

THE INTERACTION BETWEEN DIOCESAN BISHOPS AND THE ROMAN PONTIFF

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Abstract:

The author examines the role of the Roman Pontiff in keeping up the communion with the diocesan bishops in the Church. In his article entitled "The Interaction between Diocesan Bishops and the Roman Pontiff," he elaborates on the interaction between diocesan bishops and the Roman Pontiff in the Code of Canon Law 1983 (CIC). In his argument, he correlates a diocesan bishop's ordinary, proper and immediate power with that of the Supreme Pontiff having supreme, full, immediate, and universal ordinary power. He describes that the Roman Pontiff not only has power over the universal Church but also has pre-eminent ordinary power over all dioceses and their groupings. This reinforces and defends the proper, ordinary, and immediate power which the bishops have in the dioceses entrusted to their care. The bishops are available to the Roman Pontiff in the exercise of his office, to cooperate with him in various ways, among which is the synod bishops.

Key Words: Interaction, Diocesan Bishops, Roman Pontiff, Mutual Interiority, Synod of Bishops.

Introduction

In the Ecumenical Encyclical *Ut unum sint* of 25 May 1995, Pope John Paul II affirms that he feels compelled to "find a way of exercising the primacy which, while in no way renouncing what is essential to its mission, is nonetheless open to a new situation" (*UUS* 95). This request to seek sincerely and more deeply new forms of exercising

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the primacy was addressed by the Roman Pontiff to all pastors and theologians of the Christian Churches.

This search is carried out in particular in various moments of Pope Francis' pontificate, such as, for example, in the impetus given to the work of the Synod of Bishops and in the development of its functioning, which is evident in the Assemblies of the Synod on the family in the years 2014-2015 and on the youth in the year 2018, and is juridically formulated in the Apostolic Constitution *Episcopalis communio* of 15 September 2018 and the Instruction on the celebration of Synodal Assemblies and on the activity of the General Secretariat of the Synod of Bishops (1 October 2018).

Starting from the need to implement more faithfully the collegiality of the government of the Church as conceived by the Second Vatican Council and desired by John Paul II and Francis, we want to address, within the tension inherent in the interaction between diocesan bishops and the Roman Pontiff, the involvement of the diocesan bishops in the primatial government of the Roman Pontiff.

We will examine this interaction by relating various canons of the CIC c. 381 §1, which deals with the power of the diocesan bishop in his own diocese, with CIC cc. 331 and 333 §§1 and 2, which concern the power of the Roman Pontiff both in and over the universal Church and the particular Churches, also taking into account CIC c. 334, which expresses the need for the assistance of bishops in the exercise of the Petrine ministry. Our study examines two sides of the same coin: on the one hand, starting from CIC cc. 381 §1 and 333 §1, we want to explain how two ordinaries can be conceived for the same subjects, and how the ordinary episcopal power of the Pope (according to Vatican Council I) over the *portio populi Dei*, which forms a particular Church, affirms, strengthens and vindicates the proper power of the diocesan bishop (cf. LG 27 and Vatican Council I), even though he has the right to reserve for himself or another authority causes which would fall within the competence of the latter. On the other hand, bearing in mind that the Roman Pontiff needs bishops to carry out his primatial ministry (cf. CIC c. 333 §2), we try to see how diocesan bishops, precisely as heads in particular Churches, are the most suitable bishops both for the government of the universal Church in an Ecumenical Council or scattered throughout the world (cf. CIC c. 337) and for helping the Pope in his primatial ministry, assisting him in the central organs of government

in the universal Church: the Synod of Bishops (cf. CIC c. 342), the College of Cardinals (cf. CIC c. 349), the Roman Curia (cf. CIC c. 360). In the end, we try to answer the question of whether and how the interaction between the diocesan bishops and the Roman Pontiff can be the basis for a proposal of realization of the requirement underlying the *Ut unum sint*, so that we can also formulate a concrete hypothesis.

1. From Vatican Council I to Vatican Council II

In order to understand the current legislation on the interaction between diocesan bishops and the Roman Pontiff, it is necessary to build an ecclesiological-canonical cornerstone for the subject by presenting the process of the development of this interaction through the documents of the two Vatican Councils and some canons of the *Codex Iuris Canonici* of 1917.

1.1 The Constitution *Pastor aeternus* of the First Vatican Council and the *Codex Iuris Canonici* 1917

At first glance, it seems that the study of the First Vatican Council can serve the purpose of deepening the topic of the interaction between the diocesan bishops and the Roman Pontiff only partially. The Council Fathers formulated officially the doctrine of the primacy and of the power of the Roman Pontiff, but they did not succeed in promulgating doctrinal teachings on the power of bishops. In reality, however, in the conciliar discussions which led to the elaboration of the Constitution *Pastor aeternus*, the problem of the episcopate was always present and was touched upon in several aspects. In fact, the Council Fathers intended to issue a second Constitution *De Ecclesia*, which would contain the doctrine of the episcopacy, but the conquest of Rome by the Italian army prevented them from completing the work on this Constitution, which would only be resumed later in the Second Vatican Council.

The part of the Constitution *Pastor aeternus* which especially concerns the interaction between diocesan bishops and the Roman Pontiff is chapter III, *De vi et ratione primatus Romani Pontificis*, in which we find the proposition which emphasizes that the ordinary and immediate power of the Roman Pontiff is *vere episcopalis*: "Wherefore we teach and declare that, by divine ordinance, the Roman Church possesses a pre-eminence of ordinary power over every other

church, and that this jurisdictional power of the Roman Pontiff is both episcopal and immediate."¹

The core of this statement, which was then at the center of the conciliar discussions during the formation process of chapter III of *Pastor aeternus*, is contained in the terms "ordinary," "immediate" and "episcopal," which characterize the power of the Roman Pontiff. Those Council Fathers who were not in favour of these adjectives deduced from them the wrong conclusion that in the Church a bishop in the proper sense would be only one, namely the Roman Pontiff, while those of the particular Churches would be none other than his vicars or delegates.²

The concern to safeguard the powers of the bishops, raised during the discussion on the outline of the Constitution due to the concept of *potestas vere episcopalis*, gave rise to two concessions, made, as W.F. Dewan states, to calm the worried Fathers and to provide a better perspective: a) it is explained that the Pope possesses pre-eminence in ordinary power, but he is not the only one who possesses such power; b) an addition is made, which was not present in the original outline of the Constitution prepared by theologians before the Council, which assures the bishops that despite the Roman Pontiff's *potestas vere episcopalis* their episcopal power, ordinary and immediate, is not threatened.³

The addition is inserted in the Constitution in the form of a third paragraph of chapter III which states that the power of the Supreme Pontiff does not in any way prejudice the power of the episcopal, ordinary and immediate jurisdiction of the bishops, each of whom, as a true shepherd, tends and governs the flock entrusted to him,

¹ Council Vatican I, sess. IV, Dogmatic constitution *Pastor aeternus*, chap. 3, in Norman Tanner, ed., *Decrees of the Ecumenical Councils*, vol. II (San Francisco: Sheed & Ward and Georgetown University Press, 1990), 813-814.

² Giovanni Domenico Mansi, ed., *Sacrorum Conciliorum nova et amplissima collectio* (Parisii: expensis Huberti Welter, 1901-1915; Arnhem, Holland; Leipzig: Société nouvelle d'édition de la collection Mansi, H. Welter, 1923-1927), vol. 52, 936.

³ Wilfrid Dewan, "Potestas vere episcopalis nel primo concilio Vaticano," in Yves Marie-Joseph Congar and Bernard Dominique Dupuy, eds., *L'episcopato e la Chiesa universale*, Biblioteca di cultura religiosa Serie II (Roma: Edizioni Paoline, 1965), 845.

but, moreover, this power of the bishops is affirmed, strengthened and vindicated by the supreme and universal Pastor.⁴

This clarification of the concept of the Pope's *potestas vere episcopalis* insists on the compatibility between universal and local episcopal power, and affirms that the more the power of the Pope is firm and universal, the stronger is the power of the bishops.⁵ The Commission on Faith, with regard to the concerns of the Fathers regarding the position of the bishops towards the Roman Pontiff, specified that the bishops are not reduced to simple apostolic vicars or pontifical officials, because the power attributed to them is ordinary and immediate, not extraordinary and delegated, but a real authority, pertinent to their office of pastors. On the other hand, it was affirmed that from the double episcopal power, that of the Roman Pontiff over the universal Church and of the bishops over the particular Churches, it does not follow that every diocese has two bishops, because these two powers are exercised in an unequal way: that of the Pope is independent of any other, because it is founded on his office as head of the whole Church, while that of bishops is dependent and subordinate to the supreme papal episcopal power, while not ceasing to be ordinary and immediate.⁶

In the various canons of the 1917 Code, it is possible to note that the doctrine of Vatican I on the interaction between diocesan bishops and the Roman Pontiff is faithfully received as it is stated that the bishops, who by the divine institution are in charge of their Churches, govern them under the authority of the Roman Pontiff (cf. CIC (1917) c. 329 §1), but as the ordinary and immediate pastors of the same (cf. CIC (1917) c. 334 §1). Commentators on the 1917 Code assert that bishops by divine right must always exist in the Church and the Roman Pontiff cannot rule the Church without them. By the will of Christ, they are called to have solicitude for the Church and govern and take care of the flocks entrusted to them with ordinary and immediate power, as true and proper shepherds, and not as the vicars of the Roman Pontiff who cannot suppress or replace the

⁴ Council Vatican I, sess. IV, Dogmatic constitution *Pastor aeternus*, chap. 3, 814.

⁵ Dewan, "Potestas vere episcopalis nel primo concilio Vaticano," 850.

⁶ Mansi, ed., *Sacrorum Conciliorum nova et amplissima collectio*, vol. 52, 1115.

episcopate, nor change or constrain those things which concern its essence.⁷

However, despite the fact that bishops are appointed by divine institution to the particular Churches, this does not mean that they can govern them without reference to any authority that is above them, because they are subject to the Roman Pontiff and govern the particular Churches under his authority, which manifests itself, among other ways, in the fact that he can limit the power of bishops in particular cases or reserve to himself the right to more important cases.⁸

1.2 The Second Vatican Council

The Second Vatican Council, first of all in the documents *Lumen gentium* and *Christus Dominus*, takes up the teaching of Vatican I on the interaction between the diocesan bishops and the Roman Pontiff and on the importance of their mutual support and help, but also takes up the desire to continue the process of formulating a complete and coherent ecclesiology that includes both columns of the hierarchical constitution of the Church.

To arrive at this ecclesiology, a troubled elaboration of the conciliar teaching on the ecclesiastical hierarchy was required, due to the discussion on the concept of the collegiality of bishops, which took place during the work on the Constitution *Lumen gentium*. While in Vatican Council I the emphasis was placed on the Roman Pontiff and his Primacy to such an extent that there was also the concern of the Council Fathers that the bishops, as another column of the ecclesiastical hierarchy, could be neglected, in the Vatican II we have the situation reversed in the sense that the focal point shifts to the bishops and above all to their collegiality, so much so that it was thought that the collegiality threatened the papal primacy itself. The intervention of the Roman Pontiff himself (the introduction of some amendments to the text of the *Lumen gentium* and the introduction of the *Preliminary Note of Explanation* to the Constitution itself) was necessary to calm the concerns of not a few Council Fathers regarding episcopal collegiality.

⁷ Franz Xaver Wernz and Pedro Vidal, *Ius canonicum* (Romae: apud aedes Universitatis Gregoriana, 1923), vol. 2, 608.

⁸ Felice Maria Cappello, *Summa iuris canonici in usum scholarum concinnata* (Romae: Universitatis Gregoriana, 1945), vol. 1, 344-345.

With *Lumen gentium*, Vatican II re-proposes the doctrine of the Vatican I on the Primacy of the Roman Pontiff, but at the same time affirms, on the one hand, the position of the second subject of supreme power in the Church, the College of Bishops, which "has no authority unless it is understood together with the Roman Pontiff, the successor of Peter as its head. The pope's power of primacy over all, both pastors and faithful, remains whole and intact" (LG 22b), and, on the other, the juridical condition of the diocesan bishops who "as vicars and ambassadors of Christ, govern the particular churches entrusted to them" (LG 27a). Keeping these facts in mind, as well as the affirmation "their power, therefore, is not destroyed by the supreme and universal power, but on the contrary it is affirmed, strengthened and vindicated by it, since the Holy Spirit unfailingly preserves the form of government established by Christ the Lord in His Church" (LG 27b), we note that, as in the case of Vatican I, Vatican II does not place the Roman Pontiff and the bishops in a relationship of opposition, but of peaceful and harmonious interaction, communion and collegiality.

The same concerns that were present during the drafting of *Lumen gentium* also influenced the elaboration of the Decree *Christus Dominus*, and in particular *Christus Dominus* 5, which introduced in the conciliar teaching an important juridical body for the interaction between diocesan bishops and the Roman Pontiff: the Synod of Bishops, the assisting body of the bishops in the exercise of the primatial *munus*, which during the conciliar work on the different outlines of the *Christus Dominus* was considered by some Council Fathers as a decrease or restriction of the supreme power of the Roman Pontiff. However, Paul VI intervened again and with the *Apostolica sollicitudo* constituted the Synod of Bishops, which was then assumed by the Council and included in *Christus Dominus* 5.

The affirmations of the supreme, full and immediate power of the Roman Pontiff, and of the ordinary, proper and immediate power of the diocesan bishops are also present in the decree *Christus Dominus*. When to these affirmations we also add the fact that the diocesan bishops can render a more effective collaboration to the Supreme Pastor of the Church in the Synod of Bishops, which, "acting in the name of the entire Catholic episcopate, will at the same time show that all the bishops in hierarchical communion partake of the solicitude for the universal Church" (CD 5), it must be concluded that between *Lumen gentium* and *Christus Dominus* there is a coherence

that shows the relation of mutual support and collaboration between the two columns of the hierarchical constitution of the Church. This consistency is also visible in various other conciliar documents such as the decrees *Orientalium Ecclesiarum* on the Eastern Catholic Churches, *Unitatis redintegratio* on Ecumenism and *Ad gentes* on the missionary activity of the Church.

2. The current legislation of the CIC 1983

2.1 CIC c. 381 §1

Regarding the subject of our paper, the most important element that we encounter in examining CIC c. 381 §1 is the mutual interiority between the particular Church and the universal Church that makes possible, according to the Letter *Communio in notio* of the Congregation for the Doctrine of the Faith, the presence of the Supreme authority in the particular Church (cf. CN 13). It is interesting to note that the Letter does not speak about the participation of the particular power of diocesan bishops in the exercise of the universal power of the Roman Pontiff, precisely on the basis of the affirmation of the *mutual* interiority between the particular Church and the universal Church, corresponding to what is stated about the presence of the supreme power in the particular Church.

Diocesan bishops not only play an important role within their own particular Churches, but, as members of the College of Bishops, one of the two subjects of the supreme authority in the Church, they also fulfil an essential function in the universal Church, and remaining in hierarchical communion with the Head and the other members of the College, make present both the universal Church in their own particular Churches and these in the universal Church. The same CIC c. 381 §1 reveals this dual role of the diocesan bishop, linking him closely with his particular Church, and at the same time manifesting implicitly his relationship with the universal Church which is reflected in the institution of the reservation of cases made by the Supreme Pontiff.

Keeping in mind the concept of the mutual interiority, as well as the fact of the collegial affection that is always effective among all bishops, including the Roman Pontiff, and from which derives the duty of diocesan bishops to have a solicitude for the universal Church and for all other particular Churches (cf. LG 23), it can be

said that not only the Supreme authority of the universal Church is present in the particular Churches, but also the authority and power of diocesan bishops is present in the universal Church. It is precisely the mutual interiority between the particular Church and the universal Church and the presence of the Supreme Authority in the particular Church that draw the ministry of the diocesan bishop into a dimension of universality, which is expressed exactly in the solicitude of the diocesan bishop for the universal Church and for all other particular Churches. At this point, it should be emphasized that thanks to these relations, the diocesan bishop makes the universal Church present in his own particular Church, and in the universal Church he makes present his particular Church. This argument does not apply to titular bishops, who are not proper pastors of the particular Churches, so they cannot make them present in the universal Church. In fact, it must be taken into account that John Paul II affirms that diocesan bishops represent Christ the Head and Shepherd of the Church "in a proper and specific manner" (*Pastores Gregis* 8; from now on *PG*), while other bishops also represent him as the Head and Shepherd, but in a manner which is analogical, not proper and specific.

The mutual interiority between the particular Church and the universal Church shows how it is possible to conceive two ordinaries for the same subjects, and how the ordinary episcopal power of the Pope (according to Vatican Council I) over the *portio populi Dei*, which forms a particular Church, affirms, strengthens and vindicates the proper power of the diocesan bishop (LG 27 and Vatican Council I), while the Pope retains the right to reserve to himself or another authority the cases that would fall within the competence of the diocesan bishop. All this is understandable because the Church is a divine mystery, therefore, it is a society *sui generis*, not analogous to civil society.

The second element of CIC c. 381 §1 relevant to the topic of the interaction between diocesan bishops and the Roman Pontiff is the concept of *munus pastorale*, which is essential for the whole text of the canon because it represents the ontological basis of all the power of the diocesan bishop in his particular Church, which belongs to the bishop precisely for exercising his pastoral *munus*. This basis makes the diocesan bishop a participant in Christ's mission to such an extent that he can truly be considered the vicar and legate of Christ, as *Lumen gentium* 27 affirms, and shows the dignity and value of the

diocesan bishop and his power, above all in the context of the particular Church, but, thanks to the bonds of the hierarchical communion with the Head and the College of Bishops, also in the context of the universal Church.

In order to understand even better how CIC c. 381 §1 manifests the interaction between the diocesan bishop and the Roman Pontiff, the concept of *omnis potestas* contained in the canon must also be taken into consideration. Reading the norm of CIC c. 381 §1 it is possible to note the connection of the concept *omnis potestas* with the ontological prerequisite of the power of the diocesan bishop, that is, the *munus pastorale*. In fact, *omnis potestas* means that the bishop possesses in the diocese entrusted to him all the power necessary for the exercise of the *munus pastorale*. Unlike in the previous legislation, the bishop no longer has just a long list of faculties or a wide range of powers, but rather he has all the power to carry out his ministry. However, the power of the diocesan bishop in the particular Church is not full, since it encounters its limits when compared with the truly full power of the Roman Pontiff over all the particular Churches. The question arises: how can we consider that the diocesan bishop has all the power in his diocese when it is limited in the case of the reservations expressed in the last part of CIC c. 381 §1?

To answer the question, we need the affirmations of the post-synodal apostolic exhortation *Pastores gregis* in which John Paul II offers some points: a) *omnis potestas*, ordinary, proper and immediate, of the diocesan bishop in his particular Church is affirmed; b) the diocesan bishop has an autonomy to exercise this power; c) however, his power coexists with the power of the Roman Pontiff, also episcopal, ordinary and immediate over all particular Churches and their groupings, over all pastors and faithful (cf. *PG* 56). Therefore, it is possible to reconcile the *omnis potestas* of the diocesan bishop and the *plena potestas* of the Roman Pontiff in the same particular Church because the diocesan bishop exercises all the power in his particular Church while being at the same time in the hierarchical constitution of the universal Church, and therefore, as *Pastores Gregis* 56 affirms, in the particular Church entrusted to him his power coexists with that of the Roman Pontiff.

All that we have said about the mutual interiority between the particular Church and the universal Church, between the diocesan bishop and the Roman Pontiff, finds its explicit and juridical

expression in the last part of CIC c. 381 §1 which recognizes the existence of cases reserved to higher ecclesiastical authorities by means of the law itself or by decree of the Supreme Pontiff. With regard to these cases it should be noted that here we are dealing with the subtraction of the exercise of the power of the diocesan bishop over some matters, while his *munus pastorale* received in the episcopal consecration remains intact, and this is manifested in the verb *reserventur* of the CIC c. 381 §1 which means only reservation, and not removal of power.

Regarding the criteria for reservation, juridically there is no limit to their determination, because "in virtue of his office, that is as Vicar of Christ and pastor of the whole Church, the Roman Pontiff has full, supreme and universal power over the Church. And he is always free to exercise this power" (LG 22; cf. CIC c. 331), and there is no appeal or plea against his verdict or decree (cf. CIC c. 333 §3).⁹

However, this does not mean that the Roman Pontiff possesses an absolutely unlimited power, since divine right itself sets the limits of the exercise of the pontifical power (cf. PG 56). Furthermore, the immediate authority of the Roman Pontiff over the particular Churches strengthens and guarantees the ordinary, proper and immediate power of the diocesan bishops in the Churches entrusted to them (cf. CIC c. 333 §1).

Another important criterion for reservation is the *omnis potestas* of the diocesan bishop. In the system of reservations they are always secondary to the broad competence in which they intervene by virtue of superior rights, because this competence is primary, qualified as *omnis potestas*, which belongs to the diocesan bishop, since it is indispensable for the exercise of his *munus pastorale*.

As the last criterion for reservations of some cases in favor of the higher ecclesiastical authorities we underline that which in the magisterium is defined as "the advantage of the Church or of the faithful" (LG 27a) and "the common good of the universal Church [...] the good of the individual Churches» (CD 2a).

⁹ Julio Manzanares, "Sulla "reservatio papalis" e la "recognitio". Considerazioni e proposte", in Hervé Legrand, Julio Manzanares and Antonio García y García, eds., *Chiese locali e cattolicità: Atti del Colloquio internazionale di Salamanca (2-7 Aprile 1991)*, (Bologna: Edizioni Dehoniane, 1994), 256.

In the light of the reserved cases as a juridical manifestation of the interaction between the diocesan bishops and the Roman Pontiff affirmed in CIC c. 381 §1, it remains to be said that the reservations are not an annulment of the episcopal power itself and must be understood within the context of the mutual interiority between the universal Church and the particular Church and of the hierarchical communion of the diocesan bishop with the Head of the College of Bishops and the same College, for the good not only of the universal Church but also of the particular Church.

2.2 The CIC cc. 331, 333 §§1-2 and 334

After studying the interaction between diocesan bishops and the Roman Pontiff in the context of the particular Church in the light of CIC c. 381 §1, we now wish to deal with this interaction in the context of the pontifical primacy and its exercise, taking into consideration CIC cc. 331, 333 §§1-2 and 334.

At the beginning of CIC c. 331, we encounter the title of the "Bishop of the Roman Church" with which, following the teaching of chap. II of the Constitution *Pastor aeternus* of Vatican I, the link between the episcopal see of Rome and the pontifical primacy is manifested. In fact, since *the diocesan bishop* of Rome, which is the Church that presides over all the Churches in charity,¹⁰ and whose episcopal see is founded on Peter himself, the head of the College of Apostles, the Roman Pontiff holds the primacy over the whole universal Church and over all pastors and faithful.

The title "Bishop of the Church of Rome," indicating the Roman Pontiff's bond with the Church of Rome, places the exercise of the Petrine ministry in the context of the communion between the Churches, where the chair of Peter protects the diversity of the particular Churches and, at the same time, seeks to ensure that the particularity of the local Churches does not hinder unity but rather contributes toward it (cf. LG 13). This activity of the Roman Pontiff is possible because, in addition to the fact of his power over the universal Church, there is also the reality of his closer relationship with one particular Church, which he must govern as its diocesan bishop in order to be able to make it present in the universal Church, and make present the universal Church in his particular Church.

¹⁰ Ignazio d'Antiochia, *Ad Romanos, Praef.*, in *Patres Apostolici*, ed. Franz Xaver von Funk (Tubingae: In Libraria Henrici Laupp, 1901), vol. 1, 253.

The interaction between the diocesan bishops and the Roman Pontiff can be deduced in CIC c. 331 also from the title "Head of the College of Bishops" and from the ordinary and immediate nature of the pontifical power which can always be freely exercised. The title "Head of the College of Bishops" clearly places the Petrine office in the context of episcopal collegiality. In fact, the close union between the Roman Pontiff and the bishops entails not only the hierarchical communion of the bishops with the Roman Pontiff, but also the communion of the Head with the Body, because, just as there is no Body without the Head, so equally the Head is not given without the Body.¹¹ As we have seen by examining CIC c. 381 §1, diocesan bishops, when they exercise their ministry in their own particular Churches, are always in hierarchical communion with the Head of the College of Bishops and the College itself, and are supported and accompanied by them. However, as we will see later, even the Roman Pontiff, in turn, in carrying out his Petrine ministry always acts in communion with the bishops because of their collegial connection, and therefore he too needs bishops in order to feel himself supported and accompanied.

As regards the ordinary and immediate nature of the pontifical power, which can always be freely exercised, as stated in CIC c. 331, it must be said that despite the immediacy of the papal power, the just autonomy of the particular Churches and the ordinary, proper and immediate power that diocesan bishops have in their own particular Churches must be respected (cf. CIC c. 381 §1), because the immediate power of the Roman Pontiff does not diminish, but rather strengthens and guarantees this power of diocesan bishops (cf. CIC c. 333 §1). The qualification of "immediate" does not exclude coordination between the exercise of the primatial power of the Roman Pontiff and the exercise of the power of individual bishops or of the bishops who are brought together, and therefore between universal law and particular law.¹²

¹¹ Gianfranco Ghirlanda, "Il *Ius divinum* del primato pontificio e il suo esercizio in prospettiva ecumenica," in Juan Ignacio Arrieta, ed., *Ius divinum* (Venezia: Marcianum Press, 2010), 1065.

¹² Gianfranco Ghirlanda, *Il diritto nella Chiesa, mistero di comunione: compendio di diritto ecclesiale*, Diritto canonico 3 (Roma: GBPress - Gregorian University and Biblical Institute Press, 2015⁶), 641.

Furthermore, the Pope's freedom in the exercise of his power finds its limit in the ontological-sacramental and ecclesiological-structural elements relating to both the pontifical primacy and the College, for which the Pontiff can not but act in communion with the other bishops and the whole Church (cf. CIC c. 333 §2). The criterion for determining this freedom of action of the Roman Pontiff is the good of the Church achieved and consolidated in the juridically binding ecclesial communion.¹³

The power of the Roman Pontiff is inserted in the concrete life of the particular Churches, because the pontifical primacy is not an external element that is imposed on the particular Churches from outside, but rather it is interior to them (cf. CN 13). This is confirmed by the text of CIC c. 333 §1 which takes up the affirmation of the two Vatican councils on the strengthening and guarantee of the proper, ordinary and immediate power that diocesan bishops have over the particular Churches entrusted to their care (cf. the Constitution *Pastor aeternus*, chap. 3; LG 27b).

In the light of this affirmation, the purpose of the Roman Pontiff's power in the particular Churches becomes evident: it does not seek to cancel or deny the ordinary, proper and immediate power that diocesan bishops have in the particular Churches entrusted to them (cf. CIC c. 381 § 1), but wants to be of service and help to bishops so that they can carry out their pastoral ministry for the good of their flock. This part of the canon also manifests another element that we have already studied: the mutual interiority between the universal Church and the particular Church, and through it the interior and intrinsic presence of the Supreme authority of the Church within the diocese. Precisely because the power of the Roman Pontiff is intrinsic in the particular Church, the power of the diocesan bishop is affirmed, strengthened and vindicated by it, as a safeguard of the divine right of the diocesan bishop.

The interaction between diocesan bishops and the Roman Pontiff is manifested in a particular way in the permanent conjunction of the Pope with the bishops in the exercise of his supreme ministry, which is stated in CIC c. 333 §2. This conjunction shows that the Supreme Pontiff needs bishops in order to feel himself supported in the

¹³ Ghirlanda, "Il *Ius divinum* del primato pontificio e il suo esercizio in prospettiva ecumenica," 1068.

exercise of his primacy, in a way similar to that in which bishops need him as a principle of unity in faith and communion in order to feel themselves supported in the exercise of their ministry.¹⁴

In CIC c. 333 §2 we note that the diocesan bishops, through the mutual interiority between the universal Church and the particular Churches, and the hierarchical communion with the Head of the College of Bishops, are closely linked with the Roman Pontiff in the exercise of his supreme ministry. In all these relations the Pope and the bishops make present and communicate with each other the faithful entrusted to them, that is, the universal Church and the particular Churches, in a movement of circularity between the witness of faith, personal responsibility and pastoral solicitude of the Roman Pontiff and that of bishops as individuals and as a whole with regard to the universal Church and particular Churches.¹⁵

It should be emphasized that this conjunction does not nullify or diminish the right of the Roman Pontiff to determine, "according to the needs of the Church" (cf. CIC c. 333 §2) the manner, whether personal or collegial, of exercising his ministry.

Desiring to express the collegial mode of exercising the Petrine ministry, CIC c. 334 sanctions various manifestations of this mode, and in the first place among the collaborators of the Roman Pontiff it places the bishops, and explicitly mentions the Synod of Bishops. Canon 334 reiterates the need for the Pope to be assisted by the bishops in the exercise of his supreme office and affirms the requirement of divine right that, in such exercise, the Roman Pontiff must be in communion with the other bishops and with the whole Church, while remaining free to determine the manner of exercise, according to the needs of the times.

Conclusion

At the beginning of our research, we posed the question, which we want to answer now, whether and how the interaction of the diocesan bishops and the Roman Pontiff can be the basis for a proposal for the realization of the requirement underlying *Ut unum sint*. Our first response is that the diocesan bishops should have an

¹⁴ Ghirlanda, "Il *Ius divinum* del primato pontificio e il suo esercizio in prospettiva ecumenica," 1065.

¹⁵ Ghirlanda, "Il *Ius divinum* del primato pontificio e il suo esercizio in prospettiva ecumenica," 1066.

important role in the renewal of the exercise of the Petrine ministry, and this opinion is based on the following facts: a) first of all, the diocesan bishop, possessing in the diocese entrusted to him all the ordinary, proper and immediate power required for the exercise of his pastoral *munus* (cf. CIC c. 381 §1), is the only proper pastor to his diocese, who represents Christ Head and Shepherd of the Church in a proper and specific way (cf. PG 8), and not analogously, as titular bishops do; b) while exercising his power in his own diocese, the diocesan bishop does so in the hierarchical communion with the Roman Pontiff and the College of Bishops and inserted in the mutual interiority between the universal Church and the particular Church for which, on the one hand, he has an autonomy in the exercise of his power, while, on the other hand, this power coexists with the power of the Roman Pontiff, which is also episcopal, ordinary and immediate over all particular Churches and their groupings, over all pastors and faithful (cf. PG 56); c) the presence of the Supreme Power in the particular Church does not cancel, but affirms, strengthens and vindicates the power of the diocesan bishop and draws his ministry into a dimension of universality, expressed in the solicitude that the diocesan bishop must have for the universal Church and for all the other particular Churches; d) starting from this solicitude and the need of the Roman Pontiff to be helped by the bishops in carrying out his primatial ministry (CIC c. 333 §2), diocesan bishops, precisely for the reasons indicated above, should be considered the most suitable bishops to collaborate in the performance of the primacy, rather than the titular bishops.

How can diocesan bishops in their interaction with the Roman Pontiff contribute to the hoped-for renewal of the exercise of the Petrine ministry? This contribution would, first of all, be relevant within the Synod of Bishops, where diocesan bishops contribute to the synodality of the Church, taught and desired in the pontificate of Pope Francis, making present, first of all, their own Churches, then the Episcopal Conferences from which they are chosen, and finally, in some way, all Christian people because they are its shepherds.¹⁶

In the Apostolic Constitution *Episcopalis communio* of Pope Francis it is emphasized that the Synod of Bishops is "a privileged instrument

¹⁶ John Paul II, Post-synodal apostolic exhortation *Pastores gregis*, 16 Oct. 2003, n. 58, in *Enchiridion Vaticanum* 22 (2003) 689-691.

for listening to the People of God"¹⁷. Although it is essentially an episcopal body, the Synod does not act separately from the rest of the faithful, but it is suitable for giving a voice to the entire People of God precisely through the bishops, among whom the diocesan bishops stand out for all the reasons presented in this study.

In fact, *Episcopalis communio* underlines the importance of listening to the People of God and its *sensus fidei* not only at the level of the universal Church, concretely in the Synod of Bishops, but also at the level of particular Churches and groupings of particular Churches, because a Synod Assembly no longer takes place only in Rome, during the so-called "discussion phase," but also in the particular Churches and their groupings, during the "preparatory phase" and "implementation phase."¹⁸

If the principle of listening to the People of God is truly respected at the first two levels, then at the level of the universal Church the synodal path reaches its culmination and most eminent manifestation, since the pastors, who are attentive to the needs of their flock, expressed, among other things, also in various organs of a synodal nature at the level of the particular Church and of the groupings of particular Churches, will also exercise this care within the Synod of Bishops.

Another possible way in which the interaction between diocesan bishops and the Roman Pontiff would contribute to the renewal of the exercise of the Petrine ministry would be the coordination of the Synod of Bishops with the Episcopal Conferences and individual bishops in their seats in such a way that, after discussion in the synodal hall, the Synod could exercise deliberative power - which should be granted by the Roman Pontiff more frequently to the Synod - especially when dealing with doctrinal or disciplinary matters,¹⁹ deciding that the matter dealt with should be further

¹⁷ Francis, Apostolic constitution *Episcopalis communio*, 15 Sept. 2018, n. 6, *Communicationes* 50 (2018) 379.

¹⁸ Francis, Apostolic constitution *Episcopalis communio*, 15 Sept. 2018, art. 4, 385.

¹⁹ Ghirlanda, "Il *Ius divinum* del primato pontificio e il suo esercizio in prospettiva ecumenica," 1081; Dimitrios Salachas, "La sinodalità nel *Codice dei canoni delle Chiese orientali* e confronti con il *Codice di diritto canonico della Chiesa latina*," in Lorenzo Baldisseri, ed., *A cinquant'anni dall'Apostolica sollicitudo. Il Sinodo dei Vescovi al servizio di una Chiesa sinodale, Atti del Semi-*

discussed in the Episcopal Conferences. In this process, individual bishops should also be consulted, and not only asked for a collective opinion at the level of the Episcopal Conference, since the power of individual diocesan bishops is prior to the power of the Episcopal Conferences.²⁰

In the consultation, the Conferences and individual bishops would express their opinions on, and amendments to, the document of the Synod of Bishops already approved by it, and not only in the preparation of the Synodal Assemblies. At the end of the process, the Ordinary Council of the General Secretariat of the Synod could elaborate, on the basis of these observations, a document to be submitted to the vote of the bishops dispersed in the world, thus configuring a collegial act in accordance with CIC c. 337 §2 and realising coordination of the General Assembly of the Synod of Bishops with the Episcopal Conferences and with the individual diocesan bishops.²¹ However, the document approved in this way would only oblige if confirmed and promulgated by the Roman Pontiff (cf. CIC c. 341 §2).

Furthermore, in their interaction with the Roman Pontiff, diocesan bishops can contribute to the exercise of the Petrine ministry within the other organs of the universal Church such as an Ecumenical Council, the College of Cardinals, the Roman Curia.

The main function of an Ecumenical Council is identified with that of the College itself and of the Roman Pontiff: to promote and guarantee unity in the profession of faith, in the sacraments and in government. In this way a Council also manifests the communion of the particular Churches, made present by their own pastors who are in hierarchical communion with the Roman Pontiff. During the work of a Council, the opportunity is offered for the exchange of information, opinions and experiences between the members of the College of Bishops, which concretely expresses the mutual collaboration and help between the bishops. In addition, a Council

nario di studio organizzato dalla Segreteria generale del Sinodo dei Vescovi (Città del Vaticano, 6-9 febbraio 2016), (Città del Vaticano: Libreria Editrice Vaticana, 2016), 67-68.

²⁰ Gianfranco Ghirlanda, "Il M.p. *Apostolos Suos* sulle Conferenze dei Vescovi," *Periodica* 88, 4 (1999) 622.

²¹ Ghirlanda, "Il *Ius divinum* del primato pontificio e il suo esercizio in prospettiva ecumenica," 1082.

also offers the opportunity for the bishops, after having listened to the voice of the faithful at the level of the diocese and of groupings of particular Churches, to report that voice and also express it in the conciliar assembly. It is on the basis of all this that the bishops ultimately reach a decision in the exercise of the power which only they have.

The College of Cardinals could validly contribute to the realization of synodality at the level of the universal Church through the Consistory as a form of collaboration in the exercise of the office of the Roman Pontiff. The problem that appears with regard to this institute and its greater effectiveness lies in the fact that in the consistories the celebratory function prevails over the consultative one.²² It would be opportune to gather the Cardinals more frequently to collect their opinions on matters of particular relevance in relation to the life of the Church, so that the Consistory, as the main form of the action of the Cardinals taken all together as a college, can become an even more effective institution for collaboration in the exercise of the Roman Pontiff's *munus*. In this institution, thanks to the process of progressive and constant internationalization of the College of Cardinals, the points of view, opinions and advice of bishops from all over the world on issues significant for the life of the Church would be gathered.²³

Eventually, the diocesan bishops could contribute to the exercise of the Petrine ministry also within the Roman Curia. In fact, as Vatican II has already invited, there should be included even more bishops, especially diocesan bishops, who can represent to the Supreme Pontiff the mentality, desires and needs of all the Churches in a more complete way, as well as lay persons distinguished for virtue, doctrine and experience, so that they too may fulfil the role appropriate to them in the life of the Church (cf. CD 10). Furthermore, it should also be kept in mind on the one hand that the Curia, being at the service of the Roman Pontiff, is closely connected

²² Luigi Sabbarese, "Consistorio", in Javier Otaduy, Antonio Viana and Joaquín Sedano, eds., *Diccionario general de derecho canónico* (Cizur Menor, Navarra: Aranzadi, 2012), vol. 2, 662.

²³ Mauro Rivella, "Il Concilio ecumenico, il Sinodo dei Vescovi e il Concistoro", in Gruppo italiano docenti di diritto canonico, ed., *Chiese particolari e Chiesa universale. XXIX Incontro di studio, "Villa Cagnola," Gazzada (VA), 1-5 luglio 2002* (Milano: Glossa 2003), 145.

with the bishops of the whole world and, on the other, that the same bishops and their Churches are the first beneficiaries of the Curia's service.²⁴

To conclude, we may express the hope that the diocesan bishops, in the renewal of the exercise of the Petrine ministry, will be able to play the important role that belongs to them in accordance with the words of Pope Gregory I: "My honour is the honour of the whole church. My honour is the steadfast strength of my brethren. Then do I receive true honour, when it is denied to none of those to whom honour is due."²⁵

²⁴ John Paul II, Apostolic constitution *Pastor bonus*, 28 June 1988, arts. 8-9, AAS 80 (1988) 850-853.

²⁵ «Meus honor est honor universalis Ecclesiae. Meus honor est fratrum meorum solidus vigor. Tum ergo vere honoratus sum, cum singulis quibusque honor debitus non negatur» (Gregory I, *Registri epistolarum*, in Jacques-Paul Migne, ed., *Patrologiae Cursus Completus. Series Latina*, Paris: Garnier 1958-1974, 77, 933C).