156.

JOHN PAUL II, Allocution to Cardinals and the Roman Curia, 28 June 1986, in *AAS*, 79 (1987), pp.189-200.

———, Apostolic exhortation, *Christifideles laici*, 30 December 1988, in *AAS*, 81 (1989), pp.393-521. English translation in *Origins*, vol.18, no.35, February 9, 1989, pp.561, 563-595.

———, Encyclical letter, *Centesimus annus*, 1 May 1991, in *AAS*, 83 (1991), pp.793-867. English translation in *PJP*, pp.432-478.

LEO XIII, Encyclical letter, *Rerum novarum*, 15 May 1891, in *Acta Sanctae Sedis*, 23 (1891), pp.641-670. English translation in *PJP*, pp.15-40.

PAUL VI, Motu proprio, *Apostolica sollicitudo*, 15 September 1965, in *AAS*, 57 (1965), pp.775-780.

PAUL VI, Apostolic letter, *Octogesima adveniens*, 14 May 1971, in *AAS*, 63 (1971), pp.401-441. English translation in *PJP*, pp.245-267.

———, Apostolic exhortation, *Evangelii nuntiandi*, 8 December 1975, in *AAS*, 68 (1976), pp.5-76. English translation in A.FLANNERY (gen.ed.), *Vatican Council II: More Postconciliar Documents* (= FLANNERY 2), Northport, New York, Costello Publishing Company, 1982, pp.711-761.

PIUS XI, Encyclical letter, *Quadragesimo anno*, 15 May 1931, in *AAS*, 23 (1931), pp.177-228. English translation in *PJP*, pp.41-80.

PIUS XII, Encyclical letter, *Mystici Corporis*, 29 June 1943, in *AAS*, 35 (1943), pp.193-248. English translation by G.C.TREACY, *The Encyclical on the Mystical Body*, New York, New York, Paulist Press, 1943, 38p.

———, Allocution at a Consistory of newly created Cardinals, 20 February 1946, in *AAS*, 38 (1946), pp.141-151.

PONTIFICIA COMMISSIO CODICI IURIS CANONICI AUTHENTICE INTERPRETANDO, *Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, Libreria editrice Vaticana, 1989, xxxii, 659p.

SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church, *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), pp.5-67. English translation in A. FLANNERY (gen.ed.), *Vatican Council II: The Conciliar and Post Conciliar Documents* (= FLANNERY 1), vol.1, new rev. ed., Dublin, Dominican Publications, 1992, pp.350-423.

———, Decree on Ecumenism, *Unitatis redintegratio*, 21 November 1964, in *AAS*, 57 (1965), pp.76-85. English translation in FLANNERY 1, pp.452-470.

———, Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, 28 October 1965, in *AAS*, 58 (1966), pp.637-696. English translation in FLANNERY 1, pp.564-590.

———, Decree on the up-to date Renewal of Religious Life, *Perfectae caritatis*, 28 October 1965, in *AAS*, 58 (1966), pp.702-712. English translation in FLANNERY 1, pp.611-623.

———, Decree on the Training of Priests, *Optatam totius*, 28 October 1965, in *AAS*, 58 (1966), pp.713-727. English translation in FLANNERY 1, pp.707-724.

SECOND VATICAN COUNCIL, Declaration on Christian Education, *Gravissimum educationis*, 28 October 1965, in *AAS*, 58 (1966), pp.728-739. English translation in *FLANNERY* 1, pp.725-737.

———, Decree on the Apostolate of Lay People, *Apostolicam actuositatem*, 18 November 1965, in *AAS*, 58 (1966), pp.837-864. English translation in *FLANNERY* 1, pp.766-798.

———, Declaration on Religious Liberty, *Dignitatis humanae*, 7 December 1965, in *AAS*, 58 (1966), pp.929-941. English translation in *FLANNERY* 1, pp.799-812.

———, Decree on the Church's Missionary Activity, *Ad gentes*, 7 December 1965, in *AAS*, 58 (1966), pp.947-990. English translation in *FLANNERY* 1, pp.813-856.

———, Decree on the Ministry and Life of Priests, *Presbyterorum ordinis*, 7 December 1965, in *AAS*, 58 (1966), pp.991-1024. English translation in *FLANNERY* 1, pp.863-902.

———, Pastoral Constitution on the Church in the Modern World, *Gaudium et spes*, 7 December 1965, in *AAS*, 58 (1966), pp.1025-1115. English translation in *FLANNERY* 1, pp.903-1001.

SYNOD OF BISHOPS, *Synode des évêques, 1977: Réalités et avenir de la catéchèse dans le monde*, Principaux documents du synode des évêques 1977, réunis et présentés par J.POTIN, Paris, Centurion, Documents de l'Église, 1978.

———, *Synode extraordinaire: célébration de Vatican II*, J.A.KOMONCHAK (ed.), Paris, Les Éditions du Cerf, 1986, 679p.

———, *Les laïcs dans l'Église et dans le monde vingt ans après Vatican II*, Textes choisis et présentés avec le concours de J.POTIN, et de la rédaction de La documentation catholique, Paris, Le Centurion/Le Cerf, 1987, 279p.

BOOKS

ALBERIGO, G., J.-P.JOSSUA and J.A.KOMONCHAK (eds.), *The Reception of Vatican II*, translated by M.J.O'CONNELL, Washington, DC, Catholic University of America (= CUA) Press, 1987, x, 363p.

AMATEZE, S.U., *The Prophetic Role of the People of God in Evangelization in the Light of Vatican II: Prophetic Evangelization*, extract from doctoral thesis, Pontificia Universitas Urbaniana, 1988, xviii, 196p.

- AMOS, J.R., *Associations of the Christian Faithful in the 1983 Code of Canon Law: A Canonical Analysis and Evaluation*, Canon Law Studies, no. 516, Washington, DC, CUA - Ann Arbor, Michigan, University Microfilms International (= UMI), 1986, xi, 424p.
- ANCIAUX, P., *The Episcopate in the Church*, translated by T.F.MURRAY, Dublin, Gill, Logos Books, 1965, 100p.
- ARBuckle, G.A., *Refounding the Church: Dissent for Leadership*, Maryknoll, New York, Orbis Books, 1993, ix, 226p.
- BIANCHI, E. and R.RUETHER (eds.), *A Democratic Catholic Church: The Reconstruction of Roman Catholicism*, New York, Crossroad, 1992, 262p.
- BOWERS, R.J., *Episcopal Power of Governance in the Diocesan Church: From the 1917 Code of Canon Law to the Present*, Canon Law Studies, no. 535, Washington, DC, CUA - Ann Arbor, Michigan, UMI, 1991, xi, 352p.
- BRAXTON, E.K., *The Wisdom Community: A Framework and a Program for Renewing Communication and Understanding Between Priests, Bishops, Theologians and the People in the Pews*, New York, Paulist Press, 1980, ix, 212p.
- BÜHLMANN, W., *The Coming of the Third Church: An Analysis of the Present and Future of the Church*, English translation edited by R.WOODHALL, Slough, England, Saint Paul Publications, 1976, xi, 419p.
- , *The Church of the Future: A Model for the Year 2001*, translated from the German by M.GROVES, Maryknoll, New York, Orbis Books, 1986, xiii, 207p.
- BUTTURINI, G., *Le nuove vie del vangelo: i vescovi africani parlano a tutta la Chiesa*, Bologna, EMI, 1975, 336p.
- CALVO, R.R., *Consultation and the Presbyteral Council: New Emphasis on the Ratio legis*, Rome, Pontificia Studiorum Universitas a S.Thoma Aq. in Urbe, 1986, xiv, 326p.
- CAPARROS, E., M.THÉRIAULT and J.THORN (eds.), *Code of Canon Law Annotated*, (= CCLA) Latin-English edition of the *Code of Canon Law* and English language translation of the 5th Spanish language edition of the commentary prepared under the responsibility of the Instituto Martín de Azpilcueta, Montréal, Wilson & Lafleur Limitée, 1993, 1631p.
- CAPRILE, G., *Il sinodo dei vescovi: prima assemblea generale (29 settembre - 29 ottobre 1967)*, Roma, Edizioni "La Civiltà cattolica," 1968, x, 672p.

- CAPRILE, G., *Il sinodo dei vescovi: prima assemblea straordinaria (11 - 28 ottobre 1969)*, Roma, Edizioni "La Civiltà cattolica," 1970, ix, 531p.
- , *Il sinodo dei vescovi: seconda assemblea generale (30 settembre - 6 ottobre 1971)*, Roma, Edizioni "La Civiltà cattolica," 1972, 2v., xv, 1253p.
- , *Il sinodo dei vescovi: terza assemblea generale (27 settembre - 26 ottobre 1974)*, Roma, Edizioni "La Civiltà cattolica," 1975, xv, 1084p.
- , *Il sinodo dei vescovi: quarta assemblea generale (30 settembre - 29 ottobre 1977)*, Roma, Edizioni "La Civiltà cattolica," 1978, xi, 635p.
- , *Il sinodo dei vescovi: quinta assemblea generale (26 settembre - 25 ottobre 1980)*, Roma, Edizioni "La Civiltà cattolica," 1982, xi, 842p.
- , *Il sinodo dei vescovi: sesta assemblea generale (29 settembre - 29 ottobre 1983)*, Roma, Edizioni "La Civiltà cattolica," 1985, xiii, 866p.
- , *Il sinodo dei vescovi: seconda assemblea generale straordinaria (24 novembre - 8 dicembre 1985)*, Roma, Edizioni "La Civiltà cattolica," 1986, xi, 627p.
- , *Il sinodo dei vescovi: ottava assemblea generale ordinaria (30 settembre - 27 ottobre 1990)*, Roma, Edizioni "La Civiltà cattolica," 1991, xi, 766p.
- CHARLES, R. with D.MacCLAREN, *The Social Teaching of Vatican II, Its Origin and Development. Catholic Social Ethics: An Historical and Comparative Study*, Oxford, Plater Publications, San Francisco, Ignatius Press, 1982, xxvi, 569p.
- CHITTISTER, J.D., *Women, Ministry and the Church*, New York, Paulist Press, 1983, vi, 130p.
- COLOMBO, D., *I semi del vangelo: studi e interventi dei vescovi d'Asia*, a cura di D.COLOMBO, una chiave di lettura di M.ZAGO, Bologna, EMI, 1975, 267p.
- CONCETTI, G., *Bilancio e documenti del sinodo dei vescovi: documenti ufficiali, commenti, dichiarazioni, echi della stampa sulla prima assemblea generale (29 settembre - 29 ottobre 1967)*, Milano, Massimo, 1968, 432p.
- CONGAR, Y.-M.-J., *Lay People in the Church: A Study for a Theology of Laity*, translated by D.ATTWATER, rev.ed., Westminster, Maryland, Newman Press, 1967, xxi, 498p.
- , *I Believe in the Holy Spirit*, translated by D.SMITH, London, G.Chapman, 1983, 3 v.

- CORIDEN, J.A. (ed.), *We, the People of God: A Study of Constitutional Government for the Church*, Huntington, Indiana, CLSA, 1968, xvi, 182p.
- , (ed.), *The Case for Freedom: Human Rights in the Church*, Washington, DC, Corpus Books, 1969, x, 175p.
- , (ed.), *Who Decides for the Church? Studies in Coresponsibility*, Hartford, Connecticut, CLSA, 1971, x, 293p.
- , *Sexism and Church Law: Equal Rights and Affirmative Action*, New York, Paulist Press, 1977, ix, 192p.
- CORIDEN, J.A., T.J.GREEN and D.E.HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, commissioned by the Canon Law Society of America, New York, Mahwah, New Jersey, Paulist Press, 1985, xxvi, 1152p.
- CUMINETTI, M. and F.V.JOANNES (eds.), *Rethinking the Church*, translated by E.BURKE, Dublin, Gill and Macmillan, 1970, xi, 193p.
- CURRAN, C.E. and G.J.DYER (eds.), *Shared Responsibility in the Local Church*, a project of the Catholic Theological Society of America, sponsored by the National Federation of Priests' Councils, Chicago, 1970, 111p.
- D'ANTONIO, W.V. *et al.*, *American Catholic Laity in a Changing Church*, Kansas City, Missouri, Sheed and Ward, 1989, 193p.
- DE KONINCK, T., *De la dignité humaine*, Paris, Presses Universitaires de France, 1995, 244p.
- D'ONORIO, J.-B., *Le pape et le gouvernement de l'Église*, Paris, Éditions Fleurus-Tardy, 1992, 616p.
- DORR, D., *Option for the Poor: A Hundred Years of Catholic Social Teaching*, rev. ed., Dublin, Gill and Macmillan, 1992, ix, 433p.
- DULLES, A., *Models of the Church*, New York, Gill and Macmillan, 1976, 216p.
- DUSTON, R.A., *The Rights and Obligations of the Lay Christian Faithful: The Second Vatican Council through the Revised Code of Canon Law*, Rome, Pontificia Studiorum Universitas S.Thoma Aq. in Urbe, 1986, vi, 433p.
- FAIVRE, A., *The Emergence of the Laity in the Early Church*, translated by D. SMITH, New York, Paulist Press, 1990, 242p.

- FESQUET, H., *Le synode et l'avenir de l'Église*, Paris, Le Centurion, 1972, 295p.
- FILIBECK, G., *Les droits de l'homme dans l'enseignement de l'Église: de Jean XXIII à Jean-Paul II*, Cité du Vatican, Libreria editrice Vaticana, 1992, 524p.
- FINNIS, J., *Natural Law and Natural Rights*, Oxford, Clarendon Press, 1980, xv, 425p.
- FLOOD, E., *The Laity Today and Tomorrow*, New York, Paulist Press, 1987, v, 112p.
- GAFFNEY, C., and A. MURRAY, *An Approach to the Principle of Subsidiarity in the 1983 Code*, Master's Seminar Paper, Faculty of Canon Law, Saint Paul University, Ottawa, March 1985, 48p.
- GARRONE, G.-M., *Synode 85: nouveau départ pour le Concile* - dossier présenté par J.VANDRISSE, Paris, Fayard, 1985, 234p.
- GEORGE, J.S., *The Principle of Subsidiarity - with Special Reference to its Role in Papal and Episcopal Relations in the Light of Lumen gentium*, Canon Law Studies, no. 463, Washington, DC, CUA, 1968 - Ann Arbor, Michigan, UMI, 1988, xiii, 220p.
- GILSON, E., *Elements of Christian Philosophy*, Garden City, New York, Doubleday, 1960, 358p.
- GRANFIELD, P., *Ecclesial Cybernetics: A Study of Democracy in the Church*, New York, Macmillan, 1973, xiii, 280p.
- , *The Limits of the Papacy: Authority and Autonomy in the Church*, New York, Crossroad, 1987, viii, 207p.
- GREMILLION, J., *The Gospel of Peace and Justice: Catholic Social Teaching since Pope John*, presented by J.GREMILLION, Maryknoll, New York, Orbis Books, 1976, xiv, 623p.
- GROOTAERS, J. and J.A.SELLING, *The 1980 Synod of Bishops "On the Role of the Family": An Exposition of the Event and an Analysis of its Texts*, Leuven, University Press, 1983, 375p.
- HILL, E., *Ministry and Authority in the Catholic Church*, London, G. Chapman, 1988, vii, 142p.
- HITE, J., S. HOLLAND and D. WARD (eds.), *Religious Institutes, Secular Institutes, Societies of Apostolic Life: A Handbook on Canons 573-746*, rev.ed., Collegeville, Minnesota, Liturgical Press, 1990, 493p.

- JENCKS, C., *Inequality: A Reassessment of the Effect of Family and Schooling in America*, New York, Basic Books Inc. Publishers, 1972, xii, 399p.
- KASPER, W., *An Introduction to Christian Faith*, translated by V. GREEN, London, Burns and Oates, 1980, ix, 210p.
- , *Faith and the Future*, translated by R. NOWELL, New York, Crossroad, 1982, viii, 140p.
- , *The Christian Understanding of Freedom and the History of Freedom in the Modern Era: The Meeting and Confrontation Between Christianity and the Modern Era in a Post-modern Situation*, Milwaukee, Wisconsin, Marquette University Press, 1988, The Père Marquette Lecture - *Dignitatis humanae*.
- , *Theology and Church*, [*Theologie und Kirche*], [Introduction and Parts II and III], translated by M. KOHL, London, SCM Press, 1989, x, 231p.
- KENNEDY, E., *Re-imagining American Catholicism: The American Bishops and Their Pastoral Letters*, New York, Vintage Books, 1985, xii, 313p.
- KLOPPENBURG, B., *The Ecclesiology of Vatican II*, translated by M.J.O'CONNELL, Chicago, Franciscan Herald Press, 1974, xv, 373p.
- KOMONCHAK, J.A. (ed.), *Synodus episcoporum: synode extraordinaire: célébration de Vatican II*, Paris, Cerf, 1986, 679p.
- KÜNG, H., Y. CONGAR and D.O'HANLON (eds.), *Council Speeches of Vatican II*, Glen Rock, New Jersey, Paulist Press, 1964, 288p.
- KÜNG, H. (ed.), *The Church in Anguish: Has the Vatican Betrayed Vatican II?*, San Francisco, Harper and Row, 1987, x, 324p.
- KUTNER, R.W., *The Development, Structure and Competence of the Episcopal Conference*, Canon Law Studies, no. 480, Washington, DC, CUA, 1972, Ann Arbor, Michigan, UMI, 1988, ix, 198p.
- LAGGES, P.R., *The Legislative Authority of the Conference of Bishops: Its Nature and Scope in the 1983 Code of Canon Law*, Ottawa, JCD thesis, Saint Paul University, 1987, xiv, 276p.
- LAURENTIN, R., *Le premier synode: histoire et bilan*, Paris, Éditions du Seuil, 1968, 327p.

- LAURENTIN, R., *Enjeu du deuxième synode et contestation dans l'Église*, Paris, Éditions du Seuil, 1969, 383p.
- , *Réorientation de l'Église après le IIIe synode*, Paris, Éditions du Seuil, 1972, 383p.
- , *Un synode extraordinaire: pour un réalisme chrétien au-delà des idéologies de droite et de gauche*, Paris, OEIL, 1985, 100p.
- LEGRAND, H.-M., *Les conférences épiscopales: théologie, statut canonique, avenir: actes du colloque international de Salamanque, 3-8 janvier, 1988*, publiés sous la direction de H.LEGRAND, J.MANZANARES et A.GARCIA y GARCIA, Paris, Cerf, 1988, 530p.
- , *Les évêques d'Europe et la nouvelle évangélisation: textes rassemblés et introduits par Hervé Legrand; préface du Cardinal C.M.MARTINI*, Paris, Cerf, 1991, 521p.
- LEONZIO, V., *La missione del laico: documenti ufficiali della senima assemblea generale ordinario del sinodo dei vescovi sul tema «Vocazione e missione dei laici nella Chiesa e nel mondo a venti anni dal Concilio Vaticano II»: sintesi originali degli interventi con il testo integrale delle «Proposte» dei Padri sinodali a cura di V.LEONZIO*, Roma, Edizioni Logos, 1987, 248p.
- LESAGE, G., *The Principle of Subsidiarity: A New Way of Governing*, a Psycho-Canonical Study, Ottawa, Canadian Religious Conference, 1976, 20p.
- LEYS, A., *Ecclesiological Impacts of the Principle of Subsidiarity*, Kampen, Uitgeverij Kok, 1995, xvii, 239p.
- LOPEZ ILLANA, F., *Ecclesia Unum et Plura: riflessione teologico-canonica sull'autonomia delle chiese locali*, Città del Vaticano, Libreria editrice Vaticana, 1991, xxxix, 717p.
- McBRIEN, R.P., *Catholicism*, completely revised and updated, San Francisco, Harper-SanFrancisco, a division of HarperCollinsPublishers, New York, 1994, xlviii, 1285p.
- McCANN, D., *New Experiments in Democracy: The Challenge for American Catholicism*, Kansas City, Missouri, Sheed and Ward, 1987, vi, 191p.
- McMAHON, M., *Subsidiarity as an Ecclesiological Principle*, unpublished essay submitted in part-fulfilment of the requirements for the Degree of Master of Theology, University of London, England, 1984, 98p.
- MacRÉAMOINN, S., *The Synod on the Laity: An Outsider's Diary*, Dublin, Columba Press, 1987, 127p.

MALLET, J.K. (ed.), *The Ministry of Governance*, Washington, DC, CLSA, 1986, xi, 255p.

MANZANARES, J. (ed.), *La parroquia desde el nuevo derecho canonico, Aportaciones del derecho canonico y particular*, X Jornadas de la Asociacion de canonistas, Madrid, 18-20 April, 1991, Salamanca, Universidad Pontificia, 1991, 307p.

MARTOS, J., *Doors to the Sacred: A Historical Introduction to Sacraments in the Catholic Church*, Garden City, New York, Doubleday, 1991, xiii, 531p.

MASTROFINI, F., *Rapporto sulla Chiesa: il vento del sud*, Bologna, EMI, 1986, 184p.

MAY, W.W. (ed.), *Vatican Authority and American Catholic Dissent: The Curran Case and Its Consequences*, New York, Crossroad, 1987, vi, 208p.

MERSCH, É., *The Whole Christ: The Historical Development of the Doctrine of the Mystical Body in Scripture and Tradition*, translated by J.R.KELLY, Milwaukee, Bruce Publishing Company, 1938, xvi, 623p.

———, *The Theology of the Mystical Body*, translated by C.VOLLERT, St. Louis, Missouri, B.Herder Book Company, 1951, xviii, 663p.

MILANO, G.P., *Il sinodo dei vescovi*, Milano, Dott. A.Giuffrè editore, 1985, viii, 408p.

MILLER, R.J., *Forty Years After: Pius XI and the Social Order: A Commentary*, St. Paul, Minnesota, Radio Replies Press, 1948, xvi, 328p.

MONAHAN, A.P., *Consent, Coercion and Limit: The Medieval Origins of Parliamentary Democracy*, Kingston and Montreal, McGill-Queens Press, 1987, xx, 345p.

MOODY, J.N., *The Challenge of «Mater et Magistra»*, J.N.MOODY and J.G.LAWLER (eds.), New York, Herder and Herder, 1963, vii, 280p.

MORROW, W.J., *The Diocesan Synod in the Light of CIC 1983: An Expression of Synodality*, Romae, Pontificia Universitas Urbaniana, 1990, 185p.

NELL-BREUNING, O.von, *Reorganization of the Social Economy. The Social Encyclical Developed and Explained*, English edition prepared by B.W. DEMPSEY, New York, Bruce, 1936, xi, 451p.

NICODEMUS, D.E., *The Democratic Church*, Milwaukee, Bruce, 1969, xii, 145p.

O'BRIEN, D.J. and T.A.SHANNON (eds.), *Catholic Social Thought: The Documentary Heritage*, Maryknoll, New York, Orbis Books, 1992, viii, 688p.

- OCHOA, X., *Index verborum ac locutionum Codicis iuris canonici*, Editio secunda et completa, Città del Vaticano, Libreria editrice Lateranense, 1984, xvi, 593p.
- O'MEARA, T., *Theology of Ministry*, New York, Paulist Press, 1983, vi, 211p.
- ÖRSY, L., *From Vision to Legislation: From the Council to a Code of Laws*, Milwaukee, Wisconsin, Marquette University Press, The Père Marquette Theology Lecture, 1985, 59p.
- , *Theology and Canon Law: New Horizons for Legislation and Interpretation*, Collegeville, Minnesota, A Michael Glazier Book, The Liturgical Press, 1992, 211p.
- OSBORNE, K.B., *Lay Ministry in the Roman Catholic Church: Its History and Theology*, New York, Mahwah, Paulist Press, 1993, viii, 721p.
- PAGÉ, R., *Les églises particulières: t.1: leurs structures de gouvernement selon le Code de droit canonique de 1983*, Montréal, Éditions Paulines et Médiaspaul, 1985-1989, 2v.
- PARENT, R., *A Church of the Baptized: Overcoming Tension Between Clergy and Laity*, translated by S.ARNOLD, New York, Paulist Press, 1989, 213p.
- PETERS, T., *The Tom Peters Seminar: Crazy Times Call for Crazy Organizations*, New York, Vintage Books, Random House Inc., 1994, xv, 320p.
- PHILIPS, G., *Role of the Laity in the Church*, translated by J.R.GILBERT and J.W.-MOUDRY, Cork, Mercier Press, 1956, 175p.
- PIEPER, J., *In Search of the Sacred: Contributions to an Answer*, translated by L.KRAUTH, San Francisco, Ignatius Press, 1991, 136p.
- POWER, D.N., *Gifts that Differ: Lay Ministries Established and Unestablished*, New York, Pueblo Publishing Company, 1985, xi, 179p.
- PROVOST, J.H. (ed.), *Church as Communion, Church as Mission*, Permanent Seminar Studies Nos. 1 & 2, Washington, DC, CLSA, 1984, v, 245p. First appeared as special issues of *The Jurist*, 36 (1976), and 39 (1979).
- PUTHUSSEIL, G., *The Legislative Authority of the Episcopal Conference in the New Code of Canon Law*, extract from JCD thesis, Romae, Pontificia Universitas Urbaniana, 1986, 76p.
- RAHNER, K. and J.RATZINGER, *The Episcopate and the Primacy*, translated by K.BAKER and others, no. 4 in the series, *Quaestiones disputatae*, Montréal, Palm Publishers, 1962, 135p.

- RAHNER, K., *The Dynamic Element in the Church*, no.12 in the series *Quaestiones disputatae*, Montréal, Palm Publishers, 1962, 169p.
- , *Bishops: Their Status and Function*, translated by E. QUINN, Montréal, Palm Publishers, 1963, 77p.
- , *Theology of Pastoral Action*, translated by W.J.O'HARA (and adapted for an English-speaking audience by D.MORRISSEY), Freiburg, Herder, 1968, 144p.
- , *Grace in Freedom*, translated and adapted by H.GRAEF, London, Burns and Oates, 1969, 267p.
- RATZINGER, J., *The Ratzinger Report: An Exclusive Interview on the State of the Church*, with V.MESSORI, translated by S. ATTANASIO and G. HARRISON, San Francisco, Ignatius Press, 1985, 197p.
- RAUSCH, T.P., *Authority and Leadership in the Church: Past Directions and Future Possibilities*, Wilmington, Delaware, Michael Glazier, 1989, 158p.
- REESE, T. (ed.), *Episcopal Conferences: Historical, Canonical, and Theological Studies*, Washington, DC, Georgetown University Press, 1989, xii, 296p.
- RIGA, P., *Peace on Earth: A Commentary on Pope John's Encyclical*, New York, Herder and Herder, 1964, 254p.
- , *John XXIII and the City of Man*, Westminster, Maryland, Newman Press, 1966, xiii, 239p.
- RIGAL, J., *L'Église: obstacle et chemin vers Dieu*, Paris, Cerf, 1983, 220p.
- RUOCO, A.C., *Le primat de l'Évêque de Rome*, Fribourg, Éditions Universitaires Fribourg Suisse, 1990, 286p.
- RYNNE, X., *John Paul's Extraordinary Synod: A Collegial Achievement*, Wilmington, Delaware, Michael Glazier, 1986, xi, 132p.
- SCHILLEBEECKX, E., *Church, The Human Story of God*, New York, Crossroads, 1990, translated by J.BOWDEN from the Dutch, *Mensen als verhaal van God*, reprinted with corrections, Baarn, Uitgeverij H. Nelissen, 1990, xix, 268p.
- , *The Church with a Human Face: A New and Expanded Theology of Ministry*, New York, Crossroads, 1987, translated by J.BOWDEN from the Dutch, *Pleidooi voor Mensen in de Kerk. Christelijke Identiteit en Ambten in de Kerk*, xii, 308p.

- SHEEHY, G., *et al.* (eds.) *The Canon Law: Letter and Spirit: A Practical Guide to the Code of Canon Law*, prepared by The Canon Law Society of Great Britain and Ireland, in association with The Canadian Canon Law Society, Collegeville, Minnesota, The Liturgical Press, 1995, xxv, 1060p.
- SIMON, Y.R., *Freedom and Community*, edited by C.P.O'DONNELL, New York, Fordham University Press, 1968, xx, 201p.
- , *A General Theory of Authority*, with an introduction by A.R.CAPONIGRI, Westport, Connecticut, Greenwood Press, 1973, 1962, 167p.
- SOBANSKI, R., *Gundlagenproblematik des katholischen Kirchenrechts: Remigiusz Sobanski*, Wien, Böhlau Verlag, 1987, 160p.
- SORGE, B., *Evangelizzazione e promozione umana: stimoli dalle giovani chiese*, Bologna, EMI, 1976, 188p.
- SULLIVAN, F.A., *Magisterium: Teaching Authority in the Catholic Church*, New York, Paulist Press, 1983, 234p.
- , *Creative Fidelity: Weighing and Interpreting the Documents of the Magisterium*, New York, Paulist Press, 1996, vii, 209p.
- SWIDLER, L. and P.F.FRANSEN (eds.), *Authority in the Church and the Schillebeeckx Case*, New York, Crossroad, 1982, 267p.
- SWIDLER, L. and H.O'BRIEN (eds.), *A Catholic Bill of Rights*, Kansas City, Missouri, Sheed and Ward, 1988, x, 187p.
- TILLARD, J.-M.R., *The Bishop of Rome*, translated by J.DE SATGÉ, London, SPCK and Wilmington, Delaware, Michael Glazier, 1973, xii, 242p.
- , *Church of Churches, The Ecclesiology of Communion*, translated by R.C. De PEAX, A Michael Glazier Book, Collegeville, Minnesota, The Liturgical Press, 1992, xiii, 330p.
- TREMBLAY, M., *Laitly Cooperating in the Exercise of the Power of Governance: An Understanding of Canon 129, §2*, Master's Seminar Paper, Faculty of Canon Law, Saint Paul University, Ottawa, 1985, 45p.
- VAILLANCOURT, J.-G., *Papal Power: A Study of Vatican Control over Lay Catholic Elites*, Berkeley, University of California Press, 1980, xiv, 361p.

WALSH, M. and B.DAVIES (eds.), *Proclaiming Peace and Justice: Papal Documents from «Rerum novarum» through «Centesimus annus»*, revised and expanded, Mystic, Connecticut, Twenty-Third Publications, 1991, vi, 522p.

WEIGEL, G., *Freedom and Its Discontents: Catholicism Confronts Modernity*, Washington, DC, Ethics and Public Policy Center, 1991, xii, 179p.

WHITEHEAD, J.D. and E.E.WHITEHEAD, *The Emerging Laity: Returning Leadership to the Community of Faith*, Garden City, New York, Doubleday, 1988, xix, 216p.

ZIZOLA, G., *Il sinodo dei vescovi: cronaca, bilancio, documentazione*, Torino, Borla, 1968, 433p.

ARTICLES

AHERN, B., "Biblical Doctrine on the Rights and Duties of Man," in *Gregorianum*, 65 (1984), pp.301-317.

ALBERIGO, G., "Ecclesiology and Democracy, Convergences and Divergences," translated by M.BEAR, in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.14-26.

ALESANDRO, J.A., "Law and Renewal: A Canon Lawyer's Analysis of the Revised Code," in *Canon Law Society of America (= CLSA) Proceedings of the 44th Convention*, Washington, DC, CLSA, 1983, pp.1-40.

ALONSO, S.M., "La subsidiariedad y la corresponsabilidad en el gobierno religioso," in *Vida religiosa: Boletín informativo*, 71/15 (1991), pp.464-472.

ANTON, A., "Episcoporum synodus partes agens totius catholici episcopatus," in *Periodica*, 57 (1968), pp.495-527.

AMOS, J.R., "Associations of the Christian Faithful: History, Analysis, and Evaluation in the 1983 Code of Canon Law," in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, 1989, pp.129-138.

ARRIETA, J.I., "Lo sviluppo istituzionale del sinodo dei vescovi," in *Ius Ecclesiae*, 4 (1992), pp.189-213.

———, "Funzione pubblica e attività di governo nell'organizzazione centrale della Chiesa. Il regolamento generale della Curia Romana," in *Ius Ecclesiae*, 4 (1992), pp.585-613.

AUMANN, J., "Non-ordained Ministry and Lay Apostolate after Vatican Council II," in *Angelicum*, 63 (1986), pp.403-408.

———, "The Role of the Laity in the Church and in the World," in *Angelicum*, 66 (1988), pp.157-169.

AUSTIN, R.J., "The Particular Church and the Universal Church in the 1983 Code of Canon Law," in *Studia canonica*, 22 (1988), pp.339-357.

AYMANS, W., "Ecclesiological Implications of the New Legislation," in *Studia canonica*, 17 (1983), pp.63-93.

———, "Strukturen und Mitantvortung der Laien," in *Archiv für katholisches Kirchenrecht* (= *AkK*), 149 (1990), pp.368-386.

———, "Synodale Strukturen im *Codex Canonum Ecclesiarum Orientalium*," in *AkK*, 160 (1991), pp.367-389.

BAILLARGEON, P.E., "The Rights and Duties of Parents in the Sanctification of Their Children," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.55-71.

BARNHISER, I.J., "The Canonist: Obstructionist or Enabler for Women in the Church?" in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.126-133.

BASSETT, W.W., "Subsidiarity, Order and Freedom in the Church," in *The Once and Future Church: A Communion of Freedom, Studies in Unity and Collegiality in the Church*, J.A. CORIDEN (ed.), New York, Alba House, (1971), pp.205-265.

BAUM, G., "The Dumont Report," in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.106-113.

BEAL, J.P., "Protecting the Rights of Lay Catholics," in *The Jurist*, 47 (1987), pp.129-164.

———, "Confining and Structuring Discretion: A Nuts and Bolts Approach," in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, 1989, pp.86-105.

BENSON, R.E., "Election by Community and Chapter: Reflections on Coresponsibility in the Historical Church," in *The Jurist*, 31 (1971), pp.54-83.

BERTOLINO, R., "Kanonisches Recht und kirchliche Gemeinschaft," in *AkK*, 161 (1992), pp.427-450.

BERTRAMS, W. "De principio subsidiaritatis in iure canonico," in *Periodica*, 46 (1957), pp.1-65.

———, "De synodi episcoporum potestate cooperandi in exercitio potestatis primatialis," in *Periodica*, 57 (1968), pp.528-549.

BEYER, J., "De statuto iuridico Christifidelium iuxta vota synodi episcoporum in novo Codice iuris condendo," in *Periodica*, 57 (1968), pp.550-581.

———, "De iuribus humanis fundamentalibus in statuto iuridico Christifidelium assumendis," in *Periodica*, 58 (1969), pp.29-58.

———, "Principe de subsidiarité ou «juste autonomie» dans l'Église," in *Nouvelle revue théologique*, 108 (1986), pp.801-822.

———, "Le laïcat et les laïcs dans l'Église," in *Gregorianum*, 68 (1987), pp.157-185.

———, "Le principe de subsidiarité: son application en Église," in *Gregorianum*, 69 (1988), pp.435-459.

———, "Ecclesia domestica," in *Periodica*, 79 (1990), pp.293-326.

BISSONNETTE, T.G., "Comunidades ecclesiales de base: Some Contemporary Attempts to Build Ecclesial *Koinonia*," in *The Church as Communion*, Permanent Seminar Studies, No.1, J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.24-58. First published in *The Jurist* 36 (1976), pp.24-58.

BLANK, J., "The Concept of Power in the Church: New Testament Perspectives," translated by G.WOOD in *Concilium*, *Power in the Church*, 197/3 (1988), pp.3-11.

BONNET, P.A., "The Christifidelis Restored to His Role as Human Protagonist in the Church," in *Vatican II: Assessment and Perspectives*, R.LATOURELLE (ed.), New York, Paulist Press, 1988, 1: pp.540-587.

———, "Those with no Mandate in the Church," translated by S.FAWCETT in *Concilium*, *Power in the Church*, 197/3 (1988), pp.115-122.

———, "Comunione ecclesiale e diritto," in *Monitor ecclesiasticus*, 116 (1991), pp.49-86.

BORRAS, A., "Le ministère de présidence du curé: réflexions canoniques et pastorales," in *Studia canonica*, 27 (1992), pp.59-76.

———, "À propos des «communautés nouvelles»: réflexions d'un canoniste," in *Vie consacrée*, 74 (1992), pp.228-246.

BOURKE, M.M., "Collegial Decision-making in the New Testament," in *The Jurist*, 31 (1971), pp.1-13.

BRADY, B.V., "An Analysis of the Use of Rights Language in the Pre-Modern Catholic Social Thought," in *The Thomist*, 57 (1993), pp.97-121.

BRUNDAGE, J.A., "Canon Law as an Instrument for Ecclesial Reform: An Historic Perspective," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.1-17.

CANON LAW SOCIETY OF AMERICA, "Laity in the Renewing Church: Vision and Opportunities," Statement from the Symposium on Laity in Church Law, in *The Jurist*, 47 (1987), pp.1-10.

———, "Apostolic Visitation, Accountability and the Rights of the Local Church," an historical survey commissioned and approved by the CLSA, October 15, 1989, in *The Jurist*, 49 (1989), pp.341-398.

CARDMAN, F. *et al.*, "In Solidarity and Service: Reflections on the Problem of Clericalism in the Church," in *The Jurist*, 43 (1983), pp. 430-449.

CARLSON, R.J., "The Parish According to the Revised Law," in *Studia canonica*, 19 (1985), pp.5-16.

CARTER, A., "Bishop-Priest-Laity Relationship in the Light of Vatican II," in *Studia canonica*, 1 (1967), pp.79-95.

CARTER, M., "«*Dignitatis humanae*»: Declaration on Religious Freedom," in *The Church as Communion*, Permanent Seminar Studies, No.1., J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.338-352. First published in *The Jurist*, 36 (1976), pp.338-352.

CASTAÑO, J.F., "«*Conditio laicalis*» e «*status consecratorum*»," in *Angelicum*, 65 (1988), pp.325-339.

CASTILLO LARA, R.J., "La communion ecclésiale dans le nouveau Code de droit canonique," in *Studia canonica*, 17 (1983), pp.331-355.

———, "Some General Reflections on the Rights and Duties of the Christian Faithful," in *Studia canonica*, 20 (1986), pp.7-32.

———, "La place du droit canonique dans une vision conciliaire de l'Église," in *Studia canonica*, 24 (1990), pp.5-26.

- CASTILLO LARA, R.J., "La sussidiarietà nella dottrina della Chiesa," in *Salesianum*, 57 (1995), pp.443-463.
- CATTANEO, A., "Das Presbyterium," in *AkK*, 161 (1992), pp.42-63.
- , "Il presbiterio della chiesa particolare: questioni sollevate dalla dottrina canonistica ed ecclesiologica postconciliare," in *Ius Ecclesiae*, 5 (1993), pp.497-529.
- CHIRICO, P., "The Expression and Actualization of Values toward a Theology of Canon Law," in *The Jurist*, 42 (1982), pp.497-507.
- CHITTISTER, J., "The New Code and the Development of Religious Life," in *The Way Supplement*, 50 (Summer 1984), pp.113-121.
- CHOUINARD, P., "Les expressions «Église locale» et «Église particulière» dans Vatican II," in *Studia canonica*, 6 (1972), pp.115-161.
- CITO, D., "Le delibere normativa delle Conferenze Episcopali: considerazioni in tema di flessibilità della competenza," in *Ius Ecclesiae*, 3 (1991), pp.561-573.
- , "Conferenza Episcopale Italiana: regolamento della commissione presbiteriale italiana, settembre 1991," in *Notiziario della Conferenza Episcopale Italiana*, text and commentary by D.CITO, 7 (1991), pp.178-181.
- COLLINS, P., "The Diocesan Synod," in *The Jurist*, 33 (1973), pp.399-411.
- COOKE, B., "Obstacles to Lay Involvement," in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.63-70.
- CORBELLINI, G., "Il sinodo e la comunità diocesana," in *Monitor ecclesiasticus*, 116 (1991), pp.456-461.
- CORECCO, E., "Ecclesiological Bases of the Code," translated by P.BURNS in *Concilium, Canon Law - Church Reality*, 185/3 (1986), pp.3-13.
- , "Aspects of the Reception of Vatican II," in *The Reception of Vatican II*, G.ALBERIGO, J.-P.JOSSUA and J.A.KOMONCHAK (eds.), translated by M.J.O'CONNELL, Washington, DC, CUA Press, 1987, pp.249-296.
- CORIDEN, J.A., "The Diocesan Synod: An Instrument of Renewal for the Local Church," in *The Jurist*, 34 (1974), pp.68-93.
- , "Ministries for the Future," in *Studia canonica*, 8 (1974), pp.225-275.

- CORIDEN, J.A., "Options for the Organisation of Ministry," in *Official Ministry in a New Age*, Permanent Seminar Studies, No.3, J.H.PROVOST (ed.), Washington, DC, CLSA, 1981, pp.226-247.
- , "Laws and Non-laws," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.79-91.
- , *et al.* (eds.), "Laity in the Renewing Church: Vision and Opportunities," Statement from the CLSA Symposium on Laity in Church Law, in *CLSA Proceedings of the 49th Convention*, Washington, DC, CLSA, 1988, pp.284-288.
- , "The Reception of Ecumenical Accords in a World Church," in *The Jurist*, 49 (1989), pp. 48-69.
- , "The Canonical Doctrine of Reception," in *The Jurist*, 50 (1990), pp.58-82.
- , "The Canonist's Vocation and a New Church Order," in *The Jurist*, 51 (1991), pp.67-80.
- CUNEO, J.J., "The Power of Jurisdiction: Empowerment for Church Functioning and Mission distinct from the Power of Orders," in *The Church as Mission*, Permanent Seminar Studies, No.2, J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.183-219. First published in *The Jurist*, 39, (1979), pp.183-219.
- CUNNINGHAM, R.G., "Invitation, Interpretation, and Inspiration: The Canonist's Response to the Code," in *CLSA Proceedings of the 47th Convention*, Washington, DC, CLSA, 1986, pp.16-34.
- CUSACK, B.A. and J.M.HOEHNEN. "The Role of the Laity in the Church: Theory Meets Reality," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.25-42.
- DALTON, W., "Parish Councils or Parish Pastoral Councils," in *Studia canonica*, 22 (1988), pp.169-185.
- DANEELS, F., "De dioecesanis corresponsibilitatis organis," in *Periodica*, 74 (1985), pp.301-324.
- D'ANTONIO, W.V., "Autonomy and Community: Indicators of Change among the American Catholic Laity," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.1-24.

- DE CARDEDAL, O.G., "Development of a Theology of the Local Church from the First to the Second Vatican Council," translated by J.H.PROVOST, in *The Jurist*, 52 (1992), pp.11-43.
- DE MELO, C.M., "Priests and Priestly Formation in the Code of Canon Law," in *Studia canonica*, 27 (1993), pp.455-477.
- DE MUELENAERE, M., "Cultural Adaptation and the Code of Canon Law," in *Studia canonica*, 19 (1985), pp.31-59.
- DENIS, J., "L'Église diocésaine à la lumière de Vatican II: le conseil du presbyterium et le conseil diocésain de pastorale," in *Studia canonica*, 1 (1967), pp.179-190.
- DE ROO, R.J., "Les structures ecclésiales et la justice sociale," in *Studia canonica*, 15 (1981), pp.351-369.
- DILLON, R.J., "Theory and Norms of the Governing Ministry Derived from the Gospel of St. Mark," in *CLSA Proceedings of the 34th Convention*, Washington, DC, CLSA, 1973, pp.34-53.
- D'OSTILLO, F., "Necessità e funzione della sacra potestà nella Chiesa," in *Monitor ecclesiasticus*, 117 (1993), pp.299-316.
- DIQUATTRO, G., "Lo statuto giuridico dei 'Christifideles' nell'ordinamento di diritto canonico," in *Apollinaris*, 59 (1986), pp.77-114.
- DORAN, T.G., "Rights and Duties of Pastors," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.182-192.
- DRILLING, P.J., "The Priest, Prophet and King Trilogy: Elements of Its Meaning in «*Lumen gentium*» and for Today," in *Église et théologie*, 19 (1988), pp.179-206.
- DULLES, A., "Catholic Ecclesiology since Vatican II," in *Concilium, Synod 85 - An Evaluation*, 188/6 (1986), pp.3-13.
- , "Ecclesial Futurology: Moving Toward the 1990s," in *CLSA Proceedings of the 47th Convention*, Washington, DC, CLSA, 1986, pp.1-15.
- DUNN, J., "Unity and Diversity in the Church: A New Testament Perspective," in *Gregorianum*, 71 (1990), pp.629-656.
- DUPUIS, J., "Lay People in Church and World," in *Gregorianum*, 68 (1987), pp.347-390.

- DUQUOC, C., "An Active Role for the People of God in Defining the Church's Faith," translated by F.McDONAGH, in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.73-81.
- DUSTON, R.A., "Obligations and Rights of the Lay Christian Faithful," in *Angelicum*, 62 (1985), pp.412-465.
- DVORNIK, F., "Origins of Episcopal Synods," in *The Once and Future Church: A Communion of Freedom, Studies on Unity and Collegiality in the Church*, J.A.CORIDEN (ed.), New York, Alba House, 1971, pp.25-56.
- EDRO, P., "La participation des évêques orientaux à la conférence épiscopale: observations," in *Apollinaris*, 65 (1992), pp.295-308.
- EGAN, K.J., "The Call of the Laity to a Spirituality of Discipleship," in *The Jurist*, 47 (1987), pp.71-85.
- EGUARAS IRIARTE, J.M., "Organización de la Conferencia Episcopal española," in *Ius canonicum*, 32 (1992), pp.97-120.
- EID, E., "La synodalité dans la tradition orientale," in *Ephemerides iuris canonici*, 48 (1992), pp.11-27.
- ELLIS, J.T., "Those Called to Lead, Then and Now," in *CLSA Proceedings of the 34th Convention*, Washington, DC, CLSA, 1973, pp.4-33.
- ERRAZURIZ, C.J., "Brevi annotazioni circa il pensiero canonistico di Eugenio Corecco, (A proposito del libro di Corecco, *Théologie et droit canon: écrits pour une nouvelle théorie générale du droit canon*), in *Ius Ecclesiae*, 5 (1993), pp.753-762.
- ESLER, J., "The Role of the Laity in the Church and the World According to the Canon Law of the Future," in *An Introduction to the New Code of Canon Law*, G.ROBINSON (ed.), Brookvale, NSW, Canon Law Society of Australia and New Zealand, 1982, pp.60-140.
- ESSELMAN, T., "The Study of Episcopal Conferences: An Application of the Principle of Functionality," in *The Jurist*, 51 (1991), pp.311-325.
- EUART, S.A., "The Nature of Policy and Its Benefits to a Local Church," in *The Jurist*, 42 (1982), pp.505-517.
- , "Council, Code and Laity: Implications for Lay Ministry," in *The Jurist*, 47 (1987), pp.492-505.

- FAHEY, M.A., "Ecclesial Community as Communion," in *The Church as Communion*, Permanent Seminar Studies, No.1, J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.4-23. First published in *The Jurist*, 36 (1976), pp.4-23.
- FAMERÉE, J., "Au fondement des conférences épiscopales: la «*communio ecclesiarum*»," in *Revue théologique de Louvain*, 23 (1992), pp.342-354.
- FAVALE, A., "Significato e prospettive sul futuro dei «movimenti ecclesiali» contemporanei," in *Vita consacrata*, 27 (1991), pp.547-560 & 748-763.
- FELICIANI, G., "Il potere normativo delle conferenze episcopali nella comunione ecclesiale," in *Monitor ecclesiasticus*, 116 (1991), pp.87-93.
- FINN, V.S., "The Rights of the Christian Faithful to Follow Their Own Form of Spiritual Life," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.98-109.
- FIORENZA, E.S., "Claiming our Authority and Power," in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.45-53.
- FLAHERTY, H., "Ministry as a Total Church Experience and Responsibility," in *CLSA Proceedings of the 51st Convention*, Washington, DC, CLSA, 1990, pp.1-10.
- FOX, J., "A General Synthesis of the Work of the Pontifical Commission for the Revision of the Code of Canon Law," in *The Jurist*, 48 (1988), pp.800-840.
- FRANCK, B., "Experiences of National Synods in Europe after the Council," translated by J.BOWDEN in *Concilium. The Tabu of Democracy within the Church*, (1992/5), pp.82-97.
- FRIES, H., "Is there a «*Magisterium*» of the Faithful?" translated by J.G.CUMMING in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.82-91.
- FRISON, B., "The Challenge of Change: Renewal of Structures of Government in Religious Institutes," in *Studia canonica*, 1 (1967), pp.223-243.
- FÜRER, I., "De synodo dioecessana," in *Periodica*, 62 (1973), pp.117-131.
- GABRIEL, K., "Power in the Contemporary Church in the Light of Sociological Theories: Max Weber, Michel Foucault and Hannah Arendt," translated by R.NOWELL in *Concilium, Power in the Church*, 197/3 (1988), pp.29-38.

- GAILLARDETZ, R.R., "An Ecclesiology of Communion and Ecclesiastical Structures: Towards a Renewed Ministry of the Bishop," in *Église et théologie*, 24 (1993), pp.175-203.
- GALLAGHER, C., "Canon Law and Ecclesiology II: The Ecclesiological Implications of the 1983 Code of Canon Law," in *The Way*, (October 1983), pp.300-311.
- , "The Church and Institutes of Consecrated Life," in *The Way Supplement*, 50, (Summer 1984), pp.3-15.
- GALLARO, G., "*Codex Canonum Ecclesiarum Orientalium*: Noteworthy Issues," in *CLSA Proceedings of the 53rd Convention*, Washington, DC, CLSA, 1992, pp.165-179.
- GALOT, J., "La femme dans l'Église," in *Gregorianum*, 68 (1987), pp.187-213.
- GARCIA, O.L., "Ecumenical Aspects of the Revised Code," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.201-220.
- GAUTHIER, A., "Faut-il faire l'apologie du binôme clerc-laïc?" in *Angelicum*, 62 (1985), pp.340-354.
- GHIRLANDA, G., "Movements within the Ecclesial Communion and Their Rightful Autonomy," in *Christifideles laici: Comments and Reflections*, Bulletin 32-33 of the Pontifical Commission for the Laity, Vatican City, (1989-1990), pp.46-69.
- GOEDERT, R.E., "Selection of Bishops: A Canonical and Pastoral Critique of the New Norms," in *CLSA Proceedings of the 34th Convention*, Washington, DC, CLSA, 1973, pp.54-61.
- GOLDEN, P.L., "Laity and the Church: A Response and a Call," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.43-54.
- GOLDEWIJK, B.K., "Basic Church Structures - Consolidation or Crisis? New Church Structures without Official Recognition," translated by J.BOWDEN in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.98-105.
- GOLDIE, R., "Il sinodo e la posizione dei laici nella Chiesa e nel mondo," in *Angelicum*, 63 (1986), pp.386-395.
- , "The Laity in the Ecumenical Movement," in *Gregorianum*, 68 (1987), pp.307-337.
- GOMEZ-IGLESIAS, V., "La Congregación para los Obispos," in *Ius canonicum*, 31 (1991), pp.333-373.

GOULD, W.J., "The Challenge of Liberal Political Culture in the Thought of John Courtney Murray," in *Communio*, 19 (1992), pp.113-144.

GRANFIELD, P., "Legitimation and Bureaucratisation of Ecclesial Power," in *Concilium, Power in the Church*, 197/3 (1988), pp.86-93.

———, "The Church Local and Universal: Realization of Communion," in *The Jurist*, 49 (1989), pp.449-471.

GREEN, T.J., "The Diocesan Bishop in the Revised Code: Some Initial Reflections," in *The Jurist*, 42 (1982), pp.320-347.

———, "Rights and Duties of Diocesan Bishops," in *CLSA Proceedings of 45th Convention*, Washington, DC, CLSA, 1984, pp.18-36.

———, "Subsidiarity during the Code Revision Process: Some Initial Reflections," in *The Jurist*, 48 (1988), pp.771-799.

———, "The Pastoral Governance Role of the Diocesan Bishop: Foundations, Scope and Limitations," in *The Jurist*, 49 (1989), pp.472-506.

———, "The Authority of Episcopal Conferences: Some Normative and Doctrinal Considerations," in *CLSA Proceedings of the 51st Convention*, Washington, DC, CLSA, 1990, pp.123-136.

———, "The Church's Sanctifying Mission: Some Aspects of the Normative Role of the Diocesan Bishop," in *Studia canonica*, 25 (1991), pp.245-276.

———, "The Church's Teaching Mission: Some Aspects of the Normative Role of Episcopal Conferences," in *Studia canonica*, 27 (1993), pp.23-57.

———, "The Canon Law Society of America and the Revision of the Code: Historical Reflections and Continuing Concerns," in *The Jurist*, 53 (1993), pp.1-21.

GRESKO, G.E. and D.A.ZWIFKA, "Canonical Training for Lay Ministry: Models and Mentality," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.110-129.

GRIFFIN, B.F., "The Role of the Canonist in the Contemporary Church," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.63-78.

GROCHOLEWSKI, Z., "La filosofia del diritto di Giovanni Paolo II," in *Apollinaris*, 64 (1991), pp.521-548.

- GROOTAERS, J., "The Collegiality of the Synod of Bishops: An Unresolved Problem," translated by J.BOWDEN in *Concilium, Collegiality Put to the Test*, (1990/4), pp.18-30.
- GROTE, H., "The Catholic Conception of Collegiality from a European Reformed Perspective," translated by J.BOWDEN in *Concilium, Collegiality Put to the Test*, (1990/4), pp.54-63.
- GROVES, R., "Priestless Parishes: Exploring Future Possibilities," in *CLSA Proceedings of the 48th Convention*, Washington, DC, CLSA, 1987, pp.54-60.
- GUARINO, T., "The Priesthood and Analogy: A Note on the Formation and Redaction of «*Lumen gentium*» n.10," in *Angelicum*, 67 (1990), pp.309-327.
- GUILLEMETTE, F., "Les conférences épiscopales sont-elles une institution de la collégialité épiscopale?" in *Studia canonica*, 25 (1991), pp.39-76.
- GUTIERREZ, J.L., "I raggruppamenti di chiese particolari," in *Monitor ecclesiasticus*, 116 (1991), pp.437-455.
- HAIGHT, R.D., "The Established Church as Mission: The Relation of the Church to the Modern World," in *The Church as Mission*, Permanent Seminar Studies, No.2, J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.4-39. First published in *The Jurist*, 39 (1979), pp.4-39.
- HANNON, J., "Diocesan Consultors," in *Studia canonica*, 20 (1986), pp.147-179.
- HEINTSCHEL, D.E., "NCCB Implementation of the Code of Canon Law," in *CLSA Proceedings of the 49th Convention*, Washington, DC, CLSA, 1988, pp.61-66.
- HENCHAL, M.J., "A Ministry for Gathering in Steadfast Faith: Lay Presiding," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.130-146.
- HERRANZ, J., "Le statut juridique des laïcs: l'apport des documents conciliaires et du Code de droit canonique," in *Studia canonica*, 19 (1985), pp.229-258.
- , "The Personal Power of Governance of the Diocesan Bishop," in *CLSA Proceedings of 49th Convention*, Washington, DC, CLSA, 1988, pp.16-34.
- HERVADA, J., "Il diritto naturale nell'ordinamento canonico," in *Ius Ecclesiae*, 1 (1989), pp.493-508.
- HILL, R.A., "Authority and Obedience in Consecrated Life," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.221-229.

- HILL, R.A. and V. BARTOLA, "Recognition and Protection of Rights in Consecrated Life," in *CLSA Proceedings* of the 53rd Convention, Washington, DC, CLSA, 1991, pp.180-189.
- HIMES, M.J., "Reflection on American Attitudes to Law," in *CLSA Proceedings* of the 44th Convention, Washington, DC, CLSA, 1983, pp.63-92.
- HOECKMAN, R., "Ecumenism after the Extraordinary Synod," in *Angelicum*, 63 (1986), pp.598-615.
- HOGUE, D.R., "Realizing the Future Potential of Parish Life," in *CLSA Proceedings* of the 51st Convention, Washington, DC, CLSA, 1990, pp.11-22.
- HOLLAND, S., "The Episcopal Vicar for Religious," in *The Way Supplement*, 50, (Summer 1984), pp.99-111.
- , "Equality, Dignity, and the Rights of the Laity," in *The Jurist*, 47 (1987), pp.103-128.
- , "Attitudes of Heart and Mind," in *Concilium, Power in the Church*, 197/3 (1988), pp.110-114.
- HOYE, D.F., "The Implementation of the 1983 Code of Canon Law on the National Level: Progress and Problems," in *CLSA Proceedings* of the 46th Convention, Washington, DC, CLSA, 1985, pp.1-11.
- HUELS, J.M., "Interpreting Canon Law in Diverse Cultures," in *The Jurist*, 47 (1987), pp.249-293.
- , "Women's Role in Church Law: Past and Present," in *New Theology Review*, 2 (1993), pp.19-31.
- HUERRE, D., "Le gouvernement dans la vie religieuse après Vatican II," in *Vie consacrée*, 3-4 (1992), pp.149-162 & 247-258.
- HUIZING, P., "The Central Legal System and Autonomous Churches," translated by R.NOWELL in *Concilium, Canon Law - Church Reality*, 185/3 (1986), pp.23-31.
- , "Subsidiarity," translated by D.SMITH in *Concilium, Synod 85 - An Evaluation*, 188/6 (1986), pp.118-123.
- HYNOS, D., "Theology of Participative Leadership," in *CLSA Proceedings* of the 35th Convention, Washington, DC, CLSA, 1973, pp.83-85.

JENNINGS, L.J., "A Renewed Understanding of the Diocesan Synod," in *Studia canonica*, 20 (1986), pp.319-353.

JOHNSON, J.G., "The Synod of Bishops: An Exploration of Its Nature and Function," in *Studia canonica*, 20 (1986), pp.275-318.

———, "Subsidiarity and the Conference of Bishops," in *The Jurist*, 50 (1990), pp.488-523.

JOHNSTONE, B.V., "The European Synod: The Meaning and Strategy of Evangelization," in *Gregorianum*, 73 (1992), pp.469-487.

KACZYNSKI, E., "Alcuni problemi post-conciliari della Chiesa," in *Angelicum*, 63 (1986), pp.368-385.

KAISER, M., "Das Prinzip der Subsidiarität in der Verfassung der Kirche," in *AkK*, 133 (1964), pp.3-13.

KASPER, W., "The Church as Sacrament of Unity," in *Communio*, 14 (Spring 1987), pp.4-11.

———, "Berufung und Sendung des Laien: Geschichtliche und systematische Perspektiven," in *Stimmen der Zeit*, 205 (1987), pp.579-593.

———, "The Council's Vision for a Renewal of the Church," in *Communio*, 17 (Winter 1990), pp.477-493.

———, "The Theological Foundations of Human Rights," in *The Jurist*, 50 (1990), pp.148-166.

———, "The Church as *Communio*," in *New Blackfriars*, 74 (May 1993), pp.232-244.

KAUFMANN, F-X., "The Principle of Subsidiarity Viewed by the Sociology of Organizations," in *The Jurist*, 48 (1988), pp.275-291.

KAUFMANN, L., "Synods of Bishops: neither «*concilium*» nor «*synodus*»," translated by J.BOWDEN in *Concilium, Collegiality Put to the Test*, (1990/4), pp.67-78.

KEENAN, J.F., "Compelling Assent: Magisterium, Conscience and Oath," in *Irish Theological Quarterly*, 57 (1991), pp.209-227.

KELLY, M.T., "Collaboration: Key Concept for Religious and Bishops in the Diocese," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.92-125.

- KENNEDY, R.T., "Shared Responsibility in Ecclesial Decision-making," in *Studia canonica*, 14 (1980), pp.5-23.
- KERBER, W., "Die Geltung des Subsidiaritätsprinzips in der Kirche," in *Stimmen der Zeit*, 202 (October 1984), pp.662-672.
- KILMARTIN, E.J., "Lay Participation in the Apostolate of the Hierarchy," in *Official Ministry in a New Age*, Permanent Seminar Studies, No.3, J.H.PROVOST (ed.), Washington, DC, CLSA, 1981, pp.89-116.
- KINAST, R., "Pastoral Planning and Family Life: A Challenge for Theology," in *The Jurist*, 42 (1982), pp.449-465.
- KING, G., "Reception, Consensus and Church Law," in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.41-51.
- KOMONCHAK, J.A., "A New Law for the People of God: A Theological Evaluation," in *CLSA Proceedings of the 42nd Convention*, Washington, DC, CLSA, 1981, pp.14-43.
- , "Clergy, Laity and the Church's Mission in the World," in *The Jurist*, 41 (1981), pp.422-447.
- , "Church and Ministry," in *The Jurist*, 43 (1983), pp.273-288.
- , "The Local Realization of Church," in *The Reception of Vatican II*, G.ALBERIGO, J.-P.JOSSUA and J.A.KOMONCHAK (eds.), translated by M.J.O'CONNELL, Washington, DC, CUA Press, 1987, pp.77-90.
- , "Subsidiarity in the Church: The State of the Question," in *The Jurist*, 48 (1988), pp.298-349.
- KOURY, J.J., "Cooperation Between Clergy and Laity: Ambivalent Texts and Collaborative Context: The Code and Collaboration: Recent Literature," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.162-184.
- , "The Limits of Collaboration: The New Legal Language for the Laity," in *Studia canonica* 26 (1992), pp.415-436.
- KRÄMER, P., "Episcopal Conferences and the Apostolic See," in *The Jurist*, 48 (1988), pp.134-145.

- KRESS, R., "The Church as «*Communio*»: Trinity and Incarnation as the Foundations of Ecclesiology," in *The Church as Communion*, Permanent Seminar Studies, No.1., J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.127-158. First published in *The Jurist*, 36 (1976) pp.127-158.
- LA DUE, W.J., "The Right of the Church People to Participate in Ecclesial Decision-Making," in *Studia canonica*, 7 (1973), pp.179-190.
- LANNE, E., "La notion ecclésiologique de réception," in *Revue théologique de Louvain*, 25 (March 1994), pp.30-45
- LEGRAIN, M., "Les «fidèles du Christ» dans le nouveau Code," in *Vie consacrée*, 5 (1991), pp.318-332.
- LEISCHING, P., "Conferences of Bishops," translated by J.BOWDEN in *Concilium*, *Collegiality Put to the Test*, (1990/4), pp.79-87.
- LEJEUNE, M., "Canon Law and the Church Today," in *The Jurist*, 47 (1987), pp.484-492.
- LESAGE, G., "Le principe de subsidiarité et l'état religieux," in *Studia canonica*, 2 (1968), pp.99-123.
- LETTMAN, R., "Episcopal Conferences in the New Canon Law," *Studia canonica*, 9 (1975), pp.347-367.
- LINNAN, J.E., "Subsidiarity, Collegiality, Catholic Diversity and Their Relevance to Apostolic Visitations," in *The Jurist*, 49 (1989), pp.399-448.
- LINSCOTT, M., "Religious Consecration in Apostolic Institutes," in *Religious Life Review*, 26, no.124 (January-February 1987), pp.2-15.
- , "Leadership, Authority, and Religious Government," in *Review for Religious*, vol.52, no.2, (March-April 1993), pp.166-193.
- LOSADA, J., "Subsidiarity from an Ecclesiologist's Point of View," in *The Jurist*, 48 (1988), pp.350-354.
- LYNCH, J.E., "The History of Centralization: Papal Reservations," in *The Once and Future Church: A Communion of Freedom, Studies in Unity and Collegiality in the Church*, J.A.CORIDEN (ed.), New York, Alba House, 1971, pp.57-109.
- , "Coresponsibility in the First Five Centuries: Presbyteral Colleges and the Election of Bishops," in *The Jurist*, 31 (1971), pp.14-53.

- LYNCH, J.E., "The Changing Role of the Bishop: A Historical Survey," in *The Church as Mission*, Permanent Seminar Studies, No.2, J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.289-312. First published in *The Jurist*, 39 (1979), pp.289-312.
- , "The Parochial Ministry in the New Code of Canon Law," in *The Jurist*, 42 (1982), pp.383-421.
- , "Power in the Church: An Historico-critical Survey," in *Concilium*, *Power in the Church*, 197/3 (1988), pp.13-21.
- McBRIEN, R.P., "Collegiality: State of the Question," in *The Once and Future Church: A Communion of Freedom, Studies in Unity and Collegiality in the Church*, J.A.CORIDEN (ed.), New York, Alba House, 1971, pp.1-24.
- McCORMICK, R.A. and R.P.McBRIEN, "Theology as a Public Responsibility," in *America*, 165 (1991), pp.184-206.
- McDERMOTT, J., "Person and Nature in Lonergan's «*De Deo Trino*»,," in *Angelicum*, 71, (1993), pp.153-85.
- McDERMOTT, R., "Canonical Issues of Vicars for Religious: Ecclesial Dimension, Community Life, Internal Governance," in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, pp.139-158.
- McDONOUGH, E., "Religious Superiors and Government," in *The Way Supplement*, 50, (Summer 1984), pp.61-70.
- , "Canonical Considerations of Autonomy and Hierarchical Structure," in *Review for Religious*, vol.45, no.5 (September-October 1986), pp.669-689.
- , "Laity and the Inner Working of the Church," in *The Jurist*, 47 (1987), pp.228-245.
- , "Juridical Deconstruction of Religious Institutes," in *Studia canonica*, 26 (1992), pp.307-341.
- McINTYRE, J.P., "The Acquired Right: A New Context," in *Studia canonica*, 26 (1992), pp.25-38.
- , "The Two Phases of Canon Law," in *Studia canonica*, 27 (1993), pp.335-352.
- , "Lineamenta for a Christian Anthropology: Canons 208-223," in *Periodica*, 85 (1996), pp.249-276.

- McMANUS, F.R., "The Scope of Authority of Episcopal Conferences," in *The Once and Future Church: A Communion of Freedom, Studies in Unity and Collegiality in the Church*, J.A.CORIDEN (ed.), New York, Alba House, 1971, pp.129-178.
- , "Laity in Church Law: New Code, New Focus," in *The Jurist*, 47 (1987), pp.11-31.
- McMANUS, W., "The Right of Catholics to Govern the Church," in *America*, 167 (1993), pp.347-378.
- McNALLY, R.E., "The Roman Process of Martin Luther: A Failure in Subsidiarity," in *The Once and Future Church: A Communion of Freedom, Studies in Unity and Collegiality in the Church*, J.A.CORIDEN (ed.), New York, Alba House, 1971, pp.111-128.
- McPARTLAN, P., "Towards Catholic-Orthodox Unity," in *Communio*, 19 (1992), pp.305-320.
- MALONE, J.W., "The Role of the Canon Law Society in the Church in the United States," in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, 1989, pp.24-32. Responses by J.A.ALESANDRO, pp.33-39, and B.F.GRIFFIN, pp.40-51.
- MANZANARES, J., "Papal Reservation and *Recognitio*: Considerations and Proposals," translated by T.J.GREEN, in *The Jurist*, 52 (1992), pp.228-254.
- MARCEAUX, S.J., "Presbyteral Councils," in *CLSA Proceedings of 44th Convention*, Washington, DC, CLSA, 1983, pp.198-206.
- MARITAIN, J., "L'apostolat des laïcs," in *Église et théologie*, 18 (1987), pp.305-315.
- MARREVEE, W.H., "The Synod of Bishops, Rome, 1974," in *Église et théologie*, 6 (1975), pp.253-264.
- MARTÍN DE AGAR, J.T., "Estudio comparado de los decretos generales de las Conferencias Episcopales," in *Ius canonicum*, 32 (1992), pp.173-229.
- MARTINEZ SISTACH, L., "La actividad jurídica de la Conferencia Episcopal," in *Ius canonicum*, 32 (1992), pp.83-96.
- MENDONÇA, A., "Proper and Vicarious Power in the Church: What does this Distinction Mean?" in *Concilium, Power in the Church*, 197/3 (1988), pp.74-85.
- METZ, R., "La subsidiarité, principe régulateur des tensions dans l'Église," in *Revue de droit canonique*, 22 (1972), pp.155-176.

- METZ, R., "Papal Legates and the Appointment of Bishops," translated by T.J.GREEN, in *The Jurist*, 52 (1992), pp.259-284.
- MILANO, G.P., "Forme e contenuti dell'attività consultiva nella Chiesa, con particolare riguardo al collegio episcopale," in *Ephemerides iuris canonici*, 46 (1990), pp.285-309.
- MODDE, M.M., "Lay Governance in Catholic Institutions," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.185-194.
- MOLTMANN, J., "Human Rights, the Rights of Humanity and the Rights of Nature," translated by M.KOHL in *Concilium, The Ethics of World Religions and Human Rights*, (1990/2), pp.120-135.
- MONCION, J., "L'Église, société hiérarchique selon le IIe Concile de Vatican," in *Studia canonica*, 8 (1974), pp.133-161.
- MONROE, T.M., "Cooperation between Clergy and Laity: Ambivalent Texts and Collaborative Context: The Rhetoric and Reality of Collaboration," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.147-161.
- MORRISEY, F.G., "Particular Law," in *CLSA Proceedings of 49th Convention*, Washington, DC, CLSA, 1982, pp.1-17.
- , "The Laity in the New Code of Canon Law," in *Studia canonica*, 17 (1983), pp.135-148.
- , "Decisions of Episcopal Conferences in Implementing the New Law," in *Studia canonica*, 20 (1986), pp.105-122.
- , "The Contributions of Synods to the Elaboration and Implementation of the New Code," in *CLSA Proceedings of the 47th Convention*, Washington, DC, CLSA, 1986, pp.35-47.
- , "Is the New Code an Improvement for the Law of the Catholic Church?" in *Concilium, Canon Law - Church Reality*, 185/3 (1986), pp.32-41.
- , "Rights of Parents in the Education of Their Children," in *Studia canonica*, 23 (1989), pp.429-444.
- MORROW, W.J., "The Diocesan Synod in the Light of CIC 1983," in *Canon Law Society of Australia and New Zealand Newsletter*, 1 (1996), pp.46-78.

- MUNIER, C., "Episcopal Conferences," translated by J.DRURY in *Concilium, Canon Law: Theology and Renewal*, 8, 3 (1967), pp.46-49.
- MURNION, P.J., "The Parish as Sacrament of the Obedience of Christ," in *CLSA Proceedings of the 48th Convention*, Washington, DC, CLSA, 1987, pp.1-11.
- MURPHY, L.J., "Authority and Freedom," in *The Way Supplement*, 36 (Summer 1979), pp.71-81.
- MURRAY, D.B., "The Legislative Authority of the Episcopal Conference," in *Studia canonica*, 20 (1986), pp.33-48.
- MYERS, J.J., "Ecclesial Ministries for Lay Persons within the Diocese: Development and Integration," in *CLSA Proceedings of the 47th Convention*, Washington, DC, CLSA, 1986, pp.66-83.
- NAGY, S., "La présence de l'ecclésiologie et de l'oecuménisme au IIe Synode extraordinaire," in *Angelicum*, 63 (1986), pp.356-367.
- NAVARRO, L., "Manifestazioni giuridiche della comunione fra i Vescovi," in *Ius Ecclesiae*, 3 (1991), pp.573-585.
- OBRIST, W., "A Consecrated Hierarchy - An Obstacle to a Democratizing of the Catholic Church," translated by J.BOWDEN in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.27-37.
- OCARIZ, F., "Unità e diversità nella comunione ecclesiale," in *Romana*, 14 (1992), pp.173-175.
- O'CONNELL, J., "A Few Thoughts about Inculturation and Canon Law," in *Canon Law Society of Australia and New Zealand, 24th Annual Conference*, Adelaide, St. Francis Xavier's Provincial Seminary, 1990, pp.179-195.
- O'DEA, T.F., "Authority and Freedom in the Church: Tension, Balance and Contradiction," in *The Jurist*, 31 (1971), pp.223-249.
- O'DONOVAN, J.L., "Subsidiarity and Political Authority in Theological Perspective," in *Studies in Christian Ethics*, vol.6, no.1, (1992) *Ethics and Europe*, pp.16-33.
- O'MEARA, T.F., "The Teaching Office of Bishops in the Ecclesiology of Charles Journet," in *The Jurist*, 49 (1989), pp.23-47.
- ONCLIN, W., "Considerationes de iurium subjectivorum in Ecclesia fundamento ac natura," in *Ephemerides iuris canonici*, 8 (1952), pp.9-23.

- ONCLIN, W., "The Power of Decision in the Church at the Supra-Diocesan Level," in *Studia canonica*, 4 (1970), pp.279-296.
- O'ROURKE, J.J., "The Office of Bishop and its Relationship to the Particular Churches and the Universal Church," in *Studia canonica*, 5 (1971), pp.227-243.
- ÖRSY, L., "Hierarchy and Religious: Responsibilities, Rights, and Duties," in *The Way Supplement*, 33 (Spring 1978), pp.115-125.
- , "Episcopal Conferences: Their Theological Standing and Their Doctrinal Authority," in *America*, November 8, 1986, pp.282-285.
- , "The Relationship Between Values and Laws," in *The Jurist*, 47 (1987), pp.471-483.
- , "Corecco's Theology of Canon Law: A Critical Appraisal," in *The Jurist*, 53 (1993), pp.186-198.
- OTADUY GUERIN, J., "La potestad normativa de la conferencia episcopal: principios informadores del primer decreto de la Conferencia Episcopal española," in *Ius canonicum*, 32 (1992), pp.231-259.
- OTTANI, S., "Lo statuto giuridico della donna nella chiesa locale: premesse e prospettive," in *Apollinaris*, 58 (1985), pp.69-118.
- PAGÉ, J.-G., "Autorité, loi, et liberté dans l'Église," in *Studia canonica*, 6 (1972), pp.227-267.
- PAGÉ, R., "Le conseil presbytéral et la révision du Code," in *Studia canonica*, 14 (1980), pp.369-375.
- , "Le conseil paroissial de pastorale," in *Studia canonica*, 15 (1981), pp.419-439.
- , "Conseils et offices diocésains selon le nouveau Code," in *Studia canonica*, 19 (1985), pp.155-162.
- , "Associations of the Faithful in the Church," in *The Jurist*, 47 (1987), pp.165-203.
- , "Particular Councils and Conferences of Bishops," in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, 1989, pp.216-221.
- PERRY, J.N., "Accessibility of Due Process for the Laity," in *CLSA Proceedings of the 51st Convention*, Washington, DC, CLSA, 1990, pp.65-82.

- PFNAUSCH, E.G., "Protection of the Rights of Persons in the Church: A Hearing," in *CLSA Proceedings of the 54th Convention*, Washington, DC, CLSA, 1993, pp.195-207.
- PIZZORNI, R.M., "Diritto naturale e diritti dell'uomo nel pensiero di Giovanni Paolo II," in *Apollinaris*, 63 (1990), pp.545-570.
- PLACE, M.D., "«In the Manner of a Leaven» - The Lay Mission to the Secular World," in *The Jurist*, 47 (1987), pp.86-102.
- , "Apostolic Visitation and Limitation of Episcopal Power: A Report on the Work of the Committee," in *CLSA Proceedings of the 51st Convention*, Washington, DC, CLSA, 1990, pp.101-112.
- PORTER, L.B., "Principles of Collegiality from Portraits of Presbyteral Assemblies in Acts," in *The Jurist*, 51 (1991), pp.81-102.
- POTTMEYER, H.J., "The Church as Mysterium and as Institution," translated by G.HARRISON in *Concilium, Synod 85 - An Evaluation*, 188/6 (1986), pp.99-109.
- , "Reception and Submission," in *The Jurist*, 51 (1991), pp.269-292.
- POTZ, R., "The Concept and Development of Law According to the 1983 CIC," translated by G.HARRISON in *Concilium, Canon Law - Church Reality*, 185/3 (1985), pp.14-21.
- PREW-WINTERS, A., "Who is a Lay-person?" in *The Jurist*, 47 (1987), pp.51-70.
- PRINCE, B.A., "Episcopal Conferences and Collegiality," in *Studia canonica*, 2 (1968), pp.125-132.
- PRINCIPE, W., "The Dignity and Rights of the Human Person as Saved, as Being Saved, as To Be Saved by Christ," in *Gregorianum*, 65 (1984), pp.389-430.
- PROVENCHER, N., "Vers une ecclésiologie totale," in *Église et théologie*, 15 (1984), pp.81-93.
- , "The Church in the World," in *The Jurist*, 47 (1987), pp.32-50.
- PROVOST, J.H., "Structuring the Church as a *Communio*," in *The Church as Communion*, Permanent Seminar Studies, No.1, J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.191-245. First published in *The Jurist*, 36 (1976), pp.191-245.

PROVOST, J.H., "Structuring the Church as *Missio*," in *The Church as Mission*, Permanent Seminar Studies, No.2, J.H.PROVOST (ed.), Washington DC, CLSA, 1984, pp.220-288. First published in *The Jurist*, 39 (1979), pp.220-288.

———, "The Impact of the Proposed Book II «*De populo Dei*» on the Local Church," in *Studia canonica*, 15 (1981), pp.371-397.

———, "Toward a Renewed Canonical Understanding of Official Ministry," in *Official Ministry in a New Age*, Permanent Seminar Studies, No.3, J.H.PROVOST (ed.), Washington DC, CLSA, 1981, pp.194-225.

———, "Preparing for Particular Legislation to Implement the Revised Code," in *The Jurist*, 42 (1982), pp.348-382.

———, "Ecclesial Rights," in *CLSA Proceedings of the 44th Convention*, Washington, DC, CLSA, 1983, pp.41-62.

———, "The Participation of the Laity in the Governance of the Church," in *Studia canonica*, 17 (1983), pp.417-448.

———, "Church Law - Church Reality," (editorial), in *Concilium, Canon Law - Church Reality*, 185/3 (1986), pp.ix-xvii.

———, "Presbyteral Councils and Colleges of Consultors: Current Law and Some Diocesan Statutes," in *CLSA Proceedings of 49th Convention*, Washington, DC, CLSA, 1988, pp.194-211.

———, "Toward Some Operative Principles for Apostolic Visitations," in *The Jurist*, 49 (1989), pp.543-567.

———, "The Nature of Rights in the Church," in *CLSA Proceedings of the 53rd Convention*, Washington, DC, CLSA, 1992, pp.1-18.

———, "Prospects for a more «Democratized» Church," in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.131-142.

PUNZI-NICOLO, A.M., "Dinamiche interne e proiezioni esterne dei fenomeni associativi nella Chiesa," in *Ius Ecclesiae*, 4 (1992), pp.495-510.

QUELQUEJEU, B., "Acceptance of the Rights of Man, Disregard for the Rights of Christians: The Inconsistency of Rome," translated by L.H.GINN in *Concilium*, 1789, *The French Revolution and the Church*, 201/1 (1989), pp.118-132.

- RAHNER, K., "Observations on Episcopacy in the Light of Vatican II," translated by T.WESTOW, in *Concilium, Pastoral Theology*, 3,1 (1965), pp.10-14.
- RAMBALDI, G., "Carismi e laicato nella Chiesa," in *Gregorianum*, 68 (1987), pp.57-101.
- RATZINGER, J., "The Pastoral Implications of Episcopal Collegiality," translated by T.RATTLER, in *Concilium, Dogma*, 1,1 (1965), pp.20-34.
- , "«*Communio*»: A Program," translated by P.CASARELLA in *Communio*, 19 (1992), pp.436-449.
- REESE, T., "Collegiality in Action," in *Concilium, Collegiality Put to the Test*, (1990/4), pp.107-112.
- REHRAUER, A., "The Diocesan Synod," in *CLSA Proceedings of 49th Convention*, Washington, DC, CLSA, 1988, pp.1-15.
- RENKEN, J.A., "Parishes without a Resident Pastor: Comments on c.517 §2," in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, 1989, pp.249-263.
- , "Pastoral Councils: Pastoral Planning and Dialogue among the People of God," in *The Jurist*, 53 (1993), pp.132-154.
- REYNOLDS, N. *et al.* (eds.), "Report of the CLSA Committee on Women in the Church on *Partners in the Mystery of Redemption*," in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, 1989, pp.327-346.
- RICHSTATTER, T., "Instituted Lay Ministry: The History and Future of c. 230," in *CLSA Proceedings of the 49th Convention*, Washington, DC, CLSA, 1988, pp.35-44.
- RIKHOF, H., "The Competence of Priests, Prophets and Kings," translated by D.SMITH in *Concilium, Power in the Church*. 197/3 (1988), pp.53-62.
- , "Vatican II and the Collegiality of Bishops: A Reading of «*Lumen gentium*», nos. 22 and 23," translated by J.BOWDEN in *Concilium, Collegiality Put to the Test*, (1990/4), pp.3-17.
- RINERE, E., "Conciliar and Canonical Applications of «Ministry» to the Laity," in *The Jurist*, 47 (1987), pp.204-227.
- ROBINSON, G., "Law in the Life of the Church," in *Studia canonica*, 17 (1983), pp.47-61.
- ROSATO, P., "Priesthood of the Baptised and Priesthood of the Ordained," in *Gregorianum*, 68 (1987), pp.215-266.

- ROSS, D.M., "The Diocesan Synod: A Comparative Analysis of the 1917 and 1983 Codes of Canon Law," in *Monitor ecclesiasticus*, 114 (1989), pp.560-571.
- , "Participation in the Synod," in *Monitor ecclesiasticus*, 116 (1991), pp.462-482.
- ROTHLUEBBER, F.B., "The Power of Decision in Religious Communities," in *Studia canonica*, 4 (1970), pp.297-307.
- ROUTHIER, G., "«Église locale» ou «Église particulière»: querelle sémantique ou option théologique?" in *Studia canonica*, 25 (1991), pp.277-334.
- , "La synodalité de l'Église locale," in *Studia canonica*, 26 (1992), pp.111-162.
- RUINI, C., "Il vescovo e la comunione nella chiesa particolare," in *Monitor ecclesiasticus*, 116 (1991), pp.227-241.
- SCHALL, J.V., "Catholicism and the Forms of Democracy: A Reflection on the Nature of the Best Régime," in *Gregorianum*, 75 (1994), pp.469-490.
- SCHASCHING, J.N., "Das Subsidiaritätsprinzip in der Soziallehre der Kirche: Reflexionen zu einer Anfrage," in *Gregorianum*, 69 (1988), pp.413-433.
- SCHILLEBEECKX, E., "The Teaching Authority of All - A Reflection about the Structure of the New Testament," translated by D.SMITH in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.12-22.
- SCHOTTE, J., "The World Synod of Bishops: Media Event or Pastoral Powerhouse?" in *CLSA Proceedings of the 50th Convention*, Washington, DC, CLSA, 1989, pp.52-69.
- , "The Synod of Bishops: A Permanent yet Adaptable Church Institution," in *Studia canonica*, 26 (1992), pp.289-306.
- SCOLA, A., "Associations and Movements in the Communion and Mission of the Church," in *Christifideles laici: Comments and Reflections*, Bulletin 32-33 of the Pontifical Council for the Laity, Vatican City. 1989-1990, pp.37-45.
- SHANAHAN, D., "Legislating for the People of God: The Lessons of History," in *Studia canonica*, 17 (1983), pp.29-45.
- SHARKEY, M., "Newman on the Laity," in *Gregorianum*, 68 (1987), pp.339-346.
- SHEERAN, M.E., "Institutional Relationships: Religious Life in the Church," in *The Way Supplement*, 65 (Summer 1989), pp.78-88.

- SICARI, A., "«*Communio*» in Henri de Lubac," in *Communio*, 19 (1992), pp.450-464.
- SIEBEL, W., "The Exercise of Power in Today's Church," translated by M.KOHL in *Concilium, Power in the Church*, 197/3 (1988), pp.39-51.
- SMITH, R., "Lay Persons in the Diocesan Curia: Legal Structures and Practical Issues," in *CLSA Proceedings of the 49th Convention*, Washington, DC, CLSA, 1988, pp.67-76.
- SOBANSKI, R., "Implications for Church Law of the Use of the Term «Collegiality» in the Theological Context of Official Church Statements," translated by J.BOWDEN in *Concilium, Collegiality Put to the Test*, (1990/4), pp.43-53.
- SOBRINO, J., "The Doctrinal Authority of the People of God in Latin America," in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.54-62.
- SULLIVAN, F.A., "The Vatican Response to ARCIC I," in *Gregorianum*, 73 (1992), pp.489-498.
- SUQUIA, A., "The Church - One and Diverse - in Service to Mission," in *The Jurist*, 52 (1992), pp.7-10.
- SWIDLER, L., "Human Rights: A Historical Overview," in *Concilium, The Ethics of World Religions and Human Rights*, (1990/2), pp.12-22.
- TASCIOTTI, F.M., "Ministerio della parola e impegno per l'evangelizzazione: la norma canonica a confronto con le tesi Tomiste," in *Ephemerides iuris canonici*, 48 (1992), pp.107-115.
- TEISSIER, H., "Bishops' Conferences and Their Function in the Church," translated by J.G.CUMMING in *Concilium, Canon Law - Church Reality*, 185/3 (1986), pp.110-117.
- TETTAMANZI, D., "The Church: Mystery, Communion, Mission: The Structure of *Christifideles laici*," in *Christifideles laici: Comments and Reflections*, Bulletin 32-33 of the Pontifical Council for the Laity, Vatican City, 1989-1990, pp.21-32.
- THOMAS, B.L., "Participative Leadership in Religious Life," in *CLSA Proceedings of the 34th Convention*, Washington, DC, CLSA, 1973, pp.86-97.
- THOMAS, B.L., "Canon Law and the Constitutions of Religious Congregations," in *The Way Supplement*, 50 (Summer 1984), pp.47-60.
- THOMAS, R.R., "Ecumenical Issues in the Revised Code of Canon Law," in *CLSA Proceedings of the 49th Convention*, Washington, DC, CLSA, 1988, pp.45-60.

- TINOKO, J.M., "The Ministry of the Laity," in *Philippiniana sacra*, 26 (1991), pp.435-445.
- TOMKO, J., "Le synode des évêques et la collégialité," in *Studia canonica*, 18 (1984), pp.239-252.
- TORFS, R., "*Auctoritas - potestas - jurisdictio - facultas - munus*: A Conceptual Analysis," translated by J.BOWDEN in *Concilium, Power in the Church*, 197/3 (1988), pp.63-73.
- TORPEY, C.L., "Offices of the Diocesan Curia: Interrelationship and Creative Possibilities," in *CLSA Proceedings of the 45th Convention*, Washington, DC, CLSA, 1984, pp.112-125.
- , "CLSA Diocesan Governance Project: A Report," in *CLSA Proceedings of the 48th Convention*, Washington, DC, CLSA, 1987, pp.155-162.
- TUDYKA, K., "The Meaning of Democracy Today," translated by J.BOWDEN in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.1-13.
- UCCELLA, F., "Linee di tendenza della disciplina del fenomeno associativo dal Concilio Vaticano II al nuovo Codice di diritto canonico," in *Ephemerides iuris canonici*, 46 (1990), pp.235-284.
- URRU, A., "Partecipazione dei laici al *Munus sanctificandi* della Chiesa," in *Angelicum*, 65 (1988), pp.355-370.
- VALDRINI, P., "The Exercise of Power and the Principle of Submission," translated by B.MacKAY in *Concilium, Power in the Church*, 197/3 (1988), pp.94-101.
- , "La synodalité dans l'Église: l'expérience française depuis le Concile Vatican II," in *Studia canonica*, 26 (1992), pp.5-24.
- VALENTINI, D., "An Overview of Theologians' Positions: A Review of Major Writings and the State of the Question Today," translated by J.BOWDEN in *Concilium, Collegiality Put to the Test*, (1990/4), pp.31-41.
- VAN DER POEL, C.J., "Marriage and the Family as Expressions of *Communio* in the Church," in *The Church as Communion*, Permanent Seminar Studies, No.1, J.H.PROVOST (ed.), Washington, DC, CLSA, 1984, pp.59-88. First published in *The Jurist*, 36 (1976), pp.59-88.
- VIANA, A., "Normas de las Conferencia Episcopal española sobre la organización diocesana," in *Ius canonicum*, 32 (1992), pp.317-337.

- VOLF, M., "Democracy and Charisma - Reflections on the Democratization of the Church," in *Concilium, The Tabu of Democracy within the Church*, (1992/5), pp.114-120.
- VORGRIMLER, H., "From «*sensus fidei*» to «*consensus fidelium*»," translated by G.HARRISON in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.3-11.
- VOYÉ, L., "Subsidiarity from a Sociologist's Point of View," in *The Jurist*, 48 (1988), pp.292-297.
- WALDENFELS, H., "Authority and Knowledge," translated by R.NOWELL in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.31-42.
- WALF, K., "Gospel, Church Law and Human Rights," translated by L.C.HAY in *Concilium, The Ethics of World Religions and Human Rights*, (1990/2), pp.34-45.
- WALGRAVE, J., "Newman's «On Consulting the Faithful in Matters of Doctrine»," in *Concilium, The Teaching Authority of All Believers*, 180/4 (1985), pp.23-30.
- WALSH, J. and L. HUGHES, "Canon Law and Religious Life: Introduction," in *The Way Supplement*, 33 (Spring 1978), pp.13-24.
- WALSH, J., "Revising the Constitutions II: Historical Perspectives, and Ideal Demands," in *The Way Supplement*, 37 (Spring 1980), pp.20-40.
- WALSH, V.M., "The Theological and Juridical Role of the Bishop: Early Twentieth Century and Contemporary Views," in *Apollinaris*, 44 (1971), pp.39-92.
- WEAKLAND, R., "Local Implementation - Ecclesial Life under the 1983 Code," in *CLSA Proceedings of the 46th Convention*, Washington, DC, CLSA, 1985, pp.2-23.
- WIJLENS, M., "*Fides quaerens actionem*: eine Analyse der Theorie Ladislav Örsy's," in *Oesterreichisches Archiv für Kirchenrecht*, 40 (1991), pp.367-386.
- , "Theology and the Science of Canon Law: A Historic and Systematic Overview," in *Louvain Studies*, 16 (1991), pp.292-311.
- WOOD, S., "The Theological Foundations of Episcopal Conferences and Collegiality," in *Studia canonica*, 22 (1988), pp.326-341.
- WRENN, L.G., "Law and the Local Church: The Contribution of a Presbyterian Debate," in *The Jurist*, 42 (1982), pp.422-448.

BIOGRAPHICAL NOTE

Rachel Mary Harrington was born on 24 July 1943 in Manchester, England. She received her education first at Saint Clare's Primary School and then at Notre Dame High School, Manchester. In September 1961, she entered the novitiate of the Sisters of Notre Dame de Namur and made her first profession on 11 April 1964. For the next four years she studied at the University of Liverpool, graduating in 1967 with a first class honours degree in Classics and then receiving a first class Post-Graduate Certificate in Education in 1968. Sister Rachel began her teaching career in Notre Dame High School, Sheffield, Yorkshire, where she taught Latin and Scripture from 1968 until 1974. While there, she made her final profession on 16 August 1969. Appointed Head of Classics in Notre Dame High School, Plymouth, Devon, she taught there from 1974 until 1978 when she went to the University of Oxford. After obtaining a Master of Science degree from that university, for ten years she held the position of Senior Teacher in Saint Julie's High School, Woolton, Liverpool. She returned to Oxford in 1990 to study theology at Blackfriars, the Dominican House of Studies. In 1992, her superiors sent her to Saint Paul University, Ottawa, Canada, to study canon law. She obtained the J.C.L. in 1994 and began her doctoral studies in the autumn of that year.