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### THE ECUMENICAL COUNCIL AND THE SYNOD OF BISHOPS [OF THE WHOLE CATHOLIC CHURCH]

In this presentation I have taken for granted that the title aims to deal with both institutes (the Ecumenical Council and the Synod of Bishops) not separately, but in their mutual relationship. Nevertheless, we need some preliminary notions about them. Afterwards I will try to answer the specific questions that the organizers of this Conference have put to the relators.

#### 1. Preliminary notions on both institutes

##### a) The Ecumenical Council

Following Catholic doctrine and Canon Law, an Ecumenical Council is where the College of Bishops, gathered in a specific place, exercises its power<sup>1</sup> over the universal Church in a solemn manner, (cf. CIC can. 337 § 1; CCEO can. 50 § 1)<sup>2</sup>. «In it the bishops, faithfully recognizing the primacy and pre-eminence of their head, exercise their own authority for the good of their own faithful, and indeed of the whole Church» (LG 22b). The Ecumenical Council is summoned, presided and approved by the head of the College of Bishops, the Roman Pontiff (cf. CIC can. 338; CCEO can. 51). And «a Council is never Ecumenical unless it is confirmed or at least accepted as such by the successor of Peter» (LG 22b).

All and only the members of the College of Bishops have the right and the obligation to participate at an Ecumenical Council with a deliberative vote (cf. CIC can. 339 § 1). To the College of Bishops belong only those who have received episcopal consecration and keep hierarchical communion with the head of the College and its members (cf. LG 22a; CD 4; CIC can. 336; CCEO 49). Other persons who do not have episcopal dignity can be convoked to the Ecumenical Council by the Supreme Authority, who determines what part they take in the Council (cf. CIC can. 339; *Ordo Concilii oecumenici Vaticani II celebrandi*<sup>3</sup> [OCVII], art. 1 § 1): for example, at the Second Vatican Council the superiors general of clerical religious institutes of pontifical right with more than 3000 members could participate with deliberative vote. If someone was impeded to participate, the *Ordo* acknowledged him the right/duty to send a procurator (cf. OCVII art. 1 § 2).

The decisions of an Ecumenical Council are to be approved by the Roman Pontiff together with the Fathers of the Council. Thus, the decrees of the Council are approved following the rules for collegial acts (cf. OCVII art. 39), but in order to have binding force they must also be approved, confirmed and ordered to be promulgated by the Head of the College of Bishops (cf. CIC can. 341 § 1; OCVII art. 49).

In this way, we can see that in an Ecumenical Council the episcopate exercises its collegial activity properly speaking: i.e. An Ecumenical Council acts juridically in the name of all the members of the

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<sup>1</sup> «The order of Bishops, which succeeds to the «college of apostles and give this apostolic body continued existence, is also the subject of supreme and full power over the universal Church, provided we understand this body together with its head the Roman Pontiff and never without this head» (LG 22b; cf. also CIC can. 336; CCEO can. 49).

<sup>2</sup> Cf. E. MOLANO, *Sub can. 337*, in AA.VV., *Comentario exegetico*, vol. 2, Pamplona 1996.

<sup>3</sup> JOHN XXIII, *Ordo Concilii Oecumenici Vaticani II Celebrandi*, in AAS 54 (1962) 642-631.

College of Bishops. This is what the theologians have called “*effective collegiality*” to distinguish it from “*affective collegiality*” or synodality in a broad sense, performed in other kinds of synodal structures, like the Synod of Bishops, which we will treat subsequently.

### **b) The Synod of Bishops of the entire Catholic Church**

«The Synod of Bishops is a group of bishops selected from different parts of the world, who meet together at specified times to promote the close relationship between the Roman Pontiff and the bishops. These bishops, by their counsel, assist the Roman Pontiff in the defense and development of faith and morals and in the preservation and strengthening of ecclesiastical discipline. They also consider questions concerning the mission of the Church in the world » (CIC can. 342;<sup>4</sup> cf. CD 5).

As Pope Paul VI wrote when instituting the Synod of Bishops: «It was also the Ecumenical Council that gave Us the idea of permanently establishing a special Council of bishops, with the aim of providing for a continuance after the Council of the great abundance of benefits that We have been so happy to see flow to the Christian people during the time of the Council as a result of Our close collaboration with the bishops» (PAUL VI, m.p. *Apostolica Sollicitudo* [AS], 15.IX.1965, Proemio)<sup>5</sup>.

The Synod of Bishops is a central ecclesiastical institution for the central governance of the Catholic Church at the universal level (cf. AS art. I, a)<sup>6</sup>. Not as if it were a deliberative permanent Ecumenical Council, but as a consultative<sup>7</sup> organ to provide an ongoing collaboration with the ecclesiastical office of the Roman Pontiff. As a consequence, this synodal institute «finds the foundation of its authority only in the Roman Pontiff, not in the Episcopal College»<sup>8</sup>. This is the reason why CIC can. 343 and art. 1 of the new *Ordo Synodi Episcoporum* [OSE] of 2006 say: «The Synod of Bishops is directly under the authority of the Roman Pontiff».

Indeed, the Synod “represents” the whole Catholic episcopate (cf. CD 5; AS art. I, b), but not in a

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<sup>4</sup> CCEO can. 46 § 1 mentions the Synod of Bishops among the ways in which the bishops aid the Roman Pontiff. For the participation of oriental hierarchs at the Synod, CCEO can. 46 § 2 redirects to the special norms established by the Roman Pontiff. I think this is a better systematic choice than to give specific norms about the Synod as CIC cc. 342-348 do, since the Synod of Bishops is neither Latin nor Oriental but a central organ in service to the universal Church.

<sup>5</sup> PAUL VI, *Litterae apostolicae motu proprio datae Apostolica Sollicitudo*, 15.IX.1965, in AAS 57 (1965) 775-780.

<sup>6</sup> In CIC can. 342 there is no mention of being a “central ecclesiastical institute” but only a “*coetus* of Bishops”. This does not mean that the Synod be just a meeting of bishops, because it is a real “organ”. The PCCICR chose the term “*coetus*” only because the other terminology was deemed “less elegant and superfluous”: cf. *Communicationes* 14 (1981) 92. Gian Piero Milano opines that the choice of the PCCICR was not very convincing (cf. G.P. MILANO, *Sub can. 342*, in AA.VV. *Commentario exegetico*).

<sup>7</sup> «The fact that the Synod ordinarily has only a consultative role does not diminish its importance. In the Church the purpose of any collegial body, whether consultative or deliberative, is always the search for truth or the good of the Church. When it is therefore a question involving the faith itself, the *consensus ecclesiae* is not determined by the tallying of votes, but is the outcome of the working of the Spirit, the soul of the one Church of Christ»: SECRETARIA STATUS, *Rescriptum ex audientia, Ordo Synodi Episcoporum opportune recognoscitur atque variationibus augetur*, 29.IX.2006, in AAS 98 (2006) 755-779. English unofficial version in [www.vatican.va](http://www.vatican.va) [<https://goo.gl/ajyoTz>]. [hereafter: OSE], Preface § 3.

<sup>8</sup> «Da questa posizione ne consegue che l’istituto sinodale trovi soltanto nel Romano Pontefice – non nel Collegio episcopale – il fondamento della sua autorità». J.I. ARRIETA, *Il Sinodo dei vescovi quale istituto di comunione*, in «*Ius Ecclesiae*» 3 (1991) 356-366 [here: 361]. My Translation. This is corroborated by CCEO can. 46 § 1, that says: «In exercising his office (munus) the Roman Pontiff is assisted by the bishops who aid him in various ways and among these is the synod of bishops; (...); all these persons and institutes carry out the task committed to them *in his name and by his authority* for the good of all the Churches» [italics are mine].

strict juridical sense. In this sense, the new *Ordo Synodi Episcoporum* has clarified that this institute represents *in some way* the entire episcopate of the Catholic Church (cf. OSE, Preface § 2).

Already in 1990, Saint John Paul II had emphasized that «the authority and objective configuration of the Synod differ substantially from that of the Council: by constitution, by representability, by power capacity, by quality and broadness of Magisterium and, thus, by executive efficacy. Indeed, episcopal collegiality in the proper or strict sense belongs only to the entire Episcopal College, who as a theological subject is indivisible. Nevertheless, the Synod is confirmed as an expressive and operational way in the pastoral exercise of the *sollicitudo omnium ecclesiarum* proper to each bishop, and of the corresponding *affectus collegialis* of the Bishops among themselves»<sup>9</sup>.

Since not all bishops have the right to attend the Synod but only some of them, and given that the attending bishops do not represent juridically the whole College of Bishops, the Synod cannot be said to put into act the Supreme power of the College of Bishops, nor be an expression of “effective collegiality”. It is, nevertheless, a wonderful expression of “affective collegiality”.

The Synod of Bishops is perpetual by its nature<sup>10</sup>, although carries out its functions from time to time when called upon by the Roman Pontiff (cf. AS art. I, c & d; OSE art. 1 § 1, 1<sup>o</sup>). Therefore, it is not just a simple meeting of bishops but a permanent Institution: that is why some authors insist that technically speaking the “*Ordo Synodi Episcoporum*” is not an *Order* (cf. CIC can. 95) but a *Statute* (cf. CIC can. 94 § 3). Thus, the rescript *ex audientia* of 29.IX.2006 is a pontifical legislative norm that develops the general legal frame established by CIC cc. 342-349 and CCEO can. 46<sup>11</sup>.

By its very nature, the Synod of Bishops provides information and offers advice to the Roman Pontiff on specific matters and situations regarding the internal life of the Church. It has no decision-making power, unless delegated by the Roman Pontiff for a specific matter (cf. AS art. II; OSE art. 1, 7<sup>o</sup>).

Another important purpose of the Synod is to foster communion and cooperation between the Roman Pontiff and the worldwide Catholic episcopate (and likewise even among the bishops themselves), reaching agreement on essential doctrinal matters and on the course of action to be taken (cf. AS art. II.1<sup>12</sup>; OSE Preface § 2<sup>13</sup>).

<sup>9</sup> «Certo, l'autorità e l'oggettiva configurazione del Sinodo differiscono sostanzialmente da quelle del Concilio per costituzione, per rappresentatività, per capacità potestativa, per qualità e ampiezza di magistero e quindi per efficacia esecutiva. Infatti, la collegialità episcopale in senso proprio o stretto appartiene soltanto all'intero Collegio Episcopale, il quale, come soggetto teologico è indivisibile. Tuttavia il Sinodo si afferma come un modo espressivo ed operativo nell'esercizio pastorale della *sollicitudo omnium ecclesiarum* propria di ogni Vescovo, e del corrispondente *affectus collegialis* dei Vescovi tra loro». JOHN PAUL II, *Speech to the Roman Curia in the 25<sup>th</sup> anniversary of Second Vatican Council closing*, n. 6, in [www.vatican.va](http://www.vatican.va) [only in Italian]. My Translation. About the “sollicitude for all the Churches” cf. LG 23.

<sup>10</sup> Cf. J. SCHOTTE, *The Synod of Bishops: A Permanent Yet Adaptable Church Institution*, in «*Studia Canonica*» 26 (1992) 289-306.

<sup>11</sup> «El Sínodo de obispos no es una simple reunión de obispos para cuyo funcionamiento habría de aprobarse un *ordo* reglamentario, sino una institución permanente con estatutos propios, que tienen la estabilidad característica de las leyes»: A. VIANA, *Las nuevas normas estatutarias del Sínodo de los Obispos*, in «*Ius Canonicum*» 94 (2007) 657-676 [here 660].

<sup>12</sup> «The general purpose of the Synod are: a) to promote a closer union and greater cooperation between the Supreme Pontiff and the bishops of the whole world»: AS art. II, 1.

<sup>13</sup> «The Synod of Bishops (...) expresses in a special manner the spirit of communion uniting the Bishops with the Roman Pontiff and Bishops among themselves»: OSE Preface § 2.

## 2. The historical development of the practice of synodality (the origins of the current practice, the occasion, the justification and the consequences of possible changes).

As we have said, at the Second Vatican Council the episcopate put forward the need of concrete ways for expressing the *solicitude for all the Churches* of every single bishop. The conciliar discussions regarding no. 5 of the future decree *Christus Dominus* moved Pope Paul VI to promulgate the motu proprio *Apostolica Sollicitudo* even before that conciliar decree, to prevent a misleading text in CD no. 5.<sup>14</sup>

There are some monographies on the Synod of Bishops<sup>15</sup>, and many articles<sup>16</sup>, in which a deeper study on the history of the Synod can be found.

## 3. The implementation of the regulations (frequency of the convocation of a synod, the actual participation, the way in which decisions are taken, communicated and implemented, etc.).

Considering the approval of the Roman Pontiff as the fundamental criteria to reckon an episcopal gathering as a true Ecumenical Council, for the Catholic Church there have been 21 of them. So, after the first 7 Ecumenical Councils accepted by both Catholic and Orthodox Churches, the Catholic Church has celebrated 14 of them.

Since its creation in 1965, the Synod of Bishops of the Catholic Church has held 14 General Ordinary Sessions<sup>17</sup> (1967, 1971, 1974, 1977, 1980, 1983, 1987, 1990, 1994, 2001, 2005, 2008, 2012, 2015). There have been three General Extraordinary Sessions<sup>18</sup> (1969, 1985, 2014). And 10 Special

<sup>14</sup> Cf. V. FERRARA, *Il Sinodo dei vescovi tra ipotesi e realtà. Natura teologico-giuridica del Sinodo dei vescovi nel magistero di Paolo VI e nella dottrina conciliare*, in «Appollinaris» 42 (1969) 546; J.I. ARRIETA, *Il Regolamento del Sinodo. Novità e prospettive*, in «Ius Ecclesiae» 19 (2007) 659-670 [here: 666]. «Di fronte al dibattito che rivelava la delicatezza del n. 5 dello Schema “De pastoralis Episcoporum munere in Ecclesia” (il futuro “Christus Dominus”) Paolo VI anticipò la stesura finale del relativo testo conciliare, e il 15 settembre 1975, con il m.p. “Apostolica sollicitudo” istituì solennemente il “Synodus Episcoporum” delineandone in dodici Articoli il primo impianto giuridico e teologico.» E. KOUVEGLO, *Il Sinodo dei Vescovi nella vita e nel Diritto della Chiesa. Tra “collegialità episcopale” e “sinodalità”*, in «Appollinaris» 88 (2015) 631-658 [here: 636]. For the doctrinal debates on CD no. 5, see below point 5.

<sup>15</sup> Apart from the articles quoted in this paper, see, for example: G.P. MILANO, *Il Sinodo dei vescovi*, Giuffrè, Milano 1985; J. TOMKO, *Il sinodo dei vescovi. Natura – metodo – prospettive*, LEV, Città del Vaticano 1985; J.I. ARRIETA, *El Síno de los obispos*, Pamplona 1987; M. ALCALÁ, *Historia del sínodo de los obispos*, BAC, Madrid 1996; IDEM, *Historia del Síno de los obispos: de 1997 a 2001*, BAC, Madrid 2002; F. DUPRE LA TOUR, *Le Synode des Évêques dans le contexte de la collégialité. Une étude théologique de Pastor Aeternus à Apostolos Suos*, Pontificia Universitas Sanctae Crucis - Facultas Theologiae, Thesis ad Doctoratum in Theologia, Romae, 2002; A. MELLONI – S. SCATENA (eds.), *Synod and Synodality. Theology, history, canon law and ecumenism in new contact*, International Colloquium Bruges 2003, LIT, Münster 2004; N. ETEROVIC (ed.), *Il Sinodo dei vescovi. 40 anni di storia 1965-2005*, Lateran University Press, Roma 2006. See also the books of G. CAPRILE on each General Assembly from 1967 to 1991 (ed. La Civiltà Cattolica).

<sup>16</sup> Cf. J.I. ARRIETA, *El Síno de los obispos. Criterios que enmarcan su evolución normativa*, in «Ius Canonicum» 24 (1984) 51-86; J.G. JOHNSON, *The Synod of Bishops: An Exploration of Its Nature and Function*, in «Studia Canonica» 20 (1986) 275-318; M. BRAVI, *Il Sinodo dei Vescovi: Istituzione, fini e natura*, in «Periodica» 84,3 (1995) 455-487; A. GARUTI, *Origine e natura del sinodo dei Vescovi: Un'intuizione di Paolo VI*, in AA.VV., *Paolo VI e la collegialità episcopale: Colloquio Internazionale di Studio, Brescia, 25-26-27 settembre 1992*, Studium, Roma 1995, 79-102; J. BEYER, *De Synodi Episcoporum natura melius determinanda*, in «Periodica» 84 (1995) 609-626; J.A. CORIDEN, *The Synod of Bishops: Episcopal Collegiality Still Seeks Adequate Expression*, in «The Jurist» 64 (2004) 116-136; M. FAGGIOLI, *Institutions of Episcopal Collegiality- Synodality after Vatican II: The Decree 'Christus Dominus' and the Agenda for Collegiality-Synodality in the 21st Century*, in «The Jurist» 64 (2004) 224-246; G. GHIRLANDA, *Il nuovo Ordo Synodi Episcoporum*, in «Periodica» 97 (2008) 3-43; R. OMBRES, *The Synod of Bishops: Canon Law and Ecclesial Dynamics*, in «Canon Law Society Newsletter» 184 (2015) 169-181.

<sup>17</sup> Cf. OSE art. 4, 1<sup>o</sup>.

<sup>18</sup> Cf. OSE art. 4, 2<sup>o</sup>.

Sessions<sup>19</sup> were held for specific regions (Holland 1980, Europe 1991, Africa 1994, Lebanon 1995, America 1997, Asia 1998, Oceania 1998, Europe 1999, Africa 2009, Middle East 2010).<sup>20</sup>

Consequently, Ecumenical Councils are rare occurrences – more or less once each century – and normally summoned to respond to a specific doctrinal crisis in the Church. The Synod of Bishops, on the other hand, is a frequent event, having been celebrated nearly every two years from the beginning of its institution.

The participation at Ecumenical Councils was never very high (from more or less 100 to 500 participants) until the Second Vatican Council in which the number of bishops was 2023/2399.<sup>21</sup>

Considering that it is not an Ecumenical Council, the actual participation in the Synod of Bishops is quite relevant. In the 2014 Extraordinary Session of the Synod there were 253 participants, with 192 voting members. There were 13 heads of Eastern Catholic Churches<sup>22</sup>; 114 Presidents of Episcopal Conferences; 25 heads of the Dicasteries of the Roman Curia; the members of the Ordinary Council of the General Secretariat of the Synod<sup>23</sup>; 3 representatives of religious men and women; 26 members of pontifical appointment; 16 experts of the Special Secretary; 38 auditors; 8 fraternal delegates from other Churches and Ecclesial Communities not in full communion with the Roman Pontiff.<sup>24</sup>

In the 2015 Ordinary Session of the Synod the number of voting members was 279, but there were also other attendants: assistant-experts (32), collaborators (22), fraternal delegates from other Churches and Ecclesial Communities (14), auditors (54) of which, there were nearly 20 couples of married faithful as well as some religious women.<sup>25</sup>

As we have said, decisions are taken by majority. For every Synod an *Instrumentum laboris*<sup>26</sup> is prepared. After every Member has expressed his opinion on the Proposals, if the Roman Pontiff has so determined, voting will take place (cf. OSE art. 24). The votes are given according to the formula “*placet*”, “*non placet*” or “*placet iuxta modum*” (cf. OSE art. 25). «To arrive at the majority of votes, if the vote is for the approval of some item, 2/3 of the votes of the Members casting ballots is required; if it is for the rejection of some item, the absolute majority of the same Members is necessary» (OSE art. 26 § 1).

At the Synod there is a *Commission for Information on the Synod* with the task of providing information on the sessions and the work of the Synod (OSE art. 16).

**4. How do the life of the Church and the synodal practice inspire each other? How is the (local) Church represented in the synod: by the bishops? by the clergy? by lay persons? How is the agenda**

<sup>19</sup> Cf. OSE art. 4, 3<sup>o</sup>.

<sup>20</sup> For more details, cf. M. GRONCHI, *Evoluzione del Sinodo dei Vescovi*, in «Apollinaris» 88 (2015) 617-629 [here: 617-618, footnotes 2-4].

<sup>21</sup> Cf. the table given by E. KOUVEGLO, *Il Sinodo dei Vescovi nella vita e nel Diritto della Chiesa*, 649-650, footnote 61.

<sup>22</sup> In AS art. V.1.a only the Heads of Eastern Catholic Churches were foreseen to participate, but in OSE art. 5 § 1, b, also individual oriental bishops, elected by the respective episcopal bodies of their Churches, must participate.

<sup>23</sup> Cf. OSE art. 13 §§ 1-2 and 4.

<sup>24</sup> Cf. SYNOD OF BISHOPS, 3<sup>rd</sup> EXTRAORDINARY GENERAL ASSEMBLY (5-19.X.2014), *List of Participants*, 9.IX.2014. Now only available in ACI PRENSA, ed. (9.IX.2014), *III Asamblea General Extraordinaria del Sínodo de los Obispos (5-9 de octubre de 2014): Lista de participantes*, in www.aciprensa.com [https://goo.gl/wjx6k6]. Retrieved 10.XI.2017.

<sup>25</sup> Cf. SYNOD OF BISHOPS, 14<sup>th</sup> ORDINARY GENERAL ASSEMBLY (4-25.X.2015), *Participants of the Synod of Bishops – The vocation and mission of the family*, 15.IX.2015, in press.vatican.va [https://goo.gl/fXiGuU]. Retrieved 10.XI.2017.

<sup>26</sup> Cf. SYNOD OF BISHOPS, *Synodal Information, part IV: Notes on the Synodal Process*, in www.vatican.va [https://goo.gl/ajyoTz].

fixed? What is the juridical status and the binding character of its decisions? Do other Christian communities get involved in the synodal deliberations (as guests, as observers)?

### **a) Participation of the People of God in the Synod of Bishops**

As we have seen, in the Synod participants other than bishops can be called to participate.

It is clear that synodality in the Church is a concept much wider than strict episcopal collegiality: synodality is a category that includes the whole Church.<sup>27</sup> Although the “Synod of Bishops” is obviously foreseen for “bishops”, some authors<sup>28</sup> have praised the fact that the most recent Synods sought a greater involvement of the entire People of God through the “Questionnaires” attached to the documents sent for the preparation of the Assemblies on the Family.<sup>29</sup>

### **b) The agenda of the Synod**

The Roman Pontiff alone has the right to determine the agenda of the Synod (OSE art. 1 § 1, 2<sup>o</sup> and 5<sup>o</sup>). But «already in the preparatory stage [of the next Synod], the topic of the synodal Assembly is the result of collegiality. The first official step in the process is to consult the patriarchates, bishops' Conferences, department heads of the Roman Curia and the Union of Superiors General for suggestions on possible topics for a Synod. Recently, in Ordinary General Assemblies this consultation has been anticipated by an informal solicitation of the Synod Fathers in the closing days of the synodal Assembly for their preference in the matter»<sup>30</sup>.

### **c) Juridical status and binding character of the decisions of the Synod of Bishops**

The Roman Pontiff is the only who can decide about the proposals expressed by the Synod (cf. OSE art. 1 § 1, 7<sup>o</sup>); and when the Pope, in determined cases, has delegated deliberative power to the Synod, he alone has the right to ratify those decisions (cf. OSE art. 1 § 1, 8<sup>o</sup>). This last instance has never taken place.

### **d) Involvement of other Christian communities:**

At the Second Vatican Council “Delegates of Christians separated from the Apostolic See” were admitted as *observatores*. They could be present at the Public Sessions and General Congregations, excepting those peculiar cases to be determined by the Board of Presidency. They could not be present at the meetings of the Commissions, unless allowed by the competent authority and then without the right to speak or vote. They could inform their Communities about what happened at the Council but were obliged, like the Fathers of the Council, to keep secret before the rest of the world. This entire matter was moderated by the Secretariat for Fostering Christian Unity (cf. Ordo VatII art. 18).

In the Synod of Bishops *Fraternal Delegates* representing Churches and Ecclesial Communities which are not in full communion with the Catholic Church can also be invited to participate without the right to vote (cf. AS art. 7, 3<sup>o</sup>).

<sup>27</sup> Cf. A. VITALI, *Verso la sinodalità*, Magnano 2014, 62.

<sup>28</sup> M. GRONCHI, *Evoluzione del Sinodo dei Vescovi*, in «Apollinaris» 88 (2015) 617-629 [here: 626].

<sup>29</sup> Cf. SYNOD OF BISHOPS, III Extraordinary General Assembly, *Pastoral Challenges to the Family in the Context of Evangelization. Preparatory document*, Vatican City 2013; SYNOD OF BISHOPS, XIV Ordinary General Assembly, *The Vocation and Mission of the Family in the Church and Contemporary World. Lineamenta*, Vatican City 2014. Both in [www.vatican.va](http://www.vatican.va).

<sup>30</sup> SYNOD OF BISHOPS, *Synodal Information, part IV, o.c., § 2*.

**5. Are there contemporary theological interpretations of synodality in our context?** Are there any official theological and/or canonical documents that could be of interest beyond our Church?

Some authors have said that the deliberative authority of the Synod of Bishops should come from its episcopal character but, as we have seen, it is clear that this institute is a consultative organ of the Roman Pontiff.<sup>31</sup> Indeed, during the preparation of no. 5 CD, the substantial problem in the discussions was to choose between, on one hand, establishing the Synod as a representative, deliberative and permanent organ of the College of Bishops or, on the other hand, as only a consultative Institute, expression of the affective collegiality of the Bishops, acting in mere aid to the Roman Pontiff. The second option prevailed.<sup>32</sup>

Analogously to the diocesan Synod, the representativeness of the Synod of Bishops is not strictly juridical but, as in the Eucharistic assembly, it is symbolic and sacramental, rendering present (*re-presentation*) the worldwide community of the faithful.<sup>33</sup>

It is worth noting that on 30 October 1971 the General Secretary of the Synod explained that the bishop's duty to follow the advice of the Episcopal Conference who delegated him must be considered relative: the bishop is obliged to present in the synodal discussion his Conference's advice, but if during the course of the synodal works his convictions change, he can express his vote following his conscience, taking into account the spirit of his own Conference and having diligently studied the other opinions. If in some specific case the Conference's mandate was absolute and the delegated bishop had bound himself to express his vote in a specific way on some specially indicated points, he must give his vote following the Conference's opinion.<sup>34</sup>

At the beginning of this institute there it was necessary to stress its consultative character to avoid any confusion with a deliberative competence in tension with that of the Roman Pontiff. As time passes, some authors note that: «to underline now that the Synod is a consultative institute of the Roman Pontiff, although indubitable, could seem reductive and even marginal especially if we take into account what the synodal experience has been over the years and the kind of topics the Synod has dealt with. If we consider, however, such an institute from the point of view of the praxis that has particularly emerged in these years, we would need to put in first place its nature as an instrument of communion of the episcopate. Such an operative experience has demonstrated, by way of facts, that the Synod manages to establish a positive debate inside the episcopate, rendering the thinking of Pastors convergent in the arguments put to their reflection. In this way, the two functions – consultative and of communion – appear complementary, and correspond in an adequate way to an institute conceived for aiding the *munus petrinum*, precisely because the function of unity is an essential constituent of such a specific *munus*. In this way, the Synod of Bishops is the tool that allows the Successor of Peter to achieve his central role in the unity of the Church, as Head of the College of Bishops, through the communion of the episcopate».<sup>35</sup>

<sup>31</sup> Cf. J. TOMKO, *Il Sinodo dei Vescovi e Giovanni Paolo II*, in IDEM (ed.), *Il sinodo dei vescovi. Natura-metodo-prospettive*, LEV, Città del Vaticano 1985, 13-44 [here: 23-27].

<sup>32</sup> Cf. E. KOUVEGLO, *Il Sinodo dei Vescovi nella vita e nel Diritto della Chiesa*, 635.

<sup>33</sup> Cf. E. KOUVEGLO, *Il Sinodo dei Vescovi nella vita e nel Diritto della Chiesa*, 650-651.

<sup>34</sup> Cf. J.I. ARRIETA, *Il regolamento del Sinodo. Novità e prospettive*, in «Ius Ecclesiae» 19 (2007) 659-670 [here: 660 footnote 5].

<sup>35</sup> J.I. ARRIETA, *Il regolamento del Sinodo. Novità e prospettive*, o.c., 667. My translation.

## 6. Do the relations between Church and State influence the work of the Synod?

It could happen in the Special Assemblies for a specific country or region, but usually not.

**7. What is the role of synodality beyond the level of the local Church?** How does local synodality (diocese, region, Church *sui iuris*) relate to the inter-ecclesial (between Churches *sui iuris*) and universal synodality?

To answer these questions, regarding Synod of Bishops we can quote OSE art. 23 § 1: «It is necessary that the subjects for discussion, determined by the Roman Pontiff in convoking the Synod, be attentively studied before-hand by the Synods of Bishops, by the Councils of the Hierarchy of the Eastern Catholic Churches, by each Episcopal Conference, by the Departments of the Roman Curia and by the Union of Superiors General». Thus, it is clear that the results of synodal activity at a local level establish the basis for further synodal discussion at a universal level.

**8. How does the responsibility of the Protos appear in the practice and in the theology of synodality?**

We have already dealt with the central role of the Roman Pontiff both in the Ecumenical Council and the Synod of Bishops.

In an Ecumenical Council, the Pope acts as the warrant of its legitimacy and its fidelity to the will of Christ for the Church. The Pope's testimony about a Council is socially binding for all, because otherwise he would not possess sufficient authority to guarantee visible unity of the Church. This binding testimony is what is properly called "power of jurisdiction", saving its genuine positive meaning of service (cfr. *Ut unum sint*, no. 88; *Chieti 2016's Statement*, nos. 4, 9, 20).<sup>36</sup>

At the level of Synod of Bishops, the competence of the Roman Pontiff is even more important, considering that the Synod is a consultative Institute. In this sense, OSE art. 1 § 1, following CIC can. 343 and AS art. III, establishes:

- «The Synod of Bishops is directly under the authority of the Roman Pontiff, who alone has the right:
- 1º to convoke the Synod of Bishops as often as it seems to him opportune and to designate the place of the meeting;
  - 2º to establish the topic for discussion at an opportune time before the celebration of the synod;
  - 3º to ratify the election of its Members, who are to be elected according to the norms of Article 6, § 1, § 2, and also to appoint the other Members;
  - 4º to decree that the material relating to the topic for discussion be sent to those who are to take part in the discussion;
  - 5º to determine the agenda;
  - 6º to preside over the Synod in person or through others;
  - 7º to decide on the proposals expressed;
  - 8º to ratify the decisions, when, in determined cases, the synod has been given deliberative power;
  - 9º to conclude, to transfer, to suspend, to disband the Synod».

<sup>36</sup> Cf. P. GEFAELL, *The Ecclesiological Foundations of the Ecumenism and the Primacy of the Successor of Peter*, in IDEM, *Harmonizing the Canons*, (Dharmaram Canonical Studies 16), Bengaluru 2016, pp. 61-89; IDEM, *Eucharistic Ecclesiology: Canonical Consequences on Primacy and Synodality from a Catholic Perspective*, paper presented at the Conference *Primacy and Synodality, deepening Insights*, Society for the Law of the Eastern Churches - Metropolitan Church sui iuris of Hungary - St Athanasius Institute, Debrecen, Ungheria, 3-8 September 2017 (pro manuscript).



### **9. Are there any particularities in the implementation of synodality in the institutions that I'm presenting here?**

With regard to Ecumenical Councils, we can raise the ardent hope to achieve an understanding with those Christians not in full communion with the Catholic Church about the role of the Protos in it, so that we could celebrate a future Council in unity.

Regarding the Synod of Bishops, we have seen that it is not a deliberative body, but its *proposals* are always taken very seriously by the Roman Pontiff, who after each Synod usually issues a Post-synodal Apostolic Letter drawing together most of these proposals. It is clear that the Synod of Bishops is not equal to the Synods of the Eastern Churches (which are deliberative), but is imbued with the same spirit of synodality. «In an ecumenical perspective, therefore, it could be useful to reflect on the instrumental possibilities that this Institute offers on the technical-organizational level in order to hypothesize institutional links with the Successor of Peter for the Churches not yet in full communion with Rome».<sup>37</sup> In the movement towards the unity of the Church of Christ, this does not mean to apply this Institute as it is now, but this way of seeking convergence of views in dialogical discussion could be of much help. May the Odegitria lead us in that way.

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<sup>37</sup> J.I. ARRIETA,