

The Nature and Future of Episcopal Conferences

edited by
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The Catholic University of America Press

Washington, D.C.

1988

SUBSIDIARITY IN THE CHURCH: THE STATE OF THE QUESTION

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I was asked to draw up a statement of the *status quaestionis* with regard to the application within the Church of the principle of subsidiarity. After a brief description of the principle as recommended for civil society, this essay will first review the discussion of the applicability of subsidiarity in the Church as it developed in the teachings of recent popes, in the debates at the Second Vatican Council and in several meetings of the Synod of Bishops. After a brief historical review of the emergence of the theme in the theological and canonical literature, I will attempt to identify the chief practical and theoretical issues which are at stake.

SUBSIDIARITY IN CIVIL SOCIETY

Although scholars dispute how ancient the reality and the notion of subsidiarity are as elements of social philosophy,¹ for our purposes we

¹ Arthur-Fridolin Utz maintained that both as a reality and as a formulated principle, subsidiarity is a modern development, possible and necessary only in reply to the claims made for the modern liberal state; see *Das Subsidiaritätsprinzip*, ed. A.-F. Utz (Heidelberg, 1953), cited by Franz Klüber, *Katholische Gesellschaftslehre*, vol. I (Osnabrück: A. Fromm, 1968), p. 878n; "Der Mythos des Subsidiaritätsprinzips," in *Ethik und Politik: Aktuelle Grundfragen der Gesellschafts-, Wirtschafts- und Rechtsphilosophie*, ed. H. B. Streithofen (Stuttgart: Seewald, 1970), pp. 339-349. Trutz Rendtorff criticized subsidiarity as a Catholic response to liberalism, designed to secure the particular rights of church institutions and associations; see the discussion of his argument by Anton Rauscher, "Subsidiarität—Staat—Kirche," *Stimmen der Zeit* 172 (1963) 124-137. Almost all other commentators trace its roots farther back in western social theory, for example, in Aristotle, Thomas Aquinas, Dante, medieval German *Genossenschaftsrecht*, Calvin, Montesquieu, Schlegel, de Tocqueville, Abraham Lincoln, etc. Oswald von Nell-Breuning says flatly, "Die Sache ist uralt"; "Subsidiaritätsprinzip," *Staatslexikon*, 6th ed. (Freiburg: Herder, 1962), 7:826. It appears that the historical question greatly depends on the definition one gives to the principle and what implications are considered to flow from it. I believe that Utz's position should be taken seriously.

may begin with the classic expression of the principle given in Pius XI's encyclical, *Quadragesimo anno*:

It is true, as history clearly proves, that because of changed circumstances much that formerly was performed by small associations can now be accomplished only by larger ones. Nevertheless, it is a fixed and unchangeable principle, most basic in social philosophy, immovable and unalterable, that, just as it is wrong to take away from individuals what they can accomplish by their own ability and effort and entrust it to a community, so it is an injury and at the same time both a serious evil and a disturbance of right order to assign to a larger and higher society what can be performed successfully by smaller and lower communities. The reason is that all social activity, of its very power and nature, should supply help [*subsidium*] to the members of the social body, but may never destroy or absorb them.

The state, then, should leave to these smaller groups the settlement of business and problems of minor importance, which would otherwise greatly distract it. Thus it will carry out with greater freedom, power, and success the tasks belonging to it alone, because it alone is qualified to perform them: directing, watching, stimulating, and restraining, as circumstances suggest or necessity demands. Let those in power, therefore, be convinced that the more faithfully this principle of subsidiary function is followed and a graded hierarchical order exists among the various associations, the greater also will be both social authority and social efficiency, and the happier and more prosperous too will be the condition of the commonwealth.²

While the reality intended by subsidiarity can be found in Leo XIII's encyclicals,³ as a formulated principle it has a distinctly German genealogy. Bishop Ketteler and Heinrich Pesch stressed the subsidiary character of the state.⁴ *Quadragesimo anno* was written by Oswald von

² Pius XI, *Quadragesimo anno*, AAS 23 (1931) 203.

³ Ewald Link, *Das Subsidiaritätsprinzip: Sein Wesen und seine Bedeutung für die Sozialethik* (Freiburg: Herder, 1955), pp. 27-34.

⁴ See Klüber, *Katholische Gesellschaftslehre*, p. 878; Link, *Das Subsidiaritätsprinzip*, pp. 34-38; see also Elmar Fastenrath, *Bischof Ketteler und die Kirche: Eine Studie zum Kirchenverständnis des politisch-sozialen Katholizismus* (Essen: Wingen, 1971), pp. 105-106. In a rather different sense, Catholic associations and congresses are defended

Nell-Breuning, who has described the powerful influence upon his ideas of Gustav Gundlach and other members of the "Königswinterer Kreis."⁵ On subsidiarity in particular, he writes:

Both the name, "principle of subsidiarity," and the formulation in which it is expressed in *Quadragesimo anno* came from Gundlach. Its material content was acknowledged long before, but it was Gundlach who first formulated this non-rational insight into a principle and gave it the name under which it has since become so famous. . . .⁶

Josef Pieper thus had reasons for calling subsidiarity an "*übrigens deutsch-rechtlichen Grundsatz*."⁷

Since Pius XI introduced it, the principle has been championed as a first principle of civil society by Popes Pius XII, John XXIII, Paul VI, and John Paul II.⁸ It was also invoked in this sense in three passages

as "subsidiary cohorts" in C. Piccirillo, "Il primo Congresso Cattolico in Italia," *La Civiltà Cattolica* 9/3 (1874) 5-36.

⁵ See "The Drafting of *Quadragesimo anno*," in *Readings in Moral Theology No. 5: Official Catholic Social Teaching*, ed. C.E. Curran and R.A. McCormick (New York: Paulist Press, 1986), pp. 60-68; Johannes Schwarte, *Gustav Gundlach S.J. (1892-1963)* (München: Schönningh, 1975), pp. 36-43.

⁶ Quoted in Schwarte, *Gustav Gundlach*, p. 41. Nell-Breuning is also quoted as saying that "the Encyclical is quite saturated with Gundlach's thought" (p. 39).

⁷ See Link, *Das Subsidiaritätsprinzip*, p. v. The German genealogy, as we will see, continues under Pius XII and accounts, it seems, for the rise of the question of the application of the principle within the Church. Certainly it seems that it is in Germany that the principle has received most attention as a norm for society; I cannot speak for other European countries, but in the United States the term is almost unknown except among Catholics and is not even included in the latest editions of American dictionaries.

⁸ For subsidiarity in Pius XII's teaching, see *Aufbau und Entfaltung des gesellschaftlichen Lebens: Soziale Summe Pius XII*, ed. A.-F. Utz and J.-F. Groner, 3 vols. (Freiburg: Paulusverlag, 1954-1961), nn. 231, 252, 1780, 2683, 3255, 3433, 4094, 5034, 5040-5041, 5644, 5747, 5992, 6094, 6143. For John XXIII, see *Mater et Magistra*, nn. 51-58, 117, 152; *Pacem in terris*, nn. 140-141. Paul VI refers to the idea, but without the name, in *Populorum progressio*, n.33, and in *Octagesimo adveniens*, n. 46. For John Paul II, see *Insegnamenti di Giovanni Paoli II* (Vatican City: Libreria Editrice Vaticana, 1979), pp. 210-212; subsidiarity does not appear to have been invoked in the encyclical *Laborem exercens*. One of the few attempts to trace the development of the principle in the Church's social teaching was made by Pio Pampaloni, "Il principio di sussidiarietà nel diritto canonico," *Studia Patavina* 16 (1969) 260-270. He refers to an article unavailable to me, L. de Rosa, "Il 'principio di sussidiarietà' nell'insegnamento sociale della Chiesa," *Aggiornamenti sociali* 13 (1962).

of the Second Vatican Council (*Gravissimum educationis* 3 and 6, and *Gaudium et spes* 86).⁹

While the magisterial references to the principle are reasonably clear, the same cannot be said about the efforts of commentators and scholars of the Church's social teaching to explicate the meaning of subsidiarity or to draw out its implications in civil society.¹⁰ The differences here are often fundamental, concerned with questions about the relationship between the individual person and society or state, the notion of basic human rights, the idea of the "common good," etc. It is not rare for these differences to be imported, sometimes unconsciously, into the discussions about subsidiarity in the Church.

It is, therefore, somewhat risky to attempt a short description of the meaning and implications of the principle. The following elements, however, are commonly found:

1. The priority of the person as the origin and purpose of society: *civitas propter cives, non cives propter civitatem*.
2. At the same time, the human person is naturally social, only able to achieve self-realization in and through social relationships—what is sometimes called the "principle of solidarity."
3. Social relationships and communities exist to provide help (*subsidium*) to individuals in their free but obligatory assumption of responsibility for their own self-realization. This "subsidiary" function of society is not a matter, except in exceptional circumstances, of substituting or supplying for individual self-responsibility, but of providing the sets of conditions necessary for personal self-realization.
4. Larger, "higher" communities exist to perform the same subsidiary roles toward smaller, "lower" communities.

⁹ In its "Instruction on Christian Freedom and Liberation," the Congregation for the Doctrine of the Faith refers vaguely to "subsidiary groups" (n. 84) and twice to the "subsidiary function" of the State (nn. 85, 94).

¹⁰ From his reading of the objections to applying subsidiarity within the Church, Jan Krucina found around twenty interpretations of the principle; see "Das Verhältnis von Gesamtkirche und Ortskirche im Lichte des Subsidiaritätsprinzip," *Collectanea Theologica* 45 (1975, fasc. specialis) 121-133, at p. 126. A.-F. Utz attempts to sort out some of the differences in *Formen und Grenzen des Subsidiaritätsprinzips* (Heidelberg: Kerle, 1956).

5. The principle of subsidiarity requires *positively* that all communities not only permit but enable and encourage individuals to exercise their own self-responsibility and that larger communities do the same for smaller ones.
6. It requires *negatively* that communities not deprive individuals and smaller communities of their right to exercise their self-responsibility. Intervention, in other words, is only appropriate as "helping people help themselves."
7. Subsidiarity, therefore, serves as the principle by which to regulate competencies between individuals and communities and between smaller and larger communities.
8. It is a formal principle, needing determination in virtue of the nature of a community and of particular circumstances.
9. Because it is grounded in the metaphysics of the person, it applies to the life of every society.¹¹

SUBSIDIARITY IN THE CHURCH

Pope Pius XII

The first magisterial statement that subsidiarity applies within the Church occurs in Pope Pius XII's address to newly created cardinals on February 20, 1946, a text which is always cited but hardly ever placed in context. The speech, written less than a year after the end of the Second World War, uses the occasion of the pope's internationalization of the college of cardinals to stress the importance of the Church for the foundations of human society. A sustained contrast is drawn between modern imperialism and the Church. It consists, first, in the fact that the Church begins from the depths of the human person and only from there has a broader and fuller influence, while modern empires use things and force to spread their power and so are inherently unstable.

¹¹ For this description, see Klüber, *Katholische Gesellschaftslehre*, pp. 867-895; Schwarte, *Gustav Gundlach*, pp. 375-380; Oswald von Nell-Breuning, "Subsidiarität," pp. 826-833; idem, "Erwägungen zum Subsidiaritätsprinzip," in *Wirtschaft und Gesellschaft, I. Grundfragen* (Freiburg: Herder, 1956), pp. 67-78; Johannes Messner, *Social Ethics: Natural Law in the Western World* (St. Louis: Herder, 1965), pp. 209-217; Arthur Utz, *Ethique sociale* (Fribourg: Ed. Universitaires, 1960), pp. 189-203; Jean-Yves Calvez and Jacques Perrin, *The Church and Social Justice: The Social Teaching of the Popes from Leo XIII to Pius XII (1878-1958)* (Chicago: Regnery, 1961), pp. 328-337.

A second contrast concerns cohesion and balance in society. The Church makes a contribution here because it deals with man's inner reality, a fact which the pope illustrates vividly: "If the ravages of time, which have not spared so many recently built monuments, have respected the magnificent Gothic cathedrals of the thirteenth century, if these continue to rise serenely over the ruins around them, it is because their buttresses provide only an accessory, if precious, contribution from without to the intrinsic strength of the jointed structure in a pleasing style of architecture as solid and finished as it is daring and graceful."¹² This is the context in which the pope introduces the principle of subsidiarity:

Thus it is with the Church. She acts in a person's most intimate sphere, in his personal dignity as a free creature, in his infinitely more exalted dignity as a child of God. The Church forms and educates this person, for he alone, in the harmony of his natural and supernatural life, in the orderly development of his instincts and inclinations, of his rich qualities and his various dispositions, is at once the origin and the purpose of social life and thus also the principle of its balance.

This is why the Apostle to the Gentiles, speaking of Christians, proclaimed that they are not like "children tossed about" uncertainly in the midst of human society. Our Predecessor of happy memory, Pius XI, in his encyclical on the social order, *Quadragesimo anno*, drew from this same idea a practical conclusion; indeed he stated a principle of general validity, that is, that what individuals can do by themselves and with their own abilities must not be taken from them and given to the community. This principle applies equally for smaller and inferior communities vis-à-vis larger and superior communities. For, as the wise Pontiff went on to say, all social activity is by its nature subsidiary: it must serve as a support for the members of the social body and must never destroy or absorb them. These are truly enlightening words which apply to social life at all of its levels and also for the life of the Church, without prejudice to her hierarchical structure.¹³

¹² Pius XII, Consistorial Allocution, February 20, 1946: AAS 38 (1946) 144. There is an English translation of this speech in *The Catholic Mind* 44 (April, 1946).

¹³ Pius XII, pp. 144-145.

While this passage is often cited in the debate on subsidiarity in the Church, the paragraph that follows, unfortunately, is not:

And now, Venerable Brethren, to this doctrine and practice of the Church compare in their reality the imperialistic tendencies. Here you will not find any principle of internal balance, and thus the solidity of human society suffers a new and great injury. For if such gigantic complexes have no real moral foundation, they necessarily evolve toward an ever greater centralization and an ever tighter uniformity. For that reason their balance, their very cohesion are maintained only by force and the external constraints of material conditions and juridical expedience, of events and institutions, and not in virtue of the inner allegiance of people and their willingness and readiness to take initiatives and assume responsibilities. Their so-called internal order is reduced to a simple truce among the various groups, with the continual threat that their balance will be upset by any variation either in the interests at stake or in the proportion among the respective forces. Since they are so fragile and unstable in their internal constitution, these complexes are all the more likely to become dangerous to the whole family of states.¹⁴

The pope then went on to contrast imperialism's tendency to ethnocentrism with the Church's respect for the equality of all people which leads her to approach them as they are, in "the normal economy of common human life" and to apply "her vital law of continual adaptation."¹⁵ When people come to the Church, they do not have to leave their homelands, another contrast with modern empires. And this leads the pope to conclude:

The Church living in the heart of man and man living in the bosom of the Church, this, Venerable Brethren, is the most profound and effective union conceivable. With this union the Church raises man to the perfection of his being and vitality in order to give human society men so formed: men established in their inviolable integrity as images of God; men proud of their personal dignity and their sound freedom; men rightly jealous of their equality with their fellows in everything that affects the innermost depths of human dignity; men firmly attached to

¹⁴ Ibid., p. 145.

¹⁵ Ibid., pp. 145-146.

their earth and to their tradition; men, in short, characterized by this fourfold element. This is what gives human society its solid foundation and confers on it safety, balance, equality, and a normal development in space and time. This, finally, is also the true meaning and practical influence of the supra-national character of the Church. . . .¹⁶

On the basis of this comparison, the pope went on to speak about the Church's difficult mission. She cannot remain in the sanctuary but must collaborate in constructing solid foundations for society. This is an essential mission for her because in this respect "the Church can be said to be the society of those who, under the influence of grace, in the perfection of their personal dignity as children of God and in the harmonious development of all human inclinations and energies, build the powerful armature of human common life." The primary agents of this task will be the laity:

In this respect, Venerable Brethren, the faithful and, more precisely, the laity find themselves in the front lines of the Church's life. For them the Church is the vital principle of human society. For that reason they especially must have an ever clearer awareness not only that they belong to the Church, but that they are the Church, that is, the community of the faithful on earth under the leadership of the common Head, the Pope, and of the bishops in communion with him. They are the Church, and for that reason, from the first days of its history, the faithful, with the consent of their bishops, have come together in particular associations concerned with the most diverse aspects of life. And the Holy See has never ceased to approve them and to praise them.¹⁷

Read in context, then, the application of the principle of subsidiarity within the Church is an integral part of the pope's argument. He is not simply contrasting the social *doctrine* of the Church to the tendencies of modern imperialism; he is also contrasting the Church's *practice* of cultivating the inner dimensions of the person and of providing him opportunities for responsibility and initiative while modern empires

¹⁶ Ibid., pp. 147-148.

¹⁷ Ibid., p. 149. On p. 150, the pope notes that "the complications of the economic and military order have made society into a gigantic machine, which man no longer masters but even fears."

deprive him of these by centralization and uniformity. It is adult, solidly grounded, responsible individuals that the Church contributes to society; in fact they, particularly the laity, alone and in associations, *are* the Church in the world, the ones through whom the Church is society's "vital principle." That subsidiarity applies in the Church is thus clearly not an afterthought, much less a simple hypothesis, but a central point of the pope's whole argument.

The context also helps one understand the one qualification which Pius XII placed on the application of subsidiarity in the Church: that it be done "without prejudice to her hierarchical structure." Giandomenico Mucci has recently argued that this excludes the applicability of the principle to the Church's hierarchical structure.¹⁸ But his argument rests more on assumptions about the model of the *societas perfecta inaequalium* he believes underlies Pius XII's ecclesiology than upon the internal argument. In fact, the speech represents an important correction of such a model of the Church; and if, as Mucci argues, subsidiarity were incompatible with the hierarchical structure of the Church, the pope would not be able to contrast the Church to imperialistic tendencies which deprive people of all responsibility and initiative!

The analysis given here on the basis of the internal argument of the pope's speech is confirmed by learning that it was drafted by Gustav Gundlach whose analysis of the modern world, of the Church as the vital principle of society, and of the special role of the laity is faithfully reflected in it.¹⁹

The only other occasion on which Pius XII appealed to the principle of subsidiarity was in an address to the Second World Congress on the Lay Apostolate (October 5, 1957). The context was the pope's remarks

¹⁸ Giandomenico Mucci, "Il principio di sussidiarietà e la teologia del Collegio episcopale," *La Civiltà Cattolica* 137/2 (1986), 433-435. Mucci here seems to be answering the claim of Oswald von Nell-Breuning, "Subsidiarität in der Kirche," *Stimmen der Zeit* 204 (1986) 147-157, that the phrase indicates the compatibility between the principle and the structure.

¹⁹ For Gundlach's role, see Schwarte, *Gustav Gundlach*, pp. 123, 125; for his idea of the Church as *Lebensprinzip*, which he regarded as a corrective of the theology of *Mystici Corporis*, see pp. 213-218. Gundlach provided a commentary on the speech in "Annotationes," *Periodica* 35 (1946) 94-108, translated as "Der überationale Charakter der Kirche und die menschliche Gesellschaft," in *Die Ordnung der Menschlichen Gesellschaft*, 1:370-387. See also Oswald von Nell-Breuning, "Die Kirche das Lebensprinzip der menschlichen Gesellschaft," in *Wirtschaft und Gesellschaft Heute, II: Zeitfragen* (Freiburg, 1957), pp. 373-386.

about the responsibility of the laity, who are not a merely passive element in the Church while the clergy alone are active. Lay people are called to collaborate in building up the Mystical Body. "All are free persons and must thus be active." The "emancipation of the laity" should not degenerate into quarrels among clergy and laity. Each has its own sphere of action, and if the laity should respect the clergy, "the lay person also has rights and the priest must in turn recognize them."

For this reason it is wrong to concentrate on differences in social function:

This is not an end in itself either in general or within the Church, for the community, in the end, is at the service of individuals and not vice-versa. If history shows that from the origins of the Church, lay people have taken part in the activity which the priest carries out in the service of the Church, it is true that today more than ever they must offer this cooperation with all the more fervor, "to build up the Body of Christ," in all forms of the apostolate, especially in order to make the Christian spirit penetrate into all family, social, economic, and political life.²⁰

The shortage of priests makes this work of the laity "a necessary complement of priestly work."

But even independently of the small number of priests, relations between the Church and the world demand the intervention of lay apostles. The *consecratio mundi* is, in its essentials, the work of the laity themselves, of those who are intimately involved in economic and social life and participate in government and in legislative assemblies. Similarly, the Catholic cells which must be created among workers in each factory and work-place, in order to bring back to the Church those who have departed from it, cannot be established except by workers themselves.

Ecclesiastical authority should apply here also the general principle of subsidiary and complementary assistance. A lay person should be entrusted with the tasks which he can accomplish as well as or better than the priest; and, within the limits

²⁰ Pius XII, allocution of October 5, 1957: *AAS* 39 (1957) 926.

of his role and those traced by the common good of the Church, he should be able to act freely and on his own responsibility.²¹

Once again, the appeal to subsidiarity in the Church is more than an *obiter dictum*.²² It is at the heart of an argument on behalf of the rights of the laity and is echoed immediately afterwards by an evocation of lay people "who know how to assume all their responsibilities," whose qualities are then described in a direct citation of Pius XII's address to the cardinals in 1946.²³ If believers today are to be able to resist the temptations of the world, they will have to be people of great personal strength and maturity. This may require certain precautionary measures by both Church and State, but "the institutions must be so perfect that they can themselves safeguard the individual, while the individual must be formed for the autonomy of an adult Catholic, as if he could count only upon himself to conquer all difficulties."²⁴

Pope Pius XII again included a qualifying phrase: "within the limits of his role and those traced by the common good of the Church." But again this should not be read as eliminating the force of the principle, since the entire argument of the pope is to identify specific roles and rights and to insist even that the common good of the Church, as of society, requires the formation of persons who can assume adult, free, and responsible initiatives.²⁵

Pope John XXIII

The principle of subsidiarity does not appear to have been explicitly applied to the Church by John XXIII. But on at least one occasion, he did describe what it usually is understood to mean:

It is known that the Church, taught by centuries of experience, prefers, while maintaining the rights of the hierarchical

²¹ Ibid., p. 927.

²² This, surprisingly, is the view of Nell-Breuning, although he sees it as an indication of "how much Pius XII took it for granted that the principle of subsidiarity not only is consistent with the hierarchical structure of the Church but belongs to this structure"; "Subsidiarität in der Kirche," p. 156.

²³ Pius XII, allocution of October 5, 1957, pp. 927-928. It is surely not accidental that this description is cited from the same 1946 speech in which Pius XII first evoked the principle of subsidiarity.

²⁴ Ibid., p. 928.

²⁵ I have no external evidence of Gundlach's role in the drafting of this speech, but the similarity between several of the pope's arguments and Gundlach's thought, as well as the explicit citation of the 1946 address, suggest that he had a hand in the writing of this speech also.

authority established by God himself and the principle of ecclesiastical discipline, to leave to her children and to the organizations which flourish within her that reasonable freedom of movement which is the source of abundant energies and initiatives also within human society.²⁶

The Second Vatican Council

As will be noted below, appeals to subsidiarity began to appear in the theological and canonical literature in the years before the Second Vatican Council and particularly after Pope John's announcement. Whether it was mentioned or not in the *vota* presented to the Antepreparatory Commission only a further study can reveal; but it is not included in that commission's summaries of proposals for decentralization. Early in 1961, however, Cardinal König mentioned it in the context of his hopes that the council would enhance the role of bishops, give a greater role to episcopal conferences, and promote decentralization in the Church.²⁷

Subsidiarity was invoked as a principle of the Church's life particularly during the council's second session. It first appeared in discussions of the section on the laity in the second draft *De Ecclesia*. Bishop Höffner echoed Pius XII in asking that it govern the role of the laity, particularly for their activity in the temporal order.²⁸ Bishop Laszlo even proposed that a paragraph, "On the Validity of the Principle of Subsidiarity in the Church," be added to the text in order to introduce the following paragraphs on bishops, presbyters, deacons, and laity.²⁹

²⁶ John XXIII, Allocution to the CELAM meeting, November 15, 1958: *Discorsi, Messaggi, Colloqui del Santo Padre Giovanni XXIII* [=DMC], 1 (Tipografia Poliglotta Vaticana, 1963), p. 23. In another allocution, to Roman Catholic Action on January 10, 1960, the Pope spoke of Catholic Action as "this organization of the laity, subsidiary to the hierarchical apostolate, a marvelous instrument for the penetration of Christian thought into all the areas of life"; DMC, 2 (Tipografia Poliglotta Vaticana, 1961), p. 111. This use, of course, is exactly the opposite of Pius XII's, for whom it was the clergy who were subsidiary to the laity with regard to the *consecratio mundi*.

²⁷ See *Herder-Korrespondenz* 15 (1960-1961) 295-296. For other similar appeals, see *Herder-Korrespondenz* 15 (1960-1961) 465, and 16 (1961-1962) 325-326.

²⁸ *Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II* [AS] (Typis Polyglottis Vaticanis, 1970-1980), II, 3: 486 (available also in *Council Speeches of Vatican II*, ed. H. Kung, Y. Congar, and D. O'Hanlon [Glen Rock: Deus Books, 1964], pp. 87-88); Höffner had been a participant in German discussions of subsidiarity in civil society.

²⁹ AS II, 3: 497. Antonio Acerbi notes that these interventions were part of a larger effort, for which subsidiarity was not explicitly invoked, to complete the text's call for obedience from the laity by stressing their proper responsibility in the Church and in

Subsidiarity in the Church was also invoked when the discussion turned to the draft on bishops and the government of dioceses. Bishop Gargitter referred to it in his call for greater decentralization.³⁰ Bishop Schoiswohl devoted his whole intervention to the topic, warning that the Church should not have to face the objection "that it proposes this principle for civil society but does not effectively apply it in its own field" and proposing three consequences of the principle:

1. What belongs by divine right to a bishop in the governing of his diocese should be limited as little as possible by the supreme power of the Supreme Pontiff.
2. In the administration of the Church, which is often based on ecclesiastical laws, the following principle should obtain: dioceses and bishops should have all the competencies which are appropriate, and the central administration should have only those that are necessary.
3. Bishops themselves, of course, should act in accordance with this principle in their own dioceses. . . .³¹

Bishop Martin asked that it be applied to the reform of the membership and practices of the Roman Curia.³²

Subsidiarity was also invoked in the discussion of the juridical powers to be granted to episcopal conferences. Speaking in the name of German-speaking bishops and of the Scandinavian bishops' conference, Archbishop Schaufele proposed that the principle be applied in determining the materials over which the conferences would have some authority, so that "the ordinary power of a residential bishop is only touched for the sake of promoting some higher good, the good of the whole, the common good of the whole nation. In this way the principle of subsidiarity will be acknowledged, a principle which Pope Pius XII

society; see *Due ecclesiologie: ecclesiologia giuridica ed ecclesiologia di comunione nella "Lumen Gentium"* (Bologna: Ed. Dehoniane, 1975), pp. 305-306.

³⁰ AS II, 4: 454; Cardinal König later declared his agreement with this proposal (p. 479); see also Bishop Baudoux (pp. 833-834).

³¹ AS II, 4: 639-640. Before the council, Bishop Schoiswohl had invoked Pius XII's 1957 reference to subsidiarity with regard to lay responsibilities; see "Rechte und Pflichten des Laien nach dem geltenden Kirchenrecht," in *Der Laie: Rechte und Pflichten*, ed. Karl Rudolf (Wien: Herder, 1959), pp. 45-68, at p. 63.

³² AS II, 4: 686.

twice proclaimed applies in the Church also."³³ Bishop Pildain y Zapain, however, believed that subsidiarity requires that the conferences *not* be given any juridical authority:

Indeed—and I say this respectfully—it seems absurd now, when external adversaries are trying to inhibit the power of individual bishops, that here, in this Second Vatican Council, which is considered the council that is to exalt and glorify bishops, some new juridical organ, hitherto unheard of, should be established, whose purpose is to inhibit and restrict the freedom of bishops who are gathered in national conferences and find themselves in a minority, juridically obliging them to submit to a new juridical yoke which they have never had to bear till now.

And since those who today are in the majority, tomorrow on some other question could find themselves in the minority and in fact they will so find themselves more than once, later all bishops will be able to say that it was from the Second Vatican Council on that they were bound by a new juridical chain from which before they were free, that, further, there was greater episcopal freedom in the exercise of their divine right power before Vatican II than after it.³⁴

Finally, in the third session of the council, subsidiarity was also invoked as the principle that should govern the exercise of the apostolate by religious.³⁵

In reviewing this material, one is struck by the fact that all of the specific proposals for which an application of subsidiarity within the Church was defended were also made on other theological grounds.

³³ AS II, 4: 495. Among the signers of this statement was Cardinal Frings who, however, later uttered warnings against replacing the spirit of freedom, spontaneity, and brotherly love among the bishops with a heavy juridical apparatus; see AS II, 5: 66-69. For comments on this speech, see Joseph Ratzinger, "Buchstabe und Geist des Zweiten Vatikanums in den Konzilsreden von Kardinal Frings," *Internationale Katholische Zeitschrift* 16 (1987) 253-265, at pp. 259-260; and for Cardinal Frings' own later judgments on the matter, see *Für die Menschen Bestellt: Erinnerungen des Altbischofs von Köln, Josef Kardinal Frings* (Köln: J. P. Bachem, 1973), pp. 274-275.

³⁴ AS II, 5: 78-79.

³⁵ Bishop Wittler, AS III, 4: 453. The survey given above represents only an initial investigation, which focused on the second session of the council. Further study should be made of the question.

Perhaps the clearest example is that of the intervention of Cardinal Bea, who built his case for episcopal power on the Pauline doctrine of the common but varied responsibility of all Christians to build up the Body of Christ. "Note that according to the Apostle, the Church is built up not just by the work of the hierarchy and supreme authority but by the activity of every member. If one or more of the members does not fulfill his own role or is prevented from fulfilling it, the Church itself suffers supreme harm." After describing the need for all the members to be closely united in their activities, the structures of the Church based on divine law, and the various organizations in the Church formed over time, the cardinal drew a doctrinal conclusion:

As in any society, so also in the Church it is not the role of authority to substitute itself for individual members in matters which they can accomplish by themselves. Its role is only to supply what they cannot do themselves. It can help them and see to it that the activity of the various members is coordinated and directed to the good of the whole. The same principle applies in its own way also to any authority in relation to inferiors.³⁶

These remarks so clearly state the principle of subsidiarity that the only question is why the cardinal did not invoke it by name.

As noted above, in the texts of the Second Vatican Council the three explicit references to subsidiarity all concern its application in civil society. Some appear to have inferred from this absence that subsidiarity is not a theological principle,³⁷ while others have not been deterred by it from concluding that the principle is a key theme of the

³⁶ *AS II*, 4: 482-483. In portions of his written text not delivered in the hall, the cardinal made some practical applications: "Concretely this restriction of liberty has the goal of coordinating the actions of the various members and of effectively directing them towards the greater and universal good of the Church. Only this greater and universal good of the Church should move those in authority in certain circumstances to restrict the freedom of individuals, even if this sometimes is unpleasant." "Thus bishops have all the authority and are able to do anything for the good, provided that their activity does not harm any member, does not hinder the greater and more universal good of the Church, and is effectively directed toward the good of the whole body of the Church" (*ibid.*, p. 485).

³⁷ At the concluding press conference after the Synod of 1985, Archbishop Schotte echoed Cardinal Hamer's observation that subsidiarity is not part of the council's teaching on the Church (see *Synode Extraordinaire: Célébration de Vatican II* [Paris: Cerf, 1986], p. 603) and stated flatly: "It is not a theological principle."

council's ecclesiology.³⁸ A judgment on this question obviously depends on the larger issues of definition discussed below.

The 1967 Synod of Bishops

In June 1967 the Pontifical Commission for the Revision of the Code of Canon Law sent to those who were to take part in the first assembly of the Synod of Bishops a document entitled, "The Principles which will Guide the Revision of the Code of Canon Law."³⁹ The fifth of these principles was the application of the principle of subsidiarity in the Church. The principle was described, on the one hand, as confirming legislative unity on fundamentals and on major statements of law, but, on the other, as stating the appropriateness or need to support particular institutions both by particular law and by acknowledging their sound executive authority.⁴⁰ The statement of *Christus Dominus* 8, on the ordinary, proper, and immediate authority of bishops in their dioceses was then quoted and the conclusion was drawn that the revised code should clearly state which cases are reserved to the supreme power. Canon law should be unified with regard to its chief principles and basic institutions, its description of the Church's means to attain its goals, and its legislative procedures (*technicam*). While in the Western Church particular statutes for national churches should be avoided, this does not mean greater autonomy is not desirable in particular legislation, particularly with regard to the administration of temporalities. Procedural law is another area where the principle of subsidiarity can apply.⁴¹ On September 30, 1967, Cardinal Felici gave an

³⁸ See Otto Karrer, "Le principe de subsidiarité dans l'Eglise," in *L'Eglise de Vatican II: Etudes autour de la Constitution conciliaire sur l'Eglise*, ed. G. Baraúna, vol. 2, *Unam Sanctam* 51b (Paris: Cerf, 1966), pp. 575-606; Joseph S. George, *The Principle of Subsidiarity—with Special Reference to its Role in Papal and Episcopal Relations in the Light of Lumen Gentium*, Canon Law Studies, 463 (Washington: The Catholic University of America, 1968). After the Synod of 1967, Cardinal Felici saw subsidiarity expressed in the council's teaching on the laity and cited *LG* 30; see Pericle Felici, "La nuova codificazione canonica," in *La pastorale nel Sinodo episcopale: I cinque temi della prima assemblea generale*, ed. G. Concetti (Rome: I.R.A.D.E.S., 1968), pp. 31-45, at pp. 40-41.

³⁹ See *Communicaciones* 1 (1969) 77-85.

⁴⁰ *Ibid.*, p. 81.

⁴¹ *Ibid.*, pp. 81-82. The previous section of this document had proposed a thorough revision of the system of faculties, a positive description of the office of the bishop, and the description of the cases and dispensations reserved to higher authority; all of these were then said to be instances of the application of subsidiarity to canon law (*ibid.*, p. 80).

oral report on this document to the members of the synod. Recalling Pius XI, Pius XII, and interventions at Vatican II, he invoked subsidiarity as a principle to promote "the unity and diversity of ecclesiastical organs as well as the plurality wisely stated in the council."⁴²

During the 1967 Synod, eleven members commented on the principle, all of them favorably. Various practical implications were suggested: greater flexibility, the powers of the local bishop, variety in church law, relations between hierarchy and faithful and within religious communities, to prevent delays in marriage cases, to relate separate legislations for the Latin and the Eastern Churches within the framework of a single fundamental constitution for the Church.⁴³

On October 4, 1967, Cardinal Felici summarized these remarks and replied that the principle of subsidiarity would be applied in revising the code, but cautiously and in the spirit of the council.⁴⁴ Three days later, the synod members voted in favor of applying subsidiarity in the revision of the code by a vote of 128 *placet*, 58 *placet iuxta modum*, and 1 *non placet*.⁴⁵

Paul VI and the 1969 Synod of Bishops

The first extraordinary assembly of the Synod of Bishops took place in the fall of 1969. It was called to examine the relationships between episcopal conferences and the Apostolic See and among the episcopal conferences themselves. The responses of the episcopates to the announced theme included a request that the principle of subsidiarity be discussed.⁴⁶ In the preliminary document sent out in May, the section on "Closer Cooperation between the Episcopal Conferences and the Apostolic See" discovered among the contemporary "signs of the times" the need to apply the principle of subsidiarity. This was said to be "a principle which today especially applies in every institution in this world if it is to meet new needs." The valid diversity in the local

⁴² Ibid., p. 89.

⁴³ Giovanni Caprile, *Il Sinodo dei Vescovi: Prima Assemblea Generale* (Rome: La Civiltà Cattolica, 1968), pp. 94-122. (This work will be cited as "Caprile, 1967.")

⁴⁴ *Communicationes* 1 (1969) 96.

⁴⁵ See Caprile, 1967, pp. 134-136; *Communicationes* 1 (1969) 99-100. For Cardinal Felici's description of the debate see "La nuova codificazione canonica," pp. 40-41.

⁴⁶ See Giovanni Caprile, *Il Sinodo dei Vescovi: Prima Assemblea Straordinaria* (Rome: La Civiltà Cattolica, 1970), p. 432 (cited hereafter as "Caprile, 1969"). This proposal is cited as having come from bishops in Belgium, India, Australia, Poland, and New Zealand.

churches and their need to be able to act in timely fashion require subsidiarity in the Church. The principle also, however, articulates the need for unity in the Church and the occasional reservation of a matter to higher authority. The document concluded with an invocation of "the principle of solidarity on which the principle of subsidiarity rests" and described it as "a necessary complement of subsidiarity since it inserts the mutual solicitude of bishops into this structure of the Church's unity and also puts it into practice."⁴⁷

Apparently responding to these suggestions, Pope Paul VI in his opening homily discussed the principle of subsidiarity in the context of collegiality. This, he said, must be guided by charity and unity, which inspire two principal norms. The first is that proper honor and trust be given to the order of bishops, which requires that they be given "a fairer and fuller measure of the privileges and faculties" which are theirs in virtue of ordination and communion with the Apostolic See. It was in this connection that the Pope referred to subsidiarity:

This norm will not be restricted or limited if the application of the relevant principle of "subsidiarity" is rightly tempered by humble and judicious prudence, so that no damage is done to the common good of the Church by multiple and excessive forms of particular autonomy. Such forms would obstruct the unity and charity that ought to make the Church *cor unum et anima una* and would foster ambitious rivalry and excessive concern for one's own interests. Nor will this norm suffer any harm if another principle, that of "pluralism," is so defined that it does not go against the faith, to which it cannot be applied, or against the general discipline of the Church, which rejects license and disorder because they do injury to the harmony of feeling and practice that is necessary to the society of God's people and to its weighty bond of collegiality.

The second norm is parallel, that bishops have "a more suitable participation in the government of the universal Church" and that they be "bound more closely together in common efforts toward that end." This, the pope said, would better serve the common good of the Church, relieve his own increasingly heavy burdens, and give better witness to the hierarchy's unity of faith and love. Here, too, however, a caution is in order:

⁴⁷ Caprile, 1969, pp. 447-448.

But in this area it should be evident to everyone that church government is certainly not able to adopt the forms and ways that are proper to human governments and which in our day are based on democratic institutions, which are sometimes irresponsible, or on tyrannical rule, which wholly opposes the dignity of the human person. The government of the Church has its own proper shape and structure whose purpose is to express in all its forms the will and wisdom of its divine Founder.⁴⁸

In these remarks Paul VI states that subsidiarity is a relevant principle for relations between pope and bishops, but, quite typically, he also cautions that it not be confused with forms of autonomy that could harm the Church's common good. Perhaps his cautions with regard to pluralism and the introduction of secular models of government must also be considered relevant to the issue of employing subsidiarity in the Church.

In the course of the synodal deliberations, subsidiarity was invoked by at least eight of the members, with some reservations being expressed by two of them.⁴⁹ When Cardinal Marty introduced the discussion of relationships between episcopal conferences and the Apostolic See, he summarized what the bishops had asked be discussed with regard to subsidiarity. After quoting from *Christus Dominus* 8, he went on:

In order to put this norm into practice, the following two-fold general rule can be proposed: (a) what can be accomplished by individual bishops in their dioceses should not be withdrawn

⁴⁸ AAS 51 (1969) 719-720.

⁴⁹ See Caprile, 1969, pp. 73-74, 101, 106-107, 115, 127; see also pp. 260-261. The most extensive discussion was that of Bishop Carlo Colombo: "As for the principle of subsidiarity, one must distinguish between disciplinary and pastoral matters and doctrinal matters, respecting either faith or morals. By its nature, pastoral activity is a pedagogical action and therefore must be adapted to the spiritual conditions of the individual particular churches. The first and immediate judges of these are those who, as vicars and legates of Christ, govern the churches entrusted to them. In the doctrinal field, however, the relationships are inverted. Revealed truth and the divine law are only one in the Church, that namely, which is taught by the authority of the magisterium in the name of Christ, which extends to the whole Church, that is, the college of bishops under the guidance of the Roman Pontiff or the Roman Pontiff himself, personally teaching in his role as teacher and master of the universal Church. Thus the final judgement on teaching itself, on the pedagogy of faith and the moral law, while not being taken away from the authority of individual bishops, by its nature belongs first and *per se* to the competence of the supreme magisterium which must be acknowledged on both the theoretical and the practical levels" (p. 127).

from their power; (b) what requires general determination, common to the various particular churches of a region, and can be accomplished by the episcopal conferences should be acknowledged to be of their competence and should not be reserved to the Holy See. If the principle of subsidiarity is to be rightly defined and applied in the Church, one must take into account both the unity of faith and communion which must be preserved and assured, and the need for a common determination of those issues which directly concern the whole Church. We hope that from this Synod's deliberations it may become clearer how, in view of the nature and constitution of the Church, the principle of subsidiarity can be put into practice.⁵⁰

The *circuli minores* generally supported the principle but most of them also stressed that it can only be applied analogously and, when applied to episcopal conferences, must always respect the rights and freedom of both the pope and the individual bishop.⁵¹ At the end of their discussions, the members were asked to vote on the principle, and once again it received a very large majority of votes: 98 *placet*, 37 *placet iuxta modum*, and 7 *non placet*.⁵²

Toward the end of the synod, Pope Paul VI again referred to the principle:

We are also quite ready to respond to all legitimate requests for fuller recognition of the particular character and needs of local churches through a proper application of the principle of "subsidiarity." This principle certainly needs to be further studied and clarified; but in its basic meaning we certainly accept it. The principle, however, cannot in any way be confused with the demand for that "pluralism" which would do injury to the faith, the moral law, and the principal forms of sacramental, liturgical, and canonical discipline, forms whose purpose it is to preserve the unity needed in the whole Church.⁵³

⁵⁰ Caprile, 1969, p. 484.

⁵¹ Caprile, 1969, pp. 166-167 (see also p. 235), 169, 173, 180-181, 183, 185-186.

⁵² Caprile, 1969, pp. 216-217; for the unofficial comments of several participants after the Synod, see pp. 220, 388, 390-391, and *L'Osservatore Romano* (English edition), April 30, 1970, p. 8 (Cardinal Danielou).

⁵³ AAS 51 (1969) 728-729. Three years later, in an address to the cardinals, Pope Paul VI made another reference to subsidiarity in the context of a pessimistic description of developments in the Church: "The negative reactions to which we have alluded seem also

The 1974 Synod of Bishops

This synod was devoted to the theme of evangelization. An initial perusal of Caprile's volume discovers that subsidiarity was invoked favorably at least five times⁵⁴ and that the *Relatio* in which the synodal interventions were synthesized makes explicit reference to it:

The relationship between the local churches and the Apostolic See needs study. The universal Church is the communion of local churches, over which the Roman Church and its bishop presides as the principle of unity and bond of universal charity. The reality of the local church must be fully recognized and its legitimate authority needs to be acknowledged and promoted. This requires that the principle of subsidiarity be truly applied and that a decentralization take place so that local churches can actually assume the responsibility that belongs to them. Greater authority should also be granted to episcopal conferences so that they can make necessary decisions by themselves. In summary, what is needed is that the emphasis should pass from the center to the local churches on a national, regional, and diocesan level.⁵⁵

Once again, no one appears to have spoken against the validity of subsidiarity in the Church, but the themes for which it was cited were also defended on other grounds.⁵⁶

to intend the dissolution of the ecclesiastical magisterium, either by misunderstandings which conceive pluralism as if it meant free interpretations of doctrines or the untroubled coexistence of opposite ideas, which understand subsidiarity to mean autonomy, which take the local church to be separated and free and self-sufficient, or by prescinding from teachings sanctioned by pontifical and conciliar definitions." Even here, however, the pope does not oppose subsidiarity, but only a misunderstanding of it as "autonomy."

⁵⁴ See Giovanni Caprile, *Il Sinodo dei Vescovi: Terza assemblea generale (27 settembre—26 ottobre 1974)* (Rome: La Civiltà Cattolica, 1975), pp. 187, 258, 309, 342, 349, where subsidiarity is related to decentralization and coresponsibility.

⁵⁵ Caprile, 1974, pp. 939-940.

⁵⁶ I have not been able to do a study of subsidiarity at the Synod of 1977, which was devoted to the topic of catechesis. Professor Maurice Simon, however, has drawn my attention to the last of the propositions which this synod made to the pope. Speaking of the bishop's responsibility to supervise the transmission of doctrine, it says that "he must maintain close relations with theologians, catechists, and specialists in the human sciences. As far as possible, he should apply the principle of subsidiarity and of coresponsibility. The more those who have some responsibility in diocesan catechesis share in the

The Revised Code of Canon Law

When the revised Code of Canon Law was issued in 1983, it included a preface which summarized the ten principles approved by the Synod of 1967 and used as guides for the revision. Two of these concerned the principle of subsidiarity:

4. So that in the care of souls the supreme lawgiver and the bishops may work together and the pastoral role may appear in a more positive light, what until now were extraordinary faculties for dispensation from general laws should become ordinary, while only matters which require exception for the sake of the common good will be reserved to the supreme power of the universal Church or to other superior authorities.
5. Proper attention should be given to the principle which follows from the previous one, i.e., the principle of subsidiarity, which is all the more to be applied in the Church because the office of bishops with its attendant powers is of divine right. In virtue of this principle, while legislative unity and the universal and general law are preserved, the fittingness and need should be acknowledged of providing for the good especially of individual institutes through particular laws and by acknowledging them to have a healthy autonomy of particular executive power. Relying on the same principle, the new code should leave to particular laws or to executive power matters which are not necessary for the disciplinary unity of the universal Church, so that a healthy so-called "decentralization" might appropriately be provided for, as long as the danger of disunity and of the establishment of national churches is avoided.⁵⁷

formulation of catechetical plans, the more the catechesis itself will be effective" (see *Réalités et avenir de la catéchèse dans le monde* [Paris: Centurion, 1978], p. 214).

⁵⁷ *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (Vatican City: Libreria Editrice Vaticana, 1983), pp. xxi-xxii. While the Preface does not make the connection explicit, the seventh principle also articulates a principle often associated with subsidiarity: "Because of the fundamental equality of all the faithful and the diversity of offices and tasks which is founded in the very hierarchical order of the Church, it is appropriate that the rights of persons be aptly defined and kept safe. This insures

As far as I know, no one has yet studied how subsidiarity was employed as a principle in the course of the work of revision. The commentaries on the new code can be consulted for evidence of its influence on the new legislation.⁵⁸

The 1985 Synod of Bishops

The principle of subsidiarity was also debated at the extraordinary assembly of the Synod of Bishops in 1985. The issue was a matter of discussion at two meetings shortly before the synod opened. At the Symposium of the Bishops of Europe held in Rome, October 7-11, the various language groups presented their views on the forthcoming synod. The English-speaking bishops invoked the vision of the Church as a "communion of communions" which "asks of the Extraordinary Synod both a generous acceptance of the principle of subsidiarity and guidance as to the particular tasks to be carried out by the particular church, each in its own way, so as to become what it truly should be."⁵⁹

On November 21, 1985, at the plenary session of the College of Cardinals, Jérôme Cardinal Hamer gave a speech on relations between the Roman Curia and bishops and episcopal conferences. He added at the end a note on recourse to the principle of subsidiarity. The cardinal argued that concern that the particular church's sphere of competency be respected did not need to be based on a principle of social philosophy when the council's teaching on the Church suffices. Appeal to subsidiarity had two disadvantages: its socio-political connotations and the fact that "it attributes to the universal Church a *subsidiary* role in relation to the particular church. Now, this does not correspond to the real relationship which exists between them. The universal Church

that the exercise of power will appear more clearly as service, its exercise will be further strengthened, and abuses will be removed."

⁵⁸ Subsidiarity was also admitted as an applicable principle in the preparation of the ill-fated *Lex Ecclesiae Fundamentalis*; see Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Legis Ecclesiae Fundamentalis: Textus Emendatus cum relatione de ipso schemate deque emendationibus receptis* (Vatican City: Typis Polyglottis Vaticanis, 1971), p. 126. This text can also be found in *Legge e Vangelo: discussione su una legge fondamentale per la Chiesa* (Brescia: Paideia Editrice, 1972), p. 624.

⁵⁹ See *Synode extraordinaire*, pp. 646-647 (above, note 37; this book will be cited as *SE*); Giovanni Caprile, *Il Sinodo dei Vescovi: Seconda assemblea generale straordinaria (24 novembre—8 dicembre 1985)* (Rome: La Civiltà Cattolica, 1986), pp. 40-41 (cited as "Caprile, 1985").

does not have a simply substitutive role." In conclusion, the cardinal argued:

The appeal to this principle is unnecessary because the ecclesiology of Vatican II perfectly expresses why and how the proper competence of the particular church must be respected. It is enough to refer to *Lumen gentium* 27 on the ordinary and immediate power of the bishops responsible for particular churches and on its regulation.

No model drawn from the civil community can take account of an ecclesiology such as that expressed in the following characteristic statements: "Individual bishops are the visible principle and foundation of unity in their particular churches, *formed in the image of the universal Church, in which and out of which the one and unique Church exists*" (LG 23); "A diocese is a portion of the People of God . . . so that . . . it might constitute a particular church, *in which is truly present and active the one, holy, catholic, and apostolic Church of Christ*" (CD 11).⁶⁰

When the synod opened, 95 reports had been received in response to the questionnaire sent out by the synod secretariate. At least eight of these reports made reference to the principle of subsidiarity, all of them favorable.⁶¹ It was used to criticize Roman centralization and interference and to support greater self-responsibility, autonomy and diversity in the local churches, to articulate the competency of episcopal conferences, and to promote a greater role for the laity. In his Initial Report, however, Cardinal Danneels made no mention of subsidiarity.

As far as can be determined from the inadequate documentation now available, in the oral and written interventions made at the synod itself, subsidiarity was invoked by eight bishops, again always favorably, and for the same purposes.⁶² Archbishop Lorscheiter's written intervention was the longest and developed a theological argument:

⁶⁰ *SE*, pp. 602-604. See Walter Kasper, "Der Geheimnischarakter hebt den Sozialcharakter nicht auf: Zur Geltung des Subsidiaritätsprinzip in der Kirche," *Herder-Korrespondenz* 41 (1987) 232-236.

⁶¹ See *SE*, pp. 71 (North Africa), 81 (England and Wales), 127-128 (Brazil), 176 (Canada), 229 (Indonesia), 274 (Scandinavia and Finland); to these should be added the reports from the Philippines and Pakistan, so far not published.

⁶² See *SE*, pp. 386, 406, 422; Caprile, 1985, pp. 124, 136, 168, 183, 201, 214, 221, 243, 299-301; see also pp. 147-148, 314-316, where subsidiarity seems to be intended but is not named.

Certainly the Church should not be compared with civil society. But the peculiar structure of the Church seems to provide even stronger grounds for the application of the principle of subsidiarity. The reasons are ecclesiological and theological. The Church possesses a peculiar structure by which it is realized in the particular churches, each of which is fully Church (*LG* 23; *CD* 11; *SC* 41), on condition that it remains in communion with the other particular churches and especially with the Church of Rome and its Pontiff. Thus it can be said that the universal Church is not realized except through the communion of the particular churches and that any supradiocesan ecclesial structure cannot be at the service (*subsidiium affere*) of the universal Church if it is not—at least in principle—at the service of the particular churches and their full realization as Church. Analogously, people are not Christians as isolated individuals, but only as members of a local community or particular church; on the other hand, the particular church is at the service of the “salvation of souls,” that is, the realization of the mystery of grace, which is the communion of human persons with God in Christ. Theologically, in short, it appears that the principle of subsidiarity can be applied to the Church.

After describing some of the difficulties in applying the principle, Lorscheiter proposed that the synod reflect upon ways of applying subsidiarity in matters of liturgy and doctrinal disputes and that it overcome the prejudice against decentralization and the initiatives of local churches.⁶³

In Cardinal Danneels’ *Relatio* closing the first week’s discussion and orienting the sessions of the *circuli minores*, the following paragraph appeared:

In the broad sense of the word, communion is a fundamental anthropological reality. Man was created as a social being, and people of our era, often living in anonymous structures, experience a profound desire for true communion. For this human communion, or more precisely, for this human community or society, the principle of subsidiarity, among others, applies. The question is whether this principle also applies to the Church insofar as it is a human reality. For ecclesial communion, in the

⁶³ Caprile, 1985, pp. 299-301.

strict and theological sense, is founded in the sacraments. Baptism is the door and foundation of the Church’s communion; and the Eucharist is the source and summit of all the Christian life (see *LG* 11). Communion in the eucharistic Body of Christ signifies and effects or builds communion in the Body of Christ which is the Eucharist (see 1 Cor. 10:16ff). An ecclesiology of communion, therefore, is a eucharistic ecclesiology. But the Eucharist, as St. Augustine said, is the sign of unity and the bond of charity. It is in this eucharistic theology, therefore, that is found the first principle of the life of the Church communion.⁶⁴

It is not clear why the question *whether* subsidiarity applies in the Church should have been raised, since none of the interventions appear to have raised it.⁶⁵ The *Relatio* also seems to orient the discussion in a direction unfavorable to subsidiarity in the Church.

To judge from their reports, subsidiarity was discussed in four of the language-groups. The first English group recommended “that with a view to a more effective application of church discipline and pastoral practice to local and regional conditions and their cultures and social practices, a study be made of the advisability of increasing the exercise of subsidiarity for submission to a meeting of the Synod of Bishops and subsequent decisions of the Holy See.”⁶⁶ The German group simply said:

Because the Church is *communio*, it is the task of the pope as supreme shepherd, in union with the bishops, to be the witness of the Church’s unity in faith. It is also an expression of this *communio* that the pope acknowledges and promotes the self-responsibility of the local bishop, who possesses ordinary and immediate authority to govern (CIC 381-402). How broadly the concept of “subsidiarity” is appropriate to describe this proper form of the Church needs further and more precise investigations.⁶⁷

⁶⁴ *SE*, pp. 466-467.

⁶⁵ Cardinal Castillo Lara expressed his surprise that subsidiarity was being referred to as a “novelty,” when it had been used in revising the new code to define competencies; see Caprile, 1985, p. 221.

⁶⁶ *SE*, p. 494; the report noted that nine members of the group voted against this proposal, while one abstained.

⁶⁷ *SE*, p. 486.

The other two groups were more critical. The first French group stated flatly: "a generalized and undifferentiated appeal to the principle of subsidiarity seems to be a false step." It echoed the second *Relatio* on the validity of the principle "on the level of social and political realities," but questioned its applicability to "the sacramental reality of the Church. To appeal to the principle of subsidiarity would bring back in the Church conceptions of pyramidal authority which people have wanted to eliminate. This subsidiarity is not applicable at the sacramental and liturgical level where true ecclesial communion is located." Moreover, the principle appears to counterpose primacy and collegiality, which is false.⁶⁸

In the longest observations on the theme, supplied with footnotes, the Latin group acknowledged that the principle might properly be applied in the Church, but it warned against misinterpretations, particularly one-sided views of the particular church which use subsidiarity in such a way as to limit the immediate power of the pope to intervene to cases of transgression or to supply for deficiencies. This would reduce the universal Church to a mere federation in which the pope would have only "some subsidiary role, like a president who has the power to intervene in extraordinary circumstances and not in the daily life of the particular churches. According to this idea, the universal Church would have no substance." "To understand subsidiarity as the complete independence of the particular churches in reference to the primacy of the Roman Pontiff is to oppose the divine constitution of the Church."⁶⁹

At the conclusion of the synod, the Final Report referred to the principle in the third of the suggestions which closed its discussion of the Church as communion: "It is recommended that a study be made to examine if the principle of subsidiarity in use in human society can be applied in the Church, and to what a degree and in what sense such an application can and should be made (see Pius XII, *AAS* 38 [1946] 144)."⁷⁰

⁶⁸ *SE*, p. 523; Caprile, 1985, p. 341, identifies Cardinals Hamer and Lustiger as arguing the case against subsidiarity.

⁶⁹ *SE*, pp. 543-544.

⁷⁰ *Final Report*, II, C,8 (*SE*, p. 563). In the discussion of this text, Cardinal Castillo Lara again expressed his surprise at the matter: "Some of the questions about which study is recommended are already adequately regulated in the code, e.g., the application of the principle of subsidiarity. If this is applied correctly, it tends to determine the sphere of the respective powers in the particular churches and in the Holy See. This has already

On June 28, 1986, in an address to the Roman Curia, Pope John Paul II made some brief remarks on the synod's call for a study:

As may be seen, this is a subtle question, which originated in problems of a social, not ecclesial nature. My predecessors, Pius XI and Pius XII, of venerable memory, accepted it as a valid principle for social life, whereas for the life of the Church they pointed out that any application must be made "without prejudice to the Church's hierarchical structure" . . . ; it must also be without prejudice to the nature and exercise of the primacy of the Roman Pontiff (see Vatican I, DS 3060-3064).

The extraordinary Synod of 1969 had already discussed the question, asking for further and more precise study of the competence of bishops, both as individuals and gathered in a conference. Later, the code, in its Preface, referred "either to particular laws or to executive power whatever is not necessary for the unity of discipline of the universal Church."

The council and then the code, while avoiding use of the term "subsidiarity," encouraged participation and communion among the Church's bodies. As can be seen, it is not just a question of terminology, but also of concepts. The synod therefore expressed a desire for further exploration by means of a special study. Because the possibilities and the ways of realizing it are so broad, the Council of the Secretariate of the *Synodus Episcoporum* made a request, which I gladly granted, that further reflection on the topic be undertaken in order to collect the major elements and ideas and to draw up a *status quaestionis*. The work has begun, and the first results will be examined at the next fall meeting of the council.⁷¹

In these remarks, Pope John Paul II does not give any indication of his own view on the matter.⁷² Perhaps it should be noted that he gives

been done sufficiently. What, then, does the proposal in the text mean? That the discipline determined in the code, published only in 1983, should be changed?" (Caprile, 1985, p. 392).

⁷¹ Caprile, 1985, pp. 470-471. At this point, it appears that no report on the work of the commission discussing subsidiarity was made at the 1987 Synod of Bishops.

⁷² Once again I owe to Prof. Maurice Simon the brief reference to subsidiarity in the Church which Pope John Paul II made in an address to the Roman Curia on June 28, 1980. After quoting Paul VI on the various degrees to which theologians may participate

about the danger of seeing the Church as a form of totalitarian organization ("an ecclesiastical 'State Socialism'") which leaves no room for personal decision and initiative, an argument which echoes Pius XII's contrast between modern imperialism and the Church.⁸⁰

The first article wholly devoted to subsidiarity in the Church appears to be that published by Wilhelm Bertrams early in 1957.⁸¹ Bertrams began with a lengthy discussion of human sociality, its internal structure, and external order. He then argued that subsidiarity is a metaphysical principle which should determine competencies among societies. As a formal principle, it needs material determination by the nature of the society in which it applies.

Subsidiarity cannot apply in the creation or constitution of the Church, which is a divinely established institution.

Nevertheless, once established as a supernatural society through Christ the Lord—with all those supernatural goods it needs to obtain its goal—the Church develops in almost the same way as natural societies usually develop. As a natural society always arises *de novo*, in the sense that the common good is always to be achieved *de novo*, by the cooperation of its members, so also the Church always arises *de novo*, in the sense that its goal is to be obtained by the common activity of all the pastors and faithful to achieve that goal.⁸²

Subsidiarity can only be applied in its positive sense to the internal structure of the Church, that is, the Church supplies *subsidium* to people so they can achieve an end impossible to achieve by their natural powers. For the same reason, however, its negative norm, restricting intervention to what is necessary, is not applicable.⁸³ It can, however, be applied to the Church's external order, and Bertrams devoted the

Sheed and Ward, 1959); "The Charismatic Element in the Church," *The Spirit in the Church* (New York: Seabury, 1979), pp. 33-73.

⁸⁰ Karl Rahner, *Theological Investigations*, 2:305 and 347.

⁸¹ Wilhelm Bertrams, "De principio subsidiarietatis in iure canonico," *Periodica* 46 (1957) 3-65; a shorter article in German was published in the same year: "Das Subsidiaritätsprinzip in der Kirche," *Stimmen der Zeit* 160 (1957) 252-267. Bertrams' first article certainly appeared before Pius XII's second reference to subsidiarity in the Church; but the argument and direction of this speech are far closer to Gundlach's approach than to Bertrams'.

⁸² Bertrams, "De principio subsidiarietatis," pp. 23-24.

⁸³ *Ibid.*, p. 48.

last part of his essay to illustrating it in the Code of Canon Law. Here he noted the right of the laity to receive spiritual goods from the clergy, the rights of moral persons, the capacity to acquire and administer temporal goods, rights with regard to one's own spiritual development, schooling, free associations of the faithful, religious orders, the reservation of cases in the Church, the strict interpretation of laws restricting individual rights, and the usual practices of Roman authority.⁸⁴ He concluded with a citation of Pius XII's 1946 address:

This restriction of the principle of subsidiarity by the hierarchical structure of the Church is not really a true restriction of the principle but is simply explained by the nature of the supernatural good entrusted to the Church. If today there are repeated complaints that the Church does not pay enough attention to the principle of subsidiarity, this failure certainly is not due to canon law. At most it would be caused, were this to be proved in a concrete case, by a failure to observe the norms laid down.⁸⁵

No other monograph on subsidiarity in the Church appeared before Pope John's announcement of the council. A year after that event, however, Hans Küng appealed to Bertrams' article while invoking subsidiarity as a principle to guide a needed decentralization in the Church. Küng argued for a restrengthening of the bishop's office and for a greater role for episcopal conferences as expressions of episcopal communion and solidarity. The latter should be given greater competence over questions of liturgical reform, marriage legislation, ecclesiastical administration, the settling of doctrinal disputes. Küng concluded by referring to the texts in which Pius XII had invoked subsidiarity on behalf of the active role of the laity.⁸⁶

⁸⁴ *Ibid.*, pp. 51-63.

⁸⁵ *Ibid.*, pp. 64-65. In a footnote, Bertrams explained that the complaints he had most in mind concerned a recognition of the faculties and activities of lay people in the Church.

⁸⁶ Hans Küng, *The Council, Reform and Reunion* (New York: Sheed and Ward, 1961), pp. 169-185; see also "The Petrine Office in the Church and in Council," *Structures of the Church* (Notre Dame: University of Notre Dame Press, 1968), pp. 201-304, at pp. 215-221; "The Petrine Office and the Apostolic Office," *The Living Church: Reflections on the Second Vatican Council* (London: Sheed and Ward, 1963), pp. 333-369, at pp. 351-365.

Küng's pages are the longest discussion of the issue in the literature provoked by the announcement of the council. Karl Rahner briefly returned to the subject in discussing episcopacy and primacy, while Yves Congar made one of the first non-German references to it in proposing the creation of intermediate bodies between pope and bishop.⁸⁷ Reviewing Küng's book on the council, however, Jérôme Hamer criticized the appeal to subsidiarity because of the vagueness of the principle and the limits of the analogy between the Church and civil society.⁸⁸

A second monograph on subsidiarity in the Church appeared during the council. Matthäus Kaiser built his case largely on the principles proposed by Bertrams, but he did not hesitate to speak of it as "the supernatural principle of subsidiarity" which is to "regulate the competence for the permitted exercise of church office."⁸⁹ He believed it to be pertinent in relations between the universal Church and the particular church and to have been anticipated in the German Bishops' reply to Bismarck (1875). He drew the following conclusion:

The pope *can* in virtue of his immediate power of divine right legitimately exercise his supreme pastoral power without any mediator over each individual particular church and their pastors and faithful. But the pope *may not* intervene as he likes and arbitrarily in the also divine right competence of the ruling bishop. He *must*, however, intervene when this is necessary. The role of the pope with regard to the particular churches is to support, supplement, and coordinate.⁹⁰

After illustrations, he proposes a neat formulation: "As much proper life in the particular church as possible, as much intervention of the central power in the particular church as is necessary to serve the unity

⁸⁷ See Karl Rahner and Joseph Ratzinger, *The Episcopate and the Primacy* (New York: Herder and Herder, 1962), p. 134, but see p. 110; Yves Congar, *Sainte Eglise* (Paris: Cerf, 1963), pp. 695-696. See also Ferdinand Holböck, "Das Mysterium der Kirche in dogmatischer Sicht," in *Mysterium Kirche in der Sicht der theologischen Disziplinen*, ed. F. Holböck and T. Sartory (Salzburg: Müller, 1962), 1:201-346, at p. 273, where the context again is decentralization, and subsidiarity is proposed as useful for avoiding "an unhealthy discrepancy between center and periphery in the Church."

⁸⁸ Jérôme Hamer, "Bulletin d'ecclésiologie," *Revue des Sciences Philosophiques et Théologiques* 46 (1962) 565.

⁸⁹ Matthäus Kaiser, "Das Prinzip der Subsidiarität in der Verfassung der Kirche," *Archiv für katholisches Kirchenrecht* 133 (1964) 3-13, at pp. 4-5.

⁹⁰ *Ibid.*, pp. 6-7.

of the Church and the common good."⁹¹ Similar analyses are then made with regard to the relation between diocese and parish and between pope and ecumenical council.⁹²

After the council, two monographs were devoted to the topic of subsidiarity in *Lumen gentium*. Otto Karrer was not deterred by the absence of the term from regarding subsidiarity as a *leitmotiv* of the whole text.⁹³ He was able to do this because he identified subsidiarity with solidarity and then found multiple synonyms for the latter in Scripture and in the documents of Vatican II (e.g., *mutua connexio*, *communio*, *mutuae relationes*).⁹⁴ This confusion and generality make Karrer's essay quite unusable for a critical investigation of the topic both in itself and in *Lumen gentium*.

The other monograph on the subject is the doctoral dissertation of Joseph A. George.⁹⁵ More carefully argued than Karrer's essay, this work built largely on Bertrams' theoretical basis in order to review all the conciliar documents to find illustrations of subsidiarity in relations between pope and bishop.

It was only after the 1967 Synod of Bishops adopted subsidiarity as a principle to guide the revision of the Code of Canon Law and after the 1969 Synod echoed that endorsement that subsidiarity began to

⁹¹ *Ibid.*, p. 9.

⁹² *Ibid.*, pp. 10-13. The article was written before *Lumen gentium* was promulgated and reflects a weak notion of collegiality and of each bishop's *sollicitudo omnium ecclesiarum*, which leads Kaiser to regard an ecumenical council as subsidiary and supplementary to the pope!

⁹³ Otto Karrer, "Le principe de subsidiarité dans l'Eglise," in *L'Eglise de Vatican II*, ed. G. Baraúna, p. 575. In the same volume, Olegario Gonzalez Hernandez briefly argued that "from the principle of collegiality must follow the sociological principle of subsidiarity, according to which each of the members of the community must exercise his proper role and may, but only when it is not possible for him to do anything else, allow himself to be replaced by someone else who in turn has a duty to supply for the one who fails. A principle valid both in the administrative and the apostolic orders"; see "La nouvelle conscience de l'Eglise et ses présupposés historico-théologiques," pp. 175-209, at p. 200.

⁹⁴ Karrer, p. 575; on p. 576 he argues that it was this general sense of ecclesial subsidiarity (=solidarity) which was transported to civil society in *Quadragesimo anno!* Solidarity and subsidiarity are manifestly related, but they are not identical.

⁹⁵ Joseph A. George, *The Principle of Subsidiarity*; see also his article, "Subsidiarity in the Church," *New Catholic Encyclopedia*, 16, Supplement 1967-1974 (Washington: McGraw-Hill, 1974), p. 436.

appear rather frequently in the theological and canonical literature.⁹⁶ Until Barberini's review-article of 1980,⁹⁷ all the authors who deal with the issue, whatever qualifications they express, agree that subsidiarity can and should apply in the Church. Even in the 1980's it is not until Cardinal Hamer's speech and the extraordinary assembly of the Synod in 1985 that any real opposition is expressed.

THE ISSUES UNDER DEBATE

Rather than continue to follow this development chronologically,⁹⁸ it may be more useful to try to identify the chief questions stated or implied in the debate. I will, therefore, summarize the practical issues concerning which subsidiarity is invoked, attempt to identify and briefly to explore the chief theoretical issues behind this appeal, and having described the *status questionis*, finally return to the practical questions.

The Practical Issues

Most generically, the principle of subsidiarity has been invoked in favor of decentralization in the Church, which even at times seems to be considered a simple synonym for subsidiarity.⁹⁹ Most frequently, this

⁹⁶ Two Spanish scholars, however, did address the issue as early as 1965. Teodoro Jiménez-Urresti briefly referred to the principle: "The pope, as pope, . . . does not exist in order to contribute to each bishop something which the latter could not realize himself in his own particular church, although the pope, sometimes and *par voie de consequence*, has to apply the principle of subsidiarity"; see "L'autorité du Pontife romain sur le collège épiscopal, et, par son intermédiaire, sur l'Eglise universelle," in *La collegialité épiscopale: Histoire et théologie* (Paris: Cerf, 1965), pp. 223-281, at p. 262, where, however, in a footnote he indicates he shares Hamer's scepticism about the principle. Victor de Reina, "Poder y sociedad en la Iglesia," in *Iglesia y Derecho: Trabajos de la X Semana de Derecho Canonico* (Salamanca: Cervantes, 1965), pp. 99-132, at pp. 127-132, gave a nuanced approval to the application of subsidiarity in the Church.

⁹⁷ Giovanni Barberini, "Appunti e riflessioni sull'applicazione del principio di sussidiarietà nell'ordinamento della Chiesa," *Ephemerides Iuris Canonici* 36 (1980) 329-361. The usefulness of this review is considerably diminished by the fact that the author excludes the literature in German, which is rather like trying to discuss Gallicanism without consulting the literature in French!

⁹⁸ See the accompanying bibliography which includes both monographs and more or less casual references to subsidiarity.

⁹⁹ See, for example, Henri de Lubac, *Les églises particulières dans l'Eglise universelle* (Paris: Aubier, 1971), pp. 113-115, 132-135. Other authors, however, point out that decentralization is not the sole or even the inevitable implication of subsidiarity.

appeal is aimed to correct imbalances in relations between the Holy See and either individual bishops or conferences of bishops; but it has also been invoked with respect to relations between dioceses and parishes and to preserve the rights of individual bishops against the authority of episcopal conferences. Subsidiarity is also one of the pegs on which have been hung calls for greater autonomy and diversity in the particular and local churches. Finally, it has been employed as a principle to safeguard the rights of the laity to exercise their freedom and initiative both within the Church (e.g., associations of the faithful) and especially in society. This general practical problematic displays a remarkable consistency throughout the fifty years of this survey. It is found in popes, bishops, theologians, and canonists, and many of the problems are acknowledged even by those who do not believe subsidiarity the best principle on the basis of which to resolve them.

There is, however, some diversity with regard to the primary practical function of the principle of subsidiarity. Those who understand it primarily as a defence of the dignity and rights of individuals want it to be applied in the Church to promote the fundamental rights and duties of the faithful. For those for whom subsidiarity is more a criterion for the distribution of competencies in a social body, it is employed to identify and defend distinct jurisdictional competencies in the Church.

For some authors, subsidiarity applies only to the external *de iure ecclesiastico* organization of the Church. Others believe it applies as well to the divinely constituted distribution of church authority. Some believe it should be formally stated in church law, while others see it either as a hermeneutical principle in interpreting and applying law or as a simple maxim of common prudence and good government, impossible to codify.

Questions of Theory

Things become more complex when one turns to the question of a theological justification for the appeal to subsidiarity. A fairly strong argument can be and is drawn on the basis of formal authority. Pius XII and Paul VI both admitted the applicability of the principle within the Church. At the Second Vatican Council and in at least four assemblies of the Synod of Bishops a good number of bishops pressed for its application. Two Synods of Bishops voted in its favor by substantial majorities. It was proposed, accepted, and employed in the revision of

the Code of Canon Law. The vast majority of theologians and canonists, among them some of the most important figures of the period under review, have admitted its validity in the Church.

When it comes to intrinsic arguments on behalf of subsidiarity, there is a good deal of diversity. For some authors, the argument is very simple: because it rests on the metaphysics of the human person and his freedom, subsidiarity *must* apply in all forms of human sociality. Others add to this an argument from the societal or communal character of the Church. Some build their case on biblical grounds, finding the principle implicit in the Pauline doctrine of charisms given to all members of the Church for the building up of the Body of Christ. Others see it anticipated in the historical relations among the particular churches or in the relation between the papacy and intermediate ecclesiastical bodies. Some believe subsidiarity to be one way of articulating the teaching of the two Vatican Councils on the relationship between primacy and episcopacy. Among these various arguments, a distinction can often be discerned between a universalist, "descending" ecclesiology and an ecclesiology constructed "from below," on the basis of Vatican II's theology of the local church.

Further complicating things on the level of theory is the fact that within both camps there often are considerable differences in the understanding of the principle itself, in judgments about the structures and relationships to which it is applicable, and in the concrete implications drawn from it for the life of the Church. Authors do not always mean the same thing when they raise the question of subsidiarity in the Church.

Opposition to the application of subsidiarity in the Church is usually voiced on the level of principle. The chief arguments brought against it are the following: that it is of disputed meaning even when used of civil society; that a principle elaborated by a social philosophy for civil society cannot be considered appropriate for the unique social reality of the Church; that it is useful only on the basis of a discredited model of the Church as a *societas perfecta inaequalium*; that it is unnecessary because other, more traditional principles of ecclesiology more appropriately ground its practical implications. These objections are both methodological and substantive and may provide a framework within which to try to disentangle the chief questions that need to be addressed.

The most basic *methodological* question concerns the validity of importing into ecclesiology a principle developed for civil society. The objection here can take two forms: first, that such an importation is only possible on the basis of a now inadequate view of the Church as a *societas perfecta inaequalium*, and, second, that the Church is so unique and transcendent a reality that it is only appropriately described in theological terms.

The first and milder form of the objection is simply not relevant to much of the literature. It does seem that Bertrams and a few other authors work within the societal model developed in the modern *ius publicum ecclesiasticum*. But that model cannot be found in the ecclesiologies of such figures as de Lubac, Krucina, Thils, or Tillard, for whom it is precisely the demands of *communio* among the churches and among the faithful which suggest the applicability of subsidiarity.

The stronger form of the objection opens upon a very large and much disputed question of method: the relationship between ecclesiology and social theory. Some authors, in an understandable reaction to certain features of the modern societal notion of the Church, appear to question *any* significant appeal to extra-ecclesial social theory. This view is represented, for example, by those who use the language of mystery and communion to question even the legitimacy of questions about the distribution of authority in the Church.¹⁰⁰ A few comments are in order.

First, one should note that the great majority of those who appeal to subsidiarity acknowledge that it is of only analogous validity in the Church. No one claims that it can be applied in the Church without taking into account the distinct reality of the Church. This fact seriously weakens the force of this objection.

¹⁰⁰ This problem surfaced at the 1985 Synod of Bishops, whose Final Report, in two unintegrated sentences, reflected the different uses of the appeal to *communio*: "The ecclesiology of communion cannot be reduced to questions of organization or to problems about mere power. But the ecclesiology of communion is the foundation for order in the Church" (II, C, 1). Perhaps it is necessary to recall, but for a different audience, the sentence in the *Nota praevia explicativa* that *communio* "is not understood as some sort of vague *affectus*, but as an *organic reality* which at once requires a juridical form and is enlivened by charity." Eugenio Corecco notes the fluidity and ambiguity of the term *communio*, which he says has become "the *passe-par-tout* with which it is thought answers can be given to all problems"; see "Considerazioni sul problema dei diritti fondamentali del cristiano nella Chiesa e nella Società," in *Les droits fondamentaux du chrétien dans l'Eglise et dans la société: Actes du IV^e congrès international du droit canonique*, ed. E. Corecco, N. Herzog, A. Scola (Fribourg: Ed. Universitaires, 1981), pp. 1207-1234, at p. 1222.

Second, taken to its logical conclusion, this objection would undercut the practice of the Church from very early times to make use of contemporary social theory and structures to articulate its own social life, both theoretically and practically. How much of canon law would be left if all importations from extra-ecclesial legal theory were removed? Are those who criticize subsidiarity in the Church on this basis also prepared to criticize the theories of authority and of the distribution of competencies which have in fact throughout the centuries legitimated the development of the Church's order?

Moreover, behind the debate about subsidiarity lies in fact another, often unacknowledged set of questions not only about the meaning and purpose of the principle as it was developed for civil society but also, and more basically, questions about such issues as: the relationship between individual and community or society, the definition of the common good and its relationship to personal goods, the notion of fundamental human rights, the relationship among various communities and organizations within society, the relationship between freedom and institutions, etc. All of these are usually identified and discussed in the literature on subsidiarity in civil society. Some canonists are also quite alert to them when analogous questions are raised within the Church; but most theologians do not seem so critical in their statements of the question and attempts to answer it. One can find both proponents and critics of subsidiarity in the Church arguing on the basis of implicit and unacknowledged assumptions about the fundamental questions mentioned above.

This, of course, is a crucial failing, because the principle of subsidiarity was elaborated as part of a Catholic response to both liberal individualism and various forms of collectivism. That larger context is crucial not only for discerning the social and political challenges to meet which the principle was formulated but also for determining what it means both in theory and in practice or operationally. A.-F. Utz has been particularly alert to this problem, pointing out how differently one will envisage subsidiarity in an individualistic or in a solidaristic framework.¹⁰¹ One can often notice quite parallel tendencies in the theological and canonical literature on subsidiarity in the Church.

In fact, therefore, the debate on subsidiarity is *not* being carried out on some purely theological level, but includes, even among those who are most alert to the danger of sociological reductionism, tacit assump-

¹⁰¹ See Utz, *Formen und Grenzen des Subsidiaritätsprinzips*.

tions about the nature and structure of society and its relationship to the individual person. The debate thus illustrates again the fundamental methodological importance of the role of social theory in ecclesiology. This is an issue which has recently received more critical attention from canonists than from theologians.¹⁰² My own view is that it is not great progress to replace the various forms of sociological reductionism with a theological reductionism which considers the Church so unique and transcendent that it can only be described in theological language. As every theology implies a certain philosophy, every ecclesiology implies a social theory, and theologians and canonists ought to be critically aware of their own presuppositions.

The *substantive* issues are, as Gustave Thils has remarked, ecclesiological.¹⁰³ Perhaps the most important of these was raised by Cardinal Hamer when he argued that subsidiarity is inapplicable in the Church because it considers the universal Church to have only a subsidiary or substitutive role to play vis-à-vis the particular church.¹⁰⁴ The cardinal did not indicate in which authors he believes this mistake to be found, and so it is difficult to respond to the objection specifically.

It should be noted first, however, that several of the experts on subsidiarity in general argue strongly that "subsidiarity" does not mean "substitution" (*suppléance*), but an active responsibility of the larger social body to promote the self-responsibility of smaller communities and of individuals.¹⁰⁵ Moreover, many of the authors who promote subsidiarity in the Church do so on the basis of an ecclesiology quite

¹⁰² See the competing positions outlined and defended by Eugenio Corecco, "Theologie des Kirchenrechts," *Handbuch des katholischen Kirchenrechts*, ed. J. Listl, H. Müller, and H. Schmitz (Regensburg: Pustet, 1983), pp. 12-24, and by Gerhard Luf, "Rechtsphilosophische Grundlagen des Kirchenrechts," *ibid.*, pp. 24-32. I incline toward the position of Luf, whose related essay, "Grundrechte im CIC/1983," *Österreichisches Archiv für Kirchenrecht* 35 (1985) 107-131, has much that is methodologically pertinent to the problematic of subsidiarity in the Church.

¹⁰³ "Even if one wished faithfully to apply the principle of subsidiarity to all the machinery of the Church, the way in which this application would be conceived and imagined would always depend on prior ecclesiological doctrines, held consciously or especially unconsciously"; *La primauté pontificale: La doctrine de Vatican I et les voies d'une révision* (Gembloux: Duculot, 1972), p. 243.

¹⁰⁴ See *SE*, p. 604.

¹⁰⁵ See, for example, Nell-Breuning, "Subsidiarität," *Staatslexikon*, 7: 827, where he criticizes the view of subsidiarity as a "stop-gap," distinguishes it from an "ersatzweises interference," and notes the good fortune of the French who can avoid this confusion by speaking of such measures as *suppléance* rather than as *subsidiarité*.

faithful to the teaching of Vatican II on the relation between the universal Church and particular or local churches.¹⁰⁶ They do not regard the universal Church as something external or supplementary to the particular churches. They see the particular churches precisely as realizations of the universal Church and the universal Church as the communion of particular churches. And they argue that it is precisely the fact that the particular churches *are* the universal Church realized in a particular place under the leadership of a bishop that suggests the validity of the principle of subsidiarity. It is the history of the Church and magisterial statements about the divine right authority of *both* the pope *and* the bishops which they consider to be helpfully illuminated by the principle of subsidiarity.¹⁰⁷

Other substantive issues at stake in the debate include the following: the relationship between the Church as mystery or communion and the Church as institution, the validity of conceiving the Church as a *societas*, the relationship between individual Christians and the Church, the relationship between clergy and laity, the relationship between *ius divinum* and *ius ecclesiasticum*, etc. Of these a word should perhaps be said about the relationship between individual and Church, since this concerns the function of subsidiarity as a defence of individual rights.

Barberini, for example, brings as an objection to the applicability of subsidiarity in the Church the fact that "the believer is not anterior to the Church. He is born *within* the Church, the necessary society whose institutional function . . . is immutably fixed and instrumental with regard to the fallibility of the person."¹⁰⁸ This criticism is echoed by Corecco who relates the endorsement of subsidiarity by the 1967 Synod to its call for a juridical defence of the rights of the faithful, which

¹⁰⁶ Thils, for example, is quite clear about the problem which may lie behind Cardinal Hamer's criticism: "The relations between particular churches and papal primacy are different from those which link local administrations to a central civil power"; *La primauté pontificale*, p. 243. See also Kasper, "Der Geheimnischarakter," pp. 235-236.

¹⁰⁷ See in the bibliography the works of de Lubac, Krucina, Piwowarski, Tillard, Thils, etc. On the other hand, Giuseppe Alberigo's opposition to subsidiarity in the Church is that it does not go far enough to ground and safeguard the genuine and full ecclesial reality of the particular churches; see "Serving the Communion of Churches," in *The Roman Curia and the Communion of Churches*, ed. P. Huizing and K. Wall, Concilium, 127 (New York: Seabury, 1979), pp. 12-33, at p. 27.

¹⁰⁸ Barberini, "Appunti e riflessioni," p. 347.

implied the model of the State's administration of justice.¹⁰⁹ Because the individual Christian does not pre-exist the Church, one cannot transfer to the Church the notion of fundamental, pre-social rights. For Corecco, the appeal to subsidiarity seems to be inextricably linked with an unacceptable understanding of the relation between individual and Church.

This is another point at which it appears that the issue has been framed not only by ecclesiological assumptions—for example, the pertinence of extra-ecclesial legal theory to the *ordo Ecclesiae*—but also by assumptions about civil society and its relationship to the individual. Both critics make certain assumptions about civil society in order to urge the distinctiveness of the Church's order; but many of these assumptions can be questioned even for civil society where it is not at all clear that the issue of fundamental rights must be posed as a simple alternative between individualism and socialism.¹¹⁰

Apart from that question, it is difficult to see why the rights of the faithful articulated by both the council and the revised code cannot ground *infra*-ecclesial rights of a fundamental nature, to defend which subsidiarity can be proposed as a formal and heuristic norm.¹¹¹ These rights do not define *pre*-ecclesial claims over and against *the Church*, but rather *ecclesial* claims over and against *other members* of the Church, particularly those who are in authority.¹¹²

This review is perhaps sufficient to indicate how large the ecclesiological questions are and to illustrate how much they determine the way in which authors approach the question of the applicability of subsi-

¹⁰⁹ See Eugenio Corecco, "Aspetti della ricezione del Vaticano II nel Codice di diritto canonico," in *Il Vaticano II e la Chiesa*, ed. G. Alberigo and J.-P. Jossua (Brescia: Paideia, 1985), pp. 333-397, at pp. 349-350; see also "Considerazioni sul problema dei diritti fondamentali del cristiano nella Chiesa e nella Società," p. 1231-1232.

¹¹⁰ See Luf's articles mentioned in note 102 above.

¹¹¹ The best article on this dimension of subsidiarity is by José Luis Gutierrez, "El principio de subsidiariedad y la igualdad radical de los fieles," *Ius Canonicum* 11 (1971) 413-443.

¹¹² I pass over here the other basic question: If the individual Christian does not pre-exist the Church, is there not an important sense also in which the Church, the *congregatio fidelium*, does not pre-exist the Christians? Many years ago, Hans Urs von Balthasar pointed out that "the Church is not an *universale ante rem*; she is completely embodied in her members, as humanity is in men;" *Schleifung der Bastionen* (Einsiedeln: Johannes, 1952), p. 74. Corecco's own interesting comments on the *in quibus et ex quibus* formula of LG 23 are easily articulable in terms of subsidiarity; see "Considerazioni," pp. 1223-1225.

diarity in the Church. It is important to stress that it is not the principle of subsidiarity which can solve these issues, but a solution to these issues which will determine whether and to what degree subsidiarity may be considered a valid, useful or even necessary principle within the Church also. Sometimes one has the impression that both proponents and critics of using subsidiarity in the Church expect (or fear) far too much from the principle. Even in civil society, subsidiarity is a formal or heuristic principle, defining goals, establishing criteria, and urging questions.¹¹³ But the questions it urges it does not itself answer; that can only be done in the light of the nature of the society and of concrete circumstances. The formal and heuristic character of the principle itself means that subsidiarity presupposes an ecclesiology and not vice-versa.

CONCLUSIONS

On the level of theory, then, I am inclined to think that the question of the applicability of subsidiarity is not yet ripe for solution. Too many prior ecclesiological and social-philosophical questions need to be identified and addressed first. Until these are treated in and for themselves, the disputants are likely to continue talking past one another. I have already indicated my own view that the two sets of questions, ecclesiological and sociological or political, *both* need to be addressed by theologians and canonists at least in the sense that they need to be critically aware of the issues and be able to defend their own fundamental assumptions and options.

I will conclude by returning to the questions of practice for which subsidiarity is invoked. I have two comments to make. The first is that we always keep in mind the origin of the principle of subsidiarity and of the proposals to apply it in the Church. The principle was elaborated and formulated in response to the growing centralization of state-authority, which was absorbing the legitimate roles of other communities and reducing the freedom and self-responsibility of individuals. From the time it was first suggested that subsidiarity is applicable within the Church down through the 1985 Synod of Bishops, it was invoked to counteract similar developments in the Church.¹¹⁴ It is sure-

¹¹³ See Klüber, *Katholische Gesellschaftslehre*, p. 876.

¹¹⁴ "The integration of dioceses in the unity of the universal Church usually does not happen in immediate fashion, but by means of associations of particular churches, whose importance for the unity of the whole Church can hardly be exaggerated. But in the Latin Church, for various reasons, among which Church-State relations played no small role,

ly not accidental that it was men who most promoted subsidiarity in civil society—Ketteler, Gundlach, Nell-Breuning, Utz, Höffner, Rauscher—who were the first to propose its applicability in a Church they believed to be tempted by the centralizing tendencies of the modern state.¹¹⁵ In both cases it was practical developments which were restricting rightful claims to freedom and self-responsibility which suggested the formulation and application of the principle of subsidiarity. Within the Church, this problem needs to be addressed in the broad context not only of the powerful centralizing tendencies of the last two centuries but also of the social theory, imported from without, which legitimated them.¹¹⁶

Secondly, the persistence of the same complaints over these fifty years suggests that some fundamental structural problems remain in the Church. From my reading of the literature, I do not believe that it was subsidiarity which first put people in mind of the problems, but the problems which suggested the usefulness of the principle. Even if, on the level of theory, the debate needs to proceed until it reaches greater clarity than it now displays, the practical problems remain, and these do not depend on a resolution of the theoretical question for their solution.

In fact there is not a single problem for whose resolution subsidiarity has been invoked which has not been identified, described, and addressed on other, more traditional ecclesiological grounds. One need

a constitutional situation developed in which, because of the weakening of intermediate instances, especially the role of the metropolitan, and because of the consequent centralization of the Church's government in the Roman Curia, no room was left for the development of autonomous associations of particular churches"; Klaus Mörsdorf, "Die Autonomie der Ortskirche," *Archiv für katholisches Kirchenrecht* 138 (1969) 388-405, at pp. 399-400.

¹¹⁵ For Ketteler's view of the corporative unity of pope and bishops, see Fastenrath, *Bischof Ketteler*, pp. 231-245, published earlier in *Münchener Theologische Zeitschrift* 21 (1970) 43-56; for its impact on Ketteler's view of papal infallibility, see Hermann Josef Pottmeyer, *Unfehlbarkeit und Souveränität: Die päpstliche Unfehlbarkeit im System der ultramontanen Ekklesiologie des 19. Jahrhunderts* (Mainz: Grünewald, 1975), pp. 214-222.

¹¹⁶ This theory is not simply that of the *societas perfecta* view of the Church, but also the model of sovereignty which lies behind the definitions of the First Vatican Council on papal primacy and infallibility. This implied social theory seems to me to be as much in need of theological and socio-political critique as the principle of subsidiarity. For a well balanced presentation of the historical and theological issues, see Pottmeyer, *Unfehlbarkeit und Souveränität*, pp. 388-428.

not conclude from this that the principle of subsidiarity is either unnecessary or useless, but rather that the postponement of a theoretical judgment about subsidiarity should not be used as an excuse for postponing the effort to meet the very real problems and tensions that exist in the Church today.

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