

## **BISHOPS AND STRUCTURES OF ACCOUNTABILITY: AN ECCLESIOLOGICAL PERSPECTIVE**

The perspective from which one considers accountability is greatly influenced by context. For example, the 1989 volume of *The Jurist* has a number of articles on the pastoral governance role of the bishops apparently occasioned in part by the apostolic visitations of the Richmond and Seattle dioceses as well as the changes in episcopal governance in the 1983 Code. These articles discuss episcopal authority in relation to apostolic visitations, one of the structures of episcopal accountability to the pope, and examine questions about proper episcopal autonomy and the principle of subsidiarity in governance.

In the wake of the scandal of the sex abuse cases, the focus has switched to accountability to the local church and the laity. Bishop Wilton Gregory's presidential address to the June 2002 meeting of the American bishops in Dallas acknowledged that the crisis was not only about sexual misconduct, but also about Catholic leadership. Bishops had allowed abusers to remain in ministry and reassigned them, at times without notification of parishes or dioceses which received them. Moreover, they had not reported criminal activities by priests to civil authorities. There seemed to be more concern about avoiding scandal than about preventing abuse. At times bishops responded to victims and their families as adversaries rather than as suffering members of the church.<sup>1</sup> A popular outcry for structures of accountability has been one of the more constructive and positive outcomes of the crisis, for the alternatives have been cynicism, crises of faith, and exodus from the church. Within this more recent context, episcopal autonomy, reinforced in the earlier studies, is challenged when it is perceived to be exercised over against the local church without adequate participation of the laity and without openness and transparency on the part of bishops.

My premise in this presentation is that the nature of the accountability of bishops and appropriate structures for this flow from the nature of episcopal authority and from the nature of the church. Episcopal authority is personal, communal, and collegial. All three of these characteristics must be in balance, much like the legs of a three-legged stool. In our time, the communal and collegial aspects of episcopal authority must be brought into better balance with the personal authority of a bishop.

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<sup>1</sup>Wilton Gregory, "Presidential Address Opening Dallas Meeting," *Origins* 32 (27 June 2002): 97. Also available at <<http://www.nccbuscc.org/bishops/presidentialaddress.htm>>.

Communion ecclesiology is certainly compatible with a ministry of unity at each level of communion, a ministry which is hierarchically ordered. At the same time, however, communion ecclesiology implies a mutuality and coresponsibility, even if a differentiated one, within the various offices and charisms within the church. A theology of communion requires more than accountability, fundamentally a financial term, which may imply nothing more than publishing of accounts, transparency, and openness. It requires responsibility in the sense of responsiveness or H. Richard Niebuhr's meaning of the ability to respond.<sup>2</sup>

#### THE FIRST LEG: EPISCOPAL AUTHORITY AS PERSONAL

The Second Vatican Council taught that bishops have "by divine institution succeeded to the place of the Apostles as shepherds of the church, and he who hears them, hears Christ, and he who rejects them rejects Christ and Him who sent Christ" (LG 20). LG 21 continues: "In the bishops....Our Lord Jesus Christ, is present in the midst of those who believe." A more exalted description of episcopal authority cannot be written, but, as we shall see, it needs to be interpreted as a call to imitate Christ's example of authority.

The Council identified episcopal consecration as an ordination imparting the threefold *munera* of teaching, sanctification, and governance by which a bishop's authority is proper, ordinary, and immediate. Practically speaking, this means that a bishop's authority derives from his ordination and is not merely delegated by the pope. He does receive a canonical mission from the pope, however, which gives him the right to exercise this authority for a particular church.

A limitation to this authority is that it must be exercised in communion with the bishop of Rome and the other members of the episcopal college. The bishop is subject to the teaching of scripture and to the universal law of the church including the teaching of previous church councils. Even though bishops are to be solicitous for the whole church, individual bishops exercise their pastoral government over the portion of the people of God committed to their care and not over other churches or the universal church (LG 23). In practice this means that there can be no intervening authority in a diocese other than the pope, who enjoys universal jurisdiction. A bishop is accountable to the pope with whom he has an *ad limina* visit every five years to report on the state of his diocese and to the various Roman congregations representing an extension of papal authority in their various areas.<sup>3</sup>

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<sup>2</sup>H. Richard Niebuhr, *The Responsible Self* (New York: Harper & Row, 1963).

<sup>3</sup>CLC, canon 399: "The diocesan bishop is bound to present a report to the Supreme Pontiff every five years concerning the state of the diocese committed to him." This is submitted to the Sacred Congregation of Bishops. Topics included in the report include the pastoral and administrative organization of the diocese, the general religious situation of the diocese, the economic situation, liturgy, clergy, religious and secular institutes, Catholic education, the laity, ecumenism, and social assistance. An English translation of the form of the report can be found in the *Canon Law Digest*, vol. 9 under CIC 340 §§1-13.

Because he enjoys immediate and universal jurisdiction, the pope can intervene directly in any diocese without recourse to any judicial process. He can appoint, transfer, restrict, suspend, or excommunicate any bishop.<sup>4</sup>

Of the three aspects of authority providing the framework of this presentation—personal, communal, and collegial—the greatest emphasis has been on a bishop’s personal authority as being fairly autonomous with no intermediary authority between him and his diocese.<sup>5</sup> The true nature of this personal authority is delimited by its purpose. A bishop’s personal primacy in his own diocese exists to serve the communal well-being of the church and to enable the people of God be genuine subjects in the church engaged in furthering the kingdom of God. According to the principle that relationships within the liturgy reflect relationship in the life of the church, this relationship between the bishop and the rest of the people of God functions analogously to how the ordained minister functions in the liturgy to enable the common priesthood to exercise its priesthood.

#### THE SECOND LEG: EPISCOPAL AUTHORITY AS COLLEGIAL

The theological basis of collegial authority is that a bishop becomes a member of the college of bishops by episcopal ordination and hierarchal communion with the bishops of Rome. Episcopal conferences are an expression of the *affectus collegialis* among bishops and indirectly reflect the communion among churches.<sup>6</sup> Very useful for assisting bishops in their pastoral leadership, in and of themselves they have limited abilities for enforcing accountability. Although John Paul II identified the collegial dimension of responsibility for episcopal governance as the theological foundation of episcopal conferences,<sup>7</sup> their authority was greatly restricted by his *motu proprio Apostolos Suos* (21 May 1998) according to which conference decisions on church teachings must be approved unanimously or with a two-thirds majority be submitted to Rome for approval.<sup>8</sup> The decision is then implemented on the authority of the Vatican or that of the individual bishop in his diocese since the conference cannot present itself as an intermediate authority between a bishop and his diocese.

The U.S. Episcopal Conference has established structures for financial accountability and accountability for the protection of children. They provide test

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<sup>4</sup>Patrick Granfeld, “The Church Local and Universal: Realizations of Communion,” *The Jurist* 49 (1989): 467.

<sup>5</sup>For example, see Most Reverend Donald W. Wuerl, “Reflections on Governance and Accountability in the Church,” in *Governance, Accountability, and the Future of the Catholic Church*, ed. Francis Oakley and Bruce Russett (New York: Continuum, 2004) 13-24.

<sup>6</sup>John Paul II, Post-Synodal Apostolic Exhortation, *Pastores gregis*, 16 October 2003, §63.

<sup>7</sup>Ibid.

<sup>8</sup>John Paul II, Apostolic Letter, *Apostolos Suos*, 21 May 1998, chap. III, art. 1.

cases for how these structures function. Canon law outlines some financial accountability measures, including the necessity of a diocesan finance council, but does not require an annual audit or that a diocesan financial statement be made public. Following some severe fiscal management problems in several dioceses, the U.S. bishops adopted a policy that each diocesan bishop annually submit a report to the archbishop including the names and professional titles of the members of the finance committee, the dates on which the council has met, a copy of the final statement signed by the council members and the diocesan finance office and a copy of any recommendations made by the auditors. An archbishop is to send the same report the senior bishop of his region.<sup>9</sup> The policy was adopted by the episcopal conference at their November meeting in 2000 to be effective January 1, 2001 and was renewed by action of the body of bishops on two different occasions. It is presently in effect through 2011.<sup>10</sup> Although Bishop Trautman acknowledged that this policy goes further than canon law's limited requirements, he distinguished between an audit and a management review. One might argue that although an audit exceeds the requirements of canon law, it implements the spirit of the canonical requirement for a diocesan finance council, while a management review would impinge on the diocesan bishop's personal authority. This is an important distinction in terms of avoiding an intermediary authority between a bishop and his diocese. Information on the how the bishops have complied with this policy is not available to the public.

A second structure was created in directly response to clergy sexual abuse which reveals the problems of guidelines without the means of enforcement. In June 1992, the American Bishops' Conference issued "Five Principles" for dealing with allegations of clerical sexual abuse: (1) respond quickly to allegations, (2) suspend the alleged offender from ministry, (3) comply with civil law and cooperate with criminal investigations, (4) provide assistance to victims, and (5) work for as much transparency as possible.<sup>11</sup> Because these were only guidelines, implementation was uneven and incomplete. At their June 2002 meeting, the bishops approved the "Charter for the Protection of Children and Young People" and the "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Minors by Priests or Deacons."<sup>12</sup> These were subsequently reviewed by the Holy See, revised as requested, and passed by the bishops at their next meeting in June. The National Review Board was charged with assessing diocesan compliance with *The Charter*. As Stephen Pope has pointed out, the Charter did not address "how bishops who placed children in harms way were going to be held accountable."<sup>13</sup> Nor is there any

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<sup>9</sup>Arthur Jones, "Bishops' Committee Recommends Fiscal Accountability Measures," *National Catholic Reporter* 37/2 (30 March 2001): 5.

<sup>10</sup>See <<http://www.usccb.org/finance/dfr.shtml>>.

<sup>11</sup>See <[www.usccb.org/comm/archives/2002/02-180.shtml](http://www.usccb.org/comm/archives/2002/02-180.shtml)>.

<sup>12</sup>*Origins* 32 (28 November 2002):409, 411-14, and 415-16.

<sup>13</sup>Stephen Pope, "Accountability and Sexual Abuse in the United States: Lessons for the Universal Church," *Irish Theological Quarterly* 69 (2004): 80.

mechanism of sanction for bishops not in compliance with the Charter. The 2006 report on the implementation of the charter indicates that eighteen of the twenty-two diocese/eparchies that were non compliant in 2005 were found to be compliant in 2006. However, in 2006 the Diocese of Lincoln and the Eparchy of Newton for Melkite Catholics had refused to participate in both the 2005 and the 2006 audits. In addition, the Diocese of Baker and the eparchy of Our Lady of Deliverance of Newark for Syrians were found to be noncompliant in the 2005 and subsequently refused to participate in the 2006 audit.<sup>14</sup> Both the financial policy and the report on the Charter demonstrate that there is no way to enforce compliance other than to publish the fact of noncompliance and exert peer pressure from within the episcopal conference and the pressure of public exposure.

Currently the conference does not have a means of enforcing compliance with its structures of accountability. Collegial structures of accountability need to be strengthened. Finances and the protection of minors should not be the only areas of accountability. One way of doing this would be for the pope to empower the episcopal conference to make some of the optional consultative structures of the church mentioned in the code mandatory for the United States. It would be helpful for the conference to actively cultivate a culture and style of servant leadership through in-service formation programs for new bishops and programming for its membership, by promoting this ministerial style for seminarians, and by making it a criteria in the selection of bishops. In conjunction with papal authority, sanctions need to be established for those who do not comply.

#### THE THIRD LEG: EPISCOPAL AUTHORITY AS COMMUNAL

One reading of a description of episcopal authority comparing a bishop to Christ appears to attribute divine authority of Christ, the Son of God, to the bishop. Another reading of this same description attributes the authority of Jesus Christ, the servant leader, to the bishop. Jesus described authority in statements such as: "If anyone wants to be first, he must be the last and the servant of all;" "I am among you as one who serves;" and "The greatest among you must become like the youngest, and the leader like one who serves." The great ritualization of servant leadership is found in Jn 13:13-17 where Jesus washes the feet of the disciples and says, "I have set you an example that you should do as I have done for you." If episcopal authority is modeled on Christ, it must be the authority of a servant leader.

The business world, whose bottom line is measured in profits, has discovered the benefits of servant leadership and turned it into an industry. Robert Greenleaf founded the Center for Applied Ethics in 1964, renamed the Robert K. Greenleaf Center in 1985. In 1970 he published *The Servant as Leader*, the first of a dozen publications on servant-leadership, a concept now taught in business schools across the country.

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<sup>14</sup>See <<http://www.usccb.org/ocyp/FinalAnnualReport.pdf>>.

Larry C. Spears has distilled a set of 10 characteristics of the servant-leader from Greenleaf's original writings:<sup>15</sup>

- Listening to discern the will of a group and to clarify that will
- Empathy, which assumes the good intentions of coworkers and does not reject them as people, even while refusing to accept their behavior or performance
- Healing through the implicit compact between servant-leader and those led that the search for wholeness is something shared between them
- Self-awareness
- Persuasion as a means of convincing others as an alternative to reliance on one's positional authority to coerce compliance
- Conceptualization, the ability to provide vision and to look at a problem or an organization beyond day-to-day operational realities
- Foresight, the ability to understand the lessons from the past, the realities of the present, and the likely consequence of a decision for the future
- Stewardship. Peter Block defines stewardship as "holding something in trust for another."
- Commitment to the personal, professional, and spiritual growth of people.
- Building community. Greenleaf said: "All that is needed to rebuild community as a viable life form for large numbers of people is for enough servant-leaders to show the way, not by mass movements, but by each servant-leader demonstrating his own unlimited liability for a quite specific community related group."

A servant-leader approach to governance is an alternative to hierarchical decision making. It advocates a group-oriented approach to analysis and decision making as a means of strengthening institutions. Persuasion and seeking consensus are promoted as alternatives to top-down forms of leadership. Servant-leadership is based on trust with accountability as an intrinsic component to this trust relationship.<sup>16</sup> The pyramidal paradigm of authority is replaced by the circle.

In 2004 Carl Koch published an essay in *America*, entitled: "Servant Leadership: Can the Bishops Learn from Southwest Airlines?" in which he proposes that the bishops can learn from this business model. He cites Robert Bennett, head of the research committee of the church's National Review board for the Protection of Children and young People as pointing out that servant leadership is not the style of most bishops and saying: "An individual bishop is virtually an absolute power; they are virtually unaccountable... The exercise of authority without accountability is not servant leadership; it is tyranny."<sup>17</sup>

Servant leadership is clearly an attitude, a style, and a culture of governance. It describes a manner of governance considering those governed as subjects who

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<sup>15</sup>Ibid., 5-9.

<sup>16</sup>See also Larry C. Spears, ed., *Insights on Leadership: Service Stewardship, Spirit, and Servant-Leadership* (New York: John Wiley & Sons, 1998).

<sup>17</sup>Carl Koch, "Servant Leadership: Can the Bishops Learn from Southwest Airlines?" *America* 191 (7 May 2004): 18.

also have responsibility for the church. It implies mutuality between those who govern and those who are governed. Servant leadership cannot be easily legislated.

This type of episcopal leadership also has its critics. George Weigel has been reported as stating: “One of the reasons the church has gotten itself into this crisis has been a deficient notion of headship in the episcopate.....Bishops are not ordained to be discussions group moderators. They are ordained to be the head of a local church.”<sup>18</sup>

Despite such opinions, recent papal encyclicals by John Paul II are compatible with servant leadership. For example, *Pastores gregis*, the postsynodal apostolic exhortation of John Paul II (16 October 2003), says:

A lived ecclesial communion will lead the Bishop to a pastoral style which is ever more open to collaboration with all. There is a type of reciprocal interplay between what a Bishop is called to decide with personal responsibility for the good of the Church entrusted to his care and the contribution that the faithful can offer him through consultative bodies such as the Diocesan Synod, the Presbyteral Council, the Episcopal Council and the Pastoral Council.<sup>19</sup>

John Paul II adds that this consultative style cannot reduce the ministry of the Bishop to the function of a simple coordinator. At the end of the day he exercises personal responsibility for decisions which he as pastor considers in conscience to be necessary.

In his apostolic letter *Novo millennio ineunte* (6 January 2001), John Paul II identified communion as the great challenge of the new millennium (NMI 43) and recommended strengthening structures of consultation and communion. Naming the Petrine ministry and episcopal collegiality as two of these structures, he also cites the need for a reform of the Roman Curia, the organization of Synods, and the functioning of Episcopal Conferences as needing improvements to realize their potential as instruments of communion.<sup>20</sup> He said that structures of participation envisaged by canon law such as the Council of Priests and the Pastoral Council must be more highly valued, although they are consultative rather than deliberative. He describes a theology and spirituality of communion which encourages “a fruitful dialogue between Pastors and the faithful.”<sup>21</sup> John Paul II invoked Saint Benedict’s rule which admonishes the Abbot of a monastery to consult even the youngest members of the community.<sup>22</sup>

In his communal exercise of authority, a bishop governs as a member of the church, not above the church. Thus consultative structures must facilitate mutuality and listening with the people of God he governs. One of the checks and balances

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<sup>18</sup>David Gibson, *The Coming Catholic Church: How the Faithful are shaping a New American Catholicism* (New York: HarperSanFrancisco, 2003) 294.

<sup>19</sup>*Pastores gregis*, §44.

<sup>20</sup>John Paul II, *Novo millennio ineunte* (6 January 2001) §44.

<sup>21</sup>*Ibid.*, §45.

<sup>22</sup>*Saint Benedict’s Rule for Monasteries*, chap. 2.

of the governance of an abbot, who also enjoys personal and final authority at the end of the day, even with consultative structures and a spirituality of listening, is that he must live with the people he governs day in and day out, eat at the common table, and pray in concert with his fellow monks. The communal equivalent of episcopal authority should be that the bishop truly be in communion somehow with the people he governs and not distant from them and inaccessible. Among other things, this means being present to a variety of opinions and not closing down conversation prematurely on difficult and controverted issues.

Servant leadership requires responsiveness, not just to one's superior, but also to the people served. This does not mean that a bishop abdicate leadership and his personal authority, but it does mean that institutional loyalty serves the individual members of the church, that the bishop shares responsibility with the laity for the mission of the church, and that he enables them to be full, conscious, participative subjects in the church.

Lest this be dismissed a participatory democracy incompatible with the church, let us remember that full, conscious, participation is the principle of liturgical reform.<sup>23</sup> Let us remember that the eucharistic prayer begins with a dialogue between presider and assembly. Yves Congar cites St. John Chrysostom comment that the eucharistic prayer is a common prayer because the priest does not give thanks (which is to say that he does not celebrate the Eucharist which means to give thanks) alone, but only with the people. He does not begin the eucharistic prayer without first gathering the faithful and assuring himself their agreement to enter into this action through the dialogue: "Lift up your hearts." "We lift them up to the Lord." "Let us give thanks to the Lord our God." It is right to give him thanks and praise."<sup>24</sup>

#### STRENGTHENING STRUCTURES OF ACCOUNTABILITY

Various consultative ecclesial structures at the diocesan level include the diocesan synod, diocesan pastoral councils, finance councils, as well as consultative processes such as parish pastoral visits or visitations. At the parish level, the parish council and other standing parish committees contribute to communion between the laity and clergy. In her 2003 article in *The Jurist*, canonist Sharon Euart concludes that dialogue between bishops and laity is extensive and varied and that new structures or even new processes for participation in the Church are not needed at this time, although she suggests their procedures should be more widely known, their membership more representative of the local church, and bishops and pastors

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<sup>23</sup>*Sacrosanctum Concilium*, 14.

<sup>24</sup>*Com. In 1 Cor.* Hom. 18, 3 (PG, 61, 527) cited by Yves Congar, "L'Ecclesia ou communauté chrétienne, sujet intégral de l'action liturgique," in *La Liturgie après Vatican II*, Unam Sanctam 66, ed. J. P. Jossua and Yves Congar (Paris: Editions du Cerf, 1967) 277-78.

more accountable to the faithful.<sup>25</sup> However, since only two of the structures are obligatory: the presbyteral council (cc. 495, 502) and the finance council (c. 492), structures of accountability can be strengthened by making the diocesan synod (c. 468), the diocesan pastoral council (c. 511) and the episcopal council or bishop's cabinet (c. 473 §4), presently recommended, but not obligatory, a more regular part of ecclesial life.

Accountability will be strengthened if the selection of bishops occurs closer to the particular church being governed. Criteria for selection need to include the qualities of servant leadership cited earlier. The conference needs to be engaged as part of the selection process, and the laity and clergy need to be consulted more broadly.

The patterns of episcopal promotion and transfer are another obstacle to accountability. Presently if there are problems with a bishop, unless he is guilty of gross mismanagement or malfeasance, he is either left where he is, changed to another diocese, or assigned to work within a Vatican congregation. Bishops retire voluntarily only under great pressure.

Stephen Pope distinguishes between weak and strong accountability. Weak accountability to the laity “does not bring explicit sanctions, but it can undermine both a bishop's pastoral effectiveness and undercut his ability to solicit the financial support needed to sustain the mission of the Church.”<sup>26</sup> In other words, the laity provide a form of accountability by withholding participation or financial support. Strong forms of accountability are exercised through the criminal and civil courts. Clearly, something is amiss when the church does not have the structures to enforce accountability apart from papal intervention, so that the only recourse is the civil law system. Excessive reliance on weak forms of accountability harms the mission of the church.

The mission of the church needs to drive episcopal governance and accountability. The danger occasioned by recent crises in the church is that the church is in danger of becoming too introspective and self-centered. Heart-rending crises in the church—not only the sexual abuse crisis, but also the crisis of the shortage of priests, the loss of faith in younger generations, increasing secularization, and the hemorrhage of church membership—has been accompanied by liturgical disputes about who can clean sacred vessels or enter the sanctuary and by translation wars over horizontal inclusive language. At times it seems as if the difficulty of dealing with larger issues is compensated for by focusing on minutiae. This wastes whatever capital ecclesial authority may have left to spend and trivializes the legitimate need for accountability. Energy needed for evangelization and mission is drained away.

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<sup>25</sup>Sharon A. Euart, RSM, JCD, “Clergy Sexual Abuse Crisis: Reflections on Restoring the Credibility of Church Leadership,” *The Jurist* 63/1 (2003): 136-37.

<sup>26</sup>Pope, 84.

Attention to the balance between the personal, communal, and collegial forms of episcopal authority may restore the focus, energy, and commitment needed for mission. Such a balance cannot be legislated, but relies on good faith commitments to each of these forms of authority. Such a balance is an ecclesial culture requiring cultivation.

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