CANONICAL CONTRIBUTIONS OF BLESSED JOHN PAUL II:
THROUGH THE LENS OF THE APOSTOLIC CONSTITUTIONS
SACRAE DISCIPLINAE LEGES, PASTOR BONUS AND SACRI CANONES

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**ABBREVIATIONS**

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<tr>
<td>AAS</td>
<td><em>Acta Apostolicae Sedis</em></td>
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<td><strong>CCEO</strong></td>
<td><em>Codex canonum Ecclesiарum orientalium</em></td>
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<td><strong>CD</strong></td>
<td>Second Vatican Council, decree <em>Christus Dominus</em></td>
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<td><strong>CIC</strong></td>
<td><em>Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus</em></td>
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<td><strong>CCLS</strong></td>
<td>Canadian Canon Law Society</td>
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<td><strong>LG</strong></td>
<td>Second Vatican Council, dogmatic constitution <em>Lumen gentium</em></td>
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<td>John Paul II, apostolic constitution <em>Pastor bonus</em></td>
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<td><strong>SDL</strong></td>
<td>John Paul II, apostolic constitution <em>Sacrae disciplinae leges</em></td>
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<td><strong>SCan</strong></td>
<td>John Paul II, apostolic constitution <em>Sacri Canones</em></td>
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<td><strong>UR</strong></td>
<td>Second Vatican Council, decree <em>Unitatis redintegratio</em></td>
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INTRODUCTION

Blessed John Paul II was pope from 1978 to 2005. Whilst he “was not a jurist-pope”\(^1\) as could be said of some other pontiffs, his papacy, nonetheless, “had an enormous impact on the canon law of the Catholic Church.”\(^2\) There are numerous topics that could be covered to show his canonical contributions.\(^3\)

In this paper, I will outline some of his canonical contributions through the lens of three of his apostolic constitutions: *Sacrae disciplinae leges*,\(^4\) by which he promulgated the 1983 Code of Canon Law\(^5\) for the Latin Church; *Sacri Canones*,\(^6\) by which he promulgated the 1990 Code of Canons for the Eastern [Catholic] Churches;\(^7\) and *Pastor bonus*,\(^8\) by which he established a

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\(^3\) Peters gives an excellent summary of John Paul II’s canonical contributions. See Peters, “An Introduction,” especially pp. 5-19.


renewal of the Roman Curia. As I examine each of the apostolic constitutions, the starting point will be a presentation of John Paul II’s canonical contribution in his own words,\(^9\) so to speak, because in each of these apostolic constitutions he articulates what he is doing and the canonical contribution he is thereby making.\(^10\) I will outline some of the central themes of John Paul II’s canonical contributions as he has named them in these apostolic constitutions. To this I will add some comments of other canonical authors which support or perhaps challenge these claims, in order to arrive at an overall sense of the contribution that John Paul II has made to canon law in the Catholic Church.

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\(^9\) William Daniel highlights the importance of documents such as *Sacrae disciplinae leges*, *Pastor bonus*, and *Sacri Canones* when he says: “Since the universal legislation acquires its force in virtue of the fact that it is issued by the supreme legislator, canonists and Christ’s faithful in general have reason to be especially attentive when he opens his mind about the origins, nature, and purpose of his own law [as he does in *SDL*, *PB*, and *SCan*]. Such pontifical teachings provide an impetus for continued doctrinal reflection and are not infrequently a source of inspiration to canonists in the exercise of their ecclesial service” (William L. DANIÉL, “The Origin, Nature, and Purpose of Canon Law in the Recent Pontifical Magisterium,” in *Studia canonica*, 45 [2011], p. 329 [= DANIÉL, “The Origin”]).

\(^10\) Redaelli suggests that John Paul II wrote *SDL* and *SCan* with the thought in mind as to the specific points on how the respective Codes would be judged. John Paul II therefore goes to some lengths in the respective apostolic constitutions to spell out what he believes he has achieved. Redaelli says, “The difference in content [between *Sacrae disciplinae leges* and *Sacri Canones*], however, reflects an identical intention: to address the most discussed problems in the two contexts, i.e., those therefore that presumably could create the most difficulties for its reception. In the Latin Church effectively the problem was faithfulness to the [Second Vatican] council and its not being distorted by using canonical language – one thinks of the eruption of this question on the occasion of the fundamental law project – and, moreover, the justification of a role of law in the Church. In the context of the Eastern Churches, however, the problem was to justify a complete and unique legislation of common discipline while also safeguarding the disciplinary identity of the individual Churches” (Carlo R. M. REDAELLI, “Adoption of the Principle of Codification: Ecclesiological Significance with Special Reference to Reception,” in *The Jurist*, 57 [1997], p. 269).
1 – SACRAE DISCIPLINAE LEGES AND THE 1983 CODE OF CANON LAW

John Paul II promulgated a new Code of Canon Law for the Latin Church in 1983, a revision that had been called for by Pope John XXIII in 1959.\textsuperscript{11} Edward Peters suggests that “this single act would have been enough to enroll John Paul II in the catalogue of popes influential in the history of canon law.”\textsuperscript{12} Peters reminds the reader that the 1917 Pio-Benedictine Code\textsuperscript{13} “had itself been a revolutionary legal exercise” in that it “moved the Church for the first time in her history from a governing system based on a series of authoritative canonical collections to a governing system organized around a single integrated code.”\textsuperscript{14}

Given that such a short period had elapsed under which the Church operated with a codified law, it was not a foregone conclusion that this system be continued. Peters notes that “non-codified legal systems are quite capable of effectively governing large and complex

\textsuperscript{11} JOHN XXIII, allocution to the Roman Cardinals, 25 January 1959, in AAS, 51 (1959), pp. 65-69, English translation in The Pope Speaks, 5 (1959), pp. 398-401. The Holy Father said: “We propose to call a Diocesan Synod for Rome, and an Ecumenical Council for the Universal Church. […] They will lead to the desired and long awaited modernization of the Code of Canon Law, which is expected to accompany and to crown these two efforts in the practical application of the rules of ecclesiastical discipline, applications the Spirit of the Lord will surely suggest to Us as We proceed. The coming promulgation of the Code of Oriental Law foreshadows these events” (ibid., pp. 400-401).

\textsuperscript{12} PETERS, “An Introduction,” pp. 5-6. Whilst John Paul II might not initially be considered as one of the great canonist popes like Innocent IV or Benedict XIV, Peters states that “it is not accurate to say that John Paul II left us no direct writings on juridic sciences at all, for indeed he did. The flagship of those varied works must surely be the apostolic constitution Sacrae disciplinae leges by which the 1983 Code was promulgated, and which we know the Pope wrote personally” (ibid., p. 22).


\textsuperscript{14} PETERS, “An Introduction,” p. 6. Frederick McManus also notes that the abrogation of “the general ecclesiastical law of the past – with certain exceptions such as the liturgical laws and laws in concordats or conventions with civil authority” effected by the 1917 Code “was an untraditional and indeed revolutionary dimension of the codification” (Frederick R. McMANUS, “The Code of Canons of the Eastern Catholic Churches,” in The Jurist, 53 [1993], p. 24 [= McMANUS, “The Code of Canons’]). McManus concludes that the 1917 Code’s adoption of “a pattern derived from the nineteenth-century civil codes of law rather than the traditions of Western or Eastern canonical collections […] was in many ways an abandonment of the canonical tradition […] Nevertheless the result was generally well received for pragmatic and pastoral reasons of convenience, clarity, and the post-Vatican I spirit of Roman centralization of church authority” (ibid., p. 26).
Peters concludes that, “[t]herefore, by promulgating the 1983 Code, John Paul II effected nothing less than the ‘first peaceful transfer of power’ that political scientists look for before declaring any revolution (even a ‘legal’ one) to have been successful. By bringing to completion and promulgation the 1983 Code of Canon Law, John Paul II confirmed the Church in her epoch-marking shift from collections of law to codified law.”

Another preliminary concern to address is: how much can we say that the new Code is the work of John Paul II? It is well known that the Code is the work of many experts, working in different groups and over many years. Can we therefore call the Code a contribution of John Paul II himself? Firstly, as outlined above, the very act of bringing the new Code to completion and promulgation is indeed to be credited to his name. But we can say more than this.

Peters outlines that “by February of 1982, the Pope had already read the whole of the proposed Code twice in anticipation of convening a small group to sit down with him and read through, one more time, every canon intended for the new law, taking as much time as they, and he, felt necessary to understand the import of each norm that would one day carry his signature.” This was done, as Peters points out, “in fourteen half-day sessions” in which “John Paul II and his group examined every single norm of the new law” and, during which, “real changes occurred in the law as a result.” This personal contribution of John Paul II was acknowledged by the Pro-President of the Pontifical Commission for the Revision of the Code of


16 Ibid. Peters believes, “As a consequence, the structure and indeed much of the very content of the Code of Canon Law promulgated by Pope John Paul II will be with us for centuries at least and quite possibly as long as Gregory’s decretal letters were the core components of the Corpus Iuris Canonici: almost seven centuries” (ibid., p. 7).

17 Ibid., pp. 20-21.

18 Ibid., p. 21.
Canon Law, Archbishop Castillo Lara, at the official presentation of the new Code on 3 February 1983, when he thanked John Paul II whom he said had devoted “many sessions of collegial work to the task and who finally decided on its promulgation.” Archbishop Castillo Lara went on to add, “[t]his Code, therefore, is a pontifical law, not merely because it was promulgated by the authority of the Supreme Pontiff, but also because it bears the imprint of the personal interest of the Roman Pontiffs and of their specific legislative will.”

1.1 – The Code and Vatican II

John Paul II stated that “the revised Code of Canon Law embodies the directives and the true spirit of the Second Vatican Council.” John Paul II also believed that “the new Code is the last major document called for by the Council.” Throughout the apostolic constitution Sacrae disciplinae leges by which John Paul II promulgated the new Code, he goes to great lengths to show the correspondence of the new Code with the teachings of Vatican II. He states, “The instrument which the Code is fully corresponds to the nature of the Church, especially as it is proposed by the teaching of the Second Vatican Council in general and in a particular way by its ecclesiological teaching. Indeed, in a certain sense this new Code could be understood as a great effort to translate this same conciliar doctrine and ecclesiology into canonical language.” He

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20 Ibid., pp. 17-18.


22 Ibid.

23 SDL, p. xxx.
goes on to add that “the Code must always be referred to this image [the conciliar image of the Church] as the primary pattern whose outline the Code ought to express insofar as it can by its very nature.”

Corecco comments at length on the way in which Vatican II has been received in the Code. He argues that “[o]n the one hand, some conciliar contents were not received or were received only partially; on the other, not all the contents materially received in the Code have completely retained the formal value and dynamism that is theirs in the conciliar texts.” Corecco argues that “the appointment of the Commission for the Revision of the Code of Canon Law came too close on the heels of Vatican II. The Commission lacked the necessary distance

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24 Ibid. In his address to the Roman Rota on 26 January 1984, John Paul II stated: “The Code is a new law and it is to be evaluated primarily in the perspective of the Second Vatican Council, to which it is intended to conform fully” (JOHN PAUL II, allocation to the Roman Rota, 26 January 1984, n. 3, in AAS, 76 [1984], pp. 643-649, English translation in William H. WOESTMAN [ed.], Papal Allocutions to the Roman Rota 1939-2011, Ottawa, Faculty of Canon Law, Saint Paul University, 2011, p. 183). In the same allocation John Paul II also calls the code the “last council document” (ibid., n. 2, p. 181). There is some debate about the appropriateness of calling the Code the “last document” of Vatican II. On this, Peters writes: “I understand the sense in which such terminology is used, but I still suggest some caution in taking it. The Code of Canon Law is not a conciliar document, and it does not arise from or participate in the charism of an ecumenical council. It is an exercise of Petrine authority. Moreover, it was not the last document called for by the Second Vatican Council – the Rite of Exorcism promulgated in 1999 holds that distinction – and it was, finally, Pope John XXIII who called for the reform of canon law, not the Second Vatican Council” (PETERS, “An Introduction,” p. 22, f.n. 94). Peters recommends Brian Ferme’s description of the Code in relation to the Council: “In a very real sense, the new code was the crowning of the council, translating the principles that inspired it and the decisions it effected into norms of life, discipline, and conduct” (Brian E. FERME, “Ius condere: Historical Reflections on the 1983 Code,” in The Jurist, 63 [2003], p. 189). Interestingly, as has been noted above, John XXIII used the word “crown” when he said that the “modernization of the Code of Canon Law” would “accompany” and “crown” the Diocesan Synod for Rome and the Ecumenical Council which he called for in 1959 (JOHN XXIII, allocation, 25 January 1959, pp. 400-401). Myriam Wijlens further explains the relationship between the Code and Vatican II in this way: “I became aware that this relationship between conciliar doctrine and canonical norms was not just one on the level of legislation where the question is asked: what norms are needed to assist the community in appropriating the doctrine? I discovered that the norms themselves are in need of interpretation and that Vatican II not only cannot be left out of that, but that in fact it is – so to speak – the hermeneutical lens through which the canonical norms must be interpreted” (Myriam WIJLENS, “Vatican II and the Interpretation of the Code,” in CANON LAW SOCIETY OF AUSTRALIA AND NEW ZEALAND, Proceedings, 45 (2011), p. 4).


26 Ibid., p. 263.
from the conciliar event and, instead of undertaking a work of comprehensive comparative interpretation of the conciliar texts, preferred to make a selection.”

He also adds that “the members of the Commission were drawn from a generation of canonists who had been trained before the Council and who for the most part regarded continuity with the preceding juridical tradition as indispensable.”

1.1.1 – The Nature of the Code

In *Sacrae disciplinae leges*, John Paul II comments on how a code of law fits within the life and mission of the Church. He draws attention to the “patrimony of law contained in the books of the Old and New Testament from which is derived the whole juridical-legislative tradition of the Church, as from its first source.”

He comments on the use of law by both Jesus Christ and Saint Paul and suggests that “the writings of the New Testament enable us to understand even better the importance of discipline and make us see better how it is more closely connected with the saving character of the evangelical message itself.” John Paul concludes that

> it appears sufficiently clear that the Code is in no way intended as a substitute for faith, grace, charisms, and especially charity in the life of the Church and of the faithful. On the contrary, its purpose is rather to create such an order in the ecclesial society that, while assigning the primacy to love, grace and charisms, it at the same time renders their organic development easier in the life of both the ecclesial society and the individual persons who belong to it. As the Church’s principal legislative document founded on the juridical-legislative heritage of revelation and tradition, the Code is to be regarded as an indispensable

27 Ibid., p. 261.
28 Ibid.
29 For a treatment of the role of canon law within the life of the church, and its nature and purpose according to recent pontifical teaching, see DANIEL, “The Origin,” especially pp. 331-347.
30 *SDL*, p. xxix.
31 Ibid.
instrument to ensure order both in individual and social life, and also in the Church’s own activity.³²

In various comments about the nature of the new Code, Archbishop Castillo Lara says that canon law “does not impose its observance through a coercive structure but […] for the most part relies on the conscience of individuals.”³³ Castillo Lara believes that a “principle of individual responsibility or of spontaneous self-determination” to be “one of the cornerstones of the system of the [new] code.”³⁴ This could be summarized by saying that the new Code encourages observance of its norms by eliciting a sense of responsibility, rather than by imposing an obligation. Castillo Lara explains it like this: “Self-determination, inspired by the sense of one’s own responsibility, is doubtlessly more in keeping with the special nature of intra-ecclesial relations, and especially with the fulfillment of spiritual duties, than with their fulfillment under obligation.”³⁵

Regarding the nature of the Code, Corecco laments “the civil-law character that is still very strongly felt in the Code.”³⁶ Corecco suggests that the Code doesn’t show as well as it could the sacramental origin of canon law as opposed to the societal origin.³⁷

1.1.2 – The Newness of the Code

John Paul II points out in Sacrae disciplinae leges that there is a “complementarity which the Code presents in relation to the teaching of the Second Vatican Council, in particular with

³² Ibid., p. xxxi-xxx.
³³ CASTILLO LARA, “Discourse,” p. 27.
³⁵ Ibid., p. 38.
³⁷ Ibid., p. 262.
reference to the two constitutions, the dogmatic constitution *Lumen gentium* and the pastoral constitution *Gaudium et spes*.”\(^{38}\)  He then goes on to name the specific implication of this complementarity when he says, “Hence it follows that what constitutes the substantial *newness* of the Second Vatican Council, in line with the legislative tradition of the Church, especially in regard to ecclesiology, constitutes likewise the *newness* of the new Code.”\(^{39}\)  John Paul II names four specific elements of this *newness* of the Council and the new Code that “we should emphasize especially,”\(^{40}\) namely: (i) the Church seen as the people of God and hierarchical authority as service, (ii) the Church seen as a *communion*, (iii) the participation of all the members of the people of God in the threefold priestly, prophetic and kingly office of Christ, and (iv) the Church’s commitment to ecumenism.\(^{41}\)

In addition to these four elements named by John Paul II, another element of the newness of the new Code is elaborated by Corecco. He states that

> the decisive element for the new codification is […] the change of the epistemological principle introduced with the new plan given to the three central books of the Code [books II, III and IV]. It is an epistemological change postulated by a large portion of contemporary canonists convinced that canonical science has had last entered into the fourth phase of its history, the theological phase.\(^{42}\)

He explains that “[t]he 1983 Code is arranged as systematically as the old Code. However, for the hermeneutical and epistemological principle of philosophical and legal reason, it has

\(^{38}\) SDL, p. xxx.

\(^{39}\) Ibid.

\(^{40}\) Ibid.

\(^{41}\) Ibid.

\(^{42}\) Eugenio CORECCO, “Theological Justifications of the Codification of the Latin Canon Law,” in Michel THÉRIAULT and Jean THORN (eds.), *The New Code of Canon Law: Proceedings of the 5th International Congress of Canon Law, August 19-25, 1984*, Ottawa, Faculty of Canon Law, Saint Paul University, 1986, p. 77-78 (=CORECCO, “Theological Justifications”). He adds further: “From now on canonical science will have to take account, in the reformulation of its methodology, of this confirmation given by the legislator. It will have to learn how to elaborate a general theory of canon law, bearing in mind the coessentiality of the theological aspect” (ibid., p. 78).
substituted that of faith. […] The new codification is no longer placed under the sign of the rational penetration of the canonical system, but rather, in its central core, along the path of institutional and juridical translation of the content of faith.”

This has been done by “substitution of the juridical principle of order by the theological principle in the three central books of the 1983 Code (books II, III, and IV) – which follows the system found in the ecclesiology of Lumen gentium, no. 23, 1, that is to say, that the people of God participate in the three munera of Christ.”

Most significantly, Corecco summarizes that this “breaks with the Roman canonical legal tradition of the past, and is irreversible.”

1.1.2.1 – The Church as People of God

One of the elements of the “true and genuine image of the Church” that is to be found expressed in the Code is “the doctrine in which the Church is presented as the people of God (cf. dogmatic constitution Lumen gentium, chapter 2) and hierarchical authority as service (cf. ibid., chapter 3).”

Corecco notes that “[t]he reception, in the three central books of the Code, of the conciliar model of the Church as the people of God that shares in the three offices of Christ irreversibly shattered the unity of the rational epistemological principle that underlay the systematic approach, derived from Roman law, of the old Code.”

He adds that “[t]here is no doubt that in

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43 Ibid., p. 73.

44 Ibid.

45 Ibid. Corecco adds a caveat however: “That is the case even if the theological fragility of the conciliar model of the three offices of Christ is obvious, for it is not possible to establish an adequate distinction between them. The lack of a book de munere regendi, but, even more important, the evident incapacity of the Pontifical Commission for the Revision of the Code of Canon Law to systematically isolate the ecclesiological elements to all three munera, and thus to find a place for a book on the munus regendi, amply shows the theoretical inconsistency of the conciliar model” (ibid., p. 73-74).

46 SDL, p. xxx.

the central three books of the Code the legislators were able to profit by the essential lesson of the Council and to substitute the faithful for the clergy as the principal protagonists in the organization of canon law. This central achievement influences, at least potentially, the entire Code [...].”

In the 1917 Code the Church is seen as a *societas perfecta*, and “the hierarchy was identified with the Church itself.”

Corecco states that “[i]n spite of the fact that the model of the Church issuing from Vatican II may be, as has been observed, uncertain in many areas of its profile, the 1983 Code was able to identify a new protagonist-subject. The faithful were substituted to the clergy. The change is a central one and pervades the whole canonical system.”

1.1.2.2 – The Church as Communion

The second of the elements that express the “true and genuine image of the Church” to be found in the Code is “the doctrine in which the Church is seen as a *communion* and which therefore determines the relations which are to exist between the particular churches and the universal Church, and between collegiality and the primacy.”

Vischer contends that by the time of the Second Vatican Council there “had developed an irresistible desire once again to understand and actualize the Church to a greater extent as a

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48 Ibid., p. 264. Contrasted to this, though, is the following: “The Council, which frequently refers to the presence of charisms in the Church, does not hesitate to regard the right to exercise charisms as one of the principal rights of the faithful; this right is completely neglected by the Code” (ibid., p. 266).


50 Ibid. Corecco continues: “The arguments in support of this assessment of the Code are manifold. First of all, there is the fact that the Code, following on ch. II of *Lumen gentium*, opens the institutional treatment of the people of God with a norm concerning all the faithful. [...] The only authentic subject operating in the Church, in fact, is the individual member of the faithful, not the physical person, to say nothing of the moral person” (ibid., p. 85). Later, he states again, “The member of the faithful in fact comes to light as the primary ecclesial subject” (ibid., p. 91).

51 SDL, p. xxx.
Corecco notes that in Vatican II one can find both the idea of the Church as *communio*, but also the earlier notion of the Church as *societas perfecta*. He adds that the Code reproduces and even magnifies these “two divergent approaches to the Church that are found in the Council.” Archbishop Castillo Lara notes that the Code has made the notion of communion primary in its treatment of all the Christian faithful, and he says that communion “permeates all the structural and relational fabric of the code and which is expressed as the first duty of each one of the faithful (c. 209).”

Archbishop Castillo Lara also believes that “one of the most distinguishing principles of the new code” is what “we may call legislative moderation.” He says that “[t]his moderation corresponds to the principle of subsidiarity” and in particular in the new Code, it “corresponds to greater recognition of the rightful autonomy of the particular churches.” This means that “[i]f the bishops in their churches have all the ordinary, proper and immediate power required by their pastoral ministry, it is obvious that this power must have its own autonomous and proper sphere

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52 Lukas Vischer, “The Reception of the Debate on Collegiality,” in Giuseppe Alberigo, Jean-Pierre Jossua, and Joseph A. Komonchak (eds.), *The Reception of Vatican II*, translated by Matthew J. O’Connell, Washington, D.C., The Catholic University of America Press, 1987, pp. 233 (=Vischer, “The Reception of the Debate”). Eugenio Corecco states that “*communio* has admittedly become one of the most fluid and ambiguous concepts of postconciliar theological and canonistic language. It is meant to designate, whether at the anthropological or the ecclesiological level, the mutual inclusion of the universal in the particular and of the particular in the universal. In the ecclesiological dimension, this finds its paradigmatic expresson in the mutual immanence of the universal and the particular Church” (Corecco, “Theological Justifications,” p. 80).


55 Castillo Lara, “Discourse,” p. 34.

56 Ibid., p. 37.

57 Ibid.
where it is to be exercised, as well as a legislative sphere, recognized and safeguarded by the universal legislation.”

Corecco argues that the Code has been somewhat successful in receiving the conciliar teaching on the church as *communio*. He says,

only can. 209, §1, can be regarded as sufficient evidence that the Code has not only materially received the substance of the conciliar teaching that makes *communio* an ontological structure constitutive of the faithful, but has also been able to exploit the full formal value of the teaching, to a greater extent even that the Council itself was able to do. In its catalogue of the obligations and rights of the faithful, the Code lists in first place the obligation to live, interiorly and exteriorly, in communion with the whole Church (can. 209, §1). It thus shows that communion is the factor determining the anthropological and ecclesial identity of the faithful.

Further, he adds,

Thanks to its inclusion of the most important ecclesiological formulation of the Council (LG 23, §1), according to which the universal Church comes into being in and from the particular churches, it can be maintained that the Code has received the substance of the conciliar doctrine on the *communio ecclesiarum*.

1.1.2.3 – Participation in the Threefold Offices of Christ

The third element of the “true and genuine image of the Church” which is given expression in the new Code is “the doctrine according to which all the members of the people of God, in the way suited to each of them, participate in the threefold priestly, prophetic and kingly office of Christ, to which doctrine is linked that which concerns the duties and rights of the faithful and particularly of the laity.” This is stated at the very beginning of Book II, and this participation

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58 Ibid. He cites CD 8a and c. 381.


60 Ibid., p. 274. As some concrete examples of how the Code gives expression to the *communio ecclesiarum* between particular churches, he names ecclesiastical provinces and regions (cc. 431ff) and particular councils (c. 439) (ibid., p. 275).

61 SDL, p. xxx.
“springs as a duty-right from the very nature of being a *christifidelis* (c. 204) and [...] is also at the root of one’s every juridically relevant attitude.”

Corecco contends that “[t]he conciliar model of the *tria munera* has not only not been integrally respected by the Code but has not even become the basis for the Code’s systematic structure.”

He goes on to conclude that he remains “convinced that a systematic approach based on the sacraments would have been a valid alternative.”

1.1.2.4 – Ecumenism

The fourth element that John Paul II names as characterizing “the true and genuine image of the Church” is “the Church’s commitment to ecumenism.”

Corecco argues that “[t]he basic ecumenical contribution of the Code lies in its ecclesiology. In fact, the principle holds that the more correct the ecclesiology, the more profound is the ecumenical approach at the institutional and disciplinary level also.”

He names as the “most important ecclesiological elements” of the Code in relation to ecumenism the “restoration of the place of the particular Church (c. 368), and that of the Church defined as the

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62 Castillo Lara, “Discourse,” p. 34. Regarding the participation of the faithful in the sanctifying function of the Church, see *CIC*, c. 835. Regarding the participation of the faithful in the teaching function of the Church, see *CIC*, c. 747; also *CIC*, cc. 756-759. Regarding the participation of the faithful in the governing function of the Church, see *CIC*, c. 129.


64 Ibid.

65 SDL, p. xxx. George Weigel names ecumenism as one of the great achievements of John Paul II’s pontificate, and he says: “With John Paul II, the Roman Catholic Church has entered the ecumenical movement for the long haul, and, in so doing, has reshaped the quest for Christian unity as a quest for unity in truth” (George Weigel, “Keynote Address ‘John Paul II – Witness to Hope,’” in Kenneth D. Whitehead (ed.), *John Paul II – Witness to Truth: Proceedings from the Twenty-Third Annual Convention of The Fellowship of Catholic Scholars, September 22-24, 2000, in Atlanta, Georgia*, South Bend, Indiana, St Augustine’s Press, 2001, p. 6 [= Weigel, “Keynote Address”]).

people of God (book II).” He explains the significance of this for ecumenism as follows: “With the concept of ‘people of God’ the Code has accepted, in the very heart of its ecclesiology and in interpretative continuity with the tradition of Catholic theology, the ultimate truth behind the fundamental demand of the ecclesiology of the Protestant Reformation, thus taking a decisive step toward an ecumenical convergence.”

1.2 – The Code and Collegiality

Patrick Granfield suggests that “[e]piscopal collegiality as taught by the Second Vatican Council may well be the most far-reaching and revolutionary teaching in the entire history of ecclesiology. It has profound implications for the theology of the papacy and its limitations.” Naturally, then, John Paul II expressly talks about collegiality, considering it to be an important element of the new Code. He regarded the entire work of bringing the Code to completion as being done “in an outstandingly collegial spirit.” He goes on to say that

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67 Ibid., p. 76.
68 Ibid. It is worth noting at this point that the 1990 Eastern Code will be more thoroughly noted for its ecumenical character. John Paul II said that the Eastern Code “right from the beginning was conceived and elaborated upon true ecumenical principles and, above all, out of the great respect that the Catholic Church has for them [the Orthodox Churches] as ‘Sister Churches’ already in ‘almost full communion’ with the Church of Rome […] There is no norm in the [Eastern] Code which does not favour the path of unity among all Christians, and there are clear norms for Catholic Oriental Churches regarding how to promote this unity” (JOHN PAUL II, allocution to the Synod of Bishops on the new Code of Canons of the Eastern Churches, 25 October 1990, n. 13, in AAS, 83 [1991], pp. 486-493, English translation in “Holy Father gives the Church the first common Oriental Code: Project Completes Major Vatican II Revision of Laws,” in L’Osservatore Romano, Weekly Edition in English, 5 November 1990, p. 4 [= JOHN PAUL II, allocution, 25 October 1990]).
69 Patrick GRANFIELD, The Limits of the Papacy: Authority and Autonomy in the Church, New York, Crossroad, 1987, p. 77 (= GRANFIELD, The Limits of the Papacy). Granfield explains that “[t]he term ‘collegiality,’ made popular by Yves Congar in the 1950’s in his writings on the theology of the laity, was not used in the documents of Vatican II. The Council spoke rather of the collegium, ordo, corpus, or coetus of bishops. It was, however, later adopted by theologians and by the magisterium itself to describe the unique relationship that exists within the College of Bishops under the leadership of the Pope. […] Collegiality rests on the idea of communion” (ibid., p. 82).
70 SDL, p. xxviii.
This applies not only in regard to the material drafting of the work, but also to the very substance of the laws enacted.

This note of collegiality eminently characterizes and distinguishes the process of developing the present Code; it corresponds perfectly with the teaching and the character of the Second Vatican Council. Therefore not only because of its content but also because of its very origin, the Code manifests the spirit of this council in whose documents the Church, the universal ‘sacrament of salvation’ (dogmatic constitution on the Church Lumen gentium, nn. 1, 9, 48) is presented as the people of God and its hierarchical constitution appears based on the college of bishops united with its head.\footnote{Ibid.}

John Paul II acknowledged that the act of promulgating the Code “is an expression of pontifical authority and therefore is invested with a\textit{ primatial character.”}\footnote{Ibid., p. xxix. In terms of John Paul II’s exercise of the primacy as supreme pontiff, George Weigel makes an interesting assertion: “I believe, that John Paul II has recast the papacy for the 21\textsuperscript{st} century and beyond by retrieving the biblical concept of the office of Peter in the Church, that is to say, he has returned the papacy to its evangelical roots. This has had a tremendous impact not simply on the Church, but on the world” (\textsc{Weigel}, “Keynote Address,” p. 2).} But he acknowledged as well that the “objective content” of the Code “reflects the\textit{ collegial solicitude} of all my brothers in the episcopate for the Church. Indeed, by a certain analogy with the council, it should be considered as the fruit of a\textit{ collegial collaboration} because of the united efforts on the part of specialized persons and institutions throughout the whole Church.”\footnote{\textsc{SDL}, p. xxix. Edward Peters believes “that John Paul II accomplished the canonical tasks before him with a huge amount of hard work and, less obviously, with a genuine willingness to listen to and learn from the advice of others” (\textsc{Peters}, “An Introduction,” p. 20). Rosalio Castillo Lara reminds the reader that “the universal episcopate was consulted five times” during the Code revision process (\textsc{Castillo Lara}, “Discourse,” pp. 25-26). It is interesting to contrast the collegial process used to work on the Latin Code with that used for the Eastern Code. McManus makes the following observation: “While the formal procedures of consultation in the case of the Eastern code were similar to those followed (in 1972-1981) for the Latin codification, the establishment of\textit{ Nuntia} in 1975 added a very different dimension. In the course of the work the several drafts or schemata in their successive versions were regularly published, permitting widespread diffusion and comment. (The similar journal of the Latin code commission, Communications, was not able to perform a similar public function until the process was well under way, with a much less substantial degree of public consultation)” (\textsc{McManus}, “The Code of Canons,” p. 30).}

One way in which collegiality has been given expression in the church since the Second Vatican Council is in episcopal conferences.\footnote{The norms for episcopal conferences are found in\textit{ CIC}, cc. 447-459.} Vischer notes that in recent decades “the
Episcopal conferences of many countries have acquired an importance beyond what was anticipated in the conciliar decree. In fact, however, individual episcopal conferences have entered upon extensive undertakings. They have begun to exercise a kind of teaching office. He concludes that the “consequence of all this has been a deeper understanding and more vital manifestation of the universality of the Church. The vision of a communio ecclesiarum has in fact been realized concretely to some extent.” Granfield assesses the situation by saying that “[i]n juridical terms the episcopal conference may not be an example of collegiality in the fullest sense. But the life of the Church overflows juridical categories, and it is clear that episcopal conferences have made valuable contributions to the Church since the Council.”

With regard to collegiality, Corecco believes that the Code has stuck “closely to the teaching of Vatican II.” He argues, though, that the Code seems to give preference to the pope over the college of bishops. He states,

> the Code unvaryingly gives priority to the pope over the college. The Council, on the other hand, [...] repeatedly does not hesitate to give the college of the apostles priority over Peter and the college of bishops over the pope. The consistent way in which the Code has instead put the pope before the college

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75 CD, nn. 36-38, English translation in Flannery1, pp. 586-588.

76 VISCHER, “The Reception of the Debate,” p. 235. The teaching function of episcopal conferences is affirmed in CIC, c. 753: “Although the bishops who are in communion with the head and members of the college, whether individually or joined together in conferences of bishops or in particular councils, do not possess infallibility in teaching, they are authentic teachers and instructors of the faith for the Christian faithful entrusted to their care; the Christian faithful are bound to adhere with religious submission of mind to the authentic magisterium of their bishops.”

77 Ibid., p. 236. Vischer goes on to suggest that the way John Paul II exercised his Petrine ministry gave expression to the conciliar teaching on collegiality. He states, “The pope is trying today, far more than in earlier times, to appear as spokesman for the communio ecclesiarum,” taking account of “the manifold voices now heard in the Church” (ibid). Related to this, George Weigel says, “The Church and the world now expect the pope to be an evangelist, a pastor, and a witness to, and defender of basic human rights, as well as a global moral reference point. That was not the case 22 years ago. But it is very much the case today; and that, it seems to me, is the first great and enduring accomplishment of this pontificate” (Weigel, “Keynote Address,” pp. 2-3).

78 GRANFIELD, The Limits of the Papacy, p. 104. See ibid., pp. 97-104 for further treatment of episcopal conferences.

Corecco suggests that the Code has received the *Nota Explicativa Praevia*\textsuperscript{81} attached to *Lumen Gentium* more than *Lumen Gentium* itself, with regard to the relationship between the pope and the college of bishops.\textsuperscript{82}

Speaking of the relationship between bishops and priests, Corecco argues that the Code has not completely received the teaching of Vatican II. He explains that while the Code has received various conciliar texts that speak of presbyters as “cooperators” of the bishop, the Code neglects the most important, namely, the passage in PO 7, §1, in which presbyters are defined not only as *fidi cooperators* but also as *cooperators necessarii* of the bishop. Here, in a nutshell, is the ecclesiological justification for the presbyterium. The hearing the bishop is to give to the presbyters does not reflect simply a moral, legal, or vaguely communional obligation, but flows from the ontological structure of communio itself, which implies an immanence of the component parts.\textsuperscript{83}

### 1.3 – The Necessity of the Code

In *Sacrae disciplinae leges*, John Paul II states that “[t]he new Code of Canon Law appears at a moment when the bishops of the whole Church not only are asking for its promulgation, but

\textsuperscript{81} English translation in FLANNERY, pp. 423-426. Granfield explains that the *Nota explicative praevia* “was intended to clarify the relationship between the Pope and the bishops and to show that collegiality was compatible with primacy. It used, in explaining the meaning of college and hierarchical communion, more juridical concepts than *Lumen gentium*” (GRANFIELD, *The Limits of the Papacy*, p. 78-79).

\textsuperscript{82} “In discussing the collegial relationship of the bishops and the pope, the most recent literature has shown in sufficient detail that, instead of receiving the doctrinal formulas of *Lumen gentium* that allow the greatest range of possibilities and are most respectful not only of the historical experience embodied in the ecumenical councils of the first millennium but also of the practice of Vatican II itself, the Code has preferred the institutional interpretations given in the ‘prefatory note of explanation’ (*nota explicativa praevia*), which, as it were, encloses the college of bishops in a rigid hierarchic wrapper. The tendency to place excessive emphasis on the primacy evidently surfaces in other contexts as well, as, for example, in the assignment to the pope of the right to administer and dispose of all ecclesiastical goods, instead of allowing him a simple right of control (can. 1273)” (CORECCO, “Aspects of the Reception of Vatican II,” p. 284).

\textsuperscript{83} CORECCO, “Aspects of the Reception of Vatican II,” p. 279.
are crying out for it insistently and almost with impatience.”"84 Edward Peters expands on the need for the new Code when he says that “by announcing a wholesale revision of canon law in 1959, Pope John XXIII unintentionally rendered the Pio-Benedictine Code of 1917 a lame duck, decades before its successor was ready.”85

John Paul II hoped that the new Code would contribute “to that continual reformation of which the Church has need and which the Council so ardently advocated (cf. Unitatis Redintegratio, 6).”86 It is also clear that John Paul II saw the new Code as being a means to ensure that Church would proceed in line with the teachings of Vatican II. InSacrae disciplinae legeshe says, “it is naturally to be hoped that the new canonical legislation will prove to be an efficacious means in order that the Church may progress in conformity with the spirit of the Second Vatican Council and may every day be ever more suited to carry out its office of salvation in this world.”87 John Faris states that “[t]he new Latin Code was required to articulate juridically concepts and institutions which were vaguely formulated or newly-born during the Council.”88

84 SDL, p. xxxi.

85 PETERS, “An Introduction,” p. 6. He continues, “This caused terrible administrative and pastoral traumas in the Church for a generation, problems which were exacerbated by, or even contributed to, the deep antinomianism that swept Western society in the 1960s. For twenty-four years, no one knew, or could be confident that they knew, what the revised canon law would eventually say on a wide variety of issues, when canon law would get around to saying it, or even whether it was ever going to say it at all (at least in our lifetimes). That experience left its mark on the psyche of the Church; it was an experience that she is in no hurry to undergo again” (ibid., pp. 6-7).


87 SDL, p. xxxi.

88 John FARIS, “The Codification and Revision of Eastern Law,” in Studia canonica, 17 (1983), p. 458. He adds that “post-conciliar canonists and pastors have been faced with a vast number of decrees. This quantity of legislation has contributed to confusion and ignorance of the current laws of the Church. There is a necessity for a systematic organization of the legislation of the Church if only for the reason of accessibility. The RCIC [revised Latin Code] responds to this need. The RCIC and the future Eastern Code will not stifle theological, ecclesiological, and canonical advances if we understand the new codes to be only a systematic arrangement of current legislation. A revised Code does not imply a return to ‘the good old days’ nor are they commandments carved in stone, immune to future modification” (ibid., pp. 459-460).
More generally, John Paul II saw that “the Code of Canon Law is extremely necessary for the Church.” He explains the reason for this as follows:

Since the Church is organized as a social and visible structure, it must also have norms: in order that its hierarchical and organic structure be visible; in order that the exercise of the functions divinely entrusted to it, especially that of sacred power and of the administration of the sacraments, may be adequately organized; in order that the mutual relations of the faithful may be regulated according to justice based upon charity, with the rights of individuals guaranteed and well-defined; in order, finally, that common initiatives undertaken to live a Christian life ever more perfectly may be sustained, strengthened and fostered by canonical norms.

Edward Peters suggests a further reason for the necessity of the new Code. He asks the question, “So what is the fire that drove the pastoral focus of the Second Vatican Council, that took root during the reign of Pope Paul, and that, I think, animated John Paul II’s papacy? What is it that explains more than any other single factor the kind and quality of changes we see in the 1983 Code of Canon Law?” His answer is this: “It is the summons to a New Evangelization.” Peters asserts that one very important thing that the Code does is “to provide the Church with a legal system effective to the overriding missiological goal of the New Evangelization.”

This brief look at the 1983 Code through the lens of Sacrae disciplinae leges shows several of John Paul II’s contributions to canon law. To begin with, he successfully confirmed that the

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89 SDL, p. xxxi.
90 Ibid.
92 Ibid.
93 Ibid. George Weigel, in referring to the accomplishments of John Paul II, speaks of “the accomplishment of a pope who is self-consciously the heir of the legacy of the Second Vatican Council. And this, I would suggest, is the second great achievement of this pontificate, namely, that it has secured the legacy of Vatican II in its fullness as the Council which was intended to revitalize the Church as an evangelical movement in order to address the great crisis of our time: the crisis of the idea of the human person” (WEIGEL, “Keynote Address,” p. 3). John Paul stated in SDL: “[...] I must recognize that this Code derives from one and the same intention, the renewal of Christian living. From such an intention, in fact, the entire work of the Council drew its norms and its direction” (SDL, p. xxviii).
law of the Church would continue to be arranged in a single code. The process of development of
the 1983 Code also saw the personal involvement of the Holy Father. As such, whilst the Code is
his by virtue of the fact that he is the supreme legislator, it also bears the mark of his personal
contribution. Most importantly, as shown in section 1.1, John Paul II’s stated desire was to
ensure that the law of the 1983 Code fully corresponded with the teaching of the Second Vatican
Council, such that the specific “newness” of the Council would be reflected in the Code. Finally,
as shown in section 1.3, there was a great need for the promulgation of a new Code to assist the
Church in the period following Vatican II, and specifically to support the Church’s pastoral
mission of evangelization in the modern world.
2 – PASTOR BONUS AND THE RENEWAL OF THE ROMAN CURIA

John Paul II effected a reform of the Roman Curia with the promulgation of the apostolic constitution Pastor bonus on 28 June 1988. Pastor bonus provides a definition for the curia in article 1:

The Roman Curia is the complex of dicasteries and institutes which help the Roman Pontiff in the exercise of his supreme pastoral office for the good and service of the whole Church and of the particular Churches. It thus strengthens the unity of the faith and the communion of the people of God and promotes the mission proper to the Church in the world.

Pastor bonus can be seen as being related to Vatican II because bishops had made suggestions regarding the curia in preparation for the Council; some proposals for the curia made their way into the pronouncements of Vatican II, and others were referred “to the reform of the curia Paul

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94 A brief history of the Roman Curia can be found in James H. Provost, “Reform of the Roman Curia,” in Concilium, 188 (1986), pp. 26-36 (see especially pp. 26-28). Provost states that “[t]he Roman curia has a marked impact on the life of the local churches and on the understanding of catholicity” (James H. Provost, “Local Church and Catholicity in the Constitution Pastor Bonus,” in The Jurist, 52 [1992], p. 299 [= Provost, “Local Church”]). Provost articulates the many ways that the curia has an impact on the local churches, and concludes, “it is not possible to talk about the life of local churches within the Catholic communion, without addressing the role of the Roman curia in this life and communion” (ibid., pp. 299-300).

95 PB, art. 1, pp. 699-700. Pastor bonus has two sections: an Introduction with numbered sections, followed by the actual norms for the curia in numbered articles. These will be referenced as “n.” for the sections of the Introduction, and “art.” for the norms themselves.

96 “In exercising his supreme, full and immediate authority over the universal Church the Roman Pontiff employs the various departments of the Roman Curia, which act in his name and by his authority for the good of the Church and in the service of the sacred pastors. It is the earnest desire of the Fathers of the sacred Council that these departments, which have indeed rendered excellent service to the Roman Pontiff and to the pastors of the Church, should be reorganized and modernized, should be more in keeping with different regions and rites, especially in regard to their number, their names, their competence, their procedures and methods of coordination. It is hoped also that, in view of the pastoral role proper to bishops, the functions of the legates of the Roman Pontiff should be more precisely determined. Furthermore, as these departments have been instituted for the good of the universal Church it is hoped that their members, officials and consultors, as well as the legates of the Roman Pontiff, may be chosen, as far as it is possible, on a more representative basis, so that the offices or central agencies of the Church may have a truly universal spirit. It is urged also that more bishops, especially diocesan bishops, be co-opted to membership of these departments, who will be better able to inform the Supreme Pontiff on the thinking, the hopes and the needs of all the churches. Finally, the Fathers of the Council judge that it would be most advantageous if these departments were to have more frequent recourse to the advice of laymen of virtue, knowledge and experience so that they also may have an appropriate role in the affairs of the Church” (CD, nn. 9-10, English translation in Flannery, p. 568). Vischer states that the “[c]uria had to be reorganized in order to be effectively present to the entire Church. It had to be given an international character, something the Council had already said was desirable” (Vischer, “The Reception of the Debate,” p. 240).
VI announced he was undertaking.”

John Paul indicates that it was necessary to reform the curia in light of the 1983 Code and the then forthcoming Code for Eastern Catholic Churches when he said, “it was our duty to fulfill and complete that renewal of the laws of the Church which was brought in by the publication of the new Code of Canon Law or which is to be brought into effect by the revision of the Oriental canonical legislation.”

Furthermore he states that “our whole steadfast approach has been to make sure that the structure and working methods of the Roman Curia increasingly correspond to the ecclesiology spelled out by the Second Vatican Council, be ever more clearly suitable for achieving the pastoral purposes of its own constitution, and more and more fit to meet the needs of Church and civil society.”

Pastor bonus is divided into two main sections. It begins with “an introductory section in which John Paul II sets out the doctrinal principles which form the basis for the curia’s existence.”

An earlier draft of a document to reform the curia had been rejected at “a special

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98 PB, n. 13, p. 698. With regard to the applicability of the norms of Pastor bonus to the whole Church – both the Latin Church and the Eastern Churches – some difficulties arise by virtue of the fact that Pastor bonus was promulgated prior to the Eastern Code at a time when the former Eastern legislation was in force, and also by the fact that Pastor bonus, in many instances, uses language proper to the Latin Church, thereby making it unclear as to whether its provisions also apply to the Eastern Churches. Jobe Abbass addresses these difficulties and the claim “that the failure of Pastor bonus to take the canonical legislation of the Eastern Churches into full consideration constitutes a significant difficulty since the apostolic constitution is meant to address the universal Church” (Jobe Abbass, “Pastor Bonus and the Eastern Catholic Churches,” in Orientalia Christiana Periodica, 60 [1994], p. 609).

99 PB, n. 13, p. 698.

100 Provost, “Pastor Bonus,” p. 507.
meeting of the cardinals prior to the 1985 extraordinary meeting of the Synod of Bishops.\(^{101}\)

One thing that this earlier draft did not have was the “sound ecclesiological base” that John Paul II has provided in the Introduction to *Pastor bonus*, which draws “on the ecclesiology of communion and collegiality, reflecting the teaching of Vatican II.”\(^{102}\) It is this Introduction that I will focus on in this chapter.

In the Introduction to *Pastor bonus*, a couple of major concepts stand out as being relevant as we consider John Paul II’s canonical contributions, particularly in light of what has already been said regarding the 1983 Code. First is “the understanding of the Church as a communion (n. 1).”\(^{103}\) Also, “the nature of papal and Episcopal power as service or diaconia (n. 2),”\(^{104}\) a theme that John Paul II had named as an essential element of the newness of the Council and the new Code.\(^{105}\) Towards the conclusion of the Introduction, two references can be found to the salvation of souls (nn. 12 and 14), which is also how the 1983 Code concludes (c. 1752).

### 2.1 – The Curia at the Service of Communion

In *Pastor bonus*, John Paul II acknowledges that at Vatican II, “the Church delved more deeply into the mystery of its own being and gained a more lively vision of its mission.”\(^{106}\) As has been noted in section 1.1.2.2 above, a key outcome of this was a renewed emphasis on

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\(^{101}\) Ibid., p. 500. Provost notes elsewhere that “[t]he *Schema Legis Peculiaris de Curia Romana* (Typis Polyglottis Vaticannis, 1985) was circulated *subsecreto* [sic] to the cardinals and presidents of conferences of bishops for comment prior to the November 1985 cardinalatial meeting” (James H. PROVOST, “Reform of the Roman Curia,” in *Concilium*, 188 [1986], p. 35, f.n. 1 [= PROVOST, “Reform”]).

\(^{102}\) PROVOST, “*Pastor Bonus,*” p. 521.

\(^{103}\) Ibid., p. 508.

\(^{104}\) Ibid.

\(^{105}\) In *SDL* John Paul had referred to “hierarchical authority as service” (*SDL*, p. xxx).

\(^{106}\) *PB*, n. 4, p. 688.
viewing the church as a communion, a theme which has been taken up in the 1983 Code. Just a few years later, now, with the promulgation of Pastor bonus, John Paul seeks to show – as he reforms the Roman Curia – how the curia serves the communion of the Church. Provost notes that the bishops of Vatican II wanted the curia “to become integrated into the conciliar view of the communion of churches, respecting the fact that in and from the particular churches the one and catholic Church comes into being.” Provost explains that “[t]he communion of churches is not some merely pragmatic organizational principle; rather, it pertains to the reality of the Church as a mystery.” The “notion of communion” is John Paul II’s starting point in the Introduction to Pastor bonus.

John Paul II states that “not only is the Roman Curia far from being a barrier or screen blocking personal communications and dealings between bishops and the Roman Pontiff, or restricting them with conditions, but, on the contrary, it is itself the facilitator for communion and the sharing of concerns, and must be ever more so.” He goes on to add that by “reason of its diaconia connected with the Petrine ministry, one concludes, on one hand, that the Roman Curia is closely bound to the bishops of the whole world, and, on the other, that those pastors and their Churches are the first and principal beneficiaries of the work of the dicasteries.” In number 12 of the Introduction, John Paul exhorts mutual communication between the Roman Curia and the pastors of the particular churches. He says that “[t]his mutual communication between the centre of the Church and the periphery does not enlarge the scope of anyone’s

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109 PB, no. 1, pp. 683-684.
110 Ibid., n. 8, p. 692.
111 Ibid., n. 9, p. 693.
authority but promotes *communion* in the highest degree, in the manner of a living body that is constituted and activated precisely by the interplay of all its members.”

Provost says that

> *diaconia* is the *leitmotiv* of *Pastor bonus*. Starting from the constitution’s very first paragraph the function of the people of God’s pastors is characterized as diaconal service. The pastors’ service is directed toward building up the communion of the Church (n. 1), so that the work of the bishops as a college and of the bishop of Rome at their head must always be seen as a service “in the model of Christ himself” (n. 2).

Provost states that the theme of “the *diaconia* that the Roman bishop exercises in service to the other bishops […] runs throughout the document.” The curia’s role, then, is to “strengthen the communion of the Church and to serve the *diaconia* of Peter’s successors more effectively.”

Provost does note some concerns he has with the use of the imagery of the “center” and the “periphery” when he says that “the spatial analogy of center and periphery is not particularly felicitous.” In this imagery, the Roman church “occupies the ‘center’ and the other particular churches are at the ‘periphery.’” He argues that this imagery “contrasts with the sense of communion and the approach to *diaconia* elsewhere in the document” and he also concludes that “the image of center and periphery can carry implications for how those who serve in the curia view the rest of the Church, which could lead to unfortunate consequences.”

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112 Ibid., n. 12, pp. 696-697.

113 PROVOST, “Local Church,” pp. 304-305.

114 Ibid., p. 313.

115 Ibid., p. 305.

116 Ibid., p. 312.

117 Ibid., p. 311.

118 Ibid., p. 312.
2.2 – Primacy and Collegiality

A specific application of an ecclesiology of communion is the relationship between collegiality and the primacy. In *Pastor bonus*, John Paul II states:

> When one thinks about this communion, which is the force, as it were, that glues the whole Church together, then the hierarchical constitution of the Church unfolds and comes into effect. It was endowed by the Lord himself with *a primatial and collegial nature at the same time* when he constituted the apostles ‘in the form of a college or permanent assembly, at the head of which he placed Peter, chosen from among them.*"\(^{119}\)

Provost explains this further by saying that ‘*[t]he bishops together with the bishop of Rome do what the apostles did together with Peter, namely, carry out the three-fold *munera* of Christ.*’\(^{120}\) Vischer argues that collegiality does not diminish the importance of the primacy of the pope. He suggests that

> [t]here are good grounds for maintaining that Vatican II gave new emphasis to the importance of the pope for the unity of the Church. […] This unique role of Peter and his successors is not restricted by the subsequent emphasis on the college but on the contrary is seen even more clearly to be indispensable. […] Vatican II shows that precisely because the Catholic Church has a single head it can make room for multiplicity without disintegrating. Only because the college is linked with the successor of Peter does it become a symbol of unity […]\(^{121}\)

Provost points out that ‘*[t]he pope calls for a collegial spirit in the work of the curia.*’\(^{122}\) This collegiality is manifested in various ways. Firstly, by the “working together of various members of the Episcopal college: cardinals, bishops working full-time in the curia, and diocesan bishops who form part of the dicasteries.”\(^{123}\) John Paul II notes in *Pastor bonus* that the presence of diocesan bishops as members of dicasteries allows them to “inform the Supreme

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\(^{119}\) *PB*, n. 2, 684.

\(^{120}\) PROVOST, “Local Church,” p. 304.


\(^{122}\) PROVOST, “*Pastor Bonus,*” p. 509.

\(^{123}\) Ibid.
Pontiff on the thinking, the hopes and the needs of all the Churches’ and “so the collegial spirit between the bishops and their head works through the Roman Curia and finds concrete application.” Provost notes as well that the personnel of the dicasteries, made up of “priests, men and women religious, and lay persons, drawn from all over the world” also reflects “the working together of the whole Church.” John Paul II stated that “[t]his collegial spirit is also fostered between the various dicasteries” when “[a]ll the cardinals in charge of dicasteries, or their representatives, when specific questions are to be addressed, meet periodically in order to brief one another on the more important matters and provide mutual assistance in finding solutions, thus providing unity of thought and action in the Roman Curia.” John Paul II summarizes all this when he says:

From this comes to light that the ministry of the Roman Curia is strongly imbued with a certain note of collegiality, even if the Curia itself is not to be compared to any kind of college. This is true whether the Curia be considered in itself or in its relations with the bishops of the whole Church, or because of its purposes and the corresponding spirit of charity in which that ministry has to be conducted. This collegiality enables it to work for the college of bishops and equips it with suitable means for doing so. Even more, it expresses the solicitude that the bishops have for the whole Church, inasmuch as bishops share this kind or care and zeal “with Peter and under Peter.”

As well as diocesan bishops serving as members of dicasteries, they also make their visits ad limina Apostolorum. Provost states that “[a] unique dimension of Pastor bonus is the increased significance it gives to the regular five-year visits of bishops to the tombs of the apostles, a visit which also includes a personal visit with the pope and, according to the

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124 PB, n. 9, p. 693.
126 PB, n. 9, p. 693.
127 Ibid., n. 10, p. 694.
directives for such visits, with various offices of the curia.” An appendix is attached to *Pastor bonus* entitled “The Pastoral Significance of the Visit *ad limina Apostolorum*” and this appendix “presents these visits as a special dimension of the communion which binds together the pope and bishops, and urges that they be seen in a renewed light.” John Paul II states that “communion and unity in the innermost life of the Church is fostered to the highest degree through the *ad limina* visits.”

James Provost is somewhat sanguine in his evaluation of the curia’s ability to “work for the college of bishops” as described in *Pastor bonus*. He notes that, in *Pastor bonus*, John Paul II has emphasized the “vicarious character of the Roman Curia” and that “it does not operate by its own right or on its own initiative. It receives its power from the Roman Pontiff and exercises it within its own essential and innate dependence on the Pontiff.” Provost proposes that it is therefore only “indirectly through his [the pope’s] office that the curia is at the service of others in the Church” and that this “places greater emphasis on the curia being an instrument of the pope alone, and not of the college of bishops which is the subject of supreme power together with him.”

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128 PROVOST, “Pastor Bonus,” p. 519-520.
129 *PB*, pp. 735-739.
130 PROVOST, “Pastor Bonus,” p. 520.
131 *PB*, n. 10, p. 695.
132 Ibid., n. 8, p. 692.
133 PROVOST, “Pastor Bonus,” p. 510-511. He goes on to say, “Just as the curia is limited to what the pope wills and to acting as he directs (its ministerial and vicarious character, as developed in the introduction [of *Pastor bonus*]), so too the curia does not take directions from anyone except the pope” (ibid., p. 511). Provost also notes that while “[t]he introduction also emphasizes repeated that the Roman Curia is an instrument in the hand of the pope, does his will, and is limited to what he wants it to do” that this does in fact respond “to a related critique [of the earlier, rejected *schema*], that the curia seemed too much an entity unto itself in the *schema*” (ibid., p. 521). Provost also points out that in the norms of *Pastor bonus*, in contrast with the Introduction, “the focus is on the primacy, not on collegiality. […] the emphasis in the Introduction on providing a service to the pastors of the Church is not repeated in the norms themselves” (PROVOST, “Local Church,” p. 320). He summarises the difference
Episcopal conferences have been noted above in relation to collegiality and the 1983 Code. *Pastor bonus* sets the principle that “[c]lose relations are to be fostered with particular Churches and groupings of bishops.”\(^{134}\) Groupings of bishops would include “episcopal conferences in the Latin Church, and also episcopal synods in the Eastern Catholic Churches.”\(^{135}\) Provost notes the several occasions when *Pastor bonus* refers to episcopal conferences, but also notes some important areas when they are not mentioned.\(^{136}\) He also states that “it is striking that associations in the Church receive as many references as episcopal conferences.”\(^{137}\) He therefore raises the question: “While these specialized groups are certainly valuable and may be effective collaborators with curial offices, is this an adequate reflection of the ecclesiology of communion and collegiality which John Paul II presents in the introduction to this document?”\(^{138}\)

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\(^{134}\) *PB*, art. 26, § 1, p. 704.

\(^{135}\) PROVOST, “*Pastor Bonus,*” p. 517.

\(^{136}\) “In the description of dicasteries there are at least ten references to episcopal conferences or episcopal bodies (including both Eastern synods and Latin conferences). They are to be consulted in developing church-state relations (art. 46), and informed of information gathered on violations of human rights in their area (art. 143, §2). Assistance is to be given them in their teaching function (art. 50), and in determining if proposed laws are consonant with universal law (art. 158). Their decrees are subject to review (art. 157), as are their translations of liturgical texts (art. 64, §3). They are to be involved when curial agencies study the condition of the family (art. 141, §2) and work to protect the artistic and historic patrimony of the Church (art. 102). Their rights with regard to vocations and seminaries are to be respected (art. 93). They are erected and their statutes are approved by the curia (art. 82). […] On the other hand, no mention is made of episcopal conferences in such crucial areas as the missions, Catholic universities and ecclesiastical faculties, or Christian unity” (ibid., p. 518).

\(^{137}\) Ibid., p. 519.

\(^{138}\) Ibid. Reflecting more broadly on whether the reform of the curia enacted by *Pastor bonus* will promote subsidiarity, Provost suggests that much of what *Pastor bonus* says of the tasks of the curia “can be interpreted as structured for subsidiarity, but there is no clearly thought-out guiding principle which will determine these activities, and they could also be seen as interference from a higher office rather than support. Only experience will determine which is the correct reading” (ibid., pp. 521-522).
Another issue that Provost notes is the relationship between the Roman Curia and the Synod of Bishops.\textsuperscript{139} He states that “Pastor bonus does not mention the Synod of Bishops, which the council anticipated would be an ongoing structural expression of collegiality.”\textsuperscript{140} Provost notes that there is disagreement as to whether the Synod of Bishops is consultative in nature or collegial.\textsuperscript{141} Provost concludes that “[e]ach is a distinct institute and their interrelationship is not clear either in theory or in law.”\textsuperscript{142} He also suggests that “[t]he absence of any mention of the synod may be symptomatic of the decidedly primatial approach of Pastor bonus, which tends to isolate individual bishops in their relationship with the Apostolic See.”\textsuperscript{143} Another possible reason for the lack of reference to the Synod of Bishops in Pastor bonus could also be due to a strict reading of CIC canon 344, which states that “[t]he synod of bishops is directly subject to the authority of the Roman Pontiff.” As Granfield explains, “[t]his canon obviously affirms the

\begin{footnotesize}
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\item Provost, “Reform,” p. 34.
\item Provost, “Local Church,” p. 332.
\item This would clearly affect their relationship to each other. Provost writes, “Curial officials have repeatedly stated the synod is a consultative body, and that it is papal rather than collegial in nature. On the other hand, they have seen the curia as an executive, decision-making body, acting collegially in the name of the pope. Conciliar proponents of the synod, however, viewed things somewhat differently. They synod was for some proponents an expression of the collegial solicitude of the members of the college of bishops, hence a form of collegiality although not in the fullest sense. It would assist the pope in the governance of the universal Church. In one sense this would mean the curial offices might be asked to account for themselves to the bishops meeting in synod, and in practice there have been regular reports from various curial offices at the meetings of the synods” (Provost, “Reform,” pp. 34-35). To this can be added the thoughts of Granfield who repeats the assessment that “the synod [of bishops] ‘is part of the fundamental ambiguity of postconciliar ecclesiology.’ Although theologians agree that the synod is an instrument or organ of collegiality, they disagree on whether it can perform a ‘true collegial act’ (actus verus collegialis) as described in Lumen gentium, article 22 and canon 337’ (Granfield, The Limits of the Papacy, pp. 90-91). Granfield’s conclusion is that “[t]he synod, therefore, is a most important and useful collective action of the bishops, but it is not strictly collegial. At the same time, the synod may by its actions help prepare the way for future actions of the entire episcopate” (ibid., p. 92).
\item Provost, “Reform,” p. 35. He adds that the interrelationship is further confused because “the two bodies are only inadequately distinct: the heads of the curial congregations are automatically members of the synod of bishops” (ibid., p. 35).
\item Provost, “Local Church,” p. 332.
\end{enumerate}
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primatial role, but it may just mean that there should be no intermediary body, such as the Roman Curia, between the Pope and the synod.”

Provost asserts that “*Pastor bonus* is a complex document.” Despite its complexity, I think it would be fair to say that, from the perspective of the Introduction, John Paul II sincerely intended to make the law regarding the Roman Curia conform to the theology and especially the ecclesiology of Vatican II, along the same lines as he wished to occur in the new Code of Canon Law, particularly along the lines of hierarchical authority being seen as service, in terms of the Church being viewed as a communion, and flowing from this, regarding the interplay between the primacy and collegiality.

As was the case in the development of the 1983 Code, John Paul II sought to make the Roman Curia - through the reform effected by *Pastor bonus* - correspond more clearly to the ecclesiology given expression in the Second Vatican Council. Significantly, he added the lengthy theological introductory section to *Pastor bonus*, specifically expounding on key themes that he had earlier drawn attention to in *Sacrae disciplinae leges*, namely the Church seen as a communion, and hierarchical power seen as service. Throughout *Pastor bonus* John Paul II sets forth how the Roman Curia is to be of service to the communion of the Church, principally by assisting the successor of Peter in his *diaconia*, but also by an assistance given to the bishops of the Church who are also the beneficiaries of the service of the Curia. As I have outlined in

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144 GRANFIELD, *The Limits of the Papacy*, p. 92.

145 PROVOST, “Local Church,” p. 330. He goes on to say, “There are differences in language, tone, and emphasis between the Introduction, the norms, and the appendix on *ad limina* visits. Within the norms there is an inconsistency in terminology and the type of detail given for various departments. The document is almost three distinct documents, lacking a final overall redactor. Such a complex document presents its own difficulties in interpretation. Any reflections based on it must therefore be somewhat tentative” (ibid., p. 330).
section 2.2, in *Pastor bonus* John Paul also explains how the Roman Curia is one expression of the “spirit of collegiality” of the apostolic ministry.\(^{146}\)

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\(^{146}\) JOHN PAUL II, post-synodal apostolic exhortation *Pastores gregis*, 16 October 2003, n. 8, in AAS, 96 (2004), pp. 825-924, English translation in *Origins*, 33 (2003-2004), p. 358. Patrick Granfield provides explanations of affective collegiality and effective collegiality (see GRANFIELD, *The Limits of the Papacy*, pp. 77-78). Granfield adds: “Although the terms ‘effective and affective collegiality’ are not found as such in the documents of Vatican II, they are substantially present. *Lumen gentium*, article 22 refers to ‘a true collegial act’ (‘*actus verus collegialis*’) that is equivalent to effective collegiality. Article 23 refers to the ‘collegial spirit’ (‘*affectus collegialis*’) which is equivalent to affective collegiality. John Paul II often uses this distinction. In his address to the German bishops, for example, he said: ‘I understand effective and affective collegiality of the bishops as a weighty help to my own service’ […] The ‘Final Report’ of the 1985 Synod of Bishops also used this terminology” (ibid., pp. 78-79, f.n. 1).
A code of canon law for the Eastern Catholic Churches had been in the making for many
years. In 1927 Pope Pius XI “recognized the urgent need to codify Oriental canon law.” A
preparatory commission was established in 1929 and worked from 1930 to 1936. Another
commission was established in 1935 “to redact the canons of a code” and this commission
“completed its work in 1948.” John Erickson notes that “four of its twelve sections were
issued, in the form of apostolic letters motu proprio, by Pope Pius XII.” The death of Pius XII
and then the Second Vatican Council, with the ensuing work on the new Code for the Latin
Church, meant that it was not until 1990, some 63 years later, that John Paul II promulgated the
John Paul II indicated that this was “the first time in the history of the Church” that the pope
should promulgate a “Code common to all the Catholic Oriental Churches.”

147 For a summary of the history of the development of the Eastern Code see MC\textsc{manus}, “The Code of
Canons,” pp. 27-31. An account of the history is also to be found in the preface to the Eastern Code: see \textit{Code of


149 MC\textsc{manus}, “The Code of Canons,” p. 27.

150 Ibid.

note that the canons in these \textit{motu proprio} letters “were provided with references to sources from the Eastern
tradition (but not to the canon law of the Latin Church, which was of course a principal source of both norms and
language), and an impressive collection of \textit{Fonti} was also published” (MC\textsc{manus}, “The Code of Canons,” p. 28).

152 JOHN PAUL II, allocution, 25 October 1990, n. 1, p. 1. This is echoed by Bishop Emile Eid when he said:
“With the promulgation of the \textit{Code of Canons of the Oriental Churches}, as the Code is officially entitled, we have
for the first time in the history of the Church one complete body of law common to all Eastern Catholic Churches.
Its completion and promulgation is a prophetic sign of the times which are under the guidance of God’s Providence.
Its content, which is dynamic and of great worth, promises the Eastern Churches a new springtime within the
Universal Church and a renewal of pastoral ministry and apostolic zeal” (Emile Eid, “Code Promises ‘Oriental
With regard to what has been said above about the reception of the ecclesiology of Vatican II in the Latin Code and also in *Pastor bonus*, Erickson states that “[i]t could be argued that, on the whole, the CCEO is more successful than the CIC at translating the essentially pastoral vision of Vatican II into juridical terms.”

### 3.1 – The Code and the sacred canons of the Eastern Churches

Frederick McManus states that “the major concern expressed in the papal constitution [*Sacri Canones*] is fidelity to the Eastern canonical traditions.” The Guidelines for the Revision of the Code of Oriental Canon Law had been clear that the Eastern Code was to be in continuity with the Eastern canonical tradition when it stated:

> The legal heritage of the Oriental Churches is to a great extent founded on the same ancient canons that are to be met with in almost all Oriental canonical collections and on common traditions: this is apparent from the collections themselves, which often contain laws of identical tenour.

> These canons and these traditions provide a common basis for a single code applicable to all the Oriental Churches.

> […] The Oriental Code should draw its inspiration from, as well as express, the common discipline, such as it is contained: a) in the Apostolic tradition; b) in the Oriental canonical collections and in the customary norms common to the Oriental Churches and not fallen into desuetude.

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153 Erickson, “The *Code of Canons,*” p. 291. He continues: “This may have little to do with its ‘Eastern’ character, however. The CCEO’s latinity generally is superior to that of the CIC as well. Appearing seven years after the CIC, the CCEO had the advantage of hindsight” (ibid.). On the other hand, Erickson also says: “With the skill of a surgeon wielding a sharp scalpel, Eugenio Corecco has shown how the 1983 CIC, in its reception of Vatican II, perpetuated and even accentuated this duality [of Church seen as *societas*, and the Church seen as *communion*], or rather how it tried to contain the new wine of the Church understood in sacramental terms as communion in the old juridical wineskins inherited from the preconciliar period. Many of Corecco’s criticisms of the CIC apply equally well to the CCEO, if only because the CCEO essentially reproduces CIC at so many points” (ibid., p. 292).


Bishop Eid explains that it was the intention of John Paul II to produce an Eastern Code that “would conform in every way both to the Eastern traditions and to the Conciliar decisions.” 156 In *Sacri Canones*, John Paul stated that “we consider that this Code, which we now promulgate, must be considered to be assessed most of all according to the ancient law of the Eastern Churches.” 157

An initial comment that can be made concerns the name chosen for the Eastern Code. In early stages of the work on the Eastern Code, its name was to be a variation on the name of the Latin Code. To better show the link with the Eastern canonical tradition, the title of the Eastern Code became the *Code of Canons of the Eastern Churches*. 158 John Paul II reflects on the use of the designation “sacred canons” (*sacri canones*), a term that has always been used in the Eastern Churches to describe articles of law. 159 He says that they are sacred insofar as “everything that the Sacred Pastors establish is sacred, holding the power, conferred on them by Christ and exercised under the guidance of the Holy Spirit for the good of the souls who, sanctified by

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156 Eid, “Code Promises ‘Oriental Springtime,’” p. 5. Bishop Eid also notes that “Vatican II provided almost a summary of certain key points of Oriental Canon Law in the decree *Orientalium Ecclesiarum*” (ibid.).


159 John Paul II, allocution, 25 October 1990, n. 10, p. 4. Motiuk explains that “[t]he ‘Sacred Canons’ constitute the patrimony of the canonical discipline of the undivided Church of the first millennium. They include the canons of the Apostles, the decisions of the ecumenical councils, and the canonical writings of the Fathers, and were confirmed as one ‘Code’ for all Eastern Churches as early as the Council in Trullo (691/692)” (Motiuk, “The Code of Canons,” p. 191).
Baptism, constitute the one, holy Church." He says that this holds good even for merely ecclesiastical laws, for their reason for existing is entirely ‘sacred’; and even if they belong to the human ‘ordinatio rationis’, they have been formulated not only after much thought, but also with incessant prayer by the entire Church. Great wisdom must be presumed behind each of the norms of the Code. These, indeed, have been studied at length and from every angle with the cooperation of all members of the hierarchy of the Oriental Churches and in the light of the almost 2,000-year-old tradition, confirmed by the first ‘sacri canones’ up to the decrees passed by Vatican Council II.

Another way that continuity with the Eastern canonical tradition has been maintained is in the structure of the Eastern Code. As has been pointed out, the 1983 Latin Code “abandoned the tradition of the canonical traditions that had inspired the 1917 [Code’s] pattern or system,” inserting in its place a structure reflecting “the conciliar stress upon the threefold munus or ministry of the Lord Jesus entrusted to the community of the baptized: prophetic, priestly, and royal.” McManus points out that the structure of the 1983 Code “is simply not followed in the new code of the Eastern Churches, and that for several evident reasons: the system is not found in the Eastern canonical tradition; it is not entirely adequate in itself; and – despite all the obvious instances of parallels in the two codes – an effort was made to avoid direct imitation if possible.”

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161 See CCEO, c. 1490 and CIC, c. 11.
164 Ibid.
165 Ibid., p. 32. McManus also gives some specific examples in CCEO where “the Eastern canonical tradition may or may not be seen” (ibid., pp. 48-56). Some examples: the Eastern Code adds a reference to the action of the Holy Spirit in the Sacrament of Penance (CCEO, c. 718), and also defines custom (CCEO, c. 1506, § 1), both absent from the Latin Code. The inability of the newly elected patriarch to “convoke the synod or ordain bishops until he has received a response from the Roman See (c. 77, §2) […] may be readily seen as an untraditional limitation on the patriarchal office” (ibid., p. 49). “In dealing with the sacraments of baptism, chrismation with holy myron, and
3.2 – The Role and Necessity of Particular Law

Erickson states that the Eastern Code “provides considerable scope for the various Churches sui iuris – potentially including the Latin Church – to formulate their own particular law.” Bishop Eid states that the call for particular law is one of the ways the Eastern Code “respects the sui iuris status of each Church” because “the Code takes into account their legitimate differences regarding both tradition and current circumstances and provides for them adequately through repeated recourse to the particular law, already existing or yet to be adopted by the respective synods, or through the direct intervention of the Apostolic See.”

Motiuk states that “[u]nlike the Latin Code, which contains both the common or universal law and particular law of the Latin Church, the Eastern Code represents only the common law of the Eastern Churches, leaving to each of the twenty-one Eastern Churches sui iuris the determination of its respective particular law.” McManus points out “that some 183 canons [of the Divine Eucharist, the Eastern code reflects common Eastern customs and traditions, [...] which together are in contrast to the Latin Church’s practice” (ibid., pp. 52-53). For example, “[u]nlike the practice of the Latin Church, only bishops and presbyters may baptize except in case of necessity when a deacon or other cleric or even a lay person may baptize (c. 677)” (ibid., p. 53). Further, “[i]t is required that chrismation with holy myron be celebrated together with baptism, except in case of true necessity (c. 695, § 1), and the holy Eucharist as soon as possible after baptism and chrismation ‘in accord with the law of the autonomous church’ (c. 697)” (ibid., p. 53). With regard to the law on marriage, “[s]ome of the canons reproduce the law of the Latin Church, but the fundamental description of the sacrament – while in full accord with the conciliar teaching in the 1965 pastoral constitution Gaudium et spes – has different emphases. This has been explained as recognition of the Eastern sensibility to the mystical and spiritual dimensions of marriage – seen, for example, in the norm for the canonical form of marriage” (ibid., p. 54). Another “notable difference from the Latin canon law is the absence of so-called penalties latae sententiae, i.e., penalties incurred automatically by operation of the law upon transgression, all other conditions being fulfilled” (ibid., p. 55). McManus notes that “[t]here was no place for this kind of penalty in the Eastern canonical tradition” (ibid., p. 55, f.n. 55).

the Eastern Code] leave matters to particular law of the autonomous churches.”\textsuperscript{169} He states that “the Eastern code frequently refers matters, often of major importance, to the particular law of the individual Churches \textit{sui iuris}.\textsuperscript{170} In \textit{Sacri Canones}, John Paul states that things are left to the particular law of the individual Churches “which are not considered necessary to the common good of all of the Eastern Churches,” and he adds that “[o]ur intention regarding these things is that those who enjoy legislative power in each of the Churches should take counsel as soon as possible for particular norms, keeping in mind the traditions of their own rite and the precepts of the Second Vatican Council.”\textsuperscript{171} Motiuk points out – writing in 2002 – that “[t]he Byzantine Church \textit{sui iuris} is one of only a few Eastern Churches \textit{sui iuris} to successfully complete the process of revising and promulgating its particular law.”\textsuperscript{172}

3.3 – Relationship with the Latin Code and \textit{Pastor Bonus}

In his speech presenting the Eastern Code to the Synod of Bishops on 25 October 1990, after reminding the Synod fathers that the Oriental and Western Churches enjoy “equal dignity,” John Paul II said that it was his “ardent desire” that the Eastern Code would be welcomed by the whole Church, and that “it will be regarded as belonging to the disciplinary wealth of the universal Church on an equal basis with the \textit{Codex Iuris Canonici} which was promulgated only in 1983, and which has the effect of law for the Latin Church. Indeed, both Codes gain their force from the same solicitude of the Vicar of Christ […]”\textsuperscript{173} In \textit{Sacri Canones} John Paul states:

\textsuperscript{169} MC\textsc{MANUS}, “The Code of Canons,” p. 31.

\textsuperscript{170} Ibid., p. 36.

\textsuperscript{171} S\textsc{Can}, p. xxiv.


“Thus it happens that the canons of the *Code of Canons of the Eastern Churches* must have the same firmness as the laws of the *Code of Canon Law* of the Latin Church, that is, that they remain in force until abrogated or changed by the supreme authority of the Church for just reasons.”  

John Paul urges the “parallel canonical status of the Eastern Catholic Churches individually or even as a group of churches, and the Latin Church – and thus of the two codes” by the use of metaphors when he says “that the Church, gathered by the one Spirit breathes, as it were, with the two lungs of East and West, and burns with the love of Christ, having one heart, as it were, with two ventricles.”

John Paul acknowledged that, when promulgating the new Latin Code, “[w]e were without a reorganization of the Roman Curia and – one could also say – that for many centuries we did not have a Code containing the common law for all the Catholic Churches.” John Paul II notes that with the promulgation of *Pastor bonus*, and now the Eastern Code, “the updating of the entire discipline of the Catholic Church, begun by Vatican Council II, has been concluded, and God is to be thanked for this.” John Paul also stated: “I wish to say that I consider it [the Eastern Code] an integral part of the sole ‘*corpus iuris canonici*’, made up of the three above-

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174 *SCan*, p. xxiii. The pope goes on to give one of those reasons: “The most serious of those reasons is the full communion of all the Eastern Churches with the Catholic Church, in addition to being most in accord with the desire of our Savior Jesus Christ himself” (ibid.). This again highlights the ecumenical nature of the Eastern Code.


176 *SCan*, pp. xxiii-xxiv.


178 Ibid.
mentioned documents [CIC, Pastor bonus, and CCEO], promulgated over a span of seven years.”

In Sacri Canones he states:

The Code of Canons of the Eastern Churches should be considered as a new complement to the teaching proposed by the Second Vatican Council. By the publication of this Code, the canonical ordering of the whole Church is thus at length completed, following as it does the Code of Canon Law of the Latin Church, promulgated in 1983, and the “Apostolic Constitution on the Roman Curia” of 1988, which is added to both Codes as the primary instrument of the Roman Pontiff for “the communion that binds together, as it were, the whole Church” (ap. const. Pastor bonus, n. 2).

Another element of the relationship between the Eastern and Latin Codes is that “the Eastern Code can serve as parallel or supplementary law in an attempt to resolve doubts in the Latin Code.” Canon 17 of the Latin Code says that when the meaning of a law is doubtful, “recourse must be made to parallel places, if there are such, to the purpose and circumstances of the law, and to the mind of the legislator” (CIC, c. 18). The Eastern Code would be one example of a parallel place which could give an indication of the mind of the one who is the same legislator of both Codes.

179 Ibid., n. 7, p. 4. John Paul goes on to make the following recommendation: “Before this ‘Corpus’, there arises spontaneously the suggestion that a proper comparative study of both Codes should be encouraged by Canon Law faculties, even if they, by statute, have as their main object the study of one or the other of them. Indeed, canonical science fully corresponding to degrees that these Faculties confer, cannot leave out consideration of such a study” (ibid.). According to the Congregation for Catholic Education’s 2002 Decree revising the order of studies in the faculties and departments of canon law, it is now obligatory that students at a Latin faculty of canon law receive an introduction to the Code of Canons of the Eastern Churches, and that students at an Oriental faculty of canon law receive an introduction to the Code of Canon Law (CONGREGATION FOR CATHOLIC EDUCATION, decree revising the order of studies in the faculties and departments of canon law, 2 September 2002, in AAS, 95 (2003), pp. 281-285, English translation at http://www.vatican.va/roman_curia/ congregations/ ccatheduc/ documents/rc_con_ccatheduc_doc_20021114_decree-canon-law_en.html (15 February 2012). Ten years following the promulgation of the Eastern Code, Motiuk suggests that “the most extensive” comparative study “to date” to be Jobe Abbass’ Two Codes in Comparison (MOTIUK, “The Code of Canons,” p. 195).

180 SCan, p. xxv.


182 Motiuk gives an example for this, regarding the use of the habitual faculty of hearing confessions, comparing CIC, c. 967, § 2 and CCEO, c. 722, § 4, where the Eastern Code can be seen to be giving an indication of the mind of the legislator, clarifying something that was doubtful or unclear in the earlier law. See MOTIUK, “The Code of Canons,” p. 208. See also Jobe ABBASS, Two Codes in Comparison, 2nd rev. ed., Kanonika, no. 7, Rome, Pontifical Oriental Institute, 2007, pp. 133-149.
To sum up, it was a considerable canonical contribution of John Paul II to bring to completion the promulgation of the first ever Code common to all of the Eastern Catholic Churches. In doing this, he brought to conclusion a project that had spanned several pontificates and most of the twentieth century. It was John Paul II’s stated wish to produce a Code that would be faithful to the canonical and spiritual tradition of the Christian East, whilst also bringing forth the teaching of the Second Vatican Council, as he had done in the 1983 Code for the Latin Church. A significant feature of the Eastern Code is its call for particular law to be developed in each of the Churches sui iuris, thereby respecting their legitimate autonomy, and their distinctive “liturgical, theological, spiritual and disciplinary heritage, differentiated by the culture and the circumstances of the history of peoples, which is expressed by each Church sui iuris in its own manner of living the faith” (CCEO, c. 28). With the promulgation of the Eastern Code, following as it did the promulgation of the 1983 Latin Code and the reform of the Roman Curia effected through the promulgation of Pastor bonus, John Paul II completed the renewal of the Church’s corpus iuris canonici.
CONCLUSION

I feel that it is fair to say that the canonical contribution of Blessed John Paul II was substantial. He achieved the complete reform of the body of canon law, with Codes for the Latin Church and the Eastern Catholic Churches, together with the reform of the law governing the Roman Curia. In the process of doing this he confirmed the methodology of codification, and provided for the first time a single Code with the common law of the Eastern Churches.

In all of this, I think the most important aspect of John Paul II’s canonical contributions was his clearly and often stated intention and sincere desire to make the law of the Church thoroughly conform to, and be imbued with, the ecclesiological emphases of the Second Vatican Council. In his Testament, published just after his death, John Paul had written:

As I stand on the threshold of the Third Millennium “in medio Ecclesiae”, I would like once again to express my gratitude to the Holy Spirit for the great gift of the Second Vatican Council, to which, together with the whole Church – and especially with the whole Episcopate – I feel indebted. I am convinced that it will long be granted to the new generations to draw from the treasures that this 20th-century Council has lavished upon us. As a Bishop who took part in the Council from the first to the last day, I desire to entrust this great patrimony to all who are and will be called in the future to put it into practice. For my part, I thank the eternal Pastor who has enabled me to serve this very great cause in the course of all the years of my Pontificate.183

Throughout the apostolic constitutions Sacrae disciplinae leges, Pastor bonus and Sacri Canones, John Paul emphasizes the ways in which the law he is promulgating is in conformity with Vatican II. As has been shown above, some of the important conciliar themes that recur through these constitutions are the Church viewed as a communion, hierarchical authority seen as service, and the relationship of the primacy to collegiality. We also see the theme of the Church as the people of God sharing in the threefold munera of Christ. To these we can also add ecumenism, a theme announced in Sacrae disciplinae leges, but more fully opened up in the

context of *Sacri Canones*, and certainly one of the most obvious fruits of the post-Conciliar period. The extent to which these themes are adequately fulfilled in the resultant law is obviously a question for ongoing discussion, as the law itself will evolve over time. However, what cannot be disputed is John Paul II’s explicit wish, in the work of the reform the law, to make the whole body of canon law conform to the ecclesiology of Vatican II. This, I believe, is his pre-eminent canonical contribution.
BIBLIOGRAPHY

Sources

Acta Apostolicae Sedis, Rome, 1909 -


Books and Commentaries


WOESTMAN, William H. (ed.), *Papal Allocutions to the Roman Rota 1939-2011*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011.


**Articles**


HEINTSCHEL, Donald E., “‘... A New Way of Thinking’” in The Jurist, 44 (1984), pp. 41-47.


BLESSED JOHN PAUL II

18.V.1920 – 2.IV.2005

Beatified: 1 May 2011

Ora pro nobis