

Cardinals' College activity in support of the Pope

A atividade do Colégio dos Cardeais em apoio ao Papa

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Abstract: Traditionally, the consistory is the institutional venue where the collegiate function is exercised by the cardinals cooperating with the Pope. The Canon Law Code foresees two kinds of it: an ordinary one, to which all the cardinals are summoned (or at least those present in Rome) to deal with serious matters (which are often quite frequent) or to perform acts of great solemnity, such as, for example, the creation of new cardinals; and an extraordinary one involving indiscriminately all cardinals and taking place when the Church has special needs or serious questions have to be discussed. Though the specifically consultative function of an ordinary consistory has by now in effect disappeared, the cardinals (and let's not forget that they are an extremely ancient institution of human rights dating back to the first centuries AD) continue nowadays

Resumo: Tradicionalmente, o consistório é o local institucional onde a função colegiada é exercida pelos cardeais que cooperam com o Papa. O Código de Direito Canônico prevê dois tipos: o ordinário, ao qual são convocados todos os cardeais (ou pelo menos os presentes em Roma) para tratar de assuntos sérios (que muitas vezes são bastante frequentes) ou para praticar atos de grande solenidade, como, por exemplo, a criação de novos cardeais; e um extraordinário envolvendo indiscriminadamente todos os cardeais e ocorrendo quando a Igreja tem necessidades especiais ou questões sérias devem ser discutidas. Embora a função especificamente consultiva de um consistório ordinário já tenha desaparecido, os cardeais (e não esqueçamos que são uma instituição de direitos humanos extremamente antiga

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to cooperate with the Pontiff in governing the Universal Church, individually running the various offices of the Curia Romana, and as a group dealing with any particularly important problems. Recent Popes have confirmed this tradition with regular recourse to the cardinals' consultative faculty even going beyond traditional juridical schemes.

Keywords: cardinals; consistory; Roman Curia; Supreme Pontiff; Church.

que remonta aos primeiros séculos d.C.) continuam hoje a cooperar com o Pontífice no governo a Igreja Universal, administrando individualmente os vários ofícios da Cúria Romana, e como um grupo lidando com quaisquer problemas particularmente importantes. Os recentes Papas confirmaram essa tradição com o regular recurso da faculdade consultiva dos cardeais, indo além dos esquemas jurídicos tradicionais.

Palavras-chave: cardeais; consistório; Cúria Romana; Sumo Pontífice; Igreja.

Premiss

On 28th November 2020, Pope Francis called together the cardinals of the Holy Roman Church in a consistory. It was an ordinary public consistory meant to create 13 new cardinals. With these new 13, the total number of cardinals reached 229, of whom 128

are electors³. 128 is 8 more than the maximum fixed by Paul VI but often exceeded by his successors.

Traditionally, the consistory is the institutional venue where the collegiate function is exercised by the cardinals cooperating with the Pope. For a consistory, the cardinals are called by a papal summons to gather together under the Pope's presidency. The Canon Law Code foresees two kinds of consistory: an ordinary one (like that of 28th November last) to which all the cardinals are summoned (or at least those present in Rome) to deal with serious matters (which are often quite frequent) or to perform acts of great solemnity, such as, for example, the creation of new cardinals. They might also be called to an extraordinary consistory involving indiscriminately all cardinals and taking place when the Church has special needs or serious questions have to be discussed. It is only an ordinary consistory (when some ceremony or other is celebrated) that can be open to the public and in such a case prelates, legates from normal society and other envoys, can also be present. Ordinary consistories are celebrative in nature and are mainly called to solemnize canonization

³ With this ceremony, the number of cardinals created by Pope Francis reaches 73. Benedict XVI created 39 and John Paul II 16. As regards their distribution geographically: the Europeans total 30 (i.e. 38%, including 14 Italians -- 17,7%), Latin Americans 16 (20.2%), Asiatics 13 (16,5%), Africans 11 (13,9%), North Americans 6 (7,6%), and 3 from Oceania. After the Italians, it was the Spanish-speaking cardinals who had received the most birettas, 5 in number i.e. without counting three born and ordained in Spain (but working in Chile, Panama and Morocco), 4 in the U.S., 3 in Portugal, 2 per country in Canada, Brazil, Chile, the Philipphines and Mexico. Of the 79 cardinals created by Pope Francis when they were less than 80 years old, six -- including 2 for the Curia -- meantime lost their voting rights; of these 6, three are Italians, two Asiatics and one is Latin American. As far as regards cardinals belonging to religious institutions, there are 51 of them (29 with vote). Among the latter, the Salesians still number 5 and the Jesuits 4 while the Capuchins go up to 3 i.e. more than the Spiritans and Dominicans, each of whom still number 2. Moreover, at the moment there are three Albanian cardinals who are not bishops, i.e. the French Jesuit Albert Vanhoye, aged 97, made cardinal by Benedict XVI in 2006, the Albanian priest Ernest Simoni, aged 92, made cardinal by Pope Francis in 2016 and Father Cantalamessa, who benefit from exemption from the norm established by John XXIII making ordination as bishops obligatory for all cardinals.

announcements and to announce the “creation” of new cardinals -- all internal issues concerning the Cardinals’ College will also be dealt with in an ordinary consistory. In fact, the creation of new cardinals happens through a decree formalised into a Papal Bull, i.e. in the most solemn of papal documents. The extraordinary consistories to which all the cardinals are called (not only the Roman ones as happens for the ordinary consistories) take on an effective advisory function for the Pope in matters of special importance – but considering the number taking part and the international travel involved such consistories are not very frequent.

Though the specifically consultative function of an ordinary consistory has by now in effect disappeared, the cardinals (and let’s not forget that they are an extremely ancient institution of human rights dating back to the first centuries AD) continue nowadays to cooperate with the Pontiff in governing the Universal Church, individually running the various offices of the Curia Romana, and as a group dealing with any particularly important problems. Recent Popes have confirmed this tradition with regular recourse to the cardinals’ consultative faculty even going beyond traditional juridical schemes. For example, remember the cardinals’ assemblies regularly summoned by John Paul II (now Saint) in the early years of his rule or think of the advisory groups and the committees nominated by Pope Francis. Such organisations are still today important points of reference and help for the Papacy in the government and the pastoral care of the Universal Church. And let’s not forget that the College of Cardinals have for the last thousands years been the undisputed electors of St Peter’s next successor, the new Pope.

And all this is despite the many, above all after the Vatican Council II, who thought the cardinals were by now an obsolete institution on its last legs. So let’s see how the doctrinal debates have influenced the evolution of this institution and what are, at the moment, its role and importance.

1 The debate during the Vatican Council II

Both during its preparation and during the Vatican Ecumenical Council II, petitions emerged concerning a perceived need for reform in the discipline of the Cardinals' College⁴.

Some interventions concerning the Episcopal college and its placement and acceptance as one of the *iure divino* elements inherent in the hierarchical structure of the Church ask for the formation of an organ based on bishops and supplanting in consultation and collaboration with the Pope the traditional Cardinals' College as *Senatus Romani Pontificis*. Thus the Spaniard Olaechea Loizaga, of Valencia, besides considering the need for a revision, reshaping and resizing of the powers of the *corpus cardinalium*, emphasizes that the "*Senatus Ecclesiae*" should consist entirely of bishops⁵. However, both the function and the prerogatives of the Cardinals's Institute still remain unclassified, while there begins to emerge the problem of how and with what right the *corpus cardinalium* can take its place in the renewed Synodal structure of government. Moreover, Monsignor Van Valemberg, titular bishop of Combe, intending to give the Church a more universalistic character, suggests the convocation, at least every five years, of the Sacred College

⁴ See, for the pre-Council period, the *animadversiones* by Martin (*Acta et Documenta Concilio Oecumenico Vaticano II apparando*, series I, antep., vol. II, pars I, p. 386), Ancel (*Acta et Doc.*, series I, antep., vol. II, pars I, p. 507), Franic (*Acta et Doc.*, series I, antep., vol. II, pars II, p. 550), Van Valenberg (*Acta et Doc.*, series I, antep., vol. II, pars I, p. 17), Berecky (*Acta et Doc.*, series I, antep., vol. II, pars IV, p. 119). On matters regarding the Council debates, there are interventions worthy of notice by : Ghattas (*Acta Syn.*, vol. II, pars I, p. 526), Pailloux (*Acta et Doc.*, series I, antep., vol. II, pars I, p. 124), Da Cunha Marelím (*Acta et Doc.*, series I, antep., vol. II, pars IV, p. 665), Siri (*Acta et Doc.*, series I, antep., vol. III, pars II, p. 756), Capozzi (*Acta et Doc.*, series I, antep., vol. III, pars II, p. 759), Pobozni (*Acta et Doc.*, series I, antep., vol. III, pars II, p. 432). On this matter, cf G.P. Milano, *Il Sinodo dei Vescovi*, Milano, Giuffrè, 1985, pp. 370 seq., as well as the publications, among others, by H. de Lubac (*Carnets du Concile*, voll. 1 e 2, Paris, 2007) and Y. Congar (*Diario del Concilio*, vols I and II, Milano, 2005).

⁵ *Acta et Doc.*, series I, vol. II, pars II, p. 232.

of the Cardinals, who have been elected from all over the world to assist the Pontiff «*in regenda Ecclesia*»⁶.

Indeed, other contributors bring out the problem of the cardinalship when speaking of the need to define precisely the extension of the *potestas leges edendi* by identifying the authority that it wields and as regards the latter they suggest as alternatives whether the authority should be personal, i.e. led by the Pope Himself, or collegiate, i.e. shared by cardinals and archbishops.⁷ This last detail is rather unusual since the archbishops cannot be defined by their precise competences and powers since their activities are rather varied and heterogeneous.

Instead, the idea of extending the powers of the cardinals is supported by the archbishop of Rouen, Monsignor Martin, who also hopes for more frequent meetings of the College even on regular fixed dates – meetings where it would be useful «*ut [cardinales] animadversiones consiliaque inter se communicent, de statu ecclesiarum in diversis regionibus referant, itaque efficacius Universalem Pastorem in Ecclesia regenda adiuvent*»⁸. But we should note that this proposal is concerned only with organisation, so much so

⁶ *Acta et Doc.*, series I, antep., vol. II, pars IV, p. 261. Also cf Franic, *Episcopi tit. Agathopolitani*, in *Acta et Doc.*, series I, antep., vol. II, pars II, p. 548: «*Ut omnes Patres Cardinales quotannis congregentur in concilium ad problemata Universalis Ecclesiae discutienda*».

⁷ About this orientation, for example, the titular Bishop of Antiochia, Monsignor Ménager, writes: «*Eadem adhuc oritur quaestio ad rationem extensionis, per quam ea, quae valda optanda est, unitas tum in agendo, tum in agendi fine directioneque determinanda, difficillime dumtaxat potest effici, nisi una auctoritas, sive personalis (scilicet ea quae in primatu residet), sive collegialis (scilicet ea quae in EE. ac RR. Cardinalium et Archiepiscoporum coetu), donetur potestate leges edendi, limitata quidem, sed presse definita*»; cf *Acta et Doc.*, series I, antep., vol. II, pars I, p. 476; G.P. Milano, *Il Sinodo*, op. cit., p. 372.

⁸ *Acta et Doc.*, series I, antep., vol. II, pars I, p. 56. Cf also Bucko, *Archiepiscopus tit. Leucadensis*, in *Acta et Doc.*, series I, antep., vol. II, pars II, p. 550: «*Membra A. Collegii Cardinalium atque Officiales Curiae Romanae ex universitate populorum catholicorum seligantur itaque validiorem opem in officiis absolvendis Summo Pontifici praestent*».

that it appears in the list “*de re administrativa*”. This is not surprising since for many participants the problem of reforming the Cardinals’ College is simply one aspect of the reform of the Curia Romana⁹.

A different position is adopted by Cardinal Alfrink, archbishop of Utrecht and Primate of the Dutch Church, who in the Council years, proposed reforms almost causing a break with Rome. He asks above all for a clear definition of the Episcopal *munus* and of the Bishops’ relations with the Primate, as well as a proclamation of the principle for which «*universalis Ecclesiae regimen iure exerceri [debet] ab Episcoporum collegio*» and thus «*in Ecclesia universali regenda Episcopi omnes suo iure partes suas exercere possint*». Then, as regards the concrete ways of realising such responsibilities, Cardinal Alfrink, along with the Ecumenical Council, proposes testing new institutional forms. For example, the Bishops’ College through some of its members (qualified as *episcopi rei periti*, which indicates those gifted with special competences), could come together with the Curia Cardinals under the Pope as their President, in order to practice activities of legislative nature within the Universal Church¹⁰.

Such a hypothesis would certainly allow the bishops to have a more incisive presence in Church government in harmony with their role under divine right. But this hypothesis has been strongly criticised

⁹ See, among others, the intervention by Monsignor Caminada and Monsignor Vonderach, the bishop and the assistant of Chur respectively, in *Acta et Doc.*, series I, antep., vol. II, pars II, p. 29: «*IV. Amministrazione. 1. Le Sacre Congregazioni. Per il Sacro Collegio, per le Sacre Congregazioni e per le rappresentanze della Santa Sede è desiderata una internazionalizzazione, del resto già iniziata. Prima di prendere decisioni e rilasciare delle norme sarebbe bene se le Sacre Congregazioni orientassero i vescovi interessati e ne sentissero il loro parere, dando possibilità di prendere posizione sui singoli problemi...*».

¹⁰ «*...consilia forsitan nonnulla perpetua Episcoporum rei peritorum ex tota Ecclesia eligendorum una cum Summo Pontifice et Curiae Cardinalibus munere legislativo pro tota Ecclesia fungi possint. Congregationes autem Romanae potestatem tunc consiliariam tantum atque executivam retinerent*»; in *Acta et Doc.*, series I, antep., vol. II, pars II, p. 511.

by those who fear notable changes in the governing apparatus of the Universal Church¹¹.

One could say, in trying to give a balanced account, that, in the Vatican Council II, the problem of reforming the Cardinals' College seems, on the one hand, to coincide with that of reforming the Curia Romana¹², and, on the other hand, to take its place in the alternative suggestion in either a more frequent convocation of the Council or maintaining or creating *ex novo* a permanent collegial structure alongside the Roman Pontefix to govern the Universal Church¹³.

¹¹ G.P. Milano, *Il Sinodo*, op. cit., p. 12.

¹² As regards this matter, one should remember its doctrinal orientation which takes as dutiful the choice between the concept of the Church as a papal monarchy rather than a communion. It chooses the latter and sees the central institutions from this viewpoint (a viewpoint from which, indeed, John Paul II Himself, in the speeches we will quote, does certainly not seem to distance Himself); see, in a vast bibliography, the outstanding contributions of G. Alberigo, *Servire la comunione delle Chiese*, in *Concilium* 7 (1979), pp. 39 seq.; N. Greinacher, *Mancanza di comunicazione fra base e direzione della chiesa. Il Sinodo delle diocesi della RFT e i suoi rapporti con la Curia Romana*, in *Concilium* 7 (1979), pp. 105 seq.; J. Lécuyer, *Posizione teologica della Curia Romana*, in *Concilium* 7 (1979), pp. 27 seq.; H. Urs von Balthasar, *Il complesso antiromano. Come integrare il papato nella Chiesa universale*, Brescia 1974.

¹³ In the vast bibliography on ecclesiology of the Vatican Council II, for a brief intense examination of the considerations quoted in this article see Y.M.J. Congar, *Ministères et communion ecclésiale*, Parigi, 1971; Id., *La situazione ecclesiologica al tempo dell'«Ecclesiam suam»*, in *Il regno-documenti*, 1981, 5, pp. 171 seq.; as well as A. Acerbi, *Due ecclesiologie. Ecclesiologia giuridica ed ecclesiologia di comunione nella "Lumen Gentium"*, Bologna, 1975; P. Gismondi, *Il diritto della Chiesa dopo il Concilio*, Milano, 1973, pp. 35 seq.

2 The creation of the Bishops' Synod and its contacts with the Cardinal's College

In 1965, with Paul VI's creation of the Bishops' Synod¹⁴ in response to the Conciliar Fathers' wish not to abandon the experience of the Council, the merely consultative role of the Cardinals' College, a role long since inexistent, seems clearly transferred to the new organism.

The promulgation *motu proprio* of the *Apostolica sollicitudo* on the 15th September 1965 is by some commentators seen as an

¹⁴ Please note that the Synod of the Bishops represents not only the Bishops themselves but it seems to be born to involve in the role of helping, in its primatial function, the entire world of Catholicism, including religious orders.. On the matter, see the dispositions V-VII of the m.p. *Apostolica Sollicitudo* which foresees that: “V. Il Sinodo dei Vescovi riunito in assemblea generale comprende innanzi tutto e per sé:

1. a) i Patriarchi, gli Arcivescovi Maggiori ed i Metropoliti fuori dei Patriarcati delle Chiese Cattoliche di rito orientale;

b) i Vescovi eletti dalle singole conferenze Episcopali Nazionali, secondo il n. VIII;

c) i Vescovi eletti dalle Conferenze Episcopali di più Nazioni, costituiti cioè per quelle Nazioni che non hanno una conferenza propria, secondo il n. VIII;

d) a questi si aggiungono dieci religiosi rappresentanti gli Istituti Religiosi Clericali, eletti dall'Unione Romana dei Superiori Generali.

2. All'assemblea generale del Sinodo dei Vescovi partecipano anche i Cardinali preposti alla direzione dei Dicasteri della Curia Romana.

VI. Il Sinodo dei Vescovi riunito in assemblea straordinaria comprende:

1. a) i Patriarchi, gli Arcivescovi Maggiori ed i Metropoliti fuori dei Patriarcati delle Chiese Cattoliche di rito orientale;

b) i Presidenti delle Conferenze Episcopali Nazionali;

c) i Presidenti delle Conferenze Episcopali di più Nazioni, costituite per quelle Nazioni che non hanno una Conferenza Episcopale propria;

d) tre religiosi rappresentanti gli Istituti Religiosi Clericali, eletti dall'Unione Romana dei Superiori Generali.

2. All'assemblea straordinaria del Sinodo dei Vescovi partecipano anche i Cardinali preposti alla direzione dei Dicasteri della Curia Romana.

VII. Il Sinodo dei Vescovi riunito in assemblea speciale comprende i Patriarchi, gli Arcivescovi Maggiori e i Metropoliti fuori dei Patriarcati delle Chiese Cattoliche di rito orientale, come pure coloro che rappresentano sia le Conferenze Episcopali di una o più Nazioni sia gli Istituti Religiosi, come è stato stabilito al n. V e al n. VIII; purché tutti appartengano alle regioni per la quali il Sinodo dei Vescovi è stato convocato”.

immediate response to the obsolescence of the Cardinals' College – above all in its function, by now simply historical, as consistory.

Normally, the Synod's function is informative and consultative – though it can also be a deliberative body when the Pope confers upon it such powers. Then it would be up to the Pope to ratify any decisions (one of His own duties) taken by the Synod. The fact is that the general ordinary advisory function of the body ('general' as not limited in principle in its aims) is the institute's «own» prerogative. This fact is not only a widely shared opinion in doctrine but it is also repeated in many of the Pope's declarations and interventions¹⁵.

Between the two bodies, and particularly as regards the form and the function of the consistory and the Synod, one perceives what is even an overlapping, at least formally, in their functions and this may be the cause of the striking difficulties in reconstructing the overall system of consultation organs for the papal supremacy¹⁶.

Yet, it is a fact that the formation of the Bishops' Synod has left the role of the Cardinals' College, at least as regards organisation, unaffected. Whereas, in a different sense, it has brought out the need to define the Cardinals' College institutional relations with the Synod itself¹⁷.

¹⁵ See, among other sources, the Allocution of Paul VI on 30th September 1967: «... *Venerabiles Fratres, si officium a Vobis in hac Synodo Episcoporum explendum suapte natura est consultivum, illud tamen magnum pondus et momentum habet*» (AAS, LIX (1967), p. 971), but also the speech to the 1969 Consistory, in which the Pontiff outlines the affinities and the contacts between the Synod and the Cardinals' College «*in Consiliis ferendis suapte natura constant*» (AAS, LXI (1969), p. 435). Lastly, John Paul II, at the close of the VI general assembly of the Bishops' Synod, on 29th October 1983, underlines that «*formali ratione praeponderat indoles consultiva laborum Synodi*» (L'Osservatore Romano, 30th October 1983, p. 6).

¹⁶ For further information and bibliography, see among other sources: AAVV, *Il Sinodo dei Vescovi*, Libreria Editrice Vaticana, 1985; J.I. Arrieta, *El Sínodo de los Obispos*, Pamplona, Eunsa, 1987; Id., *Lo sviluppo istituzionale del Sinodo dei Vescovi*, in *Ius Ecclesiae*, 4 (1992), pp. 189 seq.; G.P. Milano, *Il Sinodo dei Vescovi*, op. cit.; J.P. Schotte, *The Synod of Bishops: A Permanent yet Adaptable Church Institution*, in *Studia Canonica*, 26 (1992), pp. 289 seq.; R. Sobanski, *Il concilio ecumenico. Il sinodo dei vescovi. Il collegio cardinalizio*, op. cit., pp. 69 seq.

¹⁷ G.P. Milano, *Il Sinodo dei Vescovi*, op. cit., p. 373.

During the Vatican Council II, Cardinal Lercaro has pointed out the need to coordinate relations between the Cardinals' College and the Episcopal organisation just being set up¹⁸. Though the problem was not expressed by most Council Fathers and neither do their published documents contain declarations that offer any kind of conclusion, it is not true to say the Council completely ignored the institute since statements on this matter, as we mentioned in our own last paragraph, appear both in the preliminary phases and in the debates themselves.

Some commentators suggest that relations between the two institutions need, rather than coordination, a precise definition of their respective competences. This should not be problematic since there are many members of the Cardinals' College to be found in the Synod as well. Comments from others, however, point out to the difficulty of co-existence of the two different organisations within the central governing structure of the Church. These comments also reveal that the relationship between the Cardinals' College and the Bishops' College is far from clear¹⁹.

One fact that emerges from the magisterium of Paolo VI, and His rulings, is the wish to confirm the authority of the Cardinals' College and to intensify its advisory role to the Pontiff *in universali Ecclesia regenda*²⁰.

In fact, the Pontiff insists decisively on the fact that the modifications to the regime of the Cardinals' College are due to the process of the Church renewal wanted by the Vatican Council II. In the Pope's allocution of 28th June 1967, the occasion being the creation of new cardinals, He affirms that cardinalship forms a "new bond" tying these ecclesiastics even closer to the Church and the Pope; He added that the creation of the Bishops' Synod could lead to

¹⁸ *Acta et Doc.*, series I, antep., vol. II, pars IV, p. 620.

¹⁹ K. Rahner, *Sull'episcopato*, in Id., *Nuovi saggi*, Roma, 1968, I, p. 512, n. 2.

²⁰ Paolo VI, *Discorso del 28 giugno 1967*, in *AAS* LIX (1967), p. 760, and *Discorso del 30 aprile 1969 ai nuovi cardinali*, in *AAS* LXI (1969), p. 436; cf G.P. Milano, *Il Sinodo*, op. cit., p. 376.

the “erroneous” conviction that the intervention was meant to restrict the functions and the pre-eminence of the Cardinals, whereas, on the contrary, the idea is to strengthen and augment these roles not only for individuals but also for the College as a whole²¹.

In fact, the College is appointed to serve as a help in the activities of the Roman Pope governing the Universal Church – even more so that after John XXIII’s intervention who presupposed, i.e. required, the Episcopal dignity all the Cardinals share, which is the source of their power, while, at the same time, they are members of the Bishops’ College and are united very closely and strongly with the Pope – remembering also that the Cardinals’ main right is that of electing the Pope’s successor presiding over the Universal Church²².

There is thus a clear contradiction of rumours about the wish for an inevitable reorganising of the Bishops’ College above all because of the way consultative functions formally attributed to both organs almost coincided. On the contrary, the respective competences are marked out not only in overall profile general and absolute but also on the basis of criteria of dominant tendencies, estimated

²¹ On the occasion of awarding birretas, Pope Montini expressly declared he had no motive for changing His predecessors’ norms as regards Cardinals’ College, adding, among other things, that the papal election could be subject to dangerous influences if it were not protected by a qualified body, stable and free from any inadmissible intervention. This was also a reply to the proposal of Cardinal Pellegrino, which had a notable, positive echo in Italy and abroad. Cardinal Pellegrino, in September 1965, had expressed the hope that the Cardinals’ College would be open to the presidents of the Bishops’ conferences until the presidents still held this title as well as to other cardinals freely nominated by the the Pontiff. As regards this matter, a more vivacious and heated debate was provoked some years later by an interview given by Cardinal Jozef Suenens published in *Informations Catholiques Internationales* on 15th May 1969. In this article, among various matters, there was the complaint that the cardinals are elected according to completely unknown criteria and without any possibility of dialogue. There was also the hope that the Church could again find a more faithful image of itself in this College; as regards this see P. Huizing – K. Walf, *Strutture centrali della Chiesa*, op. cit., pp. 21-23.

²² Paolo VI, *Discorso del 28 giugno 1967*, op. cit., p. 760.

according to the extent of compatibility and affinity with each individual's ecclesial disposition²³.

In this way, the cardinals, following the lines drawn by Paul VI, «*Christi Vicario cotidianam aut saltem valde assiduam operam praestant, quam Eiusdem personalis regiminis perpetuitas, necessaria propterea atque ultima, plane postulat*»²⁴. Instead, it would be up to the Bishops' Synod, which more directly expresses the nature and activity of the Episcopal College, «*ut consilia de maximi momenti conatibus cogitatisque conferat, in quae Ecclesiae actio incumbit*»; moreover, the Synod members would be called to assist the Pope «*ad generales quaestiones studio perscrutandas atque perfecte cognoscendas, quae Ecclesiam universam respiciunt, ut de his omnibus rebus consulta capiantur eademque ad effectum perducantur*»²⁵.

With the consecration as bishops of all its members and the assertion again of its collegiate nature, the Cardinals' College seems to gain new light. In fact, John XXIII, in perfect harmony and continuity with his predecessor, foreseeing the development towards a collegiate function in the apostolic activity of the Church, with striking insight, anticipated the main problems which might have risen in both the nature and the form of the Cardinals' College and this really in the field of the restructuring reform which the reaffirmed principle of collegiality was to impose. And this reform would have made it possible to speak of a process of homogenizing inside the Sacred College so as to bring it up to date, once more, to the fresh requirements of the times²⁶. This development has led some to affirm, during proceedings for *Lex Ecclesiae Fundamental* and for the revision of the Code of Canon Law, that the cardinals assist the Pope

²³ G.P. Milano, *Il Sinodo*, op. cit., p. 376.

²⁴ Paul VI, *Discorso del 30 aprile 1969*, op. cit., pp. 437-438; cf G.P. Milano, *Il Sinodo*, op. cit., pp. 376-377.

²⁵ *Ibidem*.

²⁶ C. Seco Caro, *Regimen Juridico vigente del colegio cardenalicio*, in *Jus Canonicum*, 1968/8, pp. 223 ss.

above all in their capacity as bishops²⁷. This has allowed John Paul II to assert that “*conventus sodalium eiusdem Collegi cardinalium forma est qua etiam exercetur episcopalis pastoralisque illa «collegialitas» iam plus mille annos vicens*”²⁸.

Moreover, it has been appropriately stressed²⁹ that the act of consecrating the bishops and inserting them into hierarchy communion regards not only the juridical relationships of each Bishop vertically, i.e. upwards in subordination to the Roman Pope and downwards of superordination with believers. This hierarchy is, in fact, also present in juridical relationships, which we can define as “horizontal” and which also concern the Bishop of Rome, i.e. the Pope, and the communion with whom is the necessary means for installing relationships or dealings. These “horizontal” relationships can exist either as a collective with the Bishop College or with partial groupings of the bishops. These regroupings, or else with the partial regrouping of the above as is possible nowadays after John XXIII’s reform, also concern the Cardinals’ College.

The above mentioned “juridical horizontal relationships” in this close-reading doctrine represent a third mode of expression for the bishop’s ministry. The latter’s juridical manifestations may take on the form of a collegiate co-operation (for example of a Cardinals’ College) variously adapted although always representing a theological expression of bishopric co-operation and not as an expression of a collegiate body in the full sense. The importance of “juridical horizontal relationships” originate from the fact that they are essential, indispensable instruments concerning the Church’s structure and pursuing an auxiliary purpose, whose activity is not characterized by substitutive or delegating objectives.

²⁷ PCCICR, *Schema Legis Ecclesiae Fundamental*, p. 139.

²⁸ *Allocuzione alla riunione plenaria del S. Collegio*, 5-9 November 1979, in *AAS*, LXXI (1979), pp. 1447-1457.

²⁹ M. Miele, *Dalla sinodalità alla collegialità nella codificazione latina*, Padova, 2004, pp. 105 seq.

3. The proceedings for the revision of the Canon Law Code

During the proceedings for the revision of the Canon Law Code the *coetus De Sacra Hierarchia* lingered on the necessity in the new Code to continue to provide for specific canons devoted to the Cardinals' College³⁰. It even envisaged the possibility to introduce more specific and accurate canons. This was due to the fact that in the LEF's project it had been simply affirmed that «*Romano Pontifici, in munere Supremi Pastoris exercendo, auxilio etiam esse Patres Cardinales necnon alias personas itemque varia secundum temporum necessitates instituta*».

Thus, far from being an obsolescent institution as it had been previously expected, what appears from the beginning of the proceedings is the necessity to reaffirm the legislation regulating the institution in the code, although with changes of some importance. In fact, among the written observations received by the *Committee de Sacra Hierarchia*, there are more than one opinion maintaining the inappropriateness of continuing to denominate the Cardinals' College as *Senatus Romani Pontificis*. This is for the very reason that such a capacity, after the Vatican Council II, has been devolved to the Synod of the Bishops³¹, as a specific function pertaining to it at the very least.

In reality, not all of the consultors agree on this matter: some of them propose maintaining such a capacity as *senatus Romani Pontificis* conferred upon the Cardinals' College but to express it, if deemed necessary, in another manner, denominating the same College, for example, as *peculiaris Episcoporum coetus*³².

After various discussions, it was the commission's secretary who solved the problem by suggesting the use of formula "*peculiare Episcoporum Collegium*". This was not only accepted by the

³⁰ *Communicationes*, XXV/1 (1993), p. 53.

³¹ *Ivi*, p. 52.

³² *Ivi*, p. 53.

consultors but it will become an integral part of the definitive text of the canon 349.

Once the proceedings had started, when they came to the revision of canon 230 of the 1917 code of Canon Law, one of the consultors recalled that in the Consistory the cardinals' act as the Pope's Senate³³. In fact, it is claimed the Cardinals' College would not really be collegiate unless its competence did not comprise collegiate acts³⁴. Other consultors also agree that the consistories must also remain faithful to their original function, i.e. that the Cardinals' College may be of special help to the Roman Pontiff by recovering its original function of cooperating with Him in the exercise of His supreme power.³⁵

But we must wait for the debate about the canon regarding the maximum age for the cardinals to enjoy their various rights and privileges³⁶, until the question of the consistories is specifically confronted. In fact, among the problems that arose in this sitting, there is a particular one the commission is concerned with: «*[et imprimis] utrum Cardinales qui octogesimum aetatis annum impleverint partem habere possint in huiusmodi adunationibus Sacri Collegii*»³⁷.

Some of the consultors maintain that all the Cardinals, notwithstanding their age, must be summoned to the consistories – as they are summoned to the Ecumenical Councils, which are «*actus*

³³ *Ivi*, p. 54.

³⁴ Cf «*Si Cardinalium Collegium non haberet actus collegiales Collegium paulatim esse desineret*»; *ibidem*.

³⁵ *Ibidem*.

³⁶ Canon 7: «*§ 1 Patres Cardinales qui octogesimum aetatis annum impleverint, licet Membra remaneant Sacri Collegii variisque iuribus et praerogativis eisdem propriis fruuntur: 1° ius amittunt Romanum Pontificem eligendi atque adeo in Conclave ingrediendi; qui vero post coeptum Conclave octogesimum annum compleverint, iure Romanum Pontificem ea vice eligendi fruuntur; 2° desinunt esse Membra Dicasteriorum Romanae Curiae ceterorumque permanentium Sedis Apostolicae et Civitatis Vaticanae institutorum, etiamsi, exceptionis gratia, dioecesi alicui praesint aut eius titulum, sine regendi munere, servant*»; cf *ivi*, p. 66.

³⁷ *Ivi*, p. 67.

collegiales Collegii Episcopalis ad quod etiam pertinent». In this regard, it is noted that this is different from what happens in the Episcopal Conferences, whose nature and acts differ from those which really belong to the Ecumenical Council and the Consistory. Others agree and specify that the over-eighties should only have a consultative and advisory vote. Other voices consider it more appropriate for these cardinals not to be called because it seems improper that they should take part in the College deliberations without having a deliberative vote.

Considering these differences of opinion and the respect that must be shown to the venerable Cardinal Fathers because of their age but also for the efficacy desired *«in studiis peragendis ac decisionibus sumendis in consistoriis»*, there is a normative proposition for two types of Consistories, ordinary and extraordinary, *«iuxta Ecclesiae necessitates ac negotiorum urgentiam et gravitatem»*. At this point, the opportunity was proposed of treating this matter in a distinct and separate canon, *«quae quidem magni magni momenti esset ad praestantiam et actuositatem Sacri Collegii roborandas»*. However, it is agreed that only in the ordinary Consistories there should also be present those cardinals who have already reached the age of 80 years³⁸.

In later versions, we find a canon devoted especially to consistories in which the question of age continues to be debated. Yet, this question does not become an extenuating matter for participation in extraordinary consistories and in the 1982 *Schema Novissimum*, we already have the text which in the code in force will become canon 353³⁹.

³⁸ *Ibidem*. The secretary proposed that the new canon on consistories yet to be compiled should follow the current canon 6, while in canon 7 § 1 words such as: "... propriis fruuntur, non excluso iure ut in consistoriis ordinariis intersint" could be added. The proposal was accepted.

³⁹ Canon 351 of the *Schema novissimum*, cf *Pontificia Commissio Codici Iuris Canonici recognoscendo, Codex Iuris Canonici. Schema Novissimum post consultationem S.R.E. Cardinalium, Episcoporum Conferentiarum, Dicasteriorum Curiae Romanae, Universitatum Facultatumque ecclesiasticarum necnon Superiorum Institutorum vitae consecratae recognitum, iuxta placita Patrum*

b. Cardinals' College and Bishops' Synod

Another complex question that emerged during revision studies of the code was that for the definition of the existing relationship between the cardinals' college and the bishops' Synod (even though, in its final form, the code substantially accepts the formulations of the latest scheme of LEF and goes no further than simply reflecting the dualism between the two institutions⁴⁰).

The consultors above all disagree essentially on two profiles: first of all there is the issue concerning rank «*iuxta quem haec duo instituta tractanda sunt in CIC*»⁴¹ and secondly the issue regarding the respective competences.

As far as regards the systematic position, in the 1983 Code, of the norms regarding the Cardinals' College and those of the Bishops' Synod, it is once more present in the XIV session of the revision proceedings of the Canon Law Code. The secretary of the commission straight-away proposed «*ut primo fiat sermo de Synodo Episcoporum, dein de Collegio Cardinalium*», but when he receives no assent from those proposing «*ut primus detur locus Collegio Cardinalium*». There are essentially two reasons for this opposition. They are above all due to the fact that, as regards the appointment, all the members of the Cardinals' College are freely chosen by the Roman Pontiff. In the second place, as regards cooperation with the Roman Pontiff in governing the Universal Church, this is taken care of by the Cardinals' College much more continually.

Other opinions insist on the different functions of the two institutions. Thus the Cardinals' College (which could be considered on the level of a "high Chamber" in the civil legal system, while the Bishops' Synod could act as "lower Chamber") «*praestantior videtur*»

Commissionis deinde emendatum atque Summo Pontifici praesentatum, E Civitate Vaticana, 25th March 1982.

⁴⁰ A. Acerbi, *L'Ecclesiologia sottesa alle istituzioni ecclesiali postconciliari*, in AAVV, *Cristianesimo nella storia*, Bologna, vol. II, p. 219.

⁴¹ *Communicationes*, XXV/1 (1993), pp. 58-59.

as regards that of the Synod, *«etiam quia ad Collegium Cardinalium pertineret, ut exoptatur, ipsum iuvamen Summo Pontifici praebendum in ponderandis et ad praxim opportune deducendis conclusionibus et propositionibus Synodi Episcoporum»*.

There are other opinions who agree on the idea of the Bishops' Synod and the Cardinals' College should make up a kind of cd., i.e. a bicameral System, maintaining, however, the special nature of the Church, which is not democratic: and thus *«quoad ordinem expositionis aptius apparet ut Synodus Episcoporum primum obtineat locum, quia: 1) in Synodo universa Ecclesia aptiorem repraesentationem obtinet, 2) Synodus Episcoporum uti expressio collegialitatis habetur»*.

Such statements will inevitably raise objections even of a dogmatic kind since above all the cardinals, too, are bishops who form a *“coetum Episcoporum”*; in the second place, the members of the Cardinals' College, too, represent the Universal Church as they are elected from all over the world. Lastly, while *«Synodus Episcoporum secundo vel tertio quoque anno coadunatur, [dum] Collegium Cardinalium suum munus continuo implet (etiam si, uti patet, identificari non potest cum Curia Romana)»*.

The debated is heated despite the fact that some commentators note that *«quaestio de ordine minoris momenti est quam quaestio de substantia rerum»*, in the end in the new code there will be the regulation of the Synod (chap. II, Sect. I, Part II, Book II) that precedes that of the cardinals (chap. III). However, as regards the *Relatio complectens synthesim*, it is interesting to note the proposal by the consultor cardinals Siri, Philippe and Palazzini, who suggested that an inversion of the order of chapters, postponing the Synod after Cardinals' College, *«propter praestantiam munerum quae Collegio cardinalium committuntur, praesertim ipsa electio Romani Pontificis»*. On this matter, the President of the Commission consulted

the Pontiff, who in the audience of 28th March 1981, ordered that the adopted order should be maintained⁴².

As far as regards the problem of marking out the respective competences of the Cardinals' College and the Bishops' Synod, in the first draft approved in 1968, the then canon 156 inserted in the section *De Romano Pontefice deque Episcoporum Collegio*, there was a consideration of the auxiliary organs of the Pontifex, treating first of all of the Synod and the Cardinals also foreseeing their purposes⁴³. Thus the Synod was given the tasks of «*aptiores quibus universae Ecclesiae necessitatibus prospiciantur rationes inquirere atque de iisdem optata exprimere*», while the cardinals were called upon to «*operam studiumque conferre ut quae secundum temporis adiuncta ad commune Ecclesiae bonum magis congruae et opportuna appareant rationes revera ad rem deduci possint*»⁴⁴.

From this normative one could infer a function of working on Church problems and foreseeing solutions or interventions considered consistent for the Synod – on the other hand, the intervention for Cardinals' College is of more practical relevance. The Cardinals' College comes near to being asked to look after initiatives or concrete, practical interventions necessary to face the demands of the *commune bonum Ecclesiae*⁴⁵.

In the following scheme, however, this canon disappears either because of its exclusively didactic pertinence or because the institutions considered in the schemes are not relevant to the supreme power of the Pontiff with the exceptions conceded by the latter⁴⁶.

Yet, in the already quoted XIV session of the 18-22 February 1974, clearly and decisively the need is maintained for the future

⁴² *Relatio complectens synthesim*, pp. 75-76 and p. 278; cf G.P. Milano, *Il Sinodo*, op. cit., p. 378.

⁴³ See the sitting of the Pontifical Commission of 18th January 1980, in *Communicationes*, XIV/1 (1982), p. 91.

⁴⁴ *Ibidem*.

⁴⁵ G.P. Milano, *Il Sinodo*, op. cit., p. 377.

⁴⁶ *Ivi*, pp. 377-378.

Canon Law Code to express clearly the different functions existing between the Cardinals' College and the Bishops' Synod. These two institutions, in fact, both function as a support and help for the Pope but in different ways⁴⁷. This difference essentially consists in, «*quod Synodus Episcoporum problemata quae in sic dicta "basis Ecclesiae" magis persentiuntur statis temporibus Romano Pontificis patefacit, una cum opportunis suggestionibus ac propositionibus; Collegium vero Cardinalium, modo magis continuo ac ordinario Romanum Pontificem adiuvat in exercitio eius supremae auctoritatis; etiam quoad perpendendas, iudicandas et eventualiter ad praxim deducendas propositiones et conclusiones Synodi Episcoporum*».

The secretary then announced that the canons of the Bishops' Synod have been already drawn up, «*in quibus functio huius instituti centralis apte statuitur*»: thus it appears that the more complex issue is the one yet to discuss i.e. that regarding the function of the Cardinals' College, the function which must be clearly defined in the new code, especially regarding the collegiate acts and those of the consistory⁴⁸.

The consultors agree on this observation but according to them some considerations must not be neglected «*1) Synodus Episcoporum tantum adest, propriam nempe functionem in actu pandens, si convocetur; e contra Collegium Cardinalium est institutum natura sua revera permanens; 2) praeter consistoria, alii habentur actus Collegii Cardinalium quibus continuum iuvamen Romano Pontifici praebetur in cura pastoralis, praesertim in Curia Romana*».

Once again, the consultors of the *coetus De Sacra Hierarchia* repeat the urgent need to define clearly the difference between the two institutions. In contrast to what emerged in the proceedings for the LEF, it is repeated that both institutions are of help and support to the Roman Pope and it is specified that they act in different ways: «*continuo ac*

⁴⁷ «*Iam nunc in CIC differentia habetur Synodum Episcoporum inter et Collegium Cardinalium clare elucere debet: duo haec instituta in adiutorium Romani Pontificis agunt sed modo quidem distincto*»; cf *Communicationes*, XXV/1 (1993), p. 58.

⁴⁸ «*Haec quidem functio in nova legislatione clare determinanda est, praesertim quoad actus collegiales et consistoria*»; *ibidem*.

ordinario» the Cardinals' College, whose permanence is stressed, «*statis temporibus si convocetur*» and the Bishops' Synod. So much so that the latter would be called upon to intervene in «*problemata "basis Ecclesiae" cum opportunis suggestionibus ac propositionibus*», while the Cardinals' College would cooperate directly in the workings of the Pope's Supreme authority, «*etiam quoad perpendendas, iudicandas et eventualiter ad praxim deducendas propositiones et conclusiones Synodi Episcoporum*», and this almost points to possible modes of cooperation between the institutions.

Though the function of the Bishops' Synod has already been defined at a normative level, the difficulty of doing the same as regards the Consistories and the other actions of the Cardinals' College has emerged, «*quibus continuum iuvamen Romano Pontifici praebetur in cura pastoralis, praesertim in Curia Romana*»: and once more the consultors refer to a collegiate activity different from the consistory -- yet a collegiate activity which is not going to find concrete and specific realization in the new legislation.

4 The Apostolic Constitution *Pastor Bonus* and the Cardinals' assemblies

With the Apostolic Constitution *Pastor Bonus* promulgated by John Paul II in 1988, as we have already noted, any reference to the preparation of Consistories by the Bishops' Congregation was eliminated. In articles 22 and 23, however, and thus in the *Legal General Norms* in the reform text of the Curia Romana, it is above all stated as a possibility that «*the cardinals at the head of the dicasteries of the Curia Romana should meet by mandate of the Pope several times a year to examine issues of outstanding importance, to coordinate their work and exchange information as well as taking decision*». Thus it is foreseen that «*as regards more important matters of a general nature, if the Pope so pleases, can be efficiently dealt*

with by the Cardinals joined together in plenary consistory according to their own law ».

The hypothesis in article 22 contains an implicit reference to a collegiate body formed on the basis of a special bond taken on by the cardinals as regards the Pope -- and thus restricted to the dicastery heads possessing cardinal status. As well as coordinating working functions of the Curia, they would also see to tasks of information and proposition. According to article 83 of the Legal General Rule Book of the Curia Romana, the job of summoning cardinals heads of dicasteries “*several times a year*” pertains to the Cardinal Secretary of State with a mandate of the Roman Pontiff⁴⁹. These duties aim to examine matters of outstanding importance, coordinate activities, formulate proposal and exchange information. The procedure to adopt in such cases, always according to article 83 of the Legal General Rule Book of the Curia Romana, is regulated by “*its own rules*”, which, however, (if they exist) have never been published⁵⁰.

The meeting in question is very different from that foreseen in article 85 of the same Legal General Rule Book of the Curia Romana, in which there are convoked only the heads of certain dicasteries to examine matters of common interest. Such a *coetus* of Cardinals recognised as having “propositive functions”, but which are different from the decision-making in article 22 of the *Pastor Bonus* Constitution.

Instead, article 23 of the *Pastor Bonus* Constitution aims to fix the link between the Curia Romana and the Cardinals' College in the same way as the respective formal relationships concerning concrete matters of government, always depending on a previous papal initiative. Article 82 of the Legal General Rule Book of the Curia

⁴⁹ Such norm, once again, picks up article 18 of the *Regimini Ecclesiae Universae*, but the norm does not appear any longer in such terms in the *Pastor Bonus* Constitution.

⁵⁰ See the Legal General Rule Book of the Curia Romana of the Secretary of State, in J.I. Arrieta – J. Canosa – J. Miñambres, *Legislazione sull'organizzazione centrale della Chiesa*, Milano, 1997, p. 428.

Romana foresees that this deliberative function can also be fulfilled by the ordinary consistory and not uniquely by the extraordinary or plenary one as established by the *Pastor Bonus Constitution* (cf canon 353 CIC)⁵¹.

5 The cardinals' assemblies under John Paul II

We must also remember that, meantime, John Paul II, on the 5th November 1979, only after His election, in a positive reaction to a vote cast during the two conclaves of 1978⁵², initiated a consultation of the Cardinals' College calling them together to deal with the reform of the Curia Romana. This reform regarded the activities of the papal academies, particularly the reform concerned with the sciences as well as, in the end, dealing with matters regarding the economic situation of the Holy See⁵³.

⁵¹ As stressed by the observations made about the *Pastor Bonus Constitution*, in J.I. Arrieta – J. Canosa – J. Miñambres, *Legislazione sull'organizzazione centrale della Chiesa*, op. cit., p. 223.

⁵² See the opening speech of the work proceedings pronounced before the presence of 120 cardinals (out of 130): «*Le triste devoir de dire un dernier adieu aux Papes défunts – d'abord à Paul VI après quinze ans de pontificat, puis à Jean Paul I après seulement trente-trois jours de ministère pontifical – nous a réunis à Rome par deux fois en peu de temps. Conformément aux indications de la Constitution apostolique "Romano Pontifici eligendo", nous avons tenu, pendant les jours qui ont précédé le Conclave, les congrégations générales que présidaient le vénérable doyen du Sacré Collège et le cardinal Jean Villot, camerlingue. Ces fréquentes rencontres de l'ensemble du Collège cardinalice donnèrent l'occasion d'avancer la proposition que le Collège puisse se réunir aussi, au moins de temps en temps, en dehors de la période du Conclave...*»; but see also the final intervention of the plenary assembly of the Sacred College: «*En fin de matinée du 9 novembre, se sont terminées les réunions du plenum du Collège cardinalice que le Saint-Père a voulu convoquer, compte tenu de l'expérience et de l'utilité des "congrégations cardinalices" qui s'étaient tenues pendant la vacance du siège l'an dernier, pour avoir son avis sur certaines questions d'actualité concernant l'activité de l'Église*»; the texts are quoted in *Documentation Catholique* n. 1775 (1979), pp. 1001-1007.

⁵³ G.P. Milano, *Il Sinodo*, op. cit., p. 380.

Differently from the Consistory, as well as the Synod, the assemblies called by John Paul II cannot be regarded as a precisely defined institution but they are, so to speak, “a reality of an experimental nature, devoid of its own statute and only disciplined from time to time according to the requirements of the separate encounters”⁵⁴. In fact, what is expected from the cardinals are “*consilia ac proposita*” on outstanding questions different from those submitted to the Synod and, “*contra evenit in Synodo Episcoporum, hic ordo non sequitur ullum peculiare Statutum; compositus enim est ad hoc secundum praevisas necessitates huius ipsius congressionis*”⁵⁵.

Thus we are faced with a new mode by which the cardinals have the concrete task of all together helping the Pope *cum ad quaestiones maioris momenti tractandas in unum convocantur* (canon 349), with an activity that is distinct and complimentary from the activities belonging to the Bishops' Synod. In fact, the cardinals are asked to, even without “any rigorous delimitation”, to examine the problems of the Universal Church which “seem more closely connected to the ministry of the Bishop of Rome” than those posed for the Synod⁵⁶, such as the reform of the Curia Romana and the responsibilities connected with the economic situation of the Holy

⁵⁴ *Alla riunione plenaria del Sacro Collegio*, 6th November 1979, in *Insegnamenti di Giovanni Paolo II*, op. cit., vol. II.2, p. 1062; cf G. Feliciani, *Corresponsabilità ecclesiale nella struttura gerarchica della Chiesa*, op. cit., 1990, pp. 37 seq.

⁵⁵ «Je désire souligner tout de suite que, en dehors des questions que je présenterai tout à l'heure de mon côté, je compte sur les propositions que chacun des participants à notre rencontre présentera et développera. Nous devons prévoir pour cela la place nécessaire dans l'ordre du jour de nos séances. Contrairement à ce qui a lieu au Synode des évêques, cet ordre du jour n'est fondé sur aucun statut particulier. Il a été préparé “ad hoc” selon les exigences prévues pour la réunion actuelle (un peu sur le modèle des congrégations qui ont eu lieu avant le Conclave de l'an dernier). En plus des interventions orales au cours des réunions, toutes les observations et propositions écrites seront précieuses»; cf *Documentation Catholique* n. 1775 (1979), p. 1002.

⁵⁶ *Alla riunione plenaria del Sacro Collegio*, 6th November 1979, in *Insegnamenti di Giovanni Paolo II*, op. cit., pp. 1061-1062.

See⁵⁷. This is possible because “*congressio convocata legitima [est] ob ipsam naturam dignitatis necnon ob officia*”: in fact, the cardinals must “*non solum eligere Ecclesiae Romanae Episcopum sed etiam sustinere eum praesertim in pastorali eius cura Ecclesiae secundum universales huius rationes*”⁵⁸.

It seemed that this praxis was to be repeated at times coinciding with the meetings of the Bishops’ Synod. However, after the experiences of 1979, of 1982, of 1985 and of the spring of 1991 this usage was discontinued⁵⁹.

But one can certainly see the convocation of “plenaries” as part of the ampler intent meant to “reanimate” the Cardinals’ College “according to its nature and its tradition”⁶⁰. It would thus be once again responsible for its original duties of “a Senate assisting the Pope in His duties over a universal range in the service of the Church and its brethren”⁶¹.

⁵⁷ «Ceux d’entre vous qui appartiennent à la Curie romaine dans laquelle ils occupent les postes de première responsabilité participent directement, de façon continue et constante, à cette sollicitude. Cependant, à côté de ce groupe de valables collaborateurs, tous les autres membres du Sacré-Collège partagent avec le Pape la sollicitude commune pour l’Eglise. Votre lien avec le Siège romain est particulier et le signe extérieur de cette union se trouve par exemple dans les églises de la Ville éternelle qui jouissent du titre, de la dignité et du patronage de chacun d’entre vous. C’est précisément dans ce lien particulier avec l’Eglise romaine que réside le motif pour lequel l’Evêque de Rome désire vous rencontrer plus souvent, afin de tirer profit de vos conseils et de vos nombreuses expériences»; cf. *Documentation Catholique* n. 1775 (1979); for the Italian version cf. *L’Osservatore Romano* of 12-13 November 1979, and see also *Alla riunione plenaria del S. Collegio*, 6th November 1979, in *Insegnamenti di Giovanni Paolo II* vol. II., op. cit., p. 1062; for the Latin text cf. John Paul II, *Ad S.R.E. Cardinales, exeunte generali Sacri Collegii congressione*, in *Acta Apostolicae Sedis* vol. LXXI (1979), pp. 1457-1461.

⁵⁸ *Alla riunione plenaria del S. Collegio*, 6th November 1979, op. cit., p. 1062.

⁵⁹ J.B. D’Onorio, *Le Pape et le gouvernement de l’Église*, Paris, Fleurus-Tardy, 1992, p. 430.

⁶⁰ *Discorso alla “Plenaria” dei Cardinali*, 9th November 1979, n. 3, in *Insegnamenti di Giovanni Paolo II*, op. cit., vol. II.2, p. 1095.

⁶¹ *Allocuzione alla “Plenaria” del Sacro Collegio*, 26th November 1982, n. 3, in *Insegnamenti di Giovanni Paolo II*, op. cit., vol. V.3, p. 1452.

In this way, the Pontiff also seems to have taken note of those opinions in which, if the canon 230 of the 1917 Code foresaw that the cardinals should be a Senate for the Pope helping Him in governing the Church as counsellors and chief assistants, it was very rare for the Senate to be consulted while its members normally saw to their own duties as heads of the various dicasteries of the Curia Romana⁶².

As regards the reasons for the restoration performed of such a College, which for some commentators after the Council was unthinkable, it was believed are not to be sought in the need to ensure an equilibrium in the powers which are closest to the Pope's powers -- even though we cannot exclude that such a result is reached. Thus it is not a question of creating a counterweight to the authoritativeness and representativeness of the Synod as much as effectuating, even in such a way with outlines juridically simpler and theologically less intense, the actual collegiate status with which the pontificate of John Paul II⁶³ wanted to identify itself.

And we must not fail to note that, again, as regards the Cardinals' College, again by John Paul II with the pontifical chirograph *Comperta habentes* of the 31st May 1981, a "*Consilium ad quaestiones organicas et oeconomicas Apostolicae Sedis expendendas*"⁶⁴ was formed. This "*Consilium*" was made up of resident cardinals asked to examine, with the help of the Curia organs, particularly the Prefecture of economic affairs, and under the aegis of the Secretary of State, the financial affairs of the Holy See and to suggest concrete remedies. The Apostolic Constitution *Pastor Bonus* still regulates this organ, which has been renamed *coetus Cardinalium ad consulendum rebus organicis et oeconomicis Apostolicae Sedis*, foreseeing in articles 24 and 25 that this consists of fifteen cardinals nominated for five years by the Roman Pontiff and chosen from the Bishops of the particular Churches in different parts of the world.

⁶² P. Huizing, *Un esempio di costituzionalismo nella Chiesa?*, op. cit., p. 226.

⁶³ G.P. Milano, *Il Sinodo*, op. cit., pp. 380-381.

⁶⁴ *AAS*, LXXIII (1981), p. 545; cf G.P. Milano, *Il Sinodo*, op. cit., p. 380.

Such *coetus Cardinalium ad consulendum rebus organicis et oeconomicis Apostolicae Sedis* also makes use of expert advice⁶⁵. This Council is, moreover, summoned by the Cardinal Secretary of State usually twice a year to examine Holy See problems of organization and economics and the problems of connected Bodies. What's more, this Council is kept aware of the activities of the Istituto per le Opere di Religione⁶⁶ (Institute for Religious Works).

Another example of this desire to valorize the collegiate activities of the cardinals can be seen in the meeting held in the Vatican, 23rd and 24th April 2002 of the United States cardinals with the dicasteries of the Curia Romana on the question of paedophilia⁶⁷. In fact, on this occasion thirteen American cardinals and the three members of the presidency of the Bishops' Conference of the United States were joined with the prefects of the Congregations and of the Pontifical Councils to attempt an analysis and a first evaluation of the crisis which has involved the Catholic Church in North America.

⁶⁵ Article 84 of the Legal General Rule Book of the Curia Romana marks the systematic, organic connection of the Council with the Cardinal Secretary of State and, *ratione materiae*, with the Prefecture of the economic affairs of the Holy See through the Cardinal President (see article 176 PB): thus it would seem logical under authoritative doctrine that the Council should also express its own opinion regarding the budget estimate and the consolidated financial statement of the Holy See (cf article 178 PB) and that it should also see to obtaining the contributions relative to canon 1271 CIC; cf J.I. Arrieta – J. Canosa – J. Miñambres, *Legislazione sull'organizzazione centrale della Chiesa*, op. cit., p. 224.

⁶⁶ Information about the activity of the Institute for the Religious Works (IOR) which is in charge of control. With the chirograph of 1st March 1990 (AAS 82 [1990] pp. 1619-1620) a new configuration to the Institute for the Religious Works (IOR) has been given also conferring on it a new statute. According to this document, a commission of five cardinals takes on the functions of overseeing the Institute's activity; cf J.I. Arrieta – J. Canosa – J. Miñambres, *Legislazione sull'organizzazione centrale della Chiesa*, op. cit., pp. 224-225.

⁶⁷ Cf *La Documentation catholique*, 2271 (2002), pp. 510-515.

6 The “consultative group” formed by Pope Francis

The subject matter of this study is particularly up-to-date, if we were only taking into account the typical events that have characterised, and still, are, the first months of this Pontificate. These are events that really stress the urgency of a reform of the Curia Romana and, together with this, of the Cardinals' institution that has always constituted its main *pivot*.

It is not by chance that Cardinal Camillo Ruini, in an interview given on the same evening of the election to the papal throne of Cardinal Jorge Mario Bergoglio to an important Italian daily newspaper, complained of two existing problems in the contingent situation of the Catholic Church, a situation which he thinks should be dealt with urgently. Ruini nominates the structural problem of the relationship between the Pope's supremacy and the Bishops' College. He also brings up the problem that we could define as organizational, of the relationship between the Curia Romana and the Pontiff. He specifies that the Curia Romana can not exist as anything but as an instrument of service to the Pope. Thus it is not an organism somehow independent and it is even less a force conditioning the ministerial actions of the successor of Peter or influencing the Pope's relationships with the Bishops.

Moreover, it is not by chance that Cardinal Coccopalmerio, the president of the Pontifical Concil for legislative texts, intervened in the debate subsequent to Cardinal Ruini's mention of a possible *Moderator Curiae* for the Curia Romana.

It is also not by chance that we have appreciated the publication, once more in the first semester of 2013, of the volume “*Suavis laborum memoria. Chiesa, papato e Curia Romana tra storia e teologia*” in honour of the Jesuit historian Mercel Chappin SJ in occasion of his 70th birthday by the Archivio Segreto Vaticano (Vatican Secret Archive). This volume, in fact, contains an interesting article by Hans de Valk, which analyses an anonymous document

dating back as far as 1931, and entitled “*De quibusdam rebus in ecclesiastico regimine emendandis*”. This is a text of some 20 pages discovered in Archivio Segreto Vaticano. It is signed by “Paulus Bernardus a S. Catharina”. This pseudonym may hide the identity of the Dutchman Willem Marinus, not by chance another Dutchman like the already cited cardinal Alfrink and thus an exponent of a Church highly critical of the Curia Romana⁶⁸. In the above mentioned text there is a particularly fierce criticism of Curia Romana and of the cardinals, especially regarding the lack of an effective internationalising and of a real knowledge of the cardinals’ world or of their life in the Universal Church. In particular, as regards the governing of the Universal Church, the anonymous writer of the document complains that the Pope and His State Secretary or his substitute take decisions about everything and they are thus burdened with a workload which is humanly impossible to deal with. This task is combined with the need to deal with matters of growing importance and with an exaggerated tendency to secrecy. The resulting is that this state of affairs can only lead to a delay in solving even the most urgent matters. Thus we can hope that more room is given to the old system of collegiate government⁶⁹, obviously as regards greater cooperation and sharing between Pope and Cardinals.

To all this we must add that, exactly one month after the Pope’s election to the papal throne on the 13rd of April 2020, Pope Francis set up a group of cardinals⁷⁰ to advise Him precisely as

⁶⁸ He was created a cardinal by Pius X in 1911 and was the Prefect of the Congregation of *Propaganda Fide* under Benedetto XV and Pius XI.

⁶⁹ H. de Valk, *Some matters that should be improved in the government of the Church. A remarkable Proposals for the Reform of the Roman Curia, 1931*, in AAVV., *Suavis laborum memoria. Chiesa, papato e Curia Romana tra storia e teologia* in onore di Mercel Chappin SJ per il suo 70° compleanno, Città del Vaticano, 2013, pp. 183-205.

⁷⁰ Father Federico Lombardi, the spokesman for the Holy See, underlines that it is a question of a “group” and not of a Council or a Committee: thus it has consultative but not decision-making functions; cf Communication of the Secretary of State dated 13th April 2013, in www.vatican.va.

regards matters concerning the government of the Universal Church⁷¹ and to participate in a project of reviewing the Curia Romana⁷².

What we wish to stress in this article is that is legitimate to suppose that the newly-elected Pope means to avail Himself of the help, cooperation and assistance of His Cardinal brothers. And such a policy is once again putting the Pope Himself within the tradition mapped out by His predecessors in the completion of the exercise of functions appurtunanced and connected with His office from the very beginning of His pontificate. It is with this perspective that we can read the involvement of eight Cardinals⁷³ in the formation of the so

⁷¹ Such an assignement does not seem to any have precedents in Church history. During the last century but also in General Congregations before the last preconclave, some commentators wished for the creation of a "Crown Council" supporting the Pope alongside the Curia and the Bishops' Synod. In particular, we wish to recall here that in an interview to "30 giorni" in 2007, the Belgian cardinal Godfried Daneels, one of the electors in the last two due conclaves, said he was "convinced that to gather occasionally around the Pope a small Council of eminent Church members from various countries, a Council whose members could maybe change every two or three years, would be a help for the Pope so He could be sure of forming an idea of the temperature of the Church [...] The Curia cannot feel and record such a temperature since it is not its job to do so. Of course, we already have the Bishops' Synod and the Cardinals' College. But an organisation which I would call the Council of the Crown could be a more elastic, discretionary and contingent instrumental/body which, of course, would not be above the Pope but would only exist as an organ helping Him in His duties".

⁷² What is being outlined is the fourth organic intervention for reform of the Curia Romana ever since it was born in the modern sense of the term in 1588 with the constitution "Immensa aeterni Dei" by Sixtus V (and after the Sapienti consilio by Saint Pius X in 1908, and the Regimini ecclesiae universae by Paul VI in 1967 and the Pastor Bonus by John Paul II in 1988). It remains a fact that it is premature to single out what the contents will be of His reform of the Curia Romana. But one can imagine what will be at least three of the chapters that will be dealt with, i.e. a significant reduction of the dicasteries of the Curia, the role of the Curia Romana itself as regards local Churches and the return to greater collegiality within the Curia.

⁷³ Their names are: Giuseppe Bertello, president of the Governatorato of the State of Vatican City, Francisco Javier Errázuriz Ossa, Archbishop Emeritus of Santiago of Chile, Oswald Gracias, Archbishop of Bombay, Reinhard Marx, Archbishop of

called “consultative group” to deal with the most urgent problems (if we can name thus such a group in this way so as to clarify and make clear its aims and mission). Indeed, once again, this happening brings out the renewed leading role in the care of the Universal Church performed by the Cardinals’ College *a latere* while, at the same time, the Cardinals’ College acts as a support group of the successor of Peter. Not only because this group “of wise men” consists, precisely, of cardinals (although it must be stressed that these are cardinals not belonging “to the Curia”), but, above all, also because Pope Francis reached the decision to appoint this group taking into consideration a suggestion that had emerged during the General Congregations which preceded the conclave.

As we have seen, not for the first time, proposals that had emerged in similar contexts, i.e. inside the Cardinals’ College itself, had been promptly acknowledged and adopted by the newly-elected Pontiff. It suffice to think of the assemblies that took place under John Paul II. In this case, it is also a fact that catches our attention with obviousness that the newly-elected Pope treasured and made use of the indications that had emerged inside the Cardinals’ College -- so much so that He realised them immediatly. It is true that, in the case of John Paul II, it was a matter of a new kind of assembly that seemed to focus on expanding the ancient form of consistory also in the light of the fact that “the participation of the Cardinals’ College in debating matters tightly related and linked to the universal mission of the

Munich and Freising, Laurent Monsengwo Pasinya, Archbishop of Kinshasa, Sean Patrick O’Malley, Archbishop of Boston, George Pell, Archbishop of Sydney, and Oscar Andrés Rodríguez Maradiaga, Archbishop of Tegucigalpa, who will coordinate Their Eminences. It cannot be considered chance that these cardinals come from from all over the world and are at the head of special and important communities: indeed, it seems to be once again a question of the wish to submit delicate matters such as reform of Curia Romana, to people living varied experiences in different environmental and geographic contexts. Pope Francis, moreover, has appointed as secretary of this group of cardinals Monsignor Marcello Semeraro, the Bishop of Albano.

Bishop of Rome in the Catholic Church is based not only on the historical function of the College itself but also on that *generali «collegialitatis» progressionem, quae post Concilium Vaticanum II ut factum concretum effulget*⁷⁴.

As regards Pope Francis, to be summoned are not all of the Cardinals as members of the Cardinals' College or as an expression of a sort of Episcopal collegiality but only eight of them in their role of counsellors of the Pontiff and personally chosen by Him. Anyway, in both cases, it is stated that to be called to serve and assist the Successor of Peter -- in what are perceived as urgent and contingent questions of the Catholic Church, and in particular of the Apostolic Seat -- are Cardinals and such a summon is addressed to a College in the case of John Paul II and, in the case to Pope Francis, to a "group".

All this is in spite of what was maintained, and is still maintained, that chap. III of the *Lumen Gentium* and the doctrine of collegiality, together with the institution of the Bishops' Synod, have sanctioned the waning of cardinalship not only in a doctrinal sense.

In fact just the opposite is true, i.e. that all this development has, on the one hand, left undefined and unjudged, at least organisationally, the role of the Cardinals' College. On the other hand, it brought out the need for a more specific definition of the organisation and competences as well as the institutional connections regarding the Bishops' Synod itself⁷⁵.

Moreover John Paul II, as regards the activating of the Cardinals' College within the range of suitable matters in the above quoted Plenaries, has clearly stated that this activation does not dim but indeed reveals more of that "collegiate character of the Episcopal ministry", which outside the Council has the "main manifestation" in the Bishops' Synod⁷⁶. This reaffirms, therefore, the legitimacy as well as the opporteness of the

⁷⁴ In fact, as at the time stated by John Paul II Himself, the reasons for the need and opportunity to call such meetings were to be found in the last Ecumenical Council, "which so admirably showed the collegiality of all the bishopric as regards pastoral care for the Church"; *AAS*, LXXV (1983), pp. 135 seq.

⁷⁵ G.P. Milano, *Il Sinodo dei Vescovi*, op. cit., p. 373.

existence of the Cardinals' College and its involvement, alongside the Roman Pontifex, in the government of the Universal Church and in the forms and manners to be decided even outside preordained schemes which the pastoral needs will call for at times.

Conclusions

In the two thousand year history of the Church, the cardinals have always supported the Roman Pontifex in governing first of all the Church of Rome and then the Universal Church.

The cardinals have shown notable ductility and vitality through all these centuries and this has meant the consistory was at first an organ of jurisdiction and then one of legislation and later still of consultation.

These developments must not be taken as a descending parabola on view of the general character of the principles involved regarding the pertinence of the consultative vote, which, as is known, in the life of the Church is to be considered "an integral and constitutive part of the process in which is conceived authoritative judgement"⁷⁶.

Though with the passing of times, the consistory's duties have been transferred to *ad hoc* organs (first of all to the Apostolic Tribunals, then the Bishops' College and finally to the Bishops' Synod not to speak of the Dicasteries of the Curia Romana), the Cardinals' College and the Cardinals themselves have in any case gone on practicing, in ever changing forms, their original function of "counsellors" to the Roman Pontiff.

⁷⁶ *Allocuzione alla "Plenaria" del Sacro Collegio*, 23rd November 1982, n. 2, in *Insegnamenti di Giovanni Paolo II*, op. cit., vol. V. 3, p. 1417; cf G. Feliciani, *Corresponsabilità ecclesiale*, op. cit., pp. 40-41.

⁷⁷ E. Corecco, *Parlamento ecclesiale o diaconia sinodale?*, in Id. *Scritti per una teoria generale del diritto canonico*, Milano, 1989, p. 162; H. Muller, *De formis iuridicis corresponsabilitatis in Ecclesia*, in *Periodica de re morali canonica liturgica* 69 (1980), pp. 303-320.

In cycles, they have been attempts to “formalise” with greater precision the competence of this organ. There is no doubt that such requirements have been strongly felt across the centuries for historical, political, and even ecclesiological reasons.

But when particular “privileges” were formally written and approved, or at least particular positions were crystallised, history shows us how the latter were in fact disregarded. Even nowadays there is no success in drafting a *lex propria* even though current legislative texts in force mention it.

Probably, this is due to the fact that the importance of the Cardinals' College is not only a juridical matter but also an ecclesiological one --concerning the College's flexibility and its capacity to adapt to changing times. It would probably be inopportune to “create” a rigid structure outlining functions and competences within the framework of a normative prescription.

After the Vatican Council II, and after the post-Council reforms together with the promulgation of the new code, we must speak of the rediscovery of the bishopric's sacramentality and collegiality – not to speak of the dignity of the faithful, and more generally, the ecclesiology of communion as proposed by the Council. Such developments have led to the institution and formation of various forms of co-responsibility at all levels of the hierarchy⁷⁸. Some commentators have interpreted these developments as sanction putting an end to the existence of the Sacred College Institute. But this does not seem to be the case.

The Popes continue to make use of cooperation from the Cardinals, *uti singuli* or collegially, as well as regularly summoning the Consistories.

⁷⁸ *Allocuzione alla “Plenaria” del Sacro Collegio*, 23rd November 1982, n. 2, in *Insegnamenti di Giovanni Paolo II*, Roma, 1979, vol. V.3, p. 1417; cf G. Feliciani, *Corresponsabilità ecclesiale nella struttura gerarchica della Chiesa*, in AAVV *Comunione ecclesiale e struttura di corresponsabilità. Dal Vaticano II al nuovo Codice di Diritto Canonico*, Roma 1990, pp. 37-41.

The Cardinals go on presiding over the more important Dicasteries of the Curia Romana.

The Cardinals' College, with its opening to personalities from all over the world as well as to the Patriarchs, is also, just like the Bishops' Synod, an efficient instrument of liason between the Universal Church and specific Churches. The Cardinals' College also acts as a liason among the specific Churches, that some of its members preside over, and the political community—thus also keeping in line with the *desiderata* of the Vatican Council II.

And again in recent days, too, Pope Francis, among the very first acts of His Pontificate, with in mind a reform of the Curia Romana, has gone to the Cardinals and appointed eight of them to study the feasibility and the procedures to carry out this reform.

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