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Local Churches and Their Groupings: A Roman Catholic Perspective

Myriam Wijlens

The organizers of the symposium “The Ecclesiology of the Local Church”¹ deserve praise for selecting this topic: it is a very timely subject which goes far beyond the boundaries of the Old Catholic Church. Publications of national and international ecumenical dialogues testify to reflections taking place on the subject. Many of these publications address, however, not just the issue of the local church, but also that of the universal church. The reason for this interest might lie on the one hand in the growing awareness ever since the establishing of institutions such as the WARC (World Alliance of Reformed Churches, 1875), the LWF (Lutheran World Federation, 1947) and the RES (Reformed Ecumenical Synod, 1946)², to attend not only to the locality, but also to the universality of the church; thus there is an increased sensitivity for unity in diversity among the churches and communities stemming from the Reformation. Within the Roman Catholic Church on the other hand, due to its teaching at Vatican II, where the meaning of local church and of the ecclesiological position the bishop came more to the fore, there arose a growing awareness to attend to the local aspect of the church; hence, within the Catholic Church there is an increased attention for diversity in unity.

In line with this growing world wide interest within the ecumenical scene for the church local and universal and due to already achieved results from earlier theological discussions on a national and international level the leadership of the participating members of the dialogue for ecumenism in The Netherlands agreed in 1991 to ask for a study of ecclesiological issues. The “Commission ‘Dialogue Reformation – Catholica’” was established and consists of representatives of five denominations: the

¹ This article is a revised version of a lecture given at the symposium “The Ecclesiology of the Local Church,” organized by the Old Catholic Church and held in Utrecht (The Netherlands) on September 15, 2001.

² The RES became the Reformed Ecumenical Council in 1988. See Leo Koffeman, “The Urge for Unity: Local and Supralocal Church in the Dutch Reformation,” in: Leo Koffeman / Henk Witte (eds.), *Of All Times and Of All Places: Protestants and Catholics on the Church Local and Universal*. IIMO Research Publication, vol. 56, Zoetermeer: Meinema, 2001, p. 77–78.

three Uniting Protestant Churches in The Netherlands (UPCN = Samen op Weg-kerken)³, the Roman Catholic Church (RCC) and the Old Catholic Church (OCC). In 1991 the then mandated Commission decided that it would study the implications of the document *Towards a Common Understanding of the Church* published by the WARC and the Roman Catholic Church in 1990.⁴ As an interim result of this dialogue the contributions of the participants were published in the book *Kerk tussen erfenis en opdracht*; soon an English translation was prepared and entitled *From Roots to Fruits*⁵.

As a result of this study the Commission concluded that the work should continue, but that it was necessary to reflect explicitly on the way Protestants and Catholics tend to approach ecclesiological dialogue. The discussion was to focus on the tension between locality and universality. This time, the Commission discovered that the document *The Church: Local and Universal* published by the Joint Working Group of the Roman Catholic Church and World Council of Churches could function as a valuable resource for a common basis⁶. Every member of the com-

³ The UPCN consist of the Netherlands Reformed Church (NRC- Nederlandse Hervormde Kerk), the Reformed Churches in The Netherlands (RCN- Gereformeerde Kerken in Nederland), and the Evangelical Lutheran Church in the Kingdom of The Netherlands (ELC – Evangelisch-Lutherse Kerk in het Koninkrijk der Nederlanden). For information on the UPCN see, Leo Koffeman, “The Netherlands,” in Thomas F. Best and Church Union Correspondents, “Survey of Church Union Negotiations 1996–1999” in *The Ecumenical Review* 52 (2000) 19–26.

⁴ The English version appeared in *Information Service*, no. 74 (1990 III) and was edited by the Pontifical Council for Promoting Christian Unity; it was also published as vol. 21 in the *Studies of the World Alliance of Reformed Churches* (Geneva: WARC, 1991). A French version was published as well in *Service d’Information* and in *La Documentation Catholique* 73 (1991) 625–652. The editions of the Pontifical Council do not contain the preface of the two co-chairpersons of the Commission, Lewis S. Mudge and Bernard Sesboué.

⁵ Henk P. J. Witte (ed.), *Kerk tussen erfenis en opdracht: Protestanten en Katholieken op weg naar een gemeenschappelijk kerkbegrip*. IIMO Research Publication, vol. 39, Utrecht/ Leiden: Inter Universitair Instituut voor Missiologie en Oecumenica, 1994; English translation: Martien E. Brinkman / Henk Witte (eds.) *From Roots to Fruits: Protestants and Catholics Towards a Common Understanding of the Church*. European Studies from the World Alliance of Reformed Churches, vol. 3, Geneva: WARC, 1998.

⁶ “The Church: Local and Universal. A Study Document Commissioned and Received by the Joint Working Group,” Appendix A in: Joint Working Group between the Roman Catholic Church and the World Council of Churches, *Sixth Report*, Geneva: WCC Publications, 1990, 23–37.

mission⁷ accepted a specific subject to reflect upon, while taking into consideration the results of the international ecumenical dialogue on the local-universal issue. In several study sessions, the individual papers were presented and discussed. After every participant had received the opportunity to consider the results of the discussion on his or her paper, the final contributions were published in the book *Of All Times and of All Places* in the beginning of 2001⁸. Unfortunately, the members of the ELC and of the OCC could, for reasons beyond their personal control, not submit a contribution. After having completed the collected publication, the Commission started to work on a report summarizing the results of the studies; it does not exclude the possibility of making suggestions for ecumenical cooperation on a local and national level⁹.

The organizers of this symposium invited me to focus on two topics: First, to present briefly some of the issues that played an important role in the discussions that took place as the papers were presented and that are currently discussed in the drafting process of a final report (part 1); secondly, to present a summary of my own contribution to this dialogue and my view of future developments (part 2).

1. Relevant Issues in the Dialogue in The Netherlands

As the different participants presented their contribution to the subject and the current work of the Commission in writing a concluding report, a few

⁷ With the new mandate given in 1995, the Commission underwent a change in the persons who were participating in the Commission. As of 1995 the Commission was made up of the following persons: on behalf of the NRC: Karel Blei (co-chair) and Matthias Smalbrugge; from the side of the ELC: Wonno Bleij and Trinette Verhoeven, and on behalf of the RCN: Martien Brinkman and Leo Koffeman. Ton van Eijk (co-chair), Jan Jacobs, Myriam Wijlens and Henk Witte participated as members of the RCC. Martien Parmentier, who was replaced by Angela Berlis in 2000, took part on behalf of the OCC.

⁸ Leo J. Koffeman / Henk Witte (eds.), *Of All Times and of All Places: Protestants and Catholics on the Church Local and Universal*. IIMO Research Publication, vol. 56, Zoetermeer: Meinema, 2001. The title of the book is taken from traditional Reformed liturgy in The Netherlands which introduces the profession of the Apostle's Creed with the words: "Together with the Church of all times and of all places we confess ..."

⁹ The intention is to complete the report in the Summer of 2002 and to present it to the leadership of the participating members of the Dialogue in The Netherlands. For that reason the report is written in Dutch, but the Commission does not exclude an English translation.

issues appeared to be of great relevance and with some of them the Commission struggled a lot.

1.1 Instead of speaking about the “local church”¹⁰ and “universal church” the Commission discovered that it might be better to speak about the local and universal dimension of the church, since both dimensions belong together to the church; they cannot be considered independently from each other, but should be seen as complementary to each other. One dimension is neither hierarchically higher, or chronologically or existentially prior to the other. The local and universal are two dimensions of one reality which loses its dynamism and vitality when one of the two dimensions is absolutized. The two dimensions presuppose each other and call upon each other¹¹. The discussion in the Commission revealed that it could well be that instead of speaking of a polarity of the two dimensions it might, therefore, be more fruitful to speak of a duality, because a polarity entails the danger of emphasizing one dimension at the cost of the other, whereas a duality implies a tension to keep the two in a fruitful relationship¹². The Commission has attempted to explain the relationship between the local and universal also with the help of a theology of trinity. The Church Fathers speak about the relationship between the divine persons as perichorese. Within

¹⁰ The Roman Catholic Church uses not only the word “local” church, but also “particular church.” The word “particular church” is used in the texts of Vatican II with different meanings. At times it refers to a diocese, at other times it refers to a grouping of local churches, such as a patriarchal church. The selection of the word in itself is part of the discussion within the Roman Catholic Church. In its legal documents it kept to “particular church” as referring to a diocese. At a conference held in Salamanca in 1991 on “The Local Church and Catholicity” several theologians and canonists discussed the differentiation between the particular and the local church. Their publications were published by Antonio García y García, Hervé Legrand and Julio Manzanares in several languages. The English edition can be found in *The Jurist* 52 (1992) 1–568.

¹¹ The Roman Catholic Church has used the words “in quibus et ex quibus” to express its understanding of the relationship between the local and universal church. The Dogmatic Constitution on the Church *Lumen gentium*, 23 states: “The individual bishops, however, are the visible principle and foundation of unity in their own particular churches, formed in the likeness of the universal church; in and from these (*in quibus et ex quibus*) particular churches there exists the one unique catholic church.”

¹² The Commission understands “polarity” to imply a competitive relationship in which one can only develop at the cost of the other; “duality” on the other hand is understood to imply a complementary relationship in which one needs the other, presupposes it and calls upon it.

the trinity unity and diversity are drawn towards each other but without competition. The three persons and the one substance are primary sign and source of *communio*. When taken into consideration the limits of an analogy this model may be applied to the relationship between the local and universal church: every local church is fully church, as every divine person is fully God, but refers nevertheless to a unity in reciprocity which goes beyond the local community.

1.2 The discovery that the one dimension cannot be considered without the other led the Commission to conclude that to ask whether one dimension would have priority over the other would be neither correct nor helpful. As a consequence the Commission was faced with the challenge to choose where to start when treating the two dimensions. The discussion in the Commission on this issue revealed that different positions and interest can lie beneath the difference in terminology: Protestants could want to emphasize the local dimension because it is typical for their tradition; Old Catholics might tend to stress the central value of the local church and Roman Catholics possibly tend to approach the issue from the perspective of the universal church so as to accentuate the church which spans the world and history. Hence, the choice of the sequence of treating the local and universal dimension could be governed and jeopardized by these differing strategic interests. The willingness to acknowledge this and the intention to overcome such a possible mere strategic approach can in itself be seen as a fruit of the dialogue.

The Commission ultimately decided to start with the local dimension for a pragmatic reason – one has to start with either one – and because participating members sensed that the local dimension of the Church is connected more closely to the experience of all.

1.3 Whereas the RCC and the OCC understand “local” to refer primarily to a diocese, the UPCN understand it as referring to a local community. The difference between the two understandings is so great that it is hardly possible to find a common denominator. If there should be one it might be found in the office of the ordained minister of the local church because in both traditions that office is connected to the local church and the local dimension becomes visible to a high degree in that office. Even though the different traditions know a threefold ministry, nevertheless they do not necessarily understand it in the same way. It is, furthermore, necessary to consider the ministry of the Word and of the sacraments of baptism and the

Eucharist for understanding the local dimension of the church and for the reciprocity of the local and universal dimension.

1.4 The Commission found the use of the word “universal” to be equally difficult, because the different traditions understand it differently. The difference touches in particular on the visibility of the Church in her universal dimension. Whereas the Protestant tradition tends to pose exclusively that the *una sancta* is invisible, the Roman Catholic tradition tends to see the “universal church” to exist in the institutional form of the world wide Roman Catholic Church under the leadership of the college of bishops and the pope. The Old Catholic Church gives greater consideration to synodality and cannot envision the *una sancta* without the other churches in ecumenism. Hence, it considers an ecumenical council in which all churches participate as the best expression of the universal church¹³.

Despite these different understandings of the universal dimension, the Commission discovered that this universal dimension contains a synchronic and a diachronic aspect. The synchronic aspect refers to the church “of all places” and is characterized by simultaneity; the diachronic aspect refers to the church “of all times” and is characterized by history.

1.5 “Catholicity” is at times used to be the all embracing term for the local and the universal dimension; at other times it is used to refer to the synchronic and diachronic aspects of the universal dimension of the church. These two understandings should not be confused. Catholicity is both a gift to and a responsibility for the church. As a gift it has a transcendental and a normative character; as a responsibility it implies that the church has to rediscover “catholicity” continuously and provide it with structures. The latter cannot be done without a concrete context. Hence, structuring the gift of catholicity is determined contextually as well. Such a contextualizing is not only applicable to the local dimension, but is a challenge for the church in its universal dimension too. This implies that universality does not exist without a diversity which is both legitimate and necessary. In giving shape to its catholicity the church has to be faithful to its apostolic origin.

¹³ The OCC acknowledges the historical primacy of the bishop of Rome as *primus inter pares*, but does not accept his infallibility in teaching matters and his universal jurisdiction. See Urs von Arx / Maja Weyermann (eds.), *Statut der Internationalen Altkatholischen Bischofskonferenz (IBK): Offizielle Ausgabe in fünf Sprachen*. Beiheft zur IKZ 91 (2001), Bern: Stämpfli, 2001 (Preamble § 2).

1.6 If ministry is not only connected to the local church, but also to the universal church and if locality and universality, diversity and unity are to be understood as complementary, then the question arises what this implies for ministry and its powers in relation to the universal church. In other words, how can this complementarity of local and universal be understood when applied to ordained ministry? How can the minister not only exercise his responsibility in relation to the local church, but also in relation to the universal church? And how can that responsibility for the universal church be a lived reality? Could synodal structures and expressions of collegiality play a vital part in this?

1.7 As the dialogue on the meaning of “universal” was progressing it was felt to be useful to speak about supra-local structures because in a way this touches upon the visible structures that are above the local structures. What does this supra-local structure entail in the different traditions? What are the biblical and theological foundations for it and how can it be given shape concretely? Here the Commission struggled with terminology as well: is it better to speak about the supra-local dimension, or about the intermediate dimension? To opt for either of these terms would imply already the selection of a certain ecclesiological perspective. “Supra-local” would indeed have the disadvantage that the local dimension might be overemphasized. The term “intermediate dimension” would have the advantage that it is to be considered both from the perspective of the local and the universal. In the Roman Catholic Church the intermediate dimension would refer to churches *sui iuris* and within the Latin Church to e.g. episcopal conferences or institutions on a continental level. For the Protestants the intermediate dimension could refer to synods or classical assemblies or even to larger structures of cooperation such as the LWF and the WARC, even though these institutions do not consider themselves to be “church”.

The Commission, furthermore, discovered that with the acknowledgment of structures for an intermediate dimension, the question of a dyadic or triadic structure of the church arises. That question then includes the issue of how to understand that a dyadic structure might be seen to be of divine law, whereas this could not be said of a triadic structure. I shall return to this point below.

1.8 For the issue of contextuality the Commission also looked into the relevance of e.g. a nation, of language, of culture. Do the different partici-

pating denominations have articulated criteria to establish a unit or recognize a certain group of faithful as a unit, such as a local community or local church, or for structuring several local churches which together form an institution belonging to the intermediate dimension? What are these criteria? What is the role of political boundaries, of language, culture, etc. in that?

1.9 In its research the Commission not only took recourse to theological, historical and canonical aspects, but also to the liturgy and to the experiences of ecumenical communities so as to take into account the lived faith. The above points cannot really do justice to the intense and interesting discussions and their results. They should be understood as an invitation and stimulus to study the book.

2. Local Churches and Their Groupings

I am grateful for the invitation to share with you as well – albeit in a nutshell – my contribution to this dialogue. I have been making this contribution as a canon lawyer who is very much interested in ecclesiological issues¹⁴ and who belongs to the Roman Catholic Church. My specific subject concerns the groupings of local churches. It was not a mere joke when at the beginning of the meetings of the Commission someone remarked that we were speaking about local and universal and then said: “But what does it mean that you are mandated by a (president of a) conference of bishops? What is the status of such a conference? Of its president? What other institutions do exist between the local and universal? Is the cooperation for practical reasons or is there an ecclesiological reason and basis for it?” I would like to share with you the answer that I have been able to give so far to these questions¹⁵. First, I shall give a description of the current factually existing institutions belonging to that dimension between

¹⁴ The contribution has led in itself to a larger research project that I am conducting at the Theological Faculty Tilburg, The Netherlands. The project bears the title: “Structures for Leadership on the Level Between the Local and Universal Church in an Ecumenical Perspective.” For more information on this project see my personal website under www.kub.nl followed by a search for “wjlens.”

¹⁵ For a more extensive treatment see Myriam Wjlens, “The Intermediate Level in the Roman Catholic Church: An Organizational or Ecclesiological Category?” in Leo Koffeman / Henk Witte (eds.), *Of All Times and Of All Places* (see footnote 2 above), p. 95–130.

the local and the universal (2.1); subsequently, I shall address some of the theological issues that are currently addressed and that shall certainly be part of further discussions (2.2).

2.1 Groupings of Local Churches: A Description of the Existing Institutions

In 1983 Pope John Paul II promulgated for the Latin Church the Code of Canon Law (CIC)¹⁶. The Code is divided in seven books and contains in its second book canons concerning “The People of God.” Part I of this second book treats – in agreement with Vatican II – first the Christian faithful (cc. 204–329), subsequently in part II “The Hierarchical Constitution of the Church” (cc. 330–572), and finally in part III “Institutes of Consecrated Life and Societies of Apostolic Life” (cc. 573–746). In the section on the hierarchical constitution first the supreme authority of the Church – thus the college of bishops and the pope – is discussed (cc. 330–367), followed by norms on “Particular Churches and Their Groupings” (cc. 368–572). This latter section starts with “Particular Churches and the Authority Established in Them” (cc. 368–429), in which in particular norms on dioceses and bishops are treated. This again is followed by a section on “Groupings of Particular Churches” (cc. 430–459). This section closes with a section on “The Internal Ordering of Particular Churches”, in which the internal structure of the diocese such as vicar generals, cathedral chapters, presbyteral counsels, but also parishes and the priests working in them, are treated (cc. 460–572). The structure of the CIC reveals that the title “Groupings of Particular Churches” is not perceived as standing between the highest authority – or universal church – and the local church, but that it is seen from the perspective of the local churches.

Before attending to the institutions belonging to this dimension, it might be useful to clarify what does not belong to it: institutions such as the synod of bishops, the college of cardinals, the Roman Curia and the papal legates are not part of the institutions on the intermediate or on the supra-local level. Systematically, they belong to the universal church.

¹⁶ *Codex Iuris Canonici* Auctoritate Ioannis Pauli PP. II promulgatus. *Acta Apostolicae Sedis* (= AAS) 75/2 (1983); English translation: *Code of Canon Law: Latin-English Edition, New English Translation*. Washington DC: Canon Law Society of America, 1998.

These four institutions are treated in the section on the supreme authority. They are really to be seen in relation to the office of the Roman Pontiff as the Code of the Eastern Catholic Churches (CCEO)¹⁷ states more clearly than the CIC does. In particular the Synod of Bishops and the College of Cardinals are advisory institutions to the papacy. The college of cardinals is to assist the pope in governing the church and is in a way attached to the local church of Rome; the synod of bishops has to promote the connection between the pope and the bishops around the world¹⁸. The Roman Curia is to be understood as an organ assisting the Roman Pontiff in his legislative, executive, and judicial task. It only holds vicarious power. The papal legates represent the pope to the local churches and depending on their mandate also to civil states and institutions.

After having determined what does not belong to this intermediate level, it is time to attend to what does. I can identify several levels:

(a) The *provincial* or *metropolitan level*: an ecclesiastical province is made up of an archdiocese and of several suffragan dioceses¹⁹. The metropolitan or archbishop²⁰ presides over a province, but he has no power within the suffragan dioceses. His role is important when a provincial council is convoked. Such a council may exercise legislative authority. The purpose of such a council would be to make provision for the pastoral needs of the people of God in its territory. Noticeable is that not only bishops participate in it, but that some priests due to their function are to be invited and other priests and laity may be invited. It should be noted though that only bishops can hold a deliberative vote; the others enjoy a consultative vote. The provincial structure is hardly operative at the moment: there is no practice of holding councils for provinces.

¹⁷ *Codex Canonum Ecclesiarum Orientalium*. Auctoritate Ioannis Pauli PP. II promulgatus. AAS 82 (1990) 1045–1363; English translation: *Code of Canons of the Eastern Churches, Latin-English Edition. New English Translation*. Washington, DC: Canon Law Society of America, 2001.

¹⁸ Already in the preparatory phase of Vatican II the proposal was made to have a regular meeting of the pope with (some) bishops to discuss important issues and to give the bishops also an opportunity to exercise their responsibility for the universal church. Pope Paul VI invoked the institution of synods, but decided that it should be an advisory organ to his office.

¹⁹ The bishops of the other churches in the same provinces were called “suffragans,” because they had the right to a vote (*suffragium*) in a provincial council.

²⁰ Every bishop of a metropolitan see holds the title “archbishop”, but not every archbishop is a metropolitan.

(b) The *regional level*: at the regional level several provinces are united together²¹, but not up to a national level. Its purpose is that the bishops of such a region foster cooperation and common pastoral activity (c. 434 CIC). The regional structure does not know a function comparable to e.g. a metropolitan.

(c) The *national level*: in very many countries of the world on a national level there is an episcopal conference. The bishops of the territory of the conference (often a nation²²) exercise “their pastoral functions on behalf of the Christian faithful in view of promoting that greater good which the Church offers humankind...” (c. 447 CIC). The conference can exercise legislative and teaching authority albeit under certain conditions. Besides the episcopal conference there is at this level also a plenary council.

Like a provincial council all the bishops are members with deliberative vote. Some priests must be invited, others as well as laity may be invited. They all enjoy a consultative vote only. A major difference between a conference of bishops and a plenary council is that the conference is a permanent institution, a council is not.

(d) The *supra national or continental level*: in particular after Vatican II there arose new forms of cooperation among different episcopal conferences. At times they include a whole continent. A very well known one is the Consejo Episcopal Latinoamericano (CELAM). Asia knows the Federation of Asian Bishops Conferences (FABC,) and in Europe there are two such institutions: the Consilium Conferentiarum Episcopatum Europae (CCEE) and the Commissio Episcopatum Communitatis Europensis (ComECE)²³. There are also some that are not officially

²¹ Vatican II, Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, no. 39–40.

²² At times an ecclesiastical province is identical with the boundaries of a nation and with the boundaries of an episcopal conference. This is the case e.g. in Belgium and The Netherlands. In other places there are several ecclesiastical provinces who together within the national boundaries form an episcopal conference, like in Germany, France, the United States of America. Other times an episcopal conference goes beyond national boundaries, like the conference of Scandinavia, or the national boundaries are considered differently. The United Kingdom, for example, has two episcopal conferences: one for England and Wales, and one for Scotland.

²³ For a description of the historical development, the current structures and the future tasks of the CCEE and the ComECE see the article written by the vice-president of the ComECE, the bishop of Rotterdam, Adrianus van Luyn in his contribution to the

approved such as the Reunion of the Bishops of the Church of America (ROIA)²⁴.

These are the institutions mentioned in the Code of Canon Law. But is the supra-local level restricted to that? No. The mere existence of a Code for the Latin Church and one for the Eastern Churches indicate that indeed these churches themselves somehow belong to that level which is neither local nor universal. Indeed the Roman Catholic Church is made up not only of the Latin Church *sui iuris*, but also of 21 Eastern Churches *sui iuris*. Whereas in the past terms like patriarchate or rite were employed, the CCEO opted for the term *ecclesia sui iuris*, so as to state clearly that these churches are autonomous. Each church is characterized by its liturgy, spirituality, theology and canon law, and enjoys autonomy²⁵.

Within the Eastern Churches there are four different structures of cooperation of the local churches as well. The CCEO mentions the patriarchal church, the major archepiscopal church, the metropolitan church and other churches *sui iuris*. The CCEO does provide for the possibility of a cooperation of any of these institutions beyond the established structures which can even go beyond the bishops of a specific church *sui iuris* and can also include a cooperation with bishops of

Festschrift for the president of the ComECE, bishop Joseph Homeyer. See Adrianus H. van Luyn, "Die strukturelle Zusammenarbeit der Bischöfe von Europa," in: Werner Schreer / Georg Steins (eds.), *Auf neue Art Kirche sein: Wirklichkeiten – Herausforderungen – Wandlungen*, München: Bernward bei Don Bosco, 1999, 404–418.

²⁴ The institutions which span (parts of) continents are relatively new. It should be noticed that with the pontificate of Pope John Paul II there have also been synods for the different continents. Is there indeed a tendency to see the church from the perspective of continents as well?

²⁵ The CCEO determines in c. 27: "A community of the Christian faithful, which is joined together by a hierarchy according to the norm of law and which is expressly or tacitly recognized as *sui iuris* by the supreme authority of the Church, is called in this Code a Church *sui iuris*." C. 28 §1: "A rite is a liturgical, theological, spiritual and disciplinary heritage, differentiated by the culture and the circumstances of the history of peoples, which is expressed by each Church *sui iuris* in its own manner of living the faith." The rites are those which arose from the Alexandrian, Antiochene, Armenian, Chaldean and Constantinopolitan traditions. The term *sui iuris* reminds of the differentiation made between persons who were *sui iuris* and others who were *alienis iuris* according to Roman law. Those who were *sui iuris* were free, independent persons, the others were under the power of the *paterfamilias*. The power of such a church *sui iuris* would be that e.g. the patriarch with the synod is responsible for all matters of the patriarchal church within the territory of the patriarchate.

the Latin Church²⁶. Much more than in the Latin Church are the Eastern Churches governed by the concept of synodality. Thus for example, the patriarchal synod has legislative power and the patriarch promulgates the laws. Within the territory of the patriarchal church, the patriarchal synod elects bishops. Important is also that within the territorial boundaries of the patriarchal church the synod of bishops of the patriarchal church constitutes the highest tribunal (c. 1062 CCEO).

It ought to be mentioned that the Code of Canon Law does not refer to the rights and obligations of the patriarch of the West. Yet, due to the importance of the patriarchal structure in the East, it is no surprise that indeed the question arose about the theological relevance of the institutions belonging to the intermediate dimension.

2.2 *The Theological Discussion*

Within the RCC there is a strong discussion on the theological understanding of the institutions that I just mentioned. The task given to me today does not imply that I give a detailed description of the issues, let alone a possible answer. The matter is too complex for that and would go beyond my capacity. However, I can share with you some of the “ingredients” of the discussion that is taking place and which ought to be part of it in order to answer the different questions that are raised.

History reveals that from early times onwards bishops themselves took the initiative to set up structures to discuss and decide together issues that would go beyond their own local church. Often the structures for such

²⁶ C. 322 CCEO states: “§1. Where it seems advisable in the judgement of the Apostolic See, periodic assemblies are to be held of patriarchs, metropolitans of metropolitan churches *sui iuris*, eparchial bishops, and if the statutes so state, other local hierarchs of various churches *sui iuris*, even of the Latin Church, exercising their authority in the same nation or region. These assemblies are to be convoked at regular intervals by the patriarch or another authority designated by the Apostolic See. The purpose of these meetings is that, by sharing the insights of wisdom born of experience and by the exchange of views, the pooling of resources is achieved for the common good of the Churches, so that unity of action is fostered, common works are facilitated, the good of religion is more readily promoted and ecclesiastical discipline is preserved more effectively. § 2. The decisions of this assembly do not have juridically binding force unless they deal with matters that cannot be prejudicial to the rite of each Church *sui iuris* or to the power of the patriarchs, of synods, of metropolitans and the councils of hierarchs; further they have to have been passed at least by two-thirds of the members having a deliberative vote and approved by the Apostolic See.”

cooperation was determined by a common interest, e.g. when one bishop declared someone to be excommunicated, this decision was reviewed by neighboring bishops because it had an implication for them as well. Thus, a common approach in answering to matters of faith and morals was searched for; bishops wanted to teach the Good News and discussed how they together could do this most effectively in the area where they lived. Certainly, another issue was also to attend to matters in relation to the civil authorities. In fact, dioceses and ecclesiastical provinces were mostly circumscribed in relation to the civilly existing boundaries and cities of importance. In our times and within the Latin Church, the creation of episcopal conferences or of the continental structures cannot be considered without taking into consideration the challenges that the church was and is meeting in the world where it lives today.²⁷ It seems that such a need is also envisioned in the Eastern Churches²⁸. Vatican II has acknowledged this as well when it stated:

“At the present time especially, bishops are often unable to discharge their office fittingly and fruitfully unless they do their work in daily closer agreement and collaboration with other bishops. Episcopal conferences have already been established in many nations ... The object of these meetings is that, by sharing ideas based on prudence and experience and by exchanging opinions, there may result a holy consortium of resources for the common good of the churches.”²⁹

It should be noted that structures for cooperation between bishops mostly came into being because the bishops themselves felt the need to gather and after a while there was a need to provide for structures.

A bishop is a member of the college of bishops. He acquires this membership, however, through his ordination and his acquiring personal responsibility for a local church. It can also be expressed the other way around:

²⁷ The vice-president of the ComECE, the bishop of Rotterdam, Adrianus H. van Luyn argues along these lines in “Die strukturelle Zusammenarbeit der Bischöfe von Europa,” p. 404–418 (see footnote 23 above).

²⁸ In fact, c. 322 CCEO (see for its text footnote 26 above) testifies to this when it states: “The purpose of these meetings is that, by sharing the insights of wisdom born of experience and by the exchange of views, the pooling of resources is achieved for the common good of the Churches, so that unity of action is fostered, common works are facilitated, the good of religion is more readily promoted and ecclesiastical discipline is preserved more effectively.”

²⁹ Vatican II, Decree of the Pastoral Office of Bishops in the Church, *Christus Dominus*, no. 37. English translation taken from Norman P. Tanner (ed.), *Decrees of the Ecumenical Councils*, London: Sheed and Ward / Washington DC: Georgetown University Press, 1990.

only as a member of the college of bishops can he be a bishop of a local church. From this flows for the bishop a responsibility in both directions. He has to be a *pontifex* between his local church and the universal church: he represents the local church in the universal church and the universal church in the local church. This implies that the bishop has to be *homo apostolicus* – he guarantees the apostolicity of the whole church in his local church – and he is to be the *homo catholicus* – the one who sees to it that his local church is open to the church universal³⁰.

The former point focuses for the understanding of the church local and universal on the ecclesiological position of the bishop. Vatican II, however, has made a tremendous change in that it decided that it should speak first about the people of God and subsequently about the hierarchy. The CIC has affirmed such an ecclesiological understanding, because the title of the pertinent section reads: “Particular Churches and the Authority Established in Them.” This indicates that the ecclesiological and juridical place of the bishop is *within* the community of the people of God³¹. Hence the debate about local and universal might have to focus more on the community where the leadership is of service to the community. The question may then have to be raised in how far a local church, in order for it to be fully church, needs to be open to the church universal and to neighboring local churches, and what the role of the bishop is in this³².

³⁰ Kurt Koch, “Primat und Episkopat in der Sicht einer trinitätstheologischen Ekklesiologie,” in: Libero Gerosa (ed.) *Patriarchale und Synodale Strukturen in den katholischen Ostkirchen*. Kirchenrechtliche Bibliothek, vol. 3, Münster: Lit, 2001, 14–15.

³¹ Hubert Müller writes about this title that it reveals that the ecclesiological and juridical place of the bishop is *within* (*innerhalb*) the community of the people of God; this then determines the context for the ecclesiological understanding of his position in the structure of the local church. Hubert Müller, “Die Stellung des Diözesanbischofs in der Partikularkirche aufgrund des Codex Iuris Canonici von 1983,” *Theologie und Glaube* 76 (1986) 95. I myself have attempted to outline what the consequences of such a perspective would be for the legislative authority the diocesan bishop possesses. See Myriam Wijlens, “‘For you I am a Bishop, With you I am a Christian’: The Bishop as Legislator,” *The Jurist* 56 (1996) 68–92.

³² Joseph A. Komonchak expresses it well: “The topic of this paper (the theological problem of the local church and the church catholic) is often treated as the relationship between the diocese and the universal church, which in turn is not rarely treated as the relationship between the authority of the individual bishop and that of the pope and the whole college of bishops.” See Joseph A. Komonchak, “The Local Church and the Church Catholic: The Contemporary Theological Problematic,” *The Jurist* 52 (1992) 418.

Once the relationship between local and universal has been grasped the question needs to be addressed what this implies for the need of the local church that its diocesan bishop consults, deliberates and decides together with his neighboring bishops on matters that concern these local churches together. Vatican II has taken recourse to the concept of collegiality to express the activities of the college of bishops. With these concepts the council probably wanted to valorize what is known in the Eastern Churches as “synodality”³³. Already during the council itself, the concepts of “college” and “collegiality” caused due to their juridic origin problems in their theological interpretation. Despite the *Nota Explicativa Praevia* added to the Constitution on the Church, in which there is some clarification of these concepts, the debate has not calmed down after the council, but in fact once the concept had to be translated into concrete structures so as to make it a lived reality, the debate increased. The question is ultimately whether the college of bishops can exercise collegiality only and exclusively when it is gathered as a whole college or whether this also can be done when only *some* bishops gather? And when they gather to legislate and proclaim, what does this then mean theologically? The *motu proprio* on the episcopal conferences *Apostolos suos* issued by Pope John Paul II in 1998 touches on this issue when it states that when bishops do cooperate on such a level this may be seen as an expression of an *affectus collegialis*. This term – should it be translated with “collegial affection”? – already appears in Vatican II, but nowhere has it been made clear what this exactly means. It is distinguished from an effective collegiality. Could it be that the term “collegiality” cannot sufficiently express what is known in the Eastern Churches as “synodality”?

There is also another issue at stake: Vatican II has recognized that the diocesan bishop is not a vicar of the pope, but that he is the vicar of Christ for his diocese³⁴. This implies that he enjoys all the ordinary, proper and immediate power necessary for the exercise of his office. After this has

³³ In 1990 the Consociatio internationalis studio iuris canonici promovendo organised a congress in Paris entitled “La synodalité: La participation au gouvernement dans l’Église.” The acts are published in two special volumes in: *L’Année canonique*. Hors série. Paris: Faculté de Droit canonique de l’Institut Catholique de Paris, 1990.

³⁴ The CIC does not explicitly affirm this, but the CCEO does so when it states in c. 178: “The eparchial bishop, to whom the eparchy has been entrusted to shepherd in his own name, governs it as a vicar and legate of Christ; the power which he exercises personally in the name of Christ, is proper, ordinary, and immediate, although by the supreme authority of the Church its exercise is ultimately regulated and can be circumscribed within certain limits in view of the benefit of the Church or of the Christian faithful.”

been established the question arises whether neighboring bishops through such institutions as an episcopal conference can indeed exercise indirectly jurisdiction in a diocese for which they have no power? When the question is phrased in this way, the answer must indeed be in the negative. Possibly, a rephrasing of the question is necessary.

In the discussion the concept of “subsidiarity” is often invoked as well. “Subsidiarity” implies two things: (a) everything that can be exercised by a lower level, should be left to that lower level; (b) the higher level determines the competency, that is, the higher level determines what the lower level can do³⁵. The discussion on “subsidiarity” focuses on two issues: (a) is this concept in general applicable to the church itself and (b) is the concept of “subsidiarity” applicable in particular for determining the powers of a diocesan bishop? Especially some orthodox theologians have brought forward the latter point: they state that the bishop is the vicar of Christ and that he thus enjoys all the power necessary to exercise the task entrusted to him. Hence they state that it would be theologically inappropriate to even invoke subsidiarity for determining the competence of bishops. Orthodox theologians do emphasize though the concept of “synodality.”

In speaking about the role of a patriarchal church, the issues become quite complex. Part of the reason seems to be that the church local and the church universal are considered to be of divine law, whereas the patriarchal church could not rank on that same level. Yet, Vatican II has also been very careful not to state that the patriarchal church would be of ecclesiastical law, but took recourse to the term “divine providence” and states:

“By divine providence (*divina providentia*) it has come about that various churches, founded in various places by the apostles and by their successors, have in the course of time become joined together in several groups, organically united, which while maintaining the unity of faith and the unique divine constitution of the universal church, enjoy their own discipline, their own liturgical usage and their own theological and spiritual patrimony” (LG 23).

With the phrase *divina providentia* the council recalled that they had been acknowledged ever since the first ecumenical synods³⁶. It wanted to express that even though they are not of divine law, their origin and nature is, never-

³⁵ Two pertinent articles on the subject are: Ad Leys, “Structuring Communion: The Importance of the Principle of Subsidiarity,” *The Jurist* 58 (1998) 84–123; John J. Burkhard, “The Interpretation and Application of Subsidiarity in Ecclesiology: An Overview of the Theological and Canonical Literature,” *The Jurist* 58 (1998) 279–342.

³⁶ Olivier Rousseau, “Divina autem Providentia... Histoire d’une phrase de Vatican II,” in: *Ecclesia a Spiritu Sancto edocta: Lumen Gentium 53. Mélanges théo-*

theless, theologically relevant. Hence, the question can be raised whether the church can be and should be limited to a dyadic structure or can there be more dimensions? What should be the criteria of these dimensions? I should say that the Eastern Churches *sui iuris* when discussing this, speak about the patriarchal church as the decisive institution of that intermediate dimension, whereas the Latin Church thinks of episcopal conferences. This goes back to Vatican II and only in very recent times are discussions coming up to speak in the Latin Church also about the patriarchal church of the West as a structure of a possible intermediate dimension. Why a focus on a possible triadic structure? A triadic structure might indeed allow for a fruitful application of the concept of synodality and for an improved understanding of diversity in unity. It should be noted though that in discussing a triadic structure, this does not imply in any way, that it would be of divine law.

3. Concluding Remark

The nature of my short exposition does not allow for a conclusion. After all I have tried to point out the ingredients of the current and of a further discussion. Such a discussion can only be fruitful when it is performed by theologians and canonists who have the *élan* and the stamina to study, contemplate and discuss in all openness and honesty the issues lying ahead of us. May indeed the Christian family find among its members such people so that the prayer of the Lord, “that they may be one” will become a lived reality.

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*logiques. Hommage à Mgr. Gérard Philips, BETL, vol. 27, Gembloux: Duculot, 1970, pp. 282–289. Vatican’s II decree on the Eastern Churches *Orientalium Ecclesiarum*, no. 7, states that the patriarchal function has existed from early times on and as such has been recognized by the first ecumenical synods: “Ab antiquissimis temporibus in ecclesia viget institutio patriarchalis iam a primis synodis oecumenicis agnita.” A previous schema for this text had tried to diminish the role of the patriarch both in relation to the pope and to the bishops and was thus written from a Latin perspective seeing the power of the patriarch as a papal concession. The final text, however, recognizes the patriarchal structure as an institution not just in the Oriental church, but as the text says *in ecclesia*, thus of the universal church.*