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# The Synod of Bishops: Canon Law and Ecclesial Dynamics

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*Christians have had centuries of experience with a wide variety of synods or councils, and the establishment by Pope Paul VI in 1965 of the Synod of Bishops is one of the latest examples. It is already clear that with Pope Francis the Synod will increase its already great impact on the life and mission of the Church. This article will begin by presenting the current canon law governing the Synod, mainly from the 1983 Code of Canon Law. Particular attention will then be given to the ecclesial dynamics within which the Synod operates. This will involve considering papal primacy, episcopal collegiality, Ecumenical Councils, the College of Cardinals and the Roman Curia. While accepting that the Synod must be understood on its own terms, the concluding reflections will illustrate the need to state as a matter of theology and of history the foundations on which synodality and conciliarity rest.*

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In the Church the purpose of any collegial body, whether consultative or deliberative, is always the search for truth or the good of the Church. (John Paul II)

Christians have had centuries of experience with a wide variety of synods or councils, going back, one might venture, to the so-called Council of Jerusalem recorded in the *Acts of the Apostles* 15.<sup>2</sup> At the Second Vatican Council ('Vatican II') it was taught that the collegial character and nature of the episcopal order is shown in the councils that were convened, by which all the most important matters were settled in common and a decision carefully arrived at through the counsel of many. Reference was made to the early Christian writers Eusebius, Tertullian and Cyprian.<sup>3</sup> Given the important place that such

1 This is a revised version of the paper presented at the Fifteenth Colloquium of Anglican and Roman Catholic canonists, on 'Counsel and Consent', held in London, 6–8 March 2014. References to canons are to those in the 1983 *Code of Canon Law* unless specified otherwise.

2 P Valliere, *Conciliarism: a history of decision-making in the church* (Cambridge, 2012), ch 1, which covers the New Testament.

3 Vatican II, *Lumen gentium*, para 22; N Tanner (ed), *Decrees of the Ecumenical Councils* (London, 1990), vol II, p 866. This would later be indicated as one of the sources for Canon 333§2, discussed below.

assemblies have across the Christian spectrum, reflecting on and comparing synodal authority and practice among denominations has great ecumenical value.<sup>4</sup> Thus, in its agreed statement *The Gift of Authority*, the Anglican–Roman Catholic International Commission (ARCIC) included a section on ‘synodality: the exercise of authority in communion’, in which the Synod of Bishops is mentioned.<sup>5</sup> If the notion of synodality or conciliarity were to be studied systematically and historically, its Christian foundations would emerge as manifold and, for some, as very exalted:

[The Church] is indeed a council in the deepest meaning of this word because she is primarily the revelation of the Blessed Trinity, of God and of divine life as essentially a perfect council . . . She is an image of the Trinity and the gift of Trinitarian life because life is redeemed and restored in her as essentially *conciliar*.<sup>6</sup>

Given that we are dealing with the Body of Christ and the action of the Holy Spirit, it is imperative not to reduce matters of ecclesial life and governance to group dynamics, corporate management, organisational strategies, the dialectic of different positions and so on. If we are to speak of ‘Church politics’, and of such elements as just described, then it must be done within an appropriate Christian understanding. To dissolve the Church or understand her merely as an organisation of officials without spiritual content would be a failure and would no longer reflect the spiritual foundations of a living community.<sup>7</sup> This preliminary point seems especially necessary given the vast media interest in the forthcoming assembly of the Synod of Bishops and its preparatory stages.

The Synod of Bishops is a new reality in the ecclesiology and canon law of the Roman Catholic Church: a fruit of Vatican II.<sup>8</sup> This article outlines the relevant canon law and then tries to indicate the impact of the Synod on other structures connected with the primacy of the Roman Pontiff and the collegiality of the College of Bishops, the two subjects of supreme authority. The Synod is in dynamic relation to the Roman Pontiff and the College of Bishops, and also to Ecumenical Councils, the College of Cardinals and the Roman Curia. It is

4 N Doe, *Christian Law: contemporary principles* (Cambridge, 2013), pp 118–153, presents in detail a range of Christian institutions of ecclesiastical governance; E Kemp, *Counsel and Consent: aspects of government of the church as exemplified in the history of the English provincial synods* (London, 1961) was one of the inspirations for the theme of the 2014 Colloquium.

5 Anglican–Roman Catholic International Commission (ARCIC), *The Gift of Authority: authority in the church III* (London, 1999), pp 26–30.

6 Alexander Schmemmann, from an Orthodox perspective, quoted in Valliere, *Conciliarism*, p 118.

7 J Ratzinger, *Church, Ecumenism and Politics* (San Francisco, CA, 2008), p 158.

8 J Tomko (ed), *Il Sinodo dei Vescovi* (Vatican, 1985); J Schotte, ‘The Synod of Bishops: a permanent yet adaptable church institution’, (1992) 26 *Studia Canonica* 289–306. A version of (the then) Cardinal Joseph Ratzinger’s contribution in Tomko’s edited volume appears in Ratzinger, *Church, Ecumenism and Politics*, pp 51–66.

already clear from his decisions so far that, with Pope Francis, the Synod will, if anything, increase its impact on the life and mission of the Church. A preparatory document with a questionnaire has been distributed widely, and Pope Francis intends preparations for the forthcoming Synod to involve all the People of God worldwide through their suggestions and prayer.

## CANON LAW

In terms of the canon law of ecclesial institutions (and the Synod of Bishops is no exception to this) there typically has to be an analysis on multiple levels. The authority by which an institution is created and the authority that it exercises have to be established, its functions and objectives identified, the composition of its membership stated and, finally, its procedures specified. In carrying out such analysis, attention needs to be given to the institution's interactions, the occurrence of change and the unfolding of dynamic developments.

There was a call at Vatican II for the establishment of some kind of synod of bishops, and this was in fact done by Paul VI by the Apostolic Letter *Apostolica sollicitudo* even before the conciliar decrees had been promulgated.<sup>9</sup> There followed in 1966 an *Ordo* setting out procedures,<sup>10</sup> and the first Synod was held in 1967.<sup>11</sup> The conciliar decree *Christus Dominus*, on the pastoral office of bishops in the Church, referred to Paul VI's Apostolic Letter of 1965 when stating that bishops chosen from different parts of the world, in accordance with methods and procedures already established or to be established by the Roman Pontiff, will give more effective and helpful service to the supreme pastor of the Church by meeting in a council which shall be called the synod of bishops. The decree then says that, acting on behalf of the whole Catholic episcopate, the synod will show that all the bishops in hierarchical communion participate in the care of the whole Church.<sup>12</sup>

The 1983 *Code of Canon Law* devotes Canons 342–348 to the institution, relying heavily on the 1965 Apostolic Letter, and it situates the Synod as part of the hierarchical constitution of the Church – more precisely, as a chapter of the section on the supreme authority of the Church.

Canon 342 states that the Synod of Bishops is a group of bishops selected from different parts of the world, who meet together at specified times to

9 Paul VI, Apostolic Letter *Motu proprio Apostolica sollicitudo*, (1965) 57 *Acta Apostolicae Sedis* 775–780; G Camadini (ed), *Paul VI et les réformes institutionnelles dans l'église* (Brescia, 1967), pp 30–48, 76–81.

10 Secretariat of State, *Ordo Synodi Episcoporum Celebrandae*, (1967) 59 *Acta Apostolicae Sedis* 91–103. This *Ordo* has a number of amendments, and its latest thorough revision is in (2006) 98 *Acta Apostolicae Sedis* 755–779.

11 The background to the conciliar decree and the setting up of the Synod of Bishops is outlined by J Johnson, 'The Synod of Bishops', in J Beal, J Coriden and T Green (eds), *New Commentary on the Code of Canon Law* (New York, 2000), pp 454–463 at pp 454–455.

12 Vatican II, *Christus dominus*, para 5, in Tanner, *Decrees of the Ecumenical Councils*, vol II, p 922.

promote the close relationship between the Roman Pontiff and the bishops. These bishops, by their counsel (*consiliis*), assist the Roman Pontiff:

- i. In the defence and increase of faith and morals;
- ii. In the preservation and strengthening of ecclesiastical discipline; and
- iii. In the consideration of questions concerning the activity of the Church in the world.

What is notable is not only that the scope of the Synod's work is defined in three broad areas, but that there are indications as to *how* these matters are to be dealt with. Faith and morals are to be defended and increased, discipline to be preserved and strengthened, and questions of Church activities to be considered. Particularly in terms of the defence and increase of faith and morals (*ad incolumitatem incrementumque*), it is interesting that Paul VI in his 1965 Apostolic Letter (n II) had spoken of one of the objectives of the Synod as being the greater facilitating of an agreement over opinions (*concordiam sententiarum*) at least with regard to the essential points of doctrine and the way of proceeding in the life of the Church.<sup>13</sup> Another aspect should be underlined: Canon 342 requires defence and preservation, but it also sets the more positive goals of increasing faith and morals and of strengthening discipline.<sup>14</sup> As for the third objective, what is perhaps overlooked at times is the account of the Synod given by Vatican II in its decree *Ad gentes* on missionary activity. The Council states, in part quoting Paul VI's Apostolic Letter, that, since the task of preaching the gospel in every part of the world belongs primarily to the bishops, the Synod of Bishops (that is, the permanent council of bishops for the entire Church) should, among its concerns of general importance, pay special attention to missionary activity, the greatest and holiest duty of the Church.<sup>15</sup>

Canon 343 provides that the function of the Synod is to discuss the matters proposed to it and to set forth recommendations. It is not its function to settle matters or to draw up decrees, unless the Roman Pontiff has given it deliberative power (*potestas deliberativa*) in certain cases; in this event, it rests with the Roman Pontiff to ratify the decisions of the Synod. The next Canon, 344, specifies that the Synod is directly under the authority of the Roman Pontiff at every point and states a number of his powers over it. Thus it is for the Roman Pontiff to convene a Synod as often as it seems opportune to him, to determine its

13 This was repeated in 2003 by John Paul II in *Pastores gregis*, para 58, (2004) 96 *Acta Apostolicae Sedis* 825–924 at 902–903, speaking of the facilitating of a convergence of judgements on questions of doctrine.

14 Ratzinger, *Church, Ecumenism and Politics*, p 53.

15 Vatican II, *Ad gentes*, para 29, in Tanner, *Decrees of the Ecumenical Councils*, vol II, p 1035.

agenda and to conclude, transfer, suspend or dissolve it.<sup>16</sup> One can compare the list given of the Roman Pontiff's powers over a Synod with those he has over an Ecumenical Council.<sup>17</sup>

In combination, Canons 345 and 346 establish that synodal assemblies can be of three kinds, with specified categories of membership for each:<sup>18</sup>

- i. General assembly, in which matters are dealt with which directly concern the good of the universal Church. Such an assembly is either ordinary or extraordinary:
  - a. in cases of ordinary general meetings, the assembly is comprised for the most part of bishops elected for each assembly as specified by the relevant special law. Other members are designated according to the same law; still others are directly appointed by the Roman Pontiff. Added to these are some members of clerical religious institutes, elected in accordance with the same special law;
  - b. the Synod meeting in extraordinary general assembly to deal with matters which require speedy resolution is comprised for the most part of bishops who by reason of the office they hold are designated by the special law. Others are appointed directly by the Roman Pontiff. Added to these are some religious as specified;
- ii. The assembly can also be special, to deal with matters directly affecting a determined region or regions. These special assemblies are comprised of members chosen principally from those regions for which the Synod was convened, in accordance with the special law.

To date, there have been thirteen ordinary general assemblies, two extraordinary general assemblies and ten special assemblies, making a total of twenty-five assemblies since 1967, held, on average, at intervals of less than two years.<sup>19</sup> Pope Francis has summoned a third extraordinary general assembly for October 2014 on the theme of the pastoral challenges of the family in the context of evangelisation. The previous two such assemblies covered episcopal collegiality in 1969, and marked the twentieth anniversary of Vatican II in 1985 respectively. According to Canon 346§2, as we have seen, extraordinary

16 The 2006 *Ordo* adds in Article 1 that it is for the Roman Pontiff to decide on the opinions (*vota*) expressed.

17 *Code of Canon Law* (1983), Canons 338, 340 and 341. Canon 346 states that the Synod of Bishops meeting in ordinary and extraordinary general assemblies is comprised 'for the most part' of bishops. Canon 339§2 provides that 'some others' who do not have the episcopal dignity, can be summoned to an Ecumenical Council.

18 Further details on synodal membership, elections, voting and other matters are in the 2006 *Ordo*.

19 The documentation is published by the General Secretariat of the Synod of Bishops in the series *Enchiridion del Sinodo dei Vescovi*, of which volume 1 covers the years 1965–1988, volume 2 the years 1989–1995 and volume 3 the years 1996–2007 (Bologna, 2005–2008).

general assemblies are to deal with matters which require speedy resolution; whether the two instances met this criterion has been doubted.<sup>20</sup> Pope Francis has also decided that there shall be an ordinary general assembly in 2015 on the family. For John Paul II, the rich list of topics dealt with by the Synods reveals by itself the importance of synodal assemblies for the Church and for the bringing about of the reforms desired by Vatican II.<sup>21</sup>

When the assembly of a Synod is concluded by the Roman Pontiff, the function entrusted in it to the bishops and other members cease. There are provisions for *sede vacante* situations (Canon 347). There are also specific norms concerning the permanent general secretariat, the council (*consilium*) of bishops that assists the Secretary General, and related matters (Canon 348). The potential of this permanent general secretariat and related council has been the focus of debate over the ecclesial functions of the Synod of Bishops.

Such is the law in the 1983 *Code of Canon Law*. The holding of synods is, of course, an important ecclesial feature among the Orthodox, and it has been announced that a Great and Holy Council of Orthodoxy – a pan-Orthodox Synod – will be held in 2016.<sup>22</sup> In the Eastern Catholic churches, synodal governance is the ordinary form of governance in the patriarchal and major archiepiscopal churches. As regards the Synod of Bishops in the sense of the institution we are discussing, the 1990 *Code of Canons of the Eastern Churches* gives it the briefest of mentions in Canon 46.<sup>23</sup> For one commentator there were similar structures for conciliar meetings of bishops in the past, but we should not be deceived by the use of the term ‘Synod of Bishops’ in the two Codes. This has nothing to do with the synods found in the Eastern tradition because the Synod of Bishops is purely consultative. Even when it is granted a deliberative vote by the Roman Pontiff it does not change its nature – it would always be subject to the Pontiff’s approval for its decisions to become binding.<sup>24</sup> Be this as it may, the 2006 *Ordo* for the Synod expands the participation of the Eastern churches in the Synod of Bishops.

## ECCLESIAL DYNAMICS

Like any other structure, the Synod of Bishops needs to be understood and evaluated within the ecclesial dynamics as a whole. As a prelude to considering these

20 Johnson in Beal et al, *Code of Canon Law*, pp 458–459.

21 John Paul II, 1983 address to the members of the Council of the Synod’s General Secretariat, (1983) 75 *Acta Apostolicae Sedis* 648–651.

22 P Valliere, *Conciliarism*, pp 247–251.

23 The mention of the Synod of Bishops is part of the complicated genesis of Canon 46 and is to be related to the debates over the appropriate structuring of authority: I Žužek, *Understanding the Eastern Code* (Rome, 1997), pp 199–202.

24 S Manna OP, ‘The supreme church authority (cc. 42–54)’, in G Nedungatt (ed), *A Guide to the Eastern Code* (Rome, 2002), pp 129–154 at p 138. One of the similar structures indicated by Manna is the *synodus endemousa* (permanent synod) of the Patriarchate of Constantinople in the first millennium, in which those bishops took part who happened to be present in the imperial city.

dynamics and with an eye to the theme of the forthcoming 2014 Synod, we can study the outcomes of the 1980 Synod which had the family as its theme. At the end of the assembly, the synodal fathers sent a message to all Christian families, and made a proposal in favour of a 'Charter of the Rights of the Family' which was accepted by John Paul II and issued in 1983. The same Roman Pontiff issued *Familiaris consortio* in 1981 as an Apostolic Exhortation, considering explicitly that the 1980 Synod was the continuation of certain preceding Synods. He also entrusted the *propositiones* of the synodal fathers to the Pontifical Council for the Family, a dicastery of the Roman Curia, to study them in depth.<sup>25</sup>

There is no doubt that since 1965 the Roman Pontiffs, and the Church more widely, have found the Synod of Bishops to be an extremely useful instrument. After a number of the Synods, and based on their deliberations, the Roman Pontiff has published what have come to be styled post-synodal exhortations and these have proved very informative and helpful worldwide. The latest is *Evangelii gaudium* (2013), styled an Exhortation and not a post-synodal Exhortation, even though Pope Francis says that it was written at the invitation of the synodal fathers and gathers the richness of their work. So far deliberative powers have not been granted to Synods. The actual procedures for the conduct of assemblies have been modified in various ways since 1966, most fully in 2006. The preparatory instrument for the 2014 Synod has been distributed, and responses on various aspects have been received from the bishops and the faithful more generally.

In some senses, the Synod of Bishops is an expression of episcopal collegiality but there has been discussion as to the precise nature of this collegial expression. Clearly a Synod is not on the same level of authority as an Ecumenical Council. There have been twenty-one such councils in about two millennia, giving an average of one Council a century. A Synod which meets on average less than every two years is clearly going to be more flexible and easier to organise, but it should not be seen as a mini-Ecumenical Council or take over its functions or be an alternative to it. The College of Bishops exercises its power over the universal Church in solemn form in an Ecumenical Council (Canon 337§1).

This fundamental question of representative collegiality was raised at the highest levels in 1983 and Mgr Willy Onclin gave a most illuminating reply from the group responsible for drafting the canons on the sacred hierarchy.<sup>26</sup> The question formulated was this: according to both Paul VI's *Apostolica sollicitudo* and Vatican II's decree *Christus Dominus*, the Synod of Bishops is 'representative of the whole catholic episcopate' (*totius catholici episcopatus partes agens*), so why were these words not in Canon 342? The first reason given was that they are

25 A Urru, *Suprema autorità della Chiesa* (Rome, 2001), p 46.

26 J Tomko, *Il Sinodo dei Vescovi*, pp 27, 179–181. The reply was addressed to the Secretary General of the Synod of Bishops.

somewhat imprecise juridically speaking, although appropriate in a theological statement. Juridically it cannot be said that synodal bishops represent other churches (not their own) or are their delegates. Secondly, if the Synod really represented all the bishops it would be like an Ecumenical Council, should have a deliberative vote and its acts would be collegial. This does not correspond to reality. The Synod cannot be considered as a college of all the bishops for then it would be an Ecumenical Council. Thirdly, some Synods, meeting in special assemblies, have a narrow membership. So the words in question had to be omitted from the *Code*, which is a strictly juridical document. Juridically, the Synod does not represent the whole Catholic episcopate.

It is noteworthy that the 2006 *Ordo* of the Synod of Bishops states in its preamble that the Synod, representing in some way (*quodammodo*) the whole Catholic episcopate, shows in a particular fashion the spirit of communion that binds the bishops with the Roman Pontiff and the bishops among themselves. Reference is made to Canon 342. The Synod is a privileged place in which the assembly of bishops, directly and immediately subject to the power of the Roman Pontiff, manifesting *affectus collegialis* and the solicitude of the episcopate for the good of the whole Church, expresses, under the action of the Holy Spirit, its reliable counsel concerning the various ecclesial problems. Quoting then from a post-synodal Exhortation by John Paul II, the preamble states that the fact that the Synod has a solely consultative function does not diminish its importance. In the Church the objective of any collegial organ, be it consultative or deliberative, is always the search for the truth or the good of the Church.<sup>27</sup> In describing the typology of Synods of Bishops, Article 4 of the same 2006 *Ordo* says that the Synod meets in ordinary general assembly if the matter to be dealt with seems to require the doctrine, prudence and opinion of the entire Catholic episcopate.

*Pastores gregis*, the 2003 post-synodal Apostolic Exhortation on the bishop, minister of the gospel of Jesus Christ for the hope of the world, has a whole section on the Synod of Bishops in the context of the communion of churches.<sup>28</sup> Significantly for the (lively) discussion of why the Synod was wanted in the first place, John Paul II says that at Vatican II the need was felt for the bishops to be able to assist the Roman Pontiff more effectively in the exercise of his office. It was for this that Paul VI instituted the Synod of Bishops. Through this body, concrete expression was given to the spirit of collegiality and the solicitude of the bishops for the good of the whole Church. The Pope adds that the bishops gathered in Synod represent in the first place their own churches, but they are also attentive to the contributions of the Conferences of Bishops which selected them and whose views about questions under discussion they communicate. They

<sup>27</sup> John Paul II, *Pastores gregis*, para 58.

<sup>28</sup> *Ibid.*

thus express the recommendation of the entire hierarchical body of the Church and finally, in a certain sense, the whole Christian people, whose pastors they are. The Synod is an event which makes it particularly evident that the Successor of Peter, in carrying out his office, is always closely joined in communion with the other bishops and with the whole Church.<sup>29</sup>

Following the quotation of Canon 343, the Pope comments that the fact that the Synod ordinarily has only a consultative role does not diminish its importance. In the Church the purpose of any collegial body, whether consultative or deliberative, is always the search for truth or the good of the Church. When it is therefore a question involving the faith itself, the *consensus ecclesiae* is not determined by the tallying of votes, but it is the outcome of the working of the Spirit, the soul of the one Church of Christ. The concluding words need to be quoted in full, such is their significance:

Precisely because the Synod is at the service of truth and the Church, as an expression of true co-responsibility by the whole episcopate in union with its Head for the good of the Church, when the bishops give their vote, be it consultative or deliberative, together with the other members of the Synod who are not bishops, they express their participation in the governance of the universal Church.<sup>30</sup>

The creation and activity of the Synod of Bishops throughout the last half-century has had a marked impact on the understanding and exercise both of papal primacy and of episcopal collegiality. In the course of an important address concerning the Synod's relationship to episcopal collegiality, John Paul II said that the Synod brings out the close link between collegiality and primacy. The Roman Pontiff is of service to the collegiality of bishops, while the affective and effective collegiality of bishops is an important help to the Petrine primacy.<sup>31</sup> ARCIC noted how the Roman Catholic Church, especially since Vatican II, has been gradually developing synodal structures for sustaining *koinonia* more effectively. The regular holding of general assemblies of the Synod of Bishops is one of the ways to demonstrate this evolution.<sup>32</sup> The Synod is evolving, and it is part of a larger evolution. Attention therefore also needs to be paid to the impact of the Synod of Bishops on two key institutions of universal governance – the Roman Curia and the College of Cardinals. The positioning in the 1983 *Code* of the canons on the Synod expresses the Synod's ecclesiological location. The part of the *Code* on the hierarchical

29 There is reference here to Canon 333§2 of the 1983 *Code* and to Canon 45§2 of the 1990 *Code*.

30 John Paul II, *Pastores gregis*, para 58.

31 John Paul II, 1983 address, pp 648–651. The description of collegiality in the original is *collegialitas affectiva et effectiva*.

32 ARCIC, *Gift of Authority*, p 39.

constitution of the Church contains a first section on the supreme authority in the Church. This divides into the following chapters:

- i. The Roman Pontiff and the College of Bishops
- ii. The Synod of Bishops
- iii. The Cardinals of the Holy Roman Church
- iv. The Roman Curia
- v. Papal Legates

Simply by raising the subject for discussion, it could be argued that the Synod of Bishops has in some ways affected the influence of Cardinals within the overall ecclesial dynamics. Paul VI even raised publicly the possibility of associating with the College of Cardinals in their important task of electing the Roman Pontiff those bishops on the council of the General Secretariat of the Synod of Bishops.<sup>33</sup>

We can note some similarities and differences between the Synod of Bishops and the College of Cardinals.<sup>34</sup> Cardinals have, of course, to be bishops as a rule (Canon 351§1) and so their function can be an expression of episcopal collegiality. The College of Cardinals is of its nature permanent and each Cardinal belongs to it for life. Cardinals are available to the Roman Pontiff, acting either collegially, when they are summoned together to deal with questions of major importance, or individually, that is, in the offices which they hold in assisting the Roman Pontiff, especially in the daily care of the universal Church (Canon 349). Cardinals assist the Supreme Pastor of the Church in collegial fashion, particularly in consistories. Consistories are either ordinary or extraordinary. In an ordinary consistory all Cardinals, or at least those who are in Rome, are summoned for consultation (*consultatio*) on certain grave matters of more frequent occurrence or for the performance of especially solemn acts. All the Cardinals are summoned to an extraordinary consistory, which takes place when the special needs of the Church and more serious matters suggest it (Canon 353). This said, there is a most unfortunate omission in the English translation of *Pastores gregis* paragraph 58: there is no reference to the observation that Paul VI instituted the Synod of Bishops while mindful of the contribution that the College of Cardinals already made to the Roman Pontiff.<sup>35</sup>

Another institution of hierarchical governance is the Roman Curia. The Supreme Pontiff usually conducts the affairs of the universal Church through the Roman Curia, which acts in his name and with his authority for the good

33 Paul VI in (1973) 65 *Acta Apostolicae Sedis* 163 and 247–249.

34 Canon 344 specifically names the Synod of Bishops as one of the forms through which the bishops assist the Roman Pontiff. The canon also singles out Cardinals as of help to the Roman Pontiff.

35 I refer to the English translation published by the Catholic Truth Society (London, 2003), p 98.

and for the service of the churches (Canon 360). The 1983 *Code* has little to say on the Roman Curia, which is principally regulated by the Apostolic Constitution *Pastor Bonus* (1988),<sup>36</sup> constantly modified and now under close scrutiny by a commission set up by Pope Francis. As with the College of Cardinals, one can identify similarities and differences. A discussion on how best to co-ordinate the authority and functions of the Synod of Bishops with those of the Roman Curia might begin by focusing on the choice of the family as the subject of the forthcoming Synod of Bishops: how will this choice be related to the fact that among the dicasteries of the Roman Curia there is a Pontifical Council precisely for the family? As *Pastor Bonus* states (see Articles 139–143), the Council's president is assisted by a group of bishops. Figuring above all among the members of this Pontifical Council are laypeople, both men and women, especially married ones, from all over the world. In 1965, when telling the Council Fathers at Vatican II of the creation of the Synod of Bishops, Paul VI thought that the Synod would be of great benefit to the Holy See and to all the Church, and particularly useful to the daily workings of the Roman Curia.<sup>37</sup>

An aspect of the ecclesial dynamics involved in co-ordinating the Synod and the Roman Curia is the question of granting to the Synod deliberative power as provided for by Canon 344. Put at its strongest, Synods could be given a deliberative vote habitually and not just on occasion. Theological and practical difficulties with this have been raised. Theologically, such a deliberative vote would be delegated papal authority, not authority proper to the Synod. In reality, such a Synod would simply amount to a second Roman Curia, and it is incomprehensible what would be gained by that. Practically, a synodal assembly does not, except in limited cases, have the time sufficient to come responsibly to a deliberative vote. There is a related debate over the suggestion that the council of bishops connected to the Synod's general secretariat (Canon 348) become a permanent synod. One objection to this is that the bishops who stay in Rome would cease to be residential bishops and become a second Curia. The suggestion does indicate, however, that the Roman Curia should be made as international as possible, with opportunities for rotating prefectures, to bring about in practice what is intended (albeit with the wrong labelling) by such a permanent synod.<sup>38</sup>

## CONCLUDING REFLECTIONS

There can be no doubt that the Synod of Bishops has proved itself in just a few decades to be of great value to the Roman Catholic Church. Its functions and its

36 John Paul II, *Pastor Bonus*, (1988) 80 *Acta Apostolicae Sedis* 841–934; P Pinto (ed), *Commento alla Pastor Bonus e alle Norme Sussidiarie della Curia Romana* (Vatican, 2003).

37 Paul VI in (1965) 57 *Acta Apostolicae Sedis* 804.

38 J Ratzinger, *Church, Ecumenism and Politics*, pp 57–59.

relationship to office-holders and institutions are of great and evolving significance within that Church, and also of marked ecumenical interest because the use of councils or synods is ancient and widespread among Christians. There is provision for inviting 'fraternal delegates' to take part in Synods who, without voting rights, represent churches and ecclesial communities not in full communion with the Catholic Church. The Synod of Bishops needs to be understood on its own terms and in its own context because not all types of synods or councils are identical as to authority, membership and functions, yet identifying from theology, history and law the Christian justifications for synodality or conciliarity in general will complement the different specifications. Some key related terms, such as 'college' and 'collegiality', need careful definition and an awareness of their development.<sup>39</sup>

One could begin with Eric Kemp's reflection that all ecclesiastical assemblies at whatever level exist for the purpose of counsel and consent, that is to endeavour to find the will of God for his Church by bringing together the traditions, experience and insights of different sections of the Christian community.<sup>40</sup> Another line of research would be to reflect theologically on and chart the extent to which the maxim 'what touches all needs the approval of all' (*quod omnes tangit debet ab omnibus approbari*) has been used in relation to synods or councils through the centuries, beginning with its rather limited application in Justinian's *Code* and proceeding to its mediaeval extension first to procedure and then to public law.<sup>41</sup> The documentation from mediaeval England would form part of this survey.<sup>42</sup> The maxim still survives in the context of collegial acts in the two *Codes* of the Catholic Church.<sup>43</sup>

As well as gathering evidence from historical documentation relating to synods and councils in order to learn on what basis their existence was justified, more wide-ranging theological considerations are required. The Synod of Bishops relates directly to the exercise of papal primacy, to be understood in terms of the ecclesiology expressed in Canon 333§2: the Roman Pontiff in fulfilling his office as Supreme Pastor of the Church is always joined in communion with the other bishops and, indeed, with the universal Church. This notion of *communio* is relevant to synodality, as is the nature of episcopacy. These two elements were an important feature of the 'Munich Statement' issued in 1982 by

39 G Evans, *The Church and the Churches* (Cambridge, 1994), pp 251–290, raises various fundamental questions concerning decision-making, including representativeness, and considers the grounds and sources of the authority of conciliar decisions. Also considered are 'reception' as an instrument of communion and the *consensus fidelium*.

40 Kemp, *Counsel and Consent*, p 228.

41 P Stein, *Roman Law in European History* (Cambridge, 1999), p 51, indicates that the maxim was *regula* 29 in the *Liber Sextus*.

42 F Powicke and C Cheney, *Councils & Synods with Other Documents Relating to the English Church 1205–1313*, 2 vols (Oxford, 1964), especially index entry for '*Quod omnes tangit* . . .', vol II, p 1437.

43 Canon 119,3° of the 1983 *Code* and the rather different formulation in Canon 924,2° in the 1990 *Code*.

the Catholic–Orthodox commission. There it was said that the *episkope* for the universal Church is entrusted by the Spirit to the totality of local bishops in *communion* with one another. This *communion* is expressed traditionally through conciliar practice.<sup>44</sup>

As has been well said by an Anglican canonist, the history of Christianity is rich in theological debate about the nature, location and exercise of authority in the Church in terms of the forms of ecclesiastical government (or polity). The Reformation in particular stimulated perhaps the most far-reaching doctrinal reappraisal of church polity, largely on the basis of arguments that Scripture prescribed patterns of church government different from those rooted in the papacy and bishops of the Church of Rome.<sup>45</sup> The Synod of Bishops is one of the latest forms dynamically to structure papal, episcopal and more broadly ecclesial government, generating theological and canonical debate.

44 A Nichols, *Rome and the Eastern Churches* (second edition, San Francisco, CA, 2010), p 362.

45 N Doe, *Christian Law*, p 118.