

# The Jurist

Studies in Church Law and Ministry

A Review Published Twice Yearly by the School of Canon Law  
The Catholic University of America, Washington, DC

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## COLLEGIALITY IN THE CHURCH: THEOLOGY AND CANON LAW: EDITOR'S INTRODUCTION

During the four years of Vatican Council II (1962–1965) the bishops of the world acquired many new insights, which they articulated in the sixteen conciliar documents. But both theologians and canonists know that such insights will positively influence the Church's life and mission only if they are incarnated in institutional structures. Such a relationship between theoretical vision and practical implementation is at the very heart of the ongoing process of reception<sup>1</sup> of Vatican II within ecclesial life.

Canonical structures assist a community in implementing its theological vision. Thus, for example, after a great deal of debate Vatican II affirmed the doctrine of collegiality. However, it is subsequently necessary that structures be provided to assist the community in making this multifaceted doctrine a lived reality.<sup>2</sup> The same is true for the doctrine of the Church as a *communio*: it will influence our understanding of relations between the local churches and the universal Church and between collegiality and primacy, but it also impacts the participation of all the members of the faithful in the threefold ministry of Christ according to their own distinctive status.

Hence, not surprisingly, although Pope John XXIII called for a revision of the 1917 code when he convoked Vatican II, that revision did not begin in earnest before the council was completed. For the canonical structures had to "translate" the insights of the council if the Church's

<sup>1</sup> For a very thoughtful examination of the complex theological, canonical, historical, ecumenical aspects of this complex concept of ecclesial 'reception' see *Reception and Communion among the Churches*, ed. Hervé Legrand, Julio Manzanares, and Antonio García y García (Washington: Catholic University of America, 1997). This collection of papers from an interdisciplinary symposium in Salamanca at Easter 1996 was also published in *The Jurist* 57 (1997) 1–456. Copies of this valuable text may be purchased through CLSA Publications, 9050 Junction Drive, PO Box 463, Annapolis Junction, MD 20701–0463.

<sup>2</sup> For another very thoughtful series of studies on different aspects of collegiality, see *The Once and Future Church: A Communion of Freedom*, ed. James A. Coriden (Staten Island, NY: Alba House, 1971). Although this collection of papers from a CLSA-sponsored interdisciplinary symposium is over thirty years old, the issues they address are as relevant as ever.

sanctifying, teaching, and pastoral service mission were to be realized effectively. The 1983 Code of Canon Law is surely a significant effort to facilitate this 'translation;' but, as John Paul II noted in *Sacrae disciplinae leges*, no single legal document can adequately 'translate' the richness of the conciliar vision into ecclesial life

The 'reception' of Vatican II is still very much a work in progress. Pastors, theologians, canonists, and other experts need to reflect constantly on the doctrine of Vatican II and assess to what extent current church structures suitably express the conciliar experience and teaching in practice. And this ongoing challenge of institutional *aggiornamento* has ramifications not solely for the Catholic Church but also for our relationships especially with other Christian churches. Since the 1965 conciliar decree *Unitatis redintegratio* the Church has been irrevocably committed to ecumenism. This official commitment involving both personal and corporate conversion was subsequently highlighted both in *Sacrae disciplinae leges* and in John Paul II's 1995 encyclical *Ut unum sint*.

Conversion, however, is not just a spiritual attitude; it needs to be followed by institutional renewal and reform: *ecclesia semper reformanda*. In this connection one might note the activities of the *Groupe des Dombes*, a group of Reformed, Lutheran, and Catholic pastors and theologians in France. For decades this group has reflected on different implications of the call to conversion of all the churches if the prayer of Christ for unity is to be realized.

The group recognizes especially that certain distinctly confessional aspects of each church's identity are historically-conditioned and are neither indispensable nor foundational. These elements emerged only when the churches were separated from one another and inter-church relations were cool if not positively hostile or non-existent. A genuine call to corporate conversion involves both a thoughtful assessment of institutional factors that are ecumenically counterproductive today and a possible ecclesial *kenosis* or sacrificing of those elements so as to foster deeper Christian unity and more effective Christian mission.<sup>3</sup>

Theological vision then always needs structures if it is to shape ecclesial life, be it within the Catholic communion or in our ecumenical rela-

<sup>3</sup> In this issue see the very thoughtful article of Dr. Catherine Clifford on "Kenosis and Communion." She defended her dissertation on the Group des Dombes at the University of St. Michael's College in Toronto in 2001. It will be published as *The Groupe des Dombes: A Dialogue of Conversion*. In the aforementioned article she creatively applies the insights of the group to the work of the Peter and Paul Seminar.

tionships. If we are seriously to 'receive' Vatican II, theologians and canonists must continually collaborate in assessing whether our structures need to be so adapted that they may assist the community more effectively in achieving the unity of the Church of Christ.

The Peter and Paul Seminar was founded for this purpose by Dr. Ladislav Orsy, S.J. in 1998.<sup>4</sup> It proposes to see how in its commitment to conversion the Church can be reformed *concretely* without losing its identity so that the Church of Christ may indeed be one. The work of the Peter and Paul Seminar differs, therefore, from many other research-oriented groups or symposia because of its explicit ecumenical commitment as a hermeneutical criterion for its endeavors.

The Peter and Paul Seminar method envisions close collaboration of systematic theologians, historians, and canonists. Systematic theologians will critically reflect on those institutions to be reformed if they are to contribute to the unity of the Church. As regards the identified institutions, historians will seek to determine what kinds of modalities have been developed in Christian history to implement specific theological concepts. Such historians along with canonists will strive to distinguish the core of a certain institution from its historically and culturally-conditioned modalities. Canon lawyers will propose the reshaping of current institutions so that they are more conducive to the unity of the Church of Christ.

The first Seminar undertaking did not focus on a particular theological topic.<sup>5</sup> Rather it addressed theological-canonical topics as varied as lay persons in church governance roles, the selection of bishops in the Latin Church, papal primacy, the empowerment of episcopal conferences, interchurch marriages, and papal infallibility.<sup>6</sup>

Subsequently in 2002 when the Seminar decided to undertake a new project, it was thought best to focus on a particular theme, i.e., collegiality and explore different implications of the theology-law relationship in

<sup>4</sup> For a short historical description of the origins and focus of the seminar, see James A. Coriden, "Peter and Paul Seminar: An Historical Note," *The Jurist* 59 (1999) 329-330 and Ladislav Orsy, "The Scope and Spirit of the Peter-Paul Seminar," *The Jurist* 59 (1999) 331-334.

<sup>5</sup> For a more detailed and quite valuable discussion of the points mentioned briefly in this introduction as well as the two Peter and Paul Seminar projects, see in this issue Myriam Wijlens, "'Peter and Paul Seminar': A Follow-Up by Theologians and Canon Lawyers to the 'Groupe des Dombes' Publication *For the Conversion of the Churches*."

<sup>6</sup> For the text of the papers presented at the Peter and Paul I Seminar, see *The Jurist* 59 (1999) 329-468.

this area.<sup>7</sup> The various papers published in this issue of *The Jurist* and in the second issue for 2004 represent the considered observations of the Seminar participants on variations on the significant theme of collegiality. The ongoing Seminar discussion over a nearly two year period culminated in two days of intense conversations by the seminar participants at Georgetown University on Thursday and Friday, April 15–16, 2004 and a public session for numerous interested parties on the theological and canonical implications of collegiality on Saturday April 17, 2004.

Besides the Clifford, Orsy, and Wijlens articles noted earlier, the editor wishes to mention briefly the following articles on collegiality that make up this issue. A couple of presentations address historical dimensions of the topic. Brian Daley offers insightful comments on relationships among the African bishops and between them and the Holy See especially in the fourth and fifth centuries. Clarence Gallagher probes for the reader data from both Eastern and Western canonical collections that highlight collegial governance patterns as normative during the first millennium. George Tavard brings his lengthy experience as a council *peritus* to a careful examination of input especially but hardly exclusively from the French bishops on the sharply debated issue of collegiality at Vatican II. James Coriden studies the synod of bishops as a noteworthy test case when one considers the vitality of contemporary forms of collegiality and notes both advantages and problems in its current functioning. He also provides a thorough listing of suggestions for a more genuinely collegial functioning of the synod. Eugene Duffy focuses on the teaching role of episcopal conferences and especially highlights the theological values embodied in the broad consultative process engaged in by the National Conference of Catholic Bishops during the preparation of the famous pastoral letters on peace and the economy during the 1980's. Finally Myriam Wijlens discusses a collegial phenomenon that is only now receiving some serious canonical attention: the collaboration of episcopal conferences at the supra-national and even continental level.

The next issue of *The Jurist* will address other collegiality-related issues such as papal primacy, the legislative role of the episcopal conference, college of bishops-Roman Curia relationships, the agenda for collegiality-synodality in the twenty-first century, and the ecumenical implications of collegial governance patterns.

<sup>7</sup> For a more detailed discussion of the problematic of collegiality and the rationale for choosing this topic for the second Peter and Paul Seminar, see in this issue Ladislav Orsy, "A 'Notion' of Collegiality."

Finally the editor deeply appreciates the gracious hospitality of the Georgetown University Law Center and especially of its Associate Dean Carol O'Neill for making this venture possible. He also wishes to thank Dr. Orsy, professor of law at Georgetown University Law Center and professor emeritus of canon law at Catholic University, for his steady and invaluable guidance in seeing this project through to completion. He wishes to thank both Dr. Orsy and Dean O'Neill for arranging for a very helpful financial subsidy that has facilitated the printing of this and the next issue of *The Jurist*.

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## COLLEGIALITY IN THE CHURCH II: THEOLOGY AND CANON LAW: EDITOR'S INTRODUCTION

During Vatican Council II (1962-1965) the bishops of the world articulated many new insights in the sixteen conciliar documents. But such insights will significantly influence the day to day life of the Church only if they are incarnated in institutional structures. Such a relationship between theoretical vision and practical implementation underlies the ongoing process of reception of Vatican II within the Church.

Canonical structures assist the Church at all levels in implementing its theological vision. Thus, for example, after much debate Vatican II affirmed the doctrine of collegiality. However it is subsequently necessary that structures be provided at all levels to make that theoretical vision a lived reality. Pastors, theologians, canonists, and other experts must reflect constantly on the doctrine of Vatican II and evaluate to what extent current church structures suitably express the conciliar experience and teaching in practice. And this ongoing challenge of institutional *aggiornamento* is relevant not only for the Catholic Church but also for our varied relationships especially with other Christian churches.

Any serious progress in ecumenical relationships following through on the commitment of Vatican II involves both a critical assessment of institutional factors that are ecumenically counterproductive today and a possible ecclesial *kenosis* or sacrificing of those elements to foster deeper Christian unity and more effective Christian mission. Theologians and canonists among others must continually collaborate in assessing whether our structures need to be so adapted that they may assist the community more effectively in achieving the unity of the Church of Christ.

To this end the Peter and Paul Seminar was founded by Dr. Ladislav Orsy, S.J. in 1998.<sup>1</sup> It envisions close collaboration of systematic theolo-

<sup>1</sup> For a short historical description of the origins and focus of the seminar, see James A. Coriden, "Peter and Paul Seminar: An Historical Note," *The Jurist* 59 (1999) 329-330 and Ladislav Orsy, "The Scope and Spirit of the Peter-Paul Seminar," *The Jurist* 59 (1999) 331-334. The methodology of the Seminar is based somewhat on the fruitful activities of the *Groupe des Dombes*. This is an ecumenical group of pastors and theologians in France

gians, historians, and canonists in reflecting critically on church institutions and, where appropriate, reshaping them, so that they are more conducive to fostering the unity of the Church of Christ.<sup>2</sup> While the first Seminar undertaking addressed various theological-canonical topics,<sup>3</sup> the second Seminar project focused on collegiality and explored different implications of the theology-law relationship in this area. The last issue of *The Jurist* contained some of the papers from that project,<sup>4</sup> which culminated in three days of intense conversations by the seminar participants and a public forum at Georgetown University on April 15–17, 2004.

A substantial portion of this issue of *The Jurist* addresses other collegiality-related issues discussed by the Seminar. Margaret O'Gara considers the significant Vatican I text *Pastor aeternus* on papal primacy, examining not only the discussions leading up to its approval but also the world views underlying such discussions. Massimo Faggioli reflects on the conciliar decree *Christus Dominus* and probes its varied implications for the significant theological-canonical values of collegiality and synodality. Gilles Routhier offers some penetrating insights into Vatican II as an initial but highly significant stage in a long process of reversing centralizing tendencies within Roman Catholicism; he especially focuses on Roman Curia-local church relationships. The editor Thomas Green considers the legislative or policy-setting competence of Latin episcopal conferences and finds it rather wanting in duly expressing the value of collegiality by contrast to the broader decisional prerogatives of Eastern patriarchal synods. Finally Catherine Clifford expertly examines the emergence of an ecumenical consensus on the meaning of collegiality and its relationship to commensurate developments within Roman

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that for decades has explored different dimensions of the call to conversion of all the churches if Christ's prayer for unity is to be realized. For a thoughtful examination of the work of the *Groupe* and the aforementioned notion of ecclesial *kenosis*, see Catherine E. Clifford, "Kenosis and the Path to Communion," *The Jurist* 64 (2004) 21–34.

<sup>2</sup> For a detailed and quite valuable discussion of the Peter and Paul Seminar, see Myriam Wijlens, "'Peter and Paul Seminar': A Follow-Up by Theologians and Canon Lawyers to the 'Groupe des Dombes' Publication *For the Conversion of the Churches*," *The Jurist* 64 (2004) 6–20.

<sup>3</sup> For the text of the papers presented at the Peter and Paul I Seminar, see *The Jurist* 59 (1999) 329–468.

<sup>4</sup> See *The Jurist* 64 (2004) 1–204. Among the collegiality-related themes considered were collegial governance patterns in the first millennium, collegiality at Vatican II, the synod of bishops, the exercise of teaching authority by the NCCB, and supra-national or intercontinental relationships between episcopal conferences.

Catholicism. She traces the lines of possible future ecumenical conversations in this area.

The last article in this issue by Kenneth Pennington on representation in medieval canon law was not written in connection with the Peter and Paul Seminar. However, its relevance to the general theme of collegiality suggested its inclusion here.

Finally the editor thanks the Georgetown University Law Center and especially its Associate Dean Carol O'Neill for enabling the aforementioned second Peter and Paul Seminar meeting and providing a helpful financial subsidy that has facilitated the printing of this and the prior issue of *The Jurist*. He also thanks Dr. Ladislav Orsy, S.J., professor of law at Georgetown University Law Center and professor emeritus of canon law at Catholic University, for guiding this continuing exploration of collegiality that raises as many questions as it answers. He hopes that the readers of *The Jurist* will find these two issues for 2004 thought-provoking and pastorally challenging in their academic and professional ministries.