

Richard R. Gaillardetz

Reflections on the Future of Papal Primacy

In his encyclical *Ut unum sint*, Pope John Paul II invited the leaders of other Christian traditions to help him discover a new manner of exercising papal primacy as a “service of love” (John Paul II, 1995: #95). This remarkable invitation suggests the possibility of a new future for the exercise of papal primacy. In this article I would like to consider the extent to which this new future is already being glimpsed in the pontificate of John Paul II. I do not pretend to offer a comprehensive analysis of his pontificate. Rather, I aspire only to sketch out the vision of primacy that he has offered in *Ut unum sint*, followed by an analysis of three dimensions of the concrete exercise of that primacy during his pontificate.

UT UNUM SINT ON THE PAPACY

In the encyclical we can learn much about the Pope’s theological understanding of primacy by considering the terminology he employs. One of the most significant developments is the choice of papal titles. While “pope” appears eight times (apart from reference to individual popes), and “successor of Peter” six times, neither “pontiff” nor “vicar of Christ” appear at all. In contrast, the Pope used the title, “bishop of Rome,” over twenty times.

A. *Bishop of Rome*

The use of this title reminds us that the pope is only pope because he is first a bishop of a local church. That local church is Rome, the apostolic see of Sts. Peter and Paul. It was a church acknowledged from the second century on to possess a primacy within the ancient communion of churches, however much the scope and character of that primacy changed over time. Historically it is this primacy of the church of Rome that grounded the developing primacy of Rome’s bishop. The title “bishop of Rome” further points to the pope’s relationship to his fellow bishops. If he is head of the college of bishops it is only because he is also a member of it.

B. *Servus Servorum Dei*

John Paul II also draws attention to another papal title, *servus servorum Dei*, “the servant of the servants of God.” The title is noteworthy,

not only because it is an ancient one, first employed by Gregory the Great, but also because it suggests a very different view of primacy itself, one that the Pope obviously hopes will bear fruit in ecumenical dialogue.

“Servant of the servants of God” suggests something quite different from the monarchical and supra-episcopal view of the papacy that was often inferred from the teaching of Vatican I. The Pope observes that “[t]his designation is the best possible safeguard against the risk of separating power (and in particular primacy) from ministry. Such a separation would contradict the very meaning of power according to the Gospel” (#88). He insists that the “authority proper to this ministry is completely at the service of God’s merciful plan, and it must always be seen in this perspective. Its power is explained from this perspective” (#92). Later in the encyclical he recalls an address of his given to the Ecumenical Patriarch Dimitrios in which he admitted that where the exercise of the papacy was concerned, in past times “what should have been a service sometimes manifested itself in a very different light” (#95).

It is evident that the Pope has gone to great lengths to re-conceive papal power within the framework of ministry and service. Strikingly absent in his description of papal primacy is any use of the term “jurisdiction” whatsoever. Rather he describes his mission as that of “keeping watch” (*episkopein*). He does insist that for such a ministry of oversight to be effective the bishop of Rome must possess “a real power and authority” but only in order to “ensure the communion of all the Churches” (#94).

C. Primacy within an Ecclesiology of Communion

The Pope further develops a theology of primacy as a ministry of service within the context of an ecclesiology of communion. While it is a commonplace to speak of the centrality of the notion of *communio* at Vatican II, the truth is that this ecclesiological concept was employed unevenly at the council and in its documents was often juxtaposed with more juridical and universalist ecclesiologies (see Pottmeyer, 1987: 37; Komonchak, 1992: 427). The constructive task of developing a coherent ecclesiology of communion has only really been taken up in the decades since the council. The Roman curia itself had already issued a document on the ecclesiology of communion a few years prior to the issuance of this encyclical (CDF). The Pope’s encyclical presupposes this development. Indeed, more than any previous ecclesiastical document, *Ut unum sint* presents the papacy within an ecclesiology that views the universal Church as a communion of churches. Seen from this perspective, the Church is neither a federation of autonomous congregations nor a universal corporation with branch offices throughout

the world. As Vatican II taught, “Individual bishops are the visible source and foundation of unity in their own particular churches, which are modeled on the universal church; *it is in and from these that the one and unique catholic church exists*” [Flannery, *Lumen gentium*, #23, emphasis added]. This communion of churches, manifested by institutional bonds, is constituted by the Holy Spirit and sustained in a profound sharing among local churches in the proclamation of the word of God, the celebration of the Eucharist, the leadership of an apostolic ministry and the life of faith and charity. The term “universal Church” does not name some ecclesial entity separate from or “above” these local churches. Rather “universal Church” names the living spiritual communion which is realized in these local churches.

As a communion of churches, the primary responsibility for shepherding a local flock lies with the local bishop, the ordinary pastor of the local church. It follows that within this ecclesiology, the principal manifestation of papal primacy will be to support the bishops in the exercise of their pastoral charge. Consequently, papal primacy must be seen in a significantly different light than that offered in the treatment of primacy at Vatican I and even, to some extent, Vatican II. The Pope explicitly situates his primacy within this ecclesiology when he describes it as a “service of unity . . . entrusted within the College of Bishops to one among those who have received from the Spirit the task, not of exercising power over the people . . . but of leading them toward peaceful pastures” (#94). His unique task is to keep watch, ensuring that through the effective ministry of the local bishops, the voice of Christ is heard.

D. Ecumenical Prospects

Is there ecumenical promise in this attempt to re-frame papal primacy as a ministry of service? It appears that the Pope was offering this presentation of primacy with an eye cast toward East-West relations. In the Orthodox tradition, there are a number of bishops and theologians who are prepared to acknowledge a kind of universal primacy for the bishop of Rome. But this universal primacy would have to be exercised within the same constraints imposed on that primacy exercised at the patriarchal and metropolitan levels, that is, it could only be a primacy of honor. Within those limits, even if Orthodoxy were to grant a unique primacy to the bishop of Rome as “first among equals” (*primus inter pares*), there is a common assumption that such a primacy would still be irreconcilable with Vatican I’s assertion of universal papal jurisdiction. For the Orthodox, Vatican I established the pope as a monarchical, supra-episcopal authority over all the bishops, an approach that is directly opposed to the Orthodox emphasis on synodal decision-making and the fundamental equality of the episcopate.

However, from the Catholic perspective, most scholars of Vatican I acknowledge the limitations and even inadequacies of the overly juridical view of papal primacy offered in Vatican I's constitution *Pastor aeternus*. If ecclesiology, from the Roman Catholic perspective, always demands some juridical form, what Vatican I offered was an ecclesiology *reduced* to its juridical form. Nevertheless, careful studies of Vatican I's teaching demonstrate that in spite of its shortcomings, *Pastor aeternus* in fact offered a much more circumscribed view of primacy than many realize (Tillard, 1983; Pottmeyer, 1998). When, in the wake of Vatican I, Chancellor Bismarck attributed to the council the view that the pope had subsumed all episcopal jurisdiction under his own papal jurisdiction, the German bishops issued an important clarification. They insisted against Bismarck that the council did not in any way undermine the legitimate authority of the local bishop. The pope's ordinary, immediate and universal jurisdiction implied only that proper to the bishop of Rome's office was the responsibility to ensure the welfare of the churches, intervening only because of the incapacity of the local bishop or because the good of the Church required it. Pope Pius IX immediately applauded the German bishops for their response and officially confirmed the authenticity of their interpretation of Vatican I (Denzinger: 3112–17).

It was regrettable that this important clarification never found its way explicitly into the documents of Vatican II. That council had to be content simply to juxtapose the more expansive view of papal jurisdiction popularly assumed in the wake of Vatican I with new insights regarding episcopal collegiality. John Paul II's treatment of primacy represents a genuine effort to go beyond both the juridical and universalist ecclesiology of Vatican I and the uneasy conjoining of that ecclesiology with a *communio*-ecclesiology at Vatican II.

Catholic participants in ecumenical dialogue with the Orthodox will want to highlight the real progress made in moving beyond the limitations of Vatican I without renouncing the essential substance of its dogmatic decrees. At the same time it may be necessary respectfully to ask our Orthodox partners whether a primacy of honor, as it was understood in the early Church, did not itself imply some real juridical authority. The patristic scholar and ecumenist Brian Daley published a study on the understanding of a primacy of honor as articulated in the canons of the ancient councils (Daley). He demonstrates that this primacy of honor was never understood in a mere ceremonial sense as an authority that was strictly moral or persuasive in character. It was assumed that the one who possessed a primacy of honor was able to make real and binding decisions.

Is there a possible meeting place between, on the one hand, the Pope's account of primacy as a ministry of service and oversight within the

college of bishops and the communion of churches and, on the other hand, the recognition that even a primacy of honor as understood historically, assumed real juridical authority? Those interested in the cause of ecumenism can only hope that the long-awaited resumption of the suspended dialogue between Catholicism and Orthodoxy will provide opportunities to consider this question further. In any event, any realistic hope for progress on this question will also require not only an assessment of official Catholic teaching on this question, but also a sober analysis of the way this teaching is embodied in contemporary church praxis.

THE EXERCISE OF PRIMACY

Now I wish to turn from John Paul II's *teaching* on primacy to consider three distinguishing characteristics of the actual *exercise* of primacy in this pontificate: (a) symbolic papal action; (b) papal teaching ministry, and (c) the exercise of primacy in the affairs of the local churches.

A. Symbolic Papal Action

I suspect that more than any other in history this papacy will be etched in memory by way of a string of compelling media images. One of the most enduring will be an image revisited innumerable times, that of the Pope kissing the ground upon the first visit to a country. This Pope has made unprecedented use of modern transportation to exercise his ministry in service of unity by visiting the many churches throughout the world, publicly affirming the unique gifts of that community, challenging it to further fidelity to the gospel where necessary, and, where such churches suffered from injustice, bringing that injustice to world attention. During these visits the Pope makes full use of the local media. He often appeals in a special way to the youth, elevates for universal emulation the witness of the saints and martyrs of a particular church, and visits with local leaders and representatives of other churches and religious traditions. Indeed, these papal visits frequently have an overtly ecumenical dimension, particularly where he has visited such predominantly non-Catholic countries as Romania.

These global trips can be seen from two perspectives. From the perspective of those who receive the Pope on his travels, these visits are often experienced as an act of papal solidarity with the local church and in many instances an expression of compassion for their plight. From the perspective of those who follow these visits through the media, they have the potential of raising to our conscious awareness the rich diversity of the churches and the unique concerns and challenges that other Christians face in various parts of the world.

Other symbolic papal actions in this pontificate include his joint prayer with the chief rabbi at the synagogue in Rome and his joint recitation of the Nicene-Constantinopolitan Creed with the patriarch of Constantinople, in Greek and without the *filioque*. Even more dramatic have been two acts of reconciliation which may well serve as bookends for this pontificate: the first is John Paul II's remarkable offer of forgiveness to his would-be assassin in a private meeting (the photos of which made this, however, an act of public significance) which occurred early in his pontificate and the second is his solemn request for forgiveness on behalf of the Church for sins committed by members of the Church in its past, offered on the first Sunday of Lent, as part of the celebration of the Jubilee.

When we consider these profound public gestures along with the Pope's many global travels, we are left with a paradox. This Pope, considered by many to be iron-fisted in his wielding of juridical authority, has in fact been most successful where he has wielded no juridical authority, relying rather on the prestige of his office as a moral voice, a living example of universal compassion and a symbol of Christian unity.

These actions constitute a genuine *novum* in the history of papal primacy, not because they are individually without precedent but because their *impact* is without precedent. The modern media have increased exponentially the extent to which a particular papal action can be brought to the attention of millions of people throughout the world. In consequence, the effective symbolic power of these actions has also been amplified. Consider a simple papal gesture, like the Pope's embrace of an AIDS victim in Africa. Certainly similar papal gestures of compassion have been repeated numerous times throughout the history of the papacy, but the impact of those actions would have been much more limited. Now an act of compassion, embracing an AIDS victim or the praying with one's would-be assassin, can appear instantly to millions on the cover of international newspapers and on nightly television broadcasts. In this new world, such gestures have more potential for communicating the importance of a basic gospel imperative than a carefully worded encyclical whose readership may number in the mere thousands.

Do these largely symbolic exercises of primacy offer possibilities for the future of the papacy? Yes and no. To be sure, this kind of ministry would have been impossible a mere century ago, but its success depends not only on modern transportation and global communications technologies but also on the character of the pope. This Pope is a remarkably popular and attractive figure and there is no guarantee that future popes could emulate him. Moreover, there is a danger that the very visibility of the Pope in these travels might lead to a "cult of

personality” that could obscure the nature of the office. The Pope’s greatly enhanced visibility could also encourage the perception of the Pope as a supra-episcopal figure, further obscuring the real authority of the local bishops. Others worry that these trips often function less as a celebration of local churches than as a means of exercising control over them.

While acknowledging these reservations, I suspect that a renewed papacy will need to follow Pope John Paul II’s lead in functioning as a public voice to the world for the gospel of Jesus Christ and a visible symbol of the Church’s evangelical mission. This largely symbolic, persuasive authority is likely only to grow in importance in the coming third millennium.

B. The Pope as Chief Theologian of the Church

My second observation regarding the exercise of primacy under this pontificate concerns the pope’s role as teacher. Catholic doctrine insists that the authority of the papacy is grounded in the pope’s pastoral office as the bishop of the church of Rome. Consequently, that which the Second Vatican Council taught regarding the ministry of the bishop must apply to the bishop of Rome as well. The council affirmed that “among the principal tasks of bishops, the preaching of the gospel is pre-eminent” (Flannery, *Lumen gentium*, #25; *Christus Dominus*, #12).

It is difficult to think of another pope in the modern era who has taken this ministry more to heart. The proclamation of the good news of Jesus Christ and the call to a “new evangelization” lie at the core of Pope John Paul II’s profound sense of vocation. He has preached the good news “in and out of season” in literally thousands of homilies and addresses. The evangelical character of his papacy has significant implications because, as ecumenical dialogues have made clear, any hope for a recognition of a universal primate by the churches of the Reformation, in particular, lies in its clear subservience to the Word of God.

However, when one thinks of the legacy that Pope John Paul II will be leaving the Church, one thinks not of his more occasional addresses and homilies but of the corpus of encyclicals. Some commentators like Avery Dulles and George Weigel consider this corpus one of his principal gifts to the Church. And yet many young Catholics who have known no other pope may find it difficult to appreciate the relative novelty of this manner of exercising primacy.

The truth is that the papal encyclical itself is a modern development first employed in the eighteenth century by Pope Benedict XIV. However, his encyclicals were all very brief and largely either disciplinary or exhortatory in character. In the nineteenth century Popes Gregory XVI and Pius IX made use of the encyclical, often addressing doctrinal

matters, but these too were generally short in length. When they condemned erroneous views there, was no intention of stimulating new theological insight (Schatz: 167–68). With such noteworthy encyclicals as *Aeterni Patris*, *Providentissimus Deus*, *Satis cognitum* and *Rerum novarum*, Pope Leo XIII instigated a significant shift in the teaching role of the pope. While popes had always claimed doctrinal authority on matters of faith and morals, at least going back to the fifth century, the actual exercise of that authority had been relatively infrequent, and when employed, was usually limited to fairly terse doctrinal pronouncements. The pontificate of Leo XIII marks the beginning of a modern development in the papacy in which popes begin to offer, as part of their teaching ministry, extended theological treatments issued in formal magisterial documents on important topics. Pius X would follow Leo's precedent with *Pascendi*, his condemnation of modernism, and both Pius XI and Pius XII would issue lengthy encyclicals during their successive pontificates.

This century-long development culminates in our present pontificate. If one compares the written output of John Paul II to that of his predecessors, in terms of total pages, no pope has written more in the genre of the encyclical than our present one. Indeed, the comparison becomes more dramatic if one were to include his often weighty post-synodal exhortations. By my informal tabulation, at least five of his encyclicals exceed the length of the longest encyclical of any of his predecessors.

What we have witnessed in the last century and a half is the transformation of the papacy from its ancient function as a court of final appeal on theological matters, to the pope as chief theologian of the Church. In the Middle Ages the primary arbiter of theological disputes was the theology faculty of the universities like the faculty of theology of Paris or the canon law faculty at the University of Bologna. After the establishment of neo-scholasticism in the mid-nineteenth century, the various faculties of the Roman Colleges took over this role, ghost-writing papal documents. However, in our present pontificate, it appears as if the Pope, and by extension his curia, has now become the chief theologian of the Church.

Pope John Paul II's encyclicals are often very long, dense treatments of a topic. Moreover, as formal exercises of the ordinary papal magisterium, their very length raises the legitimate question of their binding character. How does one distinguish between binding doctrinal judgments and personal theological reflections? The Pope asserts the existence of intrinsically evil acts in *Veritatis splendor*, but is his phenomenological account of the good equally binding? He defends the Church's prohibition of the ordination of women in *Mulieris dignitatem*, but what is the binding status of his view of gender complementarity employed to

support his position? When the Pope engages in his universal teaching ministry by writing in-depth theological works, is there not a danger of undermining the theological pluralism that he has defended elsewhere?

There is a tradition regarding papal teaching going back at least to St. Robert Bellarmine that distinguished between the pope as a private doctor and the pope as universal pastor. This distinction was assumed at Vatican Councils I and II. Yet our modern situation makes this distinction more difficult to maintain. When the traditional instruments for exercising the pope's ministry as universal pastor and teacher contain extended theological treatments, are we not at risk of blurring the important distinction between an authoritative proclamation of the faith and private theological speculation?

We are living in a period of history increasingly referred to as post-modern. One of the characteristics of post-modern thought is the growing awareness of the significant pluralism that qualifies our consciousness. In such an epoch we must ask whether the papacy best serves the Church by producing lengthy theological tomes. As we move into a third millennium of church history, I am inclined to believe that a more helpful model may be found in the pontificate of Pope Paul VI. He served the cause of theology by creating the International Theological Commission, thereby allowing the whole Church to benefit from the insights of theologians drawn from throughout the world and representing diverse schools of thought.

C. The Exercise of Primacy in Relation to the Affairs of Local Churches

Finally, I would like to consider the exercise of papal primacy in relation to the affairs of local churches. In this regard we will need to distinguish between two complementary modes of exercising primatial authority. The most common exercise of primatial authority we might refer to as "confirmatory." This refers to the ordinary exercise of primatial authority in which the bishop of Rome "confirms his brothers" in the proper exercise of their ministry as pastors of local churches. This might include the convocation of episcopal synods, papal visitations and *ad limina* visits along with other means of facilitating communion among the bishops. The exercise of confirmatory primatial authority will not involve any direct intervention in the affairs of local churches.

Much less frequently, there may also be a need for the exercise of "exceptional" primatial authority. This exceptional authority will be exercised only when the bishop of Rome, either directly or through curial offices, finds it necessary to intervene in the affairs of a local church because the local structures of leadership have proven incapable of addressing a matter that threatens the unity of faith and communion. This exceptional authority functions best when the intervention comes

at the request of the local church itself. These two forms of primatial authority should never be opposed to one another. The exercise of exceptional authority is simply a more direct and authoritative means of confirming the local bishops in the fulfillment of their pastoral responsibilities, namely, the building up of the body and the preservation of unity within the body.

This analysis of the different modes of exercising primacy might also be considered from the perspective of the principle of subsidiarity. As a sociological principle, subsidiarity was first articulated as a means of protecting individuals and local social groups against the unwarranted intrusions of higher and more comprehensive social units. If we admit that, at least analogically, it can be applied to the Church, we might reformulate that principle as follows: *the pastoral authority with direct responsibility for a local community must have primary responsibility for pastoral ministry within that community and is expected to address, without external intervention, the pastoral issues that emerge there. Only when these issues appear insoluble at the local level and/or threaten the faith and unity of the Church universal should one expect the intervention of "higher authority."* Some who view subsidiarity as strictly a sociological principle have criticized its application to the Church as inappropriate. They contend that the Church is no mere sociological reality but a spiritual communion and therefore not subject to the sociological rules that apply to other secular institutions. (For a review of this argument see Leys, 113–19; Komonchak, 1988: 336–37). Yet it is also possible to see subsidiarity as the concrete structural realization of what it means to say the universal Church is a communion of churches (Tillard, 1992: 275–83). A *communio*-ecclesiology demands the preservation of the full integrity of the local church as the concrete presence of the one Church of Christ in that place. Any exercise of authority at a level beyond the local can never be undertaken in a way that undermines that Church's integrity. The exercise of "higher authority" must always be a means toward preserving the integrity of the local church and its communion with the other churches. It is this concern alone that will determine whether confirmatory primatial oversight must give way to the exercise of exceptional primatial authority. Let me offer an instance from the history of the American Catholic Church in which this principle was employed in fact if not in name.

1. THE FEENEY AFFAIR

Fr. Leonard Feeney was a Jesuit assigned as chaplain for a student center located in Cambridge and serving the Harvard University student body in the late 1940s (Fogarty: 358–63). Feeney had developed a reputation around the country as a poet and essayist. He founded a journal in which were published articles championing a strict interpre-

tation of Cyprian's axiom: outside the Church there is no salvation. He insisted that American Jews and Protestants were not "invincibly ignorant" of Christ's will that salvation come through the Roman Catholic Church. Consequently, he held, these non-Catholic Americans stood in peril of their salvation. He soon developed a significant following in the community associated with Boston College. After the Archdiocese of Boston deliberately allowed the faculties he was granted to expire, Feeney continued exercising his priestly ministry, hearing confessions and celebrating Mass. He was then suspended by his provincial, an action which triggered protest from his followers. When this failed to halt Feeney and his followers, Cardinal Cushing placed St. Benedict's Center, where Feeney was chaplain, under interdict. A letter was sent to all of the American bishops apprising them of the situation. When all of these actions failed to have any effect on Feeney, Cushing asked for direct Roman intervention. The Holy Office then issued a decree condemning the substance of Feeney's views and the Congregation of Religious formally dismissed him from the Society of Jesus.

In the Feeney affair we have a good example of subsidiarity at work. It does involve the rare situation in which the bishop of Rome, through curial offices, must exercise exceptional primatial authority in the form of direct intervention. The particulars of the case are significant. First, a controversy emerges in a local church. Second, the local authorities seek to address the problem while keeping their brother bishops and the Vatican informed. Third, only when local action fails is the Apostolic Roman See asked to intervene.

While Pope John Paul II invoked this principle in *Sacrae disciplinae leges*, the apostolic constitution promulgating the new Code of Canon Law (Pope John Paul II, 1983), it is my contention that over the course of his pontificate we have seen a growing suspicion of the principle of subsidiarity and, not surprisingly, an increasing reliance on the employment of exceptional primatial authority in the affairs of local churches. Let me offer three examples of this interventionist policy exercised with respect to three different local churches.

2. RECENT INSTANCES OF ROMAN INTERVENTIONISM

The first case involves the promulgation of the revised English-language lectionary submitted to Rome by the American bishops in 1991. The Congregation for Divine Worship approved the text in 1992 but in 1994 that approval was rescinded by another Roman dicastery, the Congregation for the Doctrine of the Faith. At one point, all seven American cardinals traveled to Rome in an attempt to resolve the dispute. Eventual Roman approval came only after substantial revisions were made in the translation in accord with guidelines for English-language translations drawn up by the Apostolic Roman See at the

eleventh hour. The fact that the controversy focused on the question of inclusive language distracted and unduly polemicized what was really an ecclesiological issue: Are or are not the local bishops of a church competent to determine the adequacy of biblical and liturgical translations to be used in their churches? Vatican II's "Constitution on the Sacred Liturgy" held in article 36 that while the translation of liturgical books is subject to "examination or confirmation" by the Apostolic Roman See (referred to as a *recognitio* in the Code of Canon Law, c. 838.3), the *primary* competency over such translations lies with the episcopal conference. Yet in the case of the revised lectionary one had the impression that the primary competency resided in Rome. Recent curial demands for a reform of the structures and policies of ICEL, the commission responsible for English-language translations of liturgical texts, and the accompanying demand that henceforward ICEL staff members must have a *nihil obstat* from the Vatican, merely strengthens this impression (Medina).

A second case occurred recently in Great Britain. The episcopal conferences of Scotland, Ireland, Wales, and England had planned, as part of their Jubilee Year celebration, to offer general absolution on the Saturday before Palm Sunday. This would come only after an extended catechesis on reconciliation during Lent with special provisions being made for penitents in a state of serious sin to make individual confession on the Monday through Wednesday of Holy Week. The bishops were then ordered by the Congregation for Divine Worship to abandon the plan. With regard to this case several points must be made. First, provisions for offering general absolution, although restrictive, are included in the rites for the sacrament of reconciliation. Second, canon 961.2 grants the diocesan bishop, when acting according to criteria agreed upon by the fellow bishops of his conference, the right to determine when the conditions for offering general absolution have been fulfilled. The curia doubtlessly justified its intervention based on the judgment that the canonical provisions for granting absolution had not been met. However, from an ecclesiological perspective, that begs the question: By what criteria may local pastoral judgments and interpretations of canon law be overruled by the Apostolic Roman See? Canonically, the answer is straightforward. Canon 135.2 stipulates that local interpretations of law can never be contrary to higher law. If it were evident that a local interpretation had violated higher law, Rome would surely be justified in intervening. It is not clear, however, what higher law was contravened by the interpretation of law made by the bishops of Great Britain.

Finally, we might mention the case of the abortion consultation centers in Germany. According to current German law, a woman may obtain an abortion only after she has provided a certificate indicating that

she has sought abortion counseling. During the late 1990s the German bishops sponsored such centers with the specific purpose of dissuading women from obtaining abortions. Nevertheless, women could use the certificate obtained from a Catholic-sponsored consultation center to obtain an abortion even if she was advised against such action at the center. It is difficult, once again, not to view the German situation as an exercise of legitimate pastoral judgment of the local bishops. Yet once again, Rome demanded that the German bishops withdraw their sponsorship of these consultation centers.

These three cases raise two fundamental questions regarding intervention or the exercise of exceptional primatial authority by the Apostolic Roman See. The first question concerns the increasingly convoluted relationship between the primatial authority of the bishop of Rome and the greatly expanded activity of Roman dicasteries in local church affairs, often without specific papal authorization. While it is generally recognized that in certain circumstances papal primatial authority extends to the activities of curial offices, the scope of this extension, its purpose and limits, and more importantly, the relationship of the activity of the curia to the supreme power and authority exercised by the college of bishops, has not been satisfactorily clarified with respect to sound canonical and ecclesiological principles.

The second question concerns the criteria used to determine when direct Roman intervention is justified. Roman concerns over local pastoral judgments may be legitimate and one might expect, based on those concerns, that the universal primate and/or his representative might express concern or offer counsel to the local authority. But can formal juridical intervention, that is, an exercise of exceptional primatial authority by the Apostolic Roman See be justified where the unity of faith and communion is plainly not at stake? An affirmative answer seriously undermines the pope's presentation of primacy as service to and support of his fellow bishops in the exercise of their ministry.

3. THE NEED TO RECOVER INTERMEDIATE ECCLESIASTICAL STRUCTURES

The remedy for these interventionist tendencies does not lie in some direct attack on the pope's right to intervene but rather in the recognition that the ecclesiology of communion championed by the Pope, in fact *requires* the principle of subsidiarity for its realization. In turn, an effective application of subsidiarity demands not only a local authority (individual bishop) and a universal authority (Apostolic Roman See), but the recovery of intermediate ecclesiastical authorities. When vital ecclesiastical structures exist between the local bishop and the universal primate, appeal can be made to "higher authority" on a more re-

gional basis, leading, one would hope, to more effective pastoral judgment.

For much of the first millennium one could identify a triadic structure of ecclesial authority consisting in: (1) the primacy of the local bishop within the local church; (2) the regional primacy of metropolitans and patriarchs exercised within their regional synods; (3) the universal primacy of the bishop of Rome exercised within the communion of churches and the college of bishops. Relative to the first millennium, today the Western Church relies little on intermediate ecclesiastical structures. Certainly episcopal conferences must continue to play a vital role in church life, but this needs to be further augmented by a recovery of the ancient significance given to the offices of metropolitan and patriarch and the synodal structures that surrounded them. Greater recourse to the convocation of diocesan synods and plenary councils would further enhance these structures. I believe that in the coming millennium, effective papal primacy first, will have to be supported by these intermediate structures and second, its exercise will have to proceed manifestly from an attentiveness to the principle of subsidiarity. If not, it will be difficult for papal primacy to retain any credibility as a ministry in service of the *communio ecclesiarum*.

CONCLUDING OBSERVATIONS

Many have either read or seen television accounts of the celebration of the Jubilee at St. Paul-Outside-the-Walls in Rome in which, amidst an impressive gathering of leaders from various Christian denominations, the pope opened the Holy Door and entered it accompanied by the Anglican Archbishop of Canterbury and the Metropolitan Archbishop of Constantinople. This event came only months after the once inconceivable act of ecumenical reconciliation between Lutherans and Catholics on the question of justification. Those present that day at St. Paul-Outside-the-Walls witnessed a remarkable symbolic act suggesting a new era ripe with possibility and hope for ecumenical relations. For Roman Catholics, the primacy of the bishop of Rome plays an essential role in the life of the Church. However, if it is to cease being the obstacle to achieving full visible union among the Christian churches that even Pope John Paul II admits it now is, then Catholics must have the courage to seek not just new ways of describing that primacy in our teaching, but new ways of embodying that primacy in its concrete exercise. Then perhaps, if only in the distant future, a renewed papacy in word and deed can be transformed from obstacle to instrument in service of that full visible unity for which Christ prayed two millennia ago.

REFERENCES

- Congregation for the Doctrine of the Faith. "Some Aspects of the Church Understood as Communion" (*Communio notio*). *Origins* 22 (1992) 108–12.
- Daley, Brian E. "Position and Patronage in the Early Church: The Original Meaning of 'Primacy of Honour.'" *Journal of Theological Studies* 44 (1993) 529–53.
- Denzinger-Schönmetzer. *Enchiridion Symbolorum Definitionum et Declarationum De Rebus Fidei et Morum*. 32nd ed. Freiburg im Breisgau: Herder, 1963.
- Flannery, Austin, ed. *Vatican Council II: Constitutions, Decrees, Declarations*. Newport: Costello, 1996.
- Fogarty, Gerald P. *The Vatican and the American Hierarchy From 1870 to 1965*. Wilmington: Glazier, 1985.
- John Paul II. "Sacrae disciplinae leges." In *Code of Canon Law: Latin-English Edition*, xi–xvi. Washington, D.C.: Canon Law Society of America, 1983.
- _____. "Ut unum sint." *Origins* 25 (1995) 49–72.
- Komonchak, Joseph. "Subsidiarity and the Church: The State of the Question." *The Jurist* 48 (1988) 298–349.
- _____. "The Local Church and the Church Catholic: The Contemporary Theological Problematic." *The Jurist* 52 (1992) 416–47.
- Leys, Ad. *Ecclesiological Impacts of the Principle of Subsidiarity*. Kampen: Kok, 1995.
- Medina Estevez, Cardinal Jorge. "Letter Calls for New ICEL Statutes." *Origins* 29 (2000) 488–90.
- Pottmeyer, Hermann J. "A New Phase in the Reception of Vatican II: Twenty Years of Interpretation of the Council," in *The Reception of Vatican II*. Giuseppe Alberigo, Jean-Pierre Jossua and Joseph A. Komonchak, eds. 27–43. Washington D.C.: Catholic University of America Press, 1987.
- _____. *Towards a Papacy in Communion: Perspectives from Vatican Councils I & II*. New York: Crossroad, 1998.
- Schatz, Klaus. *Papal Primacy: From Its Origins to the Present*. Collegeville: The Liturgical Press, 1996.
- Tillard, J.M.-R. *Church of Churches: The Ecclesiology of Communion*. Collegeville: The Liturgical Press, 1992.
- _____. *The Bishop of Rome*. Wilmington: Glazier, 1983.

Richard Gaillardetz is associate professor of systematic theology at St. Thomas University in Houston. He is the author of three books, the most recent being Transforming Our Days: Spirituality, Community and Liturgy in a Technological Culture (Crossroad, 2000).