The Bishop's Role of Pastoral Governance:

Its Interpretation and Reception

by the Magisterium since Vatican II

Submitted for the Degree

Doctorate in Philosophy

By

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Abstract

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Title: The Bishop's Role of Pastoral Governance since Vatican II: Its Subsequent
Interpretation and Reception by the Magisterium

This thesis will assess the interpretation and reception of the bishop's role of
pastoral governance by the Magisterium since the Second Vatican Council (1962-
65). Historically, this episcopal role had been increasingly restricted from the
Council of Trent (1545-63) to the First Vatican Council (1869-70). Due to Vatican
I's premature end only papal governance was legislated for. Subsequently, the
increasing dominance of the Roman School of Theology and of Ultramontanism
located the exercise of Church governance in the Pope and the Roman Curia. While
the bishop exercised a small measure of governance within his diocese, he was
portrayed as the local Church manager of the universal Church.

Vatican II defined a new and more expanded role of episcopal governance,
expressed in a pastoral mode. Vatican II described episcopal governance of the
local Church, but also of the universal Church, shared with and always under the
leadership of the Pope. Using a hermeneutical approach suggested by Ormond
Rush, three key Vatican II documents will be analysed to reveal the process of
authorship and their understanding of episcopal governance. Rush's hermeneutics
will also help to analyse the reception of episcopal pastoral governance after the
Council.

The expanded pastor governance role of bishops was supported in post conciliar
magisterial documents. By the 1980s, however, an increasingly restrictive view of
episcopal governance can be identified in magisterial texts authored by the Roman
Curia and supported by the papacies of John Paul II and Benedict XVI. These
restrictions reversed earlier conciliar reception, identified especially when
considering liturgical translation of Latin prayers into local languages.

A final chapter considers proposals, which support a wider expression of episcopal
governance. This chapter also considers the fresh impetus offered by Pope Francis
to retrieving the potential of the Council, especially episcopal pastoral governance
exercised in a pastoral key.

Declaration of Originality

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Title of Thesis: The Bishop's Role of Pastoral Governance: Its Interpretation
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Declaration: I hereby declare that this thesis is the result of my own
                    original research and that this does not contain the work of
                    any other individual, save those identified and acknowledged
                    in the usual way.

Signature of Candidate: _____

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Acknowledgements

Key to Selected Abbreviations

AS	*Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II*
'C9'	Pope Francis' group of advisors (Cardinals)
CBCP	Catholic Bishops' Conference of the Philippines
CELAM	Conference of Bishops of Latin America and the Caribbean
CD	*Christus Dominus* Decree concerning the pastoral office of bishops in the Church (1965)
CDF	Congregation for the Doctrine of the Faith
CDW	Congregation for Divine Worship
CDWDS	Congregation for Divine Worship and the Discipline of the Sacraments
CLSA	Canon Law Society of America
CT	*Catechesi tradendae* post-synodal apostolic exhortation of Pope John Paul II (1979)
CPCU	Council for Promoting Christian Unity
EI	*Ecclesiae imago* Directory on the pastoral ministry of bishops (1973)
EiA	*Ecclesia in Asia* post-synodal apostolic exhortation of Pope John Paul II (1998)
ES	*Ecclesiae sanctae* Apostolic letter of Pope Paul VI (1966)
FABC	Federation of Asian Bishops Conferences
ICEL	International Commission on English in the Liturgy
IO	*Inter oecumenici* (1964) 1st Instruction on the implementation of liturgical norms
LA	*Liturgicam authenticam* (2001) 5th Fifth Instruction 'For the Right Implementation of the Constitution on the Sacred Liturgy of the Second Vatican Council'
Lex	*Lex Ecclesiae fundamentalis*
LG	*Lumen gentium* Dogmatic constitution on the Church (1964)
NCCB	National Conference of Catholic Bishops (USA)
SC	*Sacrosanctum concilium* Constitution on the sacred liturgy (1963)

Glossary of Technical Terms

Aggornamento: Translated as 'bringing up to date', it was a key word/concept used by Pope John XXIII before and during the Second Vatican Council to describe his open minded Council.

Apostolic constitution: The highest level of papal pronouncement dealing with matters of a solemn nature e.g. teaching on a particular matter.

Code of Canon Law: The code of ecclesiastical law for the governance of the Church. A codified revision was published in 1917 and a revised version published in 1983.

Encyclical letter: A letter sent by the pope, usually address to the bishops of the Church, typically addressing an aspect of Catholic doctrinal teaching.

Hermeneutics: The theory of the interpretation of texts.

La Nouvelle Théologie: A 'new theology' developed among French and German theologians in the mid-twentieth century, focussed on reforming the dominance of neo-Scholasticism in the Roman Catholic Church.

Lineamenta: The initial preparatory document sent to the bishops in advance of a meeting of the Synod of Bishops with the purpose of guiding a process of discussion and preparation.

The Liturgical Movement: A 'movement' of the nineteenth and twentieth centuries, which served to increase the active participation of all in the liturgy.

Post-Synodal exhortation: The document containing the significant points discussed during a meeting of the Synod of Bishops, and currently circulated under the name of the pope.

Ressourcement: Translated as 'a return to the sources' i.e. a return to the writings of the Early Church Fathers, to reflection on the liturgy in the Early Church and to encourage a simpler, less centrally governed Church.

Trent: The Council of Trent, the 19th Ecumenical Council, held in Trent (Trento), Italy (1545-1563).

Vatican I: The First Vatican Council, the 20th Ecumenical Council, held in Rome, Italy (1869-70).

Vatican II: The Second Vatican Council, the 21st Ecumenical Council, held in Rome, Italy (1962-65).

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Chapter 7: Post-Conciliar Reception by the Magisterium of the Bishop's Role of Pastoral Governance

Introduction

When Pope John XXIII called the Second Vatican Council (1962-65) he invited the bishops to attend a pastoral Council at which to cultivate a new and more developed role of pastoral governance, carried out in a collegial manner. This role was to be expressed in the conciliar documents. The role of the Roman Curia was also to change: its role was to support the bishops during and after the Council. What the bishop discovered at the Council changed how he exercised governance thereafter. Whether episcopal pastoral governance was fully received is questionable. This thesis will, therefore, evaluate the interpretation and reception of the bishop's role of pastoral governance by the magisterium since Vatican II.

This will be pursued by first considering the terms governance, pastoral and reception, together with various hermeneutical approaches to conciliar documents. The supporters of conflicting ecclesiologies, which underpinned differing understandings of episcopal governance for the local and universal Church, battled in the aftermath of the Council. This resulted initially in a more expansive conciliar understanding of episcopal governance, which was later restricted, particularly in the Revised Code of Canon Law (1983). Further restrictions, exemplified in various documents – magisterial, papal, and curial, saw a re-centralisation of governance in the Pope and Roman Curia.

In Chapter One, various hermeneutical approaches to the conciliar documents will then be examined as the interpretation of the Council has been and remains a much discussed issue. While each brought forth an understanding of the texts and their historical development, the hermeneutics developed by Ormond Rush provided the fullest key to understanding the texts. Rush's hermeneutical principles call for a three-fold reading: of the authors; of the text, and of the reader. Rush's hermeneutics will help to develop a deeper understanding of the development of the schemata of the most significant documents for this thesis: *Sacrosanctum concilium, Lumen gentium* and *Christus Dominus*, and the role of pastoral governance they document. These three documents were chosen because of the issue of governance being most clearly articulated in them. Their

understanding and reception will be pursued through the lens of mainly English-speaking commentators.

Rush's hermeneutics will also be used to parse whether in the post-conciliar years the role of pastoral governance exercised by the bishop was received or whether reception was restricted - and if so, by whom. The definitions mentioned above, together with Rush's hermeneutical principles guide the thesis, which begins with an historical analysis of the role of episcopal governance before Vatican II, which forms the thrust of Chapter Two.

In the wake of the Council of Trent (1545-63), the Church had followed Suarez's more restrictive comprehension of the bishop's role of governance. This direction was supported by external changes acting upon the Church, for example, the French Revolution, the Industrial Revolution, and the restructuring of the European political and geographical landscape during the eighteenth and nineteenth centuries. Taken together, these factors increased the focus on papal and curial governance, rather than supporting a more balanced role of episcopal pastoral governance, in which the local bishop participated.

The First Vatican Council (1869-70) afforded an opportunity for a growing number of Ultramontanist bishops, together with members of the Roman Curia and Pope Pius IX (1792-1878), to promulgate documents, which created an increasingly centralised Church. This created a more expansive governance role for the Pope, assisted by the Roman Curia, while simultaneously restricting the governance of local bishops. While this was not supported by all bishops at Vatican I, increasingly it became the position of the Church in the post-Vatican I period. In turn, increased Roman centralisation created an intolerance of governance initiatives which did not have their origins in Rome. It also created a fear of theological reflection and development which did not originate in the Roman School of Theology. 'Movements' such as *La Nouvelle Théologie* were reprimanded when they suggested change, especially if this threatened the balance of governance posited by Vatican I as understood by the Pope, the Roman Curia or the Roman School of Theology.

The promulgation of the first Code of Canon Law (1917) for the Roman Catholic Church restricted episcopal governance, and further promoted Roman governance and centralisation. At this time, bishops were increasingly chosen for their adherence to Ultramontanist values rather than their pastoral skills or proven ability to govern. This restrictive approach to episcopal governance was especially evident during the papacy of Pope Pius XII (1876-1958). He understood that episcopal governance was given to a bishop by the pope and not received at episcopal ordination. Furthermore, he understood that orthodox theological development was guided by the Roman School. It was the task of the local bishop to identify and report any unorthodox theological development to the Apostolic See. This further restricted the bishop's role of governance, viewing him as the local manager of a centralised and centralising authority. While some green shoots may be observed in the 1950s, encouraged especially by the Liturgical Movement, a limited governance role was the status quo inherited by Pope John XXIII (1881-1963) in 1958.

The Second Vatican Council encouraged a new and more expansive role of episcopal governance to be developed and is explored in Chapter Three. When John XXIII called the Council in 1959 he understood it to be under his direction. However, the preparation of schemata took on a distinctly Roman curial feel. They reflected the understanding of a centralised government, unwilling to relinquish governance to the local bishop. John XXIII understood this. Rather than tackle the schemata and their authors, his pre-conciliar pronouncements encouraged the bishops to attend the Council and to engage with conciliar business in a collegial manner along with the Pope. The pause created on the first day to vote for commission membership allowed the bishops, meeting in their episcopal conferences, to reassess John XXIII's call and their conciliar role.

As the Council agreed that the first topic of conciliar debate was to be the liturgy, on which the Liturgical Movement had already encouraged episcopal reflection, significant progress was made by the bishops themselves towards developing a new and more expansive role of pastoral governance. While a minority fought this

direction, *Sacrosanctum concilium* - the subject of Chapter Four, reflected the desire of the episcopal majority to exercise the pastoral governance of liturgical change at the universal and local levels. This was most clearly evident in the governance of new translations of liturgical texts entrusted to the bishop and to episcopal conferences. Episcopal pastoral governance was also reflected in other conciliar documents, particularly *Lumen gentium* and *Christus Dominus*, which are investigated in Chapters Five and Six. While governance was somewhat less clearly enunciated in these documents, each supported to a new way of governing the Church, which gave the local bishop more expansive powers of governance, expressed in a pastoral mode.

However, Chapter Seven investigates how the conciliar documents juxtaposed older statements concerning episcopal and papal governance with more recent ecclesiological and theological perceptions. These left a future governance role open to the centralising tendency of the Roman Curia after the Council. As reform of the Roman Curia sought by the majority at the Council did not come to fruition, the Curia was as strong at the end of the Council as at its beginning. The result was that the coalescence of juxtaposed postions on episcopal governance and an unreformed Curia certainly led to change, but not in the direction expected by the conciliar majority.

The reception of the doctrine of the Council by the magisterium will be considered in Chapter Eight with particular reference to the issue of liturgical translation. While *Sacrosanctum concilium* was clear about episcopal responsibility for text preparation and translation, the Prefect of the Congregation for Divine Worship and the Discipline of the Sacraments, Cardinal Estevez, challenged the governance of text translation from Latin into English by the International Commission on English in the Liturgy (ICEL). As his comments were not challenged strongly enough by the episcopal members of ICEL, or by the various episcopal conferences that formed ICEL, Roman curial demands were left unchecked. This led initially to the refusal of a *recognitio* for the new Sacramentary. It then led to new regulations concerning membership of ICEL, its management, together with a new understanding of how translation was to be carried out as presented in *Liturgicam*

authenticam (2001). This process represented a significant example of the 'non-reception' or the clawing back of a specific governance role invested in the local bishop and episcopal conferences. By the 1990s, the bishop can be portrayed as a conflicted character with a governance role limited to the local Church and increasingly restricted by Roman curial oversight. This was the situation which obtained until the resignation of Pope Benedict XVI (1927-) in 2013 and the subsequent election of Pope Francis.

In response to the encouragement offered by Pope Francis, Chapter Nine will suggest directions that a 're-reception' of Vatican II's inspired role of episcopal pastoral governance can pursue. These include the promotion of a communion model of Church to keep the bishop in focus; forming a Roman senate, revising the role of the Synod of Bishops and the episcopal conference; promoting the re-reading of Vatican II documents; Roman curial reform; bishop-led inculturation; and the reform of episcopal leadership through reflection on business leadership.

Finally, an appreciation of the impact of the papacy of Pope Francis (1936-) will be discussed. He has encouraged the re-appreciation of Vatican II. He has proved willing to tackle reform of the Roman Curia, and inspired the re-reception of the Council's understanding of episcopal pastoral governance. His approach suggests a more expansive approach to episcopal governance, witnessed, for example, in blunt statements made to bishops not to bring to Rome issues that the episcopal conference should address at its level. Under Pope Francis, the bishop is being emboldened to retrieve his role of pastoral governance of the local and universal Church envisaged by Vatican II.

Chapter 1: The Bishop's Role of Pastoral Governance

1. Introduction

Chapter 1 of this thesis will be divided into two sections. In Section I the use of the terms, *pastoral, governance* and *reception* as they relate to the role of the bishop will be explored. In Section II, an examination of various hermeneutical approaches to the conciliar documents, in particular the approach developed by the theologian, Ormond Rush (1950-), will be offered.

For Pope John XXIII, the episcopal office was one whereby the bishop was required to carry out his duties in a *pastoral* manner and this pastoral manner guided the bishop as he exercised diocesan *governance*. An acceptance or rejection of this understanding is what is understood as *reception*.

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Section I

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1.1. Defining 'pastoral'

The word 'pastoral' has numerous dictionary definitions, including: 'pertaining to shepherds or their occupation […]; pertaining to a pastor or shepherd of souls; having relation to the spiritual care to a "flock" of Christians. Pastoral Epistles […] dealing largely with the work of a pastor. Pastoral staff = crozier; […] A letter from a spiritual pastor to his flock; especially a letter from a bishop to the clergy or people of his diocese.'[1] A second dictionary adds: 'Denoting or relating to the branch of theology dealing with the duties of a clergyman or priest to his congregation.'[2] These suggest the pastoral action flows from the clergyman to

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[1] *The Shorter Oxford English Dictionary on Historical Principles.* 3rd. ed. 2 vols. Oxford: Clarendon Press, 1973, 1525.
[2] *Collins Concise English Dictionary.* 7th. ed. Glasgow: HarperCollins, 2008, 1217. Punctuation and capitalisation added.

those for whom he is responsible and in that direction only. The tangible form, for example, the crozier, offers a public reminder of pastoral responsibilities.

Prior to the First Vatican Council, there is little use of the term 'pastoral' in relation to the role of governance. The word occurs *once* in Vatican I's document, *Pastor aeternus*. It was to Peter that Jesus committed 'the full power of tending, ruling and governing the whole Church. To satisfy this *pastoral office*, [...]'.[3] The power of 'tending, ruling and governing' is a *pastoral office*. Any associated pastoral governance role pertains to the pope, 'the true vicar of Christ' and relates to the spread of Christ's teachings.[4] Individual bishops or 'synods' are interrelated: they refer dangers to the faith to the Apostolic See. They are further related to this pastoral office as the pope may call them together in a synod, ecumenical Council, or in other ways to define doctrines. The pope exercises the pastoral office in which the bishop shares indirectly. The word is used more directly of the bishop in the Code of Canon Law (1917) concerning the bishop's *ad limina* visit to Rome, the five-year cycle of diocesan Episcopal visitation (c.343 §1), which is described as a 'pastoral visitation' (c.346).[5]

During the first conciliar session of the Second Vatican Council, Cardinal Joseph Ratzinger parses what was 'inaccurately described as "pastoral" and "ecumenical."'[6] There was a question behind this approach: would an anti-modernist approach condemn anything new? Or would the Church, having protected the faith, move to encounter the world?[7] The majority chose the latter, viewed 'as a new beginning.'[8] Ratzinger commented: '"Pastoral" should not mean nebulous, without substance, merely "edifying" - meanings sometimes given to it.'[9] Being pastoral was a positive step, which widened dialogue beyond theologians.

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[3] Norman P. Tanner, "Decrees of the Ecumenical Councils," (London/Washington, DC: Sheed & Ward/Georgetown University Press, 1990), 815. Session 814, Chapter 814. Emphasis added.
[4] Ibid., 815.
[5] While this is the only use of the word pastoral in conjunction with episcopal ministry it does occur, for example, when speaking about the episcopal 'pastoral staff' (c.239, 13.°); and the episcopal pastoral office, denoted by the pallium, which signifies his pastoral and episcopal power (c.275-279).
[6] Joseph Ratzinger, *Theological Highlights of Vatican II* (New York: Paulist Press, 2009), 27-28.
[7] Ibid., 44.
[8] Ibid.
[9] Ibid., 44-45. He goes on to speak about the meaning of the 'ecumenical.'

The pastoral should speak 'in the language of scripture, of the early Church fathers, and of contemporary man.'[10]

1.2 Vatican II: the Pastoral Council

During Vatican II the term 'pastoral' was used by some in a trivialising manner, due to its perceived focus 'on a non-theological, purely operational level - on "little shop-keeping details."'[11] When Cardinal Alfredo Ottaviani (1890-1979) introduced the schema *De fontibus Revelationis* he admitted many bishops reacted negatively because they lacked the expected 'pastoral character.'[12] A pastoral approach was accepted only shortly before the Council commenced, 'in the sense of the subordination of every other aspect of the Church's life to the demanding image of Christ as the good shepherd.'[13] While the term was a topic identified by German, Dutch, French and a significant number of Latin America and missionary bishops, it was not yet clearly understood by all.[14]

In his opening conciliar address, *Gaudet Mater Ecclesia* (1962), Pope John XXIII clarified matters by giving the Council a clear, pastoral impetus. First, he noted the *raison d'être* of previous Councils was to counter doctrinal error. While identifying erroneous teaching in the modern world,[15] he advocated using 'the medicine of mercy rather than that of severity.' Thus, the Council met today's needs 'by demonstrating the validity of [its] teaching rather than by condemnations.'[16] While the Church possessed the magisterial authority to recognise and condemn erroneous teaching, the Pope identified this approach as incongruent. A pastorally aware Church called for a clear and positive presentation of its teaching.

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[10] Ibid. He goes on to speak about the meaning of the 'ecumenical.'

[11] Giuseppe Alberigo, *A Brief History of Vatican II*, trans. Matthew Sherry (Maryknoll, N.Y.: Orbis Books, 2006), 19.

[12] Gerald P. Fogarty, "The Council Gets Underway," in *History of Vatican II: Formation of the Council's Identity, First Period and Intersession, October 1962 - September 1963*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 1997), 70. See: Footnote 3, in which he also identifies the role played by Pope John's opening speech in providing 'a reference for a common concept of "the pastoral," at least during the first period of the Council.' ibid.

[13] Alberigo, *A Brief History of Vatican II*, 19.

[14] Fogarty, "The Council Gets Underway," 70.

[15] There is no 'lack of fallacious teaching, opinions, and dangerous concepts to be guarded against and dissipated.' "The Documents of Vatican II," ed. Walter M. Abbott (London/Dublin: Geoffrey Chapman, 1966), 716.

[16] Ibid.

Second, the Council must aim beyond a reiteration of doctrine. Doctrine should be explained using contemporary language, thought, and research methods, as

> [t]he substance of the ancient doctrine of the deposit of faith is one thing, and the way in which it is presented is another. And it is the latter that must be taken into great consideration with patience if necessary, everything being measured in the forms and proportions of a magisterium which is predominantly *pastoral in character*.[17]

The final words 'set the tone and agenda of the Council. Its exercise of teaching authority was to be predominantly pastoral in character.'[18] The primary principle governing the Council's approach was the exercise of 'a magisterium which is predominantly pastoral in character.'[19] This 'pastoral magisterium' was a prism through which episcopal governance was viewed and exercised during the Council and beyond. A pastoral Council and its pastoral texts allowed a fusion of 'truth, love, doctrine and pastoral solicitude' for the contemporary Church and for the contemporary world. This was so for the bishops attending the Council and for those who came afterwards, whose role it would be to govern the Church in a pastoral manner.

During an address in London in 2012, Cardinal Godfried Danneels (1933-) confirmed the pastoral nature of the Council, noting that the difference between previous Councils and Vatican II lay in the literary genre of its documents. These, the Cardinal claimed, represented a move away from the mode utilised by previous Councils. Vatican II

> chose longer texts, calmer statements that recalled the panegyric style of the Church Fathers. They instil wonder and invite the reader's engagement. The ideal is proposed and enthusiasm is generated. It all fits together under the term "pastoral". This is a "soft" term: dialogical and inviting. It stresses the goal of common conversion: not imposing but inviting. So characteristic is the absence of terms of threat, punishment, and exclusion. The texts are

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[17] Ibid., 715. Emphasis added.
[18] Francis Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," in *Contemporary Catholic Theology: A Reader*, ed. Michael A. Hayes and Liam Gearon (Leominster: Gracewing, 1998), 336. See also: Francis A. Sullivan, *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium* (Dublin: Gill & Macmillan, 1996). Chapter 11 is particularly germane. The significance of canon law pronouncements is discussed in: Francis G. Morrisey and Michel Thériault, *Papal and Curial Pronouncements: Their Canonical Significance in Light of the Code of Canon Law*, 2nd ed. (Ottawa: Faculty of Canon Law, Saint Paul University, 2001).
[19] Spoken by: Pope John XXIII, *Gaudet Mater Ecclesia* (1962). In "The Documents of Vatican II," 715.

written on the more horizontal plane: the relationship between the People of God and the world. Horizontality springs also from the notion of the equality of all the baptized: the priesthood of believers, collegiality, reciprocity, cooperation and dialogue, the ministry of the 'peoples' authority.[20]

The pastoral is a 'soft' term, reflecting the *ressourcement* of the Council, as a 'source theology,'[21] which invited the other into dialogue. Such a sophisticated understanding is predicated upon other understandings, which support the notion that the Council needs to be treated as a whole: as an event with a spirit and a history - not just a collection of texts. These understandings, not least of the literary genre of the texts, will be investigated further, when considering the need of a hermeneutics of the conciliar documents.

1.3 'Pastoral' in character

John XXIII understood that the Council was to present and explain its doctrines in a pastoral manner. Both steps required the exercise of a pastoral magisterium. However, when considering 'the sacramental nature of episcopal ordination and the collegiality of the episcopate'[22] different understandings of a pastoral magisterium became evident. Some bishops, identified as 'minimisers', typified by Cardinals Ottaviani and Siri, were sceptical of such developments. As conciliar teaching was not strictly doctrinal in nature, these 'minimalists' could disagree and hold an alternative position. Other bishops, typified by Cardinals Joseph Frings (1887-1978) and Leo Joseph Suenens (1904-1996), followed a *via media* route, which endorsed the understanding that just because a decision on a question of doctrine was pastoral in character, this did not preclude its binding and authoritative quality.[23]

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[20] Cardinal Godfried Danneels, "Vatican II: A Council Unlike Any Other," Lecture, *http://www.rcsouthwark.co.uk/yof_introduction.html* (2012). [Downloaded 23.4.2014]. Danneels was a peritus at the Council.
[21] Jürgen Mettepenningen, *Nouvelle Theologie - New Theology: Inheritor of Modernism, Precursor of Vatican II* (London: T & T Clark, 2010), xiii.
[22] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 336.
[23] This created 'lofty expectations among the faithful - bishops, priests and laity alike, which can be ascribed, at least in part, to the somewhat imprecise, and for many at the time, rather exotic epithet "Pastoral Council."' Mathijs Lamberigts and Leo Kenis, eds., *Vatican II and its Legacy*, Bibliotheca Ephemeridum theologicarum Lovaniensium (Leuven/Dudley, MA: Leuven University Press/ Uitgeverij Peeters Leuven - Dudley, MA, 2002), vii.

This issue was eventually clarified in an announcement made by the Secretary General to the Council, Cardinal Pericle Felici.[24] It read:

> The question has been raised, what ought to be the theological qualification of the doctrine which is set forth in the schema *De Ecclesia* and is being voted on. The Theological Commission gave the answer to this question when it evaluated the *modi* pertaining to Chapter III of *De Ecclesia* in these words: "As is self-evident, a conciliar text must always be interpreted according to the general rules known by all."[25]

Teaching concerning the pastoral exercise of the magisterium while not infallible, was presented as the doctrine of the Council, and was to be accepted and embraced. The notion of a pastoral magisterium employed by the Council was both valid and binding.[26] The Theological Commission, which drafted this announcement, consisted mainly of bishops whose task it was to draft *de Ecclesia*. The Commission's clarifying statement was, therefore, of prime significance 'for the correct interpretation of the Constitution itself, especially Chapter III',[27] which dealt with the hierarchical nature of the Church and the role of the bishops. To these, and to those bishops who voted *placet* to *Lumen gentium*, the notion of a pastoral exercise of the magisterium was not misunderstood. While they may not all have agreed, they did not misunderstand its meaning and the direction it gave. At the beginning of the Third Session, Paul VI's opening speech sought to clarify matters further. This should have settled any difficulties but it was not the case. A 'wide spectrum of views as to the binding character of the doctrine of this

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[24] At the 123rd General Congregation of the Council, 16 November, 1964, a few days before *Lumen gentium* was promulgated (November 21, 1964).

[25] It continued: 'On that occasion the Theological Commission referred to its own *Declaration* of March 6, 1964. We repeat that text here: "In view of conciliar practice and the pastoral purpose of the present Council, this sacred Synod defines matters of faith or morals as binding on the Church only when the Synod itself openly declares so. Other matters which the sacred Synod proposes as the doctrine of the supreme teaching authority of the Church, each and every member of the faithful is obliged to accept and embrace according to the mind of the sacred Synod itself, which becomes known either from the subject matter or from the language employed, according to the norms of theological interpretation." "The Documents of Vatican II," 97-98.

[26] In a footnote (fn. 1) Abbott notes that while this announcement was not an integral part of the Constitution on the Church it is appended to this text as it appears in the *Acta Apostolica Sedis*.

[27] "The Documents of Vatican II," 97. In a footnote (fn. 65) to the text of *Lumen gentium*, Abbott comments that developments in the episcopal office envisaged by Vatican I were delivered, but Vatican II 'makes great advances which would scarcely have been possible a century ago.' ibid., 37.

"pastoral" Council'[28] remained and were catalogued in articles and comments produced after the Council.[29]

1.4 The 'pastoral' in conciliar texts

According to their literary forms, conciliar texts,

> have serious claims upon the conscience of Catholics; their pastoral dispositions are based on doctrine, and their doctrinal passages are suffused in concern for men and for a Christianity of flesh and blood in the world of today. This Council is "pastoral" in its fusion of truth and love, "doctrine" and pastoral solicitude: it wished to reach beyond the dichotomy between pragmatism and doctrinalism, back to the biblical unity in which practice and doctrine are one, a unity grounded in Christ, who is both the *Logos* and the Shepherd […].[30]

The task of interpreting the texts of Vatican II has been addressed by a number of theologians. Those who evaluate Vatican II documents may be divided into three groups: minimisers, maximisers, and moderates.[31]

1.4.1 Minimisers

The minimisers, as noted earlier, persistently opposed conciliar decisions 'on issues such as the sacramentality of the episcopate and the collegial nature of the

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[28] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 337.

[29] Hermann Pottmeyer contends that Vatican II provided a greater volume of conciliar text concerned with pastoral matters than previous Councils. Of 37,727 lines of conciliar texts from all Councils, Vatican II provides 12,129 compared with Trent's 5,637. Of the Vatican II corpus, '5,646 deal with pastoral and social problems, whereas in Trent only 431 lines are devoted to these concerns' [concluding that] the description of Vatican II as a "pastoral" council is justified.' Hermann J. Pottmeyer, "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council," in *The Reception of Vatican II*, ed. Giuseppe Alberigo, Jean Pierre Jossua, and Joseph A. Komonchak (Washington, D.C.: Catholic University of America Press, 1987), 28.He cautions that from the statistical viewpoint it was not purely a pastoral Council because what he identifies as its strictly dogmatic texts are contained in 3,148 lines out of a total across all Councils of 8,521. See: J. Van Laarhoven, "The Ecumenical Councils in the balance: A Quantitate Review," *Concilium*, 167 (1983), 50-60). For Pottmeyer, Vatican II was pastoral and focussed on other issues.

[30] Joseph Ratzinger, "Announcements and Prefatory Notes of Explanation," in *Commentary on the Documents of Vatican II: Constitution on the Sacred Liturgy; Decree on the Instruments of Social Communication; Dogmatic Constitution on the Church; Decree on Eastern Catholic Churches*, ed. Herbert Vorgrimler (London/New York: Burns & Oates/Herder and Herder, 1967), 299.

[31] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 337-338. The number of 'schools' tends to vary between two and three. An example of two schools is noted by Xavier Rynne, who describes Cardinal Alfrink's view: that a collision between 'two views of the Church - i.e., the monarchical and the collegial' was taking place. Xavier Rynne, *The Third Session. The Debates and Decrees of Vatican Council II, September 14 to November 21, 1964* (London: Faber & Faber, 1965), 4. Supported by: Ratzinger, "Announcements and Prefatory Notes of Explanation," 298-299.

Church's hierarchical structure.'[32] They published many articles fiercely critical of the legality of such decisions.[33] They argued that the pastoral nature of the teachings of Vatican II removed any force from its conciliar, doctrinal statements.[34] For example, when Cardinal Ottaviani introduced the schema *De fontibus Revelationis,* he understood those 'concerned with a pastoral style can later give the Church's teaching a fuller pastoral expression.'[35] A Council spoke in a particular style: 'orderly, lucid, concise, […] sanctioned by its use through the ages.'[36] It was not like a sermon, a pastoral letter, or papal encyclical. While the Pope described the Council as pastoral, Cardinal Ottaviani defined pastoral as 'essentially clear enunciation of doctrine.'[37] The schema was challenged by the majority of those present due to its problematic language and style: a 'new style of speaking was needed for which the code word was "pastoral."'[38] Eventually, the Pope, using his own authority, referred this schema to a mixed commission for emendation.[39]

At the beginning of the Council's Third Session and prior to the promulgation of *Lumen gentium*, Paul VI's understanding of the Council was that its main task lay in the completion of Vatican I's ' teaching on the nature of the Church by explaining the nature and function of the bishops as successors of the apostles.'[40] While demanding, the Council would resolve 'some difficult theological controversies [explaining] the true notion of the order of the sacred hierarchy […] with its certain authority, which may not be called into doubt.'[41] Ratzinger questioned whether too great a cost was paid for the successful vote on the

[32] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 337-338.

[33] Joseph A. Komonchak, "Towards an Ecclesiology of Communion," in *History of Vatican II: Church as Communion: Third Period and Intersession, September 1964 - September 1965*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 2003), 2. He offers a commentary entitled 'Lines of Force' - operative at the Council. Ibid., 3-6.

[34] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 338. He footnotes (fn. 4) articles written by G. Hering, H. Lattanzi and A. Gutierrez in Italian journals.

[35] John W. O'Malley, *What Happened at Vatican II* (Cambridge, Massachusetts/London: The Belknap Press of Harvard University Press, 2008), 141-142.

[36] Ibid., 142. The debates and decrees of the Council may be found in: *Acta Synodalia Sacrosanctum Concilii Vaticani II* (Vatican City: Typis Polyglottis Vaticanis, 1970-1980). Henceforth: AS. See Ottaviani's comments at: AS I/3, 27-28.

[37] Ibid.

[38] Ibid., 147.

[39] AS I/3, 259. See: ibid., 149-151.

[40] Floyd Anderson, ed. *Council Daybook, Vatican II: Session 3 (1964)*, 3 vols., vol. 2 (Washington: National Catholic Welfare Conference, 1965), 3.

[41] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 338. Quoting from: *AAS* 56 (1964), 809.

expensio modorum of *Lumen gentium* Chapter III; 'whether the doctrine had been too diminished' by adopting a pastoral approach.[42]

1.4.2 Maximisers

The second school, the maximisers, placed a high dogmatic value on the Council's documents viewing conciliar declarations, particularly those contained in Lumen *gentium*, as dogma rather than doctrinal statements. For example, an Italian theologian, Umberto Betti wrote an article commenting on *Lumen gentium*, which spoke of the Council's declarations as dogmas.[43]

1.4.3 Moderates

The third school, the moderates, offered a more balanced interpretation of the documents of Vatican II. While agreeing that no new dogma was defined, moderates acknowledged that Council teaching was an exercise of the ordinary magisterium of the Church. It was 'a profession of [the Council's] Credo [...]. The conclusion is that it has an importance of the first rank among modern doctrinal texts, in the sense that it is a sort of central interpretation.'[44] The validity of this position may be recognised in a statement made by Paul VI to the last public conciliar session on 7 December, 1965. The Pope stated that 'the teaching authority of the Church, even though not wishing to issue extraordinary dogmatic pronouncements, has made thoroughly known its authoritative teaching on a number of questions.'[45] Having made a reference to 'pastoral charity the Pope stressed that the Council's teaching was directed towards humankind's service. The Church has positioned itself as its servant, 'at the very time when her teaching

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[42] Ratzinger, "Announcements and Prefactory Notes of Explanation," 298.

[43] See: ibid., 299.

[44] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 339. On the nature of the magisterium exercised and the relative authority of different documents, Sullivan suggest that the ordinary exercise of magisterium produces documents of varying degrees of authoritativeness. Therefore care will be needed to differentiate between 'various levels of authority exercised by the Second Vatican Council. While all the conciliar documents, in a global way, have the teaching authority proper to decrees of an ecumenical council, it was clearly not the intention of the council to exercise the same degree of authority in all its documents, or in all statements made in them.' ibid., 342. One key to recognising the 'degrees of authoritativeness' is to note the use of a phrase like 'This synod teaches' (e.g. LG 14; LG 20) or 'we believe' (UR 3 d; UR 4 c).

[45] Floyd Anderson, ed. *Council Daybook, Vatican II: Session 4 (1965)*, 3 vols., vol. 3 (Washington: National Catholic Welfare Conference, 1965), 361.

role and her pastoral government have, by reason of the Council's solemnity, assumed great splendour and vigour: the idea of service has been central.'[46]

An alert 'observer of the Council's prevailing interest for human and temporal values cannot deny that it is from the pastoral character that the Council has virtually made its program.'[47] Pope Paul was clear: that what was taught about pastoral government, the pastoral character of the Council, and pastoral charity was taught with authority by the Council.

The theologian and bishop, Walter Kasper (1933-), identified specific conciliar, pastoral statements 'in the narrower and more specialized sense.'[48] They are found especially in the Pastoral Constitution on the Church in the World of Today, *Gaudium et spes*. The genre of a 'pastoral' constitution was novel: it was not prepared prior to the Council but 'grew out of the conciliar process.'[49] *Gaudium et spes* contains practical, pastoral statements.[50] Kasper notes some difficulties: 'in evaluating the particular personal, cultural, social or political situation, the Church has no particular spiritual authority and competence. Here it is dependent on human experience, human judgement and the relevant human sciences.'[51] This situation benefits from episcopal leadership, which comprehends how to exercise governance attuned to the pastoral situation.[52]

While the term 'pastoral' was little used before Vatican II, John XXIII invited the bishops to join him at a Council that was pastoral in nature. This challenged the

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[46] Ibid.
[47] Ibid.
[48] Walter Kasper, *Theology and Church*, trans. M. Kohl (London: SCM, 1989), 173.
[49] Ibid.
[50] Ibid., 174.
[51] Ibid.
[52] David Leege has researched 'pastoral sensitivity' understood as personal insight into the contemporary pastoral situation and the skill to apply relevant norms to deliver general principles. Leege notes: 'When asked to rank the trait they most value in a pastor, parishioners named [pastoral] sensitivity to the needs of others by a wide margin over holiness, learning, good preaching skills, good organizing skills, or anything else. They want a pastor who understands them, who consults them, who respects them as contributors to the common life of the parish.' The same can equally apply to a bishop. See: David Leege, "The American Catholic Parish in the 1980's," in *The Parish in Transition*, ed. David Byers (Washington D.C.: United States Catholic Conference, 1986), 8-22 at 16.

Council members to find the language to express the Tradition of the Church in a manner understood by contemporary cultures, and in an inviting rather than condemnatory manner. The Jesuit theologian, John O'Malley, identified this as the panegyric genre, which affected all conciliar documents.[53] It painted 'ideals and draws conclusions from them and spells out practical consequences.'[54] This approach was neither nebulous nor insubstantial. It was integral to the Council and no bishop could ignore it or the direction it gave. The pastoral was 'a fusion of truth and love, "doctrine" and pastoral solicitude,'[55] concerned about the Church *ad intra* and *ad extra*, presented in persuasive language. This was the pastoral language the post conciliar bishop had to learn and speak on returning to his diocese, and it was to shape his exercise of diocesan governance. It is the language that Pope Francis has decided needs to come to the fore in ecclesial conversations in order to encourage episcopal leadership in the Church, which is not dominated by the centre.

1.5 Defining 'governance'

The dictionary suggests several meanings for the word 'governance': '(1) The action or manner of governing; (2) The office, function or power of governing'.[56] The term 'governance' originates from the Latin verb *gubernare*, 'to steer'. This suggests governance is invested in an individual(s) who steers the governed in a particular direction. Hence, governance is 'a legal power of a superior over subjects.'[57] *The New Catholic Encyclopaedia* suggests that since Vatican II 'governance' has replaced 'jurisdiction'[58] in Church usage. Prior to Vatican II, 'the power of jurisdiction (or of governance or of government) refers to the "public power of governing or ruling belonging to a supreme and independent society."'[59]

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[53] O'Malley, *What Happened at Vatican II*, 46.
[54] Ibid., 47.
[55] Ratzinger, "Announcements and Prefactory Notes of Explanation," 299.
[56] *The Shorter Oxford English Dictionary on Historical Principles.* 3rd. ed. 2 vols. Oxford: Clarendon Press, 1973, 874.
[57] David J. Stagaman, *Authority in the Church* (Collegeville, Mn.: Liturgical Press, 1999), 4.
[58] For Christopher O'Donnell 'Jurisdiction' has always been a fluid concept. Christopher O'Donnell, "Ecclesia: A Theological Encyclopedia of the Church," (Collegeville, Mn.: Liturgical Press, 1996), 237.
[59] R. J. Kaslyn, "Government," in *The New Catholic Encyclopedia* (Detroit/Washington, D.C: Thomson/Gale/Catholic University of America, 2003), 374.

This suggests jurisdiction was embedded in a society like the Church.[60] The use of the term 'governance' suggests a narrowing of power, invested in an individual within the Church.

This narrowing of the meaning of governance began in the early mediaeval period when the Body of Christ was understood as both Eucharist and Church.[61] By the thirteenth-century, theologians and canonists distinguished between Eucharist as *real* Body and Church as *mystical* Body.[62] This weakened the understanding of the Church as a community 'incorporated into Christ through the Eucharist'.[63] Seamus Ryan understands that at this time 'the juridical and institutional aspects assume the place of first importance, while the sacramental basis and structure of the Church are all but lost to view.'[64] Hence, the notion of a bishop possessing legal rights to a Church was more important than the pastoral notion of the bishop as minister of the Eucharist. This division - of sacrament and jurisdiction, clouded the relationship of the Church, the liturgical assembly and the sacraments.[65] This separation was sustained because of status and monetary benefits. The mass became a commodity, reserved to those who could afford it - pious and impious, and which effected 'their private reconciliation with God.'[66] This commercial division created problems when comprehending episcopal orders as it uncoupled sacramental orders from juridical power.

This impoverished view was questioned during the nineteenth and early twentieth centuries and readdressed by Vatican II by means of the Constitution on the Sacred Liturgy, *Sacrosanctum concilium*, which defined the Eucharist as 'the chief means

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[60] In this thesis the phrase 'the Church' will refer to the Roman Catholic Church, unless otherwise indicated.

[61] Henri de Lubac, *Corpus Mysticum: Essai sur L'Eucharistie et l'Église au moyen âge*, 2nd. ed. (Paris: Aubier 1949), 23. Cited in: Seamus Ryan, "Episcopal Consecration: The Legacy of the Schoolmen," *Irish Theological Quarterly* 33, no. 1 (1966), 28.

[62] "Episcopal Consecration: The Legacy of the Schoolmen," 28. Emphasis original. Thomas Aquinas often referred to the '*corpus ecclesiae mysticum*'. *Summa Theologica*, II, q. 8, a.3 and 4. Ibid., 29.

[63] Ibid., 28.

[64] Ibid., 29.

[65] Franchesca Aran Murphy, "De Lubac, Ratzinger and von Balthasar: A Communal Adventure in Ecclesiology," in *Ecumenism Today: The Universal Church in the 21st Century*, ed. Franchesca Aran Murphy and Christopher Asprey (Aldershot/Burlington, Vt.: Ashgate Publishing Ltd., 2008), 50.

[66] Ibid., 50-51. Citing: Joseph Ratzinger, *Principles of Catholic Theology: Building Stones for a Catholic Theology*, trans. Sr. Mary Frances McCarthy SND (San Francisco: Ignatius Press, 1987), 53.

through which believers are expressing in their lives and demonstrating to others the mystery which is Christ, and the sort of entity the true Church really is' (SC 2). This helped to reconstruct an interrelated theology of Church and Eucharist, which re-enabled the Council to link the sacramentality of episcopal orders conveying the power to govern and the bishop, around whom the Church gathered to celebrate Eucharist.[67]

1.5.1 The Nineteenth Century

By the nineteen century the power of jurisdiction was described more often as the power of governance. Vatican I's Dogmatic Constitution *Pastor aeternus* used the words 'government', 'governing' or 'govern(s)' on nine occasions and the word 'jurisdiction' or 'jurisdictional' on seven occasions.[68] While *Pastor aeternus* spoke of the pope having jurisdiction over the whole Church,[69] it did not detract 'from that ordinary and immediate power of episcopal jurisdiction, by which bishops, [...] tend and govern individually' the local Church.[70]

The governance role was strained in the post-Vatican I era as a balancing theology of the bishop was yet to be developed. The main focus of attention was on the primacy of the pope and his role of governance with respect to the universal Church.[71] While contemporary theological manuals *noted* episcopal apostolic succession, they were more concerned with 'indicating the powers of the apostolic college to which they do not succeed than those to which they do.'[72] Instead, the manuals focused on the role of the priest, seeing him as the one who could consecrate and absolve, which further impoverished episcopal governance,

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[67] See: SC 7 and 10.

[68] The Latin words translated as 'governs' include: '*regiminis'* (once); '*gubernandi'* (three times); '*regunt'* (once); '*regimen'* (three times); '*praeest'* (once). The Latin words translated as 'jurisdiction' include: '*iurisdictionem'* (once); '*iurisdictionis'* (five times); '*iudicium'* (once). See: Tanner, "Decrees of the Ecumenical Councils," 811-816. All references to documents of Vatican I or II, unless otherwise stated, will be to this volume. For O'Donnell, 'jurisdiction gradually took on the meaning of the general governing power of the Church.' O'Donnell, "Ecclesia: A Theological Encyclopedia of the Church," 237.

[69] Tanner, "Decrees of the Ecumenical Councils," 812. See: Chapter 3.

[70] Ibid., 814.

[71] Comment made by Cardinal Saliège of Toulouse in the Preface of: Aime Georges Martimort, *De l'Évêque* (Paris: Editions du Cerf, 1946), 5.

[72] Seamus Ryan, "Episcopal Consecration: The Fullness of the Sacrament of Order," *Irish Theological Quarterly* 32, no. 4 (1965), 295.

viewing the bishop as a *super-presbyter*, or, for some theologians, as a presbyter 'plus a grant of superior jurisdiction.'[73] The bishop's governance was thus compromised by an accentuated emphasis on papal governance and on the sacramental powers of presbyters.

1.5.2 The Twentieth Century

The 1917 Code of Canon Law uses the words 'jurisdiction' and 'governance' interchangeably: for example, it speaks of: 'The power of jurisdiction or governance, which exists in the Church [...] (c.196).'[74] Governance was understood as ordinary when attached to an office, and delegated when attached to a person (c.197). Those who possessed the power of governance could make law and impose penalties.[75] A common exercise of the power of ordinary governance at this time, but not the only one, allowed the bishop to confer 'delegated jurisdiction on secular or religious priests to receive confessions of anyone' (c.874 §1).

In his encyclical *Mystici Corporis Christi* (1943), Pius XII understood that as the bishop delegated the power to hear confession to his priests, the pope delegated the power of governance to the bishop. A primacy of jurisdiction was given to the pope to govern the Mystical Body (n.40), amongst whom bishops are the 'more illustrious members' (n.42). The diocesan bishop was 'a true Shepherd [who] feeds the flock entrusted to him and rules it in the name of Christ' (n.42). The bishop was not independent: he was 'subordinate to the lawful authority of the Roman Pontiff, although enjoying the ordinary power of jurisdiction [received] directly from the same Supreme Pontiff [and viewed as] a divinely appointed successors of the Apostles' (n.42).[76] The power of governance, therefore, did not flow from episcopal ordination. It was a power given by the pope to a bishop, an understanding that continued up to Vatican II.

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[73] Ibid., 324.

[74] References to the 1917 Code will be taken from: Edward N. Peters, *The 1917 Pio-Benedictine Code of Canon Law* (San Francisco: Ignatius Press, 2001).

[75] Canon 2220 §1.

[76] Pius XII, "*Mystici Corporis Christi*," (http://www.vatican.va/holy_father/pius_xii/encyclicals/documents/hf_p-xii_enc_29061943_mystici-corporis-christi_en.html, 1943). [Downloaded 21.11.2011]. It represented Pius XII's understanding of *Pastor aeternus*, chapter 3; and, canon 329 §1 from the 1917 Code.

1.5.3 The documents of Vatican II

The relationship between the pope and bishops presented in *Pastor aeternus* was reassessed by Vatican II. Advances in many fields of Catholic theology, including scriptural analysis, historical studies and the liturgy prior to the Council were the result of a *ressourcement* - a return to the sources.[77] These sources, including ancient Eucharistic prayers and Rituals together with the works of the Fathers, required a reconsideration of the relationship of the pope and bishops; between the universal and local Church; and between the bishop and his diocese. The Dominican theologian Yves Marie-Joseph Congar (1904-95) and others[78] understood *ressourcement* as a more profound tradition on which to base 'Church reform'.[79] *Ressourcement* encouraged a greater collegial understanding of the episcopal role, marking a significantly changed approach to governance. This was seen in the Council's first promulgated document.

1.5.4 *Sacrosanctum concilium*

Sacrosanctum concilium places the bishop at the centre of liturgical governance of the local Church exercised in a pastoral manner. This is most clearly seen in the episcopal celebration of the Eucharist. As he governs the local Church the bishop is also the agent of communion. Both help to unify the Church at the local and universal levels. Both are especially seen in action when the bishop and his episcopal conference govern the use and translation of texts into local languages.

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[77] Massimo Faggioli understands *ressourcement* as 'the most powerful source of updating and reform for global Catholicism in the modern world.' Massimo Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium* (Collegeville, Mn.: Liturgical Press 2012), 16. See also: Marcellino D'Ambrosio, "*Ressourcement* theology, *aggiornamento*, and the hermeneutics of tradition," *Communio: International Catholic Review* 18 (1991). Mettepenningen, *Nouvelle Theologie - New Theology: Inheritor of Modernism, Precursor of Vatican II*. Gabriel Flynn and Paul D. Murray, eds., *Ressourcement: A Movement for Renewal in Twentieth-Century Catholic Theology* (New York: Oxford University Press, 2012). Hans Boesma, *Nouvelle Théologie and Sacramental Ontology: A Return to Mystery* (Oxford: Oxford University Press, 2009).

[78] French Dominicans like Marie-Dominique Chenu; and Jesuits, Jean Daniélou, Henri de Lubac, and Hans Urs von Balthasar. While centred in France, it was active in Belgium and Germany. See: Gabriel Flynn, "Introduction: The Twentieth-Century Renaissance in Catholic Theology," in *Ressourcement: A Movement for Renewal in Twentieth-Century Catholic Theology* ed. Gabriel Flynn and Paul D. Murray (New York: Oxford University Press, 2012), 1-2. See also: Mettepenningen, *Nouvelle Theologie - New Theology: Inheritor of Modernism, Precursor of Vatican II*, Especially: 115-138.

[79] Flynn, "Introduction: The Twentieth-Century Renaissance in Catholic Theology," 4. He cites: Yves Congar, *Vraie et fausse réforme dans L'Église*, *Unam Sanctam*, 20 (Paris: Cerf, 1950), 601-2.

Episcopal leadership requires to be rooted in gospel values and in the Eucharist as: 'The bishop leads his diocese, or rather his local Church, from behind the altar rather than from behind a desk.'[80] The Eucharist was entrusted to the Apostles, and to the bishops. *Sacrosanctum concilium* placed the bishop at the liturgical centre of the local Church (SC 41). The study of the liturgy helped widen the focus on the Eucharistic elements 'to heed the assembly which is gathered around [the Lord's Table] and to understand the Eucharist as the entire celebration of God's people within which the elements are transformed.'[81] It is natural that Eucharistic values of the grace and love of God should shape the transformational possibilities of episcopal leadership. The governance role of the bishop, a role to be carried out in a pastoral mode, was first explicated in *Sacrosanctum concilium*. It focussed the Council's mind on the episcopal governance role in all subsequent conciliar documents, and especially in *Lumen gentium* and *Christus Dominus*.

1.5.5 *Lumen gentium*

Building on *Sacrosanctum concilium*, a clearer understanding of pastoral governance, which is closely related to an exercise of leadership, is offered by *Lumen gentium*. Bishops govern 'by counsel, persuasion and example [as well as] by authority and sacred power which they make use of only to build up their flock in truth and holiness' (LG 27). The exercise of leadership ('counsel, persuasion and example') comes first. Authority or power is used subsequently, and only when necessary. Perhaps the most important differentiation is an expectation that governance should *envision* a creative future. This goes to the heart of pastoral governance: the development of a vision for/with the local Church, which supports a transformative, gospel message. This requires episcopal courage or 'fortitude'. The new ecclesiological consciousness which emerged from the Council 'realised that a creative reform was necessary if [the Church] was to function as an effective sacrament of Christ on earth.'[82] With such an understanding the bishop was free to

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[80] Paul McPartlan, *Ministerial Priesthood in the Third Millennium: Faithfulness of Christ, Faithfulness of Priests* (Collegeville, Mn.: Liturgical Press, 2009), 79.
[81] *Sacrament of Salvation: An Introduction to Eucharistic Ecclesiology* (Edinburgh: T & T Clark, 1995), xiv.
[82] Patrick Granfield, *The Papacy in Transition* (Dublin: Gill and Macmillan, 1981), 60-61.

develop a creative vision for the local Church and, in turn, contribute to the vision of the universal Church.

The Council '*teaches* that the fullness of the sacrament of order is conferred by episcopal consecration [ordination]' (LG 21), which is both a sacramental and pneumatological event. It confers the three *munera*, which are exercised with the pope and the bishops. Vatican II differs substantially from Pius XII's understanding: it is episcopal ordination and not the pope that gives the individual bishop the power of governance. The bishop's power is proper, ordinary and immediate. He makes laws, judges those in his diocese, and governs the local Church as a vicar and legate of Christ. Governance is also exercised by 'counsel, persuasion and example' (LG 27), which expresses the pastoral element of governance. While he does not govern other local Churches or the universal Church, the bishop expresses pastoral concern for the universal Church through membership of the College of Bishops.

When addressing the relationship of pope and bishops *Lumen gentium* states:

> The pastoral office, [...], is completely entrusted to the bishops and they are not to be considered vicars of the Roman pontiffs, because they exercise a power that is proper to themselves and most truly are said to be presidents of the people they govern. Therefore their power is not destroyed by the supreme and universal power, but on the contrary it is affirmed, strengthened and vindicated by it, since the Holy Spirit unfailingly preserves the form of government established in his Church by Christ the Lord (LG 27).[83]

The collegial manner in which the pope and bishops work together was rediscovered at the Council and expressed in *Lumen gentium*:

> The collegial character and nature of the episcopal order is shown in the very ancient practice by which bishops appointed throughout the world maintained communion with each other and with the bishop of Rome in the bonds of unity, charity and peace; [...]. This is clearly confirmed by the ecumenical Councils that have been celebrated down the centuries (LG 22).

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[83] While this follows *Pastor aeternus* concerning the relationship of the bishops and the pope, *Lumen gentium* modified and recontextualised the episcopal governance role, expressing it in different language.

The Council struggled with the idea of collegiality, wishing to describe it 'in such a way that the idea of primacy was contained within it.'[84] Some members of the Council, like Cardinal Ottaviani, viewed collegiality as unacceptable.[85] Others, like Cardinal Suenens, were more supportive.[86] Contained within the task of Church government was the task 'to find a constitutional structure for the Church that reflects its own intrinsic collegial nature as a community of faith. The task was begun anew at Vatican Council II. It is still far from complete.'[87]

While the bishops' role of pastoral governance should not be understood as undermining papal primacy, like collegiality, it was understood by some as a threat. However, primacy can support collegiality:

> The primacy is to serve collegiality, just as collegiality is to serve the Church. Primacy is not opposed to collegiality in principle; on the contrary, primacy is the servant of collegiality. Further, one can gauge the effectiveness of the primacy by the vitality of collegiality within the Church. If the college of bishops is flourishing – a college precisely of bishops with and under the bishop of Rome and not merely of advisors of the Apostolic See and implementers of curial decisions – then the primacy is flourishing. The strength of bishops as bishops is a term and a reason for the primacy.[88]

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[84] Joseph Ratzinger, *Church, Ecumenism and Politics: New Essays in Ecclesiology*, trans. Michael J. Miller *et al* (San Francisco: Ignatius Press, 2008), 36.

[85] Mary McAleese comments: 'Ottaviani, a conciliar opponent of episcopal collegiality is reputed to have remarked during the Council that the only known collegial action on the part of the apostles occurred as Christ was arrested in Gethsemane when according to Matthew 26:56 'they all fled.' Mary McAleese, *Quo Vadis? Collegiality in the Code of Canon Law* (Dublin: The Columba Press, 2012), 41-42. Citing: Giuseppe Alberigo and Joseph A. Komonchak, eds., *History of Vatican II: The Mature Council, Second Period and Intersession, September 1963 - September 1964*, 5 vols., vol. 3 (Maryknoll, N.Y./Leuven: Orbis/Peeters, 2000), 129. Komonchak, commenting after the Council, disagreed with Ottaviani's view: '[I]n its full meaning based on scripture, episcopal collegiality, which succeeds to that of the twelve, is essentially universal.' McAleese, *Quo Vadis? Collegiality in the Code of Canon Law*, 42. Citing: Joseph A. Komonchak, Introduction in *The Motherhood of the Church*, ed. Henri de Lubac (Ignatius Press, 1982), 18.

[86] Suenens cites two scriptural examples: Acts 2:14 and Acts 8:14 to support his positive view of episcopal collegiality. See: José de Broucker, *The Suenens Dossier: The Case for Collegiality* (Notre Dame, Ind.: Fides Publishers, 1970), 12. McAleese speaks of a divine help given to the pope and the bishops 'in the normal working out of collegiality.' ibid.

[87] Brian Tierney, "Church Law and Alternaive Structures: A Medieval Perspective," in *Governance, Accountability, and the Future of the Catholic Church*, ed. Francis Oakley and Bruce Russett (New York/London: Continuum, 2004), 61. On the issue of ultimate authority and Church governance see: Francis Oakley, "Authoritative and Ignored: The Overlooked Council of Constance," *Doctrine and Life* 64, no. 9 (2014), 23-31 at 30.

[88] Michael J. Buckley, *Papal Primacy and the Episcopate: Towards a Relational Understanding* (New York: The Crossroad Publishing Company, 1998), 78.

Primacy understood in this way in turn supports rather than diminishes the 'the vitality and interaction and functions of the college of bishops.'[89] Collegiality is about the connected nature of the episcopate: thus, the bishop of Little Rock, Arkansas is connected to the Bishop of Rome is connected to the Archbishop of Liverpool. As the bishops come together with and under the Bishop of Rome, they represent the whole Church, bringing its concerns and needs to the attention of one another. This is seen most clearly at an ecumenical Council, and identified in the pastoral activity of episcopal conferences and the Synod of Bishops. Each affords the bishop a unique opportunity to develop his pastoral understanding of the local, national and worldwide Church for the benefit of the faithful. Collegiality expressed in these ways supports the individual and collective episcopal pastoral governance role.

1.5.6 *Christus Dominus*

The episcopal governance role was again addressed in *Christus Dominus*.[90] Through his episcopal ordination the bishop becomes a teacher, a pontiff and a pastor and exercises pastoral governance for the local Church to which he is appointed. The Council responded to human societal change by determining 'the pastoral function of bishops' (CD 3) discussed throughout *Christus Dominus*. Again, it is through sacramental ordination they become members of the episcopal college, which exercises 'supreme and full power over the universal Church' (CD 4). While solemnly exercised at an ecumenical Council, this power may also be exercised when the bishops disperse. Pope Paul VI introduced the Synod of Bishops, which expressed the collegial nature of the episcopate, to offer him support, and to demonstrate episcopal participation in the care of the Church. It was not set up as an organ of episcopal or papal governance.

A key section of *Christus Dominus* speaks of the power to exercise the episcopal pastoral office. Diocesan bishops

> possess as of right all the power necessary for the exercise of their pastoral office. This power belongs to them as bishops and rests in their own hands,

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[89] Ibid.

[90] Again, as *Christus Dominus* followed the teaching of *Pastor aeternus*, it re-imagined and recontextualised the episcopal governance role.

always without prejudice to the universal power which, in virtue of his office, the Roman pontiff possesses of reserving cases to himself or to some other authority' (CD 8a).

The bishop exercises 'ordinary' power but certain areas of authority are reserved to the pontiff or a named authority. This is also seen later: the Church's general law gives all diocesan bishops 'the power of granting dispensations in particular cases to the faithful over whom they hold canonical authority, whenever they judge it to be for their spiritual good. This power does not extend to cases which have been specifically reserved by the supreme authority of the Church' (CD 8b). Again, the bishop may grant dispensations but only in those cases not reserved to higher authority. This 'balance' is noted later. Bishops of local Churches: 'are the proper, official and immediate shepherds of these Churches, under the authority of the supreme pontiff. [...] they themselves must recognise the rights which legitimately belong to patriarchs or to other hierarchic authorities' (CD 11). The local bishop has to be mindful that certain actions or exercises of governance have already been reserved to others in the hierarchy.

This brief look at *Sacrosanctum concilium, Lumen gentium* and *Christus Dominus* reveals a clear governance role of the bishop, its centrality and pastoral nature. The bishop governs the local Church, notes those areas which are reserved to higher authority, and participates in the governance of the universal Church with the Bishop of Rome and the College of Bishops.

1.5.7 The Revised Code of Canon Law (1983)

The Revised Code speaks first of a power of governance.[91] Those in sacred orders are 'capable of the power of governance, which belongs to the Church by divine institution. This power is also called the power of jurisdiction' (Canon 129 §1). The word jurisdiction, used five times in the revised Code, was replaced by the word governance when speaking about those who exercise the power of governing

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[91] Henceforth referred to as the Code or the 1983 Code. The *Intratext* Code (1983) (see: http://www.intratext.com/IXT/ENG0017/_FF.HTM. [Downloaded 7.9.2013]), uses 'governance' 70 times. Related words are also used: governed (18); governs (9); govern (5); governing (4). The *Intratext* Code (1983) (see: http://www.intratext.com/IXT/ENG0017/_FF.HTM. [Downloaded 7.9.2013]), uses 'pastoral' 98 times. 'Reception' is used 24 times, always in relation to sacramental reception.

(*potestas regiminis*).[92] The bishop exercises governance in a legislative, executive and judicial manner. His collaborators, especially priests, share in his governance role, for example, through the Council of Priests or, if appointed as judges, they exercise juridical power. The sharing of governance seems deliberately ambiguous in that it may or may not be saying that the lay faithful also have the capacity to govern. This is significant for the understanding of shared governance and is attributable to an ambiguity in the Code arising from two different operant ecclesiologies: the Church as perfect society, and as communion. The Church as perfect society, some 'claim to find in LG 8 par.1, where the Church is described as "a visible structure". Other canons seem to rest on an understanding of the Church in terms of communion, and the use, not always thorough, of the triple office of priest, prophet and king [...], central in the ecclesiology of the Council.'[93] How lay people share in governance continues to be unclear.

The 1983 Code was meant to reflect the ecclesiology of the Council, including a revised understanding of the pastoral governance role of the bishop. The Swiss canon lawyer and later bishop, Eugenio Corecco (1931-1995), suggests that the two ecclesiological models identified by O'Donnell are irreconcilable.[94] O'Donnell and Corecco suggest that episcopal governance was challenged by these competing ecclesiologies between 1965 and 1983, a challenge that continues to the present day. For Corecco:

> the attempt of the Code to put order into Church discipline by accepting many of the innovative pulses of Vatican II, while also trying to contain the dislocations and profound tensions that emerged in the post conciliar period, is like trying to put the lid on an already operating pressure cooker whose safety valve is the principle implied by Pope John II, namely, that the Code is to be interpreted in the light of Vatican II.[95]

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[92] The *Intratext* Code (1983) (see: http://www.intratext.com/IXT/ENG0017/_FF.HTM. [Downloaded 7.9.2013]), uses the word 'jurisdiction' 12 times. Related words are also used: judgement (199); juridical (113); judicial (67); judged (20); juridically (4).

[93] The next paragraph (c. 129 §2) expresses how the lay faithful cooperate in exercising the power of governance. O'Donnell, "Ecclesia: A Theological Encyclopedia of the Church," 238.

[94] Eugenio Corecco, "Aspects of the Reception of Vatican II in the Code of Canon Law," in *The Reception of Vatican II*, ed. Giuseppe Alberigo, Jean Pierre Jossua, and Joseph A. Komonchak (Washington, D.C.: Catholic University of America Press, 1987), 294. Corecco was ordained bishop of Lugano, Switzerland in 1986.

[95] Ibid., 295-296.

These clashing ecclesiologies suggest the 1983 Code had problems correctly interpreting and expressing the bishop's governance role. This will need to be considered when reading magisterial documents produced after the Council and particularly after 1983.

1.5.8 Skills and qualities of episcopal candidates in the 1983 Code: leadership not management

Under the 1983 Code, the Curia, in the process of selecting a candidate for appointment to an episcopal see, circulates a questionnaire, via the Papal Nuncio, which includes a question eliciting a candidate's leadership qualities:

> [Question] 9. Leadership Qualities: A fatherly spirit, attitude of service, taking initiative; the ability to lead others to dialogue, to stimulate and receive cooperation, to analyse and organize and carry out decisions; to direct and engage in team work; appreciation for the role and the collaboration of religious and laity (both men and women) and for a just share of responsibilities; concern for the problems of the universal and local Church.[96]

By the late 1980's a wide range of skills and qualities was required of a suitable candidate for episcopal office, indicating 'that an authoritarian pastor is not wanted.'[97] Furthermore, the episcopal role is understood as one of leadership rather than of management. Management addresses the practicalities of running an ordered and efficient organisation, but leadership is something more:

> [It] includes all that is implied in management but also refers to that aspect of [...] governance which imagines a vision for a creative future. Leadership has an inspirational dimension derived from one's fundamental values and goes beyond efficient management to enable positive transformation. It is about values and exerting influence, all of which give guidance and direction to any organisation.[98]

Leadership is linked to the courage of an individual to accept personal responsibility for his or her decisions, which in the long run benefits the company

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[96] Thomas J. Reese, *Archbishop: Inside the Power Structure of the American Catholic Church*, 1st ed. (San Francisco: Harper & Row, 1989), 21.
[97] Ibid. page 22.
[98] Sheila Kelleher, "Leading and Managing the Catholic School in an Era of Unprecedented Change," in *Catholic Schools - Faith in our Future*, ed. Maedhbh Uí Chiagáin (Dublin: Association of Management of Catholic Secondary Schools, 2012), 71. She continues: '[T]he leader is the person who is constantly searching for the high ground, "it is the leader who engages in that creative activity in which horizons of meaning surrounding the issue at hand are perpetually stretched."' Citing: F. A. J. Kavanagh, *Secondary Education in Ireland* (Dublin: The Patrician Brothers, 1993), 15.

in the creation of 'a risk tolerant, resolute workforce.'[99] In discussing the difference between management and leadership a broader understanding is glimpsed of the bishop's role of pastoral governance. It includes elements of leadership, management and jurisdiction, a combination of tasks that will challenge anyone in the role of governance.

The development of a broader understanding of governance during the Council helped the Church to prioritise its mandate to proclaim the gospel, as 'governance exists to serve this mission.'[100] However, the clashing ecclesiologies, which underpin the understanding of governance in the 1984 Code, have served to restrict the Council's understanding of episcopal governance for the local and universal Church, which has led to a re-centralisation of governance in subsequent years.

Proclaiming the Gospel, as understood by Vatican II, challenges the bishop to exercise governance in new ways. For example, sensitive leadership of the diocese as a liturgical community; modelling good ministerial practice to co-ministers; sharing governance with the faithful. In other words, he exercises governance in a pastoral manner.

1.6 Defining 'reception'

Reception is described as 'the action or fact of receiving or getting; the action of receiving (esp. persons), or fact of being received, into a place, company, state, etc.'.[101] It also is described as '"The manner in which something, such as a guest or new idea, is received: a *cold reception*. [...].'[102] These definitions suggest reception to be a dynamic process. Ormond Rush suggests active reception occurs frequently within the Church. For example:

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[99] Helen J. Alford and Michael J. Naughton, *Managing as if Faith Mattered: Christian Social Principles in the Modern Organisation* (Notre Dame, Ind.: University of Notre Dame Press, 2001), 199.
[100] Kaslyn, "Government," 374. He then turns to discuss the exercise of governance by the lay faithful.
[101] *The Shorter Oxford English Dictionary on Historical Principles.* 3rd. ed. Oxford: Clarendon Press, 1973, 1761.
[102] *Collins Concise English Dictionary.* 7th. ed. Glasgow: HarperCollins, 2008, 1384. From the Latin: *recipere* meaning 'to receive.'

(1) reception between God and humanity; (2) reception between God and the whole community of believers; (3) reception between God and the Roman Catholic Church as a communion of churches; (4) reception between the episcopal magisterium and the sensus fidelium of the whole body of the faithful; (5) reception between a local church and its particular context in the world; (6) reception between local churches in communio; (7) reception between local churches and the church of Rome in communio; (8) reception between theologians and their local church in its context; (9) reception within and between diverse theologies; (10) reception between the episcopal magisterium and theology; (11) reception between separated churches and ecclesial communities; (12) reception between Christian churches and other religions. [103]

For Rush reception can involve many ecclesial relationship. For example, reception is active when a practice, theological view or belief emerging in one local church passes to other local churches who discern whether to make that practice, view or belief their own. Two exemplars will now be further investigated: the classical/historical, and the ecumenical sense.

1.6.1 The classical theological definition

The classical understanding references 'the acceptance by local Churches of particular ecclesiastical or conciliar decisions.'[104] The process made the pronouncements of local/regional synods 'part of the life of, and were shared between, various local Churches.'[105]

The early Christian communities, in communicating their faith understanding to one another, were involved in the process of reception, understood as 'more than [a] juridical action.'[106] The decision to receive the faith development of another community was discerned by the whole community before being received.[107] This

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[103] Ormond Rush, "The Reception of Doctrine: An Appropriation of Hans Robert Jauss' Reception Aesthetics and Literary Hermeneutics" (Gregorian, 1997), 206-207.

[104] *The New Dictionary of Theology.* Dublin: Gill & Macmillan, 1987, 828.

[105] Harding Meyer and William G. Rusch, "Ecumenical Reception," in *The Encyclopedia of Christianity*, ed. Erwin Fahlbusch, et al. (Grand Rapids, Mich./Leiden, the Netherlands: Wm. B. EerdmansPublishing Company/Koninklijke Brill NV, 2001), 502.

[106] Ibid.

[107] O'Donnell suggests: 'There is no scholarly agreement about the detailed process of this crucial reception.' O'Donnell, "Ecclesia: A Theological Encyclopedia of the Church," 400. Councils as late as Florence and Trent addressed the issue of canonicity.

is the origin of reception, understood as a process which emerged 'during the first millennium'.[108]

As the Church's self-identity changed, by the post-Tridentine period reception became less easy to explain. The development of a hierarchical understanding of Church 'so emphasised the role of ecclesiastical authority that the notion of reception was virtually rejected.'[109] This allowed little or no room for local discernment in the process of reception: it became aligned with Church teaching, understood as the 'acceptance of papal decretals in the courts and in canon law. [...]. *Recipio* in such contexts now meant "recognise, approve, sanction."'[110]

As the Church received the teaching of the Council of Trent (1545-1563), reception was understood as 'a matter of binding acceptance of decisions of an infallible papal teaching office or of Councils approved by the pope.'[111] In contrast, classical reception happened at the level of the local Church. It was neither merely a juridical event nor the wholesale acceptance of conciliar decisions; it involved spiritual discernment and measured academic consideration.[112] There was a special episcopal role in classical reception, 'as witness to tradition and judge of the authenticity of faith. But it also involves the laity who accept and find life-giving what their pastors acknowledge as authentic.'[113] The episcopal role in reception is linked to a close, pastoral, Spirit-filled relationship with those whom he governs.

1.6.2 An ecumenical theological definition

Reception can be understood today in ecumenical terms as 'the acceptance by one Church of a theological consensus arrived at with another Church, and ultimately, the recognition of the other Church's faith and ecclesial life as authentically

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[108] *The New Dictionary of Theology.* Dublin: Gill & Macmillan, 1987, 828.
[109] Ibid.
[110] Meyer and Rusch, "Ecumenical Reception," 503. Emphasis original.
[111] Ibid.
[112] *The New Dictionary of Theology.* Dublin: Gill & Macmillan, 1987, 828.
[113] O'Donnell, "Ecclesia: A Theological Encyclopedia of the Church," 400. 'As a work of the Spirit in the whole community, reception is not the same as a plebiscite or a modern Gallup poll.' ibid.

Christian.'[114] This process, between Churches, has led to the authorship of position statements, outlining common faith understandings, making 'reception a crucial issue in the search for Christian unity.'[115] Ecumenical reception will be the result of a long process, culminating in 'a juridical or canonical act by Church leaders.'[116]

1.6.3 Reception during the Twentieth Century

The Catholic Encyclopaedia (1910) suggests that reception related principally to sacramental reception.[117] Similarly, reception was a word with canonical connotations. For example, a person may be canonically impeded from receiving Holy Orders for given reasons or qualities. If there is a defect, directly or indirectly, the reception of orders is prohibited.[118] Reception is decided by canon law. In these examples, the role of the Holy Spirit or the local Church is not explicit. This understanding differs from that of classical reception.

There was a revived interest in the understanding and function of reception at Vatican II. Bishop Brian Farrell, Secretary of the Pontifical Council for Promoting Christian Unity, remembers that Christian unity was an important task assigned to the Church by Vatican II.[119] It required three actions: Church reengagement in conciliar reception; for other Christians to reflect on this process of reception; and, inter-confessional dialogue developed as a tool for disabling inter-Church differences.[120] This supported an inter-confessional approach to the reception of Vatican II from the 1960s onwards. Classical reception was again being discussed and its fruits witnessed in subsequent documents.[121] In 2013, Farrell reported: '50

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[114] *The New Dictionary of Theology.* Dublin: Gill & Macmillan, 1987, 828.

[115] Ibid., 829.

[116] Ibid.

[117] Patrick Morrisroe, "Holy Communion," in *The Catholic Encyclopedia* (http://www.newadvent.org/cathen/07402a.htm1910). [Downloaded 13.9.2013]. Emphasis added.

[118] William Fanning, "Irregularity,"ibid. (http://www.newadvent.org/cathen/08170a.htm). [Downloaded: 13.9.2013]. Emphasis added. This entry was written several years before the Code of Canon Law (1917) was promulgated.

[119] Brian Farrell, "Report on the Activities of the Pontifical Council for Promoting Christian Unity during 2012," *Catholica: Vierteljahres Scrift für Ökumenische Theologie* 67, no. 2 (2013), 81.

[120] Meyer and Rusch, "Ecumenical Reception," 503.

[121] These include discussions and documents produced by the Anglican-Roman Catholic International Commission (ARCIC). For example, ARCIC I (1981); ARCIC II (1986, 1990, 1993, 1999 and 2004); and ARCIC III; and the discussions between the Lutheran Church and Roman Catholic

years of ecumenical endeavour have consolidated a whole new relationship between the Roman Catholic Church and most other Christian Churches and communions.'[122] Later, he speculated whether the Catholic Church was again choosing to affirm difference. If true, this will contribute to the failure of the ecumenical movement - and of an important task inherited from the Council.

While the Council did not deal explicitly with reception, it clarified how the mechanism worked. For example, the whole of *Dei Verbum* is about the reception of divine truths within Scripture and Tradition. *Lumen gentium* discusses the *sensus fidei* and the non-passive reception of divine revelation. The anointed 'body of the faithful' cannot be mistaken in what they believe, which is displayed

> through a supernatural sense of the faith in the whole people when "from the bishop to the last of the faithful laity", [they express] the consent of all in matters of faith and morals. Through this sense of faith […] the people of God, […], *receives* no longer the words of human beings but truly the word of God (LG 12).

The Church's liturgy can supply instances of reception and non-reception. For example, the Feasts of the Assumption and of the Precious Blood: both were celebrated across the Church. The Feast of the Precious Blood, supported by Pius XI and John XXIII was never as popular and was removed from the revised calendar in 1968.[123] The Feast of the Assumption remains. Liturgy demonstrates that reception requires inculturation.

> A doctrine or a canonical practice is received by a local Church according to its life and times and finds its expression there. […]. Again, we can see how liturgy can receive doctrinal teaching. The post-Vatican II Church received the Eastern emphasis on pneumatology in its careful insertion of the *epiclesis* in the new Eucharistic Prayers.[124]

There is an important sense, too, in which the prayer of the Christian community contains doctrine that has also been received by the Church.

Church leading to, for example, the Joint Statement on the Doctrine of Justification by Faith (1983); and, the Joint Declaration on the Doctrine of Justification (1999).
[122] Farrell, "Report on the Activities of the Pontifical Council for Promoting Christian Unity during 2012," 81.
[123] O'Donnell, "Ecclesia: A Theological Encyclopedia of the Church," 401.
[124] Ibid.

In *Sacrosanctum concilium*, the bishop and the Church are both encouraged to receive a new role of active participation. The bishop governs the liturgy in a pastoral manner and the lay faithful assist by shaping and participating in the liturgy. With his episcopal conference, the bishop is the centre of liturgical renewal and governance in the local and regional Church. He governs local liturgical life, adapting it with the episcopal conference, shaping its local celebration and enculturation. The conciliar documents are required to be received by the Church. This is enabled through the office of the bishop in the local church and in receiving this task from the Council his exercise of governance is already being reshaped for him. This is not just a passive reception of conciliar teaching; it is something which the bishop appropriates for himself into his governing mission.

1.7 Pastoral, governance, and reception in summary

The terms *pastoral*, *governance*, and *reception* have dynamic rather than static meanings in an ecclesial context. For example, while Vatican I's *Pastor aeternus* defined papal primacy and infallibility, it also understood that the bishop possessed an ordinary and immediate power of episcopal jurisdiction, used to govern the diocese.

For Pius XII, however, the bishop received his power of *governance* from the pope and not at episcopal ordination. Vatican II reassessed the episcopal governance role stressing the collegiality of the bishops, who gather the universal Church (LG 19) and govern as the apostles (LG 20, 21) with and never without the pope. The majority of bishops were mindful and supportive of a wider pastoral *governance* role, envisaged and encouraged by John XXIII.

The *pastoral* approach framed how a more expansive episcopal exercise of governance in the post conciliar Church might be understood. Questions about a pastoral approach and the pastoral character of Vatican II aimed to undermine its authority. However, it would be perverse to interpret the Council's pastoral character as the 'basis for depriving its teaching of any genuine authority in the

doctrinal field.'[125] Rather, the Council encouraged a new model of episcopal governance, exercised in a pastoral mode, to grow and extend into all areas of diocesan governance, reaching out to other Christian communities, and world religions. In future, to speak about pastoral governance involved the bishop in more than an exercise of jurisdiction. The phrase is compressed. It forces the bishop and the faithful to interrogate not just what the bishop *does*, but *how* he does it, *with whom*, and to consider the consequences.

The challenge after the Council was for its teaching to be *received* by the Church. Reception was an issue in the years after the Council, one which 'is ongoing and incomplete.'[126] This was due to clashing ecclesiological models, which stressed one element contained within juxtaposed views, or stressed a division of the pre- and post- conciliar Church. Such polarisation needs to be addressed as it has led too often to a sterile, hermeneutical stalemate, serving only to impede the reception of some conciliar documents.[127]

An important question raised by these investigations concerns an historical appreciation of the pastoral governance role of the bishop before Vatican II. If it did exist was it expansive and well received or was it a more restricted role, suggesting that its reception was limited? These questions will be investigated in future chapters, aided by the use of a suitable hermeneutical methodology tool, which will be considered next.

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Section II

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1.8 Methodological Considerations: Hermeneutical analysis of the documents of Vatican II

The second section of Chapter One provides the opportunity to discuss methodological considerations. In this section the hermeneutical tools and

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[125] Kevin McNamara, "Introduction to the Constitution *Lumen Gentium*," in *Vatican II:The Constitution on the Church. A Theological and Pastoral Commentary*, ed. Kevin McNamara (Chicago, Ill.: Franciscan Herald Press, 1968), 71.

[126] Seán Corkery, "Interpreting '*Subsistit in*' Today," *Doctrine and Life* 64, no. 9 (2014), 19.

[127] See: Christopher Ruddy, "'In my end is my beginning': *Lumen gentium* and the Priority of Doxology," *Irish Theological Quarterly* 79 (2014), 145-151.

approaches developed by some leading theologians will be discussed. With these to hand, these theologians offered a deeper understanding of the documents of Vatican II. All understood that the Church and wider society are not served by a simple reading of conciliar documents and that more is required in order to appreciate their meaning. Gustave Thils, Walter Kasper, Joseph Ratzinger, Herman Pottmeyer and Ormond Rush each offer such tools. The hermeneutics of Thils, Kasper, Ratzinger and Pottmeyer are outlined below. A more comprehensive analysis of Rush's hermeneutics will then be offered.

1.8.1 Gustave Thils

The first to reflect on the hermeneutics of Vatican II was the Belgian theologian, Gustave Thils.[128] He was one of the original members of the Secretariat for Promoting Christian Unity and a *peritus* at Vatican II and produced two essays in the early 1980s, entitled: 'In Complete Fidelity to the Council' and 'Three Characteristics of the Post-conciliar Church.'[129] Thils published his articles in obscure journals, as a result of which his ideas received little prominence and were of little influence. However, they have since informed the general debate.

1.8.2 Walter Kasper

For Kasper, hermeneutical principles aided the interpretation and reception of Vatican II. The conciliar process which produced the texts required a context, provided by studying the Council's 'textual history'.[130] The Council did not wish to repeat what the tradition said, an approach John XXIII was adamant would not benefit the Church.[131] The deposit of faith was one thing; its presentation to Church and society another. He wanted to reinvigorate Church tradition.

Kasper understood this as a pastoral approach, allowing the Council to address its task by defining the parameters of the Church's position. Kaspar understands that

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[128] Gilles Routhier, "The Hermeneutic of Reform as a Task for Theology," ibid.77, no. 3 (2012), 232.
[129] 'En pleine fidélité au concile du Vatican,' in *La foi et le temps*, 10 (1980), 274-309; 'Trois caractéristiques de l'Église postconciliaire,' in *Bulletin de Theologie africaine*, 3 (1981), 233-45.
[130] Kasper, *Theology and Church*, 172. His ideas were developed with the German bishops and helped to prepare them fo the 1985 Synod. They were eventually published as: Walter Kasper, *Theologie und Kirche* (Mainz: Mattias-Grünevald-Verlang, 1987). It was translated into English and published as *Theology and Church* in 1989.
[131] Discussed in: John XXIII, *Gaudet Mater Ecclesia*.

it was within 'the conciliar tradition for a juxtaposition to remain. As in the case of every Council, the theoretical mediation of these positions is a task for the theology that comes afterwards.'[132] Inspired by the thinking of John Henry Newman, Kasper suggested four hermeneutical principles.[133]

The first addressed an understanding of the texts of the Council as a whole: 'It is precisely the tension existing between individual statements which bring out the pastoral point of the Council.'[134] The second principle stated that the letter and the spirit of the Council must be understood as a unity. Individual statements must be understood in the light of the spirit of the whole statement, and vice versa - referred to as the hermeneutical circle. This is revealed by discovering a detailed textual history, then 'extracting the Council's intention [which] was the renewal of the whole tradition, and that means the renewal, for our time, of the whole of what is Catholic.'[135]

The third principle declared that Vatican II must be understood in light of the wider tradition of the Church: 'particularly the Trinitarian and Christological confessions of the ancient Church.'[136] The fourth principle addressed what Vatican II understood as Catholic continuity. For Kasper, this is 'a unity between tradition and a living, relevant interpretation in the light of the current situation.'[137] Already at work in previous Councils, Vatican II gave Catholic continuity a new focus.

Kasper's ideas are found 'almost verbatim'[138] in sections of the Synod of Bishops (1985) synodal report.[139] A second section of the report, entitled 'A Deeper

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[132] Kasper, *Theology and Church*, 171.
[133] For Newman: 'None but the *Schola Theologorum* is competent to determine the force of Papal and Synodal utterances, *and the exact interpretation of them is a work of time.*' John Henry Newman, "Letter to the Duke of Norfolk," in *Certain Difficulties Felt by Anglicans in Catholic Teaching* (London: Longmans, 1918), 176. Emphasis added.
[134] Kasper, *Theology and Church*, 172.
[135] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 346.
[136] Ibid., 172.
[137] Ibid., 173.
[138] Routhier notes they 'are found almost verbatim in the final report of the synodal Assembly presented by Cardinal Danneels.' Routhier, "The Hermeneutic of Reform as a Task for Theology," 235.
[139] This extraordinary synod, called by Pope John-Paul II, revived, reaffirmed and deepened the work of the Council twenty years after its conclusion. His address announcing the Synod may be

Reception of the Council', discussed what conciliar reception required.[140] The Synod recognised what Kasper, and Ratzinger, found problematic in a contemporary hermeneutics of conciliar documents: the reader *must* be attentive to the juxtapositions within and between documents. The spirit, letter and pastoral quality of the documents are integral to and not to be separated from conciliar texts. They form a continuous narrative with Church Tradition and their doctrine enlightens the contemporary Church. The Synod encouraged a pastoral response to conciliar documents, which was implemented and governed by diocesan bishops. This took the form of pastoral programmes of study to deepen conciliar understanding and encourage its reception.[141]

1.8.3 Joseph Ratzinger

The Ratzinger Report (1985) offered Joseph Ratzinger's hermeneutic of Vatican II.[142] His ideas were published at an interesting juncture: two years after the promulgation of the revised Code of Canon Law, understood as 'adapted to the conciliar renewal,'[143] and in advance of the 1985 Synod of Bishops. Another more immediate context related to the hermeneutical understanding of the Council expressed by Archbishop Marcel Lefebvre. Ratzinger's hermeneutic of Vatican II, understood as a hermeneutic of continuity, was developed in direct opposition to Lefebvre's position of a hermeneutic of rupture in the debate about the correct hermeneutical understanding of Vatican II.[144] At this time Ratzinger was working to prevent Lefebvre and the Fraternity from becoming a schismatic group.

For Ratzinger 'Vatican II today stands in a twilight.'[145] Progressives viewed it as irrelevant: conservatives viewed it as the cause of the current dissolute nature of

found in: Peter Hebblethwaite, *Synod Extraordinary: The Inside Story of the Rome Synod November-December 1985* (London: Darton, Longman and Todd, 1986), 1-3.

[140] The Synod of Bishops, "The Church, in the Word of God, Celebrates the Mysteries of Christ for the Salvation of the World," in *The Final Report of the 1985 Extraordinary Synod* (http://www.saint-mike.org/library/synod_bishops/final_report1985.html1985), n.5. [Downloaded 17.7.2013].

[141] Ibid., n.6.

[142] Ratzinger had been Prefect of the Sacred Congregation for the Doctrine of the Faith since January 1982.

[143] Joseph Ratzinger and Vittorio Messori, *The Ratzinger Report: An Exclusive Interview on the State of the Church* (Leominster: Fowler Wright, 1985), 24.

[144] Routhier, "The Hermeneutic of Reform as a Task for Theology," 220.

[145] Ratzinger and Messori, *The Ratzinger Report: An Exclusive Interview on the State of the Church*, 28.

the Church and called for its retraction or revision.[146] Conciliar authority is interwoven: Vatican II is in *continuity* with both Vatican I and with Trent. The problem lies not in Vatican II or its documents, but in many abusive interpretations of conciliar texts.[147] These run contrary to the expectations of all the conciliar bishops. Ratzinger sees discouragement rather than progress 'unfolding under the sign of a summons to a presumed "spirit of the Council" and by so doing has actually and increasingly discredited it.'[148] The Council's documents are not responsible for such developments: these interpretations 'radically contradict both the letter and the spirit of the Council Fathers.'[149] They were used by the 'right' or 'left,' 'conservatives' or 'progressives', to press their own understandings of 'a return to the past or a flight forward'.[150] Each cause a break - or *rupture*, from the tradition. To counter this trend, Ratzinger seeks *continuity* with tradition rather than *rupture*.[151]

> Vatican II is upheld by the same authority as Vatican I and the Council of Trent, namely, the Pope and the College of Bishops in communion with him, and that also with regard to its contents, Vatican II is in the strictest *continuity* with both previous Councils and incorporates their texts word for word in decisive points.[152]

The contemporary Church is to remain faithful to the Church presented in conciliar documents.[153] A hermeneutic of continuity, as opposed to one of discontinuity or rupture, will deliver what Ratzinger seeks and what the Church required, via a return to the texts.[154] Giles Routhier stresses that Ratzinger's overriding concern

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[146] Ibid.

[147] Ibid., 29. Later, when Messori references 'post-conciliar spiritualities', Ratzinger states: 'I want to emphasize that I don't like the terms *pre-* or *post-*conciliar. To accept them would be tantamount to accepting a rupture in the history of the Church.' ibid., 113.

[148] Ibid., 30.

[149] Ibid. For him, 'the damage we have incurred in these twenty years is due, not to the "true" Council, but to the unleashing *within* the Church of latent polemical and centrifugal forces; and *outside* the Church it is due to the confrontation with a cultural revolution in the West: the success for the upper middle class, the new "tertiary bourgeoisie", with its liberal-radical ideology of individualistic, rationalistic and hedonistic stamp.' ibid.

[150] Ibid., 31.

[151] With which he identifies Lefebvre and supporters.

[152] Ratzinger and Messori, *The Ratzinger Report: An Exclusive Interview on the State of the Church*, 28. Emphasis added.

[153] Ibid., 31.

[154] The terms involved: rupture, discontinuity and continuity, were shaped by the Lefebvrist movement. Ratzinger and the CDF spent time preventing a schism and 'the discussions with the Lefebvrists heavily influenced the debate and determined the terms.' Routhier, "The Hermeneutic of Reform as a Task for Theology," 233.

sought not to limit debate about the Council's hermeneutics. Critics 'were not sufficiently aware that his hermeneutical proposition was based on a desire to favour the reconciliation of the Lefebvrists or at least that which could be saved there.'[155]

Later, as Pope, Ratzinger returned to the theme of conciliar hermeneutics and their correct interpretation in his *Christmas Allocution to the Roman Curia* (2005).[156] He offered a limited understanding of conciliar hermeneutics, which imagined two quarrelling hermeneutics in play: '"a hermeneutic of discontinuity and rupture" [and a] "hermeneutic of reform."'[157] Speaking in this way he offered a polarised, limited conciliar hermeneutic. Supporters of the latter position sought a 'reform of the reform' and were especially successful in rolling back conciliar liturgical reforms governed by the bishops.[158] Later in his address, however, the Pope suggests the nature of true reform lies in a combination of the two hermeneutics.[159]

1.8.4 Herman Pottmeyer

Pottmeyer has commented on the problems associated with interpreting conciliar documents. He identifies Vatican II as a transitional Council, producing doctrine rather than dogma. This challenged the interpretation of conciliar doctrine as it lacked the precision 'and the unity of literary genre to which Trent and Vatican I

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[155] Ibid., 234-235. Some contemporary theologians viewed his position as 'worrying', 'pessimistic' and 'simplistic'. See: James Corkery, *Joseph Ratzinger's Theological Ideas: Wise Cautions and Legitimate Hopes* (Dublin: Dominican Publications, 2009), 82-83.

[156] For further analysis see: John W. O'Malley, ""The Hermeneutic of Reform": A Historical Analysis," *Theological Studies* 73, no. 3 (2012).

[157] See: http://www.vatican.va/holy_father/benedict_xvi/speeches/2005/december/documents/hf_ben_xvi_spe_20051222_roman-curia_en.html. [Downloaded 12.10.2013]. A section was used to introduce and support a 2008 book supporting his position. See: Pope Benedict XVI, "A Proper Hermeneutic for the Second Vatican Council," in *Vatican II: Renewal within Tradition*, ed. Matthew L. Lamb and Matthew Levering (Oxford/New York: Oxford University Press, 2008), ix-xv.

[158] Discussed in: Corkery, *Joseph Ratzinger's Theological Ideas: Wise Cautions and Legitimate Hopes*, 126-142 at 126-127.

[159] Benedict XVI, "A Proper Hermeneutic for the Second Vatican Council," xiii. In 1966 he wrote the Council 'was undoubtably a rupture, but with a fundamentally common intention.' Twenty-five years later he understood that the Council's time was yet to come. Quoted in: Massimo Faggioli, *Vatican II: The Battle for Meaning* (Mahwah, NJ.: Paulist Press, 2012), 136.

had accustomed us.'[160] He offered hermeneutical tools to avoid one major problem: the selective interpretation of texts. Following Kasper and Sullivan, Pottmeyer holds that interpretive camps grew after the Council, in line with the 'progressives' (conciliar majority) and 'conservatives' (conciliar minority) groupings.[161]

Each school proposed its interpretation to the exclusion of the other, thus failing to comprehend the transitional nature of the Council. In so doing they also failed to note the methodology the Council utilised. To progress matters, in what Pottmeyer suggests is an inherently pastoral manner, the Council used a method of juxtaposing texts: and so, 'alongside a doctrine or thesis couched in pre-conciliar language is set a doctrine or thesis that formulates some complementary aspect.'[162] For example, in *Lumen gentium* the notion of papal primacy developed by Vatican I was juxtaposed with the notion of the supreme authority of the episcopal college (LG 18, 19). In this manner consensus was reached. Engagement with Vatican II texts necessitated a hermeneutical understanding, which reflected a 'careful attention to the history of the texts, in both the pre-conciliar and the conciliar phases.'[163] This approach will mark the beginning of a true reception of the Council and it begins with the interpretation of the conciliar texts. Pottmeyer welcomed a form of reception that ends the battle 'of selective interpretations [explaining] the letter of the conciliar texts in accordance with the "spirit" of the Council, aided by a hermeneutic that does justice to the character of Vatican II as a transitional Council.'[164]

1.9 Ormond Rush

Ormond Rush has suggested a more sophisticated hermeneutic of the documents of the Council than those previously suggested, which encourages 'a more

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[160] Pottmeyer, "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council," 27.
[161] Ibid., 35. Equating to two of Sullivan's three schools: the maximisers and minimisers.
[162] Ibid., 37.
[163] Sullivan, "Evaluation and Interpretation of the Documents of Vatican II," 347.
[164] Pottmeyer, "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council," 43.

comprehensive approach to the interpretation of the Council documents.'[165] This approach allows the Council to be treated as an event with a spirit and its own history, and not understood merely as sixteen texts.

Rush's hermeneutics was developed in reference to a twofold task foreseen by Paul VI as the close of the Council approached: '"*Aggiornamento* will mean for us an enlightened insight into the Council's spirit and a faithful application of the norms it has set forth in such a felicitous and holy manner." Both (1) enlightened insight into the Council's spirit and (2) faithful application of the Council's norms are hermeneutical tasks.'[166]

Rush's hermeneutical principles called for a three-fold reading: '(1) a hermeneutics of the authors; (2) a hermeneutics of the text, and (3) a hermeneutics of the reader.'[167] This allows equal weighting to be given to 'the original event and the original authors, the documents themselves, and the people who after the event and the documents' promulgation attempt to understand, interpret, and apply them from the context of diverse cultures and contexts down through history after the event.'[168] Additionally, insights offered by the idea of the 'hermeneutical circle' take place through a circular movement from "the whole" to "the part" and back to "the whole" again, in an ongoing circle of understanding.[169] This allows for new perspectives and a differing view of the landscape. Applied to the conciliar texts, it suggests that different take-off and landing points are valid, each affording a different understanding of the document in view of the others. These principles form a theological hermeneutics helpful in parsing the pastoral governance role of the bishop presented by the texts.

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[165] Richard R. Gaillardetz and Catherine E. Clifford, *Keys to the Council: Unlocking the Teaching of Vatican II* (Collegeville, Mn.: Liturgical Press, 2012), xvi.
[166] Ormond Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles* (Mahwah, N.J.: Paulist Press, 2004), ix. The reference to the words of Paul VI he quotes from: Pottmeyer, "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council," 35.
[167] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, xi.
[168] Ibid.
[169] Ibid.

1.10 Hermeneutics of the authors

Rush's first principle attempts 'to reconstruct the intention of the author or authors of a text',[170] using a diachronic approach. This will be established by examining the preparatory phase, the four conciliar sessions, and the work that took place between sessions and reconstructs 'the so called "mind" or "spirit" of the Council."[171] This constitutes the primary stage of interpretation.

1.11 Hermeneutics of the texts

This approach will be applied in this thesis to three of the sixteen conciliar documents: *Sacrosanctum concilium*, *Lumen gentium* and *Christus Dominus*. A hermeneutics of the text adopts a synchronic approach, i.e., the text is investigated at a point in time: which attends to the 'letter' of the Council.[172] When attending to the letter of a text: 'Issues of genre, rhetoric, style, structure, intratextuality, and intertextuality become important in the interpretive process.'[173] These will now be further investigated.

1.11.1 Hermeneutics of the reader: Genre, Rhetoric and Style

The Vatican II documents comprise a unique *genre*. They are pastoral in intent and therefore they instruct and appeal; they are not condemnatory of particular positions; they seek Church renewal. Using this genre – which differs from the canonical formulations of previous Councils, Vatican II proposed a peculiar and different, pastoral genre of expression.[174]

The application of *rhetorical* hermeneutics to conciliar documents is a relatively new field. A sound methodology does not 'apply a simplistic proof-texting approach to Vatican II documents, since it ignores the style or mode of expression in which the content is expressed.'[175]

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[170] Ibid., 1.
[171] Ibid.
[172] Ibid., 35.
[173] Ibid., 36.
[174] Ibid.
[175] Ibid., 37.

A conciliar *style* is expressed in its 'letter' and 'spirit' and are in a dynamic relationship - part of the hermeneutical circle. For Rush, O'Malley helpfully identifies that 'attention to the matter of how things are said is an important interpretive focus, where the documents contain compromises and juxtaposition of seemingly contradictory views that can be selectively highlighted by one interpreter against another.'[176] Both Pottmeyer and Henk Witte, for example, have underscored the importance of such juxtapositions.[177]

Many ecclesiological positions may be identified within the conciliar documents, supporting corresponding theological positions. For Rush, one significant point concerned the pope and bishops: 'The pastoral intention of the popes and bishops is therefore perhaps best exemplified in the challenge they set themselves: *to pastor in a new way*.'[178] This was enacted during the Council in order for it to be effective after the Council. Does this mean there has been no rupture with tradition as Ratzinger suggests? Rush suggests micro-ruptures may be seen with previous periods, 'particularly the ecclesial style of the Pian era.'[179] This view is driven by the Council's new wish to enter into dialogue, which was witnessed in its emphasis on collaboration and collegiality.

1.11.2 Structure

The meaning of a word, a phrase or chapter is often indicated by its place within the structure of a document: for example, the significance in the order of the chapters in the draft and promulgated versions of *De Ecclesia*/*Lumen gentium*. *De Ecclesia* presented the chapter on the hierarchy before a chapter entitled 'The People of God and especially the Laity.' In *Lumen gentium* chapters entitled 'The Mystery of the Church' and 'The People of God' preceded the third chapter, entitled

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[176] Ibid., 38.

[177] Pottmeyer, "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council." Hermann Josef Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II* (New York: Crossroad Pub. Co., 1998). Henk Witte, "Reform With the Help of Juxtapositions: A Challenge to the Interpretation of the Documents of Vatican II," *Jurist: Studies in Church Order & Ministry* 71, no. 1 (2011).

[178] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, 38. Emphasis original.

[179] Ibid. Gaillardetz supports O'Malley's micro/macro ruptures approach against Ratzinger and his hermeneutics of continuity/discontinuity. See: Richard R. Gaillardetz, *The Church in the Making: Lumen Gentium, Christus Dominus, Orientalium Ecclesiarum*, Rediscovering Vatican II (New York: Paulist Press, 2006), xvi.

'The Hierarchical constitution of the Church and in particular the episcopate.'[180] This placed the consideration of the Church and the People of God before a discussion of the hierarchy, marking 'a significant shift from Vatican I, where the hierarchy are presented as the primary receivers of the Word of God who then pass it on to the rest of the Church. Vatican II, however, teaches that the primary receiver of revelation is the whole People of God.'[181] In this instance, the structuring of these chapters and their contents has a practical and significant implication for reception:

> the teaching on the infallibility *in credendo* of the whole People of God (Chapter II, *LG*, 12) is treated before the teaching on the infallibility *in docendi* of the magisterium (Chapter 3, *LG*, 25), indicating that the two forms of infallibility exist in a relationship of reciprocity, since what the whole People of God have received and believe must be what the Church teaches.[182]

1.11.3 Intratextuality and Intertextuality

For Rush, conciliar texts have a 'con-text'. The text is considered 'within the whole document (synchronic issues of *intra*textuality) and, second, its context alongside other documents of Vatican II (synchronic and diachronic issues of *inter*textuality) and, indeed, alongside other texts of the past tradition to which they refer or allude (diachronic issues of *inter*textuality).'[183] His concern for *intra*textuality refers to the meaning of words used in relation to a whole text and their place within part of that structure, be it a sentence or paragraph or chapter. His concern for *inter*textuality addresses 'the immediate context of a single document is the whole "library" of documents that constitute the documents of Vatican II.'[184] Each is not to be viewed in isolation but in the context of all the conciliar documents. The Final Report of the 1985 Synod of Bishops, notes this relationship,[185] but proposed that

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[180] See: Tanner, "Decrees of the Ecumenical Councils," 849-874.
[181] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, 39-40.
[182] Ibid., 40.
[183] Ibid. The synchronic view studies relationships at the same time and the diachronic view studies them through time.
[184] Ibid., 41.
[185] 'The theological interpretation of the conciliar doctrine must consider all the documents both in themselves and in their close interrelationship, so that the integral meaning of the Council's affirmations – often very complex - might be understood and expressed.' ibid. Quoting from: Final Report, 22. His references to the same document differ from those used earlier.

within this intertextual relationship the four Constitutions 'are the keys to the interpretation of the other Decrees and Declarations.'[186]

Rush makes three important points about these Constitutions. The first concerns their canonical 'weight': two are 'dogmatic constitutions,' one is a 'pastoral constitution, and the other a 'constitution.'[187] The second concerns the hermeneutical key they offer. Those debated and promulgated later in the Council manifest developments when compared with the earlier promulgated documents. Therefore, 'a hermeneutics of the text must correlate with the insights of a hermeneutics of the authors.'[188] In practice this means later developments need to relate to an understanding of earlier, conciliar documents: 'as the four Gospels are to be interpreted in the light of one another, so too the four major documents of Vatican II must be interpreted in the light of one another and the developing understanding expressed in each.'[189] The third point concerns the principle of the hierarchy of truths and its application to conciliar texts. Once applied, Rush understands that *Dei verbum* has a degree of priority over the other three Constitutions, 'since one's notion of the Church (*LG*), its worship (*SC*), and its relationship to the world (*GS*) should derive from the prior notion of how one conceives God's revelation and its reception-transmission in history.'[190]

The uses of juxtapositions within conciliar texts are problematic as they present issues of intertextuality. Rush cites examples offered by Rahner, Pottmeyer, O'Malley and Ratzinger concerning the meaning of a particular text, which may have a higher perceived weighting when compared to other conciliar texts, and when 'interpreted (re-interpreted)'[191] by other texts. Pottmeyer makes a useful point: 'learning and broadening of horizons were going on in the minds of the bishops during those four years. That developing "mind" or "spirit" must impact on

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[186] Ibid. Quoting from: Final Report, 22. He likens the hermeneutical task of the four Constitutions to the task of the four Gospels for the New Testament *oeuvre*.

[187] Sullivan's weighing of these documents has been referred to earlier. See: Sullivan, *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium*; Sullivan, "Evaluation and Interpretation of the Documents of Vatican II." See also: Morrisey and Thériault, *Papal and Curial Pronouncements: Their Canonical Significance in Light of the Code of Canon Law*.

[188] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, 42.

[189] Ibid.

[190] Ibid., 42.

[191] Ibid., 43.

the interpretation of the "letter."'[192] This supports Rush's query about the role of *Gaudium et spes* understood as a 'lens' through which the earlier *Lumen gentium* could be interpreted. While O'Malley supports the view,[193] Ratzinger opposes it. Ratzinger does not accept that *Gaudium et spes* has any priority in terms of maturity over *Lumen gentium*. Rush understands Ratzinger to be asking individuals to choose between either 'the development that took place between the two documents and [second] the call to consider the conciliar texts as an interrelated whole.'[194]

Rush suggests a fuller approach: a 'both-and'[195] approach. This allows for further development, which enriches Ratzinger's approach, and permits an understanding that the bishops developed more nuanced understandings over the lifespan of the Council. This is a reasonable approach given that many, including Rush, understood that conciliar bishops spent a good deal of time studying. Bishop Albino Luciani - later Pope John Paul I, admitted 'he tried to spend each afternoon in his rooms studying.'[196] American bishops who met 'foreign' bishops and theologians, 'quickly caught on to the immense educative value of the Council's doings.'[197] By the end of the first session, these bishops departed with a deeper comprehension of the Church's position in the world. Many, however, 'particularly among the English-speaking bishops, seem never to have caught on to what all the talking at the Council was about.'[198]

Intertextuality extends beyond the conciliar texts. These may be identified in footnotes and include 'other Christian texts from the great tradition, including

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[192] Ibid., 44.
[193] 'O'Malley, for one, calls *Gaudium et spes* "a long and extremely important codicil to *Lumen gentium*."' ibid.
[194] Ibid., 45.
[195] Ibid.
[196] Richard R. Gaillardetz, "Dialogue and Deliberation During Vatican II," *Intercom*2012, 19. The article was abridged from an article originally published in *America* magazine.
[197] Xavier Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates* (London: Faber & Faber, 1963), 106. Some American bishops remained 'in their hotels or pensions, bemoaning the waste of time and the interminable long-windedness of the oratory. They left Rome, happily, at the close of the first session almost as uninformed as they were upon arrival. As one prelate was heard to remark, "The Holy Spirit came and departed at the Council and some of these people never dreamed He had been there."' ibid.
[198] Ibid., 242.

scripture, creeds, teachings of previous Councils and popes, as well as theological, spiritual, and liturgical texts.'[199] For Rush, conciliar texts are living texts built on the living tradition of the Church.[200]

1.11.4 Spirit and Letter

Two further elements inform a hermeneutics of the text: the issues of spirit and letter. Both are discreet points on the hermeneutical circle and each informs and is informed by the conciliar documents. The letter should not be focussed upon to the extent that *only* ideas in certain texts or parts of texts (i.e., proof texting) are used. Just as important is the manner in which a text is used. The spirit of the Council makes itself known from the direction given in the texts. Conversely, it is only in this spirit that the texts are properly understood.[201] While Rush understands that a hermeneutics of the texts is built on a hermeneutics of the authors, this tandem approach is still less than adequate. Both require the voice of those who receive the documents in order to provide the most comprehensive hermeneutics. Balance is achieved through developing 'a hermeneutics of the receiver.'[202]

1.12 Hermeneutics of the reader

The fifty years since Vatican II have 'become part of the meaning of the Council.'[203] An understanding of the Council needs, therefore, to embrace the history of its reception or non-reception. Its importance depends on translating its texts into Church life. The issue 'for Catholic theology, therefore, is not the Council in itself. What is in question is the interpretation and reception of the Council. The dispute is about this and this alone.'[204]

Rush received Ratzinger's comments, that the Council's 'historical significance will be determined by the process of clarification and elimination that takes place subsequently in the life of the Church. In this way, the whole Church participates in

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[199] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, 47.
[200] Ibid., 48.
[201] Ibid., 49-50. He cites: Pottmeyer, "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council," 42.
[202] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, 51.
[203] Ibid., 52.
[204] Ibid. Quoting from: Kasper, *The Continuing Challenge of the Second Vatican Council*, 168.

the Council; it does not come to an end in the assembly of bishops.'[205] But who receives the Council? *Lumen gentium* suggests the People of God (LG 12). For Alberigo: 'Only the *sensus fidei* of the Church as a whole can be the adequate interpreter of a major Council. Such a *sensus fidei* can reach maturity only slowly, with the concurrence of the entire people of God; it cannot be replaced by an action of the hierarchy alone.'[206] In questioning how the *sensus fidei* is to be discerned, Rush identifies an important role for Rahner's theological understanding of the Council 'as a shift from a Eurocentric Church to the notion of a truly world-Church, the issue of multiple *loci receptionis* will become critical in discerning the *sensus fidei* of the world-Church as a whole.'[207] Rush also identifies that 'the very category "reception" has only recently been retrieved'[208] and goes on to note the process of retrieval. Rush offers a comprehensive hermeneutical tool, which includes many of the hermeneutical approaches developed by others. Its application to this thesis will be explained later.

1.13 Conclusion

The terms *governance*, *pastoral* and *reception* have dynamic meanings in an ecclesial context. Vatican I's *Pastor aeternus* understood that the bishop possessed an ordinary and immediate power of episcopal jurisdiction with which to govern the local Church. Under the leadership of John XXIII, Vatican II reassessed both Vatican I's and Pius XII's more limited understanding of episcopal governance, stressing the collegiality of the bishops, who gather the universal Church, and govern as apostles under the pope. The majority at Vatican II supported a wider pastoral *governance* role. With others, Pope John encouraged the episcopal development a more expansive view of conciliar governance, in a pastoral mode.

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[205] Ibid., 53. Quoting from: Ratzinger, *Principles of Catholic Theology* (San Francisco: Ignatius Press, 2009) 374-75. Rush quotes further in his footnote (fn. 3).
[206] Ibid. See: Giuseppe Alberigo, "The Christian Situation after Vatican II," in *The Reception of Vatican II*, ed. Giuseppe Alberigo, Jean Pierre Jossua, and Joseph A. Komonchak (Washington, D.C.: Catholic University of America Press, 1987), 24. See: Hermann J. Pottmeyer, "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council," ibid., 30. Pottmeyer clarifies that the People of God include all people (Lay and clerical), and not just lay people.
[207] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, 53.
[208] Ibid.

The *pastoral* approach encouraged a more expansive episcopal exercise of governance in the post-Vatican II Church. While some questioned the meaning and authority of a pastoral Council, it stimulated a new paradigm of episcopal governance, implemented in a pastoral mode, which was more than an exercise of episcopal jurisdiction. The post-Vatican II Church was challenged to *receive* the Council's teaching; however, reception is an ongoing and incomplete process.[209]

A hermeneutical methodology was sought that was more able to comprehend the episcopal pastoral governance role encouraged by Pope John and developed by the Council. Ormond Rush offers a most comprehensive hermeneutical tool, which will guide an investigation of the development of *schemata*, of the texts themselves, and later of their reception. Furthermore, this tool will allow the pursuit of a balanced hermeneutical understanding of Council documents, which allows both the history of textual development and the promulgated conciliar document to be presented in a manner which respects their original meanings and juxtapositions, while aiming to avoid hermeneutical stalemate. This will further facilitate the exploration of the issue of governance in a pastoral key.

One important question that these investigations beg concerns an historical appreciation of the pastoral governance role of the bishop before Vatican II. If it did exist was it expansive and well received or was it a more restricted role, suggesting that its reception was limited? These questions will be investigated in the next chapter.

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[209] Corkery, "Interpreting '*Subsistit in*' Today," 19.

Chapter 2: The Bishop's Governance Role Prior to the Second Vatican Council

2. Introduction

This chapter provides a platform on which to evaluate the role of episcopal governance that existed in the Roman Catholic Church from the post-Reformation period up to the commencement of the Second Vatican Council in 1962. It will briefly discuss some of the major historical events and people who influenced the changing role of the bishop in relation to the pope over this period of time and analyse the governance role of the bishop - in relation to the pope, from the post-Reformation period up to and including Vatican I. The 1917 Code of Canon Law and its relevance to episcopal governance will also be discussed.

2.1 The Post-Reformation period

The ecclesiologist, William Henn, in his historical-theological synthesis of the relationship between pope and bishop, considered the theological position of two prominent sixteenth century Jesuit theologians, Robert Bellarmine (1542-1621) and Francisco Suárez (1548-1617), in the period following the Reformation.

During the Post-Reformation period, the Church placed a general but not limiting emphasis on its visible, hierarchical dimensions. For Robert Bellarmine: 'Christ is the head of the Church and the pope, as *vicarius Christi*, enjoys the supreme power of jurisdiction which comes to him from Christ through succession to the Petrine ministry.'[1] Papal jurisdiction extended over all, which led to the development of a

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[1] William Henn, "Historical-Theological Synthesis of the Relationship Between Primacy and Episcopacy During the Second Millennium" (paper presented at the *Il Primoto Del Successore Di Pietro: Atti Del Symposio Teologico*, Rome, 1996), 251.

Church, which he saw as 'a monarchical structure under the headship of Christ the King; the pope and bishops serve as instruments of this headship.'[2]

Bellarmine did not regard the bishop as a local, papal agent as the Church '(*ecclesia militans*) [is] not purely monarchical.'[3] While the power of orders was received through the Pope, he upheld the local bishop's 'full and immediate power'.[4] Bishops also act collegially, witnessed when they gathered at an ecumenical Council. This conveys 'the relationship between primacy and episcopacy which affirms the divine origin of each, subordinates the latter to the former, and sees no diminution of the latter because of such subordination.'[5] Bellarmine understood the bishop as an office holder with full and immediate power and a distinct, yet complimentary, role within the Church.

Francisco Suarez's position was originally a response to the Protestant Reformation. However, his views were later remodelled in the aftermath of the Enlightenment, the French Revolution and the liberalism of the nineteenth century.[6] In contrast to Bellarmine, Suárez viewed jurisdiction as something reserved to the pope which did not come with episcopal ordination. Thus the bishop is a less distinct figure with limited jurisdiction, restricting his governance and its immediacy. Of the two it was Suarez's view that predominated. According to Suárez, while affirming the necessity of the episcopacy, the bishop was 'radically dependent upon the pope' and demonstrated his point by 'differentiating the powers of order and jurisdiction in such a way that the latter in no way derives from episcopal consecration.'[7] As the power of jurisdiction is granted by the pope, a bishop's power 'is nothing else but some sharing in papal power.'[8] This

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[2] Ibid.

[3] Ibid.

[4] Ibid.

[5] Ibid., 252.

[6] For Catholics this period begins with the French Revolution (1789) and ends with the death of Pope Pius XII (1958). 'The French Revolution and the philosophy that undergirded it traumatised Catholic officialdom through much of that long century.' O'Malley, *What Happened at Vatican II*, 4.

[7] Henn, "Historical-Theological Synthesis of the Relationship Between Primacy and Episcopacy During the Second Millennium," 252. Citing: Suarez: *De legibus*, 1.IV c. IV n. 9; in *Opera omnia*, Paris, Ed. L. Vivès, 1856-1878, V, p. 342.

[8] Franciso Suárez, *De legibus*, 4:4, 11.See: O'Donnell, "Ecclesia: A Theological Encyclopedia of the Church," 36.

understanding of the relationship of the pope and bishops centralised the power of orders and jurisdiction in the person of the pope.

2.2 The French Revolution

The French Revolution produced liberal ideas, which questioned Church governance and unsettled many - especially those who governed.[9] In France, for example, the Civil Constitution of the Clergy (1790) radically reorganised the Church. Governance was exercised in a Gallican mode, hence the people elected bishops, priests, administrators and legal authorities. Bishops and priests swore 'to be faithful to the nation, the law and the king and to preserve the Constitution decreed by the National Assembly.'[10] The Constitution and the compulsory oath divided the Church. While some identified it as radically Christian, the majority of bishops viewed the Civil Constitution as unacceptable as it disregarded 'the authority of the Pope over bishops and local Churches.'[11]

2.3 Ultramontanism

Ultramontanism developed into a Church-wide movement during the nineteenth century.[12] It orientated both clergy and laity towards Roman papal and curial teachings and governance. Beginning outside of Italy, it was well supported by the lay faithful and clergy, thankful for a clear direction given in the face of painful ecclesial, political and social change.

As Pope Pius VI condemned the Civil Constitution in 1791, he also condemned the revolutionary rights and principles of the 'new' French Church. The French bishops, while opposing the Civil Constitution, simultaneously isolated themselves from Pius VI's condemnation of 'liberty and equality.'[13] While sympathetic towards

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[9] For example, *Déclaration des droits de l'homme et du citoyen* See: http://www.assemblee-nationale.fr/histoire/dudh/1789.asp. [Downloaded 13.11.2013].
[10] Jean Comby, "Liberty, Equality, Fraternity: Principles for a Nation and for a Church," *Concilium* 201, no. 1 (1989), 20.
[11] Ibid.
[12] See : Gerald A. McCool, *Catholic Theology in the Nineteenth Century* (New York: Seabury, 1977); E. E. Y. Hales, *Revolution and Papacy* (New York: Doubleday, 1960). Ultramontanism derives from the Medieval Latin *ultramontanus,* meaning 'beyond the mountains'.
[13] Comby, "Liberty, Equality, Fraternity: Principles for a Nation and for a Church," 21.

the Revolution, the French Church was then cast as an institution of opposition and became the object of persecution.

Across Europe a similar pattern occurred, which created a burgeoning ultramontanist sentiment, as a means of protecting the Church from national government forces.[14] When coupled to the ignominious death of Pius VI, and the reversal in 1802 of the 1801 Concordat agreed between Napoleon and Pope Pius VII, the growth of Ultramontanism at this time was not surprising.[15]

Many Catholics wanted the return to a 'regime of external privileges and prestige within the bosom of an official Catholic State, which would act as a shield against the buffeting of anti-Christian currents of opinion.'[16] This need for surety created tension between governments of new states and Church members, who identified a diminution of traditional social, moral and religious values, and of Church governance. They required the pope and bishops to place greater weight on earlier denunciations 'of liberalism and other modern errors.'[17] For some, clarity could only be delivered by a Church led by the Pope in Rome, with local bishops in a dependent, subordinate role.

A further reason for the Church's restriction of episcopal governance was its lack of dialogue when communicating the faith, mediated via the institution and sacraments. At its centre was an understanding of Church identity supported by the authority of the Pope, bishops and clergy. Bradford Hinze notes: 'Internally, the Church's organisational structure emphasised a one-way mode of communication.

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[14] Pottmeyer comments: 'After 1803, many European states likewise introduced a state Church system in which the Church was subordinated to the state bureaucracy. After persistent negotiations the papacy did succeed in ensuring certain rights for Catholics by means of concordats with the various governments. Nonetheless, a state-controlled Church system remained in place in many European states until the end of the nineteenth century and, in some places, even into the twentieth.' Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II*, 44.

[15] Ibid. Napoleon's unilateral addition of the "Organic Articles" to the Concordat had the effect of 'making the four Gallican Articles once again official teaching in France and renewing state control of the Church. The restored monarchy in France held to this arrangement even after the fall of Napoleon.' ibid.

[16] Roger Aubert et al., eds., *The Church in a Secularised Society*, 5 vols., vol. 5, The Christian Centuries (New York/London: Paulist Press/Darton, Longman and Todd, 1978), 34.

[17] Ibid., 35.

Information and directives flowed from centralised and higher levels of authority, from Rome to local Churches, from bishops to clergy, from clergy to laity.'[18]

2.3.1 Joseph de Maistre

Klaus Schatz identifies two 'movements' under the general banner of Ultramontanism. The first was a restorative movement of 'authority against anarchy and autonomy'[19] connected with Joseph de Maistre. His book, *Du pape* (1819), intended to bring papal infallibility 'out of the theologians' studies and into the homes of the laity.'[20] The papacy and papal infallibility would not support a reversion to revolution and social disorder.[21] Infallibility was linked to papal sovereignty, which silenced movements inciting anarchy and autonomy: for example, Gallicanism.[22]   An infallible, papal monarch could bring order, even if this meant suspending the capacity to question or criticise. Papal monarch also favoured a single operative, the pope, which relegated others previously involved with governance i.e., the college of bishops with the pope.

2.3.2 Félicité de Lammanais

A second movement, aiming to free the Church from state control, was typified by Félicité de Lammanais, who founded Liberal Catholicism. He denounced State religious indifference while supporting the restoration of the pre-Revolutionary authority of the Church.[23] De Lammanais understood that a strong papacy delivered a strong Church, able to exist independent of the state at the local and

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[18] Bradford E. Hinze, *Practices of Dialogue in the Roman Catholic Church: Aims and Obstacles, Lessons and Laments* (New York/London: Continuum, 2006), 3.

[19] Klaus Schatz, *Papal Primacy: From its Origins to the Present* (Collegeville, Mn.: Liturgical Press, 1996), 148.

[20] Ibid., 148.

[21] Ibid.

[22] At its simplest, Gallicanism sought French national Church autonomy from Roman governance. Between 1815 and 1845, it 'rejected the notion of papal infallibility and argued for the central role of the individual bishop. "In France, the Pope reigns but does not govern", quipped Mgr. Affre, Archbishop of Paris (1840-8).' James McMillan, "Catholic Christianity in France from the Restoration to the Separation of the Church and State 1815-1905," in *The Cambridge History of Christianity*, ed. Sheridan Gilley and Brian Stanley (Cambridge: Cambridge University Press, 2006), 221.

[23] See Volume I of: *Essai sur l'indifférence en matière de religion* (Paris, 1817). A further three volumes appeared between 1818 and 1824.

universal level.[24] While he was supported by Pope Leo XI he was condemned by Pope Gregory XVI in his encyclical *Mirari vos* (1832), but the movement continued to develop.[25] By the mid-nineteenth century many countries were more accepting of papal primacy than at its start, accentuating Ultramontanism's beginnings beyond Rome.[26] By mid-century, Rome was in a position to lend its own assistance, exemplified in its stand against Gallicanism, and sharpened by increased threats to the Papal States.[27]

2.3.3 Caveats

Ultramontanism, however broad and populist, came with caveats. It advocated 'the special privileges of the Pope and the prerogatives of the Church over the civil power.'[28] It also created an ecclesiastical and administrative centre in Rome. These led to a more authoritarian style of governance, which restricted free, philosophical and theological scholarship. Ultramontanism required a different understanding of piety, associated more with regular sacramental reception and additional external devotions,[29] the latter seen in Pius IX's definition of the Immaculate Conception (1854). Marian appearances across Europe, particularly in the Rue du Bac (1830) and Lourdes (1858), where Mary declared 'I am the Immaculate Conception' appeared - or were manipulated, to anticipate and then confirm the existence of the pope's infallible teaching office. Simultaneously, technology and industry combined to produce images and statuary of Mary, the

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[24] Condemned by Pope Gregory XVI in his encyclical letter *Mirari vos* August 15, 1832. This marked a move by the papal magisterium into formulating the faith, previously 'recognised as the province of theological development [controlled by] the theological faculties.' See: Giuseppe Alberigo, "The Authority of the Church in the Documents of Vatican I and Vatican II," in *Authority in the Church*, ed. Piet F. Fransen, *Annua nuntia lovaniensia* (Leuven: Uitgeverij Peeters/Leuven University Press, 1983), 122. The papacy prepared scholastic interventions, utilising encyclicals, apostolic letters and *motu proprio*, ultimately causing the demise, at this time, of the *sensus fidelium*.

[25] Pope Gregory XVI, encyclical letter *Mirari vos* August 15, 1832. See: http://www.papalencyclicals.net/Greg16/g16mirar.htm. [Downloaded 3.8.2013].

[26] 'It was a matter more of the pope being compelled by the faithful to become absolute master of the Church than of the faithful being compelled by him to become his subordinates. Rome's attitude was an effect rather than a cause.' Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II*, 45.

[27] Papal support was offered to the ultramontane movement as early as 1831, by Pope Gregory XVI. He welcomed French bishops as they sought to depose priests protesting against the Concordat signed with Napoleon I in 1800. See: J. Derek Holmes, *The Triumph of the Holy See: A Short History of the Papacy in the Ninteenth Century* (London: Burns and Oates, 1978), 15-56 at 51.

[28] Roger Aubert et al., eds., *The Church in the Age of Liberalism*, 10 vols., vol. 8, History of the Church (London: Burns & Oates, 1981), 304.

[29] Ibid.

Sacred Heart and the saints, which supported the cult of the one portrayed. Images of Pius IX were also produced and distributed widely. This fuelled a phenomenon: the cult of the papacy, supported by visits to Rome not to venerate the Apostles but to see the pope. This represented a shift in focus: from the Church to the pope; from the bishops to the Bishop of Rome. Each step supported the notion of papal monarchy and primacy and the diminution of local episcopal governance.

2.3.4 Papal primacy and governance

An example of the growth in papal primacy and governance may be seen in the practice of episcopal visitation - *ad limina Apostolorum*. By the mid-nineteenth century this practice was augmented by large episcopal assemblies in Rome, which 'appeared as the apotheosis of papal power and Catholic unity.'[30] Furthermore, there was an increase in the papal appointment of bishops and nuncios without prior local consultation. Bishops were chosen on their ultramontane credentials; their 'Roman education and pliability of the candidate.'[31]

2.4 The Industrial Revolution

The centralisation and standardisation that characterised the Industrial Revolution spanned the eighteenth and nineteenth centuries. It galvanised the Church by its power and effectiveness into a rigidity that did not permit deviation. The form of the Church was, henceforth, regarded as so sacred and ageless that it was comprehended 'as being of the same divine origin as its gospel and its founder.'[32] The Council of Trent was viewed as a panacea, offering 'solutions to every problem that arose, doctrinal or institutional.'[33] When harnessed to the power of the Industrial Revolution a drive towards standardisation and centralisation in Church governance seemed reasonable. Centralisation also created specialists, including the specialist bishop, in the main, canon lawyers, 'who left an indelible legal stamp

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[30] Ibid., 308.
[31] Ibid. Rome also attempted to increase its influence in the election of bishops in the Eastern Church.
[32] Vincent J. Donovan, *The Church in the Midst of Creation* (Maryknoll, N.Y: Orbis Books, 1989), 33. See the chapter entitled: 'The Church: Captive of the Industrial Revolution,' 35-47.
[33] Giuseppe Alberigo, "From the Council of Trent to "Tridentinism"," in *From Trent to Vatican II: Historical and Theological Investigations*, ed. Raymond F. Bulman and Frederick J. Parrella (New York/Oxford: Oxford University Press, 2006), 27.

on the pre-Vatican II Church.'[34] As it became increasingly the task of the Pope and Curia to identify and appoint suitable episcopal candidates, such specialisation marked out *episcopabile*. Their appointment could also mask inabilities, 'especially in the area of pastoral ministry - sometimes with devastating results for the faithful.'[35] In turn, Ultramontanism had further restricted episcopal governance by encouraging the local Churches to look to Rome, to the pope, for clarity and guidance in a rapidly changing Europe.

2.5 Roman centralisation

The movement towards Roman centralisation, which galvanised the Church during the Industrial Revolution, caused the Church, centred on Rome, to envisage forces ranged against it. For example: nationalism - which caused the loss of the Papal States, rationalism, socialism, and scientific advances. Given this analysis, only a centralised government could direct the Church and, in turn, appoint its bishops, otherwise disorder would ensue. At the beginning of the nineteenth century, a few dozen bishops were appointed by Rome. By its end, bishops were 'appointed by the pope alone.'[36]

Pius IX's centralising tendencies expressed his 'pastoral' concern, dictating recurrent 'and increasingly violent anathemas of liberalist principles.'[37] He encouraged Ultramontanism, according to Aubert, because it supported Church life threatened by state government intrusion, and the preeminent 'means of rallying the still vital forces of Catholicism to combat the mounting tide of anti-Christian liberalism.'[38] The reception of these views and their impact on episcopal governance lie in subsequent developments.

From the end of the eighteenth to the end of the nineteenth century, Ultramontanism encouraged the papacy to reconfigure itself as a 'tightly unified

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[34] Donovan, *The Church in the Midst of Creation*, 43.
[35] Ibid.
[36] Ibid., 45.
[37] Aubert et al., *The Church in a Secularised Society*, 5.
[38] Ibid.

centralised international organisation managed from Rome.'[39] The pope was presented as sole teacher and prime minister, exercising governance over the universal Church. There was little need for episcopal governance when the Church had the pope and Roman Curia as 'the final court of appeal [to whom] Bishops, clergy, religious orders and laity were encouraged to have recourse [...] for judgements and advice.'[40] Those who wished to dogmatise this understanding were presented with an opportunity when Pope Pius IX called an ecumenical Council in 1870. [41]

2.6 The First Vatican Council (1869-1870)

The Council's purpose was two-fold: to condemn contemporary error and to define 'catholic doctrine concerning the Church of Christ.'[42] Prior to the Council the intention was to produce a decree focussed on the Church, to compensate for what was missing from the Council of Trent's teaching. A papal initiative resulted in the Council agreeing to debate the first section of the decree, which developed into *Pastor aeternus* the First Dogmatic Constitution on the Church of Christ.[43] The Constitution expressed 'the functions of the papacy within the Church',[44] but touched only lightly on the governance role of the bishop.

2.6.1 *Pastor aeternus*

Pastor aeternus presents papal primacy as of divine origin, passed from pope to pope, requiring every local Church to agree with Rome, and be under papal 'leadership'.

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[39] Christopher Dowd, *Rome in Australia: The Papacy and Conflict in the Australian Catholic Missions 1834-1884*, ed. Robert J. Bast, Studies in the History of Christian Traditions (Leiden: Koninklijke Brill NV., 2008), 31.
[40] Ibid., 32.
[41] Using the Papal Bull *Aeterni Patris*, 29 June, 1868.
[42] Tanner, "Decrees of the Ecumenical Councils," 800.
[43] *The Councils of the Church: a Short History* (New York: Crossroad, 2001), 90. A decree on the episcopate (*Constitutio secunda de ecclesia Christi*), also prepared by Joseph Kleutgen S.J. (Mansi 53: 308-17), suffered the same fate as the schema on the Church. Seamus Ryan, "Episcopal Consecration: Trent to Vatican II," *Irish Theological Quarterly* 33, no. 2 (1966), 147. Kleutgen prepared a complementary commentary. See: J.P. Torrell, *La théologie de l'épiscopat au premier concile du Vatican* (Paris, 1961), 247-74. Michael Fahey discusses the production of a first draft constitution prepared by Roman theologians Giovanni Perrone and Giuseppe Cardone. Michael A. Fahey, "Church," in *Systematic Theology: Roman Catholic Perspectives*, ed. Francis Schüssler Fiorenza and John P. Galvin (Philadelphia, Pa.: Fortress, 2011), 354.
[44] "Church," 354.

All Christians must believe in a world-wide papal primacy, which governs the universal Church.[45] The Roman Church 'possesses a pre-eminence of ordinary power over every other Church'; papal jurisdictional power is both episcopal and immediate.[46] All are 'bound to submit to this power' in 'faith and morals' as well as 'the discipline and government of the Church' worldwide. Thus the Church 'becomes one flock under one supreme shepherd'.[47] This stresses the universal as opposed to the local Church.

The relationship of the power of the pope to the bishop's power of jurisdiction, or governance, was expressed thus:

> This power of the supreme pontiff by no means detracts from that ordinary and immediate power of episcopal jurisdiction, by which bishops, who have succeeded to the place of the apostles by appointment of the Holy Spirit, tend and govern individually the particular flocks which have been assigned to them. On the contrary, this power of theirs is asserted, supported and defended by the supreme and universal pastor.[48]

The Constitution clarifies that bishops are chosen by the Holy Spirit and take up the role of the apostles, a role of tending and governing their dioceses.

While there is much unexplained, the jurisdictional power of the bishop *may* be understood to be unaffected by the jurisdictional power of the pope. The pope's power is ordinary and immediate over the whole Church: 'Both clergy and faithful [...] are bound to submit to this power by the duty of hierarchical subordination and true obedience [...] [in matters concerning] the discipline and government of the Church throughout the world.'[49] The bishop's power is ordinary and immediate over his diocese. While the bishop exercises jurisdiction locally, the pope - in a manner which does not detract from this, has a primacy of governance, a

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[45] Tanner, "Decrees of the Ecumenical Councils," 813. This presents difficulties for the Churches of the Reform and the Eastern Churches.
[46] Ibid., 813-814. Emphasis added.
[47] Ibid., 814.
[48] Ibid.
[49] Ibid., 1. Additional schemas prepared by Perrone, Cardone and Joseph Kleutgen on the episcopate, and his commentary, may have identified balances and questions concerning the relationship of the pope and the bishops, their respective governance roles and its exercise.

jurisdictional power, extending over the whole Church. This is a *delicately* balanced governance role - too easily interpreted in a less refined manner in the future.

This balance was later reinterpreted by the Ultramontanists, who maximised the power, primacy, and jurisdiction of the Pope, which reached 'its highest point ever',[50] simultaneously restricting the power and jurisdiction of the bishop. Their understanding of papal governance shaped the 1917 Code of Canon Law and the administrative practices of the Roman Curia.[51]

2.7 European leaders, *Kulturkampf* and a restrictive view of episcopal governance

Liberal European state leaders and governments were interested in the Council's outcomes.[52] Count Otto von Bismarck, German Chancellor from 1871 to 1890, viewed them with some hostility. The *Kulturkampf*, of which he was an author and chief prosecutor, sought to reduce the power exercised by the Church within the newly unified *Reich*.[53]

In 1872, Bismarck published a political circular stating that Vatican I allowed the Pope to absorb the authority of all bishops, turning them into his 'tools'.[54] Bismarck suggested the Pope had taken:

> "[T]he rights of the bishops in every single diocese into his own hands and substitute[ed] the papal authority for that of the national episcopate." "Episcopal jurisdiction has been absorbed into the papal." "The Pope no longer, as hitherto, exercises certain definite reserved rights, but holds the whole of the bishops' rights in his hands." "He has in principle taken the place of each individual bishop", "[...] and it rests entirely with him whether he will, in practice, at any given moment, take the place of the bishop in relation to the Government." "The bishops are now no more than his tools,

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[50] Karl Rahner, *Theological Investigations: Concerning Vatican II*, trans. Karl-H. and Boniface Kruger, XXIII vols., vol. VI (Baltimore/London: Helicon Press/Darton, Longman and Todd, 1969), 372.
[51] This highly evolved papal role has been re-evaluated latterly by Herman Pottmeyer and others. Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II*. See also: J. M. R. Tillard, *The Bishop of Rome*, trans. John de Satgé (Wilmington, Del.: Michael Glazier, Inc., 1983).
[52] Sheridan Gilley, "The Papacy," in *The Cambridge History of Christianity: World Christianities c.1815 – c.1914*, ed. Sheridan Gilley and Brian Stanley (Cambridge: Cambridge University Press, 2006), 19.
[53] *Kulturkampf* translates literally as 'culture struggles' and refers to German policies in relation to secularity and the diminution of the role and power of the Church carried out by Bismarck and others.
[54] In *Der Staats-Anzeiger*, the German Government's official gazette, 14 May, 1872.

his officials, without responsibility of their own." "In relation to the Government, they have become the officials of a foreign sovereign", "[...] a sovereign whose infallibility makes him totally absolute, beyond any absolute monarch in the world."[55]

The German hierarchy opposed Bismarck's statement and issued: '*A Declaration by the German Bishops on the Relationship between the Episcopate and the Papal Primacy*.'[56] It argued that papal jurisdictional authority was a supreme authority, extending over the universal Church, including all dioceses and faithful. It has a context: 'the preservation of unity of faith, of discipline and of the government of the Church.'[57] It clarified that the pope was the Bishop of Rome and not the bishop of any other diocese. Simultaneously, the Bishop of Rome was the head of the Church and of all bishops, but did not render bishops 'tools of the Pope [...] without responsibility.' Rather, they are 'appointed by the Holy Spirit and occupying the place of the Apostles, they nourish and rule, as true shepherds, the flocks committed to their charge.'[58] As dioceses were governed by their bishops before the Council, so they continue to be governed by them afterwards, '[a]s the lawful representatives of the Catholic Church in the dioceses entrusted to our leadership.'[59] This position was approved by Pius IX 'in a brief to the German bishops on 2 March, 1875. "Your declaration is an expression of that true Catholic doctrine which is at once the teaching of the Vatican Council and of the Holy See."'[60] The German bishops and Pius IX, together with the English bishops and Cardinal Dechamps of Mechelin, understood the bishops to be far from Bismarck's 'officials of a foreign [and absolute] sovereign.'

In rejecting Bismarck's allegations Pius IX formally confirmed the interplay of governance exercised by the bishop and the pope:

> [T]he primatial office is not one of an absolute monarchy. As the episcopate must recognise the prerogatives inherent in the primatial office, so the pope

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[55] The 'Collective Declaration by the German Episcopate on the Circular of the Imperial German Chancellor Concerning the Next Papal Election' reprinted in: Hans Küng, *The Council: Reform and Reunion* (New York: Sheed and Ward, 1961), 285-286. See also: F. Donald Logan, "The 1875 German Bishops Statement on Episcopal Powers," *Jurist* 21 (1961): 285-95.

[56] Küng notes its publication in *Der Katholik* no. 55 (1875), 209-13.

[57] Küng, *The Council: Reform and Reunion*, 286.

[58] Ibid., 288-289.

[59] Ibid., 291.

[60] Ibid., 283. Repeated at the papal consistorial address 15 March, 1875.

must recognise the prerogatives inherent in the episcopal office. Nor does the primacy of jurisdiction mean continual and direct intervention by the Pope in the responsibilities of the bishops: "[T]he Pope is bishop of Rome, not bishop of any other city or diocese, not bishop of Cologne or Breslau."'[61]

However, others continued to maximise the pope's role in Church government. This was the position of many at Vatican I in both the Roman Curia and the wider Church and it grew after the Council.[62] Whether a diminution of episcopal governance may be identified in subsequent documents, teachings and treatments will now be investigated.

2.8 Receiving *Pastor aeternus*: an ultramontane, maximalist reading

Nationalist movements were growing in Europe throughout the nineteenth century. Their aims were to form countries where groups of semi-autonomous kingdoms once existed, often with strong links to Rome and the papacy. The Papal States became part of Italy in 1848. Pope Pius IX responded by portraying himself a prisoner of the Vatican. This loss was encouraging for some, 'as it diminished the Vatican's immersion in Italian politics, and marked its transformation into a more exclusively global spiritual power.'[63] Resources expended in Italian politics were directed towards making Rome, the pope, and the Curia *the* focal point of the Church.

From the end of Vatican I *Pastor aeternus* was received by Ultramontanists as their victory. Henceforth, 'teaching which did not honour the supreme power of the 'head of the Church' in absolute terms would carry the stigma of error; in the eyes of the average Catholic, it would be a distortion of the Council's meaning.[64]

Pius IX's centralising tendencies expressed his 'pastoral' concern, dictating recurrent 'and increasingly violent anathemas of liberalist principles.'[65] He encouraged Ultramontanism, according to Aubert, because it supported Church life

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[61] John R. Quinn, *The Reform of the Papacy: The Costly Call to Christian Unity* (New York: The Crossroad Publishing Company, 1999), 80-81.
[62] Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II*, 104-109.
[63] Gilley, "The Papacy," 20.
[64] Tillard, *The Bishop of Rome*, 28-29.
[65] Aubert et al., *The Church in a Secularised Society*, 5.

threatened by state government intrusion, and the preeminent 'means of rallying the still vital forces of Catholicism to combat the mounting tide of anti-Christian liberalism.'[66] The reception of these views and their impact on episcopal governance lie in subsequent developments.

2.9 The Roman School of Theology

The Roman School of Theology was neo-scholastic in origins. Its teachings were expressed in theological manuals produced by its adherents and colleges, in Rome and around the world. It articulated an ecclesiology that dominated the Church up to Vatican II.[67] Pope Leo XIII perceived the need for a more secure philosophical foundation to Catholic theology and so made the philosophy of Thomas Aquinas obligatory.[68] He pressurised the Gregorian University and other Roman College to accede. Leo XIII saw support in the teaching of Vatican I, which focussed on an ecclesiology 'restrictively considered as the theology of the *teaching* Church, and especially of the role of the Pope in that teaching.'[69] This centralised Church government and the theological expression and defence of the Roman Catholic faith in Rome and in the papal office.[70]

The Roman School presented doctrine 'in a manner which recognised no pressing need to differentiate between the cultural setting for theology in the thirteenth century and that of the nineteenth century.'[71] This stance did not welcome notions of a *learning* Church to balance the idea of a *teaching* Church nor did it welcome inculturation. More importantly, it did not encourage an expansive view of the episcopal governance role.

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[66] Ibid.

[67] T. Howland Sanks, *Salt, Leaven, and Light: The Community Called Church* (New York: Crossroad, 1992), 104. For a fuller description of the Roman School and its ecclesiology see: *Authority in the Church: A Study in Changing Paradigms* (Missoula, Mont.: Scholars Press, 1974).

[68] Outlined in his encyclical letter, *Aeterni Patris*, 4th August, 1879.

[69] Gabriel Daly, *Transcendence and Immanence: A Study in Catholic Modernism and Integralism* (Oxford: Clarendon Press, 1980), 9.

[70] Roger Haight, *Christian Community in History: Comparative Ecclesiology*, 3 vols., vol. 2 (New York/London: Continuum, 2005), 308-309.

[71] Daly, *Transcendence and Immanence: A Study in Catholic Modernism and Integralism*, 11.

Papal and Roman governance was supported by the aura of infallibility, which afforded them a potent symbolic power, used only once after being defined.[72] However, it afforded 'an aura to the ordinary jurisdiction of the pope which included total direct power over every member of the Church. The ecclesiology was not so much changed structurally as tightened into a knot of absolute authority.'[73] Roman School theologians exercised free reign to interpret primacy and the papal magisterium in a manner understood as 'creeping infallibility.'[74] Their manuals presented standard Church doctrine. While the principle manuals were written in Latin, others were prepared in local languages. Inroads were made in other areas too. As its ecclesiology and cultural assumptions were ultramontane they shaped the seminaries of the world, removing 'almost all regional variations.'[75]

In theory, placing Aquinas as watchdog over Catholic orthodoxy gave both a cogency and tautness to the resulting programme of study. However, neo-Thomists were 'inadequate scholars, intolerant as Churchmen, and intemperate as controversialists. They saw things too clearly to see them well.'[76] Their intolerance, translated into Church doctrine, further reduced the pastoral nature of governance at this time. It also perceived difference as error.

2.10.1 The Magisterium: Modernism, *Lamentabili* (1907), *Pascendi* (1907) and centralisation

Pope Pius X (1835-1914) sought to clarify whether the College of Bishops with the pope at its head constituted the members of the magisterium at this time and in 1907 he published the Decree, *Lamentabili sane exitu* against Modernism.[77]

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[72] By Pope Pius XII when defining The Dogma of the Assumption (apostolic constitution *Munificentissimus Deus* November 1, 1950).

[73] Haight, *Christian Community in History: Comparative Ecclesiology*, 2, 309.

[74] Cuthbert Butler, "The Limits of Infallibility," *The Tablet* 1971. Noted also by Pottmeyer.

[75] Daly, *Transcendence and Immanence: A Study in Catholic Modernism and Integralism*, 12.

[76] Ibid., 19.

[77] Published by the Holy Office on 3 July, 1907. It contained 65 propositions pertaining to erroneous teachings. See: http://www.papalencyclicals.net/Pius10/p10lamen.htm [Downloaded 24.1.2013]. ASS 40 (1907), 470-478. It is strongly reminiscent of Pius IX's *Syllabus of Errors* (1864).

Modernism was a convenient term describing 'certain ideas, tendencies, and attitudes which [the Roman School] saw as incompatible with its own tenets.'[78] *Lamentabili's* first eight 'errors' did not concern the faith or doctrine but rather 'the authority of the magisterium, including the Roman congregations.'[79] This represented a transfer of Church government to the doctrinal sphere using this 'authority to determine conformity to the doctrinal content of the Gospel as an everyday instrument of regulating the life of the ecclesial community.'[80]

2.10.2 *Pascendi dominici gregis* (1907)

Pius X's teaching in his encyclical letter *Pascendi dominici gregis* (1907),[81] packaged 'Modernist concerns into a compact doctrinal system in order to reject them more effectively as a whole',[82] famously labelling Modernism the 'synthesis of all heresies.'[83] Authors in the fields of biblical criticism, philosophy, and theology were at risk of being condemned if judged to be in error.[84] According to Daly, *Pascendi* 'inaugurated a period of ecclesiastical McCarthyism when "Modernists" were hunted down with a zeal that was as pathological as the paranoia that it fed on.'[85]

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[78] Daly, *Transcendence and Immanence: A Study in Catholic Modernism and Integralism*, 3. For Congar and others: 'It refers to a definite movement of thought within the Roman Catholic Church that began about 1900 and ended soon after its condemnation in 1907. It would, of course, be misleading to refer to Modernism as a single coherent doctrine.' Gabriel Flynn, *Yves Congar's Vision of the Church in a World of Unbelief* (Aldershot: Ashgate, 2004), 31.
[79] Alberigo, "The Authority of the Church in the Documents of Vatican I and Vatican II," 130.
[80] Ibid., 130-131.
[81] Pope Pius X, encyclical letter *Pascendi Dominici Gregis* (1907). See: http://www.vatican.va/holy_father/pius_x/encyclicals/documents/hf_p-x_enc_19070908_pascendi-dominici-gregis_en.html . [Downloaded 3.8.2013].
[82] Alberigo, "The Authority of the Church in the Documents of Vatican I and Vatican II," 130.
[83] Published 8 September, 1907. See: AAS 40 (1907), 593-650.
[84]Pius X Later imposed the 'anti-modernist oath' on clergy. Pius X *motu proprio Sacrorum antistitium* (1909), 1 September, 1910. AAS 2 (1910), 655-680. See: Fergus Kerr, *Twentieth-Century Catholic Theologians: From Neoscholasticism to Nuptial Mystery* (Oxford: Blackwell, 2007), 223-225. It remained in force until 1967. The oath included: 'Thirdly, I believe with equally firm faith that the Church, […] and *that the Church was built upon Peter, the prince of the apostolic hierarchy, and his successors* for the duration of time.' http://www.franciscan-archive.org/bullarium/oath.html [Downloaded 24.2.12]. Emphasis added. There is no mention of the other apostles, their pneumatological call, or role in building the Church.
[85] See: Gabriel Daly, "Foreword," in *Medievalism: George Tyrrell* (Tunbridge Wells: Burns & Oates, 1994), 10.

It also clearly associated the term 'magisterium' with Rome, the Holy Office and especially with the pope.[86] *Lamentabili* and *Pascendi* were exercises of papal governance over all Church members, including the bishops, and embodied in every diocese in the actions of the anti-modernist Committees of Vigilance.[87] These moves supported the understanding that the Church was building 'a bureaucratic, rigorously centralised mechanism aimed at searching out and condemning error without any control – save that of the supreme responsibility of the pope.'[88]

2.10.3 The *Sodalitium Pianum* (1909)

The bishops' position was further restricted when, in 1909, the Italian priest, Fr. U. Benigni held the office of Papal Undersecretary for Affairs Abroad. With papal support he set up the *Sodalitium Pianum* (SP), a secret, anti-modernist network. It 'spread a net of suspicion and denunciation over all European Catholicism.'[89] Taken together, *Sodalitium Pianum*, the Modernist 'movement', Papal and Roman curial reactions - including the Anti-Modernist Oath,[90] supported further Roman centralisation and conformity to orthodox Catholic teaching, best represented by the Roman School of Theology. Accompanying this was a culture of fear, or at very least of enthusiastic cooperation with Rome, which expected each bishop to be a spy and an active agent of Roman

One example may be seen in the publication of Cardinal Mercier's Lenten Pastoral Letter (1908), in which he named Fr George Tyrrell a Modernist.[91] Mercier knew Tyrrell: after expulsion from the Society of Jesus in 1907, Tyrrell received a limited offer to minister in Mercier's diocese. The limitations included a bar on religious publication without archiepiscopal approval. This was rejected by Tyrrell. When Mercier was created Cardinal in 1908 he felt some compulsion to distance

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[86] In 1913 Pius X decreed that the Congregation of the Holy Office be designated 'supreme' and the only congregation presided over by the pope.

[87] Haight, *Christian Community in History: Comparative Ecclesiology*, 2, 310. He speaks of them as 'two blows, one ideological, the other programmatic.'

[88] Alberigo, "The Authority of the Church in the Documents of Vatican I and Vatican II," 131.

[89] *The Encyclopaedia of Christianity*, Erwin Fahlbusch, Jan Milič Lochman, John Mbiti, Jaroslav Pelikan, and Lukas Vischer (eds.) English-language edition by Geoffrey Bromily (Grand Rapids, Mn./Leiden: Wm. B. Eerdmans Publishing Company/Brill, 2003) Vol. 3 (J-O), 610.

[90] Rescinded in 1967.

[91] Cardinal Désiré Joseph Mercier, Archbishop of Malines and Primate of Belgium.

himself from Tyrrell - his '*chere confrère dans le sacerdoce*.'[92] Tyrrell's reply offered a measured opposition to an exercise of governance by the pope and Roman Curia, which effectively turned the bishop into a local, papal delegate.[93]

2.11 The development of Canon Law

The beginning of the eighteenth century marked a decline in the influence of canon law. Church legislators were insufficiently flexible to adjust canonical rules to differing conditions. This encouraged bishops in mission countries to legislate and indiscriminately disregard 'the *ius canonicum universalis*.'[94] While this was controversial, it created room for some missionary bishops to exercise a governance role in response to their pastoral situation.

From the middle to the end of the nineteenth century support for the teaching of canon law increased. Faculties of Canon Law were established in Rome: the Lateran (1853); Gregorianum (1876); Anselmum (1888); and Angelicum (1896).[95] These refocused the study and teaching of canon law and encouraged the growth of related literature.[96] With the announcement of Vatican I came the realisation, seen in the responses of some bishops, that contemporary canon law needed revision.

2.11.1 The Code of Canon Law (1917)

It was not until the election of Pius X in 1904 that the preparation of the Code of Canon Law began in earnest.[97] He created a commission headed by Cardinal Pietro Gasparri, and, in 1917, the Code was promulgated.[98]

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[92] George Tyrrell, *Medievalism: George Tyrrell* (Tunbridge Wells: Burns & Oates, 1994), 9.
[93] Ibid.
[94] Constant Van de Weil, *History of Canon Law* (Louvain: Peeters Press, 1991), 163.
[95] The reestablishment of the University of Louvain (1834) lent support to its existing faculty of canon law. In France, Catholic institutions were founded in Paris, Toulouse and a faculty in Lyons. Ibid., 164.
[96] For a bibliography of published titles see: ibid., 164-165.
[97] See: Pius X, *Arduum sane munus*, Rome, 19 March, 1904. Cardinal Gasparri, in the *Preface* to the 1917 Code, refers to this letter, and the pope's wish: 'that the laws of the universal Church published up to this time, arranged in a clear order, could be collected into one, removing from there those that were abrogated or obsolete, and with the others, where this is necessary, being accommodated to the conditions of our own times.' See: Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 13.
[98] Benedict XV apostolic constitution *Providentissima Mater Ecclesia*, 27 May, 1917. See: ibid., 21-24.

Its promulgation was a watershed moment in Church legislation. The 1917 Code (*codex iuris canonici*) brought codification, which created a greater, centralised authority, and reduced the effects of law making bodies apart from the papacy. Codification supported decidedly intellectual declarations, which 'placed interpretation and development firmly with the Roman authorities, and inevitably reduced the influence of custom as expressed by Christian communities and by local ecclesiastical judges.'[99]

The previous *body* of law (*corpus iuris canonici*) was flexible and could be developed by the local bishop. The *corpus* contained 'the canons of the ancient Councils, patristic sources, the decretals of popes, customary usages, particular or regional law that had been received more widely, etc.'[100] Also included were the canons of the Council of Trent and subsequent papal and Roman curial pronouncements.

The 1917 Code, on the other hand, offered an organised collection of Church law set out in 2,414 canons and arranged into five books. It favoured statements resembling 'absolute and clear norms. Yet because canon law is not isolated in the life and theology of the Church [...] it should be more responsive to other dimensions.'[101] While codification favoured certainty, in important respects a full theological understanding may not have been be available. Under the previous *corpus*, a fuller, theological and pastoral explanation for a canon, the *fontes,* was to hand. Commenting on the overall reception of the 1917 Code, McManus notes: 'the result was generally well received for pragmatic and pastoral reasons of convenience, clarity, and the post-Vatican I spirit of Roman centralisation of Church authority.'[102]

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[99] Robert Ombres, "What Future for the Laity? Law and History," in *Governance and Authority in the Roman Catholic Church: Beginning a Conversation*, ed. Noel Timms and Kenneth Wilson (London: SPCK, 2000), 92.
[100] Fredrick McManus, "The Code of Canons of the Eastern Catholic Churches," *The Jurist* 53, no. 1 (1993), 23.
[101] Ombres, "What Future for the Laity? Law and History," 92.
[102] McManus, "The Code of Canons of the Eastern Catholic Churches," 26.

While codification had limited episcopal input it was promulgated by papal authority alone. The abrogation of 'the general ecclesiastical law of the past - with certain exceptions such as the liturgical laws and laws in concordats or conventions with civil authority [...] was an untraditional and indeed revolutionary dimension of the codification.'[103] Codification represented an abandonment of the previous canonical tradition.[104] Unfortunately, the understanding developed that the 1917 Code was the sum of all Church law, notwithstanding 'the existence outside the code of liturgical law, concordat law, particular law of nations and regions and dioceses, special law, and of course an increasing body of subsequent law which developed rapidly enough after 1917.'[105] While unintentional, when combined with the ongoing centralisation of governance by Pius X, it further minimised the governance role of the bishop.

Under a codified system the Church looked to the 1917 Code and then to Rome for answers to questions posed. After 1917, there was little opportunity for a bishop to create law for the local Church. While the Code offered the option to bishops to call a Particular Council, these were governed by a papal representative and their decisions required the recognition of the Apostolic See. The bishop's primary task was now to insure adherence to ecclesiastical law expressed in the Code rather than to govern the local Church in a pastoral manner. The *good* bishop may be identified as the one who refers to the Code or to Rome for answers, encouraging others to do the same.

In order to establish whether the 1917 Code introduced a different vision of episcopal governance to that outlined in *Pastor aeternus,* the following gives a brief analysis of the relevant sections – where parallels exist, between these documents.

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[103] Ibid., 24.
[104] McManus understands that it adopted the design of nineteenth-century civil codes of law, in particular the Napoleonic Code, and notes the inclusion of canons without an explanatory preamble. See: ibid., 26.
[105] Ibid.

2.11.2 *On Bishops* and *Pastor aeternus*

In Chapter 1 of the 1917 Code, *On Bishops,* they are described as succeeding the Apostles 'by divine institution' (c.329 §1).[106] This approximates to the language used in *Pastor aeternus*[107] but lacks its sharpness; it speaks of episcopal appointment 'by the Holy Spirit.'[108] The canon continues: bishops 'are placed over specific Churches that they govern with ordinary power under the authority of the Roman Pontiff.'[109] *Pastor aeternus* identifies a broader responsibility; they 'tend and govern the particular flocks which have been assigned to them.'[110] The bishop is appointed to govern his diocese. It suggests a more pastoral relationship between the pope, the bishop and diocese than that reflected in the Code. Focussing on the relationship of the bishop with the pope, the canon speaks again of the bishop's task of governing being 'under the authority of the Roman Pontiff.'[111] Again, *Pastor aeternus* offers a more nuanced relational understanding. Papal power 'by no means detracts from that ordinary and immediate power of episcopal jurisdiction, by which bishops […] tend and govern [their] flocks.'[112] The diocese was assigned to the bishop by the pope but episcopal governance is not negated, as papal power, according to *Pastor aeternus,* does not detract from the diocesan bishop's governance.[113]

2.11.3 Papal appointment of bishops

Episcopal appointments were not specifically discussed at Vatican I; however, there was an increasing trend for the pope to appoint bishops. Canon 329 §2

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[106] References to the 1917 Code will be made to: Peters, *The 1917 Pio-Benedictine Code of Canon Law*. The section of the 1917 Code concerning the bishops is entitled: 'On episcopal power and those who participate in it' (First Part, section two, Title 8). Of the eleven chapters listed under this title, Chapter 1 is entitled 'On Bishops' and contains canons 329-349. Thereafter, the canons concern those who participate in episcopal power at the diocesan level (c. 349 – 486). For contemporary commentary see: *A Dictionary of Canon Law.* 2nd Revised Edition ed. St. Louis, Mo./London: B. Herder Book Co., 1920; Joseph M. Urtasun, *What is a Bishop?*, trans. Patrick J. Hepburne-Scott (London: Burns & Oates, 1962).

[107] Canon 329 will be compared and contrasted with the section of *Pastor aeternus*, chapter 3, which speaks about the relationship of the power of the Roman Pontiff and the bishop.

[108] Tanner, "Decrees of the Ecumenical Councils," 814.

[109] Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 132.

[110] Tanner, "Decrees of the Ecumenical Councils," 814.

[111] Ibid.

[112] Ibid.

[113] The ordinary and immediate nature of the bishop's power is somewhat diluted by not being referred to in this canon. The words 'ordinary and immediate' are used in a later canon (c. 334 §1), which says: 'Residential bishops are ordinary and immediate pastors in the dioceses committed to them.' Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 134.

clarified the matter: from this point on only the pope freely appoints bishops. This confirms the earlier ultramontane development throughout the nineteenth century that episcopal appointments were controlled by the pope and the Apostolic See. An extension of this is seen in canons 330 and 331. The Apostolic See determines whether a candidate is suitable, outlining his qualities and education (c.331 §1,5^0), preferably a Roman education.[114] Schatz identifies a certain attitude among priests who studied in Rome after 1820. They adopted 'a "Roman" attitude as their measure of adherence'[115] and orientated the local Church towards Rome.[116]

2.11.4 Diocesan episcopal governance

While canon 334 §1 states that the bishop is the ordinary and immediate pastor of the diocese, his governance role is shared. The bishop 'must allow his priestly subjects reasonable freedom in the exercise of the jurisdiction accorded to them.'[117] He has a right and a duty to govern his diocese (c.335 §1). He governs with three types of power: legislative, judicial and coercive. Legislative power may be exercised using the diocesan Synod (c.356-362), held at least once every ten years.[118] Legislative power extends to the things 'that refer to the need or utility of the clergy and people of the particular diocese' (c. 356 §1). He may prescribe acceptable clerical dress (c.136 §1); approve places a cleric may enter (c.138); permit clerics to join the armed forces (c.141 §1); permit collections (c.1503); 'alienate' goods below the value of 30,000 lira or francs (c.1532 §2-3). If goods have been alienated without permission a bishop may penalise the individual involved (c.2347). Bishop Urtasun offers a useful corollary of the bishop's limited legislative power.

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[114] Ibid., 133.

[115] Schatz, *Papal Primacy: From its Origins to the Present*, 153. He continues: 'aspirants to the priestly life streamed towards Rome; […]. every professor whose lectures he heard had been appointed directly and personally by the pope after a careful process of selection; that every schoolbook he read had received the highest blessing; he felt himself almost under the immediate supervision of the Holy See; no matter how pure and sparkling the brooks from which others drank, he placed his lips upon the very rock that had been struck by a magical divine blow, and he drew in the living words as they streamed forth.' ibid. As early as the mid-nineteenth century Rome was the centre of unity and truth 'while everything else was secondary and second hand.' ibid.

[116] A candidate must be 'outstanding in those other qualities that will make him apt for the governance of a diocese and the things that concern it.' Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 133.

[117] Urtasun, *What is a Bishop?*, 43.

[118] 'Only the Bishop is a legislator in a Synod' (Canon 362). Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 144.

He may make laws for his own diocese either at the diocesan synod or in the course of pastoral visitation, or at other times. […]. One important limitation to his power is that he may not forbid what is expressly permitted by the common law of the Church, nor may he allow what that common law forbids. He may, however, give particular application to a general law, e.g., by determining the time, place and other details of its incidence.[119]

The bishop's judicial power is limited to things he is allowed to dispense from (with permission noted in canon 81). For example, a bishop may use his ordinary power to absolve one who has been excommunicated (c.2314 §2). Those who 'perniciously' do not obey the local ordinary, or conspire against him, will be punished with the appropriate penalties and censures (c.2331 §1-2). Those professed of simple perpetual vows, to an ordinary or religious congregation, if they attempt marriage, 'receive excommunication automatically reserved to the Ordinary' (c.2388 §2). His coercive power is expressed in the task of '[urging] the observance of ecclesiastical law' (c. 336). For example, churches 'subject to the jurisdiction of a bishop' should pay their annual *cathedraticum* or tax (c.1504). His three-fold governance role is expressed within the diocese and, therefore, lacks a universal component.

Considering the relationship of the local bishop to the universal Church, the Code dictates that all bishops are to prepare a report for the pope every five years on the state of the diocese, which coincides with a visit to Rome to 'present themselves to the Roman Pontiff' (341§1).[120] The visit suggests some discussion of the report with the pope or Roman Curia. This visit is the codification of more frequent visits to Rome by diocesan bishops (c. 341 §1), which began in the mid-nineteenth century. The visit demonstrates the flow of power in the structures of governance: from Rome to the bishop; from the centre to the local Church.[121] The *Ad limina* visitation was replicated for the local Church. The Code viewed a bishop's parish

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[119] Urtasun, *What is a Bishop?*, 44.
[120] The *ad limina Apostolorum*. The report was completed using a template supplied by the Apostolic See.
[121] The previous section of the Code, Title 7, is entitled: 'On supreme power and those who by ecclesiastical law are participants therein'. Participants are dealt with in canons 218-328. Title 8 discusses the episcopate: 'On episcopal power and those who participate in it'. It describes a clerical, hierarchical model of the Church: at the apex is the Roman Pontiff followed by Ecumenical Councils, the Cardinals and the Curia, Legates, etc. down to the episcopate. Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 139.

visitation as an 'inspection' linked to orthodoxy, good morals and clerical discipline (c.343 §1).[122] It was an occasion when he exercised his judicial and coercive powers tempered by proceeding 'in a paternal manner' as these are 'pastoral visitations' (c.346). The episcopal governance role is to be exercised in a pastoral manner.

2.11.5 Episcopal governance and the 1917 Code

The Code envisaged the jurisdiction of the pope and diocesan bishops as ordinary and immediate. The bishop has legislative, judicial, governance and administrative roles within the diocese; he can also impose and remit canonical penalties. The Code refers to papal governance as supreme and to episcopal governance as subordinate. This, however, does not have to be understood in 'a pejorative sense that is, denoting inferiority.'[123] The local Church governed by the bishop will be naturally subordinate to the universal Church governed by the pope, though some commentaries interpreted 'subordinate' as meaning 'inferior.' The Code envisaged 'bishops preside over their dioceses with ordinary and immediate jurisdiction. In other words, bishops are not delegates of the Roman Pontiff.'[124] The fact that the bishops' governance is not inferior and subjugated is important to note as in practice, after the Code's promulgation, a different picture of episcopal governance emerged. His presence at a diocesan Synod or on pastoral visitation would suggest he is well placed to make pastoral governance decisions. However:

> [W]hile canonical theory describes the office of bishop as divinely instituted and episcopal jurisdiction as ordinary and immediate, the actual exercise of power [of governance] by bishops appears to be dependent. Consequently, bishops would more readily be perceived as delegates of the Roman Pontiff than as full-fledged pastors instituted by the Holy Spirit to preside over particular Churches.[125]

As the Code positioned the Holy Office as protector of 'the doctrine of faith and morals' (c. 247 §1)[126] it further encouraged the specialisation of this dicastery. This

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[122] Ibid., 138.
[123] Ronald Joseph Bowers, "Episcopal Power of Governance in the Diocesan Church: From the 1917 Code of Canon Law to the Present Day" (Catholic University of America, 1990), 42.
[124] Ibid., 42-43.
[125] Ibid., 43.
[126] See also c. 249, 251 257 for the governance of other areas of Church life by other Roman Congregations.

deprived the bishops – and theologians, of this responsibility. In doing so the 1917 Code uniquely equated 'the solemn and ordinary magisterium on the one hand (can. 1323) [with] heresy and error on the other (can. 1324).'[127]

The 1917 Code seems to restrict an exercise of episcopal governance to such a degree that the bishop has a very limited governance role without resorting to Rome to ask for 'permission' to govern.[128] In the 1917 Code, Church teaching 'on the nature of episcopal power is blurred.'[129] As a result this allowed the Apostolic See increasingly to develop as the central source of governance in the following decades.[130]

2.12 Pius XII's encyclicals

Two, twentieth century encyclicals from Pius XII reveal a more contemporary understanding of episcopal pastoral governance. *Mystici Corporis Christi*, written during the Second World War, views the bishop as wholly reliant on the pope for his jurisdictional authority. *Humani generis*, addressed to bishops, tackles erroneous doctrinal positions taken by those developing *La Nouvelle Théologie.*[131]

2.12.1 *Mystici Corporis Christi* (1943)

The encyclical explores the 'Mystical Body of Christ' (n.11) understood as an ecclesiastical hierarchy of laity and clergy.[132] Those exercising sacred power 'are its chief members. [Through them] Christ's apostolate as Teacher, King and Priest is to endure' (n.17). Christ 'appointed their Chief […] His vicar on earth' (n.27); and Chief of the 'government of the entire community'(n.41). To Peter and his

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[127] Alberigo, "The Authority of the Church in the Documents of Vatican I and Vatican II," 131.
[128] As 'ordinary and immediate pastor' (c.334 §1).
[129] Bowers, "Episcopal Power of Governance in the Diocesan Church: From the 1917 Code of Canon Law to the Present Day," 44.
[130] Alberigo, "The Authority of the Church in the Documents of Vatican I and Vatican II," 131.
[131] Two further encyclicals of Pius XII hold that the power of episcopal jurisdiction, teaching and governance are given by the Pope: *Ad Synarum gentes* (7 October, 1955); and, *Ad Apostolorum principis* (29 June, 1958). See: Donato Valentini, "An Overview of Theologians' Positions: A Review of Major Writings and the State of the Question Today [post-Vatican II Collegiality]," *Concilium*, no. 4 (1990), 32.
[132] Pius XII, *Mystici Corporis Christi*, 29 June, 1943. References made to the document at: http://www.vatican.va/holy_father/pius_xii/encyclicals/documents/hf_p-xii_enc_29061943_mystici-corporis-christi_en.html [Downloaded 13.10.12]. AAS 35 (1943), 195-248.

successors he gave 'a primacy of jurisdiction' (n.41). Christ rules the local Church through bishops, 'the more illustrious members of the Universal Church, […] united by a very special bond to the divine Head of the whole Body and so are rightly called "principal parts of the members of the Lord;"' (n. 42). Each feeds his diocese and rules in Christ's name. While subordinate to the pope, they exercise an ordinary power of jurisdiction received from him. Therefore: 'Bishops should be revered by the faithful as divinely appointed successors of the Apostles, (n.42).'

Pastor aeternus understands that the 'jurisdictional power of the Roman pontiff is both episcopal and immediate.'[133] It does not detract from 'that ordinary and immediate power of episcopal jurisdiction.'[134] Vatican I did not wish to place 'papal jurisdiction in competition with the jurisdiction of the local bishop.'[135] *Mystici Corporis Christi* presents a changed position. Pius XII understands that when exercising their episcopal office, bishops 'are not altogether independent, but are subordinate to the lawful authority of the Roman Pontiff, although enjoying the ordinary power of jurisdiction which they receive directly from the same Supreme Pontiff.'[136] This suggests that papal and episcopal powers of jurisdiction are now in a competition that restricts episcopal exercise of his immediate and possibly ordinary jurisdiction too.

2.12.2 *Humani generis* (1950)

In *Humani generis* the task of Catholic theologians was 'to defend natural and supernatural truth' (n.9).[137] Some developed 'speculative theology' (n.13), rejecting the teaching of the magisterium, and demonstrating 'supreme imprudence' (n.17). They ignored the content of encyclical letters because the popes had not passed judgement on disputed theological ideas (n.18). Pius XII now viewed many formerly disputed areas closed to discussion (n.19), emphasising the authority he uses when issuing an encyclical letter. It demands consent as it is

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[133] Tanner, "Decrees of the Ecumenical Councils," 814.
[134] Ibid.
[135] Richard R. Gaillardetz, *Teaching with Authority: A Theology of the Magisterium in the Church*, Theology and Life Series (Collegeville, Mn.: Liturgical Press, 1997), 54.
[136] Tanner, "Decrees of the Ecumenical Councils," 814.
[137] *Humani generis*, 12 August, 1950. http://www.vatican.va/holy_father/pius_xii/encyclicals/documents/hf_p-xii_enc_12081950_humani-generis_en.html. [Downloaded 23.1.2013]. AAS 42 (1950), 561-78.

taught with 'ordinary teaching authority'. When a pope now passes judgment on a disputed matter it 'cannot be any longer considered a question open to discussion among theologians' (n.20).

With this Pius XII sought to end speculative theological thinking connected with *La Nouvelle Théologie* and *ressourcement* theology (n.9). He enlisted the support of the bishops to identify and deal with errant theologians, ensuring that no such teaching was 'advanced' (n.42). Echoes of the Modernist crisis are reflected in this episcopal call to action. It also revealed the contemporary relationship of the pope and the bishop. If papal governance is threatened he employs the bishop to identify and remove those holding such views. Such a conflation of the governance role of the pope in relation to the bishop and the Church in general may also be identified when reading contemporary theological manuals and other material.

2.13 The theology of the episcopate in theological manuals

The theology of the episcopate suffered in the years after Vatican I.[138] While Vatican I did not oppose episcopal collegiality, it was principally concerned with papal prerogatives, and so 'the bishop gets only incidental mention.'[139] Its reception resulted in a restricted view of episcopal governance, also seen in subsequent theological books and manuals. Some examples provided by Ryan will illustrate the point.

In 1877, the Jesuit Domenico Palmieri wrote: 'There is only one supreme power in the Church, the Pope: the bishops in Council receive their power from him.'[140] The Jesuit canonist Franz Xavier Wernz repeated this position: 'bishops in Council receive their jurisdiction directly from the Pope.'[141] G. Wilmers suggested that the college of bishops does not hold any universal jurisdiction except if received from the Pope,[142] a view repeated in the *Dictionnnaire de théologie Catholique* (1938).[143]

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[138] Ryan, "Episcopal Consecration: Trent to Vatican II," 147.
[139] Ibid.
[140] Ibid.
[141] Ibid., 148.
[142] Ibid. Supported by C. Pesch (1909) and Van Noort (1932) - who reject Bolgeni's teaching: see ibid.
[143] Ibid.

E. Valton's contribution viewed bishops as 'clerics who are successors of the apostles and superior to simple priests; they are charged *iure divino* with the responsibility of governing in their own name a portion of the universal Church which is called a diocese',[144] and where they exercise 'jurisdiction.'[145] This contextualises a comment made in 1955, which suggested it was time for the Pope to 'take over to a greater extent the responsibility which the bishop had exercised up to now in their dioceses'[146]

The juridical relationship of the pope and bishops was addressed by authors in *A Manual of Catholic Theology*. Concerning jurisdiction, the position of the pope 'is widely different from that of ordinary bishops, archbishops, or patriarchs. Their jurisdiction is dependent and limited: his is the supreme and universal.'[147] Their relationship was part of a descending hierarchy - pope to bishop.

2.13.1 Reading catechetical and pious literature

A reflection of restrictive claims concerning episcopal governance may be seen in catechetical resources. The Dominican theologian, Jean-Marie Roger Tillard (1927-2000), offers two examples:

> Q. Who is St Peter's successor?
> A. Our holy father the Pope is St Peter's successor. He occupies the place of Jesus Christ on earth.
>
> Q. What is a bishop?
> A. A bishop is a priest specially consecrated in order to occupy among us the place of Our Holy Father the Pope.[148]

While the pope occupies an exalted position, the bishop is designated as a papal agent.

A twentieth century source speaks about Cardinal Henry Manning (1808-92) and of the 'gift' he brought:

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[144] Ibid.
[145] Ibid.
[146] Ibid., 148-149.
[147] Joseph Wilhelm and Thomas B. Scannell, *A Manual of Catholic Theology*, 2nd Ed. ed., 2 vols., vol. 2 (London: Kegan Paul, Trench, Trübner and Co., Ltd., 1901), 336.
[148] Tillard, *The Bishop of Rome*, 30.The first is French, the second French Canadian. Both are dated 1941. Other examples are cited by Tillard.

The fire that was kindled in him, that zeal for the truth, the unity and Apostolicity of the Church lead him to an outstanding devotion to the Pope, the Supreme Authority, the Vicar of Christ, the Successor of Peter, the rock on which the Church is founded. That devotion he left as a legacy. That England, today, has a devotion to Rome unsurpassed in the Universal Church, is, to a very great extent, the work of Manning; that he has left us, and that is, surely, of lasting worth.[149]

Manning was an ultramontanist and a key supporter of a definition of papal infallibility at Vatican I. That such ultramontane prose could be penned in the 1950s, in England, demonstrates the degree to which this model of governance was so recently supported.

Yves Congar notes the inclusion of the following in an Italian, meditational volume of 1955:

The pope is God on earth. Jesus has placed the pope:
a) Above the prophets, because these announced Christ, whereas the pope is the voice of Jesus;
b) Above the Forerunner, because John the Baptist used to say: 'I am not worthy to untie his sandals', whereas the pope must say 'God speaks through us'.
c) Above the Angels - to which of the Angels did he say: 'Sit on my right?' But to St. Peter and the apostles he said: 'You will sit and judge the twelve tribes of Israel'?
d) Jesus has placed the pope on the same level as God. In fact, he said to Peter and his successors: 'He who hears you hears me, and he who rejects you rejects me, and he who rejects me rejects him who sent me'.[150]

The author, Fr. Berretto O.S.B., Professor of Theology at the Pontifical Salesian Athenaeum, became a consultor of the Preparatory Theological Commission of the Second Vatican Council.

A final exemplar of the genre is taken from a French catechism (1903);

The pope expresses his sovereignty through the court which surrounds him. The papal court exhibits the same organisation and the same customs as you would find at the courts of secular sovereigns. The Pope has about

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[149] The Oblates of Saint Charles, *Manning, Centenary of Conversion, 1851-1951* (London, 1951).
[150] Fr. Domenic Berretto SDB, *Meditazione su 'San Giovanni Bosco'*, 90 cited in: Yves Congar, *My Journal of the Council*, trans. Mary John Ronayne, M. Cecily Boulding, and Denis Minns (Dublin: Dominican Publication, 2012), 20. Referred to during the debate on *De Ecclesia* by Maximos IV Saigh. See: Henri Fesquet, *The Drama of Vatican II: The Ecumenical Council June, 1962 - December, 1965*, trans. Bernard Murchland (New York, N.Y.: Random House, 1967), 92-93.

six hundred soldiers to guard his residence [...]. As a sovereign, the pope mints money, confers decorations, has a white and yellow flag, ambassadors (legates, apostolic nuncios) to every nation, etc. Those who are shocked by this pomp, remembering that Jesus Christ was not surrounded by a similar court, forget that the pope does not represent Jesus Christ pursued by his enemies, shamed and humiliated on the cross, but the divine Saviour *gloriously raised* to the heavens. Besides, the pope, by reason of his position, is frequently in contact with sovereigns and their ambassadors: he must therefore take account of their customs if he is not to compromise himself and his ministry.[151]

The pope is prime minister of the Church and its monarchical head. He is supported by the Roman Curia, which carry out his directives. The focus is wholly on the pope. The bishop is conspicuous by his absence.

A maximalist, ultramontane view had raised the pope to an exalted position: he governed and taught the Church. For many, including the Roman Curia, a Pope had no need of the other bishops. The inflated teaching on papal primacy and infallibility akin to 'galloping infallibility'[152] recognised the Pope's 'primacy of jurisdiction [governance] with primatial sovereignty.'[153] This had the effect of restricting episcopal governance to the point where the bishop lost a central tenet of episcopal identity and became the pope's local manager.

2.14 The role of the bishop on the eve of Vatican II: green shoots perceived

Studies undertake by twentieth century scholars have reviewed the teachings of Vatican I. Pottmeyer supports an interpretation of *Pastor aeternus* apportioning greater weight to its expression of episcopal collegiality and governance. He queries the attribution of a wholly monarchical understanding to its definitions.[154] Tillard also lends *Pastor aeternus* 'a moderate interpretation.'[155] While their comments support a more balanced reading of Vatican I, the reality was different and Ultramontanism promoted papal governance over that of episcopal governance.

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[151] Tillard, *The Bishop of Rome*, 31. From a French catechism (1903) reissued in honour of the Dogma of the Assumption (1950).
[152] Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II*, 105.
[153] Quinn, *The Reform of the Papacy: The Costly Call to Christian Unity*, 78.
[154] John P. Boyle, "The 'Ordinary Magisterium': Towards a History of the Concept (1)," *The Heythrop Journal* 20, no. 4 (1979), 318.
[155] Tillard, *The Bishop of Rome*, 28.

Other studies which challenged an ultramontane understanding of episcopal governance may be seen elsewhere.[156] In 1955, Dom Bernard Botte investigated the relationship between the presbyterate and the episcopate, noting how each functioned in encouraging the Church's growth. Orders were viewed as *charisma*, servicing, building and unifying the Church.[157] Botte rediscovered in the Fathers a relationship between priest and bishop based on *charisma* expressed in terms of service of the bishop's flock and the wider Church. Episcopal governance derived from his active service: from the visible unity of the Church, its pneumatic growth, and unity with the wider Church. This was seen most clearly when bishops came together at a local or ecumenical Council.

The Apostolic See had exercised a greater role of governance since the time of the Fathers. However: 'the constitution of the Church has not changed. The code of canon law still proclaims that the bishops are the successors of the apostles, and that their jurisdiction is by divine right.'[158] At the same time, the hierarchy does not wholly constitute the Church, which has spurred a reaction 'against the presentation of the Church which places the accent so strongly on the hierarchy that it appears to be rather like a fleshless skeleton.'[159] While admitting that the converse, the Church as 'an invertebrate' would be dangerous, Botte argued that the episcopate was 'not a juridical organism superimposed on the priesthood: it is the very principle of priesthood, and therefore of the Church itself.'[160] If the *charisma* of the bishop is correctly comprehended and positioned, he becomes the centre of unity for the local Church and expresses the unity of the universal Church when he comes together with the other bishops in Council. The bishop becomes the Church's backbone, uniting and supporting it, and encouraging other ministries to spring from his *charisma*. This provides a foundation for understanding the bishop's *charisma* in terms of his *service* to the Church rather than in terms of

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[156] For an ecclesiological view see: Avery Dulles, "A Half Century of Ecclesiology," *Theological Studies* 50 (1989).
[157] Dom. Bernard Botte, "Collegiate Character of the Presbyterate and Episcopate " in *The Sacrament of Orders*, ed. Robert Roquette S.J. (London: Aquin Press, 1962), 75.
[158] Ibid., 96.
[159] Ibid., 97.
[160] Ibid.

power, authority, and governance. Therefore, the power to exercise the role of governance is given to a bishop by a Church mature enough to recognise his *charisma*. Service also suggests a strong pastoral element, which gives a context to the exercise of governance.

In 1957 Dom Olivier Rousseau wrote a short commentary on the German Bishops' 1875 declaration refuting Bismarck's analysis.[161] By expressing the opposite of Bismarck's assertions, the correct relationship of the Pope and the bishops according to Vatican I could be stated.[162] First, the Pope cannot claim the rights of any bishop or to substitute his authority for theirs. Second, papal jurisdiction did not absorb episcopal jurisdiction. Third, Vatican I's teaching did not place all episcopal authority in the hands of the pope. Fourth, the pope did not take the place of individual bishops. Fifth, the pope may not assume the place of the bishop in respect of the bishop's relations with state government. Sixth, bishops are not tools of the pope. Finally, in their relations with state governments, bishops are not officials of a foreign sovereign. They were 'appointed by the Holy Spirit and occupying the place of the Apostles, they nourish and rule, as true shepherds, the flocks committed to their charge.'[163] Bishops were not to be viewed as the pope's local managers.

These examples demonstrate that by the mid-1950s a reassessment of the relationship of the pope and bishops and their respective roles of governance was taking place in some theological circles. Theologians holding such views, for example Congar, were questioned or silenced by Rome.[164] These examples also illustrate that not all were under an Ultramontane enchantment with respect to the role of the pope and bishops. The *ressourcement* inherent in *La Nouvelle Théologie* gave 'permission' to the theological community to look into the history of the

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[161] Commentary on the declaration by Dom Olivier Rousseau, O.S.B originally published in the bulletin for inter-confessional contacts: *Una Sancta*, no. 12 (1957), 226-8. References here are made to a copy found in: Küng, *The Council: Reform and Reunion*, 292-295.
[162] Ibid., 294.
[163] Ibid., 296.
[164] For a note of the work of Congar and others whose work was investigated and censured by Rome between 1930-1950, see: Bradford E. Hinze, "A Decade of Disciplining Theologians," in *When the Magisterium Intervenes: The Magisterium and Theologians in Today's Church*, ed. Richard R. Gaillardetz (Collegeville, Mn.: Liturgical Press, 2012), 3-39 at 20. Hinze also discusses the disciplining of theologians by the CDF in 1990s.

Church. They found an alternative understanding of papal- episcopal governance, in the Fathers and in the documents of Vatican I. The Liturgical 'Movement' rediscovered or developed new ways to celebrate the liturgy, especially the position of the bishop at the centre of local Eucharistic celebrations. Discussions of a more expansive role of episcopal governance were surfacing at a timely moment.

2.15 Conclusion

As Suarez's views dominated that of Bellarmine in the post-Reformation period, governance came to be understood as something given by the pope to a bishop. This limited episcopal governance role was challenged during the 'long Nineteenth Century'. Political revolution in France questioned papal governance of the French Church: appeals to Rome from clergy sought papal support against their bishops. In other European countries similar ferment created the rise of Ultramontanism, which gained momentum, reaching its zenith in *Pastor aeternus*. While Vatican I legislated primarily for papal primacy and infallibility, one short section addressed papal-episcopal governance. This was understood as a collegial relationship, which envisaged a more expansive governance role for the bishop in the local Church.

The bishop's role of governance was officially supported soon after the Council's premature close in the face of Bismarck's accusation that the bishops were merely tools of the pope. However, Ultramontanism re-evaluated Vatican I, viewing the bishop as a papal and curial local branch manager. This view was reflected in the theology manuals and catechetical materials produced by the Roman School of Theology. Suggestions to the contrary were viewed as unorthodox. During this period the bishop's role was further restricted as it was reduced to being the eyes and ears of the Roman Curia, and to denounce all who supported Modernist views. The bishop was little more than a 'super priest', with a minimal governance role, and with an unarticulated pastoral role.

Other twentieth century 'movements' including the Liturgical Movement and *La Nouvelle Théologie* sought to challenge the *status quo*, encouraging reflection on the pastoral circumstances in which the bishop ministered. The Liturgical Movement lead by Lambert Beauduin gained support, including papal support, for

some of its elements. Proponents of *La Nouvelle Théologie*, however, did not fare as well. Marie-Dominique Chenu and Congar, for example, had their permission to teach revoked by Rome.[165] Yet both contributed greatly to the theological and ecclesiological understanding that laid the groundwork for Vatican II, and a reassessment of the governance role of the bishop.

Pope John XXIII was elected Pope in 1958. The following year he called an ecumenical council. According to O'Malley, one of the problems which required urgent attention concerned the operation of the Church:

> Did Christ will it to be a top-down operation, a monarchy with, as Pius X said, the pope giving orders to the bishops, the bishops to the priests, the priests to the people? In the years before the Council, some bishops smarted under the impression they were simply branch managers of an autocratic central office. Historical studies showed that well into the second millennium the Church had functioned in a more synodal or collegial fashion. So what for today?[166]

On the cusp of Vatican II, such queries challenged the impression of the bishops as 'branch managers of an autocratic central office' and restricted his role of pastoral governance. How Pope John and the majority of the bishops at Vatican II sought to tackle this impression will be discussed next.

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[165] Marcel Heyndrikx, *Towards Another Future: On the Christian Faith and Its Shape between Yesterday and Tomorrow*, Louvain Theological and Pastoral Monographs (Louvain: Peeters, 2006), 91-92. Both were dismissed from their professorial chairs. Chenu's work had been placed on the *Index*.

[166] John O'Malley, 'Issues that set the Agenda,' January 25, 1959 in Arthur Jones (ed.) 'A Church Reborn: The 50th Anniversary of the Second Vatican Council' *National Catholic Reporter*, October 11, 2012, vol. 28 no. 26. [Downloaded 3.8.2014].

Chapter 3: Pastoral Governance - The Emerging Role of Episcopal Governance at Vatican II

3. Introduction

This chapter will present the emergence of an increasingly cogent argument for a redefined role of episcopal pastoral governance in the (ante) preparatory phase of the Second Vatican Council and during the early conciliar debates.[1] Pope John XXIII is presented as encouraging a renewed role for the bishop in public orations preceding the Council. This continued in his support for senior bishops at critical moments in the first conciliar session and in his personal interventions.

Rush's hermeneutical methodology assists in developing a hermeneutics of the principal authors of the conciliar texts, i.e., the bishops. As contemporary understandings of episcopal governance were questioned before and at the Council, some bishops saw the possibilities of redeveloping their governance role in a pastoral mode. One instance at the beginning of the Council will be examined in detail, which identifies support amongst the majority of bishops for such a development.

3.1 Pope John XXIII: A Council to renew the episcopal role

In January, 1959, John XXIII announced two significant events: the calling of a Roman Synod, and a general Council.[2] The latter he envisaged as facilitating a third

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[1] See: *Acta et documenta Concilio oecumenico Vaticano II apparando: Series prima (antepraeparatoria)*, (Vatican City: Typis Polyglottis Vaticanis, 1960-1961); and, *Acta et documenta Concilio oecumenico Vaticano II apparando: Series secunda (praeparatoria)*, (Vatican City: Typis Polyglottis Vaticanis, 1969). A list of the pre-conciliar bodies (Comissions and Scretariats) may be found in: Giuseppe Alberigo and Joseph A. Komonchak, eds., *History of Vatican II: Announcing and Preparing Vatican Council II*, 5 vols., vol. 1 (Maryknoll, N.Y.: Orbis ; Leuven : Peeters, 1995), XVIII.

[2] Pope John XXIII was elected on 28 October, 1958 and announced the Council on 25 January, 1959. He announced: 'We propose to call a diocesan synod for Rome, and an ecumenical Council for the Universal Church [leading] to the desired and long awaited modernisation of the Code of Canon Law, which is expected to accompany and to crown these two efforts in the practical application of

event: the revision of the Code of Canon Law.[3] Later, he framed its three main goals: ecclesial spiritual renewal; *aggiornamento* ('appropriate adaptation of Church discipline to the needs and conditions of our times); and the continuance of Christian unity.[4]

An early indication of the nature of John XXIII's papacy was seen in 1959 when, as Bishop of Rome, he took personal, solemn possession of the Lateran Basilica, Rome's cathedral Church. In more recent times popes had disregarded their episcopal state. Pope John's action 'implied a real consideration of bishops and a re-evaluation of their role and that of the local Churches, which were to become major participants once again in ecclesial life and not just the recipients of Roman decisions.'[5]

John XXIII's inauguration of a pastoral programme for the diocese of Rome - including the visitation of hospitals, prisons, and parishes, modelled pastoral activities that all bishops were called upon to plan and undertake.[6]

The Roman Synod, the first of its kind, took place in January, 1960 and encouraged the diocese to reflect on itself as a discreet entity aside from its historic role as centre of the Church. Pope John's new Secretary of State, Cardinal Domenico Tardini, understood the Synod 'as a sort of pilot venture'[7] helping the Church in its

the rules of ecclesiastical discipline, applications the Spirit of the Lord will surely suggest to Us as We proceed.' *The Encyclicals and Other Messages of John XXIII*, (Washington D.C.: TPS Press, 1964), 21. Roger Haight discusses why Pope John called the Council: Haight, *Christian Community in History: Comparative Ecclesiology*, 2, 286-287.

[3] In his allocution *Questa festiva*: AAS 51 (1959), 65-69, at 68. It was announced in the encyclical *Ad Petri cathedram*: AAS 51 (1959), 497-531, at 498.

[4] *Ad Petri cathedram*, 61-62.

[5] Giuseppe Alberigo, "John XXIII," in *The Papacy: An Encyclopedia*, ed. Philippe Levillain and John W. O'Malley (New York: Routledge, 2002), 854.

[6] See: Coleen McDannell, *Spirit of Vatican II: A History of Catholic Reform in America* (New York: Basic Books, 2011), 56.

[7] *The Encyclicals and Other Messages of John XXIII*, 4. The texts of the Roman Synod were promulgated 25-27 January, 1960, published as Pope John XXIII's Apostolic Constitution, *Sollicitudo omnium Ecclesiarum* (1960), found only in Spanish, see: http://www.vatican.va/holy_father/john_xxiii/apost_constitutions/1960/documents/hf_j-xxiii_apc_19600629_sollicitudo_sp.html. [Downloaded 6.8.2013]. An address of 24 November, 1960 to the Clergy of Rome entitled 'The Roman Synod and the Priest' may be found in: ibid., 112-128. Pope Benedict XVI commented on the Roman Synod to the clergy of Rome: 'I remember that [it] was thought of as a negative model. It was said - I don't know whether this was true - that they had read out prepared texts in the Basilica of Saint John, and that the members of the Synod had

preparations for Vatican II.[8] Familiar as he was with the writings of St Charles Borromeo, the idea of a local synod appealed to the Pope.

Pope John's actions highlighted an episcopal governance role that was pastoral in its exercise and encouraged the development of a richer paradigm of papal ministry. In its turn, this new paradigm encouraged a renewed focus on the ministry of bishops of local Churches and their relationship with the Bishop of Rome and vice versa. Vatican I had not envisaged the bishop as the local agent of a Roman Church, but in practice this is what he became. After Vatican II was announced, some bishops began 'to express concern that over the course of the centuries their office had gradually been deprived of many of its rightful prerogatives and that the bishops had been reduced to simple executors of decisions of the Roman Curia.'[9] Archbishop Joseph Cordeiro of Karachi was clear: 'the concept of a bishop as a "successor of the Apostles" would be stressed early in the Council.'[10] These concerns were heard more clearly after the Council began.

The Pope used opportunities before the Council began to encourage the bishops to reflect on their episcopal ministry and its exercise.[11] This may be seen in particular in three documents:

      1. John XXIII's speech inaugurating the Preparatory Commission (1960);

      2. Apostolic constitution, *Humanae salutis* (1961);

      3. The Pope's opening address to the Council: *Gaudet Mater Ecclesia* (1962).

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acclaimed, approved with applause, and that the Synod had been conducted thus. The bishops said: no, let's not do that.' Pope Benedict XVI, "Meeting with the Parish Priests and Clergy of Rome," Papal Address, (2013).

[8] For John XXIII speeches see: http://www.vatican.va/holy_father/john_xxiii/speeches/1960/index_en.htm. [Downloaded 26.6.2013]. John Abbo notes that the proceedings of the Synod were published only in Latin in: *Prima Romana Synodus* A.D. MDCCCCLX (Typis Polyglottis Vaticanis, 1960). See: John A. Abbo, "The Roman Synod," *The Jurist* 21 (1961), 170.

[9] John W. O'Malley, *Tradition and Transition: Historical Perspectives on Vatican II*, Theology and Life series (Wilmington, Del.: Michael Glazier, 1989), 12.

[10] Walter M. Abbott, *Twelve Council Fathers: Exclusive Interviews with Twelve of the Most Important Figures Guiding the Vatican Council* (New York/London: The Macmillan Company/Collier-Macmillan Limited, 1963), 23.

[11] His preparations included 'two programmatic speeches […] on September 11th (radio message) and on October 11th (opening speech).' Mathijs Lamberigts and Alois Greiler, ""Concilium episcoporum est": The Interventions of Liénart and Frings Revisited, October 13th, 1962," *Ephemerides Theologicae Lovanienses* 73, no. 1 (1997), 56.

When read together these documents demonstrate the Pope's desire to convey a *new* paradigm of pastoral governance to all bishops.

3.1.1 John XXIII's inaugural speech

John XXIII, in addressing the Preparatory Commissions who were preparing for the work of the Council, reminded those present that theirs was a pastoral task on behalf of the Council, over which he was presiding.[12] The Pope reflected on the forthcoming exercise of the Magisterium: it would not be about identifying and fixing doctrinal challenges; rather it would be used as an affirmative restoration of 'Christian thinking and living.'[13] He offered some clarifications as to the Pope's role: the Pope was to preside over the Central Commission, which coordinated the other commissions. This is important bearing in mind his later intervention concerning the schema *De Fontibus Revelationis*.[14] He also acknowledged that his plans for the Council had been supported by all involved.

In the anti-preparatory phase the bishops' *vota*[15] would identify material for conciliar discussion.[16] As the preparatory phase commenced the commissions were instructed to 'pay particular attention to the desires and proposals of the bishops, the venerable fathers of our noble assembly.'[17] The commissions were

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[12] Pope John XXIII, "Towards the Ecumenical Council," *The Pope Speaks* 1960, 376-385. In: *L'Osservatore Romano*, 14-15 November, 1960. Delivered on 14 November, 1960 in St. Peter's to around five hundred members of the commissions and secretariats. The period is usually divided into the antepreparatory phase and preparatory phase, a format accepted by Vatican II historians. See: Erik Borgman, "Introduction," in *Catholic Theology of Revelation on the Eve of Vatican II: a Redaction History of the Schema De fontibus revelationis (1960-1962)*, ed. Karim Schelkens (Leiden, The Netherlands: Koninklikje Brill NV, 2012), 10-11, fn. 18.

[13] *John XXIII, "Towards the Ecumenical Council," 378.*

[14] Schillebeeckx viewed the schema as 'directed in its entirety *against* the progressive texts of Pius XII's *Divino afflante Spiritu*.' Karim Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963* (Leuven: Peeters, 2011), 25. See Fn. 155.

[15] For their responses (*vota*) see: *Acta et documenta Concilio Vaticano II apparando. Series prima* (*Antepraeparatoria*). For a discussion of the *vota* see: Étienne Fouilloux, "The Antepreparatory Phase: The Slow Emergence from Inertia (January, 1959 – October 1962)," in *History of Vatican II: Announcing and Preparing Vatican Council II*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 1995), 91-149. For an overview see: Alberigo, *A Brief History of Vatican II*, 12-13. Subjects for conciliar discussion were also sought, for example, from Catholic universities. For details of a letter from the president of the Antepreparatory Committee, Cardinal Tardini, to the Rector of the Catholic University of Leuven, Mgr. Henri van Waeyenberg, in 1959, and the response from the University, the Belgian bishops and Religious see: Borgman, "Introduction," 10-24.

[16] Canon 223 of the 1917 Code lists those called to an ecumenical council. Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 95.

[17] *John XXIII, "Towards the Ecumenical Council," 381.*

understood by Pope John as serving the bishops. The response to those who tried to undermine this relationship was one of renewed patience and vigilance as the Pope John was filled with positive expectations of the coming event. He offered encouragement to members of the commissions and invited the bishops of the Council to make 'their own special contribution of prayer, advice and activity'. [18]

3.1.2 Pope John and *Humanae salutis* (1961)

The Council was formally convoked with the publication of the apostolic constitution *Humanae salutis*.[19] The Pope spoke about issues facing the contemporary Church: it was witnessing a crisis within human society, some of whom wished to exclude God. He urged people to trust in God and to learn to distinguish 'the signs of the times,'[20] thus developing a more positive view of society outside of the Church. A more pastorally sensitive and open Church was better able to befriend, collaborate with and influence society. The time for this development was now. Pope John's secretary, Archbishop Louis Capovilla, identified the phrase's biblical origin (Mt 16:3), referencing an 'overriding pastoral concern' for an anxious, modern world. [21]

As the preparatory phase had almost concluded, its work would shortly be sent to the bishops of the world, whom Pope John clearly identified as the central participants in the Council. Those involved with its preparation had a clear role: to provide support to both pope and bishops.

3.1.3 Pope John's opening address to the Council: *Gaudet Mater Ecclesia* (1962)

In his opening address, John XXIII outlined his conciliar vision, presenting himself as asserting 'the magisterium (teaching authority) [...] in order that this magisterium, taking into account the errors, the requirements, and the

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[18] Ibid., 384.
[19] 25 December, 1961 in: "The Documents of Vatican II," 703-709. AAS 54 (1962), 1-13.
[20] Ibid., 704.
[21] Loris F. Capovillia, "Reflections on the Twentieth Anniversary," in *Vatican II Revisited: By Those Who Were There*, ed. Alberic Stacpoole (Minneapolis, Mn.: Winston Press, 1986), 118.

opportunities of our time'[22] can be presented to all. This magisterium was the teaching authority of the Pope together with the bishops. The address marked the Pope's intention to give the conciliar bishops 'a personal and authoritative instruction that would link this assembly with the great conciliar tradition of the Church.'[23]

The Council would assist the Church in looking forward without anxiety, aided 'by bringing [itself] up to date where required.'[24] He contrasted this position with those 'prophets of gloom [...] always forecasting disaster, as though the end of the world were on hand',[25] who saw little positive in the current era compared with previous eras and 'behaved as if they had learned nothing from history, [...] the teacher of life.'[26] During his time as papal nuncio to France he read Congar's *Vraie et fausse réforme dans l'Église* (1950). His response: 'A reform of the Church: is such a thing really possible?' As Pope, John called a reforming Council 'to update the Church's capacity to explain herself to the world'.[27] He used Congar's language in his address to describe the task.

The Pope understood the central task of the Church to be one of teaching and influencing humanity. Reflecting on the Fathers and modern research methods assisted the Church to evangelise the modern world. In his mind: '[t]he substance

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[22] John XXIII, *Gaudet Mater Ecclesia*, 11 October, 1962 in: "The Documents of Vatican II," 710-719. AAS 54 (1962), 786-798. Ibid., 710.

[23] Andrea Riccardi, "The Tumultuous Days of the Council," in *History of Vatican II: Formation of the Council's Identity, First Period and Intersession, October 1962 - September 1963*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 1997), 15.

[24] "The Documents of Vatican II," 712.

[25] Ibid.

[26] Ibid.

[27] In the 'Introduction' to: Yves Congar, *True and False Reform in the Church*, trans. Paul Philibert, Rev. ed. (Collegeville, Mn.: Liturgical Press, 2011), iii. It was placed on the Index in 1954 and Congar was exiled. Congar identifies four necessary conditions for the discernment and realisation of genuine reform - one that does not result in schism. First, it must advocate the centrality of charity and pastoral care i.e. avoiding merely rational system-building. Secondly, it must demonstrate a continuing commitment to communion with the entire Church, especially commited to by the bishops. Thirdly, while reform is a task requiring patience, the hierarchy must avoid straining the patience of reformers through carelessness or pointless disruptions. Finally, reform must reflect fidelity to Catholic tradition. Tradition does not consist merely of the accumulated treasury of the past, but is dynamic: 'the continuity of development arising from the initial gift of the Church'. Ibid., 117. While nuncio in Paris (1944 -53), Roncalli was reacquainted with his friend, Lambert Beauduin, while the latter was co-founding the *Centre de Pastorale Liturgique*, Paris (1943). See: Richard G. Leggett, "Lambert Beauduin," in *How Firm a Foundation: Leaders of the Liturgical Movement*, ed. Robert L. Tuzik (Chicago, Ill.: Liturgy Training Publications, 1990), 27.

of the ancient doctrine of the deposit of faith [is] one thing, and the way in which it is presented is another.'[28] The latter was to be carried out with great patience to reflect a magisterium predominantly pastoral in character, as a pastoral approach would be better received by the modern world.

Errors encountered by the contemporary Church should also be dealt with in this pastoral manner as it 'prefers to use the medicine of mercy rather than of severity [meeting] the needs of the present day by demonstrating the validity of her teaching rather than by condemnations.'[29] The Pope accepted that the time had passed when the Church spoke on a subject and all automatically listened and obeyed. While his style was emphatic it did not emphasise the juridical. If he and the bishops were to exercise their magisterium, to teach and govern the modern Church and influence the world beyond, their task was best carried out in a reasoned, non-condemnatory manner; that is, in a *pastoral* manner. His allocution was 'the act, not of a "sovereign" imposing his will but that of the primate among Catholic bishops, providing authoritative suggestions about the path their work should take.'[30] This considered methodology better served the Church's wish to evangelise modern society and his wish to encourage an expansive view of episcopal governance.

In the final paragraphs, John XXIII gave the task of exercising the magisterium into the hands of his fellow bishops, and not into the hands of the Roman Curia.[31] His concluding prayer called on Mary, 'Help of Bishops.'[32] Pope John clarified that it was the task of the Pope and the bishops to discuss, debate, and deliberate in ways they deemed fruitful and on matters they deemed necessary. The outcomes of their deliberations were the fruits of the magisterium, one that was to be exercised collegially.

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[28] "The Documents of Vatican II," 715.
[29] Ibid., 716.
[30] Riccardi, "The Tumultuous Days of the Council," 18.
[31] "The Documents of Vatican II," 718.
[32] Ibid., 719.

His speech responded to concerns expressed by bishops and their *periti* regarding the pastoral nature of the Council. His speech tactfully outlined 'a conciliar agenda quite different from the one reflected in the prepared texts and in effect authorising the bishops, should they agree, to choose another direction for their work. The bishops accepted the challenge.'[33] The signing of the confession of faith followed the opening address. One gesture was received with particular thanks from the Eastern Churches. Pope John signed the confession, '"John, Bishop of the Catholic Church." No pretentious titles; just the simple official designation which united him with his brethren, the bishops of the universal Church of God.'[34]

This action communicated Pope John's wish for a truly ecumenical Council and suggested to the bishops that he was their conciliar *confrère* - a bishop among bishops. For some, his speech was liberating.[35] Others suggest guarding against an understanding that the Pope had given 'birth to a fully formed Council.'[36]

3.1.4 John XXIII's historical approach

The Pope supported an historical approach to theology and encouraged the Council to follow his lead. This has its origins in his time spent away from Rome, initially in 1905 as secretary to Bishop Radini Tedeschi, bishop of Bergamo, and a year later as a seminary teacher in Bergamo.[37] During this time he made an important historical discovery.[38] While browsing in the Archbishop's library he discovered the *Archivo Spirituale - Bergamo* of St. Charles Borromeo, who understood that episcopal reform of the local Church was achieved by thorough parish visitation 'followed by a diocesan Synod. In the mind of the Council of Trent, the bishop, not some Curial interloper from Rome, was the proper agent of reform. "History", Roncalli liked to

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[33] Joseph A. Komonchak, "The Significance of Vatican Council II for Ecclesiology," in *The Gift of the Church: A Textbook on Ecclesiology in Honor of Patrick Granfield, O.S.B.*, ed. Peter C. Phan (Collegeville, Mn.: Liturgical Press, 2000), 73.
[34] Ratzinger, *Theological Highlights of Vatican II*, 22.
[35] Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 11.
[36] Giuseppe Alberigo, "The Announcement of the Council from the Security of the Fortress to the Lure of the Quest," in *History of Vatican II: Announcing and Preparing Vatican Council II*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y.: Orbis ; Leuven : Peeters, 1995), 34.
[37] O'Malley, *What Happened at Vatican II*, 103.
[38] 'His Roman studies were crowned by the doctorate in theology on 13 July 1904.' Hubert Jedin, Kongad Repgen, and John Patrick Dolan, eds., *History of the Church*, 10 vols., vol. 10 (London: Burns & Oates, 1981), 97.

say, "is the teacher of life."' [39] He referenced the latter sentiment in his opening speech.

He decided to edit the thirty-nine volumes of Borromeo's *Archivo*.[40] The project shaped his understanding of Trent[41] 'not as an anti-Protestant polemic, but as a reforming Council.' [42] In joining Tedeschi on parish visitations he walked in Borromeo's footsteps. This built a sense of Church history 'not exclusively Rome-centric.'[43]

Before Roncalli left for the conclave he stated:

> "The Church is young; it remains, as constantly in its history, amenable to change." The statement is that of a program. As a Church historian, familiar with the historical change of the Church in a constantly changing world, Pope John was convinced that the Church must adapt its preaching, organization, and pastoral methods to the fundamentally changed world, and for this he coined the much disputed notion of *aggiornamento*. In an effort to realise it he convoked the Council.[44]

John XXIII valued what history brought to the study of theology and encouraged a more historical view of theological investigation.[45]

The Jesuit theologian Joseph Komonchak (1939 -), noting the Pope's credentials, saw it as natural for him to sidestep bureaucratic tinkering and 'recall ancient and rather neglected forms for the renewal and reform of the Church.'[46] At the same time his approach engaged with Pius XII, whose encyclical *Humani generis* suggested 'not to study historical theology too deeply, but to concentrate on

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[39] Peter Hebblethwaite, *John XXIII: Pope of the Century* (London: Continuum, 2000), 30.

[40] The five volumes were published in 1936, 1937, 1938, 1946 and 1957.

[41] Borromeo's 'work as Archbishop of Milan (1564-84) enormously influenced the implementation of the Council of Trent.' Giuseppe Alberigo, Jean Pierre Jossua, and Joseph A. Komonchak, eds., *The Reception of Vatican II* (Washington, D.C.: Catholic University of America Press, 1987), 6.

[42] Hebblethwaite, *John XXIII: Pope of the Century*, 30. Jared Wicks notes the importance of Boromeo's *Archivo* and of Trent to John XXIII. See: Jared Wicks, "Tridentine Motivations of Pope John XXIII before and during Vatican II," *Theological Studies* 75, no. 4 (2014).

[43] O'Malley, *What Happened at Vatican II*, 103.

[44] Jedin, Repgen, and Dolan, *History of the Church*, 99.

[45] Faggioli also notes its importance for Pope John. Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium*, 29.

[46] Joseph A. Komonchak, "Convening Vatican II," *Commonweal* 126, no. 3 (1999), 10.

speculative (deductive) theology.'[47] An historical theological view, as developed, for example, by Chenu and Congar, confirmed 'that Church doctrine was not as unchangeable as had traditionally been asserted.'[48] Francis Oakley identified the act of stepping over the line between the historical and theological as one of abandoning Roman Catholic certitude 'to accept the historically conditioned, reformable, and essentially provisional nature of all doctrinal formulations, ecclesiologies, and church structures'.[49] While Pope John may not have made such a radical statement, his historical perspective on the process of theological investigation encouraged the conciliar bishops to consider that governance should always be exercised in a pastoral key.

3.2 A departure from the 'usual'

From the outset, John XXIII's methodology for the Council was pastoral, and may be identified in five discrete yet related steps. First, in *Gaudet Mater Ecclesia*, the Pope stressed the benefits of the fruits of modern research methodologies, which, in turn, gave impetus to his theme of *aggiornamento*. This central tenet has been described as part of 'the broad vision of the Council as an opportunity to promote a thorough and deeply spiritual renewal of the Church and to undertake the pastoral adaptations, *aggiornamento*, that would enable it to be a more effective redemptive presence in a changed and changing world.'[50] Second, bishops were welcomed to Rome by the Bishop of Rome as individuals and as equals. Third, the Council was to be an environment in which the bishops reflected further on their own episcopal role. Fourth, coming together as bishops and as a college, the bishops learned how to govern the Church in a pastoral manner, at both the local and universal level.

The Pope understood that this approach honoured the past and used the fruits of modernity to work for the future renewal of the Church and of humankind. Finally, and most fundamentally, John XXIII encouraged the bishops 'to express themselves

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[47] Heyndrikx, *Towards Another Future: On the Christian Faith and Its Shape between Yesterday and Tomorrow*, 92.
[48] Ibid.
[49] Oakley, "Authoritative and Ignored: The Overlooked Council of Constance," 31.
[50] Joseph A. Komonchak, "The Struggle for the Council During the Preparation of Vatican II (1960-1962)," in *History of Vatican II: Announcing and Preparing Vatican Council II*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 1995), 350.

freely.'[51] He showed faith in the conciliar process and in the role the bishops would play. Rather than imposing his views, the Pope 'had sought simply to grant freedom and reasons for speaking and thinking.'[52]

Some members of the preparatory commissions and Curia found Pope John's approach difficult to comprehend. They supported a pre-Vatican II model of governance, which promoted a less prominent role for the bishops.[53] Bishops at the Council found their position increasingly untenable: they expected the main focus of the Council to be 'the doctrine on the Church and the power of the bishops', neither of which appeared in the voluminous schemas.[54] The scholasticism underpinning these schemas 'hardly has a place in the pastoral government of dioceses, and it is this that now has the floor.'[55] However, events were to take an important turn when the Council convened.

3.3 The first session of the Second Vatican Council

From the earliest possible moment the bishops began to experience their governance of the Council.[56] This was demonstrated at the beginning of the first session as Cardinal Achille Liénart of Lille (1884-1973) motioned that a postponement of conciliar business was in order.[57] This would encourage bishops to get to know one another and to consult, not as individuals, but more importantly in regional groups and episcopal conferences.[58] They could discuss elections to the

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[51] Riccardi, "The Tumultuous Days of the Council," 66.

[52] Ibid., 67.

[53] See Riccardi: 'In the view of Siri, as of Ottaviani and others, the duty of the Council fathers was to go also with the great stream of the Church's tradition in theology and government, and to do it quickly and with brevity. Rome and the Curia were the best interpreters in that tradition.' ibid., 64.

[54] Gerald P. Fogarty, "The Council Gets Underway," ibid., ed. Giuseppe Alberigo and Joseph A. Komonchak, 70.

[55] Congar, *My Journal of the Council*, 89.

[56] The first session opened on 13 October, concluding on 8 December, 1962. For a comment on the session see: O'Malley, *What Happened at Vatican II*, 94-102.

[57] Riccardi, "The Tumultuous Days of the Council," 28. Congar, *My Journal of the Council*, 91-92.

[58] At Vatican II, episcopal conferences became 'an important instrument for the exchange of information and for the construction of opinion among the bishops of particular nations or regions.' Joseph A. Komonchak, "Introduction: Episcopal Conferences under Criticism," in *Episcopal Conferences: Historical, Canonical and Theological Studies*, ed. Thomas J. Reese (Washington D.C.: Georgetown University Press, 1989), 3.

ten commissions, whose members would have the important role of redrafting and (re)presenting *schemata*.[59]

This postponement was supported by Cardinal Frings of Cologne, who spoke on behalf of Cardinals Julius Döpfner (1913-1976) and Franz König (1905-2004). Liénart's intervention 'demonstrated the fathers' determination to govern themselves as an assembly [and] voiced the uneasiness of the bishops with the electoral mechanics planned for that October 13.'[60] The postponement of conciliar business at the very beginning of the Council was 'a decisive moment for Vatican II.'[61] These suggestions, which contravened any curial control, were supported by loud, episcopal applause and it was agreed.[62] But were their interventions so spontaneous and original?

3.3.1 Spontaneity queried

Cardinal Frings' spontaneity has been questioned as 'two currents' linked to the preparatory work of the Council, may be identified.[63] The first, 'a predominantly curial influence',[64] generated unease among the more open bishops (including Liénart and Frings). The *schemata* produced by the Curia did not match the varied pastoral situation of the bishops, nor the pope's '*aggiornamento*'.[65] Frings' unease also focussed on the second current, the elections to conciliar commissions. While the latter was questioned during the preparatory period,[66] the critical nature of their membership became a concern.[67]

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[59] 'Bishops were told not to rush to complete their voting forms.' Bishop Remi J. De Roo, "Experiences of a Council Father," *The Downside Review* 121, no. 422 (2003), 54.

[60] Riccardi, "The Tumultuous Days of the Council," 34.

[61] Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 3. Fn.4.

[62] Massimo Faggioli, "Reform of the Curia at and After Vatican II," *Concilium*, no. 5 (2013), 26.

[63] Lamberigts and Greiler, ""Concilium episcoporum est": The Interventions of Liénart and Frings Revisited, October 13th, 1962," 56.

[64] Ibid. The second 'current' concerned groups linked to the Curia, who were influential in the formulation of the schemata and 'indicated how the Council should proceed, according to the mind of the Curialists.' ibid.

[65] Ibid.

[66] See footnote 5: 'Minutes of the subcommission for the organisational preparation of the Council show that different ideas were expressed on the future commissions, with Liénart and Frings present. Finally, a compromise was accepted between appointments by the Pope and elections.' ibid.

[67] The conciliar rules were published, *motu proprio*, *Appropinquante Concilio* 6 September, 1962. The importance of influencing elections to the commissions was pointed out by Hubert Jedin to Cardinal Frings. Lamberigts and Greiler suggested the information was probably discussed by

Membership concerns revealed themselves more fully at the opening of the Council and the desire for action was supported by the Pope's opening speech. As many bishops did not have great expectations of the Council, a more direct, public engagement was required. Liénart's intervention was such an occasion. It was 'not a spontaneous act';[68] it was planned and supported and a fruit of the Pope's call to pastoral governance.[69] The postponement which followed Liénart's intervention allowed bishop's to consult over the membership of the commissions, and in doing so brought to prominence the role of episcopal conferences. [70] Bishops learned to collaborate with conference members[71] and other conferences.[72] However, tensions also featured in the conciliar preparatory period.[73]

3.3.2 Pope John's attitude to conciliar preparations

While Pope John was not blind to these tensions, it is curious to note that he allowed the preparation of *schemata* so at odds with his conciliar vision.[74] In his opening speech, the Pontiff spoke against 'the prophets of doom' and identified those unable to distinguish 'the signs of the times.' His stance was further clarified when he personally intervened in conciliar business, against the Council's own regulations, to remove the schema *De fontibus revelationis* from the conciliar agenda. These statements and actions communicated his personal encouragement of critical episcopal engagement with the restrictive view of episcopal governance

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'Suenens, Léger, Montini, J. Döpfner [...], Frings, Liénart, and others during the meetings of the central preparatory commission ' ibid., 57.
[68] Ibid., 61.
[69] Remi J. De Roo, "Experiences of a Council Father," 54.
[70] Riccardi, "The Tumultuous Days of the Council," 34.
[71] Ibid.
[72] Remi J. De Roo, "Experiences of a Council Father," 58.
[73] While the Pope remained extremely popular during the preparatory period, he allowed certain documents to be published, which some viewed as 'reactionary and even repressive' and which discouraged those who anticipated an innovative, open Council. O'Malley, *Tradition and Transition: Historical Perspectives on Vatican II*, 12. For example: the conservative statutes of the Roman Synod (1960); and, the apostolic constitution *Veterum sapientia* (1962), promoting the use of Latin (after its promulgation he continued speaking in Italian). These, and other actions, built 'a decided animus against the Roman Curia [and fostered] the emergence of an ill-defined but well publicised and very visible division among those who were to participate in the Council between "progressives" and "conservatives."' ibid.
[74] See: Komonchak, "The Struggle for the Council During the Preparation of Vatican II (1960-1962)," 350-356. He identifies some clear statements. Ibid., 350.

in the original *schemata*, and what he - and the Church, required of a bishop during the Council.

Perhaps the Pope's attitude reflected his understanding that the Curia and Council were separate matters and he did not wish to force his will on the Curia's work.[75] Also, perhaps a more important reason reflected the episcopal vision John XXIII wished to develop. The Pope allowed the bishops of the Council their full authority and in the process relegated the Curia and its particular theology, reflected in the *schemata*.[76]

Pope John's methodology allowed the bishops to develop a clearer vision of what they wanted and what they did not want of the Council. This encouraged them to develop their identity in a measured way, placing them in a strong position to debate and enunciate an expansive understanding of the episcopal role by including statements outlining collegiality and episcopal governance in conciliar documents.

3.3.3 Bishops consult via episcopal conferences on membership of commissions

The turmoil of the opening day of the Council was followed by a three day period in which the bishops consulted on the membership of the commissions. Some curial members were voted on but membership also included those from outside the Curia and from previously underrepresented countries and regions.[77] Congar viewed this as, 'THE FIRST *CONCILIAR* ACT, a refusal to accept even the possibility of prefabrication.'[78] The consultation was greatly welcomed by (banned) applause, which underlined its importance: 'The Council had shown its resolve to act independently and autonomously, rather than be degraded to the status of a mere

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[75] Lamberigts and Greiler, ""Concilium episcoporum est": The Interventions of Liénart and Frings Revisited, October 13th, 1962," 56.

[76] Komonchak, "The Struggle for the Council During the Preparation of Vatican II (1960-1962)," 356. This stance is reflected in the Pope's personal diary. See: *Agende*, November 19, 1962. Cited in: Riccardi, "The Tumultuous Days of the Council," 67.

[77] For a list of the initial 160 elected members see: Floyd Anderson, ed. *Council Daybook, Vatican II: Sessions 1 & 2 (1962-3)*, 3 vols., vol. 1 (Washington: National Catholic Welfare Conference, 1965), 42-44. These numbers were subsequently increased. See: 'List of New Appointees to Council Commissions' ibid., 54-55.

[78] Congar, *My Journal of the Council*, 92. Capitalisation and emphasis original.

executive organ of the preparatory commissions.'[79] This three day hiatus also confirmed the growing importance of episcopal conferences.[80] Their meetings provided opportunities to receive informed briefings from *periti*, and to hear reports from other episcopal conferences. The interlude provided not only an opportunity for conciliar action but also for episcopal engagement. Bishops could engage with conciliar business as individuals, but also as members of their episcopal conferences, in a renewed, collegial manner. Congar commented: 'ONE OF THE RESULTS OF THE COUNCIL COULD WELL BE THE BIRTH OF AN ORGANISED AND STRUCTURED WORLD-WIDE EPISCOPAL COLLEGIALITY.'[81]

These actions were reflected in a message published by the bishops a few days later. Their *Message to Humanity* (1962),[82] spoke on three separate occasions about renewal. Firstly, the Council was an opportunity for episcopal renewal, 'so that we may be found increasingly faithful to the gospel of Christ.'[83] Secondly, as shepherds and 'pastors [we] devote all our energies and thoughts to the renewal of ourselves and the flocks committed to us.'[84] Thirdly, they bishops hoped for a 'spiritual renewal from which will also flow a happy impulse on behalf of human values such as scientific discoveries, technological advances, and a wider diffusion of

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[79] Ratzinger, *Theological Highlights of Vatican II*, 23.

[80] For example: 'The Pan-African group [...], gave birth to "a committee of theologians for all of Africa." The "strategy workshop," a French-speaking group that would hold meetings on Wednesdays, also got under way [...]. The best organised conferences (the French, the German-speaking, the Dutch, the Polish, the Canadians, and others) had calendars of meetings to listen to views on the work they were resuming.' Alberto Melloni, "The Beginning of the Second Period: The Great Debate on the Church," in *History of Vatican II: The Mature Council, Second Period and Intersession, September 1963 - September 1964*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 2000), 41.

[81] On 15 October, 1962. Congar, *My Journal of the Council*, 95. Capitalisation and emphasis original. Congar's comment was made after the preparation of lists for the various commissions by the episcopal conferences. See: Riccardi, "The Tumultuous Days of the Council," 34. See also: Congar, *My Journal of the Council*, 140.

[82] "The Documents of Vatican II," 3-7. Its full title is: *Message to Humanity: Issued at the Beginning of the Second Vatican Council by its Fathers, with the Endorsement of the Supreme Pontiff.* The first paragraph is headed 'The Fathers of the Council to all Men'. Abbott comments (fn. 2) that was a novel action: 'For the first time in the history of Ecumenical Councils, a Council addresses itself to all men, not just to members of the Catholic Church. In the following year, Pope John XXIII added, for the first time, the salutation "and to all men of good will" as the opening of a papal encyclical (See: *Pacem in terris*, 11 April, 1963).' ibid., 3. Fn. 2. Francis X. Murphy, writing as Xavier Rynne, provides background to its authorship. See: Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 88-92.

[83] "The Documents of Vatican II," 3.

[84] Ibid., 4.

knowledge.'[85] This represented the reality of independent, autonomous episcopal action at the Council, presented in a public document for the first time.

At the same time a plan was devised by Cardinal Suenens of Mechelin-Brussels and Cardinal Giovanni Battista Montini of Milan (1897-1978) to address the seventy *schemata* prepared for the Council by the Preparatory Commissions. This 'distressing' volume was challenged to reduce possible episcopal frustrations.[86] The *schemata* represented the 'reaffirmation of authority, […], of the Church as Christ's juridically empowered agent in the world.'[87] However, Cardinal Montini could not identify within the *schemata* an 'organic form to reflect the great purposes which the Holy Father has set for the Council.'[88] Supported by the Pope, a more thematic and condensed view of the material was engineered. Cardinal Suenens' preliminary note sent to John XXIII in March 1962 aimed to remove much 'dead wood and set the Council on a truly pastoral course. The Pope approved this verbally to me [Suenens]; and it then paved the way for future work.'[89] This helped to select topics the Council would address. The choice of the liturgy as the first subject to be debated represented a topic the bishops were familiar with and hopefully supported a positive, collegial experience with which to begin the Council.

3.3.4 The First Session ends

By the end of the first conciliar session a more expansive episcopal consciousness and governance role was emerging. The bishops began to think and act autonomously, avoiding 'a Council that merely approved prepared texts. It had gained its own momentum. A coordinating commission was set up with wider representation, and the *schemata* had gone back to much broader commissions for rewriting.'[90] The re-formed commissions were given norms to guide their work.

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85 Ibid., 5.
86 Fogarty, "The Council Gets Underway," 69. The seventy *schemata* filled some 2,000 folio-sized pages more than twice the volume of text from all previous Councils when added together. See: Ratzinger, *Theological Highlights of Vatican II*, 19-20.
87 Joseph A. Komonchak, "What's Happening to Doctrine?," *Commonweal* 112 (1985), 456.
88 Riccardi, "The Tumultuous Days of the Council," 56.
89 Leon-Joseph Cardinal Suenens, "A Plan for the Whole Council," in *Vatican II Revisited: By Those Who Were There*, ed. Alberic Stacpoole (Minneapolis, Mn.: Winston Press, 1986), 89.The note is added as Appendix I: ibid., 92-94.
90 Paul Collins, *Papal Power: A Proposal for Change in Catholicism's Third Millennium* (London: Fount, 1997), 76.

One norm reflected a papal theme: 'The stress is on the *pastoral*, rather than doctrinal or juridical, nature of the Council.'[91] As the first conciliar session ended the bishops began to emerge from behind their reserve and what emerged was 'a gathering of holy and pastorally-minded men, united in a spirit of faith to seek not their personal gain but a better understanding of the evangelical message.'[92] The bishops understood more clearly that they had a right, indeed a duty, not only to speak at the Council but also to govern the Council's procedures. They governed the content and tone of documents to be debated and authored promulgated texts, which promoted a more expansive governance role.

In his pre-conciliar orations and writings, John XXIII encouraged the bishops to attend a 'pastoral' Council at which they, rather than the Roman Curia, presided and presented the Church to the modern world. As they gathered at the Council as bishops of a worldwide, rather than a Euro-centric Catholic Church, they experienced conciliarity. Gathered as a college around the pope, the Bishop of Rome, they learned to act collegially. Congar observed that during the first session:

> The episcopate has discovered itself. It has become aware of itself. Given that, the formulas will emerge. They will come spontaneously, because the way has been cleared for them. [...] As a result, each of the participants becomes, in many respects, another person: he sees things differently; tendencies asleep within him come fully alive, while others that had been dominant quietly withdraw; he is excited at sharing in other types of humanity, in other horizons; finally, he realises fully the world-wide solidarity and responsibility of the episcopate. Gone are the trite images of the life of a bishop in his see, alone there at the head of a diocese with its daily and sometimes petty problems. Each bishop feels himself to be a member of a body not limited by place or time: the body of the apostolic pastorate of which Jesus Christ is the invisible head, the one whose universal pastoral office is reflected in that of the successor of Peter.[93]

Their self-discovery now required the continuing support of the new Pope, Paul VI.

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[91] Richard McBrien, "The Church (*Lumen gentium*)," in *Modern Catholicism: Vatican II and After*, ed. Adrian Hastings (London/New York: SPCK/Oxford University Press, 1991), 85. Emphasis added.
[92] Fesquet, *The Drama of Vatican II: The Ecumenical Council June, 1962 - December, 1965*, 72.
[93] Quoted by: Giuseppe Alberigo, "The Conciliar Experience "Learning on Their Own"," in *History of Vatican II: Formation of the Council's Identity, First Period and Intersession, October 1962 - September 1963*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 1997), 575-576. Original reference not given.

3.3.5 Pope John XXIII's death (1963) and his legacy

In his memorial address delivered at the opening of the Council's second session, Cardinal Suenens clarified the centrality of the role of the episcopate in the late Pope John XXIII's ecclesiology, and in the hermeneutical understanding of the ecclesiology operating within the Council. John XXIII changed the orientation of the relationship of bishops and the Pope, as:

> [T]he Council was not first of all a meeting of the bishops with the Pope, a horizontal coming together. It was first and above all a collective gathering of the whole episcopal college with the Holy Spirit, a vertical coming together, and entire openness to an immense outpouring of the Holy Spirit, a kind of new Pentecost.[94]

The late Pope's trust and confidence in the episcopate[95] and their reciprocal appreciation was something to celebrate.[96] A positive way for the bishops to celebrate his life and legacy was to govern the Council in a pastoral manner, and to support Pope Paul.

3.4 Conclusion

In the 1950s, when Vatican II was called, the bishops exercised a limited governance role in the local and universal Church. While many bishops presumed the Council would, or could not defy the status quo, some bishops challenged this understanding, and assumed John XXIII's intended role of conciliar and ecclesiastical governance, exercised in a pastoral manner.[97] This discouraged the Roman curial domination of the Council's business and enabled the construction of a new and more expansive view of episcopal governance. The Pope and bishops

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[94] Leon-Joseph Cardinal Suenens, *A Man Sent From God* (Dublin: Veritas Publications, 1992), 10.
[95] Hebblethwaite comments on Pope John's approval of episcopal initiatives by Cardinals Suenens, Lercaro, and Montini, to ensure the smoother passage of the Council into a second session. Peter Hebblethwaite, "John XXIII," in *Modern Catholicism: Vatican II and After*, ed. Adrian Hastings (London/New York: SPCK/Oxford University Press, 1991), 32.
[96] Ibid., 11. Gerard Mannion speaks of the 'Roncalli Factor'. The Pope had a great capacity for pastoral sensitivity as a priest, shaped by his humble background. John XXIII was also shaped by living in a variety of 'cultures and multi-faith contexts and his experiences and perception of what happens when there is a suspension of the ethical and ugly realpolitik, such as in Vichy France. But, of equally vital importance were also his own studies and researches as a historian, especially of the Church, itself.' Gerard Mannion, "Pacem in Terris@50: Gifts Old and New for Church and Society in Recent Times," in *Human Dignity in World Affairs: Celebrating Pacem in Terris and its Legacy* (Georgetown University, Washington 2013), 1.
[97] Few *vota* indicated any support taken from Pope John's encouraging remarks. See: Fouilloux, "The Antepreparatory Phase: The Slow Emergence from Inertia (January, 1959 – October 1962)," 102.

now expected the Roman Curia to support their conciliar work, not to control it, as Pope John had given the bishops 'permission' to govern the Council in a pastoral manner. This encouraged the bishops to debate and direct Vatican II's theological and ecclesiological orientation and trajectory. The Curia's future function was to serve the Pope and bishops.[98]

This marked a dramatic change in the understanding of governance within the Church.[99] The bishops now assumed the governance role previously exercised by the Curia. They were assisted by their increasing use of episcopal conferences as meeting places to listen to one another and to the views of *periti*. The episcopal conferences helped to encourage the bishops to reflect on Pope John's invitation to govern the Council. The theological thinking of some *periti* was steeped in the ideas of *La Nouvelle Théologie* and the Liturgical Movement. *Periti* helped the bishops to identify within Pope John's call something very tradition but put aside. The call was to an older expression of governance, one identified by a return to the deep resources, of the scriptures, the Fathers and the liturgical treasures of the Church, which made up a more radical understanding of Church Tradition.

By the time the bishops were ready to engage with the *schemata* on the liturgy, the majority had a more profound and expansive understanding of their self-identity, of the conciliar task, and how it was to be carried out. They were bishops of the Church, chosen by the Holy Spirit to follow in the footsteps of the Apostles, with Peter, as their leader. Their task was to govern pastorally the local Church and to help govern the universal Church – in a way yet to be described.

Of the sixteen documents produced by Vatican II, three in particular helped develop the bishop's pastoral governing role: *Sacrosanctum concilium*, *Lumen gentium and Christus Dominus.* An analysis of these documents in the order in which they were promulgated will follow. While each addresses a particular

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[98] Faggioli, "Reform of the Curia at and After Vatican II," 25-26.
[99] Not all bishops welcomed such change. Lesley Hoppe was surprise in 1962 'that bishops differed with each other on significant matters […].I needed to learn about the issues facing the bishops.' Leslie Hoppe, J., "Vatican II: Some Reminiscences After Fifty Years," *New Theology Review* 25, no. 2 (2013), 59.

subject, they are each linked to the development of the theological integrity of the conciliar corpus: 'minimising one document minimises all documents.'[100]

Rush's hermeneutical principles calls for a three-fold reading: of the authors; of the text, and of the reader (reception).[101] Steps one and two will be utilised in the following three chapters. In each chapter a section entitled: 'Introduction' will discuss the process from *schemata* to conciliar text. A second section offers an analysis of the text; finally, a conclusion will be offered.

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[100] Massimo Faggioli, "*Sacrosanctum concilium* and the Meaning of Vatican II," *Theological Studies* 71, no. 2 (2010), 437. It is important to view the documents as a 'single corpus […] an expression of larger orientations and part of an integral and coherent whole.' John W. O'Malley, ""The Hermeneutic of Reform": A Historical Analysis," ibid.73, no. 3 (2012), 541.
[101] Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, xi.

Chapter 4: Constitution on the Sacred Liturgy (*Sacrosanctum concilium*)

4. Introduction

On 16 October, 1962, the bishops chose the schema *Sacrosanctum concilium* on the liturgy as the starting point for conciliar debate.[1] Its choice also reflected support for Pope John's call to give the Council a 'pastoral stamp.'[2] Debate encouraged a renewed comprehension of the liturgy and the Church's theological self-understanding,[3] utilising a subject about which the bishops had practical knowledge.[4] Liturgical discussion also presented an important opportunity for the bishops to articulate an extensive pastoral governance role of the liturgy at the earliest 'public' conciliar moment. Having redefined their role of liturgical governance, the bishops could use the Constitution as a springboard to a wider application of episcopal ecclesial governance.

In this chapter, Rush's hermeneutical methodology will assist in teasing out the dynamics behind the schema's development and help illuminate tensions which came to light during the Council. It will also consider the *Vota* and the Commissions charged with preparing the schemata, including the schema on the liturgy produced and used as the starting point for conciliar debate in 1962.

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[1] As it was one of the few which 'met the standards required of an ecumenical "*aggiornamento*" Council.' Mathijs Lamberigts, "The Liturgy Debate at Vatican II," *Questions Liturgiques/Studies in Liturgy* 95, no. 1-2 (2014), 57. Faggioli understands that as a starting point, *Sacrosanctum concilium* forms 'the key to upholding the theological integrity of all conciliar texts.' Faggioli, "*Sacrosanctum concilium* and the Meaning of Vatican II," 437.

[2] Annibale Bugnini, *The Reform of the Liturgy 1948–1975* (Collegeville, Mn.: Liturgical Press, 1990), 29.

[3] Faggioli, "*Sacrosanctum concilium* and the Meaning of Vatican II," 445.

[4] For a discussion of liturgical developments leading up to Vatican II see: Josef A. Jungmann, "Constitution on the Sacred Liturgy," in *Commentary on the Documents of Vatican II: Constitution on the Sacred Liturgy; Decree on the Instruments of Social Communication; Dogmatic Constitution on the Church; Decree on Eastern Catholic Churches*, ed. Herbert Vorgrimler (London/New York: Burns & Oates/Herder and Herder, 1967), 2-5.

4.1 The *Vota*

As the structures of the ante-preparatory conciliar period coalesced, the newly formed Ante-preparatory Commission prepared to consult the bishops concerning topics for discussion.[5] The Commission's meeting of June 30, 1959 suggested a general letter be sent by Cardinal Tardini to the bishops requesting their suggestions or *vota*.[6] Focus was to be primarily on pastoral concerns, including those relating to the liturgy.

About one quarter of the *vota* sent to Rome between 1959 and 1960 concerned the liturgy and its reform.[7] For some bishops, liturgical reform meant minor attention to the rubrics and use of the vernacular. This group of bishops constituted the majority, the 'canonical' reformers. The minority, identified as 'pastoral' liturgical reformers, were more forthright. They sought the return of the liturgy 'from the hands of the specialists [to] become once again a vital apostolic tool.'[8] This goal paralleled the fruits of the Liturgical Movement, as the liturgy was not just devotional. It was a powerful, ecclesial tool to aid society's spiritual rebirth.[9] The Eucharist at this time was subsumed by popular piety. Liturgical reform could deliver liturgical clarity especially to the Sunday Eucharistic assembly.[10] The liturgy was also a place where 'Anglicans, Orthodox and Catholics could meet in friendship,' an important papal, conciliar goal.[11]

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[5] Fouilloux, "The Antepreparatory Phase: The Slow Emergence from Inertia (January, 1959 – October 1962)," 92. He suggests the Commission were only ever asked for their views on this single point. Secretary of State Cardinal Tardini provided the Commission with information about how the Council was proceeding and with reports, which Fouilloux refers to as '*faits accomplis* [the Commission] were not given a real opportunity to raise objections.' ibid. The Council was being given a particular direction by the Pope via Tardini: it was not the continuation of Vatican I and was to be a pastoral rather than dogmatic council.

[6] Supported by the Pope. Ibid., 94. Citing: *Acta et documenta Concilio oecumenico Vaticano II apparando: Series Prima (antepraeparatoria)*, II/I, pp. x-xi.

[7] Reiner Kaczynski, "Towards the Reform of the Liturgy," in *History of Vatican II: The Mature Council, Second Period and Intersession, September 1963 - September 1964*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y: Orbis, 2000), 220.

[8] Fouilloux, "The Antepreparatory Phase: The Slow Emergence from Inertia (January, 1959 – October 1962)," 110.

[9] O'Malley, *What Happened at Vatican II*, 74.

[10] Jungmann, "Constitution on the Sacred Liturgy," 1.

[11] O'Malley, *What Happened at Vatican II*, 74.

4.2 The Central Preparatory Commission

The late Archbishop Denis Hurley of Durban (1915-2004) was appointed to the Central Preparatory Commission in 1960 and had first-hand experience of the mix of minority ('progressive') and majority ('conservative') bishops.[12] Those open to new ideas identified liturgical renewal as part of a general movement of Catholic renewal, of Pope John's *aggiornamento*. However, any updating witnessed by Hurley seemed to be overturned within the Commission by 'a hidden core group [...] composed exclusively of conservative members of the Roman Curia.'[13] Curial members would have a critical effect on the development of the schema.

4.2.1 The Preparatory Commission on the Liturgy

The Preparatory Commission on the Liturgy came into being on 6 June, 1960. Cardinal Gaetano Cicognani (1881-1962)[14] was appointed president with Fr. Annibale Bugnini (1912-1982) as secretary.[15] Its work was divided between thirteen sub-commissions.[16] Membership included those who lived outside of Rome, which encouraged local Church contributions, and refined its 'thinking, expression, and emphases.'[17]

The Commission included one bishop per sub-commission, who first met on 12 November, 1960.[18] Their second meeting in April, 1961 aimed to balance 'tradition

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[12] Paddy Kearney, *Guardian of the Light: Denis Hurley: Renewing the Church, Opposing Apartheid* (New York/London: Continuum, 2009), 109.

[13] Ibid., 110.

[14] His brother, Cardinal Amleto Giovanni Cicognani was Vatican Secretary of State (1961-69) and Dean of the College of Cardinals (1972-1973).

[15] Bugnini was: 'a gifted organiser and possessed of an open-minded, pastoral spirit. [...] able to imbue the discussions with the liberty of spirit recommended by Pope John XXIII.' Pierre-Marie Gy, "The Constitution in the Making," in *Liturgy: Renewal and Adaptation*, ed. Austin Flannery (Dublin: Scepter Books, 1968), 12.

[16] See: Bugnini, *The Reform of the Liturgy 1948–1975*, 15-16. He notes the inclusion of ten parish priests, 'various directors of pastoral liturgical centres, and twelve bishops ensured the presence of [a pastoral] outlook on the commission.' ibid., 15.

[17] Ibid., 18. John B. Mannion writing in *Commonweal* (28 June, 1962), described the work of *the North American Liturgical Week. Its theme, 'First, the Liturgy' imagined liturgical celebrations fifty years hence. See:* http://conciliaria.com/2012/08/first-the-liturgy/#more-1932. [Downloaded 20.11.2013]. This contains an image of the Eucharist celebrated by Rev. Frederick McManus facing the congregation.

[18] Gy comments that the bishops were not in charge. Gy, "The Constitution in the Making," 13. When members were originally chosen, 'French and German bishops and the directors of national liturgical centres, Trier and Paris, were at first excluded. However, it soon became obvious that their help was needed.' ibid., 12. He identified two criteria for membership: 1. effectiveness and competence; 2. Representation of the diverse nature of the Church.

and pastoral needs.'[19] The secretariat produced a working draft in August 1962. The third meeting of the Commission was held in January, 1962 and produced the final eight chapter schema, *De Sacra Liturgia*, containing 'conciliatory formulations without sacrificing substance, for all were convinced that the variety of opinions manifest at the microcosmic level in the preparatory commission would surface again in the Council.'[20]

The Commission viewed their draft as a springboard to positive conciliar debate. By February 1, 1962 the Commission's work was signed off by Cardinal Cicognani and the schema passed to the Council's secretariat. Four days later Cicognani died. His successor was named as Cardinal Arcadio Larraona (1887-1983),[21] 'a great jurist of conservative bent.'[22]

4.3 Elections to commissions and debates on the schema

As the Council began, the bishops elected members to the various commissions, including the Liturgy Commission.[23] Some were surprised at Cardinal Larraona's appointments of Curia members to roles within the Commission.[24] This was compounded when Larraona failed to appoint Cardinal Giacomo Lercaro (1891-1976), who was familiar with liturgical reform.[25] He then replaced Bugnini as secretary, viewing him as 'too progressive and considered him responsible for the spirit of the liturgy schema.'[26]

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[19] Bugnini, *The Reform of the Liturgy 1948–1975*, 18.

[20] Ibid., 21. Bugnini outlined two areas: Church music and Latin.

[21] February 22, 1962. The same day *Veterum sapientia* was published and fuelled debate within liturgical and Church music circles concerning the role of Latin and the development of liturgy in living languages.

[22] Bugnini, *The Reform of the Liturgy 1948–1975*, 25. O'Malley was more forthright: 'He provided a poor chairman, at least in part because he deliberately tried to obstruct action on a text that displeased him.' O'Malley, *What Happened at Vatican II*, 129.

[23] For the details see: Bugnini, *The Reform of the Liturgy 1948–1975*, 30-31.

[24] Mathijs Lamberigts, "The Liturgy Debate," in *History of Vatican II: Formation of the Council's Identity, First Period and Intersession, October 1962 - September 1963*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 1997), 107.

[25] Bugnini, *The Reform of the Liturgy 1948–1975*, 30.

[26] Lamberigts, "The Liturgy Debate," 107. Also Footnote 103. He was replaced by Fr. Ferdinando Antonelli, OFM. Other preparatory commissions continued to use their original secretaries. Lamberigts alludes to the complicity of Cardinal Ottaviani in Bugnini's removal. For Bugnini's comments see: Bugnini, *The Reform of the Liturgy 1948–1975*, 30. Footnote 34. O'Malley understands that many 'construed the incidents as further evidence of machinations by "the Curia" to control the council at any cost, by any means. Ultimately, [...] Antonelli turned out to be an even handed reporter of what Bugnini bequeathed to him.' O'Malley, *What Happened at Vatican II*, 130.

It was the intention of Cardinal Larraona that certain individuals be placed in key positions, even if they lacked the necessary expertise. This suggests that the schema on liturgical reform would be shaped by Larraona's personal views. As the debate on the liturgy established some of the major episcopal governance issues of the Council, it was important that conciliar episcopal discussions and not just the position of Larraona or the Roman Curia, shaped this schema and future iterations.

4.4 Discussing the schema: October - November, 1962

The bishops discussed the schema during the first conciliar session between October 22 and 13 November, 1962.[27] One important point concerned liturgical adaption and episcopal authority 'with regard to liturgical reform.'[28]

The bishops who opened the debate had experience in liturgical adaption: Cardinals Frings, Lercaro, Montini, Döpfner and Doi suggested the schema should meet the pastoral and ecumenical requirements set out by Pope John for the Council.[29] However, the Dutch Dominican theologian, Edward Schillebeeckx (1914-2009), a personal advisor rather than *peritus* to the Dutch Bishops,[30] reported that only four of twenty speakers who spoke during the first session (22 October), favoured the schema.[31] Schillebeeckx identified two themes: firstly, that liturgical renewal was unnecessary and secondly, that universal renewal was impossible because liturgical needs differed from country to country. Schillebeeckx's solution was to give principal competence to the 'episcopal conferences!'[32]

Schillebeeckx addressed these topics in a speech he prepared for Bishop Wilhelm Bekkers of 's-Hertogenbosch, a member of the Liturgical Commission. As Bishop Bekkers' speech was postponed three times, Schillebeeckx was able to refute the

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[27] For a précis, see: Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 95-139. For the duration of discussion see: O'Malley, *What Happened at Vatican II*, 136-137. Bugnini, *The Reform of the Liturgy 1948–1975*, 31. Lamberigts, "The Liturgy Debate," 107-117.
[28] "The Liturgy Debate," 112.
[29] Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 96.
[30] See: Borgman, "Introduction," XVIII.
[31] Schelkens lists the speakers: Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 7-8.
[32] Ibid., 8.

position outlined in the speech delivered by Cardinal Giuseppe Siri of Genoa,[33] more so as he followed Siri, who attacked the schema.[34] At this early stage of the Council, there was support for the schema on liturgical reform, with it a more expansive bishops' governance role in liturgical renewal, particularly utilising episcopal conferences. These variances came as a surprise to Gerrit Berkouwer, a Dutch Reform theologian, who could not believe that Catholic bishops were allowed to differ.[35]

Bugnini identifies the next stage in the schema's development as a '*via purgatia*'': while the Council received the schema positively, it requested changes. In its amended form it was then sent to the conciliar bishops.[36]

4.4.1 Episcopal governance of liturgical reform

One notable change to the scheme reflected the issue of governance. After a meeting of the Commission in Rome in July, 1963 Cardinal Larraona made certain emendations to the schema. These restricted the rights given in the schema to the bishops concerning the Ritual. The wording of article 63b (previously 47) was altered. 'These actions having been approved or confirmed by the Apostolic See (*actis a Sede Apostolica probatis seu confirmandis*) [replacing] the mere explanatory *seu* with *vel* and to have it read: *actis a Sede Apostolica confirmatis vel probatis*.'[37] The desired decentralisation of liturgical oversight was also threatened, as the single purpose of the Constitution was reframed to provide 'general norms and the "fundamental principles governing general liturgical reform (see John XXIII motu proprio *Rubricarum instructum* of July 25, 1960). The practical application to particular cases is to be left to the Holy See."'[38] Liturgical governance by the local bishop, i.e., any practical, local application, had disappeared: he would be advised on such matters by the Holy See.

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[33] Member of the Secretariat for Extraordinary Ecclesiastical Affairs and Conciliar Presidium.

[34] See: Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 11. For Bekkers' speech see: AS I/1, 441-445; For Siri's see: AS I/1, 440-441.

[35] Ibid., 11-12.

[36] See: *Sacrosanctum Oecumenicum Concilium Vaticanum Secundum*, *Schemata Constitutionum et Decretorum, de quibus disceptabitur in Concilii sessionibus*, *Series prima* (Vatican Polyglot Press, 1962), 155-201.

[37] Kaczynski, "Towards the Reform of the Liturgy," 191.

[38] Bugnini, *The Reform of the Liturgy 1948–1975*. See: AS I/1, 263.

These emendations were identified by Archbishop Paul Hallinan of Atlanta and others, and were reversed at the Commission's meeting on 30 September, 1963. Article 63b now read: '*actis a Sede Apostolica recognitis.*'[39] With this change, Pope Paul understood conciliar liturgical deliberations were approaching a happy conclusion.[40]

4.5 The governance of liturgical language

Another change in the schema concerned the governance of liturgical language. Cardinal Frings noted that in the earlier draft of the schema the right was reserved to the local episcopal conference, with the agreement of contiguous regional groups of bishops, 'to determine how and within what limits the vernacular would be introduced.'[41] The text read as follows:

> The episcopal conferences in individual regions, after consultation, when appropriate, with the bishops of neighbouring regions using the same languages, are to establish the limits and the way in which the vernacular language is to be admitted into the liturgy; their acts are to be reviewed by the Holy See (see canon 291).[42]

Earlier, the Antiochene Patriarch of the Melkites, His Beatitude Maximos IV Saigh (1878-1967), spoke about the use of Latin and its identification as *the* liturgical language.[43] Addressing the Council in French, he spoke about the Eastern Churches, which understood all languages to be liturgical and for whom the Latin language was dead: 'But the Church is living, and its language, the vehicle of the grace of the Holy Spirit, must also be living because it is intended for us human beings not for angels.'[44] While Latin was understood as the Roman Rite's official

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[39] Kaczynski, "Towards the Reform of the Liturgy," 191-192.
[40] Pope Paul's address: AS II/1, 193.
[41] Lamberigts, "The Liturgy Debate," 115.
[42] Ibid. See Fn. 45. In this text the word '*statuere'* meaning 'to establish' had been replaced by the phrase '*Sanctae Sedi proponere'* meaning 'propose to the Holy See'. See Fn. 46 for this reference and its origin in: *Schema constitutionis de Sacra Liturgia*, no. 24, 167; *AS* I/1, 272.
[43] Maximos IV Saigh represented the Oriental Church. He firmly opposed Roman centralism and was a great advocate of the local Church. 'At least once a year, he convened all his bishops in a Synod to look into all the problems of the community and the Church. He thus initiated a new Church style based on collegiality, which ensured for his Church a remarkable and streamlined cohesion.' Saba Shofany, *The Melkites at the Vatican Council II: Contribution of the Melkite Prelates to Vatican Council II* (Bloomington, Indiana: AuthorHouse, 2005), 222.
[44] O'Malley, *What Happened at Vatican II*, 136. His text was also reproduced in: *The Tablet*, 10 November, 1962.

language, episcopal conferences could *decide*, not merely propose necessary changes to the use of the vernacular. The Apostolic See's task was then to approve such changes.[45]

Bishops criticised the schema for other reasons, including Archbishop Vagnozzi, Apostolic Delegate to the United States. He considered the schema to be 'badly constructed and full of loose definitions'.[46] Mgr. Enrico Dante, papal Master of Ceremonies, considered it 'ill-conceived and too radical.'[47] He conceded that episcopal conferences could be involved, but only to the extent of making suggestion/proposals to the Apostolic See, who in turn could either accept or reject them. However, the next ten sessions saw the question of Latin in the liturgy becoming 'a sort of shibboleth',[48] dividing the bishops into two groups: the first wished to respond to the Pope's *aggiornamento* by reflecting on Tradition and addressing the modern world, while the second, a 'conservative' group headed by Cardinal Ottaviani, wished to constrain liturgical development to 'a western juridically-oriented tradition.'[49] One member of the second group, Cardinal James McIntyre of Los Angeles, when questioned by a bishop about his inflexibility towards liturgical reform retorted: 'You must be a reader of *Worship*!'[50]

In Rome, discussions about liturgical renewal and vernacular use were taking place while daily mass was celebrated not only in the Roman Rite but in other rites and languages. For example: on 10 November, 1962 the Council's 15th session opened with a mass celebrated by Auxiliary Bishop Francisco da Silva of Braga, Portugal using the Bragan Rite.[51] The celebration of mass at the 49th Session was celebrated by a bishop of the Coptic Catholic Church of Egypt.[52] Mass celebrated in

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[45] Ibid. His reference is to: AS I/1, 377-379, at 377-378.
[46] Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 98.
[47] Ibid.
[48] Ibid., 105.
[49] Ibid.
[50] Ibid. He viewed 'active participation of the faithful during the Mass is nothing but a distraction.' See: Keith F. Pecklers, *The Genius of the Roman Rite: On the Reception and Implementation of the New Missal* (Collegeville, Mn.: Liturgical Press, 2009), 30.
[51] Anderson, *Council Daybook, Vatican II: Sessions 1 & 2 (1962-3)*, 68.
[52] Jared Wicks, "Toward Renewing Catholic Ecclesiology and Validating Catholic Ecumenical Engagement," *Josephinum Journal of Theology* 19, no. 2 (2012), 2. Afterwards, a deacon placed a Book of the Gospels on the altar 'in view of all - during every assembly of the Council to express Christ's transcendent presidency over the Council.' ibid.

a variety of rites offered attending bishops some liturgical diversity, and emphasised the fact that the liturgy of the mass was already varied in rite and language.

The Italian Church historian, Alberto Melloni (1959 -) identified the fruitfulness of liturgical reform in action. For example, a concelebrated mass on 3 October, 1963 'seemed like a miracle to proponents of the liturgical movement, but no less important was the permission requested and granted that the lay auditors receive communion at the morning mass.'[53] Discussions of language and rite[54] now mixed with the issues of concelebration and Eucharistic reception. With this came a growing episcopal understanding that other rites together with the Roman Rite had merit.[55]

There was an irony concerning discussion on the use of Latin in the liturgy. As the medium of conciliar communication, the use of Latin was not successful because many bishops did not have a sufficient fluency or understanding of Latin. During debates they missed segments of speeches, especially when American bishops were speaking.[56] While Cardinals Spellman and McIntyre viewed Latin as the sole liturgical language, they 'pronounce it in such an Americanised fashion that no one understood them.'[57]

4.6 Episcopal conferences and decentralisation

During the debate on Episcopal conferences and decentralisation, Cardinal Raúl Silva Henriquez of Santiago addressed the great importance of giving authority to episcopal conferences, and urged 'that "the so-called exaggerated

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[53] Melloni, "The Beginning of the Second Period: The Great Debate on the Church," 56. He notes the influence on the ecclesiological debate of the fundamental relationship of the Eucharist and the Church, established during the debate on the liturgy.

[54] For Pope John: 'No beauty is comparable to the multiplicity of rites, languages, images and symbols in which the liturgy is so rich, [...]' Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 111. Footnote *.

[55] For further discussion of this see: Peter De Mey, "The Daily Eucharist at the Council as Stimulus and Test Case for Liturgical Reform," *Questions Liturgiques/Studies in Liturgy* 95, no. 1-2 (2014).

[56] Fesquet, *The Drama of Vatican II: The Ecumenical Council June, 1962 - December, 1965*, 53.

[57] Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 13. For Schillebeeckx: 'the worse one's spoken Latin the more one is inclined to favour it. It is a "*status symbol*" of priest-"intellectuals" as opposed to the "idiots"!! *Also among many South Americans.*' ibid. Emphasis original.

'centralisation' which weakens pastoral efforts be avoided.'"[58] He stated that if the decision-making capability of the local bishop or the episcopal conference was increased, it would impinge upon the existing authority of the Congregation of Rites. In the schema, episcopal conferences could only present suggestions, whose execution were 'in the hands of the Holy See.'[59] The Holy See, in the person of Cardinal Ottaviani, questioned these suggestions, querying the text's literary style and ambiguous doctrinal language.[60]

It was eventually discovered that the original changes required by the Central Commission had been redacted at the behest of Cardinal Larraona.[61] This 'centralising' change reduced any governance role played by the episcopal conference. When the bishops learned of this they choose to accept the earlier schema. Larraona's redactions confirmed Hurley's suspicions of the Roman Curia, i.e., that it sought to avoid change and deliberately flouted conciliar decisions, which envisaged the development of an episcopal governance role beyond what the Curia approved.

Bugnini reported the changes episcopal interventions and voting made to this text:

> No. 36: (c) Territorial ecclesiastical authorities need not "make proposals to the Holy See" but are "empowered to decide" (s*tatuere*). A condition is added, however: "The enactments of the competent authority are to be approved, that is confirmed by the Holy See" (= *actis ab Apostolica Sede probatis seu confirmatis*; the earlier text had read *recognitis* [examine/inspect]); the word *probatis* (approved) is further explained (*seu* = that is) by *confirmatis* (confirmed). The whole phrasing grants much more to the local authorities, since they now have the right to decide, while higher authority reserves only the right to examine and confirm decisions.[62]

[58] Lamberigts, "The Liturgy Debate," 115. Fn. 145. See: *AS* I/1, 324. See similar comments by Cardinal Tatsuo Doi of Tokyo (*AS* I/1, 323).

[59] Ibid., 115.

[60] O'Malley, *What Happened at Vatican II*, 137-138. Jungmann speaks about 'powerful groups of bishops who rejected every serious reform of the liturgy.' Jungmann, "Constitution on the Sacred Liturgy," 6.

[61] Bugnini identifies two secretariats working on the Constitution. One public, working with the central Commission; the other hidden, working according to directions given by Larraona. Larraona 'juggled the two, anxious that the game not be discovered.' Bugnini, *The Reform of the Liturgy 1948–1975*, 27.

[62] Ibid., 34.

The question as to whether the authority the episcopal conferences exercised was '*statuere*' or only '*proponere*' was answered: the phrase *seu confirmatis* clearly asserted 'that the decision lay with the bishops' conferences and Rome reserved the right of scrutinising and confirming it.'[63]

This clarified the role of the episcopal conferences in the translation of Latin texts into the vernacular, allowing them to adapt the liturgy 'to the unique character and traditions of various peoples.'[64] Archbishop Eugene D'Souza of Nagpur, India had spoken of his hopes to include local customs in new liturgical rites and to use the vernacular when celebrating the sacraments because they 'are completely lost on our people if they are in Latin.'[65] With other 'missionary' bishops and their conferences, he welcomed the introduction of the vernacular and the inculturation of the liturgy by 'non-western cultures.'[66]

4.7 The final vote

The final vote was positive: 2,147 in favour and 4 against,[67] which secured the principles of Vatican II's understanding of liturgical renewal.[68] This affirmative vote also stated clearly that it did not require submission 'to the Doctrinal Commission, as Ottaviani had asked, to have its orthodoxy ensured.'[69] John XXIII's pastoral vision helped identify common ground in the liturgical schema. It presented his *aggiornamento* for the Council in 'visible and incisive form',[70] as the bishops did not want the Council to lose itself in theological discussion.[71] They wished to give the Council a pastoral stamp; they saw in *Sacrosanctum concilium*

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[63] Jungmann, "Constitution on the Sacred Liturgy," 26. Approved: 2016 votes to 56.
[64] Lamberigts, "The Liturgy Debate," 113.
[65] Anderson, *Council Daybook, Vatican II: Sessions 1 & 2 (1962-3)*, 65-66.
[66] Lamberigts, "The Liturgy Debate," 113. Bishops from Indonesia, India and Japan 'insisted on the urgency of cultural adaption, including the use of the vernacular.' O'Malley, *What Happened at Vatican II*, 135-136.
[67] 4 December, 1963. *What Happened at Vatican II*, 138-139.
[68] Lamberigts, "The Liturgy Debate," 166.
[69] O'Malley, *What Happened at Vatican II*, 138. Earlier, in October, when Ottaviani's speech against changes to the mass etc. overran, Cardinal Alfrink's reminder was greeted by applause. '[I]nsulted and humiliated, [Ottaviani] boycotted the council for the next two weeks.' ibid.
[70] Jungmann, "Constitution on the Sacred Liturgy," 1.
[71] Joseph Ratzinger confirmed this. 'It was clear that the first four schemata, worked out by Cardinal Ottaviani's theological commission, would trigger real conflict, [...]. Thus the often repeated wish of the fathers polled before the Council: Begin with the question of liturgical reform.' Ratzinger, *Theological Highlights of Vatican II*, 28-29.

an implied 'acknowledgement of the maturity and importance' of this pastoral theme.[72]

4.8 The finished text

While the Constitution marked the Council's starting point it also marked its 'most undisputed common ground.'[73] It described the exercise of a liturgical episcopal governance role for the local and the universal Church. This included a more focussed, collegial relationship with the Apostolic See and a clear governance role for the episcopal conference.[74] As ecclesial unity did not depend on 'uniformity of rites',[75] liturgy could be shaped *locally* by the bishops and episcopal conference. This effectively nullified canon 1257 of the 1917 Code, which viewed decisions concerning the liturgy as the sole remit of the Apostolic See. An evolving role was also developing for the Roman Curia. Its task was now to support episcopal, conciliar debate. Attempts by its members to rewrite decisions made by the Council only hardened calls for curial reform. This related to calls for a general decentralisation of governance: from Rome to the local Church, from the Apostolic See to the diocesan bishop.

The promulgated document showed little variation from the original schema. This was testament to the impact of the Liturgical Movement on the thinking of the bishops in advance of the Council. *Sacrosanctum concilium* positioned the liturgy as a vital element of Church renewal[76] and, in turn, endorsed the work of the Liturgical Movement.[77] Of greater significance was the role *Sacrosanctum concilium* played as the Council's example, *par excellence*, of the exercise of the bishop's

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[72] Bugnini, *The Reform of the Liturgy 1948–1975*, 29.

[73] Faggioli, "*Sacrosanctum concilium* and the Meaning of Vatican II," 445. Faggioli comments further: '[T]he emphasis on collegiality and Church reform in the theological debate in the 1970s and 1980s contributed to an increasingly technical-liturgical reading of *Sacrosanctum concilium*. The indult from the Holy See of 1984 and the *motu proprio, Ecclesia Dei* (1988) granted permission to celebrate "the old liturgy," and, as such, this permission could not but weaken the theological impact of *Sacrosanctum concilium* on the living ecclesiology of Catholicism.' ibid., 444.

[74] Edward P. Hahnenberg, *A Concise Guide to the Documents of Vatican II* (Cincinnati, Ohio: St. Anthony Messenger Press, 2007), 15-16.

[75] Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 110-111.

[76] David R. Maines and Michael J. McCallion, *Transforming Catholicism: Liturgical Change in the Vatican II Church* (Lanham, MD.: Lexington Books, 2007), 49.

[77] Pecklers, *The Genius of the Roman Rite: On the Reception and Implementation of the New Missal*, 31.

liturgical governance, a vital pastoral dimension of ecclesial life, implemented by the bishop and his episcopal conference.

4.9 The Constitution *Sacrosanctum concilium*

Sacrosanctum concilium offered the bishop and the episcopal conference a greatly expanded role of governance with respect to liturgical development, breaking four hundred years of liturgical immutability and paralysis.[78]

4.9.1 The role of the local Bishop

A review and critique of the bishop's role reveals the comprehensive nature of episcopal governance exercised in a post-Vatican II Church.

(i) The bishop is responsible for the liturgical celebrations of the local Church (SC 26-32), ensuring their quality and the full and active participation by all present. The articles that follow highlight the communal rather than private celebration of the sacraments (SC 27); limiting the role of a minister, ordained or commissioned, to that 'which is their due' (SC 28); and, the recognition of wider liturgical ministry (servers, readers, choir members).

(ii) The bishop is responsible for devising ministerial training programmes (SC 29) and for ensuring the faithful's full liturgical participation (SC 14). He assists the faithful's fullest liturgical participation, supported by the faithful's on-going liturgical formation (SC 17; 18). These reforms require 'zealous pastors and catechists to teach people to swim in these new waters' (SC 30).[79] Positive change in these areas requires thoughtful episcopal leadership.

(iii) The Constitution's ecclesiology understands that the liturgical life of the local Church is episcopally centred and based around the cathedral Church (SC 41). The bishop's primary task is 'the celebration of the liturgy with his Church'[80] especially

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[78] Josef Andreas Jungmann, "A Great Gift of God to the Church," in *The Liturgy of Vatican II: A Symposium*, ed. William Baraúna and Jovian Lang (Chicago: Franciscan Herald Press, 1966), 66.
[79] Rita Ferrone, *Liturgy: Sacrosanctum Concilium*, Rediscovering Vatican II (New York: Paulist Press, 2007), 30.
[80] Jungmann, "Constitution on the Sacred Liturgy," 28.

the Eucharist. While he sets up parishes led by priests to act in his place (SC 42), their Sunday Eucharist becomes a focal point, reinforcing the bishop's presence. In the absence of a priest he encourages celebrations of the Word (SC 35 §4),[81] led by a deacon or lay person - a pastoral response suggested by two Argentine bishops,[82] requiring the preparation of suitable rites and the formation of suitable ministers.

(iv) General liturgical reform necessitated the reform of Eucharistic celebrations (SC 41) as public rather than private celebrations, allowing their 'full pastoral effect' (SC 9). While distribution of communion under both kinds is 'determined by the Apostolic See' (SC 55), the bishop may identify further occasions.[83] This emphasised the need 'to share in the whole Mass [the Liturgy of the Word and Eucharist], especially on Sundays and holy days' (SC 56). While concelebration was encouraged by the Council, the bishop decides its appropriateness (SC 57 §1.2), and oversees its local practice (SC 57 §2.1).[84]

4.9.2 Sacramental reform

The bishop is the centre of sacramental reform for the local and universal Church (SC 64-82). While sacramental reform was developed by him, with the episcopal conference in conjunction with the Apostolic See, the bishop's task was to adapt the Rites to the needs of the local Church. For example, the reform of the catechumenate for adults was introduced at his 'discretion' (SC 64). Bishops in 'mission countries' may incorporate local initiation customs, encouraging a more sensitive inculturation of Christian initiation (SC 65).

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[81] See: Eugene Duffy, "When the Christian Community Gathers on Sunday in the Absence of the Presbyter: What Happens?," in *50th International Eucharistic Congress. Selection from Concurrent Sessions. The Eucharist: Communion with Christ and with One Another* (Dublin, Ireland: Veritas Publications, 2013), 446-465. See also: Thomas R. Whelan, "Sunday Liturgies in the Absence of the Eucharist," in *Parishes in Transition*, ed. Eugene Duffy (Dublin: Columba Press, 2010), 179-207. Ray Moloney, "Sundays Without Priests," *The Furrow* 58, no. 7-8 (2007), 397-401.
[82] Bishops Kemerer and Devoto. See also Footnote 23. Jungmann, "Constitution on the Sacred Liturgy," 24-25.
[83] Jungmann identified the influence of episcopal submissions to the Council in these reforms. Ibid., 41.
[84] Jungmann notes the intervention of Maronite Bishop J. Khory. Addressing the governance role of the bishop he stated that 'permission of the bishop should actually be required not for concelebration but rather for private celebration.' ibid., 43.

Another development envisaged that the bishop's *Introduction* in a new rite of episcopal ordination would be spoken in the local language, and that all bishops present would participate in the laying on of hands (SC 76). This offered a clear sign of episcopal collegiality, and of the new bishop's reception into the College of Bishops. The bishop or episcopal conference was 'delegated the power to compose' their own rites, reflecting local custom and the needs of the faithful (SC 77). Moreover, this allowed the inculturation of the liturgy, led by the bishop.

Concerning the administration of the diocese, the bishop could delegate administrative and developmental tasks to his diocesan curia, including the newly formed Liturgy Commission, who would replicate his ideal of pastoral governance. *Christus Dominus* identified such groups and how the bishop worked through them when governing the local Church. A final example of sacramental reform concerned the Divine Office: the bishop may excuse its recitation (SC 97), permitting clerics who find Latin an obstacle, 'the use of a version in the local language' (SC 101 §1).[85]

4.9.3 Liturgical music, art and design

The bishop needs to be aware that participative liturgy requires the introduction of instruments other than the organ (SC 120).[86] He also needs to consider that items used in worship should have a 'noble beauty rather than mere sumptuousness' (SC 124). The diocesan commission can advise the bishop when making such decisions (SC 126), helping to instil in 'artists and craftspeople, […] the spirit of the liturgy' (SC 127). Groups of bishops, i.e., the episcopal conference, were 'given the power to adapt things to the needs and customs' (SC 128) of the local Church.[87]

4.9.4 The local bishop's governance role

Sacrosanctum concilium presented the local bishop with a wide range of governance tasks. A door had been firmly opened by the Council. It wished 'to

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[85] Referencing the guidelines outlines in n. 36.

[86] Jungmann notes that Article 119 addresses 'Europeanization [which] is to be overcome even in music and consideration is to be given to native musical forms.' Jungmann, "Constitution on the Sacred Liturgy," 79. Hence permission is given again for the inculturation of another aspect of the liturgy via an application to the missions.

[87] '[I]n keeping with article 22 of this constitution' (n.128).

affirm a spirit, open a road, and so it was on its guard against an attitude that could have consisted in making a few concessions and then hermetically sealing all doors.'[88] This encouraged the bishops to view liturgical reform – and theological development in general - as ongoing, as 'the Constitution did not set a balance, but created a movement.'[89] One area of concern did exist for the bishop and that was development of devotions.

4.10 Episcopal governance of devotions

One problematic area of episcopal governance concerned the development of devotions for the local Church (SC 12), and the governance role to be exercised by the Apostolic See (SC 13). The following paragraphs present the juxtaposed governance role of the bishop and the Apostolic See.

As a member of the Liturgy Commission, the Jesuit theologian, Josef Jungmann, unsuccessfully argued that bishops should govern the liturgy.[90] However, his argument was not wholly accepted and therefore the bishop's rights in this respect are unclear as may be seen later: 'The regulation of the liturgy depends solely on the authority of the Church, which resides with the Apostolic See and, within normal functioning of the law, with the bishop (SC 22 §1).' Kaczynski argues that when paragraph 13 describes episcopally organised devotions,[91] it does not identify them using the word 'liturgy'. It refers to them as:

> "devotions proper to particular Churches" [...] These are activities that are only in harmony with the liturgy and are located, as it were, between the liturgy and the "pious practices" or "exercises of devotion" (*pia exercitia*) that can also be done privately. Thus the bishops are denied the right to organise the liturgy proper.[92]

This lack of clarity is partly due to the early promulgation of the Constitution, reflecting a developing, conciliar understanding of the relationship of the universal

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[88] Cipriano Vagaggini, "Fundamental ideas of the Constitution," in *The Liturgy of Vatican II: A Symposium*, ed. Guilherme Baraúna (Chicago: Franciscan Herald, 1966), 95–129, at 119.
[89] See: Pierre-Marie Gy, "Situation historique de la Constitution," in *La Liturgie après Vatican II*, 111-26, at 122. Cited in: Faggioli, "*Sacrosanctum concilium* and the Meaning of Vatican II," 442.
[90] For example, if he organised a celebration for the Feast of Corpus Christi, it should be understood as a liturgy and not just a form of devotion. Jungmann, "Constitution on the Sacred Liturgy," 16.
[91] A word Kaczynski translates as 'celebrations'.
[92] Kaczynski, "Towards the Reform of the Liturgy," 233.

to the local Church. During debates the focus was on the universal Church; it was only later that the relationship between universal and local was more clearly developed. At the time, no bishops at the Council were prepared to designate all forms of public worship as strictly Church worship, i.e., as liturgy. However, the bishops 'were still subscribing to the idea that if liturgy were to be celebrated, the Apostolic See must necessarily intervene to organize it and approve the books for it.'[93]

Examples of centrally developed rather than locally developed liturgical renewal can deflect from the Constitution's impact in encouraging and shaping episcopal governance.[94] This fundamental disjunction underlying liturgical governance became increasingly problematic after the Council.

4.11 The role of the local bishop, together with the Episcopal Conference and Apostolic See in governance of the liturgy

While the local bishop has a clear liturgical governance role for the local Church, there are decisions and liturgical leadership tasks that require the involvement of others. *Sacrosanctum concilium* expected all bishops to be members of their episcopal conference. This in no way devolved liturgical governance wholly to the episcopal conference. It envisaged bishops in a creative tension, listening to and advising one another on liturgical renewal within the episcopal conference, and in turn, building a healthy relationship with the Apostolic See when its involvement was required. A brief overview of the text is offered below in an attempt to identify problems inherent in these relationships.

General Norms (SC 22–25) identify the bishop as supporting liturgical renewal for the universal as well as the local Church.[95] Liturgical regulation 'depends solely on

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[93] Ibid.

[94] Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium*, 2.

[95] Fredrick McManus identifies important elements of liturgical renewal: The new 'must harmonize with the best features of our liturgical inheritance. [...] as Pius XII and John XXIII have made clear: "The Catholic Church does not identify herself with any culture; her essence forbids this" (Pius XII).' Frederick R. McManus, "Liturgy," in *New Horizons in Catholic Thought: a Symposium*, ed. Philip Scharper, Barnabas Ahern, and Gerald Vann (London: Sheed and Ward, 1964), 22. McManus was 'a consultant to the Pontifical Preparatory Commission on Liturgy.' ibid., ix.

the authority of the Church, which resides with the Apostolic See and, within the normal functioning of the law, with the bishop' (SC 22 §1).

The next paragraph acts in juxtaposition and widens the liturgical regulatory framework. 'As a result of the power that the law has devolved on them, the regulation of the sphere of liturgy within fixed boundaries belongs also to the competent local episcopal groupings of various kinds that have been legally set up' (SC 22 §2). No longer is it the Apostolic See's exclusive prerogative to regulate the liturgy. The pre-conciliar understanding, reflected in the 1917 Code (canon 1257), has been revised.[96] Liturgical regulation and governance now resided with the Apostolic See, the bishop and episcopal conferences.[97] It was no longer '"alone the right of the Apostolic See to order the sacred liturgy and to approbate the liturgical books" (canon 1257), but "as laws may determine" - which have partly been laid down in the Constitution itself - also the right of the bishops and the "competent territorial bodies of bishops."'[98]

There now exists a tension between paragraphs SC 22 and 13 concerning the reforming role of the Apostolic See. Ratzinger outlined the significance of this change for the bishop and episcopal conferences.

> [F]rom the standpoint of canon law the bishops' conference as such did not exist before. They possessed no legislative power but were merely advisory. Now that they possess in their own right a definite legislative function, they appear as a new element in the Church's structure and form a kind of quasi-synodal agency between individual bishops and the pope. In this way a kind of continuing synodal element is built into the Church, and thereby the college of bishops assumes a new function. Perhaps one could say that this small paragraph, which for the first time assigns to the conferences of bishops their own canonical authority, has more significance for the theology of the episcopacy and for the long desired strengthening of episcopal power than anything in the *Constitution on the Church* itself. For in this case an accomplished fact is involved, and facts, as history teaches,

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[96] The canon reads: 'It belongs only to the Apostolic See to order sacred liturgy and to approve liturgical books.' Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 426. In the revised Code of Canon Law (1983) Canon 838 explicates the task of liturgical 'ordering and guidance', which is in the hands of both the Apostolic See and the diocesan bishop. With episcopal conferences, they have defined competences, which reflect *Sacrosanctum concilium*. See: "The Code of Canon Law: In English Translation," (London: Collins, 1983), 154-155.

[97] While episcopal conferences existed they were not defined in law. Jungmann, "Constitution on the Sacred Liturgy," 20.

[98] Ibid., 19.

carry more weight than pure doctrine. And so, without fanfare, and largely unnoticed by the public, the Council had produced a work fundamental in the renewal of ecclesiology.[99]

Paragraph 22 §3 reinforces this new understanding. One of the bishop's post-conciliar tasks is to revise existing liturgical books (SC 25), aided by experts, and in consultation with the worldwide episcopate. Consultation with other bishops via the episcopal conference will encourage the changes sought in paragraph 23, representing a preservation of a healthy tradition and simultaneously allowing space for genuine development. The bishop is able to express his pastoral responsibility and influence the outcomes most directly through liturgical reform, encouraging a speedier and more locally informed implementation.[100]

4.12 The role of episcopal conferences

At the time of the Council, episcopal conferences and their role in the regulation and reform of the liturgy were something of a novelty, as they represented a place between the pope and the bishop. Episcopal conferences sought to negotiate a balance 'between central authority and regional need. This – predictably – is a messy and vulnerable business, threatening always to malfunction or even to disintegrate when there are conflicts between the two.'[101]

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[99] Ratzinger, *Theological Highlights of Vatican II*, 34-35.

[100] Aidan Kavanagh views this approach as lacking an anthropological dimension. He sees a deficiency in n.31, which talks of the rites as having a 'rich simplicity [...] brief and lucid, avoiding pointless repetition; they should be intelligible to the people, and should in general not require much explanation.' He viewed this as 'an educationalist outlook, certainly not that of anyone knowing anything about ritual behaviour, which is rarely short, clear, free of repetition and usually transcends the comprehension of the whole congregation, including its officiants.' Unless this 'simplistic educationalist sense of rite' is challenged, both 'polyphony (repetition) and [...] ceremony' will disappear, giving rise to bland rites. Anthropology can help to develop an 'anthropology of ritual behaviour' with which to balance and enrich an investigation of the theological, historical and pastoral elements of the liturgy prior to redrawing ritual texts. This would be of significant help to bishops in 'mission' areas. This deficiency is particularly unfortunate, 'since the recent upsurge in calls for inculturation of Christianity, and in particular, liturgy in Africa and the Far East, carries with it anthropological issues not covered by the more usual theological, historical and pastoral approaches. One may anticipate fearsome mistakes being made without some well-learned anthropological lessons being attended to as inculturation proceeds.' Bishops in mission territories and bishops in general would benefit from an anthropological foundation with which to support the vision developed in Article 31 especially in the light of future calls for the inculturation of liturgical rites. Aidan Kavanagh, "Liturgy (*Sacrosanctum Concilium*)," in *Contemporary Catholic Theology: A Reader*, ed. Michael A. Hayes and Liam Gearon (Leominster: Gracewing, 1998), 449.

[101] Ferrone, *Liturgy: Sacrosanctum Concilium*, 39.

The Council's decision to involve episcopal conferences in liturgical governance was prudent. Episcopal conferences call for episcopal collegiality, which 'draws on some of the Church's best impulses of collaboration and charity among pastoral leaders.'[102] The collegial, collaborative impulse was important to uphold. SC 22 gives bishops the necessary authority to carry out liturgical reform and understands it as their governmental task.[103] Equally, good leadership suggested that liturgical development includes balanced input from episcopal conferences and the Apostolic See.

4.12.1 Vernacular use and the competency of the bishop to regulate it

SC 36 §3 states that liturgical language is the responsibility of the bishop, who consults with neighbouring bishops sharing a common language, to regulate 'whether and how the local language should be used' The bishops' decisions are 'examined or confirmed by the Apostolic See' ['*actis ab apostolica sede probatis seu confirmatis*'] (SC 36 §3).

According to Karl Rahner, a 'world Church'[104] required liturgy that was adaptable to local languages and well as customs and cultures. The local bishop was the best qualified and most competent to decide such matters.[105] Episcopal governance of the vernacular is a key responsibility in the overall governance of the liturgy, with the Apostolic See exercising the role of confirming episcopal decisions. This altered the canonical understanding that the Apostolic See was wholly competent in liturgical matters,[106] and asserted 'that the decision lay with the bishops' conference and Rome reserved the right of scrutinizing and confirming it.'[107] What criteria the Apostolic See might use to confirm such decisions was not identified.

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[102] Ibid.
[103] Ibid., 41. This reflected Pope John's opening speech to the Council. He wanted the Tradition to be identified and presented in a manner the present age could comprehend.
[104] Karl Rahner, "Basic Theological Interpretation of the Second Vatican Council," in *Theological Investigations: Concern for the Church*, ed. Paul Imhof (New York: The Crossroad Publishing Company, 1981), 78.
[105] Gaillardetz and Clifford, *Keys to the Council: Unlocking the Teaching of Vatican II*, 29.
[106] Nullifying canon 1257 of the 1917 Code noted earlier.
[107] Jungmann, "Constitution on the Sacred Liturgy," 26.

The following paragraph (SC 36 §4) identifies the episcopal conference as the competent authority when translating liturgical texts from Latin into the local language: 'The translation of the Latin text into the local language, for use in the liturgy, must be approved by the competent local Church authority mentioned above.'[108] This task was given by groups of episcopal conferences who share a common language to commissions; for example, the International Commission for English in the Liturgy (ICEL).[109] Bishops oversee its work and agree changes through their respective conferences. Translations were initially guided by the post conciliar document, *Comme le prévoit* (1969).[110]

It is the episcopal conference which *exercises* the authority to 'approve'[111] such translations. The paragraph (SC 36 §4) *does not* refer decisions made by the episcopal conference concerning the translation of Latin texts to the Apostolic See for further examination or confirmation. Some commentators, for example Edward Hahnenberg, seem to imply that the Apostolic See has the power of approval over these translations.[112] The role of the Apostolic See in the approval of translated texts became an increasingly contentious post- conciliar issue.

4.12.2 Sacramental reform entrusted to episcopal conferences

A revised edition of the Roman Book of Rites was mandated by the Council to be used as a prototype by bishops when preparing rites, 'adapted to the needs of individual areas, including those to do with language, as soon as possible' (SC 63b). Bishops were to come together in major language groups, utilising their episcopal conferences, to prepare their Book of Rites, which were to be introduced when '*reviewed*' by the Apostolic See, [*actis ab apostolica sede recognitis*]' (SC 63b). It was unclear what the review process entailed.

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[108] 36 §4 '*Conversio textus latini in linguam vernaculam in liturgia adhibenda, a competenti auctoritate ecclesiastica territoriali, de qua supra, **approbari** debet.*' Tanner, "Decrees of the Ecumenical Councils," 828.

[109] Founded in 1963, it served 11 English-speaking bishops' conferences and was associated with fifteen others. See: http://www.icelweb.org/whatis.htm for more information.

[110] See: Thomas C. O'Brien, ed. *Documents on the Liturgy, 1963-1979: Conciliar, Papal, and Curial Texts* (Collegeville, Mn.: Liturgical Press, 1982), 284-291.

[111] '*Approbo- are*: (1); assent, approve, favour, establish, confirm.' Leo F. Stelten, *Dictionary of Ecclesiastical Latin* (Peabody, Mass.: Hendrickson Publishers, 1995), 20.

[112] 'Following the Council, bishops' conferences translated the revised rites into local languages and customs (*always conditional on subsequent Vatican approval*).' Hahnenberg, *A Concise Guide to the Documents of Vatican II*, 23. Emphasis added.

The Constitution conveyed the confidence of the Council in the ability of the episcopal conference to address the task in a competent manner, which required review by the Apostolic See prior to use. The bishop or episcopal conference was also 'delegated the power to compose its own [rite of marriage], [...] matched to the customs of the places and of the peoples' (SC 77). This, again, reflected an increased inculturation of the liturgy to the needs of the local Church (SC 65).

4.12.3 Episcopal liturgical adaptation

Paragraphs 37–40 outlined the bishop's role in liturgical adaptation (SC 39) as some situations required 'a more radical adaption of the liturgy' (SC 40) and the local bishop is obviously the one best placed to carry out this task. He would consider 'which elements from the traditions and particular talents of individual peoples should (could) be brought into divine worship. 'Adaptations [...] adjudged useful or necessary should be proposed to the Apostolic See and introduced with its consent' (SC 40 §1).[113] The need for these adaptations empowered the bishop to relate liturgical renewal to mission, allowing the liturgy to become an aid for evangelisation.[114]Bishops of countries which use the same language are allowed a period of liturgical experimentation by the Apostolic See (SC 40 §2). As adaptation is onerous, the bishop should be assisted by experts (SC 40 §3).

Episcopal liturgical adaptation has been frequently exercised in the post-conciliar Church and played a significant part 'at various bishops' conferences in the generous extension of the sphere allotted to the vernacular languages in worship.'[115] Groups of bishops already have 'the power to adapt things to the needs and customs of their areas, in keeping with Article 22 of this constitution' (SC 128). This suggests that the governance of an individual bishop concerning

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[113] This task will be supported by a model of theological teaching and learning, which differs from more traditional juridical models. The future development of the communio model, 'the understanding of the Church as a communion of persons constituted by an interlocking web of mutual and reciprocal relationships [will be attractive as it] will highlight, in particular, the mutual and reciprocal relationships that obtain between the bishops and the whole Christian faithful.' Richard R. Gaillardetz, *By What Authority? A Primer on Scripture, the Magisterium, and the Sense of the Faithful* (Collegeville, Mn.: Liturgical Press, 2003), 114.
[114] Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium*, 41-41. See also: AA 10; AG 14; PO 4.
[115] Jungmann, "Constitution on the Sacred Liturgy," 28.

liturgical adaptation is less well regarded than when liturgical adaptation is carried out by the episcopal conference. While much of the liturgical reforms reflect the increasingly important role of the local Church, this point seems to diminish the bishop's role.

4.12.4 Developing liturgically oriented pastoral activity

The role of the episcopal conference was to establish 'a liturgical commission, helped by experts in liturgical theory, music, sacral art, and pastoral practice' (SC 44). The commission was to be assisted by an 'institute of pastoral liturgy' (SC 44).[116] The commission was to direct 'liturgically oriented pastoral activity [for the episcopal conference] and, whenever there is question of suggesting adaptations to the Apostolic See, to set in motion studies and the necessary experimentation' (SC 4). Such studies informed the conference's ability to make pastorally suitable, liturgical adaptations. These would be mirrored at the level of the local Church and overseen by the bishop.[117]

4.13 Conclusion

The bishops understood that liturgical reform was 'closely allied with the purposes of the Council itself.'[118] Reform also supported John XXIII's vision for episcopal governance in a pastoral key.[119] For the bishops, their governance of liturgical reform was not viewed solely through a lens constructed from previous papal liturgical documents.[120]

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[116] SC 44 is very affirmative with regard to inculturation and sends out a strong and daring signal to the bishops to take this task - including experimentation, very seriously

[117] Jungmann understands a congruity in this development with Pius XII's encyclical *Mediator Dei*. Jungmann, "Constitution on the Sacred Liturgy," 29. Faggioli recognises that for Andrea Grillo, Sacrosanctum concilium approaches the liturgy in a different way than previously. It 'will answer [to the encyclical *Mediator Dei*] with a change of style, not through a theoretical and definitive style, but narratively and, in a way "patristically."' Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium*, 43.

[118] Ferrone, *Liturgy: Sacrosanctum Concilium*, 19.

[119] For support of Pope John's vision see: Pamela E. J. Jackson, "Theology of the Liturgy," in *Vatican II: Renewal within Tradition*, ed. Matthew L. Lamb and Matthew Levering (Oxford/New York: Oxford University Press, 2008), 102. Similarly, for Jungmann it is the '*aggiornamento* which John XXIII had demanded of the Council [in] visible and incisive forms.' Jungmann, "Constitution on the Sacred Liturgy," 1.

[120] See: Jackson, "Theology of the Liturgy," 4-5.

As the Constitution no longer viewed liturgy as a matter of 'rigid conformity' (SC 37) but as 'substantial unity' (SC 38), this revitalised the understanding of the concepts of 'unity' and 'catholicity'.[121] This was significant for episcopal governance of the liturgy as it released the Church from Trent's vision of Roman centralisation. It created three levels at which governance can be exercised: the Apostolic See, the local bishop and the episcopal conference. Liturgical governance now depended in varying degrees on all three (CD 22).

The Constitution placed the bishop at the centre of the local Church as 'high priest of his flock' surrounded by the presbyterate and all the faithful, with the obligation to nurture its liturgical life 'by his example and by the use of all necessary means.'[122] From this position, the local bishop can see his people, and comprehend the pastoral nature of governance. As his spiritual leadership must be exemplary (SC 19), a Christian spiritual life, lived fully, will assist the bishop to better appreciate the pastoral dimension of his governance role.

The Constitution also presented the bishop as chief diocesan liturgist, governing the formation of his priests and people in the new liturgy. Local liturgical governance and development was 'best dealt with by episcopal conferences or even by diocesan bishops themselves [SC 15].'[123] This position came about precisely because the bishop was viewed as the shepherd of the local Church and its chief liturgist. He did not 'merely serve as a sort of district representative or middle manager'[124] but governed in his own right. Consequently, the position of the local Church was validated and advanced.

While the Constitution envisaged a continuing use of Latin, it also envisaged the development of living languages in the liturgy. Their use and development (SC 36 §3) was determined by the episcopal conference whose decisions were confirmed by the Apostolic See. Translations from Latin were wholly governed by the

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[121] Bugnini, *The Reform of the Liturgy 1948–1975*, 43.
[122] Ibid.
[123] Pecklers, *The Genius of the Roman Rite: On the Reception and Implementation of the New Missal*, 32.
[124] Ibid.

episcopal conferences (SC 36 §4). The production of new rites required the same organised, pastoral, governmental approach. ICEL's formation in 1963 suggested a good beginning. Translations of revised liturgical rites into local languages that were both accessible and meaningful represented a timely response to liturgical need, but required 'slow, persevering, intelligent, and prolonged effort.'[125] Again, this demanded concerted episcopal effort - individually and especially from the episcopal conferences - to govern the task through to completion without uncalled for intervention. This offered not just the bishops but the episcopal conferences a significant role and authority in the post conciliar Church.

John XXIII's notion of what was 'pastoral' had intuitively led the bishops to expand greatly their governance of the liturgy, and then to engage in the wider task of ecclesiological and theological reform over the following conciliar sessions. These reforms created 'a bridge towards a post-conciliar period of change and renewal'.[126]

As the Constitution authored 'a programmatic reshaping of virtually every aspect of Roman Catholic liturgy',[127] it redefined a far more expansive view of episcopal governance. This led one *peritus* to write: 'When the time comes for the debate on the episcopacy, and we hope that it will be after the debate on liturgy, we will have already a precedent and it will not be possible to go back.'[128] *Sacrosanctum concilium* had set the future conciliar agenda, opened doors that could not be shut, and placed the bishops at the forefront of conciliar debate and decision making.[129]

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[125] Bugnini, *The Reform of the Liturgy 1948–1975*, 48.
[126] Lamberigts and Kenis, *Vatican II and its Legacy*, viii.
[127] O'Malley, *What Happened at Vatican II*, 139.
[128] Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium*, 31. See footnote 45. Duprey also suggested that reform of the Roman Curia was ready to be discussed.
[129] Kaczynski, "Towards the Reform of the Liturgy," 223. Jungmann suggests: 'Many doors have been opened and new perspectives of liturgical possibility have been authorised.' Jungmann, "A Great Gift of God to the Church," 70.

Chapter 5: Dogmatic Constitution on the Church (*Lumen gentium*)

5. Introduction

Soon after the bishops approved *Sacrosanctum concilium* the schema *De Ecclesia* was presented.[1] It was to be the Council's centrepiece, shaping episcopal responses to other questions.[2] The development of the bishop's pastoral governance role would be achieved by investigating the relationship of the bishops and the pope, something the Council had begun to challenge. According to the theologian, Gérard Philips (1899-1972), 'Yesterday it was the Pope who was mainly in view, today the Pope is thought of as united to the bishops. Yesterday the bishop alone was considered, today all the bishops together.'[3]

It was clear that moving away from a view of governance centred on papal primacy explicated by the Roman Curia would not be an easy task. This was seen in the debate which continually measured any discussion of episcopal governance against a possible undermining of papal primacy. Rush's hermeneutical methodology will be used to tease out the dynamics behind the schema's development, dynamics which were eventually were encapsulated in the document *Lumen gentium,* and also help to highlight tensions within the promulgated text.

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[1] This was presented by Cardinal Ottaviani on 1 December, 1962. He stressed that is was prepared 'by learned theologians and had the pope's approval.' Michael Walsh, "The History of the Council," in *Modern Catholicism: Vatican II and After*, ed. Adrian Hastings (London/New York: SPCK/Oxford University Press, 1991), 29. Alberigo suggests the Pope found the harshness of some of these early schemata unacceptable. See: Peter Hebblethwaite, "John XXIII," ibid., 29-30.

[2] O'Malley, *What Happened at Vatican II*, 148.

[3] Gérard Philips, "History of the Constitution," in *Commentary on the Documents of Vatican II: Constitution on the Sacred Liturgy; Decree on the Instruments of Social Communication; Dogmatic Constitution on the Church; Decree on Eastern Catholic Churches*, ed. Herbert Vorgrimler (London/New York: Burns & Oates/Herder and Herder, 1967), 108.

5.1 The original schema

Discussion began on 1 December and lasted until 7 December and while the bishops were tired from their work at the Council,[4] many were of the opinion that the schema should be rejected.[5] It was accused of 'triumphalism, clericalism and juridicism.'[6] Its critics also recognised the themes of the manuals in the schema.[7] These emphasised 'the monarchical character of papal authority almost to the exclusion of all other authority.'[8] For other bishops, such as Bishop Bernacki, auxiliary of Gniezno, Poland, the schema undermined papal primacy. His response: change 'the Creed to read: "I believe in the Holy, Catholic, and *Petrine* Church [...].'[9] However, on 30 November, the Secretary General, Cardinal Felici, had informed the Council of Presidents that time would be spent receiving a feel for schema's character, which could guide future revisions. This suggests the schema had already been rejected – a judgement that the preparatory work was neither fit for purpose nor did it fit the Council's new found direction, dictated by the majority of bishops. Rejection also empowered the bishops to consider episcopal governance as something which did not undermine primacy, despite the claims of a vociferous minority.

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[4] See diary entry in: Giuseppe Ruggieri, "Beyond an Ecclesiology of Poliemics: The Debate on the Church," in *History of Vatican II: Formation of the Council's Identity, First Period and Intersession, October 1962 - September 1963*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y.: Orbis, 1997), 329. Fn. 387.

[5] For a discussion of these events, see: ibid., 328-340.

[6] Edmund Hill, *Ministry and Authority in the Catholic Church* (London: Geoffrey Chapman, 1988), 107. Bishop Huyghe makes these points positively. The schema 'should be penetrated by the spirit of the gospel, that is, it must reflect an open hearted and truly universal spirit embodied in every page of the text, desirous of winning new members for the ever growing body of the Church; a spirit, finally, of humble dedication, a spirit of service and not of self-assertive power.' Philips, "History of the Constitution," 109. For a discussion of this session see: Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 214-239.

[7] For example, Cardinal Louis Billot's *De Ecclesia Christi* (1898), published into the later 1950's. Gregory Baum suggests: 'The conflict at the Council is [...] between those who seek to renew the life of the Church by returning to the most authentic Catholic tradition of all ages and those who seek to consecrate as eternal Catholic wisdom, the theology of the manuals of the turn of the century, and the anti-modernist emphasis which penetrated them.' Gregory Baum, "A Triumph for Renewal," *Commonweal* 77, no. 17 (1963), 436.

[8] O'Malley, *What Happened at Vatican II*, 156.

[9] Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 217.

The critical reception of the scheme led, on 4 December, 1962, to the development of Suenens' general plan to revise the prepared schemata.[10] This afforded the Council's agenda a needed focus.[11] Therefore, without a vote, the schema was sent 'into a big repair shop, where it would be dismantled and whence, everybody expected, it would return looking different.'[12] Suenens' plan also included the formation of a Co-ordinating Commission. The Commission's formation supported a contemporary approach to contemporary episcopal and ecclesial needs, and reflected a maturing Council, whose first session had provided the bishops with conciliar experience.[13] In consequence, the bishops understood more clearly how to articulate their governance role.[14]

5.2 Pope Paul VI and *De Ecclesia*: the second draft

The newly elected Pope Paul VI's opening speech to the second session of the Council made a positive impact on the bishops by focussing on the role of the bishop.[15] Paul VI wished 'to pray, study, discuss WITH THEM during the Council.'[16] The Pontiff also stressed John XXIII's theme of *aggiornamento*, and the Council's pastoral nature.[17] Some bishops, however, also heard the subtle stressing of 'the lines of authority'.[18]

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[10] AS I/4, 222-227. Suenens understands it followed suggestions made concerning the Church '*ad intra/ad extra*' during the Pope's radio broadcast of 11 September, 1962. See: ADP I/I, 348-355, at 350. For a fuller exmpanation see p.114 of this thesis.

[11] It was supported a day later by Cardinal Montini, who also viewed *De Ecclesia* as 'inadequate.' See: AS I/4, 291-294.

[12] O'Malley, *What Happened at Vatican II*, 159.

[13] Colman O'Neill, "General Introduction," in *Vatican II: The Church Constitution*, ed. Austin Flannery (Dublin: Scepter Books, 1967), 12.

[14] A U.S. bishops' press panel commented: 'the proposal on the Church currently under discussion will deal with the nature of the authority of bishops in the theological aspects. But the legislative implementation of this discussion will be carried out in the proposal which will be submitted by the Council's Commission for Bishops and the Government of Dioceses. [...] the present proposal will not only deal with the authority of single bishops but also with the "collectivity" of bishops, such as can be found in councils and national conferences.' Anderson, *Council Daybook, Vatican II: Sessions 1 & 2 (1962-3)*, 104.

[15] AS II/1, 183-200. See also: Rynne, *The Third Session. The Debates and Decrees of Vatican Council II, September 14 to November 21, 1964*, 287-296. When he alternated singing verses of *Veni Creator* 'with the choir of bishops, it was Peter who was praying with the Twelve. It was no longer the sixteenth century temporal prince.' Congar, *My Journal of the Council*, 318.

[16] *My Journal of the Council*, 319. Capitalisation original. Congar viewed it as: 'A very vigorous, very structured speech which gives precise directives for the work of the Council.' ibid., 320.

[17] O'Malley, *What Happened at Vatican II*, 172.

[18] Rynne, *The Third Session. The Debates and Decrees of Vatican Council II, September 14 to November 21, 1964*, 269. In hindsight, this paralleled the forthcoming *Nota*. Their work also

The new schema was developed between the first and second conciliar sessions.[19] The second chapter entitled: 'The Episcopacy as the supreme grade of the sacrament of orders' discussed the hierarchical structure of the Church and its bishops, 'called to govern in accordance with a responsibility imposed by communion (collegiality) and using the gifts that the sacrament of their consecration bestows on them.'[20] As it concerned collegiality and addressed the sacramental nature of the episcopacy, this new schema was hotly debated.[21]

The question of the sacramentality of the episcopate also raised the issue of the authority given to the bishop on his ordination. While the bishop received the three *munera* at ordination, the third, governance, gave rise to many divergent views.

For O'Malley, the second draft avoided episcopal reliance on papal authority by emphasising that the bishop had 'inalienable authority by virtue of the sacrament.'[22] While their authority may only be exercised in communion with the pope, they were not 'vicars' of the Roman Pontiff. They were called bishops [*antistites*, overseers] because they exercise an authority properly their own and really governed the flocks that were theirs.'[23] The point was clear: the bishop was not the head of the local branch of the Roman Curia or Apostolic See. Likewise, the authority of the bishop, given at episcopal ordination, did not compromise the authority of the pope: episcopal authority strengthened papal authority.[24]

The schema divided episcopal opinion: some welcomed the schema as the foundation for a 'renewal of the episcopate in the life of the Church'[25] while for

including reading the Council's new 'Regulations' (AS II/1, 21-46) in languages other than Latin. See: O'Malley, *What Happened at Vatican II*, 173. See also: Congar, *My Journal of the Council*, 321.
[19] The new schema is found in: AS II/1, 215-281. Without specific chapters on the Magisterium and on obedience and authority in the Church. 30 September-31 October, 1963. See: O'Malley, *What Happened at Vatican II*, 161-165.
[20] Melloni, "The Beginning of the Second Period: The Great Debate on the Church," 46.
[21] See: AS II/2, 82-124 and 222-914, for the 119 addresses and 56 written interventions.
[22] O'Malley, *What Happened at Vatican II*, 176.
[23] AS III/1, 233-234. Ibid. Reference from Pope Leo XIII's encyclical letter *Satis cogitum*, 1896.
[24] *Pastor aeternus*, Chapter 3. Tanner, "Decrees of the Ecumenical Councils," 814.
[25] McNamara, "Introduction to the Constitution *Lumen Gentium*," 53.

others it smacked of Gallicanism in that it attacked the 'divinely established constitution of the Church and was tantamount to the denial of the primatial authority of the pope.'[26] Again, others viewed reference to *Pastor aeternus* as balancing the primacy and episcopal authority.

This debate encouraged discussion of the function of the College of Bishops. For Philips it was not about 'contrasting two rival powers, but of describing the organic union, unique in its kind, which linked the supreme head of the Church hierarchy with the bishops as a group.'[27] Divergent understandings led to the inclusion of divergent views being juxtaposed in the final text, with a view to securing the agreement of the opposing sides in the debate. This was a methodology favoured by Paul VI.[28] However, by this point in the debate, a new episcopal spirit was beginning to emerge: the bishops were saying 'No, calmly and without fear'[29] when faced with opposing views, even the views presented by curial cardinals. The debate also allowed the bishops to identify what sustained a more expansive, as opposed to a more restrictive, view of episcopal governance.

The second draft was clear as to the pastoral nature of being an apostle and how this was conferred sacramentally on their successors: 'When the bishops are admitted to the *Ordo episcopalis* at their consecration, they receive their pastoral charge as successors of the apostles.'[30] The first draft placed 'the question of the college of bishops at the end of the chapter and treated it as a sort of corollary to the declaration on the statutory powers of an ecumenical Council.'[31] Significantly, this was reversed in the second draft, allowing the role of the bishop in the local Church to be viewed more expansively.

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[26] Ibid.
[27] Philips, "History of the Constitution," 113.
[28] Philips identifies 'unanimity' as a goal of Pope Paul: 'A council does not in fact try to establish the view of the majority against that of the minority; by its very nature it must strive to bring about practical unanimity. Paul VI was tireless in his efforts to bring about this end, so persistent in fact that he evoked a psychologically understandable reaction among the large number who were favourably disposed to the draft. He could congratulate himself finally on having brought the opposition to consent, without their being oppressed by a sense of defeat.' ibid., 127.
[29] Melloni, "The Beginning of the Second Period: The Great Debate on the Church," 44.
[30] Philips, "History of the Constitution," 114.
[31] Ibid.

The schema 'avoided describing the role and activity of bishops as though they were isolated monarchs.'[32] By means of the sacrament of episcopal ordination, the bishop exercised a pastoral governance role for the local Church and shared in the governance of the universal Church. The bishop governed and helped his diocese face the world and integrate the local Church into the universal Church. This had the added benefit of promoting a more nuanced understanding of the local and the universal Church.[33] However, some bishops remained suspicious of episcopal collegiality, especially those who were used to 'thinking in juridical categories.'[34]

The debate on 4 October, 1963, was opened by Cardinals Spellman, Ruffini and Bacci, all opposed to episcopal collegiality. On 7 October any negative impressions were reversed as Cardinals Léger, König, Döpfner, Meyer, Alfrink, Lefebvre, Rugambwa and Maximos IV Saigh, who all spoke in favour of the revised second draft.

On 8 October Bishop Karmelo Zazinović of Krk requested Paul VI to establish 'a Council of bishops, to be invited periodically from all countries, [whose advice] would count more than all the dicasteries of the Holy See.'[35] This Council would assist the Pope in important, ecclesial matters. Zazinović's suggestion was supported by the Melkite Bishop, Ignatius Ghattas. This was the first, public suggestion of a Council comprising the Pope and bishops from around the world (not just the Curia), located above the Curia, whose role was to assist the Pope in making decisions for the universal Church.

Major concerns surfaced continuously about the authority of the College of Bishops as something that endangered papal primacy, even though Cardinal Siri and Bishop Florit[36] accepted the existence of collegiality. The debate on collegiality challenged

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[32] Melloni, "The Beginning of the Second Period: The Great Debate on the Church," 66.
[33] The inclusion of 'titular' bishops, bishops without a physical diocese over which to exercise their *munera*, may be problematic, especially if their governance role, exercised from within the Roman Curia, supersedes the governance role of the bishop of a local Church.
[34] Philips, "History of the Constitution," 114-115.
[35] O'Malley, *What Happened at Vatican II*, 67. Quoting from: AS II/2, 268. See: Congar, *My Journal of the Council*, 347-349. He notes Zazinović's comments (at 349) and those of other bishops.
[36] *My Journal of the Council*, 347-349.

Siri and Florit to think again and to think differently. After much debate, an unexpected move was proposed: to hold a straw poll.[37]

5.2.1 The 'Five Questions'

Five votes on five questions concerning collegiality and the diaconate were proposed by Council Moderators on 15 October, 1963.[38] The bishops were then asked to vote on whether or not the second draft of the schema declared:

1. that Episcopal consecration forms the highest degree of the sacrament of orders;
2. that every bishop legitimately consecrated, in union with the bishops and the Pope, who is the head and principle of their unity, is a member of the whole body of bishops;
3. that the body (*corpus*) or college of bishops succeeds to the college of the apostles in the charge of preaching the gospel, in sanctifying and in governing, and that this body, in union with its head, the Pope of Rome, and never without this head (whose primacy over all pastors and faithful remains whole and intact) possesses full and supreme authority in the universal Church;
4. that this authority belongs to the college of bishops itself in union with its head by divine law (*iure divino*);
5. that the draft should deal with the opportuneness of restoring the diaconate [...].[39]

The day prior to the vote being taken, an Italian newspaper published an article by Bishop Dino Staffa which attacked collegiality.[40] This was countered by a four page note written by the theologian Don Carlo Columbo in which he undermined some of Staffa's presuppositions, including the idea that collegiality set 'college and pontiff over against each other.'[41] The prompt circulation of Columbo's note reflected the concerns of some bishops that others may be swayed by Staffa's misleading comments in the forthcoming vote, which would be decided by a simple majority.

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[37] Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 34.

[38] AS II/3, 574-575. Discussed in detail in: Melloni, "The Beginning of the Second Period: The Great Debate on the Church," 74-105.

[39] Philips, "History of the Constitution," 115-116. See also: McNamara, "Introduction to the Constitution *Lumen Gentium*," 53-54. Philips also notes the addition of a number of footnotes to questions 3 and 4 were almost identical to the *Nota*. See: Philips, "History of the Constitution," 116-117.

[40] Written by Bishop Dino Staffa and published in an Ottaviani-influenced newspaper, *Il Quotidiano*. An earlier letter sent to the American bishops (25 July, 1964), is included in: Rynne, *The Third Session. The Debates and Decrees of Vatican Council II, September 14 to November 21, 1964*, 243.

[41] Melloni, "The Beginning of the Second Period: The Great Debate on the Church," 104.

Concerning the power exercised by a bishop, Columbo demonstrated 'how in asserting a power that is at once supreme and delegated, Staffa forgets the possibility of distinguishing between the origins of a power and the ways of exercising it.'[42] Turning to Staffa's reading of Kleutgen's 'Constitution on the Church' prepared for Vatican I, Columbo showed that Kleutgen

> uses "college of Apostles" and "body of bishops" in parallel and denies that the latter can exercise an authority in the Church "except *in union with* and at the *determination* of the Roman Pontiff." But in his explanatory report Kleutgen states that conciliar practice shows it to be "a most certain dogma of faith" that the bishops share "in the government and instruction of the universal Church."[43]

Voting confirmed that the majority of bishops affirmed this line of debate, though supportive votes decreased from Question One to Question Five.[44] Voting also demonstrated the ongoing, rugged debate over the nature of collegiality. [45]

However, over the weeks of debate the Council had resolved, in principle, this significant yet elusive matter concerning collegiality: Jesus did not appoint one man, Peter, as being wholly responsible for the entire Church; responsibility was given to the Apostles as a college, with Peter, nominated by Jesus, as its head. The pastoral mission of the Church, therefore, 'falls *collegially* to the college of bishops, united with their head, the Pope.'[46]

Some bishops praised the second draft for its more explicit pastoral tone, while others expressed difficulties concerning collegiality.[47] The straw poll on the Five

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[42] Ibid.

[43] Ibid. Emphasis original. Found in the 'Dossetti Archive, 126c' referred to in: ibid., 103-104. See: footnotes 423 and 424.

[44] Voting took place on 30 October. See: AS II/3, 670; See: ibid., 105. See: ibid.; Walsh, "The History of the Council," 40. See:

[45] A few dates after the vote, Cardinal Montini addressed the need to define episcopal collegiality. His intervention was interesting: as he - indirectly, represented the views of the pope, and it came shortly after publication of his weekly, diocesan newsletter. In this he criticised not only bishops who 'refused to follow the newer viewpoints, but he actually laid the blame for the Council's failure to make greater progress on those members of the Curia who had prevented cooperation between the various Commissions' during the preparatory phase. Rynne, *Letters from Vatican City: Vatican Council II (First Session) Background and Debates*, 227. Conciliar comments made at the 34th Congregation, 5 December, 1962.

[46] Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 35-36. Emphasis original.

[47] McNamara, "Introduction to the Constitution *Lumen Gentium*," 52.

Questions helped shape conciliar debate on the authority of bishops and the governance of the local Church[48] and developed a deeper understanding of the collegial nature of the episcopate. In dealing with the relationship of collegiality and papal primacy, the bishops were simultaneously answering questions concerning their authority 'in the very Council in which they were participating.'[49]

In the second draft the episcopal vocation, including governance, was described in terms of *service* rather than *power*. However, some bishops favoured a papal rather than episcopal exercise of governance. Maximos IV Saigh addressed this position when he spoke about an unwholesome insistence upon primacy 'in isolation from all others, as if there were only the Pope.'[50] Many senior members of the Roman Curia held this same position, believing their governance of the Church, and especially their influence over the bishops, would diminish if the new emphasis on a pastoral style of governance and collegiality were to take hold.

5.3 The third draft: the centrality of the episcopate

Paul VI, in his opening speech to the Council's third session, identified the question of the episcopate as central.[51] By developing a theology of the episcopate, Vatican II would complete the work of Vatican I on papal primacy. To move the debate along, arguments for and against collegiality would be debated and followed by a vote.

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[48] Ibid., 14. Complaints were also made that the text was prepared using the original draft of *De Ecclesia* and, therefore, 'took no account of the council's mind on collegiality, as expressed in the vote on the Five Questions.' ibid. Walsh places Ottaviani and the Curia at the heart of such problems. Walsh, "The History of the Council," 40. Suenens called for a vote to force the will of the majority on Ottaviani. While the vote did not happen, Ottaviani received instructions to accelerate the process. However, he 'let it be known [...] that his Theological Commission would regard such votes as guidelines only, not directives.' ibid.
[49] O'Malley, *What Happened at Vatican II*, 177.
[50] Fesquet, *The Drama of Vatican II: The Ecumenical Council June, 1962 - December, 1965*, 93. He addressed comments published in an Italian publication, proclaiming: 'The Pope is God on earth [...] on a level with God himself. [Maximos hoped] the Church will purify herself of such profane slag.' ibid.
[51] On 14 September, 1964. AS III/1, 140-151. The Pope was deeply engaged in the production of this draft, using what Jan Grootaers referred to as Paul VI's 'red pencil'. See: Jan Grootaers, "Le crayon rouge de Paul VI: Les interventions du pape dans le travail des commissions conciliaires," in *Les Commission conciliares a Vatican II*, ed. Mathijs Lamberigts, Claude Soetens, and Jan Grootaers (Leuven: Peeters, 1996).

Cardinal Frane Franić spoke against the sacramentality of episcopal ordination, episcopal collegiality, and the reinstatement of the permanent diaconate, while Cardinal König, Archbishop Pietro Parente and Bishop Luis Henríquez Jiménez, auxiliary in Caracas, Venezuela spoke in support.[52] Voting strongly supported both the sacramental nature of episcopal ordination and of collegiality, which in turn encouraged the Council to develop a richer understanding of episcopal governance at the level of the local Church.

5.3.1 The *Nota explicativa praevia*

The *Nota* (or preliminary explanatory note) was sent to the bishops two weeks before the final vote on the third draft.[53] While there had been consensus concerning the pope's primacy, leadership of the College of Bishops and supreme power, some bishops still viewed collegiality as a continuing threat to papal authority.[54] Even though the Doctrinal Commission claimed authorship, Cardinal Felici suggested the *Nota* came from 'higher authority', i.e., the Pope.[55] It was received with anger by the bishops for a number of reasons: they had no time to discuss the document; they felt they were being told what to do by the Pope; and, it was never voted upon by the Council. According to Ratzinger, it 'injected something of bitterness into the closing days of the session.'[56] While it met the needs of the few, at this stage of the Council, the majority of bishops who were present expected a more collegial mode of papal action.[57]

The *Nota* begins by offering an understanding of the word 'College', used frequently in *Lumen gentium*, but which is undefined. The *Nota* states clearly that the College of Bishops (*Nota*, 1) is *not* to be understood as a college in the 'strict

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[52] AS III/2, 193-218.
[53] Published in: AS III/8, 10-13. For a fuller discussion see: Luis Antonio G. Tagle, "The 'Black Week' of Vatican II (November 14-21, 1964)," in *History of Vatican II: Church as Communion: Third Period and Intersession, September 1964 - September 1965*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 2003).
[54] McAleese refers to these as 'primatialists'. McAleese, *Quo Vadis? Collegiality in the Code of Canon Law*, 70.
[55] The main author was Philips. For his account see: *Carnet conciliares de Mgr Gérard Philips secrétaire adjoint la Commission doctrinale*, ed. Karim Schelkens (Leuven: Peeters, 2006), 134-141.
[56] Ratzinger, *Theological Highlights of Vatican II*, 115.
[57] McBrien, "The Church (*Lumen gentium*)," 283.

juridical [Roman] meaning.'[58] The *Nota* claims that in terms of Church governance a 'College' has a fixed meaning, which requires equality of membership. However, the Theological Commission wished to communicate that the College of Bishops 'is not understood in its strict juridical meaning, that is as a group of equals who might hand over their power to their president, but as a stable group whose structure and authority must be deduced from revelation (*Nota* 1)'.

Örsy comments that the *Nota*, viewed as an informal intervention by Paul VI, supported each of the contending parties. 'The minority received an assurance that the statements on collegiality in *Lumen gentium* must not be interpreted in a way that would harm the traditional doctrine of primacy. The majority was reassured that the already approved texts of the constitution firmly upholding collegiality would not be touched.'[59] Örsy cautions those who think the bishops spoke clearly about collegiality. For him, they did not, indeed they did not agree on a definition. 'They did what other councils did: they intuited a mystery, stated its existence and left it to future generations to explain its depth and breadth.'[60]

While theologians such as Philips,[61] and Schillebeeckx,[62] understood that the *Nota* changed nothing, Ratzinger, while viewing its inclusion as 'fitting',[63] identified 'a

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[58] McAleese, *Quo Vadis? Collegiality in the Code of Canon Law*, 71.

[59] Ladislas Orsy, "A "Notion" of Collegiality," *The Jurist* 64 (2004), 36.

[60] Ibid., 37. Different positions on the *Nota* have been adopted by various theologians. Richard McBrien viewed it as: '"a theological qualification" of the doctrine of collegiality adopted in Chapter Three to safeguard the primacy and pastoral independence of the pope.' McBrien, "The Church (*Lumen gentium*)," 284. Komonchak understood that there was great concern 'lest the vindication of episcopal collegiality be considered to imply limits upon the sovereignty of the pope.' Joseph A. Komonchak, "The Church Universal as the Communion of Local Churches," *Concilium* 146, no. 6 (1981), 33. This concern was made explicit in the *Nota*. For Charles Moeller, the *Nota* did not change these concerns. Charles Moeller, "History of *Lumen Gentium's* Struture and Ideas," in *Vatican II: An Interfaith Appraisal*, ed. J. H. Miller (Notre Dame, In.: University of Notre Dame Press, 1966), 133-134. In the *Nota*, '[t]he reaffirmation of the primacy in precise juridical terms was done in order to reply to the difficulties raised by the minority, not in order to deny what was affirmed in the text of the Constitution.' See: ibid., 149 Fn. 148. Kevin McNamara suggested that the *Nota* presented interpretive norms 'usually applied in assessing the degree of authority to be attached to declarations of Councils.' McNamara, "Introduction to the Constitution *Lumen Gentium*," 70. Fesquet viewed the inclusion of the *Nota* as a 'clever compromise,' which certainly helped the schema to receive an almost unanimous final vote. Fesquet, *The Drama of Vatican II: The Ecumenical Council June, 1962 - December, 1965*, 523.

[61] See: O'Malley, *What Happened at Vatican II*, 244. Hubert Jedin understands the *Nota* did not alter 'the value of the statement of the text' but does 'strengthen adherence to the doctrine [..] on the primacy' but did not reduce the episcopal office or the College of Bishops. See: Jedin, Repgen, and Dolan, *History of the Church*, 131.

shift in emphasis in the collegiality question.'[64] He saw the *Nota* as somewhat ambiguous, capable of being read to weigh in favour of either primacy or collegiality.[65] Klaus Schatz identified an unwillingness 'to interpret the primacy consistently and exclusively as the centre of the college.' [66] This was clear in the *Nota* and in changes to the completed text of *Lumen gentium* 22 when compared to the 1963 draft. *Lumen gentium*, according to Schatz, rejected the idea that the college,

> could act without or against its head, and it was repeatedly emphasised that the college of bishops could only act and exercise its collegiality in union with the pope. What was new in the version of 1964 was an additional description of a "supra-collegial" position of the pope as Vicar of Christ. Whilst it appeared in the 1963 draft that the college of bishops, of course in union with the pope, was the proper agency of the highest authority in the Church, there now appears once more to be a twofold authority: on the one hand the college of bishops in union with its head, but on the other hand the head by itself. This was certainly strengthened still further by the *Nota explicativa praevia*, which repeatedly emphasises that the pope can exercise his office alone and "freely."[67]

The majority of bishops wondered what had happened *regarding the inclusion of the Nota,* especially as minority bishops viewed its inclusion as a victory and *the* reason to support the schema. For example, Archbishop Geraldo de Proença Sigaud of Diamantina, Brazil wrote on 17 November, 1963: 'The difficulties [with Chapter 3] have been dissipated by the Explanatory Note [...] and the anxiety of our consciences has now been laid to rest [...] The fathers of our group [the minority] will vote *placet*.'[68] This position would support Schatz's view that papal governance can be used to 'trump' episcopal governance whenever and wherever it is used.

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[62] 'I spent the rest of the evening [...], closely examining the *modi* for Chapter III. No! They do not alter the doctrine, any more that the *nota praevia*.' Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 682.

[63] Ratzinger, "Announcements and Prefatory Notes of Explanation," 297-305, at 297.

[64] *Theological Highlights of Vatican II*, 158-161, at 159. While he doubted the *Nota's* wisdom, and supported collegiality, Gerard Mannion regards this as an exception to a more cautious position, which leans closer to papal authority than episcopal collegiality, and became more apparent in his more recent thoughts as Cardinal and Pope. See: Lieven Boeve and Gerard Mannion, eds., *The Ratzinger Reader: Mapping a Theological Journey* (London/New York: T&T Clark International, 2010), 179-223.

[65] Ratzinger, *Theological Highlights of Vatican II*, 115.

[66] Schatz, *Papal Primacy: From its Origins to the Present*, 169-170.

[67] Ibid.

[68] Rynne, *The Third Session. The Debates and Decrees of Vatican Council II, September 14 to November 21, 1964*, 250-251. See footnote *.

Similarly, for Örsy, the *Nota* did not address the underlying intellectual conflicts; rather it pacified those who opposed collegiality by making possible different interpretations of *Lumen gentium*. The contest for the meaning of collegiality has continued since the Council's end. Örsy holds that the majority of the documents of the papal magisterium published since the Council have been inspired by the minority position, most clearly represented by Cardinal Ottaviani. 'Strong voices, however, throughout the universal Church, coming from bishops and theologians, consistently ask for a richer understanding of communion and an authentic practice of effective collegiality.'[69] Örsy's claims will be investigated in a later chapter.

Taken overall, the *Nota* may be viewed as an example of Paul VI balancing the concerns of an episcopal minority with his perceived need for unanimity.[70] These raised questions concerning the use the minority might make of the *Nota* after the Council, as many 'majority' bishops felt they had 'approved texts severely weakened by concessions granted in order to win over a defiant minority.'[71]

Ending a document with such an addendum as the *Nota* suggested a lack of empathy with the tenor of the preceding debate and the desire to minimise the teaching on collegiality and on the bishop's role of governance. Most certainly its inclusion raised questions about the Pope's concerns, the pressure he was under, and what else might follow.[72] For Luis Antonio Tagle, like Ratzinger, this period was a 'black week' and an 'event within an event' at the Council.[73]

5.3.2 Debate ends on the third draft and promulgation of *Lumen gentium*

The Constitution, *Lumen gentium*, on the collegial relationship of the pope and bishops and of the collegial nature of episcopal governance was promulgated on 21 November, 1964. McNamara viewed this as 'a complex and many-sided document:

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[69] Orsy, "A "Notion" of Collegiality," 36-37. Fn I.

[70] However reasonable, it also demonstrated that the Pope had yet to discover a means of exercising papal governance which would persuade 'the Eastern Churches that a union with Rome would not mean subjugation to a papal monarchy [...].' Ratzinger, *Theological Highlights of Vatican II*, 160.

[71] Tagle, "The 'Black Week' of Vatican II (November 14-21, 1964)," 387.

[72] Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 680.

[73] Tagle, "The 'Black Week' of Vatican II (November 14-21, 1964)," 387.

its pastoral purpose and the gradual, rather piecemeal way in which it came into being are reflected in its loose structure and not infrequent repetitions.'[74]

For some bishops, the notion of episcopal collegiality and episcopal conferences undermined the primatial role and authority of the pope.[75] For the vast majority, the doctrine offered an account of the governance role of the pope; of the pope with the bishops; of governance by the local bishop, and of governance by the episcopal conference. Concepts were repeated on a number of occasions which reassured some bishops, allowing them to vote *placet*. These repetitions represented moments of juxtaposition: the teaching of Vatican I concerning papal primacy being juxtaposed with the teaching of Vatican II about the bishop and his contemporary governance role[76]

No one expected such a positive vote on the 'Five Questions' on the development of episcopal collegiality. Schillebeeckx's succinct diary entry stated: 'The fruit has quickly ripened! The *structure of the Church* is neither monarchical, nor oligarchic, nor democratic. [...] Between *Pope* and the *bishops of the world*, a *divine*, mutual dependence (interdependence), a characteristic "personality" and an indefectible communio.'[77] It was a case of dependency and unity, with governance exercised in a pastoral manner by the pope with the bishops as a collegial service for the local and universal Church.

5.4 The Dogmatic Constitution on the Church *Lumen gentium*

Consideration will now be given to Chapter Three of *Lumen gentium* which deals with the nature of the episcopate. The bishops, as successors of the apostles, together with Peter's successor, govern the Church. Governance - one of the three offices or *munera*, is a primary episcopal role and one exercised with the pope.[78] Tillard spoke about the dogmatic reception of *Pastor aeternus* at Vatican II which

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[74] McNamara, "Introduction to the Constitution *Lumen Gentium*," 55.
[75] Gaillardetz and Clifford, *Keys to the Council: Unlocking the Teaching of Vatican II*, 122.
[76] These 'uncertainties, ambiguities, compromises, and juxtapositions' were present from the beginning of their discussions of the 2nd schema prepared by Philips. See: Melloni, "The Beginning of the Second Period: The Great Debate on the Church," 46.
[77] Schelkens, *The Council Notes of Edward Schillebeeckx 1962-1963*, 36. Emphasis original.
[78] See: Tillard, *The Bishop of Rome*, 34-50.

allows the teaching of both Vatican Councils to 'form a dialectical unity in which one should be interpreted by the other.'[79] Tillard's understanding will be followed closely, thereby allowing a general framework of understanding to be built. Opposing or challenging views of his reading of the document will also be considered.

5.4.1 The Bishop as successor of the Apostles and servant of the Church

According to *Lumen gentium*, Jesus built the Church on the apostles. In today's Church the bishops have succeeded the apostles and they shepherd the Church (LG 18).[80] They were established 'as a college or a permanent group' (LG 19). Through preaching the gospel, they gather the universal Church, which was 'built upon Peter their leader, the chief cornerstone being Christ Jesus himself' (LG 19).

Lumen gentium repeated the teaching of *Pastor aeternus,* i.e., it was by divine institution that with the pope, the bishops 'govern the house of the living God' (LG 18). They are 'shepherds of the Church' (LG 20); 'pontiffs' (LG 21); and episcopal 'wisdom and prudence directs and governs the people of the New Testament' (LG 21). Titles such as 'pontiff' or 'vicar of Christ'[81] are not unique to the pope. They are used equally to describe the bishop. Episcopal ministry, including that of the pope, is pastoral in nature, and shapes the role of governance. Governance is primarily a service to the community (LG 18),[82] and identified in his pastoral service (LG 20), which includes his governance of the local Church (LG 21).

5.4.2 The universal Church and the local Church: a new ecclesiology

Freed from the notion of a Church with one Vicar of Christ, the Church is now at liberty to view itself as 'a communion of all the local Churches: the universal Church arises from the communion of Churches.'[83] Eugenio Corecco regarded this

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[79] Ibid., 35.
[80] Reiterated in LG 20; 22; 23; 24; 25; 27; and 28.
[81] See footnote 2 in: Tanner, "Decrees of the Ecumenical Councils," 863.
[82] This motif is developed in the Constitution on the Church in the Modern World, *Gaudium et Spes* (1965). It conceived the role of the Church as one of service to society: GS 3; 93; 40-43 outline ecclesial, servant roles.
[83] Tillard, *The Bishop of Rome*, 37. This is not an uncontested position. See the debate between Cardinals Ratzinger and Kasper summarised in: Kilian McDonnell, "The Ratzinger/Kasper Debate: The Universal Church and Local Churches," *Theological Studies* 63, no. 2 (2002).

as 'the most important ecclesiological formula of the Council.'[84] It helped to ensure the relationship between the universal and local Churches was one of mutuality, that the local Church was not a subdivision 'of a pre-existent reality nor the one Church as a subsequent federation of individual Churches. The many Churches were not Churches except in the one Church; the one Church did not exist except in and out of the many Churches.'[85]

In turn, *Lumen gentium* placed the pope's role 'in a more adequate ecclesiological context by the emphasis placed upon the activities and ministries, particularly those of the bishop, by which the local Churches realised themselves and thus the universal Church.'[86]

Tillard utilised two texts to develop this concept: the first understood that the local Church, led by the bishop, represented the Church of Christ, '[t]ruly present in all the lawful local congregations of the faithful which, united to their shepherds, are themselves called Churches in the New Testament' (LG 26). The second text stated:

> A diocese is a section of the People of God entrusted to a bishop to be guided by him with the assistance of his clergy so that, loyal to its pastor and formed by him into one community in the Holy Spirit through the Gospel and the Eucharist, it constitutes one particular Church in which the one, holy, Catholic and apostolic Church of Christ is truly present and active (CD 11).

Consequently, the universal Church must be viewed as:

> the *communion* of local or particular Churches. The universal Church is not to be identified as a vast whole, divided into portions [dioceses] each one of which is imperfect on its own. It is borne from the *koinonia*, in each of which, through its celebration of a true Eucharist, *vere inest et operatur Una Sancta Catholica et Apostolica Christi Ecclesia* [the one, holy, Catholic and apostolic Church of Christ is truly present and active].[87]

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[84] Corecco, "Aspects of the Reception of Vatican II in the Code of Canon Law," 274.
[85] Joseph A. Komonchak, "Ecclesiology of Vatican II," *Origins* 28 (1999), 766.
[86] "The Church Universal as the Communion of Local Churches," 32.
[87] Tillard, *The Bishop of Rome*, 38.

This view represented a new ecclesiology, one which was faithful to Vatican I and began with 'a communion of local Churches entrusted to the *episkope* of bishops in communion with each other.'[88]

Komonchak argued against Tillard's optimism, suggesting that the Council did not provide a comprehensive enough theology of the local Church: '[I]n its discussions of a ministry to the universal Church, it did little more than juxtapose assertions about the College of Bishops to Vatican I's assertions about the papal primacy.'[89] Juxtaposed assertions were useful to create what Paul VI needed: unanimity expressed in a majority vote for the schema. They also represented fault lines later used to challenge the bishop's governance role of the local Church.

5.4.3 The episcopate as sacrament

Chapter Three's title, 'The hierarchical constitution of the Church and in particular the episcopate', helped to determine an enduring uncertainty concerning 'the ceremony that constituted bishops in their office.'[90] This new ecclesiology identified episcopal governance as sacramental in nature,[91] transmitted through episcopal ordination.[92] Indeed, the episcopate was itself a sacrament, whose purpose was to build the Church. As the Constitution stated: 'The individual bishops were to be seen as the visible source and foundation of unity in their own particular Churches, which were 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' (LG 23).

On the day of ordination, the bishop received all he needed to fulfil the office of bishop and is admitted to the College of Bishops. Without this, the universal

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[88] Ibid.

[89] Komonchak, "The Church Universal as the Communion of Local Churches," 32.

[90] O'Malley, *What Happened at Vatican II*, 175.

[91] For a brief, historical development of the sacramentality of the episcopate prior to Vatican II see: Moeller, "History of *Lumen Gentium's* Struture and Ideas," 131-133.

[92] Tillard, *The Bishop of Rome*, 36. Emphasis added. The relevant section of *Lumen gentium* 21 reads: 'In order to fulfil such exalted functions, the apostles were endowed by Christ with a special outpouring of the Holy Spirit coming upon them (cf. Act 1:8; 2:4; Jn 20:22-23), and, by the imposition of hands (cf. 1 Tim 4:14; 2 Tim 1:6-7), they pass on to their auxiliaries the gift of the spirit, which is transmitted down to our day through Episcopal consecration.' Tanner comments: 'Council of Trent, session 23, ch.3, quotes the words of Tm 1, 6-7, to show that Order is a true sacrament: D 959 (1766).' Tanner, "Decrees of the Ecumenical Councils," 865. Fn. 818.

Church 'could not be formed out of these local (or particular) Churches, for its constituent principles belong to the realm of the Spirit and the sacraments.'[93] At ordination, the bishop received an outpouring of the Holy Spirit, conferring the offices of sanctifying, teaching and governing, exercised only 'in hierarchical communion with the head of the college and its members' (LG 21). When exercising these offices the bishop imitated the role of teacher, shepherd and pontiff. This power, exercised in the name of Christ, is proper, ordinary and immediate, though ultimately controlled by supreme authority.[94]

5.4.4 The Pope shares the episcopal mission

Lumen gentium made it clear that the Pope shared in the mission of the bishops: Jesus entrusted the Apostles with the mission of the Church, placing 'Peter over the rest of the Apostles, and in him he instituted a perpetual and visible principle and foundation for the unity of faith and communion' (LG 18).[95] Having noted the importance of the doctrine of primacy, *Lumen gentium* goes on to state that the Council wished 'to profess before all and to declare the teaching concerning the bishops, the successors of the apostles, who along with the successors of Peter, the Vicar of Christ and visible head of the whole Church, govern the house of the living God (LG 18).'[96] The words 'along with' (LG 18), in particular, altered the shape of the relationship of bishop and pope. Rather than placing the pope at the top of a pyramid, he was now placed alongside the bishops. According to Tillard:

> The line no longer travels from the pope to the bishops, with the weight on the former at the expense of the latter; but from the bishops to the pope. A series of balancing statements [...] kept in the forefront of debate the fact that Christ had built his Church not on Peter only but on the apostles with Peter at their head. It is an essential distinction.[97]

From the above, came the understanding that the pope is no long the *only* 'vicar of Christ' (LG 18).[98] The bishops, together, govern the Church 'as vicars and legates of Christ' (LG 27). While the pope is the visible head of the Church, it is the 'bishops,

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[93] Tillard, *The Bishop of Rome*, 39.
[94] See: Bowers, "Episcopal Power of Governance in the Diocesan Church: From the 1917 Code of Canon Law to the Present Day," viii-ix.
[95] This repeats *Pastor aeternus*. See: Tanner, "Decrees of the Ecumenical Councils," 811-812.
[96] Ibid., 863.
[97] Tillard, *The Bishop of Rome*, 36-37.
[98] 'Peter's successor, the Vicar of Christ' (LG 18).

successors of the apostles, who together with Peter's successor, the vicar of Christ and the visible head of the Church, direct the house of the living God' (LG 18).

This supported the change to a new, shared model of governance: 'The picture no longer was that of a perfect hierarchical society, copied exactly from a civil monarchy.'[99] This new model was more inclusive, articulating a clearer, local and universal episcopal governance role. In turn, this had a bearing on an understanding of the role of the papacy.

5.5 Conclusion

Lumen gentium was a conciliar response to a changed and changing world. Consequently, it described the Church as the People of God, as a pilgrim people, and it focussed on the local Church and the role of the local bishop. It required a change in the way governance was exercised, expecting a greatly increased episcopal governance role, exercised in a pastoral manner. Its 'pastoral' exercise reminded the bishop of his place as a member of the faithful from among whom he was chosen to serve the People of God. *Lumen gentium* helped to stimulate a particularly 'fruitful change in Catholic self-understanding and pastoral practice.'[100] It was the task of the bishop to hear the call to pastoral governance and to live it in his everyday ministry.

Some scholars, however, questioned whether *Lumen gentium* has much to commend it. For them, 'it reads a little weakly.'[101] While juxtaposed statements helped Paul VI to build unanimity and allowed a majority of bishops to support the document, they ultimately weakened *Lumen gentium* and the enunciation of episcopal governance. The resultant ecclesiology built a 'fragile balance of power between pope and bishops.'[102] Such fragilities can be clearly identified throughout

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[99] Tillard, *The Bishop of Rome*, 37.

[100] McBrien, "The Church (*Lumen gentium*)," 292. He continued: 'One can only reflect on the document, some twenty-five years later, with a full measure of admiration and gratitude. The achievement of Vatican II should call us, however, not to some new form of progressive triumphalism a counterpart perhaps to the triumphalism generated by the Council of Trent, but to a higher sense of our own responsibility, individually and corporately, to living up to the ideals of the Church that *Lumen Gentium* so compellingly articulates.' ibid.

[101] Adrian Hastings, "The Key Texts," ibid., 60-61.

[102] Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium*, 45.

the pages of the Constitution and were later used by those who wished to restrict Vatican II's understanding of episcopal governance.

The fragility of the relationship between pope and bishops also related to the issue of episcopal collegiality. The Council brought a new understanding to episcopal collegiality with a significant, related problem, conciliar recognition of the supreme and full power of governance of the universal Church afforded to the College of Bishops. This was in stark contrast to the 1917 Code: it recognised that supreme power was exercised by the Pope and an ecumenical council. As Mary McAleese comments, Vatican II challenging this view when it described episcopal collegiality as sharing in universal Church governance with the pope. She notes: 'some have hailed this fresh insight into episcopal collegiality as Vatican II's finest achievement but there was little conciliar guidance and considerable disagreement since, on how it should be realised in practice.'[103]

Lumen gentium went some way to clarify the governance role of the pope, of the pope together with the bishops and of the individual bishop. It also began to address the problematic question of Roman curial reform. It was a 'rehearsal' of possibilities, especially when discussed from the point of view of episcopal collegiality. Time would tell whether *Lumen gentium* expressed the bishop's role of governance, especially of pastoral governance, robustly enough to survive post-conciliar redaction. Any future redaction would depend greatly on the depth of Roman curial reform, a task addressed, along with others, by the Council when debating the schemata which became *Christus Dominus*.

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[103] McAleese, *Quo Vadis? Collegiality in the Code of Canon Law*, 12-13.

Chapter 6: Decree on the Pastoral Office of Bishops in the Church (*Christus Dominus*)

6. Introduction

While *Sacrosanctum concilium* and Chapter 3 of *Lumen gentium* created the foundations for a renewed understanding of episcopal governance within the Church, the schema on the bishops was 'to derive applications for the concrete life of the Church.'[1] From this a new episcopal understanding would eventually surface, reasserting a more pastoral role for the bishop as had been emphasised at Trent. Vatican II challenged the bishops to connect to the world, their priests and the lay faithful.[2]

Rush's methodology will help uncover the dynamics behind the development of the various schemas which eventually became *Christus Dominus* and illuminate tensions within the promulgated text.

6.1 The schema 'On Bishops and the Government of Dioceses'

The Preparatory Commission for Bishops lead by Cardinal Paolo Marella (1895-1984), originally produced fourteen schemata.[3] The Theological Commission watched the Commission for Bishops closely and attacked any suggestions which

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[1] Jan Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," in *History of Vatican II: Formation of the Council's Identity, First Period and Intersession, October 1962 - September 1963*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.J./Leuven: Orbis/Peeters, 1997), 446-447.

[2] Congar, *My Journal of the Council*, 125-126. For: 29 October 1962.

[3] Klaus Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," in *Commentary on the Documents of Vatican II: Decree on Ecumenism; Decree on the Bishop's Pastoral Office in the Church; Decree on the Appropriate Renewal of the Religious Life; Decree on Priestly Formation*, ed. Herbert Vorgrimler (London/New York: Burns & Oates/Herder and Herder, 1968), 167. On 3 December, 1962 all fourteen were amalgamated into two schemas, entitled: 'On Bishops and the Government of Dioceses' and 'On the Pastoral Office of Bishops and on the Care of Souls.' Grootaers notes the contents of each schema. See: Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 447-448.

diminished Roman curial governance. For example, Archbishop Hurley expressed in his *Vota* that the Council should view the 'hierarchy as a college of bishops united to the Pope in the government [...] of the Church.'[4] His views were originally reflected in the original fourteen schemata but were diminished when they were amalgamated into two schemata. The process of amalgamation served to emphasise their centralising tendencies and ignored 'the proper role of the episcopate and the collegial aspects of this role.'[5] Furthermore, the Theological Commission wanted discussion of the schemata to follow the debate on *De Ecclesia* with the attached *Nota*.[6]

The task of producing the schema 'On Bishops and the Government of Dioceses' was undertaken by a Commission reduced in number,[7] chaired by Bishop Luigi Carli of Segni, Italy,[8] and consisting of members living in or close to Rome. Its draft was not seen by the full Commission because Marella postponed the Commission's plenary meetings from November, 1962 to November, 1963, suggesting he did not want to discommode members not living in Rome. However, the absent members were happy to attend, especially the French Bishops. Archbishop Pierre Veuillot of Paris sent a letter declaring such proceedings unacceptable.[9] Marella had further suggested that at their March, 1963 meeting the Central Commission expressed its satisfaction with the draft, which also viewed the Marella/Carli methodology as acceptable.

One adopted suggestion saw existing episcopal faculties presented in two Appendices to the schema, to avoid 'a lengthy discussion of the various powers in

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[4] Kearney, *Guardian of the Light: Denis Hurley: Renewing the Church, Opposing Apartheid*, 108.

[5] Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 448.

[6] For a note on the schema's preparation see: Joseph Famerée, "Bishops and Dioceses and the Communications Media (November 5-25, 1963)," in *History of Vatican II: The Mature Council, Second Period and Intersession, September 1963 - September 1964*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 2000), 118-120. See also footnotes 115 and 116.

[7] A 'Rump Commission'. See: Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 167.

[8] According to Grootaers, Carli 'opposed a renewal of ecclesiology in general and of the theology of the episcopate in particular.' Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 450.

[9] Ibid., 451. Footnote 228.

which the bishops were very interested.'[10] The Central Commission was of the understanding that other members of the Commission could table amendments before the draft was sent to the Council.[11] While the German theologian, Klaus Mörsdorf (1909-1987), viewed the actions of the Preparatory Commission for Bishops as unproblematic, The Belgian theologian, Jan Grootaers was astounded, asserting that it acted as if 'free to deal with the issue rather offhandedly.'[12] O'Malley referred to Marella's methodology as a 'curious failure in procedure.'[13] In reality, the behaviour of the Commission reflected restrictive Roman curial attitudes towards episcopal governance and Roman curial reform.

In its favour, the schema was shorter. The first appendices presented episcopal faculties in the order they appeared in the 1917 Code, representing a 'decentralisation of the ecclesiastical administration.'[14] The second focussed on improving the relationship of the Roman Curia and the bishops. However, as these related to Roman curial reform - constantly presented by the Curia as a papal responsibility, such reform was presented as beyond conciliar action. However, Mörsdorf suggests this draft expected some change. He comments:

> The unity of diocesan government was more or less secured by the proposal in the second chapter, [...]. The third chapter removed the intervention of papal nuncios and delegates and suggested a compromise solution of the main question whether and in how far the bishops' conference was to become a hierarchical institution with authority to make legally binding decisions within its boundaries. The solution proposed gave it at least a general authority in some important spheres.[15]

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[10] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 167. Pope Paul's apostolic letter *Pastorale munus* (1963) went some way to address this situation. It will be discussed in more detail below.
[11] The Central Commission approved the draft without recourse to the Commission for Bishops, sending the text to conciliar bishops on 22 April, 1963. Mörsdorf attributes time pressure rather than ill will to this decision. 'It had, in fact, no bearing on the further course on the discussions, because the basic question of the episcopate, which belonged to the Constitution on the Church, had not yet been treated.' ibid. At this point Mörsdorf offers an overview of the schema: 'On Bishops and the Government of Dioceses'; Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 118-119.
[12] "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 447. He comments on Marella's 'conciliar philosophy' in subsequent pages. See: ibid., 453-455.
[13] O'Malley, *What Happened at Vatican II*, 190.
[14] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 168.
[15] Ibid.

Mörsdorf and Grootaers are certainly at odds over the value of this schema. For Mörsdorf the episcopal governance role was clearer and more protected from curial intervention and the existence of a governmental role for the episcopal conference was clearer.[16] For Grootaers, the schema's development was compromised as many episcopal commission members entrusted with its development were prevented from contributing. Moreover, major themes, such as collegiality, already shaped by *Sacrosanctum concilium*, were not incorporated because the leaders of the Commission on Bishops were waiting for the conclusion of the debate on Chapter 3 of *De Ecclesia*. However, this decision did not reduce their ability to *restrict* any episcopal governance role, as will be seen.

6.1.2 The schema: 'On the Care of Souls'

On 29 November, 1963, the Co-ordinating Commission asked the Commission on Bishops to abbreviate this schema and, in accordance with the pastoral nature of the Council, to leave the legal questions to the imminent reform of the 1917 Code. On 23 January, 1964 the Co-ordinating Commission requested the basic principles of the schema 'On the Care of Souls' to be included in the renamed schema: 'On Bishops and Diocesan Government'. The former was then removed from the list of schemas.[17]

6.1.3 The schema 'On Bishops and Diocesan Government'

This combined and renamed schema was presented to the Council on 5 November, 1963. A few days before the start of discussions on this schema, the bishops were presented with the 'Five Questions' which clarify the bishops' understanding of collegiality during the debate of *De Ecclesia*.[18]

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[16] The unity of diocesan government was more or less secured by the proposal in the second chapter, which dealt with coadjutor and auxiliary bishops. The third chapter removed the intervention of papal nuncios and delegates and suggested a compromise solution of the main question whether and how far the bishops' conference was to become a hierarchical institution with authority to make legally binding decisions within its boundaries. The solution proposed gave it at least a general authority in some important spheres.

[17] 'Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 187.

[18] Discussion on this schema followed discussions on *De Ecclesia* and the vote on the '5 Questions' which took place on 30 October, 1963. This approved the principle of collegiality by a large majority, but had not yet legally established it. During discussion on *De Ecclesia* 'both friends and enemies of the principle of collegiality had fought each other for three weeks; now, when this principle was to be applied in practice by the schema on the bishops they had once more an opportunity to air their views. This was especially important for the defenders of the principle of

Marella and Carli presented the schema 'On Bishops and Diocesan Government'.[19] Marella emphasised its pastoral-juridical character, while Carli reviewed its history and described its substance.[20] The conciliar bishops became sceptical of the claims each made, especially in the light of comments made by those Commission members present at the Council but who were excluded from discussions during its preparation.[21] Carli suggested that as debate of the schema *De Ecclesia* was not completed, it could not be reported on: therefore, Commission members were not in a position to address the theological question of collegiality. Carli also suggested that it was schismatic or erroneous to state that Christ gave the bishop 'all the rights he needs for the good government of his diocese or that these rights cannot be changed or hindered by the pope.'[22]

6.1.4 Discussion and criticism of the schema

A vote taken after two sessions of debate agreed to continue discussing the schema.[23] Sustained criticisms presented to the Council from 'absent' Commission members continued to surprise the bishops, and helped the majority of bishops to understand the restrictive spirit in which the schema had been prepared. While it was criticised as being too juridical and not pastoral enough, like *Lumen gentium*, it

collegiality, because the schema under consideration was still based on different presuppositions.' ibid., 169. The debate took place between the 5 and 15 November, 1963.
[19] O'Malley comments: 'their interventions taken together were longer than the schema itself' O'Malley, *What Happened at Vatican II*, 189. The schema was 37 paragraphs in length.
[20] Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 120. He also used the opportunity to claim support for the schema from the Central Commission: 'We may doubt the objectivity of certain points in Msgr. Carli's historical view, especially when he claims that the CC at its session on March 26, 1963, heaped praise on the schema and said that it was not necessary to wait for discussions of the schema by the Commission for Bishops, planned for April 30, but that the draft of the decree should be printed immediately [...]' ibid., 120. Footnote 127.
[21] AS II/4, 435-445. See Grootaers' footnoted comments: ibid. 'Bishop Pablo Correa León of Cútuta, Columbia, one of the first speakers, began by complaining that more than half the members of the commission, of which he was a member, had no role in the elaboration of the schema. He was "even more" dismayed that, contrary to the "Regulations," Carli's report to the council did not reflect the thinking of those members.' O'Malley, *What Happened at Vatican II*, 190. See also: Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 122-124.
[22] "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 120. See also: Famerée, "Bishops and Dioceses and the Communications Media (November 5-25, 1963)," 120.
[23] On the 11 November, 1963 the question of its suitability was voted on. Votes were cast as follows: 1610 voted for; 477 voted against; there were 13 invalid votes. Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 169.

was also criticised for (i) not considering collegiality, (ii) for viewing the governance of bishops as granted by the Holy See and not derived from episcopal ordination and (iii) for not viewing episcopal conferences as a way of exercising collegiality. Including these points in the schema would have better reflected the bishop's discussion of *De Ecclesia* - about which the Commission for Bishops would have been well aware.

The bishops also sought expression in the schema of a clearer episcopal governance role for the universal Church. One suggestion was to repopulate the Roman Curia with bishops from the local churches. A second suggestion envisaged the creation of an international group of bishops to advise the pope – a proposition already made by Ghattas and others. However, the schema did not reflect these proposals. Paul VI's address to the Curia and to the Council concerning episcopal collaboration understood that both suggestions encouraged bishops to assist in the governance of the universal Church.[24] They also helped to decentralise 'some curial power *to the advantage* of the local episcopate.'[25] The Roman Curia, however, was not interested in devolving power to others.

6.1.5 A schema defended by the Curia

The schema had its defenders, including Cardinal Browne, who thought it premature to criticise the schema for not speaking on collegiality as this was still being investigated by the Doctrinal Commission, of which he was a Vice-President. In a speech partly authored by Ratzinger, Cardinal Frings spoke of his amazement at this suggestion. He understood that the Commissions were at the service of the Council and did not have the authority to judge a topic 'approved after long discussion by the Council Fathers', as if the Commissions had access to some truth hidden from everybody else. They were, rather, instruments of the Council,'[26] and their job was to carry out its will.

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[24] To the Curia on September 21, 1963; to the Council on September 29, 1963.
[25] Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 121-122. Emphasis added. He also suggested that the renewal of the Roman Curia was not a conciliar task but one reserved to the pope. This does beg the question: then with whom does the pope discuss this task and to whom does he turn to carry out the task? Was the Council not a good opportunity to speak of such matters for all concerned?
[26] O'Malley, *What Happened at Vatican II*, 192.

While Frings' speech reinforced John XXIII's position concerning the centrality and importance of episcopal governance, it gave rise to protests amongst curial members, especially Ottaviani, who admonished 'the moderators for exceeding their authority and reaffirming the competence of the Doctrinal Commission to deal, pretty much as it saw fit, with the collegiality issue.'[27] Ruffini also defended the schema's restrictive treatment of episcopal conferences: had they more than a consultative role they would endanger the pope's primacy of jurisdiction.[28] Grootaers understands that Browne's comment revealed the superiority felt by the Doctrinal Commission over the Council. Furthermore, Grootaers suggests that those who defended this schema opposed the moderators' authority and the Council's freedom to act as it saw fit.[29]

To preserve the important aspect of the new dynamic between the Pope and bishops, the Council focussed on the episcopal governance of the universal Church. It was not surprising that, by the end of the Council, bishops supported the creation of a discrete episcopal senate to assist the Pope in governing the universal Church.[30] Paul VI was willing to create a senate of mainly diocesan bishops to assist him when particular questions of Church government were raised. However, his understanding of the precise task of such a group was later to change.

6.1.6 Episcopal support for an episcopal governance role
During the debate on *Lumen gentium,* some bishops spoke forcefully in support of a clear episcopal governance role. Many of these same bishops now criticised the whole of this schema, based on its theological and historical presuppositions.[31] Maximos IV Saigh, for example, made an important point that the government of the diocese of Rome and the government of the universal Church were two different matters. In governing the universal Church, the pope, who succeeded

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[27] Ibid.
[28] Grootaers suggests that this agreement and that of Browne were typical arguments of the minority group at the Council. See: Grootaers, "The Drama Continues Between the Acts: The "Second Preparation" and it Opponents," 123-124.
[29] Ibid., 124.
[30] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 171.
[31] See: O'Malley, *What Happened at Vatican II*, 191.

Peter, should be joined by the bishops, who succeeded the apostles, 'not by the clerics of the city of Rome.'[32] Roman clerics, including residential cardinals and bishops who make up the Roman Curia, may support the pope, as bishop of Rome, in his governance of the Diocese of Rome.

Saigh suggested the formation of a 'sacred college of the universal Church consisting of the resident apostolic patriarchs [...] Cardinals who were resident archbishops and of bishops to be elected by the regional bishops' conferences.'[33] The college would meet often to discuss general questions rather than meeting at the pope's invitation. He envisaged a permanent institution to which all Roman dicasteries were subject.[34] Saigh viewed the schema's proposal to invite a few residential bishops to join curial departments as 'a small and timid reform - *une petite réforme timide* - of the central government of the Church.'[35]

These suggestions, based on similar structures in the Eastern Churches, offered a practical structural change to Church governance, and involved the local bishop. Unfortunately, they were ignored. Had they been enacted, a clearer, more inclusive and effective role of episcopal governance could have been shaped by *Christus Dominus*.

6.1.7 The principle of collegiality

Other bishops offered suggestions which supported the principle of collegiality. For the French bishops, collegiality was the primary focus of the schema and should therefore determine its structure.[36] Cardinal Richaud suggested that the starting point for the schema was the local Church: this led to a discussion of

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[32] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 172.
[33] Ibid.
[34] Ibid. It reflects Pope Francis' approach to governance in that he utilises a small 'kitchen cabinet' of eight Cardinals (C 8) with whom to discuss important matters of governance and policy.
[35] O'Malley, *What Happened at Vatican II*, 191.
[36] See the comments on 'The French Group' of bishops and their collegial style of preparation in: Hilari Raguer, "An Initial Profile of the Assembly," in *History of Vatican II: Formation of the Council's Identity, First Period and Intersession, October 1962 - September 1963*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 1997), 215-216.

episcopal relationships with the Apostolic See.[37] However, Paul VI's announcement at the beginning of the final session concerning the formation of the Synod of Bishops was pivotal in shaping the direction of future cooperation between the bishops and the Pope.

Proposals concerning relations between the bishops, the Curia, and episcopal conferences were well supported. While for some, waiting for *De Ecclesia* to provide clarity appeared to be the best policy, those who opposed collegiality did so because, as far as they were concerned, nothing was settled. Current discussions were premature: some, in particular Cardinal Ottaviani and his supporters, suggested that those who advocated *De Ecclesia* wished to limit papal primacy.

6.1.8 The diocesan bishop and his governance role in the schema

The schema outlined that a diocesan bishop was to have the power necessary for a proper exercise of his ordinary power, save that reserved to the pope. This meant that the power the bishop already had would be increased and presented as a list of faculties noted in Appendix 1of the schema.

This change represented a significant increase in the bishop's power of governance. However, as it was expressed using the language of faculties - of authorisations to govern in certain circumstances delegated to the bishop by the Pope, episcopal governance was still viewed as a privilege. This did not meet the approval of many conciliar bishops who felt such an expression was somewhat condescending, especially in light of the governance role of bishops outlined earlier in *Sacrosanctum concilium*.

The German bishops argued against this line of thinking: the local bishop should have the faculties due to him as an Ordinary. In this way he could exercise the ordinary power given him on his ordination as a bishop.[38] Governance was not and should not be viewed as a privilege. The appendix of faculties was symptomatic of

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[37] Even Archbishop Marcel Lefebvre understood 'that such a council would be no novelty, since the Pope already had a council in the College of Cardinals.' Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 173.
[38] Ibid., 175.

a tendency of ecclesial centralisation 'specifically on the Holy Office.'[39] Frings suggested this was the reverse of what was needed: any appendix should contain a list of *reserved* faculties. His proposal reversed 'the basic assumption on which the schema was based: [that] the Holy See is the source of all authority in the Church.'[40]

It would seem that episcopal debate concerning the schema, of episcopal governance of the local Church, and the bishops' assistance in the governance of the universal Church was having some effect.[41] At the papal audience on 7 November, 1963, Paul VI requested the moderators to supply him with a list of faculties which could be immediately sanctioned 'as belonging to bishops and no longer given to them for a certain period by the Bishop of Rome.'[42] At the same time Congar noted: 'The Curia people (Ottaviani, Browne, Staffa, Carli ...) are doing EVERYTHING to prevent the episcopate from recovering the rights which have been stolen from it.'[43]

6.1.9 *Pastorale munus*: a measure of episcopal governance returned

On 30 November, Paul VI published *motu proprio* his apostolic letter *Pastorale munus*,[44] granting forty faculties to diocesan bishops. Mörsdorf viewed this as 'the first fruits of [episcopal] efforts to restore the episcopal rights',[45] though they involve only minor governance matters.[46] Soetens questioned the manner in which these faculties were granted: was *Pastorale munus* a concession, restitution or an acknowledgement? Suenens insisted that the language used should reflect not a

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[39] O'Malley, *What Happened at Vatican II*, 192.
[40] Ibid.
[41] Claude Soetens, "The Ecumenical Commitment of the Catholic Church," in *History of Vatican II: The Mature Council, Second Period and Intersession, September 1963 - September 1964*, ed. Giuseppe Alberigo and Joseph A. Komonchak (Maryknoll, N.Y./Leuven: Orbis/Peeters, 2000), 320.
[42] Ibid., 319.
[43] Congar, *My Journal of the Council*, 425. Capitalisation original.
[44] See: AAS 56 (1964), 5-12. It was divided into two parts. The first dealt with the new faculties given to the diocesan bishops. These may only be delegated in specific circumstances and to specific persons. They represent a 'half-way house' in the development of the episcopal governance role. The second part enumerates exceptional faculties, granted to residential and titular bishops. Eight 'privileges' were also returned to residential and titular bishops.
[45] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 184.
[46] Soetens views them as 'of minor interest.' Soetens, "The Ecumenical Commitment of the Catholic Church," 321. Mörsdorf notes that the work of the Congregation of the Sacraments almost halved as a result. Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 184.

concession but use the phrase 'granted by the law itself (*ipso iure recognoscendi*).'[47]

This was not reflected in its Introduction:

> [T]he Holy See has been always intently and readily responsive to the requests of bishops bearing on their pastoral concern. The Holy See has not only used its peculiar authority and jurisdiction to increase the number of diocesan bishops, but has also *bestowed* on them the special faculties and privileges required to meet current needs effectively.
>
> As the second session of Vatican Council II draws to a close, out of a strong desire to assure the conciliar Fathers of our high esteem for all our brothers in the episcopate, we have decided to accede gladly to the bishops' petitions and to make those *concessions* to them that will highlight their episcopal dignity and at the same time make their pastoral charge more effective and unencumbered. This we believe to be eminently consistent with our own office as universal pastor.[48]

Killian McDonnell commented that the text moved between speaking about 'concession' to 'belonging by law', the latter echoing Suenens' suggestion.[49] These suggestions were clearly spoken of as *concessions* bestowed by the jurisdiction of the Holy See.

However, one must examine what such language actually represents: is *Pastorale munus*, avoiding a decision 'before the adoption of the schemas on the Church and on the bishops, or a difficulty in acknowledging longstanding mistakes as well as rights that do not emanate from the Roman See?'[50] While unclear, *Pastorale munus* did not reflect current conciliar debate and episcopal thinking.

For Congar, Paul VI was making concessions: '"*concedimus*" [we grant], "*impertimur*" [we impart], whereas in reality, all he was doing was giving back to the bishops a part of what had been stolen from them over the centuries.'[51] In Congar's view, at this sensitive point in conciliar debate, a more appropriate approach by Paul VI would have been to discuss these matters with the bishops before he published *Pastorale munus.* In this way, all the bishops of the Council

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[47] Soetens, "The Ecumenical Commitment of the Catholic Church," 321.
[48] See: http://www.papalencyclicals.net/Paul06/pasmunus.htm. [Downloaded 15.10.2013]. Emphasis added.
[49] McDonnell, "The Ratzinger/Kasper Debate: The Universal Church and Local Churches," 717. See: his fn. 30.
[50] Soetens, "The Ecumenical Commitment of the Catholic Church," 321.
[51] Congar, *My Journal of the Council*, 465.

would have understood that episcopal governance was a necessary dimension of conciliar deliberation, which the schema needed to address for both the local and universal Church.

6.1.10 Debating episcopal conferences

There was much conciliar debate around the theological understanding and basis of episcopal conferences, which existed well before Vatican II.[52] Giorgio Feliciani spoke of episcopal conferences as being in existence 'before they had yet been established.' [53] These conferences originated in the mid-eighteenth century when societal changes discussed earlier required 'systematic consultation among the bishops of the same nation if they were to take common [innovative evangelistic] initiatives.'[54] Komonchak dates the conferences to a meeting of the Belgium bishops in 1830, which 'established a model of episcopal consultation and collaboration'.[55] This model was adopted by the episcopates of many countries throughout the nineteenth century.[56] Regulation began under Pope Pius X, and the Code of Canon Law (1917), which created a mandatory obligation to meet on a consultative basis.[57] These meetings were eventually given a national character. [58]

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[52] Important studies on Episcopal Conferences include: Hervé Legrand, Julio Manzanares, and Antonio Garciá y Garciá, eds., *The Nature and Future of Episcopal Conferences* (Washington, D.C.: The Catholic University of America Press, , 1988). Thomas J. Reese, ed. *Episcopal Conferences: Historical, Canonical and Theological Studies* (Washington D.C.: Georgetown University Press, 1989). Both develop a much older understanding of episcopal cooperation. For example: in ecumenical councils, particular councils and in synodal activities evidenced in scripture, in the writings of the Fathers and in the documents and canons of ecumenical and particular councils. For the definitive history of the emergence and development of episcopal conferences see: Giorgio Feliciani, *Le conferenze episcopali* (Bologna: Società Editrice Il Mulino, 1974).

[53] Georgio Feliciani, "Episcopal Conferences from Vatican II to the 1983 Code," in *The Nature and Future of Episcopal Conferences*, ed. Hervé Legrand, Julio Manzanares, and Antonio Garciá y Garciá (Washington, D.C.: The Catholic University of America Press, , 1988), 11.

[54] Ibid.

[55] Komonchak, "Introduction: Episcopal Conferences under Criticism," 2.

[56] In North America, for example, the conference took time to consolidate: 'Prior to the twentieth century, the Roman Catholic Church in America lacked a unified voice to represent it in national and international affairs. The bishops met in councils in 1852, 1866, and 1884 to consider and address common problems but such meetings were infrequent.' See: http://archives.lib.cua.edu/findingaid/ncwcogs.cfm under 'Historical Note'. [Downloaded 13.8.2014].

[57] See canons 292; 1507 § 1; 1909 §1.

[58] See, for example, the work of the Australian episcopal conference, founded in 1940. Terence McGoldrick, "Episcopal Conferences Worldwide on Catholic Social Teaching," *Theological Studies* 59 (1998), 32-33.

While more than forty conferences existed before the Council,[59] they were devoid of legislative power.[60]

At Vatican II, episcopal conferences were used to good effect from the first day of the first session as a forum for episcopal discussion and education. The schema 'On Bishops and Diocesan Government' suggested their creation as formal hierarchical bodies, between the pope and individual bishops, with limited regional powers of governance. However, this gave rise to problems: some bishops feared this proposal undermined papal governance and jeopardised the freedom of the diocesan bishop.[61] According to Mörsdorf, it was as if the episcopal conference had

> fallen between two stools. It is one of the oddities of the Council that the collegial element in the constitution on the Church was indeed approved for the whole Church, but not within individual Churches. The Fathers affirmed the principle of collegiality in their relation to the Pope, but denied it for the relation of the bishops of one region to one another. This proved clearly that the doctrine of the episcopal college had been treated in too abstract a manner without regard to the fact that the principle of collegiality had first been applied in individual Churches.[62]

This confusion was also evident in the issue of membership and participation of episcopal conferences, especially of titular bishops.

Other conciliar bishops highlighted the link between episcopal conferences and a fuller understanding of episcopal governance and collegiality. Episcopal conferences were presented as exercises in collegiality, as the *loci* of episcopal coordination, as well as having a place within the episcopal college. They also had a strong theological basis in the idea of *koinonia*, which supported episcopal concern for the wider Church and for other bishops.

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[59] Francis A. Sullivan, "Developments in Teaching Authority Since Vatican II," ibid.73, no. 3 (2012), 474.
[60] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 179.
[61] An issue that exercised Cardinal Ratzinger, as head of the CDF, in later years.
[62] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 180.

6.1.11 The new schema: 'On the Bishop's Pastoral Office in the Church'

At the end of the second session, the Commission on Bishops began the task of organising the delivery of this newly entitled schema.[63] A draft, incorporating episcopal *modi*, was approved by the Co-ordinating Commission.

On 27 April, 1964 Paul VI agreed to the new schema being sent to the bishops.[64] On 16 September, 1964 the bishops received a list of those elements of the schema, which were to be discussed: all originated in the schema 'On the Care of Souls.' They addressed three topics, each related to the bishop's role of governance, and these were discussed over the period 18-22 September, 1964. At the same time, voting was taking place on the schema *De Ecclesia*, in particular on Chapter 3, which, for some bishops, was 'the theological basis of the pastoral office of the bishops then under discussion.'[65]

In the ensuing debate of this schema, some bishops again queried its theological basis precisely because no decision had been made concerning *De Ecclesia*. They questioned whether the power of governing was given to the bishop on his episcopal ordination and if the college of bishops was 'the permanent bearer of the highest plenary power over the Church.'[66] Bishop Carli, for example, did not agree that the episcopate could exercise a permanent share in the governance of the universal Church: the bishop held a position in the local Church and did not belong primarily to the universal Church, as suggested in the schema's Preface.

Cardinal Léger identified the schema as having too general a view of the bishop's pastoral office. He looked for episcopal reform of the diocesan curia and the creation of a local college of advisors, similar to that suggested by Maximos IV Saigh. For Léger, the bishop's governance role should be accessible to others,

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[63] Its title was changed from 'On Bishops and the Government of Dioceses' to 'On the Bishop's Pastoral Office in the Church.' See: AS III/2, 22-44. The word 'pastoral' was added to better reflect the practical or pastoral exercise of the episcopal charism.

[64] Mörsdorf notes the structure of the schema. See: Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 188.

[65] Ibid., 189.

[66] Ibid. Held by Cardinal Browne.

contemporary in its exercise, and reflected in his lifestyle.[67] These ideas were developed in the promulgated document and later appeared in the texts of *Optatam totius* and *Presbyterorum ordinis*.[68]

6.1.12 An amended text

The Commission for Bishops produced an amended text of the schema, which was passed to the Council on 30 October, 1964. Various bishops, chosen by the Commission, spoke to the document. Voting took place on Chapters 1-3 from 4-6 November, 1964.[69] It was decided during the session held on 20 November, 1964 that no more time could be afforded to the schema. A year later the text (*textus recognitus*) was forwarded to the bishops, including an emendation which reflected Pope Paul's announcement concerning the Synod of Bishops.[70]

Mörsdorf contended that it was unfortunate the *textus* did not fully reflect *Lumen gentium*, especially the *Nota*. The questions it confronted 'ought not to have been left out of the Decree on the Bishops' Pastoral Office in the Church.'[71] It was also unfortunate that the Decree's development was effectively frozen in 1964. Had debate on the role of the bishop begun in 1965 it could have produced a statement on the episcopate that effectively consolidated the statements made in the other fifteen documents, especially those concerning episcopal governance.

This would have confirmed the inter/intratextuality of the sixteen conciliar documents debated then promulgated by Pope Paul. It would also have allowed the bishops to complete the hermeneutical circle by encouraging both earlier and later developments to be fused into a document on the bishops.

Final changes were reported and voting took place from 29 September to 1 October, 1965. Changes were voted on individually for Chapters 1 and 2, and

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[67] Pope Francis has returned to this idea when describing the modest dress and modest car to be driven by bishops. See: Pope Francis, "A Big Heart Open to God," *America*, 30.9.2013. [Downloaded 3.4.2014].

[68] For example: *Introduction* to OT and PO 1; 6; 8.

[69] Details of the voting and the work of the Commission for Bishops may be found at: Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 194-196.

[70] In his speech opening the fourth conciliar session: 14 September, 1965.

[71] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 195.

collectively for Chapter 3. This approach allowed for the greatest consensus amongst the bishops. The final vote took place on 28 October, 1965 with only 2 *non placet*. *Christus Dominus* was immediately promulgated by Paul VI and came into effect on 29 June, 1966, the Feast of Saints Peter and Paul.

6.2 The Decree on the pastoral office of bishops in the Church: *Christus Dominus*

The role of episcopal pastoral governance developed in *Lumen gentium* was further developed in *Christus Dominus.* 'The bishops, […], through the Holy Spirit who has been given to them, have been made true and authentic teachers of the faith, pontiffs and pastors' (CD 2). The mission of the Apostles, of governing, teaching and shepherding the local and universal Church, was given to the bishop and the pope. This stressed the collegial relationship between the two. Furthermore, the work of the Roman Curia supported and serviced this relationship. The manner in which episcopal governance was expressed for the universal and the local Church is developed in the following paragraphs.

6.2.1 *Christus Dominus* Chapter One: The bishop and the universal Church

Sacramental ordination and hierarchical communion with the head and members of the episcopal college are the chief elements for membership of the episcopal body (CD 4). The bishops, who succeed the apostles in pastoral governance, are 'the subject of supreme and full power over the universal Church, provided [they] remain united with its head, the Roman pontiff, and never without [their] head; and this power can only be exercised with the consent of the pontiff' (LG 22 cited in CD 4). This followed the teaching of *Pastor aeternus* and calmed the fears of some bishops but also helped to re-imagine and recontextualise the episcopal governance role. It allowed for the understanding that the bishops and the pope, acting collegially and consensually, to exercise pastoral governance over the whole Church. An example is an ecumenical Council, to which all bishops who are members of the episcopal college have the right to attend.

The Council again referred to *Lumen gentium* when speaking of the way bishops dispersed throughout the world exercise such collegial power. They do so in

conjunction with the pope; so long as he is calling or approving of their action and it is a truly collegial action (LG 22). The Degree comments briefly on the announcement of the formation of the Synod of Bishops (CD 5).[72] While Paul VI's Synod was not what was envisaged during the Council, he established it to receive 'more effective and helpful service' (CD 5) from the bishops. This was a new, formal dimension of episcopal interaction, demonstrating 'that all the bishops in hierarchical communion participate in the care of the whole Church' (LG 27). However, at the Council the bishops discussed the formation of a Rome-based episcopal senate, led by the pope, assisting him in matters of Church governance and positioned above the Curia. The announcement of the Synod represented the dilution of an important conciliar notion, which later allowed the reassertion of Roman curial power.

Part Two of Chapter 1 deals with the relationship of the bishop and the Apostolic See. The diocesan bishop possesses 'as of right all the ordinary power necessary for the exercise of [his] pastoral office' (CD 8a). It belongs to him as a bishop, without prejudice to the pope and his universal power by which he can reserve 'cases to himself or to some other authority' (CD 8a). General Church law gives diocesan bishops 'the power of granting dispensations in particular cases to the faithful over whom they hold canonical authority, whenever they judge it to be for their spiritual good' (CD 8 b).

This juridical freedom given to the bishops is finely balanced. As cases can be reserved to the pope, for example the Petrine Privilege, there are other authorities (CD 8a) to whom cases can be reserved. However, an increase in reserved cases could weaken not only episcopal collegiality, but also the bishop's exercise of ordinary power, undermining the exercise of his pastoral office.

Christus Dominus understood that the Roman Curia assisted the pope in the exercise of 'his supreme, full and immediate authority over the entire Church [and] operate in his name and with his authority for the good of the Churches and in the service of the sacred pastors' (CD 9). It also stated that the Curia was to be

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[72] Paul VI, *Motu proprio Apostolica sollicitudo*, 15 September, 1965. See: AAS 57 (1965), 775-80.

reorganised, including the function of papal legates, especially 'in relation to the pastoral office proper to bishops' (CD 9). Future curial membership would come 'from different regions of the Church [to] manifest their truly universal character' (CD 10). Curial departments should co-opt diocesan bishops in order to hear the views of the local Church.

Hubert Jedin reacted strongly to this call: 'an internationalisation of the curia apparatus would mean falling from the frying pan into the fire, because experience shows that Romanized foreigners are more intolerant than Italians.'[73] Merely internationalising the Curia without expecting a real dialog between the local and universal Church will ultimately damage the Church.[74] Nor was this the radical reformation called for by many bishops. As the Curia argued that reform was wholly the purview of the pope, to have a reference to Roman curial 'reorganisation' *may* be advantageous, but only if carried out in the spirit as well as the letter of the Council.

6.2.2 *Christus Dominus* Chapter 2: Shared episcopal pastoral governance of the local Church

Chapter 2 of *Christus Dominus* was of specific interest as it dealt with the diocesan bishop and his *munera*. The bishop is the 'ordinary and immediate pastor' of the local Church, who carries out 'the office of teaching, sanctifying and governing' (CD 11). This is a pastoral office exercised 'in cooperation with his priests' (CD 11). As the bishop has, 'the fullness of the sacrament of orders' (CD 15), priests rely on him for authority. He holds his priests in high regard, looking after their wellbeing, as they are his prudent co-operators, who 'assume part of his duties and concerns' (CD 15).[75] In order to develop an effective apostolate the bishops should engage in regular dialogue with his priests, individually and collectively (CD 28). Diocesan

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[73] Faggioli, "Reform of the Curia at and After Vatican II," 27. Citing: A. Melloni in *Storia del concilio Vaticano II*, G. Alberigo (ed.), vol. 3, Bologna, 1998, 33.

[74] A comment from an Adventist source is apt: 'The problem is one of structure more than of nationality. What is needed is a reform of the Curia based on a new relationship between the Catholic episcopate and the governmental organs of the Church as suggested by Vatican II.' Raoul Dederen, "The Modernized Roman Curia," *The Ministry: International Journal for Pastors* XLVII, no. 5 (1974), 16.

[75] The intratextuality of the task is reflected, for example, in *Lumen gentium* (LG 44-45) and *Presbyterorum ordinis* (PO 7).

priests are members of various bodies, including the following groups, each of which has a greater or lesser share in episcopal pastoral governance of the local Church.

The Chapter of Canons has a mainly liturgical role within the diocese. Its reorganisation was called for (CD 27). The Presbyteral Council (CD 27), a mandatory diocesan feature, 'functions as a senate to the bishop; and it helps him in the pastoral governance of the diocese.'[76] It is the most important group expressing the cooperation of the bishop and the diocesan clergy. Another group, the College of Consultors, includes between six to twelve priests, who are members of the Presbyteral Council, and are appointed for a five-year term. Their function includes appointing a diocesan administrator when the See becomes vacant and other functions designated in particular law.[77]

The bishop appoints the vicar general, who heads his curia. If 'the right government of the diocese' (CD 27) necessitates, he can appoint more, each enjoying 'the same power as common law confers' in an area, or specific task, or faithful of a specific rite (CD 27). The diocesan curia can be staffed by clerics and the lay faithful, who should remember that their role is to assist the bishop in his pastoral ministry. The Council expects each diocese to establish a Diocesan Pastoral Council presided over by the bishop. Consisting of selected clergy and laity, it concerns itself with matters affecting pastoral activities, assessing them and putting 'forward practical conclusions about them' (CD 27).

6.2.3 The Collegial nature of local Church governance

Having addressed his collegial, pastoral relationship with his priests and the lay faithful, *Christus Dominus* described the bishop's expansive role of local Church governance.[78]

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[76] Eugene Duffy, "Presbyteral Collegiality: Precedents and Horizons," *The Jurist* 69 (2009), 148.
[77] Ibid., 150.
[78] Episcopal governance should be free from civil interference, as should communications with the Apostolic See (CD 19). Episcopal nominations and appointments belong 'exclusively to competent ecclesiastical authority' and civil authorities should relinquish any rights in this regard (CD 20). However, the Council did not address how the appointment of bishops might be renewed. O'Malley, *What Happened at Vatican II*, 193.

Papal and episcopal collegiality expressed in other Vatican II documents is replicated for the local Church, where collegiality now becomes the sharing of episcopal ministry and governance between the local bishop, auxiliary bishops, curia, priests and the lay faithful. The bishop shares governance with his auxiliary bishop(s) or a coadjutor, who help him attend to his pastoral duties (n.25), for example, visitations, coordinating diocesan work, and knowing the clergy, religious and lay faithful involved in 'diocesan activities' (CD 22 §2). He may request the 'competent authority', i.e., the relevant Roman curial department, to appoint one or more auxiliaries (CD 25). Like his priests, the auxiliary depends on the authority of the bishop, who consults him on important matters, particularly 'of a pastoral nature' (CD 26).

6.2.4 Episcopal *pastoral* governance: the diocesan curia

The most important member of the diocesan curia is the Vicar General. Appointed by the bishop, he assists in 'the right government of the diocese' (CD 27), using his ordinary power. Priests and the lay faithful working in the diocesan curia 'assist the pastoral ministry of their bishop' (CD 27). The diocesan curia needs to be organised for effective diocesan administration and 'the work of the apostolate' (CD 27), as its members assist the bishop in his diocesan governance.

6.2.5 Episcopal *pastoral* governance: diocesan clergy and religious

The diocesan clergy are 'prudent co-operators of the episcopal order' (CD 28), appointed to minister wherever the bishop decides, and are bound by 'supernatural charity' (CD 28), which enhances their joint pastoral work. While priests occupying particular offices work more closely with the bishop (CD 29), his main co-operators are parish priests.[79] 'As pastors in their own right, they are entrusted with the care of souls in a specific part of the diocese, under the authority of the bishop' (CD 30). Their care is fulfilled in their 'teaching, sanctifying and *directing'* (CD 30.1) of the lay faithful and the parish, and cooperation with other priests, especially those carrying out a pastoral function on behalf of the bishop, for example, deans. Paragraphs 33 – 35 express the pastoral response of

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[79] See: Duffy, "Presbyteral Collegiality: Precedents and Horizons," 141-146 at 144.

religious orders to diocesan pastoral needs after studying *Christus Dominus* (CD 35 §1). The bishop fosters cooperation between himself, religious institutes and diocesan clergy (CD 35 §5).[80]

6.2.6 *Christus Dominus* Chapter 3: Episcopal Conferences

From early times bishops of local Churches 'pooled their resources and coordinated their plans to promote the common good'. They prepared procedures to regulate 'ecclesiastical discipline' (CD 36). The Council wished such groups to flourish 'with renewed strength' (CD 36) and it wished to encourage the formation of episcopal conferences. These conferences had proved a fruitful forum of exchange at the Council and their universalisation provided 'a holy consortium of resources for the common good of the Churches' (CD 37).

For Feliciani this was a transformational moment. *Christus Dominus* changed these conferences

> from unofficial meetings into instances framed by the Church's constitutional law, from voluntary assemblies into *coetus* which were now obligatory in terms of both establishment and participation, from meetings which were heterogeneous in form and composition into essentially homogenous *conventus*, from organisms of merely moral authority into institutions capable of juridically binding deliberations, even if these were limited to specific matters and under rather rigorous conditions.[81]

The Council wished to emphasise the importance of such conferences (CD 38 §1-6): Members of episcopal conferences were to draw up their statutes, approved by the Apostolic See (CD 3), which also approved of their decisions (CD 4). Gaillardetz and Clifford noted that *Christus Dominus* (CD 37-38) avoided the precise authority given to episcopal conferences.[82] In the debate after Vatican II 'the authoritative status of episcopal conferences was clarified in Pope John Paul's apostolic letter *Apostolos Suos* (1997).'[83] However, it was not clear in *Christus Dominus* how the Apostolic See approved either their statutes or their decisions. A study made some

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[80] Likewise, the bishop and the episcopal conference foster cooperation through regular meetings between themselves and religious institutes (CD 35 § 6). This will encourage any necessary governance tasks to be addressed with facility.

[81] Feliciani, "Episcopal Conferences from Vatican II to the 1983 Code," 12.

[82] Gaillardetz and Clifford, *Keys to the Council: Unlocking the Teaching of Vatican II*, 126.

[83] Ibid., 128.

ten years after the Council suggested that 'there was no longer any significant problem with regard to [...] ecclesiastical governance which did not require a consultation or an intervention of the conferences.'[84]

6.3 Conclusion

Originally, there was a limited dialogue between Chapter 3 of *De Ecclesia* and the schemata which prefaced *Christus Dominus.* This lack of dialogue found its origins in magisterial intrusion, causing an increasingly restrictive view of the episcopal role during debate on *Christus Dominus*.[85] As conciliar debate straddled the development of each document, the relationship and intertextuality of *Lumen gentium* and *Christus Dominus* become more apparent. However, a *clearer* dialogue could have created a richer understanding of collegiality and a more expansive pastoral governance role of the bishop in the local Church.

A richer discussion could have transformed the pastoral suggestion of an episcopal senate, which assisted the pope in matters of universal Church governance, into contemporary ecclesial practice. As well as operating as an international forum in which to raise important regional matters, an episcopal senate could have helped to clarify the Roman Curia's role as one of service to the pope and the bishops. The local bishop could call upon its assistance when he and members of his diocesan curia were making complex decisions for the local Church. The announcement of the Synod of Bishops negated such developments, as will be seen in the next chapter.

The Decree represented the Council's clearest understanding of the episcopal role of diocesan pastoral governance. The formation of episcopal conferences, so helpful in educating the bishops during the Council, would assist in this task. However, the lack of a clearly defined role of governance for the episcopal conferences in *Christus Dominus* created a stumbling block to their subsequent development. Later, this allowed members of the Roman Curia, for example,

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[84] See: Julio Manzanares, "De conferentiis episcopalibus post decem annos a Concilio Vaticano II," *Periodica* 64 (1975), 596-598. Cited in: Feliciani, "Episcopal Conferences from Vatican II to the 1983 Code," 13. Fn.13.
[85] Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 169.

Cardinal Ratzinger, to speak out against any exercise of governance by the episcopal conferences.

The Decree usefully developed an image of the pastoral bishop, which it encouraged to be emulated. Bishops were envisaged as men of dialogue and collaboration. They governed but also delegated governance. The pastoral understanding of their ministry encouraged them to speak and to listen. The episcopal role was envisaged as one of service and of leadership. The Presbyteral Council, for example, shared in an exercise of episcopal governance that was pastoral in nature. O'Malley viewed the bishop as 'in charge, but for the first time ecclesiastical documents stressed the horizontal dimensions of his relationship to those over whom he presided.'[86] They were to be *pastoral* men.

The clash of Cardinals Frings and Ottaviani during the debate on the schema revealed that Church governance was one of the Council's fundamental issues. As the Council debated *Christus Dominus,* it received a challenge: would it 'continue its highly centralised mode of operation, with its top-down style of management and apodictic mode of communication, or somehow attenuate them by broader consultation and sharing of responsibility?'[87]

In *Christus Dominus*, the bishops chose to steer a course towards a broader governance role, which included a clearer role of governance exercised by them in a pastoral manner. However, when the Council ended, the Church had the task of implementing such conciliar decisions. The question as to whether this fresh understanding of episcopal pastoral governance would be received will be considered next.

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[86] O'Malley, *What Happened at Vatican II*, 211.
[87] Ibid., 193.

Chapter 7: Post-Conciliar Reception by the Magisterium of the Bishop's Role of Pastoral Governance

7. Introduction

This chapter will explore whether Vatican II's understanding of episcopal pastoral governance, although initially well *received*, continued to be positively received by the papal and curial Magisterium in the post-conciliar period. In order to assess this, documents such as the bishop's directory on pastoral ministry, the work of the Synod of Bishops, and the development of the role of episcopal conferences will be explored**.** Each will be considered in order to establish whether they represent a restrictive or an expansive view of the bishop's pastoral governance role. Likewise, the reception of episcopal governance will be further assessed by studying the Revised Code of Canon Law (1983), and the degree to which an expected reform of the Roman Curia encouraged local bishops to govern locally and to share in universal governance.

7.1 Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago* (1973)

Christus Dominus requested the preparation of a directory for bishops (CD 44). The Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago* (EI),[1] aimed to support the formation of those who governed the local Church (EI 3), and exemplify how the Apostolic See effectively implemented conciliar directives (EI 3).[2] It was the first post-conciliar document to draw together an understanding of

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[1] The Sacred Congregation for Bishops, "*Directorium de pastorali ministerio episcoporum*," (Vatican City: Typis Polyglottis Vaticanis, 1973). Reference here is made to: The Sacred Congregation for Bishops, "Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago*," (Ottawa, Ontario: Publications Service of the Canadian Catholic Conference, 1974). It was promulgated by Paul VI *Plurimas tibi gratias* 22 February, 1973. See: http://www.vatican.va/holy_father/paul_vi/letters/1973/documents/hf_p-vi_let_19730222_ministero-pastorale_lt.html [Downloaded: 3.5.2012].

[2] Suggested by: John Jukes, "Document No. X: A Comment on the Pastoral Directory for Bishops *Apostolurum Successores*," *Newsletter of the Canon Law Society of Great Britain* September, no. 139 (2004), 96. Its four-fold format was suggested by *Christus Dominus* (CD 3).

episcopal governance of the local Church from several conciliar sources.[3] It attracted little contemporary scholarly comment because it was seen as a pastoral handbook which 'did not derogate from the law'[4] or because of its limited availability.[5]

How the Directory on the Pastoral Ministry of Bishops endorsed the thinking of Vatican II or, indeed, whether it presented a more restrictive interpretation concerning episcopal governance will now be discussed.

7.1.1 Shared episcopal governance of the local Church

Episcopal governance is understood as shared (LG 30) with clerics, religious and the lay faithful (EI 198). The Directory focuses on the role the bishop shares with clergy, especially the parish priests, his 'main co-operators' (CD 28).[6]

The bishop's primary co-workers are the coadjutor and auxiliary bishops (EI 199; CD 25-26; ES I, 13). His curia carries out diocesan administration (EI 200; CD 27). Any priest-members should be pastorally and ministerially active to avoid becoming 'mere administrative and juridical staff' (EI 200). The bishop appoints the vicar-general wherever 'the proper government of the diocese would require it' (EI 201; CD 27); the vicar-general is reliant on the bishop for his authority (EI 202; CD 23, 27; ES I, 14).

The Directory states that the bishop is to establish a Council of Priests, a consultative assembly, which supports his effectiveness in diocesan governance (EI 203; CD 28; PO 7).[7] The episcopal conference may prepare guidelines for

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[3] Conciliar or post conciliar sources will be cited after the reference to *Ecclesiae imago* (EI).

[4] Geoffrey M. Stabb, "The Obligation of Clerics to Acknowledge and Foster the Mission of Lay Persons in Selected Institutes of Collaboration" (Canon Law Thesis, The Catholic University of America, 2008), 98. Fn. 44.

[5] It was not officially translated from the Latin or published in AAS. See: Thomas J. Green, "Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and other Pertinent Texts," *The Jurist* 68 (2008), 419. Footnote 416. Nor was it readily available. See: Jukes, "Document No. X: A Comment on the Pastoral Directory for Bishops *Apostolurum Successores*," 96.

[6] References to 'ES' refer to Paul VI's apostolic letter *Ecclesiae sanctae* (1966). The Directory does not explore *how* the bishop shares governance with the lay faithful.

[7] Christus Dominus does not mention specifically the establishment of a Council of Priests, but state 'for the sake of greater service to souls, let the bishop call the priests into dialogue, especially about

working with these Councils.[8] In 1967, the Synod of Bishops commented that the relationship of the bishop and the Council of Priests 'cannot be fully shaped by law'.[9] Effective Councils arrive at a consensus concerning their remit with the bishop, with whom any final decision remains.[10] The Directory also speaks about the development of a diocesan Pastoral Council (EI 204; CD 27; ES I, 16). While only consultative, the bishop should respect its recommendations as it considers diocesan pastoral activity, and identifies methodologies for pastoral growth. The Pastoral Council's social-religious data should assist the bishop to make informed, pastorally sensitive governance decisions, more finely tuned by the development of parish pastoral Councils 'aligned to the diocesan Council' (EI 204).

The Cathedral Chapter, diocesan consultors (EI 205) and clergy are some of the bishop's closest collaborators in diocesan government. The clergy are the bishop's co-workers, whom he assigns to various ministries (EI 206; CD 28; ES I, 18-19). Parish priests (SC 42; CD 30), represent the episcopal *munera* at parish level (EI 206e; CD 31; ES I, 20).The bishop liaises with religious superiors regarding their pastoral ministry (EI 207b; CD 35: 5-6) and apprises them of diocesan plans and seeks their support (EI 207c-e).

The lay faithful work with the pastors (EI 208; LG 33), but the bishop avoids assigning clergy and the lay faithful to offices that belong properly to the other (EI 208b; LG 27). The bishop listens to the lay faithful at the Diocesan Council (EI 208d; AA 26), and considers their opinions especially on diocesan affairs (EI 208d; LG 27).[11]

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pastoral matters. This he should do not only on a given occasion but at regularly fixed intervals insofar as this is possible' (CD28). Its formation is supported by CD 16. *The Furrow* published reports outlining the progress of the implementation of Councils of Priests in Ireland, diocese by diocese, in 1967 and again in 1969. See: "Council; Edward Crosby, "Councils of Priests: A Second Report," *The Furrow* 20, no. 12 (1969), 636-652.

[8] The Directory footnotes: The Sacred Congregation for the Clergy, Circular Letter to the Presidents of Episcopal Conferences regarding Priests' Councils, April 11, 1970: AAS 62, 1970, 460-465.

[9] Synod of Bishops, *Ultimis temporibus*, 30 November, 1967. See: Austin. Flannery, "Vatican Council II: More Post Conciliar Documents," (Dublin: Dominican, 1982), 691.

[10] Ibid.

[11] However, there is no specific mention of a bishop sharing diocesan governance with them.

The Directory identifies areas of episcopal governance, often shared with other members of the clergy. The Directory's title is a reminder that the bishop's *munera*, especially of governance, is to be carried out in a pastoral manner.

7.1.2 The Directory and conciliar documents: restrictive divergences

When comparing the Directory to conciliar documents some restrictive divergences can be identified.[12] For example, *Ecclesiae imago* 44e suggests the bishop should 'reverently' receive curial documents. This prefaces a quote from Paul VI's apostolic constitution *Regimini Ecclesiae universae* (1967) which discusses episcopal service.[13] *Ecclesiae imago* then commands the bishop to put Roman curial 'documents into practice expounding them to the clergy and laity' (EI 44e). By juxtaposing the idea of receiving Roman curial documents with a quote from Paul VI, the Directory suggests that curial documents should be automatically received by the bishop and 'expounded' to the local Church - on papal authority.

This diverges sharply from the level of curial service envisaged in *Christus Dominus*. For example, while the Council describes the Roman Curia's prior service to the pope and bishops as 'outstanding' (CD 9), it still required Roman curial reorganisation and reform. Particular attention was to be paid to the extent of Roman curial authority and their procedures. Furthermore, the conciliar bishops 'strongly desired that the function of papal legates should be determined in more exact details in relation to the pastoral office proper to bishops' (DC 9).

Christus Dominus understands that diocesan boundary changes (CD 22-24) involve bishops of contiguous dioceses. Their episcopal conferences are charged with considering the impact of any suggestions and must carefully weigh the views of local bishops. Episcopal conferences should then submit their 'recommendations and wishes to the Apostolic See' (CD 24). *Christus Dominus* 24 suggests that the Apostolic See recognise the governance role of the episcopal conference in this

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[12] When considering curial documents, it is useful to distinguish the official view from 'what is simply an individual's view.' See: Morrisey and Thériault, *Papal and Curial Pronouncements: Their Canonical Significance in Light of the Code of Canon Law*, 23-39. ibid., 45.
[13] See: Bishops, "Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago*," 26. Fn. 17.

regard: if it does not agree with the bishops' conclusions, further discussions can ensue.

The Directory suggests that the bishop prompts the lay faithful to accept the Apostolic See's decision concerning boundary changes 'with a ready and loyal heart' (EI 173). It also suggests that when there is no room for discussion, one has to accept curial decisions 'with a ready and loyal heart'. This divergence restricts episcopal governance, and places the Directory at variance with the letter and the spirit of *Christus Dominus*.

Part VI of the Directory discusses episcopal conferences and presents a number of related benefits (EI 211 a-f), which can be compared with *Christus Dominus* (CD 37; 38 § 1-6).

The Directory	*Christus Dominus*
n. 211 a) Questions concerning Church government are best addressed together.	CD 38 §1 Bishops of the conference 'discharge their pastoral office in collaboration'.
n. 211 c) 'With a willing and a humble heart he sees the work of the conference is carried out according to the norms of law and the demands of the Apostolic See, [...].'	CD 38 §3 'The decisions of an episcopal conference will have binding force in law under certain conditions: namely, provided they have been made legitimately [...]; that these decisions have been approved [*recognitae*] by the apostolic see; [...].
n. 211 d) The bishop attends regularly, participates in meetings, and accepts election to office.	*CD 37 '... it is of the utmost importance that throughout the world bishops of the same nation or region should unite in a single assembly and meet together at regular intervals.'
n. 211 e) 'He carefully studies questions presented by the conference or the Apostolic See, employing the assistance of theological, pastoral and juridical experts.'	CD 38 §3 – no equivalent.
n. 211 f) He contacts the conference president when an issue requires discussion.	CD 38 §3 – no equivalent.

Three restrictions can be identified:

(i) In *Christus Dominus* the statutes of episcopal conferences are approved by the Apostolic See (CD 38 §3). The Directory proposes a more elaborate process: the bishops help to 'draw up the by-laws' which need to be 'established and recognised by the Apostolic See' (EI 211 b).

(ii) The Directory uses obsequious language ('with a willing and a humble heart') suggesting that bishops first consider the 'demands' of the Apostolic See, rather than acknowledging decisions the Episcopal Conference can make unilaterally, without recourse to the Apostolic See.

(iii) Finally, the Directory offers an image of the bishop which it suggests accords with that of the Council (EI, *Conclusion*).   The episcopal vocation is 'a heavy burden weighing the bishop down and purifying the episcopal dignity of every stain of worldly vanity and secular lordship*'.[14] This use of language in the Directory diverges from that used in *Lumen gentium* and *Christus Dominus*. In *Lumen gentium*, the episcopate is understood as a duty of service, governance (LG 20), and ministry (LG 24). The bishop is supported by the Holy Spirit (LG 21), and is responsible for the welfare of the whole Church (CD 6): he approaches all with prudence and in friendship (CD 13). The language used in the Directory, *Ecclesiae imago,* strikes an unnecessarily negative note in a document whose purpose is to support and foster the bishop's pastoral ministry.

7.1.3 *Ecclesiae imago*: restricting episcopal governance

The Directory offers to its reader a somewhat restricted view of episcopal governance. While outlining *one* view of local episcopal governance, it simultaneously diminishes the role of episcopal conferences and highlights the importance of both curial documents and the Roman Curia. While the Directory was a new genre of writing, one step removed from the primary conciliar

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[14] Ibid., 115. The asterisk highlights a footnote in the text (fn. 114): 'Pope Paul VI, Allocution to the Italian Episcopal Conference, April 11, 1970: AAS 62, 1970, pp. 279-280.' On the final page it states: 'Humbly and wisely the bishop recognises the feebleness of his energies, but he is by no means crushed (*EI, Conclusion*.) The following sentences offer more supportive scripture quotes and comments reminding the bishop that God is present but still seem to wish to make the point that the episcopal office is both difficult and burdensome rather than an opportunity, supported by God to serve.

documents, it was still essential that it reflected both the letter and spirit of the Council. The approach taken in the Directory, in particular to episcopal conferences, represents the beginning of a clawing-back of their role in ecclesial structures. The most pertinent advice it offered was for the bishop to develop an intimate knowledge of conciliar documents (EI 2). They offered the bishop a clearer understand of his governance role than the Directory.

7.2 Revising the Code of Canon Law (1917)

The Council was aware that changes to episcopal governance necessitated a revision of the 1917 Code of Canon Law (CD 44).[15] Just as the bishops at Vatican I had realised that code reform was necessary, so too the bishops at Vatican II realised the necessity of code reform in order to provide an unconfused legislative corpus.[16] An evaluation of the Code's preparation, including an appreciation of the *Lex Ecclesia fundamentalis*, and the ten principles governing revision will now be considered. Finally, an analysis of the 1983 Code with respect to the episcopal governance role will be explored.

John XXIII called for an *aggiornamento* of the Code[17] as the Church had undergone a transformation.[18] He established the Pontifical Commission for the Revision of the Code of Canon Law in 1963,[19] but suspended its work as the Council itself 'grasped the reigns of the conciliar agenda.'[20]

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[15] An overview of the drafting and revision process is offered by Peters: http://www.canonlaw.info/canonlaw_LegisHistory.htm. [Downloaded 23.3.2014].

[16] John Alesandro, "General Introduction," in *The Code of Canon Law: A Text and Commentary*, ed. James A. Coriden, Thomas J. Green, and Donald E. Heintschel (London: Chapman, 1985), 4.

[17] Petrus Huizing, "Bulletin: The Reform of Canon Law," *Concilium* 8, no. 1 (1965), 50. He offers a comprehensive list of publications dealing with Code revision.

[18] See: Ladislas Örsy, "The Life of the Church and the Renewal of Canon Law," *The Jurist* 25 (1965).

[19] 20 March, 1963. See: AAS 55 (1963), 363. Contemporary canonists ventured suggestions, for example: John A. Abbo, "The Revision of the Code," ibid.20 (1960); Frederick R. McManus, "The Second Vatican Council and the Canon Law," ibid.22 (1962). John A. Abbo, "The Roman Synod," ibid.21 (1961); Robert G. Wesselmann, "Canon Law: Criticism and Reactions," *Homiletic and Pastoral Review* 65 (1964-65).

[20] Alesandro, "General Introduction," 5. For a comment on its suspension see: Thomas J. Green, "The Revision of Canon Law: Theological Implications," *Theological Studies* 40, no. 4 (1979), 593. Green notes how the Commission divided its work. See: ibid., 594.

For Paul VI, the Commission was concerned with formulating the Council's recommendations.[21] In November, 1965, the Pope re-instigated its work.[22] He encouraged canonists to address possible reforms.[23] However, post-conciliar canon lawyers needed to 'unlearn' much of what they previously knew, becoming 'in part a theologian, a liturgist, a pastor, a missionary, and a spiritual counsellor.'[24]

The 1967 Synod of Bishops represented a significant moment in this process. At the Synod the Code Commission presented ten principles guiding Code revision: these received synodal approval but their wisdom was later questioned.[25] Consideration of these principles will be prefaced by a consideration of episcopal governance in the *Lex Ecclesiae Fundamentalis*.

7.2.1 A constitutional law for the Church: *Lex Ecclesiae Fundamentalis*

The idea of a *Lex Ecclesiae Fundamentalis* (*Lex*) came from conciliar bishops and theologians.[26] When Paul VI re-inaugurated the Code Commission he requested that it consider a constitutional law for the Church.[27] In November 1965, when the

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[21] Pope Paul VI, "Encyclical letter *Ecclesiam suam*," (http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_06081964_ecclesiam.html). See: n. 44.
[22] "Allocution to the Commission for the Revision of the Code of Canon Law - November 20, 1965," *The Jurist* 26, no. 1 (1966). See also: AAS 51 (1965), 985-89. Its president, from 1966 to 1982, was Cardinal Pericle Felici. Since 1969 its work was published in *Communicationes,* the Code Commission's official journal.
[23] For example: Canon Law Society of America [CLSA], "The Renewal of Canon Law," *The Jurist* 26 (1966), 165-166; Leo M. Croghan, Thomas J. Green, John L. Heagle, James H. Provost, "Notes on the Proposed Revisions of the Code," *The Jurist* 27 (1967), 182-187; James H. Provost, "Pastoral Attitude and Practice: On the Reform of Canon Law," *Louvain Studies* 3 (1968), 143-154; CLSA, "[Resolutions of] the Canon Law Society of America," *The Jurist* 30 (1970), 380-386; J. Barry, "Law in the Post-conciliar Church," *Studia Canonica* 5 (1971), 259-278; James A. Coriden, "The Future of the Law," *The Jurist* 34 (1974), 154-160; Thomas J. Green, "The Revision of the Code: The First Decade," *The Jurist* 36 (1976), 353-441; Thomas J. Green, "Task Force Report on the Current Schemata of the Proposed Revision of the Code of Canon Law," *CLSA Proceedings* 40 (1978), 13-33; John A. Alesandro, "The Revision of Church Law: Conflict and Reconciliation," *The Jurist* 40 (1980), 1-26; John A. Alesandro, "Law and Renewal: A Canon Lawyer's Analysis of the Revised Code," *CLSA Proceedings* 44 (1982), 1-40.
[24] J.D. Conway, "Law and Renewal," *The Jurist* 26, no. 3 (1965), 413. A view shared by: Thomas J. Green, "The Revised Code of Canon Law: Some Theological Issues," *Theological Studies* 47 no. 4 (1986), 618.
[25] The synodal text of the principles and associated discussion are found in: *Communicationes* 1 (1969), 77-108. For an English translation see: "The Latin and Eastern Codes: Guiding Principles," *The Jurist* 62 no. 2 (2002). A concise summary offered in: Alesandro, "General Introduction," 5-7. For a contemporaneous comment and paraphrase see: Richard Cunningham, "The Principles Guiding the Revision of the Code of Canon Law," *The Jurist* 30 (1970), 447-55.
[26] Jedin, Repgen, and Dolan, *History of the Church*, 176-177.
[27] AAS 51 (1965), 985-89.

Commission decided on separate codes for East and West, it decided a *Lex* should precede both, thus linking both Codes.[28]

The *Lex* would attempt to express the basic elements of Church order valid for both the Latin and Eastern Churches. These elements related to the constitution of the Church from its earliest history. Its title reflected the articulation of 'basic theological-juridical principles undergirding all levels of the Church's organization and operation.'[29] It was designed as a short document, presenting 'the Church's self-understanding as a complex, multileveled community existing within human society and embodying divine and human elements.'[30] Its primary sources included magisterial statements, especially conciliar documents.

The code Commission's president, Cardinal Felici, reported progress to the 1967 Synod of Bishops.[31] In 1969, its latest iteration was sent to the Cardinals of the Code Commission, the Congregation for the Doctrine of the Faith, (CDF), and the International Theological Commission.[32] It was not, however, circulated to all bishops.[33]

The Canon Law Society of America (CLSA) understood the *Lex* offered a summary of key conciliar magisterial statements.[34] However, the CLSA's assessment, made in 1970, suggested the authors of the *Lex* had not fully comprehended the wishes of the Council concerning the exercise of episcopal governance.[35] The *Lex* lacked the Council's collegial tone (LG 22-23) when describing governance (LG 23-24).[36]

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[28] See: Mgr. Ralph Brown, "Lex Ecclesia Fundamentalis - 40 Years On," *Newsletter of the Canon Law Society of Great Britain*, no. 146 (2006).

[29] Green, "The Revision of Canon Law: Theological Implications," 603.

[30] Ibid., 603. Green outlines the content of the original *Lex* (Introduction and three chapters) ibid., 604-605.

[31] William la Due et al., "A General Analysis of the Proposed Schema of the Lex Fundamentalis," *The Jurist* 31, no. 2 (1971), 343.See also: *Ibid.* "A critique of the revised schema on the *Lex Fundamentalis*" *CLSA Proceedings* 33 (1971), 65-77.

[32] *Pontificia Commissio Codici Iuris Canonici Recognoscendo, Schema legis ecclesiae fundamentalis cum relatione* (Vatican City: Typis Polyglottis Vaticanis, 1969).

[33] Green, "The Revision of Canon Law: Theological Implications," 601.

[34] la Due et al., "A General Analysis of the Proposed Schema of the Lex Fundamentalis," 347.

[35] For the progress of the *Lex* see, for example: Ladislas Örsy, "The creative role of constitutional law in the Church" *Studia Canonica* 2 (1968), 307-324; Canon Law Society of America, "Towards constitutional development within the Church" *The Jurist* 28 (1968), 55-69; William la Due "A general analysis of the proposed Schema of the *Lex Fundamentalis*" *The Jurist* 31 (1971), 342-360;

The importance of episcopal conferences (LG 23; CD 37, 37) was not *received* by the *Lex* and it paid limited attention to the Synod of Bishops. While the *Lex* divided governance into legislative, executive and juridical power - reflecting *Christus Dominus* (8b), it needed to address the 'new legal presumption regulating the Ordinary's power to dispense from the general law of the Church.'[37] Episcopal governance that was 'duly broad'[38] would afford proper pastoral care. A more expansive view of governance was restricted in the *Lex* by 'constant recourse to the Holy See'[39] - previously noted in *Ecclesiae imago*.

By 1971, the development of the *Lex Ecclesiae Fundamentalis* better reflected Vatican II's pastoral 'spirit and letter' - for some.[40] For others, it represented a lack of expert episcopal and theological involvement.[41] Furthermore, the CLSA critiqued the veil of secrecy cloaking the project. The suspicion and controversy with which the *Lex* project was viewed by canonists and theologians had never fully dissipated. By the time of the 1980 Synod of Bishops, it was understood that it was for John Paul II to decide on its promulgation. By July, 1981, it was clear that a *Lex* was not going to be promulgated by John Paul II.[42] Some commentators were unclear about *why* the *Lex* was not promulgated.[43] Faggioli notes that the *Lex*'s

William la Due, et al., "[Informal discussion of the] *Lex Fundamentalis*" *The Jurist* 31 (1971), 360-362. Patrick O'Hearn, "The *Lex Ecclesiae Fundamentalis* from a common law view point" *Studia Canonica* 5 (1971), 193-211; William la Due, "A written constitution for the Church?" *The Jurist* 32 (1972), 1-13; A.-M. Gauthier, "The progress of the *Lex Ecclesiae Fundamentalis*" *Studia Canonica* 12 (1978), 377-388. For a detailed report on episcopal comments on the *Textus emendatus*, see: *Communicationes* 4 (1972), 121-60. For succeeding reports, see *Communicationes* 6 (1974), 59-72,149-76 (interaction of Cardinal Felici and bishops at 1974 Synod); 8 (1976), 78-108; 9 (1977), 83-116; 274-303.

[36] la Due et al., "A General Analysis of the Proposed Schema of the Lex Fundamentalis," 353.

[37] Ibid., 357.

[38] Thomas J. Green, "The Latin and Eastern Codes: Guiding Principles," ibid.62 (2002), 242.

[39] Ibid. Huizing cautioned that codification reinforces the centralisation of power and 'hierarchical subordination.' Huizing, "Bulletin: The Reform of Canon Law," 54-55.

[40] Jedin, Repgen, and Dolan, *History of the Church*, 176. See: Green, "The Revision of Canon Law: Theological Implications," 601-605. For a 1971 list of canons see: la Due et al., "A General Analysis of the Proposed Schema of the Lex Fundamentalis," 349.

[41] The Canon Law Society of America, "A Statement Concerning the Revision of the Code of Canon Law," ibid.38 (1977), 210.

[42] Even though in March 1981 a special committee of 18 cardinals and bishops voted 13-5 on the appropriateness of promulgating the *Lex*. See: Green, "The Revised Code of Canon Law: Some Theological Issues," 622.

[43] Ibid. Komonchak concurs with this 'obscurity'. See: Joseph A. Komonchak, "Vatican II and the New Code / Vatican II et le nouveau code," *Archives des sciences sociales des religions* 61, no. 1 (1986), 110.

attempt to canonise a restricted ecclesiological interpretation of the Council contributed to its downfall.[44]

The *Lex* was not totally abandoned: a number of its canons were incorporated into the reformed Code.[45] However, 'not all of its ecclesiologically most important canons were introjected into the Code.'[46] Furthermore, those canons which were incorporated were added without consultation or consistency, leaving 'theological grounds for the Church's order without expression',[47] and without a clear logical structure. For example: 'The power of governance is discussed in Book I before the hierarchical constitution of the Church (Book II) and both of these before the Sacrament of Order which is not discussed until Book IV. No ecclesiological principles about the relation between universal and local Church precede the discussion of papacy and collegiality.'[48] Consequently, important episcopal governance relationships, present without sacramental foundation, result in 'the norms in which they were articulated appearing as little more than regulations for the good order of society.'[49] A well-constructed *Lex* would have assisted the Code Commission to *receive* conciliar doctrine on episcopal governance and express it in a transparent and expansive fashion when preparing the revised Code.

7.2.2 Ten principles of Code revision

The Code Commission developed ten principles to render 'the pastoral decisions of the Council into the juridic content of the canons.'[50] While approved by the 1967

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[44] Faggioli, *Vatican II: The Battle for Meaning*, 10.
[45] See: Edward N. Peters, *Incrementa in progressu 1983 codicis iuris canonici*, Collection Gratianus Series (Montréal: Wilson & Lafleur Ltée, 2005), XIII. Fn.16.Green notes the inclusion of 'e.g. the introductory canons in Book II, the canons on the fundamental obligations and rights of all believers and of the laity, and some introductory canons on the Church's teaching and sanctifying offices.' Green, "The Revised Code of Canon Law: Some Theological Issues," 622.
[46] Komonchak, "Vatican II and the New Code / Vatican II et le nouveau code," 110.
[47] Ibid.
[48] Ibid.
[49] Ibid., 110-111.
[50] Alesandro, "General Introduction," 6. Four principles impact episcopal pastoral governance. Principle three states that pastoral care is to be assured by the Code a key task for the bishop. Principle four addressed the bishop's office, which ought to be presented positively, following the Council's teaching, in particular *Christus Dominus* 8. It follows that a bishop requires the necessary faculties to exercise a truly pastoral ministry, apart from cases reserved to the Apostolic See. Principle five required an application of the principle of subsidiarity. As with the previous principle it 'recognises that diocesan bishops, as successors to the apostles, possess all the ordinary, proper, and immediate power to perform their pastoral function.' That is, unless reserved to the Pope or

Synod of Bishops, they were not unopposed. Contemporary canon lawyers viewed them as impeding ecclesial reform.[51] Concerns were also raised by the CLSA,[52] which questioned conflicting interpretations, viewing the revision process as not meeting pastoral-legal needs called for by Paul VI.[53]

Code revision is a tool, which applies 'to the juridical life of the Church the general principles set down by the Ecumenical Council.'[54] Code revision needed to receive the spirit and letter of the Council, and those principles approved by the 1967 Synod. Any canonical norms were 'not to impose obligations whenever instruction, exhortation, persuasion, and other methods of fostering the communion of the faithful [were] adequate to achieve the Church's purpose.'[55] While a bishop governed by authority and sacred power, he also engaged the use of 'counsel, persuasion and example' (LG 27). Paul VI required the principles to encourage in the Code 'a suitable discretionary authority [to] be left to pastors and faithful.'[56]

7.2.3 Code of Canon Law Revision: Paul VI to Pope John Paul II

In 1969, theologians identified the need for canonical revision, but for some, 'the Faculties and Institutions of Canon Law [did] not inspire much optimism.'[57] Others suggested that canon lawyers join pastoral workers, especially the bishops, as they revised the Code. One Commission member claimed that 'the new code must curb

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other named authority. While canon law needed to be uniform, there also needed to be an opportunity for the enactment of particular legislation at the level of the local Church by the diocesan bishop. Principle eight identifies territory as the usual determinant of ecclesiastical jurisdiction as '[t]he pastoral purpose of a diocese and the good of the entire Church require definite territorial divisions.' ibid. For further discussion see: John A. Alesandro, "The Revision of the Code of Canon Law: A Background Study," *Studia Canonica* 24 (1990).

[51] William W. Bassett, "Canon Law and Reform: An Agenda for a New Beginning," in *Toward Vatican III: The Work that Needs to be Done*, ed. David Tracy, Hans Küng, and Johannes Baptist Metz (Dublin: Gill and Macmillan, 1978), 196-213.

[52] Canon Law Society of America, "A Statement Concerning the Revision of the Code of Canon Law," 211-212.

[53] Paul VI, 4 February, 1977 in: AAS 69 (1977), 147-53. See the translation in: William H. Woestman, *Papal Allocutions to the Roman Rota: 1939-2002* (Ottawa: Saint Paul University, 2002), 142.

[54] Ibid., 138.

[55] Ibid., 142.

[56] Ibid.

[57] Paul Winninger, "A Pastoral Canon Law," *Concilium* 48 (1969), 53. He offers seven, pastoral 'Guiding Principles' see: ibid., 54-60.

the Council.'[58] Paul VI however, understood that the Code's revision required a *novus habitus mentis*, requiring 'nothing less than a new tool in creating and handling the laws.'[59] The law was not an end in itself but called forth appropriate pastoral action and remained 'a dead letter if it is not applied by persons of integrity, honesty and zeal.'[60]

Church law comes from Scripture, Tradition, the customs of Church members, and 'the particular laws or positive enactments of such legislative bodies as synods, provincial, plenary or ecumenical Councils.'[61] As these bodies are episcopal in leadership, it is the bishops who author and apply Church law for use in the pastoral situation.

Following the death of Paul VI on 6 August, 1978, John Paul I was elected Pontiff but died after only a month is office. He was succeeded by Pope John Paul II,[62] who took great interest in the development of the Code. The end of 1978 saw the completion of a second draft.[63] Some bishops petitioned John Paul II for a second phase of consultation on this narrowly circulated draft, submitted only to the cardinals of a now expanded Commission.[64]

The 1980 Synod of Bishops repeated this call. However, some, including Commission staff, viewed further consultation as 'cumbersome and counterproductive.'[65] The Pope responded by increasing the Commission membership by fifteen - elected by episcopal conferences, but refused to circulate the second draft of the Code to all bishops.

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[58] Conway, "Law and Renewal," 414. He identified 'a clear tendency to recoil from the radicalism of the Council' in Roman curial missives, including the CDF. Ibid.
[59] For a discussion see: Ladislas Örsy, "The Meaning of *Novus Habitus Mentis*: The Search for New Horizons," ibid.48, no. 2 (1988), 429. See also: Donald E. Heintschel, "... A New Way of Thinking," ibid.44, no. 1 (1984).
[60] Francis Morrisey, "The Spirit of Canon Law: The Teachings of Pope Paul VI," *Origins* 8 (1978), 40.
[61] Heintschel, "... A New Way of Thinking," 42.
[62] 16 October, 1978.
[63] 29 June, 1980.
[64] Alesandro, "General Introduction," 7.
[65] Ibid.

Previously, under Paul VI, the draft was submitted for evaluation to the various episcopal conferences. Under John Paul II, consultation on Code revision was limited to a much smaller group of cardinals. All were members of the Commission, and all represented a possibly less pastorally active group of bishops. Why the Pope acted in this way is unclear but it certainly limited comment from episcopal conferences worldwide from being heard at a critical moment in the Code's development.

Written comments of the Commission formed a *relatio*,[66] which include thirty-eight canons from the *Lex.* These were passed to the John Paul II on 22 April, 1982. To make the text his own, the Pope studied it 'canon by canon, with the help of a select group of experts.'[67] He 'closed' the document and promulgated the Code himself.[68] The Code's promulgation by John Paul II *with* the College of Bishops would have been a more collegial action, given the Council's emphasis on collegiality and in light of the Pontiff's comments when he promulgated the document. This restrictive action also implied that the reception of the episcopal governance role in the post-conciliar period was gradually being constrained.

The way in which the revised Code was promulgated, and whether it received what conciliar documents said about episcopal governance will now be discussed.

7.3 The Revised 1983 Code of Canon Law

John Paul II understood that the revised Code was promulgated and received as a collegial act 'in harmony with [its] teaching authority and nature.'[69] Its hierarchical constitution was 'founded on the College of Bishops with its Head. For this reason therefore, the Bishops and Episcopal Conferences were invited to be associated with the work of preparing the new Code'[70] in order to prepare it in as collegial a

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[66] 16 July, 1981.
[67] Raymond L. Cardinal Burke, "Foreword," in *Incrementa in progressu 1983 codicis iuris canonici*, ed. Edward N. Peters, *Collection Gratianus Series* (Montréal: Wilson & Lafleur Ltée, 2005), VI. The eight months of papal activity produced 'considerable legislative activity.' Peters, *Incrementa in progressu 1983 codicis iuris canonici*, XII. See Footnotes 8-14 in: ibid., XII-XIII.
[68] McAleese, *Quo Vadis? Collegiality in the Code of Canon Law*, 80.
[69] Pope John Paul II, "Apostolic Constitution *Sacrae disciplinae leges* " in *The Code of Canon Law: In English Translation* (London: Collins, 1983), xii.
[70] Ibid.

manner as possible. The Code translated 'conciliar ecclesiological teachings into canonical terms.'[71] To facilitate access to the revised Code, the bishops' conferences permitted translation of the normative Latin text into living languages.[72]

Eugenio Corecco disagreed with the Pope concerning the revised Code's reception. First, some conciliar texts were not received or only partially received. Second, 'not all the contents materially received in the Code have completely retained the formal value and dynamism that is theirs in the conciliar texts.'[73] Reasons for this mismatch include: the lack of distance from the Council as an event; the choice of Commission members and their canonical training; and, the Commission's guiding norms approved by the 1967 Synod of Bishops.[74] Others, for example Edward Peters and the new President of the Code Commission, Archbishop Rosalio Castillo Lara, viewed the 1983 Code as a papal triumph.[75]

Archbishop Lara viewed the Code as 'pontifical law, not merely because it was promulgated by the authority of the Supreme Pontiff, but also because it bears the imprint of the personal interest of the Roman Pontiffs and of their specific legislative will.'[76] His comments gave rise to episcopal concerns: they suggested that a personal, papal interest gave legislation greater weight, advocating a new category of governance, which set the Pope apart from the College of Bishops, laying him open to a charge of 'creeping infallibility'.[77] When this precept was added to the papal rather than collegial promulgation of the Code, and linked to the John Paul II's statement about the bishops being *associated* with Code reform, a more restricted understanding of collegiality began to emerge.

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[71] Ibid., xiii-xiv.

[72] See *Introduction* in: "The Code of Canon Law: In English Translation," vii. It discusses their approach to translating the Latin text into English: not made easy as a literal translation was not possible. References to the 1983 Code will be made to this edition.

[73] Corecco, "Aspects of the Reception of Vatican II in the Code of Canon Law," 263.

[74] Ibid., 261.

[75] See: Edward N. Peters, "An Introduction to the Canonical Achievements of Pope John Paul II," *Ave Maria Law Review* 6, no. 1 (2007).

[76] Rosalio Castillio Lara, "Discourse of the Pro-President Archbishop Rosalio Castillo Lara, S.D.B.," in *Pontifical Commission for the Revision of the Code of Canon Law, Promulgation and Official Presentation of the Code of Canon Law* (Rome: Vatican Polyglot Press, 1983), 17.

[77] Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II*, 105.

If John Paul II's view of the Code as a conciliar and collegial undertaking is true, the ecclesiological essentials of Vatican II will be clearly present in the revised Code.[78]

7.3.1 The bishop's *pastoral* role in the revised Code

The episcopal office consists of three distinct roles.[79] The episcopal pastoral role developed in the Code is extensive: within his diocese the bishop has 'all ordinary, proper and immediate power required for the exercise of his pastoral office' (c.381 §1):[80] he cares for all of Christ's faithful, those of other Rites (c.383 §2), other Christians faiths (c.383 §3), and the non-baptised (c.383 §4): he is especially concerned for his priests, his 'helpers and counsellors' (c. 384). These canons were written in a pastoral tone, encouraging the bishop to act in a pastoral, caring manner towards these groups and individuals – especially his clergy.

7.3.2 The bishop's *governing* role in the revised Code

The bishop governs the local Church 'with legislative, executive and judicial power, in accordance with the law' (c.391 §1). He exercises legislative power personally, and executive power personally or 'through Vicars general or Episcopal Vicars' (c.391 §2) and, in juridical diocesan transactions he acts 'in the person of the diocese' (c.393). The bishop supports 'all ecclesiastical laws' (c.392 §1) and governs liturgical matters (c.392 §2). He fosters the apostolate, directing its work (c.394 §1), and maintaining the Faithfull's obligation to exercise the apostolate (c.394 §2). He lives in his diocese (c.395 §1-4), visiting it on a five-yearly cycle (c.396). While visitations are pastoral (c.398), they are a dimension of diocesan government. Every five years he reports the state of his diocese (c.399) to Rome, usually making his *ad limina* in the same year (c. 400 §1).

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[78] Green, "The Revised Code of Canon Law: Some Theological Issues," 617.

[79] The bishop's pastoral role is discussed in canons 381-385; teaching (c. 386-390); and governing (c 391-402). The US Conference of Bishops prepared: National Conference of Catholic Bishops, "A Manual for Bishops: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law," (Washington, D.C.: United States Catholic Conference Inc., 1992). Chapter IV is entitled 'The Bishop's Pastoral Government Ministry'.

[80] *"The Code of Canon Law: In English Translation," 67-68.* A reservation is noted concerning the exercise of this power in matters reserved to the Supreme Pontiff or another other ecclesiastical authority.

Episcopal governance was reviewed by the Code in bold strokes as something exercised for the local Church in a pastoral manner. Just as *Ecclesiae imago* served to explain in more detail *how* the bishop ministered and governed in the post-Vatican II Church, the North American National Conferences of Catholic Bishops, *A Manual for Bishops* explained in detail *how* the bishop governs the local Church with reference to the 1983 Code.[81]

7.3.3 '*A Manual for Bishops: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law*'

According to the *Manual for Bishops: Rights and Responsibilities of Diocesan Bishop,* the bishop is presented as legislator, administrator and judge, reflecting canon 391 §1[82] of the 1983 Code. The Manual referenced *Lumen gentium* (LG 27), which states that the bishop governs by persuasion as much as by power. This blend of persuasion and power is the essence of pastoral governance.

The first section of the Manual deals with the bishop as *legislator* for the local Church. While legislative authority may be delegated (c.135 §2; 391 §2), in practice his reliance on various consultative bodies amount to further examples of delegation. The restrictiveness of delegation to named consultative bodies contrasts sharply with 'the relatively broad options for his delegating judicial and executive authority or for his functioning through various vicars in different areas (c.391, 2) (cc.475-481).'[83]

The Manual offers three models for exercising the legislative function: the first, the *Executive Model*, utilises an Episcopal Council, comprising vicar(s) general and episcopal vicar(s) (c.473 §2). While a limited and dated model, the bishop could widen its membership. The second, the *Synodal Model*, utilises the Diocesan Synod. While the bishop is its sole governor (c.462 §1; 468 §1), this model allows the bishop to consult with its lay/clerical membership (c.460), and legislate (c.466) for the pastoral good of the local Church, informing his metropolitan and bishops'

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[81] "A Manual for Bishops: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law."
[82] In a chapter entitled: 'The Bishop's Pastoral Government Ministry.' ibid., 27-58.
[83] Ibid., 28.

conference of any decrees produced (c.467). The third model, the *Conciliar Model*, involves the Presbyteral and Pastoral Councils. The Presbyteral Council (cc.495-501) is mandatory, and consists of diocesan priests who assist the bishop in diocesan governance (c.495 §1). While the bishop convokes and presides over the Presbyteral Council, he may nominate a chairperson (c.500 §1), arrange its agenda, and publish its minutes (c.500 §1, 3). The bishop consults the Council concerning significant decisions, for example, holding a Synod (c.461 §1), or changes to a parish (c.515 §2). The Council also supplies the members of the College of Consultors (c.502), which consents to the bishop performing certain extraordinary administrative acts (c.1277). The optional Diocesan Pastoral Council (c.511-514) fulfils an important pastoral task on behalf of the bishop (c.511). Though consultative (cc.511; 514), the bishop can use its pastoral reflections to shape necessary legislation.[84]

The bishop as *administrator* may issue administrative decrees (cc.48; 49), in writing (c.51), or orally (c.55). These are usually decisions or provisions the bishop makes in given cases according to the norms of law (c.48). If the bishop's decree derogates from law, or removes someone's rights, the decree is invalid (c.38). His primary collaborators in government, especially in administration, are the coadjutor and auxiliary bishops (cc.403-411).[85] The latter may be requested by a diocesan bishop for pastoral reasons (c.403 §1). However, a bishop may play only a minor role in who is chosen.[86] The bishops will, however, deal more frequently with appointments to diocesan ecclesiastical offices (c.157). As well as appointing the Diocesan Curia (c.469), the bishop appoints particular offices, e.g., Vicar General (c.475 §1); Episcopal Vicar (c.476); Chancellor (c.482 §1); Finance Council (c.493; 494 §1-2); and Episcopal Vicar for Finance (c.494 §1). The bishop also appoints to judicial posts, appointing the Officialis (c.1420 §1-2); Judges (c.1421 §1); Defender of the Bond (c.1432) amongst others. At the parish level he appoints: Pastors (c.515 §1) his primary co-workers; Assistant Pastors (c.545);

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[84] The Manual lists 'Possible areas for Diocesan legislation' by the bishop See: ibid., 34-36.
[85] Where they exist - they are not the norm.
[86] How the coadjutor and auxiliary take office and their status is discussed. Catholic Bishops, "A Manual for Bishops: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law," 38-39.

Administrators (c.539); and Deans (c.555). The bishop also supervises the administration of temporalities (EI 134)[87] or resources of the diocese, using charity as his guiding principle.[88] He may be assisted in such matters by these officers.

Finally, the bishop exercises the role of *judge* for the local Church. His rights and responsibilities in this area are carefully defined,[89] and include the settling of contentious issues concerning the People of God (c.1446 §1).

7.3.4 Episcopal Elections

One key area of episcopal governance concerns episcopal elections. The extent to which the 1983 Revised Code allows an expansive or restrictive episcopal governance role is summarised below.

The revised process for appointing a new bishop specifies four steps (c.375-380): identifying a suitable candidate; papal appointment, or confirmation, and conferral of canonical mission; episcopal ordination; and, canonical possession.[90] The process is governed by the Pope who 'freely appoints Bishops' (c.377 §1),[91] protecting the *communio* of the universal and local Church, which 'the new bishop will shepherd.'[92] Final judgement concerning suitability 'rests with the Apostolic See' (c.378 §2). Much has been written about episcopal election.[93]

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[87] Bishops, "Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago*," n.134.

[88] Catholic Bishops, "A Manual for Bishops: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law," 52-56.

[89] Ibid., 56-58.

[90] John A. Renken, "Section II: Particular Churches and their Groupings [cc. 368-572]," in *New Commentary on the Code of Canon Law*, ed. John P. Beal, James A. Coriden, and Thomas J. Green (New York: Paulist Press, 1999), 514.

[91] With the promulgation of the 1917 Code the Pope claimed the appointment of all bishops for the first time. The papal 'confirmation' suggests the possibility of extending the choice of candidates beyond this process - the Pope protects the *communio* by reserving the right to confirm the choice.

[92] Renken, "Section II: Particular Churches and their Groupings [cc. 368-572]," 515.

[93] For example: *Electing our Bishops*, *Concilium*, 137, ed. Peter Huizing and Knut Walf (New York: Seabury Press, 1980); Reese, *Archbishop: Inside the Power Structure of the American Catholic Church*, 1-39. Thomas P. Rausch, *Authority and Leadership in the Church* (Wilmington, De.: Michael Glazier, 1989). René Metz, "Papal Legates and the Appointment of Bishops," *The Jurist* 52, no. 1 (1992); John M. Huels and Richard R. Gaillardetz, "The Selection of Bishops: Recovering the Tradition," ibid.59 (1999). Ghislain Lafont, *Imagining the Catholic Church: Structured Communion in the Spirit*, trans. John J. Burkhard (Collegeville, Mn.: Liturgical Press, 2000), 169-176. Joseph F. O'Callaghan, *Electing our Bishops: How the Catholic Church Should Choose its Leaders* (Lanham, Md.: Sheed & Ward, 2007), esp. 119-152.

In the revised Code, the individual bishop and the bishops' conference are involved. Every three years, the bishop conference submits a list (*terna*) of suitable candidates (c. 377)[94] to the Apostolic See.[95] A bishop may submit names whenever he wishes. However, the election process can easily bypass the local Church, its bishop, and the bishops' conference as the process is governed by the papal nuncio (c.377 §3).[96] He forwards the *terna* with his report to Rome (c.378), a process which can and does displace local episcopal involvement.

7.3.5 The nuncio's restricting role in choosing a bishop

In preparing the *terna*, the papal nuncio follows three steps (c.377 §3): firstly, he seeks suggestions from the Metropolitan, provincial bishops, and the president of the Episcopal Conference. Secondly, he hears 'views' of some members of the college of consultors and diocesan cathedral chapter. Thirdly, he *may* seek the opinions of clerics and lay faithful. Steps one and two are mandatory; step three is optional.[97]

This process allows little local Church input. The 'rediscovery' of the local Church was an important ecclesiological facet of the Council and was reflected in petitions received by the nuncios of France and Germany in 1968, in which they requested consultation with clergy and the lay faithful concerning episcopal elections. However, in the Diocese of Speyer, Germany, the papal nuncio denied their request 'because "a desire for a voice in the choice of episcopal candidates" could not be derived from the teachings of Vatican II.'[98]

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[94] Canon 378 §1 identifies the suitable candidate: '1^0 be outstanding in strong faith, good morals, piety, zeal for souls, wisdom, prudence and human virtues, and possess those other gifts which equip him to fulfil the office in question; 2^0 be held in good esteem; 3^0 be at least 35 years old; 4^0 be a priest ordained for at least 5 years; 5^0 hold a doctorate or at least a licentiate in sacred Scripture, theology or canon law, from an institute of higher studies approved by the Apostolic See, or at least be well versed in these disciplines.'

[95] Canon 361 indicates the term 'Apostolic See' (Holy See) has a wide meaning, referencing the Pope and, unless the contrary is indicated, the Secretariat of State, the Council for the Public Affairs of the Church, and other Roman Curial dicasteries. Much of the work related to the appointment of bishops is handled by the Congregation for Bishops, which comes under the governance of the CDF.

[96] Metz offers a clarification of diplomatic titles. See: Metz, "Papal Legates and the Appointment of Bishops," 264-265. Fn.13.

[97] The nuncio uses a questionnaire devised by the Congregation for Bishops.

[98] O'Callaghan, *Electing our Bishops: How the Catholic Church Should Choose its Leaders*, 121.

In the United States in 1967, Bishop Ernest Primeau of Manchester, New Hampshire consulted his clergy and requested the names of three suitable priest-candidates, which he presented to his conference.[99] This method, the Manchester Plan, was endorsed by the National Federation of Priests' Councils.

In contrast, the canonical process restricted the role and influence of the bishops in identifying a suitable candidate, a process that would benefit from collegial action. The papal nuncio was solely responsible for 'composing the *terna* in preparation of the final choice by the Holy See',[100] and sending it with his report to Rome. This lacked transparency, leading some to question the whole process. While the papal nuncio may prepare the *terna* with the support of the bishops, 'nothing prevents him following his own personal ideas, and in so doing he would act in a manner in strict conformity with the law.'[101]

7.3.6 The theologians' role in episcopal elections

The nature and extent of the local Church's involvement in the electoral process was questioned in the late 1980s. In 1989, European theologians signed *The Cologne Declaration*.[102] It stated: 'Rome appoints bishops without taking cognisance of the suggestions of the local Churches',[103] disregarding their traditional rights.[104] Recent appointments had been an exercise of domination as opposed to an exercise of episcopal collegiality in a pastoral key. Suitable episcopal candidates 'express the multiformity of the Church. The procedure of nomination

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[99] Reese, *Archbishop: Inside the Power Structure of the American Catholic Church*, 3. Quoting from: Priests' Forum 1 (March/April 1969): 26-28. 'Rev. James H. Provost reports, however, that the "returns to such mailed requests are reported to be low." One official involved in the process said, "Priests do not appreciate the importance of letters from bishops asking for names. If only 10 percent respond and they are old pastors who want someone who will not threaten them, then that is what they will get." James H. Provost, "Selection of Bishops - Does Anybody Care?," *Chicago Studies* 18 no. 2 (Summer, 1979), 215.
[100] Ladislas Örsy, "What the New Norms Say and Don't Say," America 127 (September 2, 1972), 111-13. Cited in: Reese, *Archbishop: Inside the Power Structure of the American Catholic Church*, 32.
[101] Metz, "Papal Legates and the Appointment of Bishops," 271.
[102] Published 25 January, 1989 by 163 professors from Germany, Switzerland, Holland, and Luxembourg.
[103] Metz, "Papal Legates and the Appointment of Bishops," 260. English translation of the Declaration taken from: *The Tablet* (February 4, 1989), 140.
[104] Ibid.

is not some private choice of the Pope's.'[105] The nuncio's role reflected 'the odious aspect of an information service which often creates the deviations it is seeking by a biased selection of news.'[106]

If true, this represented a growing 'devaluation of the local Church in the interests of further building up the Roman curial structures as the administrative organ of a "concrete universal" Church.'[107] This pointed to the return to a pre-Vatican II understanding of magisterial involvement, which demanded conformity to its decisions, which were beyond appeal.[108]

7.4 Episcopal Conferences post-Vatican II

The Council realised the value of episcopal conferences (CD 37) in promoting the common good of the universal and local Church (CD 36). Relevant doctrine (CD 38) was to be reflected in the revised Code (CD 44), and Directory for Bishops (CD 44). Episcopal conferences were also discussed in other conciliar documents, which ascribed various competencies.[109] The task of implementing conciliar reform was given to individual bishops *and* episcopal conferences.[110] Paul VI addressed the norms of the episcopal conference shortly after the Council ended.

7.4.1 *Ecclesiae sanctae* (1966)

Paul VI's apostolic letter *Ecclesiae sanctae*[111] outlined experimental norms concerning episcopal conferences.[112] The relevant section reads:

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[105] Ibid.

[106] Ibid.

[107] F.J. Laishley, "Unfinished Business," in *Modern Catholicism: Vatican II and After*, ed. Adrian Hastings (London/New York: SPCK/Oxford University Press, 1991), 224.

[108] Alberigo, "The Authority of the Church in the Documents of Vatican I and Vatican II," 131.

[109] References to episcopal conferences occur in the following conciliar documents: *Sacrosanctum concilium* (nn.22, 36, 39, 40, 44, 54, 63, 73, 79, 119, 120, 128); *Lumen gentium* (nn.23 and 29); *Unitatis redintegratio* (n.8); *Optatam totius* (nn.1 and 22); *Gravissimum educationis* (Introduction); *Perfectae caritatis* (n.23); *Ad gentes* (nn.16, 20, 31, 32, 38); *Presbyterorum ordinis* (n.21). See: Marcellinus Costalunga, "*De episcoporum conferentiis*," *Periodica* 57 (1968), 246-257.

[110] These competencies belonged 'to the scope of the power of governance, both legislative and executive.' Remigius Sobanski, "The Nature and Future of Episcopal Conferences," ed. Hervé Legrand, Julio Manzanares Marijuan, and Antonio García y García (Washington, D.C.: Catholic University of America Press, 1988), 103.

[111] Paul VI, *Ecclesia sanctae*, 6 August, 1966. Apostolic letter, written *motu proprio*, on the implementation of the decrees *Christus Dominus, Presbyterorum ordinis* and *Perfectae caritas*. AAS 58 (1966), 757-758. See: Austin Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," (Northport, New York: Costello Publishing Company, 1981), 591-610; at 609-610.

41. (1) The bishops of countries or territories which have not yet established an episcopal conference, in accordance with the law of the Decree *Christus Dominus,* should take steps as quickly as possible to do so and draw up its statutes which are to be approved by the Apostolic See ['*ab Apostolica Sede recognoscenda*'].

(2) Episcopal conferences already in existence should prepare their own statutes in accordance with the prescriptions of the sacred Council; statutes already in existence shall be revised in accordance with the mind of the Council and submitted to the Apostolic See for approval ['*et Apostolicae Sedi recognoscenda remittent*'].

(3) Bishops of countries where it is difficult to establish conferences, shall, after consulting ['*consiliis initis cum Apostolica Sede*'] the Apostolic See, join the conference which best meets the requirements of the apostolate in their country.

(4) Episcopal conferences of many nations or international conferences can be established only with the approval ['*Apostolica Sede approbante*'] of the Apostolic See, whose duty it will be to lay down special laws governing them. Whenever actions or procedures are being undertaken by the conferences which have an international character the Holy See should be informed beforehand.

(5) Episcopal conferences, especially those of neighbouring countries, will be able to establish relations with one another in suitable and opportune ways through the secretariats of these conferences, regarding the following matters amongst others: [...].[113]

The statutes of a new conference required the approval (*recognoscenda*) of the Apostolic See; the same Latin noun is used here as in *Christus Dominus* 38 §3. Conferences in existence prior to Vatican II were required to revise their statutes and seek similar approval (*recognoscenda*). The Apostolic See advised bishops who experienced difficulties in establishing a conference (*consiliis initis cum Apostolica Sede*). The Apostolic See reserved approval (*Apostolica Sede approbante*) to establish conferences 'of many nations or international conferences' (ES 41 §4). This action, *approbante* (not '*recognoscenda*'), meaning 'approval, approbation,

[112] Ibid., 592.
[113] Ibid., 609-610.

sanction',[114] reflected *Christus Dominus* 38 §5. Existing conferences must first inform the Apostolic See if they undertook actions of an international character.[115]

One important area not discussed in *Ecclesia sanctae* concerned the legal 'binding force' of the governance decisions of episcopal conferences. These required approval 'by the apostolic see [*ab apostolica sede recognitae*] [...] or enacted by special mandate of the apostolic see [*peculiare apostolicae sedis mandatum*] acting on its own initiative or in response to a petition made by the conference itself' (CD 38 §4).[116] Guidance pertaining to its 'decisions' and their binding force would have been helpful: its absence reflected the uncertainty concerning governance and the episcopal conference. Their non-inclusion may also relate to their presumed inclusion in a revised Code, or to allow for future control exercised centrally rather than locally.

7.4.2 Magisterial recognition of episcopal conferences

Paul VI welcomed new recommendations based on the experiences of the conferences.[117] This suggested a papal recognition of episcopal conferences and real value given to their suggestions, in light of their pastoral experience in applying current norms. Together they represented a growing, formal recognition of episcopal conferences. This was reflected in Pope John Paul II's encyclical letter *Redemptor hominis* (1979), in which he speaks about collegiality, especially in the form of the episcopal conference – and Synod of Bishops, as pulsating with their own identity and originality (RH 6).[118]

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[114] Stelten, *Dictionary of Ecclesiastical Latin*, 20.
[115] Presumably Canon 7 of the Code of Canon Law (1917) applied, in order to equate the use of 'The Holy See' with the previously used phrase 'The Apostolic See'. See: Peters, *The 1917 Pio-Benedictine Code of Canon Law*, 32.
[116] Tanner, "Decrees of the Ecumenical Councils," 937.
[117] Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," 591-592.
[118] See:Pope John Paul II, "Encyclical letter *Redemptor hominis*," (http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_04031979_redemptor-hominis.html#-461979). John Wilkins sees John Paul II reasserting the governance of the centre over the periphery by reinterpreting collegiality to mean that bishops were expressing collegiality by supporting his governance role. See: John Wilkins, "From Peritus to Pope: the Causes of Ratzinger's About-Face," *National Catholic Reporter*, 11.10.2012.

7.4.3 Canonical understanding of episcopal conferences

The canonical status and authority of episcopal conferences has long been debated.[119] However, the canonical understanding of the governance of episcopal conferences is a different matter. The following is a brief overview of significant developments in the 1983 Code, identifying where they deviate from conciliar and post conciliar documents, where appropriate, and restrict episcopal governance.[120]

Canons 447-459[121] address legislation governing episcopal conferences,[122] which restricts their power and competence. In their development and promulgation, two concerns arose: firstly, safeguarding the rights and prerogatives of the Pope and, secondly, safeguarding the rights and prerogatives of the local bishop.

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[119] 13 canons (c. 447-457) deal with episcopal conferences. For debate see: Thomas Green, "The Authority of Episcopal Conferences: Some Normative and Doctrinal Considerations", *Canon Law Society of America: Proceedings of Fifty-first Annual Convention,* 1983 (Washington D.C.: Canon Law Society of America, 1990), 123-36; Peter Krämer, "Episcopal Conferences and the Apostolic See" in Hervé Legrand, et al. eds., *The Nature and Future of Episcopal Conferences*, 134-145; Frederick McManus, "The Scope of Authority of Episcopal Conferences" in *The Once and Future Church*, James Coriden, ed., (New York: Alba House, 1971), 129-178; Francis G. Morrisey, "Decisions of the Episcopal Conference in Implementing the New Law" *Studia canonica* 20 (1986), 105 - 121; Donal B. Murray, "The Legislative Authority of Episcopal Conferences", *Studia canonica* 20 (1986), 33-47; Antonio Acerbi, "The Development of the Canons on Conferences and the Apostolic See," in *The Nature and Future of Episcopal Conferences*, ed. Hervé Legrand, Julio Manzanares, and Antonio Garciá y Garciá (Washington, D.C.: The Catholic University of America Press, 1988), 146-152.; "The Church's Sanctifying Mission: Some Aspects of the Role of Episcopal Conferences", in *Studies in Canon Law Presented to P.J.M. Huizing,* J.H. Provost and K. Walf, eds. (Leuven: University Press, 1991), 57-88; Eugene Duffy, "Episcopal Conferences in the Context of Communion: Some Notes on the American Experience," *The Jurist* 64, no. 1 (2004). Massimo Faggioli, "Institutions of Episcopal Collegiality- Synodality After Vatican II: The Decree *Christus Dominus* and the Agenda for Collegiality- Synodality in the 21st Century," ibid., no. 2.
[120] See also: Eugene Duffy, "The Exercise of the Munus Docendi of a Bishops' Conference: A Case Study – The National Conference of Catholic Bishops of the United States on the Presbyterate (1966-1990)" (The Milltown Institute of Philosophy and Theology, 1997).
[121] For commentary see: James Provost, "Title II: Groupings of Particular Churches [cc. 431-459]," in *The Code of Canon Law: A Text and Commentary*, ed. James A. Coriden, Thomas J. Green, and Donald E. Heintschel (London: Chapman, 1985), 350-377. The Canon Law Society of Great Britain and Ireland, ed. *The Canon Law: Letter and Spirit* (London: Geoffrey Chapman, 1999), 250-257. Ernest Caparros et al., "Code of Canon Law Annotated," (Montreal and Woodridge, Ill.: Wilson & Lafleur and Midwest Theological Forum, 2004), 374-384.
[122] Green discusses the 43 canons referencing episcopal conferences: Thomas J. Green, "The Normative Role of Episcopal Conferences in the 1983 Code," in *Episcopal Conferences: Historical, Canonical and Theological Studies*, ed. Thomas J. Reese (Washington D.C.: Georgetown University Press, 1989), 137-176.

The canons rejected a position allowing episcopal conferences 'all the power necessary to govern a determined portion of the Church, between what is reserved to the Pope and what is reserved to the diocesan bishop.'[123]

The Code Commission did not clarify that episcopal conferences can be established *ipso iure* by the bishops of a region; their establishment was presented as dependent on the initiative of the Apostolic See (c.448 §2 and c.449 §1). Why this transposition happened is unclear.[124] However, it is possible the Commission was concerned that too great a degree of autonomy may be passed to and exercised by the conferences to the disadvantage of the Apostolic See. Legislative competence was limited because the episcopal conference was not 'a primarily legislative organ, directed toward the centralisation of ecclesiastical governance at the intermediate level. Instead, it is an organ of consultation and exchange for co-ordinating pastoral action.'[125]

The CSLA did not view this position as congruent with conference history. It represented a significant restriction of the Council's perspective: 'The Council (CD 38:3) and post-conciliar legislation (*Ecclesiae sanctae* I, 41:1–2) had required the approval of statutes by the Apostolic See but had left the authority to establish a conference in the hands of the participating bishops.'[126] The Code Commission's position was restrictive of any exercise of governance beyond that exercised by the Apostolic See.

A limiting of episcopal governance may also be identified with reference to canon 455 concerning general decrees. Conferences may 'make general decrees only in the case where the universal law has so prescribed, or by special mandate of the Apostolic See, either on its own initiative or at the request of the Conference itself' (c. 455 §1). General decrees must be approved by two thirds of the membership[127] and cannot be promulgated without being *reviewed* by the Holy See (c. 455 §2). If

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[123] Acerbi, "The Development of the Canons on Conferences and the Apostolic See," 151.
[124] Ibid., 148.
[125] Ibid., 150.
[126] James A. Coriden, Thomas J. Green, and Donald E. Heintschel, eds., *The Code of Canon Law: A Text and Commentary* (London: Chapman, 1985), 365-366.
[127] Who have a deliberative vote.

the universal law or a special mandate of the Apostolic See does not give the
conference the power noted in c. 455 §1, 'neither the Conference nor its president
can act in the name of all the bishops unless each and every Bishop has given his
consent' (c. 455 §4). Therefore the vote was now required to be unanimous.[128]
However, at no time has a unanimous vote been demanded of conciliar bishops for
their doctrinal pronouncements 'nor have they usually been satisfied with a mere
two thirds majority. [...] they have always sought consensus.'[129] Sullivan
demonstrates that neither the bishops nor the faithful sought this.

Episcopal authority and the faithful's confidence in it rests on the understanding
that consensus was reached under divine guidance. The authority of episcopal
conferences should rest on the faithful's ability to recognise decisions were
reached by consensus 'after broad consultation and serious deliberation, as guided
by the Spirit.'[130] Such statements may be trusted and represent examples of a more
expansive exercise of pastoral governance.

The preceding canons (c. 439-446) address Particular Councils - plenary and
provincial,[131] which differ in one important way from episcopal conferences. They
are pastoral *and* legislative bodies. Canon 447 states that the episcopal conference
is a *permanent* institution, which promotes, 'in accordance with the law, that
greater good which the Church offers to all people.' A particular Council ensures
that 'the pastoral needs of the people of God in its territory are provided for. While
it must always respect the universal law of the Church, it has power of *governance*,
especially legislative power' (c.445).[132] Each is presented as unique; however,
Particular Councils can be celebrated as often as an episcopal conference deems
necessary, advantageous or opportune (c.439 §1 and 440 §1). This offers the

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[128] Francis A. Sullivan, "The Teaching Authority of Episcopal Conferences," *Theological Studies* 63
(2002), 488.
[129] Ibid., 492-493.
[130] Ibid., 493. He references: Hermann-Josef Sieben, "Episcopal Conferences in Light of Particular
Councils during the First Millennium," in *The Nature and Future of Episcopal Conferences*, ed. Hervé
Legrand, Julio Manzanares, and Antonio Garciá y Garciá (Washington, D.C.: The Catholic University
of America Press, 1988), 32-33.
[131] 'Plenary and provincial councils' are addressed in the 1917 Code (c.281-292). A number of
ordinaries are required to 'come with a petition to the Roman Pontiff, who will designate his Legate
to convoke and preside over the Council' (c.281). Any decrees are to be transmitted to the Holy See
for review (c.291 §1).
[132] Emphasis added.

episcopal conference the means to exercise episcopal governance. Nevertheless, the Apostolic See controls two connected features: the 'approval' to celebrate a plenary Council (c.439 §1) and, the 'review' of its acts (c.446). While the Council can decide the time and manner in which its acts are promulgated, their undefined 'review' by the Apostolic See, may render them redundant.

The Code established the episcopal conference's canonical existence by expressing the general outline of its legislative powers and establishing the canonical conditions necessary for its juridical existence and competence.

In doing so, the Code only *partially* addressed the requirement for conferences to 'become an instrument adapted for Church life in the post-Vatican II era'.[133] The Code invested episcopal governance in Particular Councils, rooting their control in the Apostolic See. The episcopal conference was established as 'a hierarchic instance between the Holy See and the diocesan bishop'.[134] By not investing the episcopal conference with a clear governance role, the 1983 Code provides a *restrictive* rather than expansive example of papal and curial magisterial reception of Vatican II. This action disallowed an important means by which groups of bishops could govern the pastoral adaption of the local Church to local need.

7.4.4 The Curia and episcopal conferences

In 1983 Cardinal Joseph Ratzinger denied that the episcopal conference possessed a *mandatum docendi*. This belonged 'only to the individual bishop or to the college of bishops with the Pope.'[135] His comments were made during a meeting in Rome, discussing differences between American and European theologians, and the Roman Curia, over the contents of the NCCB's pastoral letter, *The Challenge of Peace* (1983).[136]

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[133] Paul VI, 4 February, 1977 in: AAS 69 (1977), 147-53. See the translation in: Woestman, *Papal Allocutions to the Roman Rota: 1939-2002*, 142.

[134] Green, "The Normative Role of Episcopal Conferences in the 1983 Code," 150.

[135] See Appendix A in: Matthew F. Murphy, *Betraying the Bishops: How the Pastoral Letter on War and Peace is Being Taught* (Washington D.C.: Ethics and Public Policy Center, 1987), 77-89 at 80-81. For an overview see: Jan Schotte, "Rome Consultation on Peace and Disarmament: A Vatican Synthesis," *Origins* 12 (1983), 692.

[136] See: Bradford Hinze, "Whatever Happened to the Way the U.S. Bishops Prepared The Challenge of Peace?," *New Theology Review* 21, no. 2 (2008).

While Ratzinger's comments concerned the *mandatum docendi*, they possessed the ability to undermine 'any other statement issued by the conference'[137] including those of a governmental nature. Sullivan likened Ratzinger's questioning of the 'authority of episcopal conferences' to a bombshell.[138] While some scholars responded to him,[139] Ratzinger continued to express negative opinions about episcopal conferences, perhaps timed to influence the forthcoming 1985 Synod.[140]

7.5 Second Extraordinary Synod of Bishops (1985)

Ratzinger's comments led to a discussion on the status of episcopal conferences during the 1985 Second Extraordinary Synod.[141] Its 'Introductory Report' welcomed the positive effects of Vatican II, the view its authors wished to give to the Synod.[142] The Synod helped bishops to deepen their reception of the Council[143] in the form of a balanced rediscovery of its texts.[144] Those who spoke positively about the Council or about episcopal conferences tended to speak against Roman centralisation. Conversely, those who spoke for Roman centralisation spoke against episcopal conferences and collegiality - the synodal theme.

During synodal debate ecclesiological positions surfaced reminiscent of the Council's 'majority - minority' or 'centre-periphery' divisions. The minority, following Ratzinger, read *Lumen gentium* as suggesting the episcopal magisterium may be exercised during a general Council and by the bishop of a local Church only: they wanted an investigation of 'the theological status of conferences of bishops

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[137] Reese, *Episcopal Conferences: Historical, Canonical and Theological Studies*, vii.

[138] Sullivan, "Developments in Teaching Authority Since Vatican II," 476.

[139] For example: Avery Dulles, "The Teaching Authority of Bishops' Conferences," *America* 148 (1983).

[140] Most notably: 'We must not forget that the episcopal conferences have no theological basis, they do not belong to the structure of the Church, as willed by Christ, that cannot be eliminated; they have only a practical, concrete function.' Ratzinger and Messori, *The Ratzinger Report: An Exclusive Interview on the State of the Church*, 59.

[141] 25 November – 8 December, 1985. Its theme: '*The Twentieth Anniversary of the Conclusion of the Second Vatican Council.*' It also requested a new catechism to be prepared.

[142] Grootaers notes this was in clear contrast to 'the unilateral interpretation given by Cardinal J. Ratzinger after the council in his interview "This is why the faith is in crisis."' Jan Grootaers, "The Collegiality of the Synod of Bishops: An Unresolved Problem," *Concilium*, no. 4 (1990), Fn. 3.The footnote refers to an interview in the periodical: *Jesus*, November 1984.

[143] See: Joseph A. Komonchak, "The Synod of 1985 and the Notion of the Church," *Chicago Studies* 26, no. 3 (1987), 330.

[144] Grootaers, "The Collegiality of the Synod of Bishops: An Unresolved Problem," 21.

and the breadth of their participation in the *magisterium* of the Church in so far as such authority really existed.'[145]

Their wishes to restrict magisterial and governmental participation were reflected in the Final Report. It now read: from the collegiality of the Pope and bishops can be distinguished many limited 'actualizations' of 'collegial spirit: the Synod of Bishops, the Episcopal Conferences, the Roman Curia, the "ad limina" visits, etc.'[146] While the Report understood that episcopal conferences could not be deduced directly from collegiality, they were 'a service of great importance for the whole college of bishops together with the Pope, and also for the individual bishops'. [147]

The majority at the Synod wanted episcopal conferences to have a practical, legal, collegial and theological basis. Bishops from the USA and Europe, for example, found these conferences useful when developing a pastoral perspective on contemporary issues and made 'The Church' more equivalent to the local Church. Grootaers viewed the exercise of collegiality in the Synod and episcopal conference as central.[148] This conciliar and collegial spirit, the Report stated, had 'concrete application in the episcopal conferences' (LG 23). No one could doubt their pastoral effectiveness. As members, bishops 'exercise their pastoral service (CD 38; CIC can. 447)' supporting the good of the local and universal Church.[149] The Synod 'celebrated [promoted], and verified the Council''[150] but in emphasising its continuity with Vatican II, Grootaers' suggests this relativised 'the necessary reform of ecclesial structures.'[151]

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[145] Ibid., 22.
[146] Synod of Bishops, "The Church, in the Word of God, Celebrates the Mysteries of Christ for the Salvation of the World," C. 5.
[147] Ibid.
[148] Grootaers, "The Collegiality of the Synod of Bishops: An Unresolved Problem," 22.
[149] Synod of Bishops, "The Church, in the Word of God, Celebrates the Mysteries of Christ for the Salvation of the World," C. 5.
[150] Ibid., D. 7.
[151] Grootaers, "The Collegiality of the Synod of Bishops: An Unresolved Problem," 19. A point with which Komonchak would concur: Komonchak, "The Synod of 1985 and the Notion of the Church," 339-342. However, appeals to the Council's 'spirit' – or later to 'affective collegiality', could be construed as avoidance tactics: avoiding any real authority being devolved to episcopal conferences by *relating* reform to a reading of both the 1980 Synodal document and of the relevant conciliar documents..

Requests for a study of the theology of episcopal conferences did not result in the Synod appointing a body to undertake this study. The bishops therefore awaited a Vatican response.[152] A response arrived in 1988.[153]

7.5.1 Synod of Bishops' - Draft Statement (1988)

The Draft Statement on Episcopal Conferences was sent to bishops and episcopal conferences.[154] A covering letter describes the document as not binding, and requested comments and corrections.[155]

In Komonchak's opinion, the Statement lacked balanced theological reasoning, focussing on 'the things which the conferences are *not*.'[156] The one hundred existing conferences[157] were 'effective instrument[s] in guaranteeing the necessary unity of action of the bishops'.[158] They coordinated responses to 'important ecclesial problems at the national or supraregional level.'[159] They were, however, 'not instituted for the pastoral governance of a nation nor to substitute for the diocesan bishops as a sort of superior and parallel government, but to help them in the fulfilment of some common tasks.'[160] The conferences did not represent 'a collegial exercise of episcopal power.'[161] Hence, their decisions were never collegial acts. They did not enjoy a '*munus magistrii.*'[162] They had no legislative competence 'similar to that of particular Councils'. [163]

When addressing the relationship between the episcopal conference and an individual bishop, the Draft Statement distinguished between its binding and non-

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[152] Reese, *Episcopal Conferences: Historical, Canonical and Theological Studies*, viii.
[153] See: ibid., viii. Fn. 7. The report was collectively produced by the CDF, the Congregation for Eastern Churches, the Congregation for the Evangelization of Peoples, and the General Secretariat of the Synod of Bishops.
[154] See: The Congregation of Bishops, "Draft Statement on Episcopal Conferences," *Origins* 17, no. 43 (1988).
[155] See: "A Vatican Draft that Falls Short," *The Tablet*, 26.11.1988, 3-4.
[156] Komonchak, "Introduction: Episcopal Conferences under Criticism," 21. This represented the position of Cardinal Ratzinger.
[157] Synod of Bishops, "The Church, in the Word of God, Celebrates the Mysteries of Christ for the Salvation of the World," 731. Quoting: *Annuario Pontifico*, 1987.
[158] Ibid., 731. Introduction.
[159] Ibid., 735. IV, 732.
[160] Ibid., 734. IV, 731.
[161] Ibid., 734. IV, 732.
[162] Ibid., 735. V.
[163] Ibid., 735. I.

binding juridical decisions. The first involved a limitation of the power of the local bishop in line with canon 381 §1:

> The problem of the authority of decisions which are not juridically binding in relation to bishops who dissent from it is instead more complex. Canon law lays down that in the areas in which the episcopal conference does not enjoy legislative powers, the competence of the diocesan bishop remains intact as neither the episcopal conference not its president can speak in the name of all the bishops if they do not have their unanimous approval (Canon 455.4). Decisions which are juridically binding enjoy moral authority even with respect to dissenting bishops. [...].[164]

Such concerns reflected the minority view at Vatican II, yet the Synod had called for a more profound study of episcopal conferences. The Draft Statement did not identify a collective episcopal expression of governance positioned between the College of Bishops and the individual bishop. A governance role exercised by the episcopal conference was reduced by the 1983 Code and by the Synod's position. Repetition of this position by the Magisterium served to reinforce its impetus.

Theological responses from episcopal conferences and other sources were forthcoming.[165] For example, the Theological Advisory Commission of the Federation of Asian Bishops´ Conferences (FABC) recommended its rejection. Bishop Teodoro Bacani, of Manila, was embarrassed to have their *mandatum docendi* restricted, which had been used by the Catholic Bishops´ Conference of the Philippines (CBCP) to speak authoritatively against the regime of President Markos.

Commenting on Canon 455, Archbishop Oscar Cruz of San Fernando, Pampanga, Vice-President of the CBCP, saw only support for the authority of the episcopal conferences, defining the boundaries 'within which the episcopal conference can issue decrees. You can see there is a balance with the authority of the Holy See and

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[164] Ibid., 736. II.
[165] See: *America* 158 (19 March 1988), distributed to American bishops and others. A Further contribution is the volume: Reese, *Episcopal Conferences: Historical, Canonical and Theological Studies*. Some of its contributors assisted the special committee of the NCCB to draft its response: National Conference of Bishops, "Response to Vatican Working Paper on Bishops Conferences," *Origins* 18 (December 1, 1988), 397-402. For the responses of other Conferences see: ibid., ix-x.

that of the individual bishop.' [166] Canon 455 neither undermined papal authority nor overshadowed that of the individual bishop: 'It proposes a balance.' [167]

FABC theologians recommended rejection of The Draft Statement on Episcopal Conferences on the following grounds: firstly, it was uninformed concerning the pastoral realities experienced by local Churches: secondly, if adopted, it settled questions which still remained '*quaestiones disputatae*'; and thirdly, the draft adopted positions 'difficult to reconcile with the historical experience of episcopal authority and with the development of episcopal conferences since Vatican II.'[168] These serious reservations emphasised the diminution of earlier, papal confidence in episcopal conferences. It also inhibited the exploration of their governance role. This marked a further restriction in the magisterial reception of the pastoral governance role in the post conciliar era.

Ratzinger continued to speak of a limited governance role exercised by an episcopal conference. In 1987 he commented: 'The bishops share in governing the whole Church by governing their respective particular Churches and in no other way.'[169] A bishop's primary collegial act was to lead his diocese well. If this was weakened, collegiality was ended:

> [T]hen there is nothing left on which to build all the meetings and *conferences*, and they work in a vacuum. To lead the local Church, we repeat, is to share in leading the whole Church. The other acts of collaborative leadership have their indispensable significance in the concrete realisation of the "reciprocity", but by their very nature they only supplement this fundamental act.[170]

For Ratzinger, a governance role was entrusted to the bishop but not to groups like the episcopal conference.[171] Conferences provided a forum for collaborative

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[166] "Bishops Stand Behind Theologians´ Questioning of Vatican Draft," *UCA News*, http://www.ucanews.com/story-archive/?post_name=/1988/06/08/bishops-stand-behind-theologians-questioning-of-vatican-draft&post_id=36628. [Downloaded 29.10.2014]
[167] Ibid.
[168] See: ibid.
[169] Ratzinger, *Church, Ecumenism and Politics: New Essays in Ecclesiology*, 56.
[170] Ibid., 61.
[171] In 1965, when searching for a means of 'plurality in unity', Ratzinger recognised that episcopal conferences reflected synodal Church activity. He viewed as unhistorical the idea that episcopal conferences 'lack all theological basis' and that collegiality was an action solely of the College of

leadership but most certainly not for governance. While his view was questioned by theologians throughout the 1980s, Ratzinger's position was reflected in John Paul II's apostolic letter *Apostolos suos*.[172]

7.5.2 *Apostolos suos* (1998)

Controversy over the governance (and teaching) role of episcopal conferences continued, leading John Paul II to issue *motu proprio*, his apostolic letter *Apostolos suos*.[173] From its beginning it was clear that there was no corporate energy in episcopal conferences: 'This territorially based exercise of the episcopal ministry never takes on the collegial nature proper to the actions of the order of bishops as such' (AS 12). *Apostolos suos* rejected the notion that episcopal conferences exercised 'effective collegiality', something the bishops exercise at an ecumenical council or, when dispersed, when they agree with the pope to some course of action.

Apostolos suos does agree that episcopal conferences exercise a degree of collegiality, what it terms 'affective collegiality' (*collegialis affectus*). While this term was used by the Council on two occasions (LG 23; AG 6), neither was concerned with episcopal conferences. Ladislas Örsy viewed discussion of affective collegiality as a 'theological thought experiment'.[174] For Örsy, *Apostolos suos* presented episcopal conferences as bodies animated by a collegial spirit – the meaning behind 'affective collegiality', but with no share in the collegial power of the episcopate.[175]

Bishops. See: "The Pastoral Implications of Episcopal Collegiality," *The Church and Mankind, Concilium* 1 (1965), 39-67.

[172] Sullivan, "The Teaching Authority of Episcopal Conferences," 491. For example, the ecclesiologist, Angel Antón S.J., recognises 'the theological foundation of the conference of bishops, of their theological form as an intermediate authority between the diocesan bishop and the episcopal college [...] and of their capacity as an ordinary ecclesiastical *magisterium*.' Valentini, "An Overview of Theologians' Positions: A Review of Major Writings and the State of the Question Today [post-Vatican II Collegiality]," 40. Valentini notes similar views in the minds of contemporary theologians. Ibid., 40. See: Fn.19.

[173] See: http://www.vatican.va/holy_father/john_paul_ii/motu_proprio/documents/hf_jp-ii_motu-proprio_22071998_apostolos-suos_en.html. [Downloaded 6.4.2014]

[174] Ladislas Örsy, *Receiving the Council: Theological and Canonical Insights and Debates* (Collegeville, Mn.: Liturgical Press, 2009), 19.

[175] Ibid., 19-20. See also Fn.17.

Section VI: 'Complementary Norms Regarding the Conferences of Bishops' of *Apostolos suos* clarified norms concerning doctrinal declarations. While allowing episcopal conferences to issue doctrinal statements, these were restricted. They must have received unanimous approval of the conference, i.e., the collective authority of all the individual bishops of the conference, or, if approved by a two-thirds majority, must have received the *recognitio*, that is, the universal authority of the Apostolic See. This corresponded with Ratzinger's position, which viewed governance as belonging only to the individual bishop and to the College of Bishops.[176]

The magisterial formulation contained in *Apostolos suos* effectively restricted the exercise of any governance role of an episcopal conference. If every episcopal conference wished to receive recognition of a doctrinal statement, which had been approved by less than the necessary two thirds majority, the CDF (the most likely review body) would have to examine more than one hundred statements.[177]

Conferences would be less enthusiastic to expend time and energy on writing 'pastoral letters, especially if the Roman authorities required changes which the bishops felt would make their letters less suited to meet the particular needs of their people.'[178] The need for a *recognitio* from the Apostolic See centralised a growing post-conciliar exercise of governance by the CDF.

This raised the question as to whether an episcopal conference might cast a unanimous deliberative vote for a piece of legislation and therefore avoid the need for a *recognitio.* While possible, the centralising tendencies of the Roman magisterium controlled the process of episcopal elections. At this time episcopal conferences were gradually populated with bishops who held a more restrictive view of episcopal governance.[179] A unanimous vote supporting the exercise of

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[176] Sullivan, "The Teaching Authority of Episcopal Conferences," 472. Sullivan provides a comprehensive history and analysis of the *motu proprio*. See: ibid., 485-493.

[177] See: *Annuario Pontificio* (2010), 1101-06. It lists 112 conferences.

[178] Sullivan, "The Teaching Authority of Episcopal Conferences," 486.

[179] The choice of suitable candidates and the process leading to their election is scrutinised elsewhere in this thesis. For one overview of the official process see: http://www.usccb.org/about/leadership/appointing-bishops.cfm. [Downloaded 11.10.2014].

governance by an episcopal conference therefore became increasingly unlikely during John Paul II's pontificate.

The statutes of an episcopal conference must be consistent with both the 1983 Revised Code of Canon Law (canon 451) and the requirements of *Apostolos suos*.[180] This was the position moving forward, even though *Christus Dominus* (CD 38; 44) directed that *its* principles were to be reflected in the revised Code.

By 1998 *Apostolos suos* clarified that episcopal conferences did exercise a governance role in theory, but its practical exercise had been rigidly circumscribed and restricted. The pontificate of John Paul II and the prefecture of Cardinal Ratzinger, adopted an expansive view of papal primacy and a restrictive view of episcopal collegiality. From episcopal appointments to the understanding of the governance of the episcopal conference, to the discussion of 'effective' and 'affective' collegiality in *Apostolos suos*, John Paul II's pontificate was a time of magisterial restriction and curial control of episcopal pastoral governance.[181]

7.6 Reform of the Roman Curia

The issue of Roman curial reform originated in the Council's preparatory phase and concerned the centralising of Church government in Rome.[182] The Curia operated in the Pope's name, 'with his authority for the good of the Churches [and] in the service of the sacred pastors' (CD 9). This shaped conciliar ideas concerning curial reform. While their diligence was not questioned, reform was necessary as they failed to grasp that:

According to John Allen, bishops chosen during John Paul II's papacy tended to be 'grey men, noted more for doctrinal reliability than vision or pastoral competence. In 2002, John Paul reaped the bitter harvest of his disengagement when a sexual abuse crisis involving priests exploded [...]. As the story unfolded, it became clear that the real scandal was not the personal failures of a small number of clerics, but the malfeasance on the part of speak-no-evil, see-no-evil bishops who did nothing about it.' John L. Allen, "He Was a Magnificent Pope who Presided Over a Controversial Pontificate," *National Catholic Reporter*. [Downloaded 25.9.2014].
[180] Significantly fewer references were made in *Apostolos suos* (Section III on Episcopal Conferences) to the Vatican document than are made to the Code. There are 4 conciliar references. 1 to *Lumen* gentium; 2 *Christus Dominus*; 1 to *Dei Verbum*. There are 17 references to the Code, and 4 to other Roman or canonical documents.
[181] Gaillardetz, *The Church in the Making: Lumen Gentium, Christus Dominus, Orientalium Ecclesiarum*, 125.
[182] Faggioli, "Institutions of Episcopal Collegiality- Synodality After Vatican II: The Decree *Christus Dominus* and the Agenda for Collegiality- Synodality in the 21st Century," 226-227.

1. The Church was not 'a monolithic structure with an omni-competent central administration'.[183]

2. The Church is a communion of Churches, each with a part to play.

3. The bishop was not a papal functionary or local manager controlled from Rome, which was 'affirmed by the German bishops in the nineteenth century, [and] forcefully approved by Pius IX at the time and again taught by Vatican II.'[184]

However, curial reform remained an incendiary business. A minority of conciliar bishops viewed its reform as a dangerous or even a heretical aberration.[185] While this was not an issue *of* the Council, as Paul VI removed difficult issues from the Council's agenda,[186] it was an issue *at* the Council, and important 'for understanding what happened.'[187]

7.6.1 The Roman Curia and Pope Paul VI

Paul VI had addressed the Roman Curia in 1963.[188] He needed its collaboration 'for the ordinary governance of the Church.'[189] The Curia had received criticism in the *Vota* and throughout the first session,[190] and Paul VI aimed to address this.[191] He praised their service, identified himself as a former colleague, and highlighted Rome as the Church's centre.[192] The Pontiff raised three points: bishops would become more active in the work of Congregations;[193] the Curia would cooperate with the Council;[194] and curial reform would happen 'formulated and propagated by the Curia itself.'[195] For Paul VI, reform of the Curia by the Curia[196] should not arouse concern.[197]

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[183] Quinn, *The Reform of the Papacy: The Costly Call to Christian Unity*, 154.
[184] Ibid.
[185] O'Malley, *What Happened at Vatican II*, 6.
[186] For example: clerical celibacy and birth control.
[187] O'Malley, *What Happened at Vatican II*, 6.
[188] *Quali siano*, 21 September, 1963 in *L'Osservatore Romano* (22 September, 1963); AAS 55 (1963), 793.
[189] O'Malley, *What Happened at Vatican II*, 171.
[190] Faggioli, "Reform of the Curia at and After Vatican II," 25-26.
[191] *To the Roman Curia*, vol. 9, The Pope Speaks (1964), 154.
[192] Ibid., 151.
[193] Ibid., 156.
[194] Ibid., 152.
[195] Ibid., 155.

While allowing some discussion of curial *review*, the Pope reserved any decision to himself.[198] This was anomalous: curial reform was a contentious, conciliar issue. His actions placed him 'in competition with the Council [...] reserving to himself, even with a Council in session, a matter of great practical and symbolic importance to the Council fathers, the reform of the Curia.'[199] This highlighted a major difference between Paul VI and John XXIII. The latter trusted the bishops to make decisions, stepping in only when such processes were threatened, while Paul VI's actions could be misconstrued as support for the Roman Curia against the conciliar bishops. In trying 'to be all things to all people when it came to curial reform'[200] Paul VI undermined episcopal governance while bolstering Roman curial governance.

7.6.2 Paul VI: Effective curial reformer?

In October, 1965, Suenens spoke to Paul VI about episcopal misgivings concerning an effective reform of the Curia. The Pope 'interrupted him, defended the Curia, [and] said no major changes were needed.'[201] While his allocution when promulgating *Dei verbum* and *Apostolicam actuositatem* reiterated earlier ideas concerning curial reform, his post-conciliar documents reflected a desire for little or no change.[202] A few examples will now be investigated.

7.6.3 *Integrae servandae* (1965)

Paul VI's apostolic letter *motu proprio Integrae servandae* instigated reform of the Roman Curia.[203] Twelve norms were outlined in *Integrae servandae* which

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[196] Gilles Routhier, *Vatican II: Herméneutique et Réception* (Saint-Laurent, Québec: Fides, 2006), 146.

[197] O'Malley, *What Happened at Vatican II*, 171.

[198] Peter Huizing and Knut Walf, "Editorial," *Concilium* The Roman Curia and the Communion of Churches, no. 127 (1979), viii.

[199] O'Malley, *What Happened at Vatican II*, 172.

[200] Gerard Mannion, "Cognitive Dissonance? Still Minding the Gap between Council and Curia," *Concilium*, no. 5 (2013), 52.

[201] O'Malley, *What Happened at Vatican II*, 283.

[202] Mannion, "Cognitive Dissonance? Still Minding the Gap between Council and Curia," 52. Except for separate arrangements for: liturgy, reform of Canon Law, Media and the three new Secretariats for Christian Unity, non-Christian religions, and non-believers.

[203] See: http://www.vatican.va/holy_father/paul_vi/motu_proprio/documents/hf_p-vi_motu-proprio_19651207_integrae-servandae_en.html. (Downloaded 30.7.12).

encouraged the Sacred Congregation of the Holy Office, now known as the Congregation for the Doctrine of the Faith (CDF) to develop its role at a distance from the bishops. For example, local bishops would be 'notified' if someone from their dioceses was reported to them (Norm 5). The appointment of papal Consultors (Norm 10) would not necessarily involve the local bishop even though they were drawn from universities, often the location of episcopal sees.

Integrae servandae raised three concerns: first, it did not specify the relationship between the CDF, the local bishop, the episcopal conference, or the Synod. The Congregation may consult or advise a bishop on an issue, no more. Second: Paul VI decreed that seven diocesan bishops would serve on each curial congregation for five years.[204] Heads of congregations would choose suitable bishops after consulting 'the conference of bishops.'[205] However, a diocesan bishop could only attend his congregation's annual, meeting, which restricted episcopal influence and the communication of local Church needs (CD 9, 10).[206] A third concern involved the promulgation of the norms *motu proprio*. A document reforming the Roman Curia, promulgated during the Council, was expressed as a personal, papal juridical act, without reference to the Council. This showed great detachment from the collegial and pastoral nature of the Council, and from the strongly expressed views of the majority of bishops concerning Roman curial reform.

7.6.4 *Regimini ecclesiae universae* (1967)

Two years later, Paul VI's apostolic constitution *Regimini ecclesiae universae* redrew curial, juridical structures.[207] For example, it created the Sacred Congregation for Bishops, which was placed under the jurisdiction of the CDF, and encouraged an international, curial membership. However, there were existing time constraints on diocesan, episcopal involvement as noted in *Integrae servandae*. The Constitution had an important effect: it emphasised the role of the Curia as the Pope's executive body. Interdepartmental curial cooperation

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[204] August 6, 1967.
[205] Huizing and Walf, "Editorial," viii.
[206] Ibid.
[207] This translates as: 'For the rule of the universal Church.' For a copy of this document in Latin see: http://www.vatican.va/holy_father/paul_vi/apost_constitutions/documents/hf_p-vi_apc_19670815_regimini-ecclesiae-universae_lt.html. Promulgated August 15, 1967.

channelled curial business to the Pope's central secretariat, which developed into a 'mini curia', affording the Pope greater control.[208] Its effects will be discussed next.

7.6.5 Papal Allocution: 'First Interdepartmental Cooperation in the Curia' (1968)

Paul VI presided over the first meeting of curial cardinals,[209] a new practice (n. 1) initiated by *Regimini ecclesiae sanctae*.[210] Cardinals were accountable under papal guidance 'for the central government of the Catholic Church' (para.1). This offered the Pope 'a circle of authoritative collaborators' (n. 2).

The Pope's Allocution may be questioned as follows:

(a)   Did this 'mini curia' reflect reform of the Roman Curia requested by the Council?

(b)   Where was the governance of the local bishop reflected in its practices? If the Pope was surrounded by 'authoritative collaborators' did he need, for example, the Synod of Bishops or the episcopal conferences?

(c)   Did this not encourage the Curia to understand itself as fulfilling the 'central government' role, to the exclusion of a developing episcopal governance role via the Synod or episcopal conferences?

None of these points received an answer nor was there call for further and more substantial curial reform. The formation of a 'mini curia' represented a further restriction of episcopal governance by supporting the practice of Church governance exercised by the papal magisterium alone.

7.6.6 Pope Paul VI: Curial reformer or conciliar redactor?

Paul VI heard the Council's collegial call for curial reform but favoured a papal, juridical response, which translated into a curial *review*. His understanding of

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[208] Huizing and Walf, "Editorial," ix.

[209] See the English edition of: *L'Osservatore Romano*, 20 June 1968, 2.

[210] Paragraph 4 states: 'Today's meeting begins the formal and practical application of the rules set out in the Apostolic Constitution on the Roman Curia, *Regimini Ecclesiae*, August 15, 1967, Chapter 2, Nos. 13-18. The last article states: 'The Cardinal Secretary of State can convoke the Cardinals in charge of Departments when it seems advisable, to coordinate all their work, to supply information, and to take counsel with them.'

collegiality prior to his papal election was subsequently coloured by a 'conservative', conciliar minority.[211] Collegiality now appeared 'as a potentially dangerous novelty, a possible usurpation of traditional papal prerogatives.'[212] Deeper curial reforms were substituted by 'organisational reforms'.[213] While producing a more internationalised Curia,[214] Pope Paul did not offer a nuanced response to calls for curial reform, and thus encouraged the development of Roman 'curial cognitive dissonance'.[215] As the gap widened between how the Roman Curia imagined a post-conciliar Church, and the understanding of the majority at the Council, especially in terms of ecclesial governance, '[t]he will of the Council in key areas would be thwarted, key reforms tempered, delayed or overturned altogether'[216] by the Curia. Paul VI and the bishops would probably have been better served by encouraging transparent, conciliar debate, leading to conciliar legislation for curial reform. The Pope's actions and those of Roman curial members, who opposed the Council, encouraged the continued undermining of the magisterial reception of episcopal governance in the post conciliar Church.

7.7 The First Ordinary General Assembly of the Synod of Bishops (1967)

The first meeting of the Synod considered the topic: *'The Preservation and Strengthening of the Catholic Faith, its Integrity, its Force, its Development, its Doctrinal and Historical Coherence.'* Paul VI identified the Synod as a 'new proposal,

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[211] As Archbishop of Milan, Pope Paul VI understood that Vatican II raised 'expectations, dreams, curiosity, utopian aspirations of all kinds, and many fantasies (n.30).' Great things, however, could be expected: 'thanks, light, spiritual energies, and also renovations in the discipline, in the worship, in the administration of the Church, in its contacts with the modern world and approaching separated Christians (n.30).' See: Cardinal Giovanni Montini, "Pastoral Letter: *Pensiamo al Concilio* " (http://conciliaria.com/2012/03/cardinal-montini-pensiamo-al-concilio-part-iv/1962). [Downloaded 1.2.2014]. He worked with Suenens on the plan to reduce the proposed workload on the bishop at the Council. See: Riccardi, "The Tumultuous Days of the Council," 56. See also Hebblethwaite's comments on Pope John's approval of episcopal initiatives by Cardinals Suenens, Lercaro, and *Montini*, to ensure the smoother passage of the Council into a second session. Hebblethwaite, "John XXIII," 32. Taken together, they suggest a man with a substantial collegial nature and understanding.
[212] Jean-Guy Vaillancourt, *Papal Power: A Study of Vatican Control Over Lay Catholic Elites* (Berkeley/London: University of California Press, 1980), 211.
[213] Ibid.
[214] Huizing and Walf, "Editorial," ix. The new Curia included: 'various commissions, the Council for the Laity, *Justitia et Pax*, and *Cor Unum*.' ibid.
[215] Gerard Mannion, "Cognitive Dissonance? Still Minding the Gap between Council and Curia," ibid., no. 5 (2013), 52.
[216] Ibid., 54.

full of such splendid possibilities'.[217] Paul VI's goals included the strengthening of the Catholic Church, its preservation and ongoing development and integrity, together with its doctrinal and historical coherence.[218] However, as at Vatican II, tendencies that restricted the role of the bishops in the preparation period and at the Synod were in play.[219] Some wished to minimise synodal preparations. For example, the Vatican Press Office saw no need for coverage of the first meeting of the Synod as it was a private meeting of the Pope and bishops.[220] This was rejected by the bishops *before* the Synod, as a 'secret' Synod would not show confidence in the People of God (LG 9, 12).[221] A brief consideration of synodal debate and action will judge whether Paul VI's optimism was warranted.

7.7.1 The Synod in action

The Roman Curia proved that it had shaken off any threat to its authority posed by *Christus Dominus* (CD 9-10), and by Paul VI's reforms when Cardinal Ottaviani's draft working document was presented to the Synod.[222] Bishops recognised this curial behaviour, which aimed to restrict episcopal synodal action, from their experiences at Vatican II. They rejected the *Lineamenta*, electing a commission to prepare an alternative, which avoided applying a 'curial rubber-stamp' on the Synod.[223]

The majority of bishops welcomed the Synod and the opportunity it offered to discuss contemporary concerns. These included the call for a pastoral revision of the 1917Code; the approval of the new order of mass, which came into effect in 1969; and for Episcopal Conferences to have greater control of their seminaries.

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[217] Bonaventure Kloppenburg, *The Ecclesiology of Vatican II*, trans. Matthew J. O'Connell (Chicago: Franciscan Herald Press, 1974), 205.

[218] See: 'Summary of the Synod Assemblies' at http://www.vatican.va/news_services/press/documentazione/documents/sinodo/sinodo_documentazione-generale_en.html. [Downloaded 5.12.2014].

[219] Sean O'Riordan, "The Synod of Bishops: A Theological Event," *The Furrow* 18, no. 10 (1967), 568.

[220] Ibid., 565.

[221] Ibid.

[222] Hebblethwaite, "The Synod of Bishops," 202.

[223] Ibid., 203. One fruit of the Synod was the formation on 11 April, 1969 of the International Theological Commission. For a discussion of its origins see: Walter H. Principe, "The International Theology Commission," ibid., 194-199. In offering a list of some of the well-known theologians appointed to the Commission, he comments: 'However, the omission of prominent authors less favoured by the Vatican curia has been noticed.' ibid., 195.

However, in the following two years Paul VI promulgated the encyclicals *Sacerdotalis caelibatus* (1967)*, Humanae vitae* (1968) and *Sollicitudo omnium ecclesiarum* (1969). As Pope, he had the right to do so. However, whether, in light of the Synod, it was wise is questionable. The influence of these encyclicals would have been greater had they been preceded by extensive episcopal consultation.[224] The lack of consultation signalled an increasingly restricted and restrictive reception of collegiality and of synodality.

7.8 First Extraordinary General Assembly of the Synod of Bishops (1969)

The Synod took as its theme: 'The Cooperation between the Holy See and the Episcopal Conferences',[225] encouraging 'wider participation of the bishops with the Pope and each other in the pastoral care of the universal Church.'[226] Discussion focussed on the nature of collegiality and on the relationship of episcopal conferences to the bishop and the Pope.[227] It also focused on the relationship between the 'centre' and the 'periphery' in order to win a more autonomous role for episcopal conferences without limiting the free action of the Pope. Cardinal Eduardo Pironio of Argentina wrote:

> The community of the bishops with the Pope should not be understood as though the Pope was the only centre of unity, while the bishops represented mere diversity. The college of bishops, united with the Pope, is itself the principle of unity. The bishop represents the particular Church in which the universal Church dwells. The Roman Pontiff is the defender of legitimate diversity to the extent that he favours the cultural diversity of the Churches and prevents the absorption of particular Churches.[228]

The Synod discussed its business in nine language groups, aiding communication and easing difficulties between bishops of differing ecclesiological stances. The

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[224] Peter Hebblethwaite, "The Synod of Bishops," ibid., 204. He also offered this comment on the third document: 'Third-world bishops objected to not being consulted about *Sollicitudo Omnium Ecclesiarum* (26 June 1967), which, while purportedly 'reforming' the papal diplomatic service, left episcopal conferences largely subordinate to the Vatican representative.' ibid.

[225] 11 October to 28 October, 1969.

[226] http://www.vatican.va/roman_curia/synod/documents/rc_synod_20050309_documentation-profile_en.html#V._SUMMARY_OF_THE_SYNOD_ASSEMBLIES. (Downloaded 25.4.2012). Capitalisation original. Some suggest it was called due to a lack of universal reception of *Humanae vitae*.

[227] http://www.vatican.va/roman_curia/synod/documents/rc_synod_20050309_documentation-profile_en.html#V._SUMMARY_OF_THE_SYNOD_ASSEMBLIES. (Downloaded 25.4.2012). Capitalisation original.

[228] Hebblethwaite, "The Synod of Bishops," 204. Emphasis original.

1969 Synod suggested that bishops wanted to listen to one another and to work together with the Pope 'in all matters of importance (above all in the preparation of pontifical documents and decrees), in order to strengthen the Church's unity and discipline.'[229]

7.9 Episcopal pastoral governance following the 1967 and 1969 Synods

A degree of congruence existed between conciliar and synodal documents concerning episcopal pastoral governance. At the 1969 Synod, Paul VI repeated that while the Synod did not duplicate the same papal/episcopal relationship noted in *Lumen gentium* (LG 22), nonetheless, he wished to promote such a bond.

He likened the Synod to the Roman Curia, that is: 'in service to the personal primacy of the Pope, created by himself. It did not represent the world episcopacy based on the sacramental mission received when becoming a bishop.'[230] In 1974, the Pope defined the Synod as 'neither a Council nor a Parliament but a special type of Synod'[231] offering a shared solution to matters of universal concern.

The Italian ecclesiologist, Massimo Faggioli, suggested that the Council's 'new balance of powers in the Catholic Church, especially between papacy and episcopacy'[232] expressed in *Christus Dominus* stalled in the post-Vatican II Church. The delay began with the Curia's wish to run a closed Synod, to control its agenda, and control its statements. Paul VI (like Pius XII) failed to control 'progressive' forces by relying 'on the bureaucratic power of the Curia to insure his control over the Church.'[233] This suggested a reform of the Roman Curia would not take place during the pontificate of Paul VI. The Synod was far from being 'a means of collegial sharing of decision-making between the episcopate and the Pope. Rather, with the Curia as an instrument of that collegial power, [the Synod] became a mere consultative organ for the Pope and his new powerful ally, the Curia.'[234]

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[229] Ibid. Hence the point made by Suenens was reinforced.
[230] Huizing and Walf, "Editorial," xiii.
[231] Pope Paul VI, Angelus Oration, 22 September, 1974.
[232] Faggioli, "Institutions of Episcopal Collegiality- Synodality After Vatican II: The Decree *Christus Dominus* and the Agenda for Collegiality- Synodality in the 21st Century," 226.
[233] Vaillancourt, *Papal Power: A Study of Vatican Control Over Lay Catholic Elites*, 213.
[234] Ibid.

7.10 Tenth Ordinary General Assembly of the Synod of Bishops (2001)

While many Synods were held in the interim, the 2001 Synod again took an episcopal theme: 'The Bishop, Minister of the Gospel of Jesus Christ for the Hope of the World.' John Paul II concluded the synodal action with his post-Synodal apostolic exhortation, *Pastores gregis*.

7.11 Post-Synodal Apostolic Exhortation: *Pastores gregis* (2003)

The exhortation represented the ideas of the Synod and completed a series of papal, post-Synodal reflections on the People of God and their diverse vocations 'in the context of the ecclesiology of communion [*communio*] set out by Vatican II, focussing on the diocesan Bishop as the visible sign and central principle.'[235] However, *Pastores gregis* ignored the nature of an exhortation as something that explained the business of the Synod. Also, in stressing its 'magisterial' and papal authority, it also undermined the synodal and episcopal character of its origins. Chapter 5 discussed the 'Pastoral Governance Role of the Bishop'. Most importantly it requested a revised Directory for Bishops in light of the revised Code (1983). [236]

7.12 Directory for the Pastoral Ministry of Bishops: *Apostolorum successores* (2003)

The 2001 Synod of Bishops proposed updating *Ecclesiae imago*.[237] As a result, the Directory on the Pastoral Ministry of Bishops, *Apostolorum successores*, was produced by the Congregation for Bishops in 2003.[238] It is substantially larger than

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[235] Directory, Introduction, 9. The thoughts and vision of theologians who formed the *Communio* programme prevailed within the Roman Curia. They attempted to impose 'throughout the Church [...] a normative understanding of *Communio* ecclesiology.' Mannion, "Cognitive Dissonance? Still Minding the Gap between Council and Curia," 53-54. For an overview of Ratzinger's Ecclesiology of Communion see: Boeve and Mannion, *The Ratzinger Reader: Mapping a Theological Journey*, 113-118.

[236] *Ordo Synodi Episcoporum*, The Order of the Synod of Bishops, (Rescript from the Papal Audience of 2006). See: http://www.vatican.va/roman_curia/synod/documents/rc_synod_20050309_documentation-profile_en.html#B._Apostolica_Sollicitudo_(15_September_1965). [Downloaded 23.1.2013]. This is important as it sets new rules for the Synod.

[237] See: Pope John Paul II's apostolic exhortation *Pastores gregis* (2003), n.24.

[238] Congregation for Bishops, *Directory for the Pastoral Ministry of Bishops* (Vatican City: *Libreria Editrice Vaticana*, 2004).

Ecclesiae imago,[239] and addresses the bishop's 'complex and difficult pastoral ministry in the Church and in the modern world.'[240]

The Directory offered the bishop a series of guidelines[241] and while presented as practical and pastor, the Directory in Green's opinion, it is a 'test case' for assessing the adequacy of the translation of ecclesiological principles on the episcopate into concrete canonical structures. Even if not technically a legislative text, the Directory seemed to express the understanding of episcopal ministry in the Latin Church on the part of a significant Holy See dicastery.'[242]

Green noted the Directory's pastoral-juridical function, facilitating the episcopal exercise of discretion in applying the Directory's directives and suggestions,[243] and 'genuinely accountable governance patterns in various ecclesial settings.'[244] The Congregation for Bishops is an executive body, tasked with implementing, not making law, particularly in the context of episcopal governance.[245] Therefore, the Directory

> depends on higher level norms; it normally does not derogate from existing laws; and its prescripts contrary to existing laws lack all force (c. 33). Rather it facilitates a bishop's understanding of relevant legislation that affects the exercise of his office and adds various practical determinations and specifications. [...] a proper critical analysis of the Directory requires an awareness of its dependency on the exhortation and various canonical texts.[246]

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[239] It consisted: an Introduction; nine Chapters (nn.1-230); Conclusion (nn.231-246); sixteen Appendices; Index; seven hundred and sixty footnotes.
[240] Introduction, 9.
[241] Introduction, 9.
[242] Green, "Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and other Pertinent Texts," 419-420.

[244] Green, "Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and other Pertinent Texts," 421. The bishop is the principal leader in the diocese; hence he is not the only leader in the diocese. His article considers 'interrelated factors pertinent to genuinely accountable or ecclesially responsible episcopal governance.' ibid., 419. It focuses on chapters 4, 7 and 8 of the Directory, 'especially his relationship to the faithful in his diocese and their involvement in selected participative structures.' ibid., 421. Kaslyn understands that accountability is integral to Church structures and 'essential to the office of bishops.' R. J. Kaslyn, "Accountability of Diocesan Bishops: A Significant Aspect of Ecclesial Communion," ibid.67 (2007), 109.
[245] See: *Pastor bonus*, 75; 79.
[246] Green, "Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and other Pertinent Texts," 421-422. The second Directory has a total of 760 footnotes compared to 115 in the first Directory.

These higher norms discuss the exercise of the bishop's pastoral governance role, a role shared with diocesan clergy and the lay faithful. Should the Directory deviate from existing law, that which is contrary has no standing.[247]

With regard to the juridical status of a Directory, the 1983 Code does not establish its standing.[248] There are numerous statements in the Directory that are unsupported by specific, recent legislation

> yet are quite peremptory in tone. These sections are obviously intended to encourage and advise the Bishop yet *they must not be interpreted as new law or obligatory prescripts*. There are places where the Directory indicates the mind of the Holy See, [...]. Also in reading the Directory a Bishop must keep his eye on the quoted sources for the text he is studying. Much of the text of the Directory derives from the teaching documents and exhortations of Pope Paul VI and Pope John Paul II and it will be a help to refer to the originating document for a fuller understanding of the text in the Directory.[249]

Although aiming to assist the bishop, the Directory's 'tone' and reliance on papal teaching (especially *Pastores gregis* and *Novo millennio ineunte*) and the 1983 Code, are not substitutes for a good knowledge of the underlying conciliar texts.

For Green, the Directory was a test case, for evaluating 'the adequacy of the translation of ecclesiological principles on the episcopate into concrete canonical structures.'[250] While the Directory was a useful reference work with a comprehensive index to which a bishop may refer when deciding a course of

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[247] This reflects the understanding behind Green's reference to canon 33. Canon 33 §1 states: 'General executor decrees, even if published in directories [as in this case] or other such documents, do not derogate from the law, and any of their provisions which are contrary to the law have no force.' The difficulty is in comprehending if the content of a directory does derogate from the law and if the law, in its turn, has not derogated from the authority of that which brought it into being i.e., the texts of the Council.

[248] Jukes notes an oblique use in the Latin Code (CIC 33 §1). 'Directory' is a new term in the Code, meaning 'an organic collection of a whole series of general decrees concerning a specific matter or argument. [...] dispositions in a Directory do not establish a law and should not be equated with "Instructions."' Jukes, "Document No. X: A Comment on the Pastoral Directory for Bishops *Apostolurum Successores*," 97.

[249] Ibid., 98.

[250] Green, "Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and other Pertinent Texts," 421.

action, 'it does not replace or amend the 1983 Code.'[251] And, like its predecessor, the current Directory (2003) needed to 'be assessed *primarily* in light of the teachings of Vatican II.'[252]

When presented with the Directory, the bishop was given two tasks: firstly, to accept the understanding of episcopal ministry expressed by the Congregation for Bishops, the Directory's authors and, secondly, to have an intimate knowledge of episcopal governance as presented by Vatican II and the 1983 Code. If the bishop discovered that the view of episcopal governance presented in the Directory was restrictive when compared with conciliar teaching or the 1983 Code, then the Directory had failed to translate the ecclesiological principles concerning the bishop into something of use to the pastoral bishop. Furthermore, it was possible that the bishop may construe that the Congregation for Bishops aimed to limit episcopal governance, which reflected a lack of reception on the Congregation's behalf of the role of episcopal pastoral governance as developed by the Council.

7.13 Conclusion

At the close of Vatican II, the Church was challenged to receive conciliar teachings on the governance role of the bishop exercised locally, nationally and universally. Episcopal conferences had shown their value during the Council, helping the bishops to reflect on the relationship of episcopal governance and the papacy, the College of Bishops, and the Roman Curia. Conferences were seen as episcopal necessities and became mandatory after the Council, especially as they had been invested with liturgical governance. However, by the late 1990's any governance role exercised by them was wholly restricted. This represented the theological position of Cardinal Ratzinger, head of the CDF. For him, the local bishop expressed a governance role for the local Church or, with the College of Bishops, for the universal Church. In his theological vision there was no governance role for the episcopal conference. This was the position of the papal magisterium by the 1990's.

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[251] Jukes, "Document No. X: A Comment on the Pastoral Directory for Bishops *Apostolurum Successores*," 99.
[252] Green, "Contemporary Challenges to Episcopal Governance: Reflections on the 2004 Directory on the Ministry of Bishops and other Pertinent Texts," 422.

The concept of cognitive dissonance assists reflection on Roman curial practice in the post-conciliar period. Dissonance was first created by Paul VI's approach towards reform of the Curia - by the Curia, which proved to be no reform at all. His encyclicals of the late 1960s, especially *Humanae vitae*, were written with severely limited input from the College of Bishops. The encyclical placed the governance of married love, of parenthood, and birth control in the hands of the Pope. It was the bishop's task to enforce such teaching. Bishop Johan Bonny voiced his concern as a lack of collegial involvement in its authorship, created tensions, clashes and disunity within the College that remain unresolved. *Humanae vitae's* doctrinal content was turned into 'a strategic programme that was enforced with a firm hand.'[253] The process of preparing *Humanae vitae* missed a vital opportunity to receive the Council's teaching on collegiality. Pope Paul VI, influenced by the Curia, decided to ignore the importance of exercising governance in a pastoral, collegial manner. In turn, this accentuated the strength of curial influence coupled to a restrictive view of episcopal governance. This suggested a return to the pre-conciliar position of the local bishop as a curial branch manager so soon after the close of the Council.

Secondly, dissonance was created by the Curia's slowing or reversal of curial reform by deliberately leaving divisive and vitally important Church issues unresolved within Vatican II documents.[254] Compromises, contradictions and juxtapositions were introduced, which obscured a sharper focus on episcopal governance. Many bishops felt they 'approved texts severely weakened by concessions granted in order to win over a defiant minority.'[255] After the Council, 'minority' activities continued and indeed increased, affecting the direction of reform followed by Paul VI.

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[253] Bishop Johan Bonny, "Synod on the Family: Expectations of a Diocesan Bishop," (2014). For an alternative understanding of its authorship see: Michael J. Barberi and Joseph A. Selling, "The Origin of *Humanae Vitae* and the Impasse in Fundamental Theological Ethics," *Louvain Studies* 37, no. 4 (2013), 364-389.
[254] Mannion, "Cognitive Dissonance? Still Minding the Gap between Council and Curia," 52.
[255] Tagle, "The 'Black Week' of Vatican II (November 14-21, 1964)," 387.

Thirdly, the bishops and the Curia often expressed and represented different understandings and viewpoints concerning the future of the Church. More progressive voices within the Curia and post-conciliar commissions, who supported episcopal governance, were moved aside. For example, Annibale Bugnini, who supported episcopal liturgical governance, was suddenly moved and made pro nuncio to Iran in 1976.

Fourthly, negative curial activity before, during and after the Council was directed towards the Council's reforms. During the Council, curial factions and similarly minded bishops were very 'adept at out-manoeuvring the most reform-minded conciliar Fathers and *periti* in the Commissions and committees.'[256]

In the years following Vatican II, the Roman Curia and central Church leadership followed an ecclesial direction, which acted as a 'roadblock' to the Council's most important reforming principles and teachings.[257] Ecclesiological factions labelled conservative/progressive or minority/majority came to prominence. These positions still exist today and cloud a healthy ecclesial reform programme based not only on a reading of the Council's documents but also on the trajectories suggested by conciliar debates. In turn, a healthy reform would encourage a more expansive reading and reception of episcopal pastoral governance.

While the Synod of Bishops was envisaged as an advisory body by Paul VI, any influence it might have had on universal governance was minimised further by the Curia's wishes to prepare its *Lineamenta*, to run the Synod, and to write its synodal exhortation. The Curia argued that this lifted a burden from episcopal members, who had diocesan pastoral responsibilities. Some bishops saw the action of the Curia as limiting their freedom to discuss matters of importance to the local Church. However, the election of bishops who supported a more restricted view of episcopal governance, and their appointment to the more important episcopal sees dampened such discussions.

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[256] Mannion, "Cognitive Dissonance? Still Minding the Gap between Council and Curia," 53. These were seen in what Tagle referred to as the Council's Black Week – 14-21 November, 1964.
[257] Ibid.

In essence, the Curia simply did not comprehend itself as the servant of the bishops. It used the Synod to restrict any vestiges of episcopal governance. Pope Benedict XVI further restricted its effective collegiality in 2005 by reducing the duration of the Synod from four to three weeks. This reflected his continuing lack of support for any episcopal body which suggested some measure of collective episcopal governance, beyond that exercised at an ecumenical council.[258] For Benedict XVI, decentralisation did not offer a more expansive view of the episcopal governance role: it sought to encourage the bishops to make 'decisions the way Rome wants, so that Rome did not have to do so for them.'[259]

The revised Code (1983) did not implement the decisions and teaching of Vatican II in an even manner. The development of a *Lex Ecclesia Fundamentalis* together with some solid principles for code revision would have sustained a better codification of the episcopal governance role as envisaged by the Council.

Code development was criticised by some as coming too soon after the Council and being carried out by those without pastoral experience. While reforms to the episcopal governance role were reasonably easy to read at the Council's end, the 1983 Code received a more restricted understanding. In turn, this supported further limitations placed on the episcopal role in the Directory for Bishops (2003). While the first Directory (1973) diverged on occasions from conciliar teaching, offering a slightly restricted view of episcopal governance, the second Directory (2003) presented a much reduced role of episcopal governance. Without a precise knowledge of the more expansive view of episcopal pastoral governance expressed in the conciliar documents and, to a limited degree, in the 1983 Code, the contemporary bishop will receive an increasingly restricted understanding of his pastoral governance role by reading the 2003 Directory. This is seen most clearly when considering the severe lack of reception imposed on episcopal governance of the Church's liturgy - the subject of the next chapter.

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[258] Paul Lakeland, *A Council That Will Never End* (Collegeville, Mn.: Liturgical Press, 2013), 32.
[259] David Gibson, *The Rule of Benedict: Pope Benedict XVI and His Battle with the Modern World* (San Francisco: HarperSanFrancisco, 2006), 302.

Chapter 8: *Sacrosanctum concilium*: A Case Study in the Restricted Reception of the Bishop's Pastoral Governance of the Liturgy

8. Introduction

Sacrosanctum concilium envisaged an extensive role for the bishop. With the local episcopal conference, the bishop was to prepare and translate liturgical prayers into 'living languages'[1] and oversee the implementation of liturgical change. These were key conciliar expressions of episcopal governance, which represented a deeper theology of the episcopacy. Furthermore, they demonstrated a renewed ecclesiology at work in advance of *Lumen gentium* and *Christus Dominus*, one which emerged intuitively. In subsequent years, the Council's reform agenda was challenged. Reform was resisted by the Roman Curia and by other elements within Church.[2] The Curia, in particular, aimed at protecting its pre-Vatican II position of governance and was not inclined to receive the Council's collegial ecclesiology.

8.1 Renewal of the Liturgy

The renewal of the liturgy acts like a litmus test for the post-conciliar reception of episcopal governance expressed in the Constitution. Some fifty years after its

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[1] For a discussion of 'vernacular' versus 'living language' see: Thomas O'Loughlin, "Latina Veritas! - language a guarantor of truth?," *The Furrow* 63, no. 7 (2012), 343-347. "A Vernacular Liturgy Versus a Liturgy in the "Vernacular"?," *Worship* 86, no. 3 (2012), 244-255. On the vernacular debate at Vatican II see: Keith F. Pecklers, *Dynamic Equivalence: The Living Language of Christian Worship* (Collegeville, Mn.: Liturgical Press, 2003), 170-225. Flannery translated the phrase as 'vernacular language' and Tanner as 'living language' in their respective translations of *Sacrosanctum concilium*. For a discussion of the repercussions of this debate in the recent translation of the *Missale Romanorum* into English see: Daniel P. McCarthy, "Seeing a Reflection, Considering Appearances: The History, Theology and Literary Composition of the *Missale Romanum* at a Time of Vernacular Reflection," *Questions Liturgiques/Studies in Liturgy* 94, no. 1-2 (2013), 109-143.

[2] For example: Archbishop Marcel Lefebvre and his followers rejected Vatican II's liturgical reform. They found the Priestly Society of St. Pius X (1969), as a vehicle with which to opposed conciliar liturgical reform. See: 'Pope Paul's Letter to Archbishop Lefebvre,' *Origins*, NC Documentary Service, 16 December, 1976.

promulgation, controversy over the authority of episcopal conferences and their governance of liturgical texts in living languages, as articulated in *Sacrosanctum concilium*, is again under consideration.[3] This suggests the doctrine of the Council was received by some but not by others, and indicates a tension between the 'periphery' and the 'centre'. The veracity of such a claim will now be investigated in order to establish how liturgical episcopal governance was received post-Vatican II.

8.2 Implementation of *Sacrosanctum concilium*

The implementation of *Sacrosanctum concilium* was entrusted to the *Consilium ad exsequendam Constitutionem de sacra liturgica* - the Consilium.[4] This body was formally established in 1964 by Paul VI in his apostolic letter *Sacram liturgicam* (SL).[5] The implementation of liturgical reform was to be carried out by the Consilium with wisdom and prudence (SL 2). Its membership included bishops and liturgical experts who were conciliar participants, with Bugnini serving as secretary. [6] The Consilium published its instruction on the implementation of

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[3] See: Archbishop Piero Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975* (Collegeville, Mn.: Liturgical Press, 2007), x.

[4] The work of a pre-Consilium, formed to guide conciliar liturgical reforms, made little progress due to a lack of leadership. See. Ibid., 19.

[5] Issued *motu proprio* by Pope Paul VI, 25 January, 1964; published in *L'Osservatore Romano* 29 January, 1964. An English language version may be found at: http://www.vatican.va/holy_father/paul_vi/motu_proprio/documents/hf_p-vi_motu-proprio_19640125_sacram-liturgiam_en.html [downloaded 12.9.2012]. AAS 56 (1964), 139-144. For an abbreviated form see: Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," 41-44.

[6] Some imagined Bugnini's influence designed 'the liturgical changes they find so offensive. [Gy is clear] that Pope Paul governed the Church both globally and in detail, and that he was deeply schooled and in detail (more profoundly that Archbishop Lefebvre). That the Pope paid close attention to the submissions of Bugnini did not prevent him from making his own decisions.' Pierre-Marie Gy, *The Reception of Vatican II Liturgical Reforms in the Life of the Church*, The Père Marquette Lecture in Theology (Milwaukee, Wi.: Marquette University Press, 2003), 16. Remember Paul VI's *crayon rouge*.

liturgical norms, entitled *Inter oecumenici,* in September 1964.[7] Expert members spoke of their happy working relationship with the bishops.[8]

The Consilium was guided by four distinct characteristics:

(i)   to be autonomous, working only for liturgical reform;

(ii)   to work efficiently;

(iii)   to have an international staff; and,

(iv)   to be comprised of bishops - approximately 30, international experts and a secretariat who would forward revised drafts to presidents of episcopal conferences and the Pope.

This fourth characteristic underlined the importance and centrality of the local bishop and episcopal conferences in liturgical reform envisaged by *Sacrosanctum concilium*.[9]

The Sacred Congregation for Rites understood itself, not the Consilium, to be the body responsible for implementing liturgical change as it held responsibility for the schema on which *Sacrosanctum concilium* was formed.[10] The task of implementing liturgical change would not have suited the Congregation as it had already expressed strongly worded 'difficulties' with Pius XII's earlier work on liturgical reform. Besides, the idea of an independent body to oversee liturgical reform had already taken root and found favour with Paul VI.

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[7] Approved by Pope Paul and published 26 September, 1964. See: AAS 56 (1964), 877-900. Also in: Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," 45-56. It concludes: 'This Instruction was prepared by the *Consilium* by mandate of Pope Paul VI, and presented to the Pope by Cardinal Giacomo Lercaro, President of the *Consilium*. After having carefully considered the Instruction, in consultation with the *Consilium* and the Congregation of Rites, Pope Paul in an audience granted to Cardinal Arcadio Maria Larraona, Prefect of the Congregation of Rites, gave it specific approval as a whole and in its parts, confirmed it by his authority, [...].' The statement demonstrated the relationship of the Consilium and the Congregation for Rites.

[8] Gy, *The Reception of Vatican II Liturgical Reforms in the Life of the Church*, 8-9. His remarks deflate critical comments from those who viewed conciliar reform as the work of misguided experts and not of the bishops themselves. He also notes the presence of 'non-Catholic observers' at the meetings of the cardinals and bishops. Ibid., 11.

[9] Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 5-7.

[10] Susan Roll suggests the Congregation was against liturgical reform. For example: it 'attempted a few pre-emptive strikes when [it] discovered the Council was going to be dealing with liturgy and not merely issuing a few anathemas: a new breviary was quickly promulgated in 1961, as was a lightly revised Roman Missal in 1962 to try to thwart reform.' Susan K. Roll, "The Cornerstones of Liturgical Renewal," in *Vatican II Facing the 21st Century: Historical and Theological Perspectives*, ed. Dermot A. Lane and Brendan Leahy (Dublin: Veritas Publications, 2006), 95.

8.2.1. Episcopal governance in *Sacram liturgicam* (1964)

Problems arose with *Sacram liturgicam* in that it was not in agreement with
Sacrosanctum concilium. When speaking about the translation of texts,
Sacrosanctum concilium stated:

> [I]t is a matter for the competent local Church authority (see article 22 §2), if necessary also in consultation with bishops from neighboring areas which have the same language, to lay down regulations as to whether and how the local language should be used. These decisions should be examined or confirmed by the Apostolic See (SC 36 §3).
>
> The translation of the Latin text into the local language, for use in the liturgy, must be approved by the competent local Church authority [territorial ecclesiastical authority] mentioned above (SC 36 §4).[11]

Regulations concerning 'whether' and 'how' a local language was used were
determined by the episcopal conferences in the case of a common language, and
'examined or confirmed by the Apostolic See.' While the process of examination or
confirmation by the Apostolic See was not explained, this ambiguity did not extend
to the 'translation of the Latin text into the local language for use in the liturgy'.
These actions were already governed and 'approved by the competent local Church
authority', i.e., the episcopal conference.

The relevant article of *Sacram liturgicam* reads:

> Since according to Article 101 of the Constitution those who are obliged to recite the Divine Office may in various ways be permitted to use the vernacular instead of Latin, *we deem it proper to specify that the various versions proposed by the competent territorial bishop's conference must always be reviewed and approved by the Holy See. We order that this practice always be observed whenever a liturgical Latin text is translated into the vernacular on behalf of the territorial authority* (SL 9).[12]

Sacram liturgicam restricted the role of episcopal liturgical governance expressly
stated in the Constitution. Consciously or unconsciously *Sacram liturgicam*
conflated two different decisions in *Sacrosanctum concilium*, extending the

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[11] Tanner, "Decrees of the Ecumenical Councils," 828.
[12] *Sacram Liturgicam*, 3. Emphasis added.

confirmation required from the Holy See to the translation itself, and citing the authority of the Constitution.[13]

This contradiction was publically identified by Salvatore Marsili.[14] He detailed these inconsistencies and concluded: 'Thus, even though the Constitution had envisaged greater juridical power being given to "competent territorial bodies of bishops," the *motu proprio* limited that authority.'[15] Marsili continued by criticising all involved in *Sacram liturgicam's* preparation and cautioned against the Roman Curia, which traditionally impeded the reforming impulse of Councils and bishops.

In early 1964, the bishops of Germany, Austria and France protested against perceived Roman curial 'interference'. They identified in these same errors an attempt to mitigate an increased episcopal governance role.[16] For example, the French Episcopal Conference sent a Memorandum to the Sacred Congregation for Rites in February 1964.[17] The reply from the Congregation used such 'contorted

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[13] Maurice Taylor, *It's the Eucharist, Thank God* (Brandon, Suffolk: Decani Books, 2009), 60.

[14] A leading liturgical scholar of the Pontifical Liturgical Institute of Sant'Anselmo, he published an article in February, 1964 in *Questitalia*, entitled 'The Strange Story of a Motu Proprio'. On 31 January, 1964 he published a related commentary in *L'Osservatore Romano*. He identified those wishing to interrupt liturgical reform as: '"anti-reformist intriguers who at fascist instigation have cried scandal" and of an "article by a newspaper yearning for the good old days."' Cited in: Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 23.

[15] Ibid., 23-24.

[16] For example, the French bishops, who with other European countries were at the vanguard of liturgical renewal, reacted strongly to the *motu proprio* and wrote to several dicasteries. They referred to an article published in *L'Osservatore Romano* on 30 January, 1964 that displeased them and proposed a restrictive interpretation of *Sacrosanctum concilium* 36. 'The council did not decide that the Assemblies would propose this or that concession for the vernacular for approval by the Holy See: it purposely disregarded a similar disposition and decreed that the bishops' assemblies would make the decisions and that their decisions would be *probata seu confirmata* by the Apostolic See [...]. Neither did the council state that the bishops' conferences would submit translations for approval by the Apostolic See; it agreed that the translations would be approved by the bishops' conferences, *that is all*. Any other disposition would contradict the council's decisions, as it would also contradict the trust in the episcopal conferences already shown earlier by the Apostolic See when it gave them the task of arranging translations of the *Ordo Baptismi adultorum*, a task which for its part the French Episcopate did not fail to carry out. This is true also for article 10 on the divine office, which refers in particular to the translations carried out according to article 36, and not through the intervention of a Vatican Congregation which cannot consider itself more competent that the Episcopates in matters concerning exact translations into a national language.' ibid., 169-170. Emphasis added. The Memorandum clearly stated the problem and its corollary.

[17] It read: 'This Sacred Congregation of Rites, through the competent section in charge of the post conciliar liturgical movement, having consulted the Council for the Implementation of the Constitution on the Sacred Liturgy [*Motu Proprio Sacram Liturgicam*, January 25, 1964], and having heard the deputation from the conciliar commission on the sacred liturgy, and being provided with the necessary faculties in accordance with Canon 244, 1 and 2, of the Code of Canon Law, and having duly weighed the documentation you sent regarding the measures taken by the French

and casuistic'[18] language to the pastoral/liturgical questions of the French bishops that it represented a clear instance of curial restriction of episcopal governance. Matters, however, had already moved on, promoted by the actions of the Sacred Congregation of Rites.

8.3 Instruction on Liturgical Norms: *Inter oecumenici* (1964)

The Consilium's first Instruction on the implementation of liturgical norms, *Inter oecumenici* (IO) was prepared during 1964.[19] Its prolonged development allowed for a more expansive understanding and clearer definition of the competence in liturgical matters of both the bishop and episcopal conference. It was important that both these roles were understood more completely as it was the bishop's post conciliar responsibility to build a 'whole liturgy-centred apostolate' (IO 8), central to his pastoral activity (IO 7), which relied on his governance of liturgical matters for the local Church (IO 10). [20]

The section of *Inter oecumenici* entitled, 'The Competent Authority in Liturgical Matters' suggests a single competent authority. It states that the Church regulates the liturgy and no one may 'proceed on his own initiative in this domain, for that would be to the detriment of the liturgy itself, more often than not, and of the reform which the competent authority has to carry out' (IO 20). The following paragraph offers a particular context to the phrase 'Church's authority.'

> It is for the Holy See to reform and to approve liturgical books for general use, to regulate the sacred liturgy for the universal Church, to approve or

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episcopate on January 14, 1964, and in view of the fact that the *Sacram Liturgicam* has appeared in the interim – this Congregation has thought it necessary to declare to you [...]'. Bugnini, *The Reform of the Liturgy 1948–1975*, 70.

[18] Ibid.

[19] The first of three: the second Instruction was entitled: *Tres abhinc annos* - on the orderly carrying out of the Constitution on the Liturgy (4 May, 1967), AAS 59 (1967), 442-48; and the third, *Liturgicae instaurationes* - on the orderly carrying out of the constitution on the liturgy (5 September, 1970), AAS 62 (1970), 692-704. The first and second instructions were similar in style; the third differed in that it was disciplinary in nature. The third Instruction had not been commented on by its various layers of membership. Therefore, few had been consulted and few knew its contents in advance and was 'a different kind of document, one that involved the responsibility of the central authority.' ibid., 843. See footnote 27.

[20] For references to *Inter oecumenici* see: Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," 45-56. Published by the Sacred Congregation of Rites (SCR). Paragraph 10 reads: 'Whatever measures this Instruction submits to the jurisdiction of the competent territorial ecclesiastical authority, it is this same authority, alone, which can and must put them into effect, by legitimate decrees.'

confirm the 'Acts' and deliberations of the territorial authorities and to receive the proposals or petitions of these same territorial authorities (IO 21).

It states that the bishop regulates, 'the liturgy in his own diocese, in accordance with the norms and the spirit of the Constitution on Sacred Liturgy, the decrees of the Holy See and of the competent territorial authority' (IO 22). Likewise, episcopal conferences 'are invested with authority to regulate the liturgy according to article 22: 2 of the Constitution' (IO). This reflected *Sacrosanctum concilium*, which states:

> The regulation of the liturgy depends solely on the authority of the Church, which resides with the apostolic see and, within the normal functioning of the law, with the bishop (SC 22 §1).
> As a result of the power that the law has devolved on them, the regulation of the sphere of liturgy within fixed boundaries belongs also to the competent local episcopal groupings of various kinds that have been legally set up (SC 22 §2).
> Thus, absolutely no one other than these, even a priest, should disruptively add, remove or change anything in the liturgy on his or her own (SC 22 §3).

Sacrosanctum concilium (SC 36 § 1-4) understands that the episcopal conference regulates the use of local language, a decision which is examined or confirmed by the Apostolic See (SC 36 §3). However, liturgical translations from Latin into living languages required only the approval of the episcopal conference (SC 36 §4).

One notable restriction of individual episcopal governance and the bishops' conference can be detected in *Inter oecumenici*. Its first reference to a generic Church authority (IO 20) has a parallel in *Sacrosanctum concilium* (SC 22 §1), which speaks of liturgical governance consigned to the Apostolic See *and* the bishop. There is a careful use of language in the Constitution (SC 22 §2), which presents the first signal that the Council granted 'new authority and recognition to the local episcopates, referred to in the documents as "the competent territorial bodies of bishops legitimately established."'[21] This begs the question: why did *Inter oecumenici* (IO 20) need to disallow liturgical initiatives pursued by a bishop or an episcopal conference? This suggests an attempt by its authors to restrict the scope of episcopal liturgical governance at is inception.

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[21] Frances, Page, and Pecklers, Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 159.

The Council specifically devolved the necessary authority to the bishop and the episcopal conferences. The preparation and translation of Latin into local languages offered the bishop a most important pastoral-liturgical task.[22] The bishop is best placed to comprehend the pastoral needs of the local Church and so to govern the Church in local, liturgical matters. He should not be barred from doing so: for Mark Francis *et al* the task of translation 'simply makes no sense divorced from the bishops' preeminent pastoral concern.'[23] Some suspected Roman curial involvement in restricting the bishop's liturgical governance. However, Heinrich Rennings' research identified that English speaking countries, therefore English speaking bishops, demonstrated 'the greatest reluctance to implement the freedom they have been given, while the French-speaking countries make a fuller use of this than anyone else.'[24]

8.4 Liturgical renewal: 1964 - 1996

The Consilium continued its task of liturgical renewal. The task of attending to the difficulties associated with *Sacram liturgicam* was given to Bugnini. Even in a corrected form, the issue of translation reflected a pull to the centre by the Roman Curia.[25] A letter sent by the Secretary of State to Cardinal Lercaro outlined the mandate of the Consilium.[26] As this took the form of a letter, both Bugnini and Marini raised the difficult issue of its juridical status, a question posed on future occasions.[27]

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[22] A change suggested by the pastoral experience of the bishops. Gy, *The Reception of Vatican II Liturgical Reforms in the Life of the Church*, 25. The first translations into living languages were sought by episcopal conferences of countries beyond Western Europe. See : Thomas R. Whelan, "Liturgy Reform Since Vatican II: The Role Played by Bishops in the English-Speaking World," *Questions Liturgiques/Studies in Liturgy* 95, no. 1-2 (2014), 84. Fn. 12.

[23] Mark R. Frances, Page, John R. and Pecklers, Keith F., "Foreword" in Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 159.

[24] Heinrich Rennings, "Europe," *Concilium* 2, no. 2 (1966), 80. See also: Whelan, "Liturgy Reform Since Vatican II: The Role Played by Bishops in the English-Speaking World," 85.

[25] He published an article entitled: 'For the Implementation of the Conciliar Liturgical Constitution – The *Motu Proprio Sacram Liturgicam*', March 2/3, 1964 of *L'Osservatore Romano*, which noted necessary corrections to the document.

[26] See: Bugnini, *The Reform of the Liturgy 1948–1975*, 51. See: Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 34-35.

[27] The letter is clear about the competencies of the Consilium but it lacked juridical weight. The Consilium was allied to the Pope but used weak, novel juridical formulae. Again, the lack of publication of the document in AAS or *L'Osservatore Romano* was raised. Bugnini notes that 'despite repeated requests, the letter of February 29 was never published in the *Acta Apostolica Sedis*, and

The work of the Consilium gathered pace. Over the following years it published numerous documents outlining liturgical renewal.[28] The Second Instruction on the Proper Implementation of the Sacred Liturgy *Tres Abhinc Annos* (1967) expressed the working relationship of the bishops, the Consilium, and the Congregation:

> The bishops have proposed several other changes designed to increase the faithful's participation and to make the rites, especially the rites of the Mass, clearer and more intelligible. Their recommendations were first sent to the Consilium for the proper Implementation of the Constitution on the Sacred Liturgy and were then examined and weighed both by the Consilium and by the Sacred Congregation of Rites.[29]

8.4.1 *Notitiae* and the creation and amalgamation of the Sacred Congregation for Divine Worship

The Consilium began to publish its proceedings: this was welcomed by the bishops, who, together with members of local and national liturgy commissions and other interested parties, requested their own copies. In response, the Consilium published its reports in its journal, *Notitiae*, including reports on the progress made by national liturgical commissions.[30] Reading *Notitiae* offered a

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the list of members, which had appeared in *L'Osservatore Romano*, was not published in the *Acta* until June, and then only after the obituaries (see AAS 56 [1964] 479). Mere coincidence? A second letter from the Secretariat of State, dated January 7, 1965, further clarified the respective competencies of the Congregation of Rites and the Consilium by giving to the latter the duty of overseeing and regulating the experimental phase of new rites, and to the former the duty of giving juridical force to the definitive publication of these rites; see EDIL 379 = *DOL* 82 no. 625, and the address of the Holy Father to the Concilium on October 13, 1966, in AAS 58 (1966) 1145-50 = *DOL* 84 nos. 630-36. Other responsibilities were given to the Consilium as the work proceeded. At the psychological level, however, a good deal of water still had to pass under the bridge!' Bugnini, *The Reform of the Liturgy 1948–1975*, 52. The reporting of the competencies of the Congregation of Rites happened more quickly and in a more official manner than the letter framing the Consilium's mandate, a process which acted like a brake on its governance.

[28] Earlier documents may be found in: Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," 41-282. Also in: O'Brien, *Documents on the Liturgy, 1963-1979: Conciliar, Papal, and Curial Texts*.

[29] Second Instruction on the Proper Implementation of the Sacred Liturgy, *Tres Abhinc Annos*, Sacred Congregation for Rites, 4 May, 1967. Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," 98.

[30] *Notitiae* 'became the expression of a more collegial reforming spirit, which the Concilium was anxious to carry forward in the relationship between the Holy See and the particular [local] Churches and within the Roman Curia.' Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 94. Its publication also recognised the maturing of the Consilium as a body.

contemporary picture of liturgical reform carried out by individual bishops and episcopal conferences for the local and universal Church.[31]

On 8 May, 1969, the Consilium ceased to be an independent body when, under Paul VI's apostolic constitution *Sacra rituum*,[32] it became part of the Roman Curia with the creation of the Sacred Congregation for Divine Worship (CDW). The change was part of the Paul VI's curial reforms: the Consilium would continue as a special commission within the CDW 'until the reform of the liturgy should be completed, retaining its members and consulters.'[33]

However, the CDW experienced initial difficulties.[34] These included concerns expressed by curial cardinals that the recently published Roman Missal, the new *Ordo Missae*, lacked theological orthodoxy.[35] Nevertheless, this change allowed the Consilium to express its decisions using its new, formal juridical authority as a special commission within the CDW.

In 1975, the CDW became part of a new congregation, the Congregation for Divine Worship and the Discipline of the Sacraments (CDWDS).[36] This change was due in part to a lack of trust by Paul VI in Bugnini. Bugnini's work had underpinned the work of the Consilium, but resulted in a strained relationship with other Roman curial congregations.[37] For example, earlier in 1975, a covert commission was set up within the Congregation to encourage the Roman Curia to restrict episcopal

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[31] Another new journal, *Concilium*, offered a picture of liturgical development across the Church. See: "Documentation Concilium. The Constitution on the Sacred Liturgy applied in Five Continents: a Survey of Progress," *Concilium* 2, no. 2 (1966), 66-82. For the section relating to Europe see: Heinrich Rennings, "Europe," ibid., 79-82.
[32] AAS 61 (1969), 299-301.
[33] Flannery, "Vatican Council II: The Conciliar and Post Conciliar Documents," 44. While part of curial reform, it was also the fruition of one of Bugnini's models for liturgical reform.
[34] Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 143.
[35] First expressed in a critique of the new *Ordo Missae* in a letter sent by Cardinals Ottaviani and Bacci to Paul VI together with a curial, theological analysis. See: Anthony Cekada, ed. *The Ottaviani Intervention: Short Critical Study of the New Order of Mass* (West Chester, Ohio: Philothea Press, 2010). Cekada understands the *Intervention* as a 'sort of charter for the traditionalist movement - those Catholics who (among other things) rejected the reformed rites.' ibid., 3.
[36] Pope Paul VI, apostolic constitution *Constans nobis stadium*: *L'Osservatore Romano* 17 July, 1975. The CDW became the junior partner in the Congregation.
[37] Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 157.

governance of liturgical matters.[38] The formation of the new Congregation also saw the removal of Bugnini from his position as secretary.[39] This step was seen by some as a loss as he was an advocate of episcopal liturgical governance and of liturgical reform in general. It was seen as a victory by those who wished for liturgical reform to be restricted and centrally governed.

While not without difficulties, local bishops enacted liturgical renewal during and immediately after the Council because governance was restored to them 'in collaboration with the Holy See, to promote the liturgical life in their dioceses.'[40] Problems experienced post-1975, had a root cause: Roman curial resistance to the work of the Consilium. It aimed to deliver conciliar liturgical governance invested in the bishop and the episcopal conferences, especially the translation of texts by bodies like the International Commission on English in the Liturgy (ICEL).[41] The new curial Congregation, the CDWDS, had more restrictive aims, which came to a head in 1996, and which will now be investigated.

8.4.2 Delegated governance challenged by the Congregation for Divine Worship and the Discipline of the Sacraments (CDWDS)

From 1975 the CDWDS afforded the Roman Curia tighter control of liturgical reform. Its creation was an important sign of the movement towards 'a pre-conciliar mind-set that has for years now characterised the Curia's approach.'[42] The end of Paul VI's pontificate and the beginning of John Paul II's ushered in not only a different attitude towards the Council but marked the start of 'a new indulgence towards the tiny minority of Catholic traditionalists who rejected the liturgical reform as a device for rejecting Vatican II.'[43] This tendency ebbed and

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[38] Ibid., 149.

[39] See: Bugnini, *The Reform of the Liturgy 1948–1975*, xxviii. Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 148-157.

[40] *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 159.

[41] Founded in 1963, it served 11 English-speaking bishops' conferences and was associated with fifteen others. See: http://www.icelweb.org/whatis.htm for more information. The following offers insights into ICEL's formation and earlier work: Peter C. Finn and James M. Schellman, eds., *Shaping English Liturgy: Studies in Honour of Archbishop Denis Hurley* (Washington D.C.: Pastoral Press, 1990). See: Frederick R. McManus, "ICEL: The First Years", 433-459; and John R. Page, "ICEL, 1966-1989: Weaving the Words of our Common Christian Prayers", 473-489,

[42] Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal, 1963-1975*, 157.

[43] Faggioli, *True Reform: Liturgy and Ecclesiology in Sacrosanctum Concilium*, 7.

flowed from 1975 until the mid-nineteen nineties, more precisely until 1996.[44] In this year Cardinal Jorge Arturo Medina Estevez[45] was appointed by Pope John Paul as the new Prefect of the CDWDS. His appointment reflected the zenith of a movement, supported by Cardinal Ratzinger amongst others, which called for a reform of the (liturgical) reform.[46] Estevez and Ratzinger were previously *periti*, and served on the International Theological Commission together.[47]

Meanwhile, ICEL had been working on a new translation of the Roman Missal or Sacramentary,[48] which received unanimous approval from its eleven ICEL episcopal conferences in 1997.[49] After fifteen years of preparation it was now ready to receive its *recognitio*. However, this was not forthcoming.[50] Along with its new translation of the Missal, the existence of ICEL was now being questioned. How it was threatened will be investigated with initial reference to the apostolic constitution *Pastor bonus*.

8.5 Apostolic Constitution: *Pastor bonus* (1988)

Pope John Paul II promulgated the apostolic constitution *Pastor bonus* (PB), which discussed reform of the Roman Curia. Articles 62-70 outline the responsibilities given to the CDWDS. Article 64 reads:

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[44] For an appreciation of the main concerns see: John F. Baldovin, *Reforming the Liturgy: A Response to the Critics* (Collegeville, Mn.: Liturgical Press, 2008).

[45] Formerly Archbishop of Valparaiso, Chile. For comment see: Maurice Taylor, *Being a Bishop in Scotland* (Dublin: Columba Press, 2006), 133-138.

[46] For context, see: John Wilkins, "Lost in Translation: The Bishops, Vatican II and the English Liturgy," *Commonweal*, 2 December, 2005, 12-20.

[47] They wrote to Paul VI in 1972 expressing concerns about the quality of translations into major European languages See: John L. Allen, "The Counter-Revolution," *The Tablet*, 1.12.2002, 8-9.

[48] Problems were noted with the hastily prepared 1973 translation by bishops and a new translation was begun by ICEL in the early 1980s. For an appraisal see: John R. Page, "The Process of Revision of the Sacramentary, 1981-98," in *Liturgy for the New Millennium: A Commentary on the Revised Sacramentary*, ed. Mark R. Francis and Keith F. Pecklers (Collegeville, Mn.: Liturgical Press, 2000), 1-16.

[49] Liturgical reform in Australia, Canada, England and Wales, Ireland and the USA is reported in: "*Sacrosanctum concilium* at Fifty: Reports from Five English-Speaking Countries," *Worship* 87, no. 6 (2013), 482-516.

[50] With the agreement of its constituent episcopal conferences, ICEL arranged a simple method for the translation, consideration and approval of texts. For an overview see: Taylor, *Being a Bishop in Scotland*, 131-132. Earlier problems encountered by ICEL with the Congregation were discussed in: *Liturgy 90*, August/September (1994). In these, the chair of the episcopal board of ICEL, Archbishop Daniel Pilarczyk of Cincinnati, discussed questions being raised by the Congregation, with a view to opening an informed conversation about translation for Latin into English, which was being misinformed by a vocal minority who reported their concerns directly to Rome.

By effective and suitable means, the Congregation promotes liturgical pastoral activity, especially regarding the celebration of the Eucharist; it gives support to the diocesan bishops so that the Christian faithful may share more and more actively in the sacred liturgy (PB 64 §1).

It sees to the drawing up and revision of liturgical texts. It reviews particular calendars and proper texts for the Mass and the Divine Office for particular Churches and institutes which enjoy that right (PB 64 §2).

It grants the *recognitio* to translations of liturgical books and their adaptations that have been lawfully prepared by conferences of bishops (PB 64 §3).[51]

The Congregation's promotion of 'liturgical pastoral activity' in support of diocesan bishops (PB 64 § 1) is congruent with *Sacrosanctum concilium*. The claim in the following paragraph, that it 'sees to the drawing up and revision of liturgical texts' (PB 64 § 2) suggest that the CDWDS governs this task on behalf of diocesan bishops by undertaking the task itself. The final paragraph speaks of the *recognitio* that the Congregation gives to liturgical texts.

While *Sacrosanctum concilium* envisaged the granting of a *recognitio*, it did not mean that a Roman congregation governed the entire process. *Sacrosanctum concilium* reserved the translation of liturgical books to episcopal conferences. While they were obliged to seek the approval of the Apostolic See concerning texts to be translated (SC 36 §3), once again there was no requirement to have its approval for translations made (SC 36 §4). The bishops at the Council resisted this requirement, but *Pastor bonus* reversed the process outlined in *Sacrosanctum concilium*, and by so doing restricted the bishop's governance of liturgical matters. This became a tool subsequently used by the Congregation to challenge ICEL.

8.6 The relationship of the Bishops' Conferences, ICEL and CDWDS

A number of serious claims were made to the chair of ICEL, Bishop Maurice Taylor,[52] by the Congregation for Divine Worship and the Discipline of the

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[51] Pope John Paul II Apostolic Constitution *Pastor Bonus*, 28 June, 1988. See: http://www.vatican.va/holy_father/john_paul_ii/apost_constitutions/documents/hf_jp-ii_apc_19880628_pastor-bonus_en.html. [Downloaded 15.6.2014].
[52] Bishop of Galloway, Scotland (1981-2004) and chair of ICEL (1997-2002). See: http://www.bishopmauricetaylor.org.uk/ for further bibliographical information.

Sacraments concerning complaints they received from unnamed bishops about the quality of translations, of procedures, and of 'an adequate level of service' provided by ICEL.[53]

Sacrosanctum concilium had not indicated that a curial congregation such as the CDWDS was to govern such matters.[54] Any episcopal dissatisfaction was better indicated and resolved at conference meetings rather than communicated to and then prosecuted by the CDWDS.[55] The episcopal conferences that comprised ICEL were satisfied with its work. In turn, ICEL's task was not to 'satisfy' every bishop, but to carry out tasks set by its constituent episcopal conferences.[56]

Another claim made by the CDWDS concerned the question of who had authority over ICEL. ICEL was founded during the Council; its constitution was approved by its constitutive episcopal conferences. ICEL understood it was under their authority. Cardinal Medina counterclaimed, in a letter sent in 1999 to the Chair of ICEL, that 'the constitution, the regulation and the oversight of an international commission for liturgical translation are rightfully the competence of the Holy See to a degree which is not always sufficiently reflected in the Statutes which govern such bodies.'[57] The Congregation went on to claim that the section of the 1983 Code concerning 'Juridical Persons' supported its claim of authority over ICEL.[58] This claim, that ICEL was a mixed commission with a juridical personality, was further supported by post-conciliar documents, especially *Pastor bonus*.[59]

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[53] Taylor, *It's the Eucharist, Thank God*, 51.
[54] ICEL was also told by the Congregation to cease contact with non-Catholic Church communities, with whom it had built close connections, and who used Catholic texts to revitalise their liturgies. The CDW's prohibition also ran contrary to the instructions of ICEL's founding conferences and greatly disappointed non-Catholics and the Pontifical Council for the Promotion of Christian Unity alike. Ibid., 53.
[55] Ibid.
[56] For a sense of ICEL's work at this time see: R. Kevin Seasoltz, "Its the Eucharist, Thank God," *Worship* 85 (2011), 244-256.
[57] Letter dated 26 October, 1999 from Cardinal Medina, Prefect of the Congregation for Divine Worship to Bishop Maurice Taylor, Chair, ICEL in: Taylor, *It's the Eucharist, Thank God*, 50.
[58] 'Juridical Persons' are dealt with in canons 113 to 123: "The Code of Canon Law: In English Translation," 17-19. Taylor refers specifically to canons 113-118.
[59] Article 65 states: 'The Congregation fosters commissions or institutes for promoting the liturgical apostolate or sacred music, song or art, and it maintains relations with them. In accordance with the law, it erects associations which have an international character or approves or grants the *recognitio* to their statutes. Finally, it contributes to the progress of liturgical life by encouraging

However, ICEL was formed in 1963, was subject to the authority of English-speaking episcopal conferences, and was understood 'as an agency (without juridical personality).'[60] In fact, not every mixed commission requires a juridical personality, it simply has to promote and defend the greater good and have a clear point of reference with the Apostolic See.[61] This understanding was confirmed by the presidents of all episcopal conferences constituting ICEL at a meeting in Washington in April, 2000.[62]

These claims made by the CDWDS reflected a continuing curial usurpation of governance given by the Council to the bishops, and a further move towards centralisation of decisions concerned with liturgical development. This position was further reinforced by the introduction of a new instruction guiding the translation of liturgical texts.

8.7 *Liturgicam authenticam* (2001)

To assist ICEL and others in their work of translation, a new instruction, *Liturgicam authenticam*,[63] was issued in 2001. It replaced the original guide, *Comme le prévoit*.[64] Neither ICEL nor the episcopal conferences were involved in its preparation; however, it contained several comments already made by the

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meetings from various regions.' A particular reading of this article could allow the Congregation to understand itself as responsible for ICEL.

[60] Taylor, *It's the Eucharist, Thank God*, 59.

[61] Canon 459: §1 'Relations are to be fostered between Episcopal Conferences, especially neighbouring ones, in order to promote and defend whatever is for the greater good. §2 The Apostolic See must be consulted whenever actions or affairs undertaken by Conferences have an international character.' "The Code of Canon Law: In English Translation," 82.

[62] *It's the Eucharist, Thank God*, 59.

[63] Published by the CDWDS on 28 March, 2001. See: http://www.vatican.va/roman_curia/congregations/ccdds/documents/rc_con_ccdds_doc_20010507_liturgiam-authenticam_en.html. [Downloaded 7.10.2012]. AAS 93 (2001), 685-726. The document is subtitled: Fifth Instruction 'For the Right Implementation of the Constitution on the Sacred Liturgy of the Second Vatican Council' (*Sacrosanctum Concilium*, art. 36). While dealing with the use of vernacular languages, it understands itself as the latest document concerned with the implementation of the Constitution.

[64] There is no Latin version. The original French version was not published in AAS. See: *Notitiae* 5 (1969), 3-12. The Instruction is not found on the Vatican website. See: O'Brien, *Documents on the Liturgy, 1963-1979: Conciliar, Papal, and Curial Texts*, 284-291. *Comme le prévoit* was supported by Paul VI, who thought it fit for purpose. When Gy questioned the Instruction, an Italian liturgist showed him the text on which Paul VI had made handwritten comments. The final comment read: 'It is slightly too long, but it is really fitting.' Gy, *The Reception of Vatican II Liturgical Reforms in the Life of the Church*, 18. See also: Bugnini, *The Reform of the Liturgy 1948–1975*, 236-237.

Congregation on ICEL texts since 1996.[65] It was a larger document than *Comme le prévoit*, differing in both style and approach.[66] It also confirmed the earlier action of removing liturgical translation from the sphere of episcopal governance. Paragraphs 79-84 are concerned with its understanding of the *recognitio*. Paragraph 80 states:

> The practice of seeking the *recognitio* from the Apostolic See for all translations of liturgical books accords the necessary assurance of the authenticity of the translation and its correspondence with the original texts. This practice both expresses and affects a bond of communion between the successor of blessed Peter and his brothers in the Episcopate. Furthermore, this *recognitio* is not a mere formality, but is rather an exercise of the power of governance, which is absolutely necessary (in the absence of which the act of the Conference of Bishops entirely in no way attains legal force); and modifications - even substantial ones - may be introduced by means of it. For this reason it is not permissible to publish, for the use of celebrants or for the general public, any liturgical texts that have been translated or recently composed, as long as the *recognitio* is lacking (LA 80).

Liturgicam authenticam understood the granting of a *recognitio* as an act of governance, without acknowledging a governance role for episcopal conferences prior to seeking a *recognitio*. It sought to regulate liturgical reform by requiring an all-encompassing *recognitio* of 'all translations of liturgical books' (LA 80).

Sacrosanctum concilium had clearly stated that the task of translating liturgical texts from Latin 'must be approved by the competent *local* Church authority' (SC 36 §4), i.e., the bishops of the episcopal conference (SC 22 §2), not the Apostolic See.

Liturgicam authenticam now placed a limit on the collaborative work of episcopal conferences as approved liturgical books could only be used only in the territory of the conference for which they were approved (LA 83). This was tempered by *Liturgicam authenticam*, allowing the Congregation to erect 'mixed' commissions if requested by bishops' conferences (LA 93). However, *Liturgicam authenticam* seemed to limit their collaborative work by suggesting that translations are made

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[65] Taylor, *Being a Bishop in Scotland*, 135.
[66] In *Liturgicam authenticam* there are 133 paragraphs and 86 footnotes. In *Comme le prévoit* there are 43 paragraphs and no footnotes.

by one conference and then approved by the other conferences (LA 96). Nor would episcopal conferences be allowed to communicate with other commissions regarding the work of translation or compose other texts, beyond the *editiones typicae*. *Liturgicam authenticam* continued in the same manner and disallowed the collaboration of episcopal conferences and limiting the task of translation to its episcopal members (LA 93).

As well as controlling the translation of texts, the CDWDS centralised the task of organising the collegial act of episcopal conferences working together:

> Wherever a certain Conference of Bishops lacks sufficient resources or instruments for the preparation and printing of a liturgical book, the President of that Conference is to explain the situation to the [CDWDS], to whom it pertains to establish or to approve any different arrangement, such as the publication of liturgical books together with other Conferences or the use of those already employed elsewhere. Such a concession shall only be granted by the Holy See *ad actum* (LA 80).

A year after the introduction of *Liturgicam authenticam* the refusal of the *recognitio* for the text of the Sacramentary, completed and sent to Rome in 1998, was received by ICEL's constituent episcopal conferences. Its future revision would have to follow different translation guidelines and, more importantly, the episcopal governance of translations would be significantly restricted.

Liturgicam authenticam can be criticised for overly managing the task of translations, and centralising its operation in Rome. One effect of this would be the translation of texts which faithfully followed the Latin original, without the flexibility, or 'dynamic equivalence' afforded the translator by *Comme le prévoit*. Hence, a liturgical translation would be judged 'not on account of its being an immersion into the paschal mystery of Christ, but in terms of its fidelity to the Latin original.'[67] A further restriction may be identified in that the bishops - and by association episcopal conferences - were again reduced to the role of 'local agents of the Congregation for Divine Worship.'[68]

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[67] Whelan, "Liturgy Reform Since Vatican II: The Role Played by Bishops in the English-Speaking World," 105. See also Whelan's article: "Translating the Roman Missal. 1. Translation and Participation," *The Pastoral Review* 8, no. 5 (2012), 30-35.
[68] Taylor, *It's the Eucharist, Thank God*, 67.

By 2002, Archbishop Daniel Pilarczyk referred to liturgical development as a 'warzone'. He called for 'liturgical peace'[69] by recalling that, according to *Sacrosanctum concilium,* governance of the liturgy had been placed in the hands of the individual bishop together with his episcopal conference. Bishops were to work with the Apostolic See in liturgical matters and the Apostolic See was not to dominate and dictate the relationship.

In publishing *Liturgicam authenticam* the curial magisterium sought not only to restrict episcopal governance of liturgical texts but also to control *any* liturgical development, developments often necessitated by the exercise of a bishop's pastoral role of governance.[70] With the publication of the *Ratio translationis* (2006) control of translations passed wholly to the CDWDS, advised by *Vox Clara.*[71]

8.8 Conclusion

Sacrosanctum concilium clearly envisaged that governance of liturgical matters were the provenance of the bishop and the episcopal conferences, carried out in a sensitive, pastoral manner. However, as has been seen, this pastoral task has been increasingly restricted by exercises of the papal and curial magisterium, whose actions were supported by legacy tensions of the Council. These tensions sustained a gradual recentralisation of Church governance.

The actions of the papal and curial magisterium exposed a disregard for Vatican II ecclesiology expressed in terms of the exercise of collegiality, episcopal governance and subsidiarity.[72] The Council expressly stated that local bishops should govern the translation of Latin texts and the preparation of other prayers.

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[69] Archbishop Daniel Pilarczyk, "Liturgy, Law and Life," *Origins* 31, no. 39 (2002).

[70] Liturgical language was not to be slavishly literal, as demanded by *Liturgicam authenticam*, but should enable a local community 'to make their own living prayer of the prayer texts so translated.' Michael Kunzler, *The Church's Liturgy*, AMATECA Handbooks of Catholic Theology (London/New York: Continuum, 2001), 110.

[71] *Liturgicam authenticam* stated that the CDWDS will prepare a *ratio translationis* after consulting with bishops. It will explain in detail 'the principles of translation found in this Instruction' (LA 9). A copy of the *ratio translationis* can be found at: http://www.bible-researcher.com/ratio-translationis.html. [Downloaded 26.12.2014]. *Vox Clara* comprises bishops from English speaking episcopal conferences and was established on July 19, 2001, to advise the CDWDS.

[72] Taylor, *Being a Bishop in Scotland*, 137-138.

In doing so it recognised the ability of the bishop, his episcopal conference, and bodies like ICEL, to work *with* the Apostolic See in the field of liturgical development in a post- conciliar world. If liturgical development was governed solely from the centre, the local bishop at the periphery would be unable to develop liturgy which reflected the pastoral needs of the local Church. In turn, this would leave the Apostolic See open to a 'Bismarck-like' charge of viewing the bishop and the episcopal conferences as branch managers, with the task of legitimate liturgical development being carried out solely by the curial and papal magisterium. This restrictive tendency had been championed by a neo-ultramontanist movement, which had been indulged under the papacies of John Paul II and Benedict XVI. It saw no benefit in local, pastoral episcopal governance of liturgical matters, which in turn would support the sensitive inculturation of the liturgy.

The episcopal conferences and their presidents could have done more to promotion these issues with the Apostolic See by explaining how their authentic, collegial and conciliar governance role concerning the liturgy had been encroached on by the CDWDS. Concerned bishops should have demanded a comprehensive examination of the Roman Curia's role and activities in the field of liturgical development since Vatican II.[73] At the same time, the episcopal conferences could have better supported bodies such as ICEL when it received communications from the CDWDS demanding a move to a new and more centralised mode of operation.[74] Local bishops did not pursue their role vigorously enough or, possibly, their protestations were ignored by the Curia. The reason for curial reticence may have been that other local bishops were simultaneously communicating their sympathy with this centralising movement. Indeed, certain episcopal appointments may have be a consequence of such 'ultramontane' tendencies and personal ambition.[75]

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[73] *It's the Eucharist, Thank God*, 70.
[74] *Being a Bishop in Scotland*, 137.
[75] 'John Paul II, [...] set about changing the Church by appointing men as bishops who had replaced pastoral compassion with unthinking obsession with orthodoxy that was a thin cover for soaring ambition and lust for power.' Thomas Doyle, "Thirty Years: What We've Learned and What I've Learned," in *Annual SNAP Conference: Survivors Network of those Abused by Priests* (Washington D.C.2013), 2.

Currently, there is a pressing need to recall that the pastoral governance of liturgical reform was entrusted by Vatican II to the bishops, their episcopal conferences and the Apostolic See: the Council did not envisage liturgical reform undertaken solely by the Apostolic See. When the doctrinal intentions of Vatican II are remembered, the actions and intentions of the curial and papal magisterium in restricting episcopal governance in the liturgical context will become very clear. This will allow the local bishop, the episcopal conference and the lay faithful, together with the Apostolic See, to consider what necessary restorative measures are called for. In the next chapter some suggestions are offered to speed up this process and to examine whether Pope Francis' understanding of episcopal governance is acting as a catalyst to the pastoral reception of episcopal governance framed by Vatican II.

Chapter 9: Episcopal Pastoral Governance - Its Future Development

9. Introduction

This chapter will discuss the future development of the pastoral governance role of the bishop and suggest how his role, as understood by Vatican II, might be better received. It will also discuss how the magisterium can more clearly reflect the teaching of Vatican II with regard to episcopal governance, for example, by reviewing the work of the Synod of Bishops and reforming the Roman Curia. In this way, Chapter 9 acts as a conclusion to this thesis. However, before considering such developments a review of the bishop's role of pastoral governance will be offered.

9.1 Episcopal pastoral governance at Vatican II

The Council was called and directed by Pope John XXIII. However, preparatory work took on a distinct Roman curial feeling, which was reflected in the prepared schemata. John XXIII understood this: rather than tackling the authors of the schemata, his pre-conciliar pronouncements encouraged the bishops to attend, to take over, and to govern the Council in a collegial manner. The pause created during the first day's debate on voting for commission membership allowed the bishops, meeting in their episcopal conferences, to once again hear Pope John's call and to reject a passive role at Vatican II. As single bishops coalesced into episcopal conferences, they began to understand themselves more as a college of bishops, who had succeeded the Apostles in leading and governing the Church.

The Council agreed that the first topic of conciliar debate was to be the liturgy on which the Liturgical Movement had already encouraged episcopal reflection. Debating the liturgy allowed very significant progress towards developing an expansive role of episcopal pastoral governance. It was into the hands of the

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bishops singly and collectively that leadership in the development of a vigorous and participative liturgy was give. While a minority fought this direction, *Sacrosanctum concilium* reflected the desire of the episcopal majority to participate in the exercise of the governance of liturgical change at the local *and* universal levels. This was most clearly evident in the governance of translations of new liturgical texts entrusted to the bishop and episcopal conferences. This had the added benefit of raising the profile of episcopal conferences and for the universal Church to see benefits in a more local exercise of governance by subsets of bishops, who remained faithful members of the College of Bishops.

John XXIII's notion of the 'pastoral,' supported the bishops in greatly expanding their governance of the liturgy. The pastoral focussed episcopal intent not just on expressing a new episcopal role of governance at Vatican II, but on *how* governance was exercised thereafter. Furthermore, consideration of the pastoral engaged the bishops in the wider task of ecclesiological and theological reform in future conciliar sessions. Episcopal governance together with a governance role for the episcopal conferences was then reflected in other conciliar documents, especially *Lumen gentium* and *Christus Dominus*.

Lumen gentium discussed ways in which the bishop exercised governance in relation to the local Church, his episcopal conference and with the pope. It again highlighted the importance of episcopal collegiality and of episcopal conferences. *Lumen gentium* viewed episcopal ordination as sacramental in nature. Episcopal ordination included the office of governance and admitted the new bishop to the College of Bishops. *Lumen gentium* encouraged the view that the universal Church was a communion of local Churches. This new position respected the role of the local Church, and viewed its governance by the bishop as a service to the community. Whether the *Nota* weakened episcopal governance could only be assessed when the Church was called on to receive *Lumen gentium's* doctrine.

Christus Dominus created clear applications of episcopal governance for the local and universal Church. The local bishop's relations with the episcopal conference and the Apostolic See were also explained: the bishops were to work together in a

collegial manner and the Roman Curia was to be reformed, though the level of reform was not as profound as required by the Council.

Just as the bishop was to work collegially with the College of Bishops and the Apostolic See, these relationships were to be reflected at local Church level: the bishop was to govern the diocese in a pastoral mode – particularly with his priests - and make use of various groups such as the diocesan curia, the Presbyteral College and the Diocesan Pastoral Council. The latter allowed the bishop to govern pastoral activity in the diocese *with* diocesan clergy and the lay faithful. The issue of whether the bishop could delegate governance to the lay faithful was not clear. *Christus Dominus,* in particular, encouraged episcopal conferences. Their formation and the bishop's membership now became mandatory. However, the precise authority of the episcopal conference, and whether it had a governance role, was not clarified by *Christus Dominus*.

Taken together, *Sacrosanctum concilium*, *Lumen gentium* and *Christus Dominus* confirmed a new and dynamic expression of episcopal governance in a pastoral mode. The Council called for the post conciliar reception of this episcopal pastoral governance role, including a role for the episcopal conferences.

However, the conciliar documents had juxtaposed older statements concerning episcopal and papal governance with more recent ecclesiological and theological perceptions. These left the future governance role open to the centralising tendency of the Roman Curia in the post conciliar Church. As reforms to the Roman Curia sought by a conciliar majority did not come to fruition, the Curia was as strong at the end of the Council as at its beginning. The coalescence of these two movements led to change, but not in the direction anticipated by the Council.

9.2 Episcopal pastoral governance: received expansively and restrictively since Vatican II

The pastoral governance of the bishop for the local and universal Church was initially received in an expansive manner, rather than the more restrictive

reception it received during the pontificates of John Paul II and Benedict XVI.[1] By the 1990's, it is possible to portray the bishop as a conflicted character, with an increasingly limited governance role. This is evident in his increasingly limited governance of the liturgy.

At local Church level, the bishop's reduced governance was further restricted by the oversight and direction assumed by the Roman Curia. In a similar manner, episcopal conferences were disallowed from exercising a governance role, a position developed and supported by Cardinal Ratzinger, who understood that governance could be exercised by either the local bishop or by the College of Bishops. In 1998, *Apostolos suos*, promulgated by John Paul II, 'clarified' that episcopal conferences did not exercise a governance role. Equally, the Synod of Bishops, from birth an advisory body, was finding its agenda and *modus operandi* progressively restricted by the Curia.[2] A more prominent episcopal governance role for the universal Church, led by the pope and which was anticipated by the Council, was yet to be received.

Implicit in the increasingly restricted role of episcopal governance has been a campaign to undermine and minimise conciliar doctrine on episcopal collegiality

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[1] For Ratzinger, as Prefect of the CDF and as Pope, the concept of communion produced 'a priority of the universal Church with respect to the particular Church.' See: Ratzinger, *Church, Ecumenism and Politics: New Essays in Ecclesiology*, 78. He debated this question publically with Cardinal Kasper over a number of years. It was also at the core of the CDFs 'Letter to the Bishops of the Catholic Church on Some Aspects of the Church Understood as Communion' (28 May, 1992), n. 8. See: *Origins* 22 (25 June, 1992), 108-12. Kasper took issue in 1999 with what he perceived as lack of balance in the CDF's position, which he also perceived in the *motu proprio* of John Paul II *Apostolos suos* (21 May, 1998). Ratzinger then published a supportive essay entitled, 'On the Relation of the Universal Church and the Local Church in Vatican II,' in *Frankfurter Allgemeine Zeitung* (22 December, 2000). Kasper prepared a critical response (see the English translation: 'On the Church,' in *The Tablet* 255 (23 June, 2001), 927-30). The editors of *America* offered Ratzinger a further opportunity to reply. See: 'A Response to Walter Kasper: The Local Church and the Universal Church,' in *America* 185 (19 November, 2001), 7-11. The editors then offered Kasper the opportunity to respond, which he did in a too brief letter. See: 'From the President of the Council for Promoting Christian Unity,' in *America* 185 (26 November, 2001), 28-29. Kilian McDonnell understands that behind their debate is 'an unspoken bias'. For hundreds of years 'a major factor in ecclesiology has been Roman centralisation which, in part, accounts for its universalist bias. Further, a methodological bias reinforces the universalist tendencies. [...]. This methodological bias means that the question of the local church is either slighted or not raised at all.' McDonnell, "The Ratzinger/Kasper Debate: The Universal Church and Local Churches," 246-247. It also effects the understanding of communion, limiting its understanding to

[2] In 2004 Coriden viewed the Synod as 'a child born out of wedlock [crying] out for serious therapy and a radically revised lifestyle.' James A. Coriden, "The Synod of Bishops: Episcopal Collegiality Still Seeks Adequate Expression," *The Jurist* 64 (2004), 116.

and episcopal participation in the exercise of Church governance locally and universally.[3] Episcopal governance has been restricted when the Roman Curia understands itself mainly as the universal Church, centred and governed from Rome. When the Church understands itself more as a communion of local Churches, which collectively form the universal Church, a more expansive pastoral governance role can be developed and exercised by the bishop for the local and universal Church. This understanding affords the bishop a greater degree of governance of the local and the universal Church, which, in turn, is 'governed by the gospel of Jesus Christ and the conceptions of authority that flow from the life of ecclesial communion.'[4] In turn, this understanding supports a decentralisation of governance exercised especially by the Roman Curia. When Benedict XVI stepped down from office in 2013, Pope Francis was elected his successor. Francis began a programme of ecclesial reflection which drew on the potential of the Council, and – as will be seen, offered a greatly expanded role of governance for the bishop, both locally and universally.

Before investigating how Francis has encouraged a re-reception of Vatican II, other suggestions which encourage a fresh and more expansive appreciation of the pastoral governance role of the bishop will be discussed. This process will begin with a discussion of the notion of the Church as a communion of local Churches.

9.3 Communion: keeping the local bishop in focus

The model of a communion of local Churches, which collectively form the universal Church, represented a renewed ecclesiology of the Church at Vatican II which was faithful to the teachings of Vatican I.

As Tillard understands it, this begins with 'a communion of local Churches entrusted to the *episkope* of bishops in communion with each other.'[5] This locates the bishop at the centre of the Church, supported by an understanding of communion which reflects on the historical structures of synods, patriarchates,

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[3] For further discussions see: Ignatius Aniekanabasi Edet, *Ideal and Reality of the Synod of Bishops*, Ecclesiological Investigations (London: T & T Clark, 2012).
[4] Gaillardetz, *Teaching with Authority: A Theology of the Magisterium in the Church*, 293.
[5] Tillard, *The Bishop of Rome*, 38.

and Councils. These ideas have been reflected upon by Archbishop John Quinn (1929 -).[6] He understands that the Eastern Church, with its emphasis on a more synodal structure and an appreciation of ecclesial communion, can help to address the problem of over-centralisation in the Western Church, and its restrictive view of the pastoral governance role of the bishop. A communion model has the potential to steer the Church away from over-centralisation and allows for greater significance to be given to the pastoral governance of the local bishop.

Quinn suggests reflecting on the nature of communion in the early Christian communities is a necessary first step.[7] The early Church preserved communion using three elements: pastoral experience; the Scriptures; the actions of the Jerusalem leadership.[8] The question of the relationship of Gentile Christians and the Mosaic Law (Acts 15), questioned by the Apostle Paul, provided an exemplar. Pastoral experience thus far suggested that to become a Christian, male Gentile believers should undergo circumcision. However, when the Apostle Peter preached to Cornelius (Acts 10), the Spirit was given to him. He was an uncircumcised Gentile, which created a new pastoral experience. The Apostle James reflected on the Jewish Scriptures, leading him to understand that the Gentiles, too, could become God's People (Acts 15:13-21). The third element, the discernment of the Apostles and leaders in Jerusalem, demonstrated that doctrinal practice was not decided by pastoral practice or reflection on Scripture alone.[9] Neither was doctrinal practice decided by one Apostle or one community. This situation highlighted problems of Church unity; hence Paul's journey to Jerusalem, as his practice had to be in communion with wider Church practice. From this meeting came the Church practice of holding Councils,[10] which addressed situations that undermined communion. All of these stages required the consideration of the Apostles, whose contemporary successors are the bishops.

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[6] John R. Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church* (Mahwah, New Jersey: Paulist Press, 2013).
[7] Ibid., 1-7, at 2.
[8] Ibid., 3.
[9] Luke Timothy Johnson discusses the process of discernment in Acts. See: Luke Timothy Johnson, *Scripture and Discernment: Decision-making in the Church* (Nashville: Abingdon Press, 1996), 98-108.
[10] See: Joseph A. Fitzmeyer, *The Acts of the Apostles*, The Anchor Bible Commentaries (New York: Doubleday, 1998), 543.

For Quinn, the judgement of the Apostles recognised that *diversity in unity* was possible, but its development required the cooperation of all the Apostles.[11] Communion and diversity were seen in the post-apostolic Church, and supported by a developing episcopal structure, with the local community led by one bishop. This diversity in unity was also seen in the manner the bishop was chosen, a task of the local community with the whole Church, as he was both the local bishop, a member of the College of Bishops, and successor of the Apostles. Communion was protected because the bishop was 'in communion with the other bishops because his church was in communion with the other churches.'[12] Communion was also protected in the existing practice, confirmed by the Council of Nicea (325CE), that at least three bishops should perform an episcopal ordination.[13] The Church understood itself as a communion of Churches governed and led by its bishops, who communicated with and depended upon each other.

9.4 Reappraising the synod and episcopal governance

An early and formal expression of communion was the practice of holding synods. Synods 'arose out of a collegial instinct for apostolicity and communion', [14] at which bishops and others debated and decided problems of common concern. They expressed collegiality and communion, and helped to balance diversity with communion and unity. They also made bishops accountable to one another, and were understood by the Council of Nicea as a standard tool of governance for the bishops of a province.[15] At Vatican II, some bishops wanted the revisit some of these ideas and create a Roman senate.

9.4.1 Forming a Roman senate

During the Council, bishops discussed the formation and benefits of a Rome-based senate, positioned above the Roman Curia, to assist the pope in governing the universal Church. This encouraged the implementation of episcopal collegiality

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[11] Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church*, 5.
[12] Ibid.
[13] See: Tanner, "Decrees of the Ecumenical Councils," 7. Canon 4.
[14] Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church*, 10.
[15] Tanner, "Decrees of the Ecumenical Councils," 8. Canon 5.

promoted by Vatican II and was one way for it to become an integral part of the modern Church.[16]

Melloni suggests Pope Francis could play the role of 'midwife' for such a senate and proposes four criteria.[17] The first encourages the influence of the spiritual and historical life of the local Church on the senate. The second addresses its function: it must meet regularly and form its own agenda, including how bishops are elected and the role of nuncios. The senate may form groups – including synods of bishops - to consult on important questions. The third option relates to the pope, who attends as a member and its head. He decides its agenda and, with its members, decides how matters are discussed in a transparent and devolved manner.[18] The fourth option concerns the senate's autonomy with respect to the Roman Curia. A senate would reduce the size of the Curia, which would continue to serve the pope as a papal executive, pursuing tasks he decides upon. In serving the pope, the Curia serves the senate. The senate and the pope may reduce curial decision-making at any time, forming special working parties to report on defined issues, which report only to the senate.

These suggestions are congruent with Vatican II. Regular meetings of a senate would encourage its episcopal members, who represent the local Church, to discuss contemporary issues and for specialists to be drafted in to consult on important issues.[19] Positioning the senate above the Roman Curia, allows for a reduction in the Curia's size. Its future role can be shaped by the needs of the pope

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[16] Alberto Melloni challenges Pope Francis to be 'the last Pope to evade the collegiality of Vatican II, or a different Pope who is the first consciously to implement it in the Catholic Church.' Alberto Melloni, "*Senatus Communionis* : A Senate of Communion," *Concilium*, no. 5 (2013), 44. Pope Francis' action has already provoked negative reaction from some quarters, for example: Sandro Magister, writing on his website http://chiesa.espresso.repubblica.it/?eng=y. [Downloaded 7.10.2014].

[17] Ibid., 46-47.

[18] He will be very involved, as opposed to John Paul II who attended sessions of the Synod of Bishops and read his Office – as he had already decided its result. See: Massimo Faggiloi, "The Synod without a Script," *The Tablet*, 4.10.2014, 9.

[19] A careful consideration of senatorial membership will be needed. This body will benefit from bishops of local Churches together with members of the lay faithful – especially women. Senatorial membership should be based on ability and merit rather than merely clerical or episcopal ordination. Similarly any consultation groups need to reflect full Church membership, and include clergy as well as the lay faithful of both genders.

and the senate.[20] This will encourage bishops to solve questions locally or nationally before requesting Roman curial assistance. In turn, papal encouragement of a senatorial model of governance should encourage episcopal governance of the local Church in a similar collegial, synodal manner. What future role can be exercised by the Synod of Bishops?

9.4.2 The Synod of Bishops – a future role

Paul VI's announcement in 1965 concerning the formation of the Synod of Bishops ended conciliar discussion concerning a body to assist the pope in the governance of the universal Church.

While initially welcomed, the Synod has not match episcopal conciliar expectations: for Melloni, it has become an episcopal gathering presenting a collegiality that does not exist: 'What must we think of the respect Peter has for the college if we are to believe that a body without power of action, without deliberative capacity, without any voice about its length, expresses that college which, together with and under Peter, exercises full and supreme power in the Church?'[21] And yet the bishops who attend are ever hopeful.

Johan Bonny, Bishop of Antwerp and Cardinal Luis Antonio Tagle offer a level of realistic optimism about the Synod's future.[22] Bonny understands that synodal expectations are rooted in the pastoral and theological realities of Vatican II.[23] However, conciliar unanimity sought by Paul VI, which formed the foundation of the collegiality of the bishops and the primacy of the bishop of Rome, was lost on publication of his encyclical letter *Humanae vitae* (1968). Ongoing tensions led to unresolved episcopal disunion. To compound matters, the encyclical's doctrine

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[20] Reform of the Roman Curia will be discussed below.

[21] Melloni, "*Senatus Communionis* : A Senate of Communion," 44.

[22] See: Bonny, "Synod on the Family: Expectations of a Diocesan Bishop". Cardinal Luis Antonio Tagle of Manila, Philippines also speaks positively about the forthcoming Synod. See: *The Catholic Sun*, http://www.catholicsun.org/2014/05/19/cardinal-hopes-synod-will-find-new-ways-to-share-teaching-on-family/. [Downloaded 26.9.2014].

[23] Ibid., 2.

became 'a strategic programme that was enforced with a firm hand.'[24] The firm hand was that of the papal magisterium. In order to avoid its scrutiny many bishops chose silence.

9.4.3 The local Church represented at the level of the Universal Church

Humanae vitae raised pastoral-theological issues, which would have benefitted from discussion at local Church level, at synodal level or at the level of a particular council, which would then inform universal Church teaching. A report from the local Church, prepared under the leadership and governance of the local bishop and episcopal conferences, would then inform debate at a Roman Senate or a Synod of Bishops with deliberative powers. Such a decision-making process better reflects the understanding of the communion of local Churches, i.e., the universal Church, as developed by the Council (SC 41; LG 23, 26; CD 11).

Susan Wood notes the benefits of this model: focus on the local Church and the local bishop brings greater participation of the lay faithful, as well as facilitating inculturation and decentralisation. Of equal importance, 'The universalist position protects the Church from falling prey to a narrow nationalism. The expertise and scope available to the universal Church provides a corrective and balance to the necessarily limited wisdom and skills of a single bishop.'[25] For Wood, the communion model encourages the universal Church to be the communion of local Churches. This requires that they are held in a creative tension. A Roman Senate can support this tension, so can a suitably modified Synod of Bishops.

9.4.4 A Synod of Bishops with deliberative powers

Quinn suggests that for the Synod of Bishops to have a future, it needs to be given deliberative powers. Paul VI's decree *Apostolica sollicitudo* (1965), understands the Synod's task is 'to inform and give advice. However, it may also have

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[24] Ibid., 3. A similar situation arose with the introduction and implementation of the catechism. It was introduced into the 1985 Synod by John Paul II as desired by many bishops. Its future development was then added to the Synod's Final Report.

[25] Susan K. Wood, "The Church as Communion," in *The Gift of the Church: A Textbook on Ecclesiology*, ed. Peter C. Phan (Collegeville, Mn.: Liturgical Press, 2000), 176.

deliberative powers, when such power is conferred on it by the Sovereign Pontiff'.[26]

To date, no Synod has been given deliberative powers; consequently the episcopacy has yet to share in universal Church governance. However, synods represent a way 'for bishops to collaborate with the pope in his primatial function.'[27] This can be achieved if the pope gives a deliberative role to the Synod of Bishops. A deliberative Synod, led by the pope, would signify 'the responsibility of the episcopal college for the government of the whole Church.'[28]

Quinn suggests that extraordinary Synods would best fit this episcopal governance role as their membership automatically includes presidents of episcopal conferences for the Latin Church and patriarchs and archbishops of Eastern Catholic Churches. This suggestion also reflects *Lumen gentium* (LG 22). Governance of the universal Church would be exercised by the pope and a group of elected, pastorally active bishops, whose role would be informed, and inform local Church governance. This reflects Rush's idea of the work of the hermeneutical circle: that which is learned during one process then informs successive processes.

There are a number of other means by which the governance role of the individual bishop can be kept in focus, including: to reserve the title 'bishop' to those who are pastorally active in local Church governance; to address Roman curial reform, something already begun by Pope Francis; to encourage inculturation led by the local bishop. First to be considered is a re-engagement with the documents of Vatican II.

9.5 Re-reading the documents of Vatican II

Post conciliar documents have discussed the pastoral governance role of the bishop. The Directory on the Pastoral Ministry of Bishops *Ecclesiae imago* and the

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[26] "The Documents of Vatican II," 721. Confirmed by the 1983 Code (canon 343).

[27] Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church*, 34. He references: John P. Beal, James A. Coriden, and Thomas J. Green, eds., *New Commentary on the Code of Canon Law* (New York: Paulist Press, 1999), 454-455.

[28] Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church*, 35.

American NCCB's Bishop's Manual for Bishops encourage episcopal knowledge and reflection on *Lumen gentium* and *Christus Dominu*s. For example, *Ecclesiae imago* understands that on its own it is 'no substitute for theological-pastoral reflection on the episcopal office.'[29] The Directory requires the bishop to be familiar with the conciliar texts on which it draws. When the 1983 Code was promulgated, it addressed episcopal governance but did not represent 'a theological-pastoral commentary on the office of bishop.'[30] If a bishop wished to develop his theological-pastoral-episcopal understanding, the 1983 Code prompts him to consult curial documents, such as *Ecclesiae imago.* However, like *Ecclesiae imago*, the 1983 Code also proposes he first consult the conciliar texts, as '[o]nly within a broad theological-pastoral horizon can the individual canons referred to be responsibly interpreted.'[31] Having consulted these primary sources, including *Sacrosanctum concilium*, the bishop would become familiar with the scope of episcopal governance role and its pastoral exercise proposed by Vatican II.

9.5.1 Episcopal reflection and the episcopal conference

By studying the history of Vatican II, reading and commenting on its documents, and reflecting on their episcopal experience, individual bishops and episcopal conferences will be better positioned to reflect on the nature of their governance role.

To augment this process a local bishop can call a diocesan synod to reflect on episcopal pastoral governance using a similar methodology; a diocesan synod includes the additional reflections of the lay faithful and diocesan clergy. Likewise, an episcopal conference can call a particular Council to formally reflect on their pastoral governance role in the light of Vatican II. These synodal, conciliar bodies can, in turn, present the understanding of the local Church - via the local bishop and his episcopal conference, to a Senate or deliberative Synod.

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[29] Catholic Bishops, "A Manual for Bishops: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law," 1.
[30] Ibid., 2.
[31] Ibid.

9.5.2 The patriarchates

The ancient patriarchates were groupings of Churches, centred on places from which regional evangelisation spread outwards, and assisted in unifying and promoting communion. The organisation of patriarchates in the Eastern Orthodox Churches and in six Eastern Catholic Churches developed, while the Latin Church had one patriarchate, Rome.[32] Following the Great Schism of 1054, a distinction between patriarchal and papal exercises of governance was lost and became fused into a centralised papal monarchy in the West.[33] For hundreds of years the pope had the title 'Patriarch of the West', a title suppressed by Pope Benedict in 2006.[34] A related statement published by the Council for Promoting Christian Unity (CPCU) suggested the title was obsolete. The CPCU understood that 'rather than considering the West as a patriarchate, the Church now has a new ordering brought about through Vatican II in the episcopal conferences and multinational conferences, such as the European Conference of Bishops.'[35]

This suggests a return to a more ancient understanding of the way in which the Church organises and governs itself. It also provides an alternative to the centralisation of the Church in Rome. Both Ratzinger and Congar understood that centralisation came about due to the confusion of the patriarchal and Petrine offices.[36] A centralised papal monarchy drove the homogenisation of Church law and the liturgy, and the governance of episcopal appointments.

Over time centralisation reduced the exercise of governance by local and regional bishops, which also impeded the inculturation of the Gospel. Re-establishing the patriarchal structure would support Church de-centralisation, allowing for a more local exercise of episcopal governance. Additionally, this would encourage the inculturation of the gospel, providing a more effective means to exercise the task of evangelisation. Vatican II identified the relationship of contemporary episcopal

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[32] Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church*, 13-19, at 15.
[33] Ibid., 16.
[34] It was removed without explanation from the *Annuario Pontifico* (2006).
[35] Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church*, 16. See footnote 12.
[36] Quinn footnotes the idea of decentralisation drawn from: Yves Congar, *Église et Papauté* (Paris: Les Editions du Cerf, 1994); and Joseph Ratzinger, "Primacy and Episcopacy," in *Theology Digest* 19, no. 3 (Autumn 1971).

conferences with the ancient patriarchates (LG 23). The development of modern patriarchates could be a task initiated by a deliberative Synod of Bishops or a Roman Senate. They could also reflect on how the bishop exercises his governance role within this structure for both the local and universal Church. This debate might usefully commence by reflecting on what Vatican II said about the bishop's governance role, followed by a discussion on the use of episcopal titles.

9.6 The use of the title 'bishop'

The use of the title 'bishop' is best reserved to those who lead and govern the local Church. Its use as an honour or its link to curial office should be avoided.[37] Currently, those appointed to senior positions in the Curia are also created bishops, archbishops or cardinals, normally linked to their rank within the bureaucracy. The German theologian, Sabine Demel (1962 -), notes that this creates concern about 'due legal and constitutional process. The combination of executive curial office and legislative ecclesial office in one and the same person grossly contradicts the principle of the separation of powers.'[38]

A problem for the exercise of governance by local bishops is the episcopal rank of members of the Roman Curia. Episcopal curial members legislate, use their executive power to enforce legislation, and judge those who break such legislation as seen by the action of the Congregation of the Doctrine of the Faith (CDF) in scrutinising the work of 'errant' theologians.[39] The CDF 'acts as lawgiver, police investigator, prosecutor, judge, and jury. In civil society, this would be considered a violation of due process.'[40] Acting in this all-encompassing manner the CDF, like other curial dicasteries, sees itself as the sole agency of governance.[41] This reduces

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[37] Cardinal Frings understands that the bishop is an office holder; being a bishop is not an honour. See: Mörsdorf, "Decree on the Bishops' Pastoral Office in the Church," 174.

[38] Sabine Demel, "*Women in the Lead: Even in the Roman Curia*," *Concilium*, no. 5 (2013), 80-81. She continues: 'According to the existing teaching of the Catholic Church on the sacred power and authority (*sacra potestas*) of popes and bishops, there can be no division of power for pope and bishop, although that is indeed possible for the authorities of the Roman (and episcopal) Curia […].' ibid., 85. Fn. 86.

[39] For example: Roger Haight S.J.; Margaret A. Farley, R.S.M.; and Leonardo Boff.

[40] Thomas J. Reese, "From a Seventeenth-century Court to a Modern Service," *Concilium*, no. 5 (2013), 91.

[41] Thomas Reese understands: 'As long as officials in the Curia are made archbishops and cardinals, they will act like princes and nobles rather than servants. They will see themselves as a governing

the bishop to the role of local, curial agent: why would a bishop need to exercise governance locally when governance has been exercised centrally? Alternatively, why would a bishop risk exercising governance when the CDF could question his actions? In future, if the work of the Curia is understood primarily as a service to the universal Church or the Diocese of Rome, the work itself should be understood as its own reward.[42] Pope Francis has shown leadership in this regard by de-emphasising the use of papal titles.[43] In turn, if the Roman Curia is viewed as a support service for the local Church, this necessitates the bishop appreciating and exercising his pastoral governance role.

A move to 'uncouple' curial office from the episcopal office would be an interesting enterprise. Disassociating curial administration from episcopal ordination or from being appointed cardinal would increase the power of the pope as it is far easier to dismiss someone from their curial post if they are not a bishop or cardinal.[44] It would also mean that no member of the Curia would *ex officio* be a bishop or a cardinal. In future conclaves this would have a dramatic effect as about thirty-five per cent of cardinals are currently curial cardinals. In turn, this 'uncoupling' would enhance the collegial, episcopal connection between the pope and local bishops. In terms of episcopal governance, it would create approximately forty more cardinals from amongst local bishops, each voting in a future conclave.[45] In 2015, Pope Francis created only one member of the Curia a cardinal.[46] He has, however, created cardinals from the 'periphery'.[47]

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elite between the pope and the bishops rather than as staff to the pope and the college of bishops.' Thomas Reese, "Francis Makes his First Mistake," *National Catholic Reporter*, 24.1.2014.

[42] The automatic creation of the head of a dicastery as a cardinal can be avoided using the same logic. If all bishops and cardinals have a local/national pastoral governance role then together they are in prime position to reflect the strength and needs of the Church, especially if called upon to serve on a Rome-based senate or at the Synod of Bishops.

[43] See: http://ncronline.org/blogs/ncr-today/pope-francis-officially-de-emphasizes-papal-titles. [Downloaded 2.1.2015].

[44] Reese, "Francis Makes his First Mistake."

[45] See: Reese, "From a Seventeenth-century Court to a Modern Service," 89. He notes that is was Pope John XXIII who linked curial office with ordination to the episcopate. Ibid., 90. Some of his ideas are discussed hereafter. See: ibid.

[46] Archbishop Dominique Mamberti, previously Secretary for Relations with States, he was appointed Prefect of the Apostolic Signatura on 8 November, 2014.

[47] At a consistory held on 22 February, 2015 in Rome, Francis created cardinals not from major sees but from David in Panama, Cape Verde, Tonga, and Myanmar to add to those appointed last year from Les Cayes in Haiti and Cotabato in the Philippines. See: Joshua McElwee, "Francis Diversifies Cardinals, Choosing Prelates from Asia, Island Nations," *National Catholic Reporter*, 4.1.2015.

Uncoupling curial office from episcopal office would clarify that curial members are not members of the magisterium. Curial members are members of the Pope's staff: their role is one of service to the Bishop of Rome and the College of Bishops - they are not its superior, nor do they constitute a governing elite. This understanding should encourage the local bishop and episcopal conferences to explore their governance role as expressed at Vatican II. In turn, this supports the view that it is the nuncio, not the local bishop, who is the local agent of the Roman Curia, both serving the local bishop. This further questions the nuncio's role in the election of bishops, and indeed the whole episcopal election process.[48]

Finally, the pope has greater flexibility when appointing members to the Curia if they do not automatically become a bishop or cardinal. While this does not disallow the appointment of local bishops or cardinals to the Roman Curia, their pastoral duties have first call on their time. To facilitate this arrangement, curial duties should use modern means of communication.

One consequence of not ordaining members of the Roman Curia as bishops is that they will not be members of an ecumenical Council or Synod of Bishops. This will allow the participation of an increased numbers of local bishops at future Councils or Synods, and the building of a stronger relationship between the centre and periphery. Members of the Roman Curia would service the bishops at the Synod or Council, without voting rights.[49] In time, future meetings of the Synod or Council may wish to question historical limits placed on their universal or local governance by previous papal or curial instructions.

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[48] Pope Francis advises papal representatives that episcopal candidates should be 'pastors close to the people, fathers and brothers, that they are gentle, patient and merciful; animated by inner poverty, the freedom of the Lord and also by outward simplicity and austerity of life, that they do not have the psychology of "Princes". Be careful that they are not ambitious, that they do not seek the episcopate [...]' (n.3). In turn he advises papal representatives: 'There is always the danger, even for the men of the Church, to surrender to what I call, taking an expression from De Lubac, "spiritual worldliness": [...] We are pastors! [...] be the presence of Christ, be a priestly presence, as Pastors' (n.3). From: "Pope Francis' Address to Pontifical Representatives and Apostolic Nuncios," *Zenit: The World Seen from Rome*, http://www.zenit.org/en/articles/pope-francis-address-to-pontifical-representatives-and-apostolic-nuncios.
[49] The disconnect between the Curia and the episcopate/cardinalate helps to halts notions of careerism e.g. that working in the Curia will eventually lead to ordination to the episcopate etc..

9.7 Reform of the Roman Curia

Roman curial reform is problematic as it lacks a foundational point of reference to which appeal can be made. The Curia is a papal bureaucracy that has emerged and developed relatively late in the history of the Church. It is influenced as much by other forms of bureaucracy as it is by specifically ecclesial agendas.[50] Many cardinals who elected Pope Francis viewed curial reform as most important.[51] Any contemporary curial 'clean-up operation' requires the recognition that the Roman Curia usurped conciliar episcopal governance after Vatican II.[52] Without this recognition curial reform will be inadequate.

Pope Francis has announced that his Council of Cardinals will assist him in governing the Church and will revise *Pastor bonus*,[53] thereby confirming that he views Roman curial reform as extremely important for the pastoral well-being of the Church. Today, three criticisms are often levelled at the Curia: its propensity towards centralisation, the absence of transparency, and a lack of coordination.[54]

Peter Hünermann addresses these criticisms: reform should reference Vatican II documents and episcopal discussions, and be shaped by the Council's *pastoral* agenda. It will necessitate a complex discourse involving the whole Church, not just Roman theologians and curial officials, affecting the understanding and exercise of the Petrine ministry, its relationship with the College of Bishops, and the wider Church.[55] As the Church was not involved in socio-political debate during the nineteenth century it was not influenced by innovations outside the Church such as the separate functioning of the legislative, executive, administrative and judicial

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[50] The New Testament did not produce a blueprint for the Curia - and reform takes cognisance of an original plan. Norman P. Tanner, "Reform of the Roman Curia through History," *Concilium*, no. 5 (2013), 15. For example: 'new management, a new business plan, innovations in procedure and product or perhaps getting rid of "bad company"' have been suggested to address the difficult situation the Curia found itself in especially under the leadership of Cardinals Sodano and Bertone. Alberto Melloni, "*Senatus Communionis* : A Senate of Communion," ibid., 39.

[51] "*Senatus Communionis* : A Senate of Communion," 38. See: John W. O'Malley, "Is Reform Possible? Historical and Theological Perspectives on the Roman Curia," *America*, 30.9.2013.

[52] Melloni, "*Senatus Communionis* : A Senate of Communion," 42.

[53] Pope Francis, "Chirograph by which a Council of Cardinals is Established to Assist the Holy Father in the Governance of the Universal Church and to Study Possible Revisions of the Apostolic Constitution "*Pastor Bonus*" on the Roman Curia," (Rome: Libreria Editrice Vaticana, 2013).

[54] Demel, "*Women in the Lead: Even in the Roman Curia*," 79.

[55] Peter Hünermann, "Spiritual and Pastoral Guidelines for a Reform of the Roman Curia," ibid., 119.

organs.[56] Such innovations can benefit the Church by challenging its structures. Hünermann suggests that Roman curial reform requires 'a clear demarcation of essential functions', good communications and well regulated procedures.[57]

9.7.1 Guiding curial reform

The domain of business management offers helpful insights to those involved in the reform of ecclesial organisations in the form of maxims. In business, maxims 'capture the essence of a firm's future direction.'[58] They create corporate identity, promote values and answer questions like: who are we; what are we about; how do we do what we do?[59] Externally, they serve a similar purpose, promoting customer confidence and acceptance of a company's products or services. The Church already possesses such material. While dioceses have produced mission statements,[60] innovative and reformative material exists in the documents of Vatican II. Some examples follow.

9.7.2 Guiding maxims within Vatican II documents

Lumen gentium, Sacrosanctum concilium and *Apostolicam actuositatem* rediscovered the Church as the People of God. Consequently: 'Pope and Curia are

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[56] The Church could benefit from drawing on such improvements. For example: 'a modern form of synodal procedure and a corresponding investigation and implementation of canon law, the introduction of a new balance between the universal Church and local Churches, and the primacy and collegiality of bishops, a reconstitution of the judiciary by establishing an administrative jurisdiction, and a new version of the criminal justice system, […].' ibid., 120.

[57] Ibid. As discussed by authors of the social, economic and legal sciences and of benefit to any curial reform.

[58] See: Marianne Broadbent and Peter Weill, "Management by Maxim: How Business and IT Managers Can Create IT Infrastructures," *MIT Sloan Management Review* 38, no. 3 (1997). Maxims can also need updating. See: http://positivesharing.com/2006/08/top-5-business-maxims-that-need-to-go/. [Downloaded 30.10.2014].

[59] Pope Benedict XVI supported this integrationist move in his encyclical *Caritas in veritate* 29 June, 2009. See: http://www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate_en.html; in particular nn. 39-42. [Downloaded 21.10.2014]. Examples of maxims from the Royal Melbourne Institute of Technology (RMIT) ensure that 'ICT investment and decisions directly enable and support the University's objectives and goals.' Keith Frampton, "RMIT Business and ICT Maxims: Description and Definition," (2012). Including: 'Rich and diverse connections with all of RMIT's stakeholders and potential interaction groups; RMIT is a fast follower in technology adoption; Design and technology ethos is embedded in everything we do.' ibid., 6.

[60] For example: the Archdiocese of Liverpool's *Mission Statement* reads: 'Taking to heart the last works of Lord Jesus [sic], we will go into the world to proclaim the good news to the whole of creation.' See: http://www.liverpoolcatholic.org.uk/archdiocese [Downloaded 10.9.2014].

to serve the People of God, […]. A reformed Curia must be steeped in this conviction.'[61]

Lumen gentium, Orientalium ecclesiarum and *Unitatis redintegratio* support a plurality of Churches within the Church, evident in the apostolic tradition and extending to the fields of liturgy, spirituality and theology. It does not merely aim to assemble 'a number of components but a unity in plurality, characterised by reciprocal recognition and learning from each other. Consequently, the work of the Curia must be governed by the promotion of this qualitative plurality in all fields.'[62]

Lumen gentium, Sacrosanctum concilium, Christus Dominus and *Presbyterorum ordinis* describe ministry in the Church as *service*. Ministry comes with the authority given it by Jesus and is 'exercised across the entire spectrum of possible forms of collegiality. [Accordingly, the] Curia of the future may be summarised in two terms: "ministry" (service) and "collegiality"'.[63] These terms convey a direction to curial reform. The future Curia serves the People of God; is governed by the Church understood as a plural unity; its service is a collegial ministry for the whole Church.

This understanding is reflected in Pope Francis' Christmas address to the Curia (2013).[64] He emphasises two hallmarks of curial officials: professionalism and service. The first is necessary for working in the Curia. The second is directed outwards, 'to the Pope and to the bishops, to the universal Church and to the particular Churches.'[65] When professionalism is missing there is a drift towards mediocrity, something reflected in curial documents. Then, when their 'attitude is no longer one of [collegial] service to the particular Churches and their bishops, the structure of the Curia turns into a ponderous, bureaucratic customs house, constantly inspecting and questioning, hindering the working of the Holy Spirit

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[61] Hünermann, "Spiritual and Pastoral Guidelines for a Reform of the Roman Curia," 125.
[62] Ibid.
[63] Ibid.
[64] Pope Francis, "Udienza del Santo Padre alla Curia Romana in Occasione Della Presentazione Degli Auguri Natalizi,"
(http://press.vatican.va/content/salastampa/en/bollettino/pubblico/2013/12/21/0859/01938.html#TESTOChristmas 2013).
[65] Ibid.

and the growth of God's people.'[66] To these Pope Francis added a third hallmark: holiness of life, which avoids harmful gossip – prevalent within the Curia.[67] Service means they 'smell like the sheep'.[68]

9.7.3 Enacting Roman curial reform

The task of curial reform requires the development of a culture in which canon law and theology renew themselves via an ongoing, transparent, ecclesiastical conversation with the modern world.[69] While some bishops are capable of facilitating this reform, few have appropriate training or education to bring canon law and theology together, as many episcopal appointments were made to support existing structures.[70] This suggests the process of episcopal election bears scrutiny in tandem with curial reform. Able bishops can act as catalysts in creating the missing dialogue between canon lawyers, theologians, themselves, other bishops, and experts. An ongoing public discourse contextualises episcopal statements and dissenting voices. However, a hallmark of the Roman Curia is to discourage public discussion: for example, they intended the first Synod of Bishops to take place in secret.[71]

A successful outcome also requires an adequate timeframe, a transparent process and clear leadership.[72] A key criterion involves the pope living 'the collegiality of the whole Church together with his brother bishops.'[73] Papal primacy becomes an example of governance by a leader who also 'smells like the sheep'. Learning more about the importance of leadership can build trust and develop an episcopal

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[66] Ibid.

[67] One commentator, John Thavis, noted: 'Ouch. And this was a Christmas greeting.' John Thavis to John Thavis. [Downloaded 8.9.2014].

[68] Pope Francis, "*Evangelii gaudium*," (http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html Vatican Press, 2013), 22. [Downloaded 9.10.2014].

[69] Part of the agenda of the Peter and Paul Seminar: James A. Coriden, "Peter and Paul Seminar: An Historical Note," *The Jurist* 59 (1999). See also: Eugene Duffy and Miriam Wijlens, "Investigations in Ecclesial and Liturgical Reform: Peter and Paul Seminar," *Questions Liturgiques/Studies in Liturgy* 95, no. 1/2 (2014).

[70] Hünermann, "Spiritual and Pastoral Guidelines for a Reform of the Roman Curia," 126.

[71] O'Riordan, "The Synod of Bishops: A Theological Event," 565.

[72] Gospel values are also an essential guide. Hünermann, "Spiritual and Pastoral Guidelines for a Reform of the Roman Curia," 127.

[73] Giuseppe Dossetti, 6 August, 1978. Cited in: ibid. citing: Giuseppe Alberigo, *L'officina bolognese'*, 1953-2003, Bologna, 2003, esp. p. 209.

leadership style which encourages the bishop to govern in a collaborative and pastoral manner.

9.8 Inculturation – led by the local bishop

Lumen gentium had expressed the necessity for bishops from diverse cultures to work with the Pope to lead and govern the Church.[74] The discussion as to how this process might happen, first entered Church theology in the mid-1970s, specifically in the writings of the Jesuit Superior General, Fr Pedro Arrupe.[75] Inculturation appeared in an official Church document for the first time in 1979 in *Catechesi tradendae*, (CT 53),[76] issued by Pope John Paul II as an apostolic exhortation in response to the 4th General Synod of Bishops. Inculturation (or acculturation) was a neologism, which encouraged the process of catechesis. Inculturation suggests the catechetical process is knowledgeable about the culture in which the Gospel is preached, respects its 'values and riches [...] and help them to bring forth from their own living tradition original expressions of Christian life, celebration and thought.' (CT 53). Two factors must be balanced: the Gospel cannot be isolated from the culture in which it was first preached; and, the Gospel 'transforms and regenerates' a culture when preached and 'rectifies many of its elements' (CT 53). Therefore, when the Gospel encounters a culture, it changes that culture. A process of discernment helps a culture to comprehend the Gospel message by utilising elements of cultural heritage, but not obscuring the deposit of faith. This process of inculturation is governed by the bishop with his episcopal conferences. Bishops have primary responsibility and are 'the catechists par excellence. Together with the Pope, in the spirit of episcopal collegiality,' (CT 63) they are responsible for catechesis across the Church.

While this process of inculturation is episcopally governed what is questionable is whether it happens only in one direction, from the bishop downwards. O'Donnell suggests that in the 1970s and 1980s reflection on Vatican II's decree on

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[74] See: Eamonn Conway, "A Pope from the Global South: Redirecting Evangelisation," in *Performing the Word: Festschrift for Ronan Drury*, ed. Enda McDonagh (Dublin: The Columba Press, 2014), 93.

[75] See: Eugene Hillman, "Inculturation," in *The New Dictionary of Theology*, ed. Joseph A. Komonchak, Mary. Collins, and Dermot A. Lane (Dublin: Gill and Macmillan, 1987), 510-513 at 513.

[76] See: http://w2.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_16101979_catechesi-tradendae.html. [Downloaded 15.1.2015]. This build on

missionary activity, *Ad gentes*, understood inculturation had a spectrum of understanding. *Catechesi tradendae* proposed a minimalist understanding often associated with the Roman and papal magisterium. It suggested the Gospel changed the culture in which it was proclaimed. *Ad gentes* 'is more about the inculturation of the Gospel',[77] suggesting that inculturation, governed principally by the bishop and episcopal conferences, involves some form of exchange. The International Theology Commission later suggested that inculturation encourages 'a wondrous exchange' (n.5).[78] The Gospel reveals and liberates the greatest understanding of a culture's values; and, every culture expresses the Gospel in a unique manner and so manifests new dimensions of the Gospel.

However, it is not clear as to whether John Paul II's understanding of inculturation played a dominant role in his teaching, and if so how it affected the role of bishops and episcopal conferences as agents of the Pope's understanding of inculturation. The Asian Synod of Bishops (1998) provides a useful test case.

John Paul II wrote in his post-synodal apostolic exhortation, *Ecclesia in Asia* (EiA), that Christ should be presented in cultural forms familiar to Asian people. Western ontological understandings 'can be complemented by more relational, historical and even cosmic perspectives' (EiA 18). The bishops of the Synod wanted the Church 'to be open to the new and surprising ways in which the face of Jesus might be presented in Asia' (EiA 18).[79] While the Pope was asked to speak in this way by the Synod, Edmund Chia understands that the bishops and the Pope differed in their understanding of inculturation.[80] For many Asian bishops inculturation means the Church learns from Asian culture and religions: it is not enough to present Jesus with an Asian face. Cardinal Darmaatmadja, Archbishop of Jakarta, Indonesia, in response to *Ecclesia in Asia*, said the bishops can learn from the world

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[77] "Ecclesia: A Theological Encyclopedia of the Church," 210.
[78] The International Theology Commission, "Selected Themes in Ecclesiology," in *Texts and Documents 1969-1985* (San Francisco: Ignatius, 1989), 280. The Commission later returned to the theme. See: "Fides et inculturatio." In *Gregorianum*, 70 (1989), 625-646.
[79] See: Pope John Paul II, *Post-Synodal Apostolic Exhortation: Ecclesia in Asia* (http://w2.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_06111999_ecclesia-in-asia.html1999). [Downloaded 3.7.2014].
[80] Edmund Chia, "Of Fork and Spoon or Fingers and Chopsticks: Interreligious Dialogue in *Ecclesia in Asia*," in *The Asian Synod: Texts and Commentaries*, ed. Peter C. Phan (Maryknoll, N.Y.: Orbis Books, 2002), 273-274.

as that is where Jesus worked and lived, 'including the world of Asia'.[81] Before the Synod the Indian bishops suggested that: 'God's dialogue with Asian peoples through their religious experiences is a great mystery. We as Church enter into this mystery by dialogue through sharing and listening to the Spirit in others'.[82] The bishops were striving to present the Church more clearly in Asia, a task facilitated by the Church entering into dialogue with world religions. For the Bishops of India when the culture of a continent is itself religious, 'to be religious itself means to be interreligious - that is, to live amicably in dialogue. [...] This dialogical model is the new Asian way of being Church'.[83] The majority of Asian Church bishops understand that inculturation was a process: the Gospel changed the culture in which it was proclaimed and the inculturation of the Gospel is also part of the process. The process of inculturation in Asia and elsewhere is entrusted to the local bishop and local Church together with the episcopal conference. It is not a process directed from Rome and episcopally injected into the local culture.

9.8.1 Inculturation governed by the local bishop

Inculturation is an active process, requiring discernment.[84] The bishops have been given the task of overseeing and discerning the inculturation of the Gospel for the local Church by *Catechesi tradendae* (CT 63). This task is exercised in a manner which respects the local culture and is open to an inculturation of the Gospel. An example of inculturation in practice is local/regional liturgical adaption.

9.8.2 The New Translation of the Missal

The new English translation of the Roman Missal came into use on the First Sunday of Advent, 2011. With it, the term 'Roman Missal' replaced 'Sacramentary', the name given the book prepared by ICEL and in 1997 awaited its *recognitio*, a recognitio that was refused.

As discussed earlier, the regulation of whether and how living languages were to be used was a task to be governed by the episcopal conferences. The role of the

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[81] Ibid., 276-277.
[82] Peter C. Phan, "Responses of the Asian Episcopal Conferences to the *Lineamenta*," ibid., 20-21.
[83] Ibid.
[84] *Dictionary of Fundamental Theology.* Slough: St. Pauls, 1994, 501.

Apostolic See was to examine or confirm (*recognitio*) their decisions (SC 36 §3). Translation was the sole responsibility of episcopal conferences (SC 36 §4). This task was removed from the bishop and episcopal conferences by an exercise of the papal and Roman curial magisterium, which refused to receive *Sacrosanctum concilium* (SC 36 §3-4). This lack of reception eventually produced a translation directed by the instruction *Liturgicam Authenticam* (2001), published by the CDWDS, without recourse to the bishops or episcopal conferences. The contemporary task of liturgical translation was 'not so much a work of creative innovation as it is of rendering the original texts faithfully and accurately into the vernacular language' (LA 20).[85] This represented a major change to *Comme le prévoit* (1969), which encouraged a more dynamic translation of texts, and allowed the bishops to govern a process of inculturation of the original Latin texts.

The production of the new missal was presented as a *fait accompli*, which no amount of discussion or disagreement could change. Re-reading the Council document, especially *Sacrosanctum concilium*, will remind the bishops and the episcopal conferences to whom the task of governing whether and how texts were translated, and to whom the task of translation was given. Recapturing this important task of episcopal governance will encourage the translation of liturgical texts that are culturally sensitive. Liturgical episcopal governance will be aided by the members of the local Church, whose active participation in the liturgy they are charged to form and support, and who have been affected by such change.

Returning these tasks to the bishop and episcopal conferences not only provides an example of reception of Council teaching, but also provides an example for the wider Church as to how the process of inculturation can be exercised by the bishop, today.[86] Lessons can also be learned from academic areas apart from the theological, for example, the area of business leadership.

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[85] See: http://www.vatican.va/roman_curia/congregations/ccdds/documents/rc_con_ccdds_doc_20010507_liturgiam-authenticam_en.html. [Downloaded 14.2.2015].

[86] Thomas Jodziewicz discusses how Pope Paul VI's post-synodal reflection on evangelisation - *Evangelii nuntiandi* (1975), drawn on by Pope Francis in *Evangelii gaudium* (2013), seeks a balance between the local and the universal Church. Thomas W. WJodziewicz, "Reflections on *Evangelii nuntiandi*," *The Way* 52, no. 3 (2014), 88-90.

9.9 Episcopal Leadership: reflecting on Business Leadership to [re]form Episcopal Leadership

Contemporary business schools constantly reflect on the nature of leadership.[87] Applying their reflections to form or reform episcopal leadership may be viewed as an exercise in inculturation. Business schools make one point clear: leadership differs from management, a concept discussed earlier. A manager attends to the direction given him by the CEO, the owner or shareholders. A leader, on the other hand, will weigh these carefully, and then make the best decision for the business. Contemporary business values leadership as it carries a greater awareness of people as individuals with a contribution to make. Peter Drucker (1909-2005), referred to by some as the 'father of modern management',[88] recognised this difference. For Drucker: 'One does not "manage" people. The task is to lead people. And the goal is to make productive the specific strengths and knowledge of each individual.'[89] This fundamental difference is important to parse, especially if the contemporary bishop is to benefit from modern leadership skills. The leader-bishop should aim to elucidate an absorbing vision, to communicate that vision successfully, and then motivate others to follow.

Warren Bennis (1925-2013), an academic and pioneer in the field of leadership studies suggested some specific differences between a manager and a leader: the manager administers; the leader innovates.[90] The manager maintains; the leader develops. The manager focuses on systems and structure; the leader focuses on people. The manager imitates; the leader originates. The manager accepts the status quo; the leader challenges it. The manager is the classic good soldier; the

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[87] For example, in 2014 the following conferences were held: Advances in Leadership, http://www.advancesinleadership.org/; Simmons Leadership Conference, http://www.simmons.edu/leadership/; Wharton Annual Leadership Conference, http://leadershipconference.wharton.upenn.edu/2014/index.shtml. The World Leaders Conference, 2014 http://worldleadersconference.com/, proposed an alternative (secular) servant-leader model of leadership, whereas the Alpha Leadership Conference (see: Leadership Conference, 2015 http://lc15.alpha.org/) suggests a more pneumatic model.

[88] See: Álvaro Turriago Hoyos and Bradley M. Braun, "Managing Innovation: A Values Based Approach," *The Journal of International Management Studies* 5, no. 1 (2010), 62.

[89] Peter F. Drucker, *Management Challenges for the 21st Century* (New York: Harper Business, 1999), 21-22.

[90] See: http://www.forbes.com/sites/stevedenning/2014/08/02/a-tribute-to-warren-bennis-a-leader-of-leaders/.

leader is his or her own person. The manager does things right; the leader does the right thing. The manager relies on control; the leader inspires trust. The manager has a short-range view; the leader has a long-range perspective. The manager asks how and when; the leader asks what and why. The manager has his or her eye always on the bottom line; the leader's eye is on the horizon.[91] The list of managerial tasks reflects episcopal governance as understood by the Roman Curia. The list of leadership tasks is more reflective of the episcopal pastoral governance role outlined at Vatican II and encouraged by Pope Francis. A bishop governing in this way delegates management tasks to the diocesan curia and invites the local Church to assist him in his leadership role.

9.10 'Transformation' and 'Reform' of Contemporary Church Governance

Governance in the contemporary Church is at a crossroads.[92] Its model of governance is highly centralised and lacks transparency. Pope Francis has challenged a reform of this model by encouraging the bishops to govern the local Church with their episcopal conferences. At the same time the Pope's group of advisors, the 'C9', which may be inspired by discussions at Vatican II about a Rome-based senate, is calling the bishops to develop a new mode of episcopal leadership. Academic educationalist John West-Burnham (1950 -),[93] suggests that this is a transformational process and may be new to many bishops. It involves

> the process of rethinking mind maps, mindscapes and imaginaries. Moving from a nineteenth century imaginary to a twenty-first century imaginary is essentially the process of leadership learning and development. In essence, the mindscape has to change in order to change the landscape; the private world has to be re-oriented before the public world can be changed.[94]

This makes the bishop the linchpin of both *transformational change and reform* within the Church. Together with his episcopal conference he is challenged to

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[91] Warren Bennis, *On Becoming a Leader*, Revised ed. (New York: Basic Books, 2009), 33-48.

[92] A sample of recent literature discussing this include: Margaret Nutting Ralph, *Why the Catholic Church Must Change: A Necessary Conversation* (Plymouth: Rowman & Littlefield Publishers Ltd., 2013); William V. D'Antonio, Michele Dillon, and Mary L. Gautier eds. *American Catholics in Transition* (Plymouth: Rowman & Littlefield Publishers Ltd., 2013); Russell Shaw, *American Church: The Remarkable Rise, Meteoric Fall, and Uncertain Future of Catholicism in America* (San Francisco: Ignatius Press, 2013.)

[93] Professor of Education, St. Mary's University, Twickenham.

[94] John West-Burnham, "The Architecture of Leadership," in *Annual Aquinas Conference* (St. Mary's University College 2009). See: http://www.smuc.ac.uk/aquinas/papers.htm. [Downloaded 3.9.2014].

receive the Pope's challenge and, in turn, transform his understanding of his episcopal pastoral governance role. Working with his episcopal conference, he can find relevant information and useful directions in the documents of Vatican II.

9.10.1 Transformational change in the Church

However, Paul Taffinder, a leading consultant on leadership and change, notes the challenging nature of this type of transformation:

1. It is wide-ranging, requiring a cohesive set of answers.
2. Transformation may challenge the fundamental purpose of an organisation.
3. Transformation may require radical performance improvement.
4. Transformation requires solutions that are unique to an institution.
5. An essential condition of transformation is dramatic change in the organisation and its membership.[95]

Reflecting on transformation may be uncomfortable for many Church members, both lay and clerical, because it requires change. Change or dissent from a path enunciated by the Roman Curia can be perceived as beyond orthodoxy. Some Church members may over-identify the Curia with an exercise of the papal magisterium. For them, those who think differently than Rome and develop a hermeneutics of reform rather than continuity are accused of being unfaithful to the pope and of fracturing Church communion. S.P. Marshall understands that: 'Adding wings to caterpillars does not create butterflies – it creates awkward and dysfunctional caterpillars. Butterflies are created through transformation.'[96] Reflecting on Marshall's image, West-Burnham suggests: 'The purpose of the caterpillar is not to be a better caterpillar – it is to become a butterfly.'[97] This transformational event can be overshadowed by the drive to improve the 'caterpillar' stage. However, the caterpillar cannot remain static; it is destined to transform into a butterfly. Transformation concerns 'the profound change of every component of the organisation following a fundamental reconceptualisation of its purpose and nature. Transformation is a process that ensures that an organisation

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[95] Paul Taffinder, *Big Change: A Route-Map for Corporate Transformation* (Chichester: John Wiley and Sons, 1998), 42–44.
[96] S.P. Marshall, 1995), http://www.21learn.org/publ/systhesis/synthesis_four.htm. 1.
[97] John West-Burnham *Rethinking Educational Leadership: From Improvement To Transformation* (London/New York: Continuum, 2009), 17.

is appropriate to the context in which it operates.'[98] But this is not change/transformation for its own sake. A process must have preceded such action, where an agreed course of action has been accepted.

For the Church, Vatican II was a moment of 'fundamental reconceptualisation' especially when applied to episcopal governance. The conciliar bishops permitted themselves to re-imagine the Church and its governance. This necessitated the reorientation of the Church as local and universal, becoming the context in which the Church operated and engaged with people. The concept of the universal Church binds the local Churches together but allows for diversity within unity.[99] The universal Church cannot dictate a uniform Church because local Churches operate in differing contexts. Diversity requires a measure of inculturation of conciliar teaching. To support this change the bishops at the Council recognised that both episcopal governance and Roman curial governance were required. Change means transformation, and transformation is about letting go of certainty and embracing the resultant chaos and complexity.[100] Those who lead in periods of transformation need to prepare themselves, and those they govern, for raised levels of apprehension and disquiet.

For the contemporary Church, the reception of these ideas requires greater attention to the appointment of bishops. Episcopal ministry in periods of transformation will require flexibility, ingenuity, and the ability to encourage the inculturation of Church teaching while remaining in communion with the universal Church.[101] In turn, the process of choosing and moving bishops, including a clear role for the local Church and episcopal conference, will necessitate a similar transformation.

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[98] Ibid.

[99] See: Walter Kasper, *Leadership in the Church* (New York: The Crossroad Publishing Company, 2003). Especially Chapter 6, 'The Universal Church and the Local Church'.

[100] West-Burnham *Rethinking Educational Leadership: From Improvement To Transformation*, 24.

[101] The Latin American bishops understand they '"cannot passively and calmly wait in our church buildings"; we need to move "from a pastoral ministry of mere conservation to a decidedly missionary pastoral ministry".' Francis, "*Evangelii gaudium*," 15. Footnote 17 references the quotation to the *Aparecida Document* (2007), 548. This suggests the Pope identifies the need for bold, imaginative and creative approaches to evangelisation, which in turn require good episcopal leadership qualities.

9.10.2 Congar and Church reform

But how does Church reform best encourage the fullest range of episcopal pastoral governance? Congar offers some guidance. He suggests that we first distinguish between the structure and the life of the Church. He separates the structure (singular) and the structures (plural). The former includes dogma, the sacraments and hierarchical constitution. The latter (*structures*) are the historical and concrete forms of ecclesial life, which must be reformed in order to encourage an ecclesial life, which is faithful to and centred on gospel values and appropriate to contemporary society.[102] Congar then offers four guiding criteria for true Church reform. The primacy of charity and pastoral concern; remaining in communion with the whole Church (i.e. avoid schism); patience; and genuine renewal by returning to the principles of Tradition (*ressourcement*).[103] The latter would encourage the rediscovery that episcopal ordination included the office of governance.

Structures such as a Roman Senate, the Synod of Bishops, episcopal conferences, the Roman Curia and the diocesan curia form part of Congar's Church structures (plural). Following on from Congar's proposal, these require reform and to be reformable: each has a bearing on how the bishop governs the local and universal Church, and how reform can be guided in order to avoid schism.[104] They will benefit from being reconstructed in a flexible manner, reflecting any future reform and any necessary inculturation of such structures to the needs of the local Church. Furthermore, at the local Church level the bishop does not govern on his own: he is joined by his priests, and by the lay faithful. Contemporary culture encourages the lay faithful to expect to be included in Church governance. Contemporary structural reform will benefit from reflecting this change – something not addressed by Vatican II.

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[102] See: Joseph Famerée, "True or False Reforms: What are the Criteria? The Reflections of Y. Congar," *The Jurist: Studies in Church Order & Ministry* 71, no. 1 (2011), 7-9.

[103] Congar, *True and False Reform in the Church*, 119-307. These were note earlier: Page 104, fn 27.

[104] However, as Famerée points out, for Congar the universal Church is not yet conceived as 'the *communio Ecclesiarum localium*' - as per *Lumen gentium* 23 and *Christus Dominus* 11. See: Famerée, "True or False Reforms: What are the Criteria? The Reflections of Y. Congar," 18.

9.10.3 Other theologians and Church reform

Francis Sullivan makes useful suggestions which help to bind the bishop and the lay faithful together in the exercise of governance. He suggests that a much greater use of the various categories of local councils in which the lay faithful are able and expected to participate. For example: 'diocesan and parochial pastoral councils, and in particular councils, both provincial and plenary.'[105] On the same theme, Robert Ombres suggests that in particular the diocesan synod may be used by the bishop, who 'can act as legislator, and the lay members present could make a formal, structured contribution to the legislative dimension of the power of governance.'[106] The lay faithful may also be involved in many diocesan and parish councils and finance committees and the Code (1983) notes that suitable candidates may be 'admitted to ecclesiastical offices and functions' by the Pastors of the Church (c. 228 §1) and 'capable of being experts or advisors, even in council' to the Pastors of the Church (c. 228 §2).[107] Bernard Hoose also suggests that the expertise of the lay faithful in theology and in related fields, which are of benefit to local Church governance, can be usefully tapped by the bishop to the benefit of both parties.[108]

Both Sullivan and Duffy also suggest that the bishop can usefully imitate the example of the American Conference of Bishops. They have involved the lay faithful in the preparation of pastoral letters. Sullivan cites the example of the pastoral letters *The Challenge of Peace* (1983), and *Economic Justice for All* (1986), which involved a great deal of lay input at the inaugural and the drafting stages.[109] Duffy notes that even though some did not agree with the advice proffered, they respected the way in which the bishops exercised their ministry.[110]

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[105] Francis A. Sullivan, "The Sense of Faith: The Sense/Consensus of the Faithful," in *Authority in the Roman Catholic Church: Theory and Practice*, ed. Bernard Hoose (Aldershot: Ashgate, 2002), 90.
[106] Ombres, "What Future for the Laity? Law and History," 99.
[107] This section of the Code (canons 224-231) is entitled: 'The obligations and rights of the lay members of Christ's faithful.' See: "The Code of Canon Law: In English Translation," 37-38.
[108] Bernard Hoose, "Where Do We Go From Here?," in *Authority in the Roman Catholic Church: Theory and Practice*, ed. Bernard Hoose (Aldershot: Ashgate, 2002), 235.
[109] Francis A. Sullivan, "The Sense of Faith: The Sense/Consensus of the Faithful," ibid., 90-91.
[110] Eugene Duffy, "On Proclaiming Sound Doctrine: A Theology of Method," *The Furrow* 50, no. 2 (1999), 79.

Duffy also notes that the way in which a bishop exercises his pastoral governance role is of particular importance. In particular, he will benefit from considering three transformational factors: inculturation, the *sensus fidelium* and reception of doctrine. First, the language he uses will benefit from being properly pastoral, that is, appropriate and not paternalistic. This will encourage the use of language and examples which chime with the culture in which the local church sits (*inculturation*). In turn, this will encourage the bishop and his episcopal conference to listen carefully to the local Church – especially the lay faithful, before making decisions (*sensus fidelium*). Attending to these factors will, in turn, support the reception of doctrine and act as a good model for future exercises of episcopal governance in a pastoral mode.[111]

One person who seems open to reform and transformation is Pope Francis. His understanding of episcopal governance and the reception of Vatican II's understanding of the pastoral governance role of bishops will be examined next.

9.11 Pope Benedict, Pope Francis and episcopal governance

The resignation of Pope Benedict XVI on 11 February, 2013 made way for the election of Cardinal Jorge Mario Bergoglio as Pope Francis on 13 March, 2013.[112] The two Popes offer contrasting outlooks on the exercise and reception of episcopal pastoral governance. Benedict XVI, whose views reflected those of his predecessor, John Paul II, identified episcopal governance as a role exercised by the local bishop or as a member of the College of Bishops, but not as a member of an episcopal conference. Benedict XVI also encouraged the Roman Curia to oversee the activities of local bishops.

Pope Francis has encouraged the 're-reception' and fresh appreciation of the episcopal governance role by the local bishop. He eschews a dominant Roman curial role, a growing tendency amongst contemporary bishops. This was exemplified by his choice of a 'senate' of cardinals – the 'C9', as his counsellors. With the 'C9' he is pursuing Roman curial reform. His more open model of ecclesial

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[111] Ibid., 80-87.
[112] See: http://w2.vatican.va/content/francesco/en/biography/documents/papa-francesco-biografia-bergoglio.html. [Downloaded 1.2.2015].

governance, supported also by his choice of domestic arrangements, encourages bishops to follow suit. This may be identified in his formal and semi-formal utterances, some of which will now be explored.

9.12 Pope Francis and episcopal governance

Pope Francis has invited bishops to reconsider the governance of the local Church and their assistance in the governance of the universal Church. Two documents develop his position: an interview given to Antonio Spadaro S.J. in August 2013 and the apostolic exhortation, *Evangelii gaudium* promulgated in November, 2013. The Spadaro interview will be considered first.

9.12.1 The Spadaro interview: 'A Big Heart Open to God'

Spadaro's interview allowed Pope Francis to discuss deficiencies in his exercise of governance when Jesuit Superior and Provincial for Argentina. People tired of his 'authoritarian manner.'[113] Transformation followed crisis: his years in Cordoba had helped him discern 'a new model of leadership, one which involved consultation, participation, collegiality and listening.'[114] This shaped a pastoral governance style while Francis was Archbishop of Buenos Aires. Consultation with his six auxiliary's bi-monthly and the Council of Priests encouraged discussion, helping him to make 'the best decisions.'[115]

This style of governance delivers a clear message to contemporary bishops: authentic consultation supports good *pastoral* governance. Furthermore,

> The consistories [of cardinals], the synods [of bishops] are, for example, important places to make real and active this consultation. We must, however, give them a less rigid form. I do not want token consultations, but real consultations. The consultation group of eight cardinals, this 'outsider' advisory group, is not only my decision, but it is the result of the will of the cardinals, as it was expressed in the general congregations before the conclave. And I want to see that this is a real, not ceremonial consultation.[116]

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[113] Francis, "A Big Heart Open to God."
[114] Paul Vallely, *Pope Francis: Untying the Knots* (London: Bloomsbury, 2013), 194.
[115] Francis, "A Big Heart Open to God."
[116] Ibid.

Francis wishes to encourage a style of pastoral episcopal governance and to model how the bishop should consult existing diocesan agencies. He invites them to make the local Synod into a consultative and deliberative organisation, modelled on diocesan episcopal governance. Thus, the local Church demonstrates how universal Church government may be exercised. This places the bishop at the centre of Church governance and, by implication, comprehends the role of the Roman Curia as one of episcopal support – as envisaged by Vatican II. The bishop is encouraged to ponder current governance roles and to respond to Francis' lead to consult locally and allow such consultation to shape diocesan governance.

9.12.2 The Pope: Roman Curia, Collegiality and Ecumenism

Francis understands that the Roman Curia serves the Pope, the bishops, the local Church, and episcopal conferences as 'instruments of help [not] institutions of censorship.'[117] Francis cites the example of accusations of unorthodoxy sent to Rome. These are better handled by the local episcopal conference, assisted by the Roman Curia, because the Curia 'are mediators; they are not middlemen or managers.' The Pope's example can teach some general lessons; future reform of the Curia will assist it to learn to serve and advise the bishop; in turn the bishop learns how to govern situations when such accusations are made. Furthermore, people making accusations are encouraged to speak to their bishop, not to the Roman Curia.

Pope Francis states that: 'Synodality should be lived at various levels. Maybe it is time to change the methods of the Synod of Bishops, because it seems to me that the current method is not dynamic.'[118] Reflecting on how the Orthodox Church governs will offer a better understanding of episcopal collegiality and synodality. [119] This reform of episcopal synodal activities may best be undertaken with the guidance of the Eastern Catholic Churches, which has preserved a greater measure of synodality.[120]

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[117] Ibid.
[118] Ibid.
[119] See: Antonio Spadaro S.J., "A Church on a Synodal Journey: Pastoral Challenges of the Family," ibid., 7.11.2014.
[120] Quinn, *Ever Ancient, Ever New: Structures of Communion in the Church*, 1.

9.12.3 Francis and Vatican II

Francis views Vatican II as fundamental to ecclesial reform. It offered a culturally sensitive re-reading of the Gospel, which produced a gospel-based renewal movement. This was enormously fruitful, especially in terms of the liturgical reform. The Council produced hermeneutics of continuity and discontinuity but at the same time 'the dynamic of reading the Gospel, actualising its message for today - which was typical of Vatican II - is absolutely irreversible.'[121] The liturgy has issues, especially in connection with the 'old order' (*Vetus Ordo*). Benedict XVI's decision concerning the Tridentine Mass was 'prudent and motivated by the desire to help people who have this sensitivity. What is worrying, though, is the risk of the ideologization of the *Vetus Ordo*, its exploitation.'[122]

Francis understands the Church as a diverse Church of which he is the point of unity. He encourages the bishops to listen to and support minorities. By so doing, the bishop acts as the point of unity within the local Church – a church which understands itself as more diverse than uniform. The bishop is then better placed to judge whether a particular minority is exploiting its position within the local church and to take action to uphold the unity of the local Church.[123]

9.12.4 The *Aparecida* Document

In 2007, the Fifth General Conference of Bishops of Latin America and the Caribbean, (CELAM) met in Aparecida, Brazil. Its 'Concluding Document' was prepared by a committee chaired by the present Pope,[124] aided by the Chilean, Cardinal Francisco Javier Errázuriz, co-president of CELAM, and the Honduran Cardinal, Oscar Rodríguez Maradiag, both members of the 'C9'. The 'Concluding Document' represents an insight into Francis' understanding of episcopal governance.

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[121] Francis, "A Big Heart Open to God."
[122] Ibid.
[123] For example: John Stegeman, "Covington bishop cautions faithful about attending SSPX Walton, Ky. church," *The Catholic Telegraph*, 7.6..2013.
[124] CELAM, *Disciples and Missionaries of Jesus Christ, so that Our Peoples may have Life in Him. Concluding Document* (Aparecida: CELAM, 2007). [Downloaded 20.12.2014].

The document focuses on a Christocentric call to mission and discipleship: Christ calls the individual to a personal relationship and then sends him/her as missionaries, to tell others (n. 244). This moves from a Rome-centred or self-referential focus to a focus on Christ and on the missionary task.

It next focuses on a preferential option for the poor, which questions Church action, its attitudes and ministry. These Latin American episcopal priorities are those of Pope Francis, who is now challenging the other bishops to use this focus (perhaps this document) as a measure of their activity (n. 391-393).

The third focus is on the pastoral journey of the Church, i.e., this is a permanent missionary journey (*Introduction* n. 4). This task is led by the bishop, who governs his diocese, which is 'fully church, but it is not the whole church' (n. 166). It is a place of communion and mission.

> [It] should inspire and lead a renewed and invigorated collaborative pastoral work so that the variety of charisms, ministries, services and organizations are directed toward the same missionary project in order to communicate life in its own territory. This project, which arises from a journey of varied participation, allows for collaborative ministry capable of responding to new challenges (n. 169).

The Latin America bishop is encouraged to minister and govern in a renewed and collaborative way. He carries out this mission with his clergy, with whom he has a close relationship (n. 187), and with the lay faithful (especially n. 231).

9.12.5 *Aparecida* and episcopal conferences

The *Aparecida* document presents a clear role for episcopal conferences: they support episcopal solidarity, a 'shared pastoral co-responsibility' (n. 181). Growing in communion supports the conference's collegial episcopal bond, the bond with the worldwide episcopal college, and with the pope. The episcopal conference is *the* place in which the bishops discern their pastoral responses to the 'major problems of society and the Church' (n. 181). One important aspect of this document concerns the way in which Francis and the other members of CELAM had to push back against Roman 'interference' in their deliberations and the

formulation of their final document. This move was fully supported by Benedict XVI, in opposition to the Latin American *curiali*.[125]

It can be seen that the *Aparecida* document expressed Pope Francis' understanding of the pastoral response of the bishop to his role especially that of governance, which is carried out in a co-responsible manner with the bishop's episcopal conference, with the priests and lay faithful.

9.12.6 Pope Francis and *Evangelii gaudium* (2013)

Francis' apostolic exhortation, *Evangelii gaudium*, addressed episcopal leadership of the local Church and liturgy.[126] It made frequent references to the teachings of various episcopal conferences or national episcopal groups. This was unusual as previous papal exhortations cited papal precedent without reference to contemporary episcopal groupings. This suggests that the present Pope is extremely open, not just to listening to bishops from national and international episcopal conferences, but also to referencing and utilising their ideas. Francis is encouraging suggestions and solutions emanating from the local Church to shape his response to the needs of the universal Church.

9.12.7 Episcopal Leadership of the Local Church

Pope Francis understands the local Church is 'under the leadership of its bishop' (n. 30), who calls people to conversion. The local Church is the focus of evangelisation (n.30) because it is 'the concrete manifestation of the one Church in one specific place [...] with local features' (n.30). In order to understand how episcopal leadership in this mode is exercised, Pope Francis offers the following guidance: sometimes the bishop will lead from the front, 'keeping their hope vibrant' (n.31); sometimes from the middle, an 'unassuming and merciful presence' and sometimes 'helping those who lag behind and - above all - allowing the flock to strike out on new paths' (n.31).

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[125] Austen Ivereigh, *The Great Reformer: Francis and the Making of a Radical Pope* (London: Allen & Unwin, 2014), 295-297.
[126] Francis, "*Evangelii gaudium*."

The Pope's understanding of episcopal leadership is of a dynamic role, carried out in a pastoral manner and open to change.[127] This fosters a local Church which is equally dynamic and open. The bishop will 'encourage and develop the means of participation proposed in the Code of Canon Law, and other forms of pastoral dialogue, [...] to listen to everyone and not simply to those who would tell him what he would like to hear' (n.31).[128] Future development is founded on dialogue involving all members of the local Church. This encourages diversity: for example, the Church in Limerick can appear different to the Church in Liverpool. Their respective bishops are the point of unity with the universal Church: again, their aim is unity and not uniformity.

Openness to unity has also attracted the attention of the Churches of the Reform. Movement towards decentralisation, which emphasises collegiality and encourages 'broad participation in the government of the Church'[129] will be understood as movement towards the *bene esse*, the 'well-being', that which is open to reform within the Church. In turn this helps to broaden ecumenical efforts while at the same time broadening governance in the Church.

9.12.8 Papal reform and episcopal conferences

Francis is open to reform of the Petrine ministry.[130] He understands that the papal magisterium should not be presumed to offer a decisive comment on all questions.

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[127] He echoes *Lumen gentium's* understanding of episcopal leadership as service (LG 20; 24). Speaking in this way he 'reaffirms the teaching of Vatican II concerning the priority of the People of God and the role of the bishops as their servant leaders. There is no reason why responsibility for sound pastoral action be abdicated to Rome. Pope Francis has returned that to the local Church and encouraged its exercise.' Eugene Duffy, "Pope Francis and the Agenda for Pastoral Reform," in *Performing the Word: Festschrift for Ronan Drury*, ed. Enda McDonagh (Dublin: The Columba Press, 2014), 107-108.

[128] See canons: 460-468; 492-502; 511-514; 536-537. Canon law references refer to participation utilising: the diocesan synod; diocesan finance committee and financial administrator; the council of priests and college of consultors; the pastoral council; and in a parish, a parish council and finance committee.

[129] Walter Altmann, "Ecumenical Implications of Reforming the Curia," *Concilium*, no. 5 (2013), 113-115, at 114.

[130] Pope John Paul II called for this: 'a way of exercising the primacy which, while in no way renouncing what is essential to its mission, is nonetheless open to a new situation.' See: Encyclical Letter *Ut Unum Sint* (25 May, 1995), 95: AAS 87 (1995), 977-978. Altmann suggests that ecumenism looks to distinguish between 'the papacy as a symbol of unity and its jurisdictional power, and therefore the more the exercise of the papal office is decentralised, and collegiality in exercising it is affirmed, the closer non-Catholic Christians will feel to their Catholic brothers and sisters.' ibid., 114-115.

For example: 'It is not advisable for the Pope to take the place of local bishops in the discernment of every issue which arises in their territory. In this sense, I am conscious of the need to promote a sound "decentralization"' (n.16). An important contribution can be made by episcopal conferences, as imagined by Vatican II.

> [L]ike the ancient patriarchal Churches, [they can] "contribute in many and fruitful ways to the concrete realization of the collegial spirit" [LG 23]. Yet this desire has not been fully realized, since a juridical status of episcopal conferences which would see them as subjects of specific attributions, including genuine doctrinal authority, has not yet been sufficiently elaborated.[131] Excessive centralisation, rather than proving helpful, complicates the Church's life and her missionary outreach (n.32).

The Pope is inviting episcopal conferences to play a more central role in evangelisation and in the reform of both the papacy and the Curia.

The role of the episcopal conference since Vatican II has been substituted by an excessively centralised authority, which stunts evangelisation. For Pope Francis, episcopal conferences have a vital role to play in the future Church, especially in reading the 'signs of the times' (n.51). In *Evangelii gaudium* Francis often references the reflections of regional and national groups of bishops, for example: bishops from Latin American (n.15); from Oceania (n.27); and from African and Asia (n.62). The example these episcopal conferences give can be imitated by other episcopal conferences, simultaneously helping all to deepen their self-understanding and exercise of episcopal governance.

9.13 Conclusion

The Church inhabits a world that is constantly changing. Pope Francis wishes to encourage the local bishop to *kick start* change in the universal Church from his position as leader of the local Church. He is challenging the contemporary Church: in the past the universal Church has thrown up bulwarks against change and against transformation, especially at the local Church level. This can no longer be its *re-action*. The challenge needs to be met and can be by reflecting on the following points.

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[131] See: John Paul II, *Motu Proprio Apostolos Suos* (21 May, 1998): AAS 90 (1998), 641-658.

There is a need for clear leadership from the local bishop at all levels of Church operation: leadership of the local Church *faithful*, both lay faithful and clergy and in a co-responsible manner; with his episcopal conference; and at a universal level, utilising some form of renewed deliberative Synod of Bishops or Rome- based Senate. The bishop has the authority to lead and to govern the local Church. This authority was given him at Vatican II – an ecumenical Council. This suggests that space and time need to be invested in assisting the bishop to learn how to govern and to lead well.

Reflecting on episcopal governance will also encourage a public discussion - as opposed to private Roman conversations, concerning the election of bishops. Episcopal election in this instance will include a greater local governance of episcopal elections, which can be assisted rather than wholly directed by the nuncio. Reflecting on the episcopal task and identifying key elements therein will assist in identifying those who already have the ability to lead and govern in a pastoral mode and who can then serve as exemlars to others.

The Pope, together with a Roman Senate, or Synod, can clarify the role of governance for the local bishop and the episcopal conferences. Clarification requires a period of reflection on the documents of Vatican II, by individual bishops, the lay faithful, the episcopal conferences, which is harnessed to a willingness on the part of all to follow a Vatican II trajectory.

The lack of magisterial reception of Vatican II has emanated from members of the Roman Curia and College of Bishops who have not appreciated the letter or the spirit of the Council. Furthermore, they have interpreted conciliar documents in a hierarchical manner, rather than considering them as the story of an unfolding event. Many curial members read within the pages of Vatican II a story of discontinuity with the past, but failed to comprehend that all Councils are a mixture of *continuity* and *discontinuity* – something that Benedict XVI noted in his Christmas address to the Curia (2005). Indeed, John XXIII's idea of a *pastoral* Council has been interpreted by some as permission to ignore the doctrine of Vatican II. Revisiting and remembering Vatican II, will help all members of the

Church to read the Council as an event, whose letter and spirit set the Church on a new trajectory.

If these fundamental challenges are engaged with in a forthright and transparent manner then hopefully a role of episcopal pastoral governance more congruent with that described by Vatican II can be constructed.

This in turn begs the question of Roman curial reform. The Roman Curia serves the pope in his role as Bishop of Rome, and as head of the College of Bishops. This has confused and conflated its role and often placed its members above the bishops ordained to serve and govern the local Church. This is especially so if the curial member also happens to be ordained a bishop. The Council called for Roman curial reform, but reform has yet to be delivered. Reform is needed to discourage those who see Roman curial membership as a preeminent Church position, and episcopal ordination, not as an office or a service, but as a promotion. Pope Francis has identified this to be operant within the Curia and it is receiving his attention. Likewise, the ordination of members of the Roman Curia to the episcopate or appointment as a cardinal requires very careful consideration and reform. Curial reform, which creates a Roman Curia to serve Pope Francis as Bishop of Rome and to serve – rather than govern, the worldwide episcopate, will clarify the governance role of the bishop according to Vatican II.

Episcopal governance exercised in the manner envisaged by Vatican II encourages the local and universal Church to engage with contemporary society, in a pastoral mode, allowing it to be the Church in the modern world (GS 1). In turn, this encourages the inculturation of the evangelistic mission by the local bishop together with his episcopal conference, which is supported in a co-responsible manner by the People of God.[132] It welcomes a new phase of implementing the vision of Vatican II despite the clawing back by the Roman magisterium of episcopal governance since the Council. The papacy of Pope Francis presents the

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[132] See: Gilles Routhier, "A Forgotten Vision? The Function of the Bishop and its Exercise Forty Years After the Second Vatican Council," *The Jurist* 69 (2009), 168-169.

contemporary Church with an opportunity to look afresh at such matters and to align Church practice with the magisterial teaching of Vatican II concerning episcopal governance, expressed in a pastoral key.

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