

## **BISHOPS, MINISTRY, AND THE UNITY OF THE CHURCH IN ECUMENICAL DIALOGUE: DEADLOCK, BREAKTHROUGH, OR BOTH?**

In relation to episcopacy, the ecumenical question is not whether the glass of agreement is half full or half empty, but whether it is close to full or almost completely empty. How we define progress toward ecumenical agreement shapes how we assess the ecumenical situation in relation to what has become a lynch pin of ecclesiastical division.

Episcopacy has been the subject of a wide range of dialogues involving churches with a traditional episcopate. Time does not permit a complete survey of these dialogues. In this presentation, I will focus on discussions among and between Catholics and Lutherans. Reasons for this choice extend beyond the obvious fact that I am a Lutheran speaking at a Catholic conference. Both Catholic and Lutheran theologies of the episcopate have changed significantly over the last century. Lutheran practices of a ministry of oversight have changed greatly in the last 30 years, especially in North America. Lutherans occupy an important ecumenical middle distance from Catholic theology and practice on episcopacy: not so close (as the Orthodox and, to a degree, the Anglicans) that fundamental questions need not arise, nor so distant (as systematically antiepiscopal strands within the Reformed tradition) that shared ground for fruitful discussion is difficult to find. While Lutheran views on episcopacy have some idiosyncratic traits, they are sufficiently typical of other churches which are open to some personal ministry of oversight, but have not traditionally claimed episcopal succession (most notably, Methodists<sup>1</sup>) that Catholic-Lutheran agreement could have a significant impact on Catholic discussions with other Protestant traditions.

### I. THE GLASS ALMOST FULL

#### *The Lutheran Move Toward Episcopacy*

One hundred years ago, only a minority of Lutherans were in churches with an official called “bishop.” These churches were almost all in the Nordic countries. To a significant degree, the absence of bishops in the other Lutheran churches was an historical accident. The Lutheran Reformers insisted upon their “strong desire” to

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<sup>1</sup>See especially Jack M. Tuell and Roger W. Fjeld, eds., *Episcopacy: Lutheran-United Methodist Dialogue II* (Minneapolis: Augsburg, 1991).

preserve the traditional canonical order,<sup>2</sup> but such was impossible within the political and ecclesiastical realities of the Holy Roman Empire of the 16th century.<sup>3</sup> It has become clear from recent scholarship that a theology explicitly emphasizing a succession of episcopal consecrations as essential to the validity of ministry was absent from late medieval theology and not articulated until the late 1530s, after the Lutherans in the Empire had moved to ordain their own clergy with presbyters presiding.<sup>4</sup> Within the Lutheran estates of the Empire, and thus in the Lutheran heartland, the medieval bishop functioning as a prince was replaced by a prince functioning with what were called *sumepiscopal* powers, overseeing the external affairs of the church and providing for the appointment of superintendents and other overseers who functioned as bishop-like figures in the internal lives of the churches.<sup>5</sup> Immigrant and missionary churches outside Europe had similar bishop-like figures, usually elected for set terms, but not called bishop and not understood as exercising a distinct order or office.<sup>6</sup>

Today, however, the large majority of Lutherans are members of churches with some official called “bishop.” After the princely church order disappeared in Germany at the end of World War I, all Lutheran regional churches in Germany eventually adopted a governance structure headed by a bishop.<sup>7</sup> In North America, the predecessor bodies of the largest Lutheran church, the Evangelical Lutheran Church in America, adopted the term “bishop” for their national and regional presiding officers between 1970 and 1980. While the mere shift of nomenclature

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<sup>2</sup>See especially the *Apology of the Augsburg Confession*, Article 14, in Robert Kolb and Timothy J. Wengert, eds., *The Book of Concord: The Confessions of the Evangelical Lutheran Church* (Minneapolis: Fortress Press, 2000) 222-23.

<sup>3</sup>This impossibility is well described in Dorothea Wendebourg, “The Reformation in Germany and the Episcopal Office,” in *Visible Unity and the Ministry of Oversight: The Second Theological Conference Held Under the Meissen Agreement Between the Church of England and the Evangelical Church in Germany* (London: Church House Publishing, 1997) 49-78.

<sup>4</sup>Georg Kretschmar, “Die Wiederentdeckung des Konzeptes der ‘Apostolischen Sukzession’ im Umkreis der Reformation,” in *Das bischöfliche Amt: Kirchengeschichtliche und ökumenische Studien zur Frage des kirchlichen Amtes*, ed. Dorothea Wendebourg (Göttingen: Vandenhoeck & Ruprecht, 1999) 300-44.

<sup>5</sup>See, again, Wendebourg, “Episcopal Office”.

<sup>6</sup>See Theodore G. Tappert, “Lutheran Ecclesiastical Government in the United States of America” and Arne Sovik, “The Derivative Churches: Latin America, Africa, Asia, Australia,” both in Ivar Asheim and Victor R. Gold, eds., *Episcopacy in the Lutheran Church?: Studies in the Development and Definition of the Office of Church Leadership* (Philadelphia: Fortress Press, 1970) 155-96.

<sup>7</sup>On this development, see Kurt Schmidt-Clausen, “The Development of Offices of Leadership in the German Lutheran Church: 1918–Present,” in *Episcopacy in the Lutheran Church? Studies in the Development and Definition of the Office of Church Leadership*, ed. Ivar Asheim and Victor R. Gold (Philadelphia: Fortress Press, 1970) 72-115.

is not in itself theologically decisive, words have connotations and associations. With the term has come, over time, different ways of thinking.

The shift in theology is evident in and was prompted by the ecumenical agreements of the last 20 years between Lutheran and Anglican churches in Northern Europe and North America. Through most of the 20th century, episcopacy and episcopal succession was the sole issue separating Anglicans and Lutherans.<sup>8</sup> Anglicans, while of varying opinions on the exact ecclesiological status of episcopacy, were clear in their understanding of a shared episcopal succession as an aspect of ecclesial communion. Lutherans, while open to succession (a succession of episcopal consecrations had been preserved in the churches of Sweden and Finland<sup>9</sup>), were unwilling to accept succession as a condition of communion, especially if accepting succession would be taken to imply that the Lutheran churches had been lacking an authentic ministry of Word and Sacrament for centuries.

Between 1987 and 2000, however, a basic shift occurred, occasioned in part by the reconsideration of the theology of ordained ministry in relation to the World Council of Churches' text *Baptism, Eucharist and Ministry* and by the rise of koinonia ecclesologies of various sorts. This shift is embodied in the international Anglican-Lutheran *Niagara Report* of 1987 and the subsequent Anglican-Lutheran agreements in Northern Europe and North America.<sup>10</sup> These all begin by framing the question of episcopacy within an ecclesiological discussion of apostolicity. The church is the primary creedal subject of the predicate "apostolic." The church is apostolic as it continues in the apostolic mission given to the apostles by the risen Christ (Matt. 28). Apostolic mission is both message and ministry; it is both the gospel and the ongoing task of the Spirit-empowered and divinely authorized proclamation and realization of that gospel.<sup>11</sup>

How does the church remain apostolic? What are the signs and means of ongoing apostolicity? Decisive to the Anglican-Lutheran texts is the insistence

<sup>8</sup>On the history of Anglican-Lutheran dialogues, see Michael Root, "Anglican-Lutheran Relations: Their Present State, History, and Challenge," *Midstream* 32 (1993): 39-55.

<sup>9</sup>On the episcopate in Sweden and Finland, see Martii Parvio, "Post Reformation Developments of the Episcopacy in Sweden, Finland, and the Baltic States," in *Episcopacy in the Lutheran Church? Studies in the Development and Definition of the Office of Church Leadership*, ed. Ivar Asheim and Victor R. Gold (Philadelphia: Fortress Press, 1970) 125-37; and more recently, *Together in Mission and Ministry. The Porvoo Common Statement with Essays on Church and Ministry in Northern Europe* (London: Church House Publishing, 1993) 59-84.

<sup>10</sup>These documents and their theology is surveyed in Michael Root, "Porvoo in the Context of the Worldwide Anglican-Lutheran Dialogue," in *Apostolicity and Unity: Essays on the Porvoo Common Statement*, ed. Ola Tjørhom (Grand Rapids MI: Eerdmans, 2002) 15-33.

<sup>11</sup>See, e.g., chap. IV of the Nordic Lutheran-British and Irish Anglican *Porvoo Common Statement*, "Episcopacy in the Service of the Apostolicity of the Church," in *Together in Mission and Ministry*, ¶¶34-57.

(repeated in the most recent international Catholic-Lutheran dialogue on *The Apostolicity of the Church*<sup>12</sup>) that the church's apostolicity does not hang on a single thread, but is a complex reality, a multistranded rope. The church's apostolicity is preserved by the regular use of the apostolic scriptures in theology, instruction, and liturgy; by creeds which have summarized for centuries the apostolic gospel; by the sacraments that go back to the apostolic generation; and by an ordained ministry handed on from one generation to the next. All of these elements, however, exist to serve continuity in the mission of the apostolic gospel. None are simply identical with that continuity.<sup>13</sup>

The question Anglicans and Lutherans asked each other in these recent dialogues focused on the apostolic character of the total church, including its ministries but not limited to such. In Northern Europe (the 1993 *Porvoo Common Statement* of most of the Nordic and Baltic Lutheran churches and the British and Irish Anglican churches<sup>14</sup>), the United States (the 1999 Episcopal Church-Evangelical Lutheran Church in America agreement *Called to Common Mission*<sup>15</sup>) and Canada (the 2000 *Waterloo Declaration*<sup>16</sup>), Lutherans and Anglicans recognized each other's churches, including their ministries, as apostolic and committed themselves to move into a common mission and ministry. This common ministry meant for the Lutherans the adoption of a shared succession of episcopal ministry within a succession of consecrations as "one of the ways, in the context of ordained ministries and the whole people of God, in which the apostolic succession of the church is visibly expressed and personally symbolized in fidelity to the gospel through the ages."<sup>17</sup> Since January 1, 2001, all bishops in the Evangelical Lutheran Church in America have entered office through the laying on of hands by three bishops themselves in succession.

Since the Roman Catholic Church does not recognize the succession of Anglican bishops, these agreements bring no immediate change to Catholic-

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<sup>12</sup>Lutheran-Roman Catholic Commission on Unity, *The Apostolicity of the Church: Study Document of the Lutheran-Roman Catholic Commission on Unity* (Minneapolis: Lutheran University Press, 2006).

<sup>13</sup>See, e.g., Anglican-Lutheran International Continuation Committee, *The Niagara Report: Report of the Anglican-Lutheran Consultation on Episcopate, Niagara Falls, September 1987* (Cincinnati: Forward Movement Publications, 1988) ¶¶28-30.

<sup>14</sup>*Together in Mission and Ministry*.

<sup>15</sup>Evangelical Lutheran Church in America, *Called to Common Mission: A Lutheran Proposal for a Revision of the Concordat of Agreement* (Chicago: Evangelical Lutheran Church in America, 1999) <<http://www.elca.org/ecumenical/fullcommunion/episcopal/cmresources/text.html>>.

<sup>16</sup>Joint Working Group of the Anglican Church in Canada and the Evangelical Lutheran Church in Canada, *Called to Full Communion: The Waterloo Declaration (with Commentary)* (2000) <[http://anglican.ca/ministry/inchurch/waterloo\\_revised\\_annotated.html](http://anglican.ca/ministry/inchurch/waterloo_revised_annotated.html)>.

<sup>17</sup>Evangelical Lutheran Church in America, *Called to Common Mission*, ¶12.

Lutheran relations.<sup>18</sup> The change these agreements bring to the Catholic-Lutheran discussion, however, is fundamental. For Lutherans who live and think within these agreements, the question ceases to be whether the Lutheran churches should accept an episcopacy in succession. That “in-principle” question has now been answered positively. The question is how to bring a Lutheran episcopacy into communion with the Catholic episcopacy. This shift could lead the observer to say that the ecumenical glass on episcopacy is almost full.

#### *Catholic Move Toward an Evangelical Definition of Episcopacy*

Movement has not been only on the Lutheran side. Two events in the Catholic episcopate and theology of episcopacy have made a significant difference. First, in a little noted, but for Lutherans, significant statement, the Second Vatican Council affirmed that: “Among the principle tasks of bishops, the preaching of the gospel is preeminent [*eminent*; LG 25, cp. CD, 12].”<sup>19</sup> For Catholics, this statement may seem obvious (implied in the handing over of the gospels at a bishop’s ordination and affirmed by Trent, but in reform decrees<sup>20</sup> not included in Denzinger), but it has not been heard by Lutherans. Second, and perhaps more importantly, at Vatican II and in aspects of the pontificates especially of John XXIII and John Paul II, Lutherans saw bishops who exemplified evangelical oversight. The importance of these examples should not be minimized. A not insignificant number of Lutherans ask themselves, “why don’t we have leaders like that?”<sup>21</sup>

#### *Conclusion*

The shift in the setting of Catholic-Lutheran discussions of episcopacy should not be exaggerated. The adoption of the Lutheran-Anglican ecumenical agreement was vehemently contested in American Lutheranism, while the German Lutheran churches, still the largest bloc of Lutherans in the world, have steadfastly resisted similar agreements.<sup>22</sup> Nevertheless, one need only compare the recent American

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<sup>18</sup>On the whole, the response of even ecumenically engaged Catholics to this recent group of Anglican-Lutheran dialogues has shown a tendency to misread the logic of the texts, seeing in them, e.g., arguments for presbyteral succession, rather than the decisive embedding of ministerial in ecclesial questions. See, e.g., George H. Tavad, “A Catholic Reflection on the Porvoo Statement,” *Midstream* 33 (1994): 351-58. In response, see Michael Root and William G. Rusch, “Lutheran Reflections on the Porvoo Statement,” *Midstream* 33 (1994): 358-62.

<sup>19</sup>All references to conciliar documents are from Norman P. Tanner, ed., *Decrees of the Ecumenical Councils* (London: Sheed & Ward, 1990).

<sup>20</sup>Tanner, *Decrees of the Ecumenical Councils*, 669, 763.

<sup>21</sup>See, e.g., the tributes to John Paul II by Geoffrey Wainwright (Methodist), Timothy George (Baptist), and David Yeago (Lutheran) in *Pro Ecclesia* 14 (2005): 265-75.

<sup>22</sup>See the limited British Anglican-German Lutheran (with Reformed and United) agreement: *The Meissen Agreement: Texts*, Council for Christian Unity Occasional Paper, no. 2 (London: Council for Christian Unity, General Synod, Church of England, 1992).

(2005)<sup>23</sup> and international (2006)<sup>24</sup> Lutheran-Catholic dialogue statements which include sections on episcopacy with earlier dialogue statements to see the change in context. A dialogue between two churches both of which are episcopally structured and affirm episcopal succession, even if not in identical ways, is quite different than a discussion between an episcopal and a nonepiscopal church.

## II. THE GLASS NEARLY EMPTY

And yet, despite all that has been described, nothing has changed between Catholic and Lutheran ministries on the ground. In Catholic eyes, a Lutheran remains a member of an ecclesial community, not a church, primarily because of a *defectus* in the sacrament of order [*praesertim propter sacramenti ordinis defectum*] (UR 22). For that same reason, a Eucharist celebrated by Lutherans (or Anglicans or other Protestants) does not retain “the authentic and full reality [or substance] of the eucharistic mystery [*genuinam atque integram substantiam mysterii eucharistici*]” (ibid.). The *defectus* in the sacrament of order is a function of the absence of a “valid episcopate.”<sup>25</sup> These judgments have not been altered in recent years nor have they been supplemented by other judgments that might blunt their edges or open up other opportunities.

### *Shifts in Catholic Theology*

Shifts in Catholic theology over the last century, shifts celebrated in much Catholic theology, have not made the ecumenical question of ministry and episcopacy easier, but perhaps more difficult. Most medieval theologians, following the lead of Peter Lombard in his *Sentences*, did not see the difference between presbyter and bishop as one of order, but only of office and dignity.<sup>26</sup> In addition, while only bishops *did* ordain to major orders in the medieval church, it was a

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<sup>23</sup>Randall Lee and Jeffrey Gros, eds., *The Church as Koinonia of Salvation: Its Structures and Ministries. Lutherans and Catholics in Dialogue X* (Washington DC: United States Conference of Catholic Bishops, 2005).

<sup>24</sup>Lutheran-Roman Catholic Commission on Unity, *Apostolicity of the Church*.

<sup>25</sup>*Congregation for the Doctrine of the Faith, “Dominus Jesus: On the Unicity and Salvific Universality of Jesus Christ and the Church,” Origins 30 (2000): ¶17. Dominus Jesus states that the “ecclesial communities” are not “churches in the strict sense” because they “have not preserved the valid episcopate and the genuine and integral substance of the eucharistic ministry,” citing US 22, even though UR 22 makes no explicit reference to the episcopate.*

<sup>26</sup>For a discussion of this passage in Lombard and its interpretation in medieval theology, see Michael Slusser, “Two Sacred Orders: Diaconate and Presbyterate,” in *The Church as Koinonia of Salvation: Its Structures and Ministries. Lutherans and Catholics in Dialogue X*, ed. Randall Lee and Jeffrey Gros, US Lutheran-Catholic Dialogue (Washington DC: United States Conference of Catholic Bishops, 2005) 149-71.

matter of debate whether only a bishop *could* ordain to such.<sup>27</sup> The Lutheran Reformers argued that while ordinations *should* be carried out by bishops, nevertheless, the church *can* ordain through ministers in presbyter's orders *in extremis*, when bishops are unwilling to ordain pastors who preach the gospel. This Lutheran argument was, in its way, quite medieval.<sup>28</sup> Jerome's letter on the equality of presbyters and bishops was, after all, quoted in Gratian, as the Lutherans explicitly mentioned.<sup>29</sup>

Trent was quite cautious in its affirmation of episcopacy. It said that the hierarchy of bishops, priests, and ministers was divinely instituted [*divina institutione institutam*], but stopped short of saying that it was *jure divino* and did not define the nature of the distinctions within the hierarchy.<sup>30</sup> It said that bishops have the power to ordain [*potestas ordinandi*], but it also said that they have the power to confirm and gives no indication why one power could be delegated to priests and the other cannot.<sup>31</sup> A traditional manualist such as Ludwig Ott, reflecting on Trent's reticence and on a small number of authorizations by medieval popes for abbots in priest's orders to ordain deacons and priests,<sup>32</sup> held that a priest could be an extraordinary ministry of ordination, just as he could be an extraordinary minister of confirmation.<sup>33</sup> Avery Dulles, writing in 1983, held a similar position.<sup>34</sup>

The dogmatic situation in relation to episcopacy changed with Pius XII's 1947 encyclical *Sacramentum ordinis* (DH 3857-3861) and the teaching of Vatican II. It is now unambiguous papal and conciliar teaching that the "fullness of the sacrament of order" [*plenitudinem sacramenti ordinis*] is conferred in episcopal ordination alone (LG 21, 25). Presbyters "share with bishops the one identical

<sup>27</sup>For the view of Hugucio of Pisa that a priest possesses the power to ordain to the priesthood, although such power is bound, see Lawrence N. Crumb, "Presbyteral Ordination and the See of Rome," *Church Quarterly Review* 164 (1963): 27.

<sup>28</sup>I spell out the medieval character of the Lutheran understanding in Michael Root, "On the Power of Bishops," *Lutheran Forum* 37 (Spring 2003): 36-47.

<sup>29</sup>The clearest example of this argument is in the section on "The Power and Jurisdiction of Bishops" in *The Treatise on the Power and Primacy of the Pope*, in Kolb and Wengert, *Book of Concord*, 340-41.

<sup>30</sup>Canon 6 of the Decree on the Sacrament of Order, Tanner, *Decrees of the Ecumenical Councils*, 744.

<sup>31</sup>Canon 7 of Decree on the Sacrament of Order, Tanner, *Decrees of the Ecumenical Councils*, 744.

<sup>32</sup>Crumb, "Presbyteral Ordination."

<sup>33</sup>Ludwig Ott, *Fundamentals of Catholic Dogma*, ed. James Bastible, trans. Patrick Lynch (Rockford: TAN, 1960; repr. 1974) 459.

<sup>34</sup>"The main difficulty [in relation to the recognition of ministries] is not, as commonly supposed, that Catholics hold that by divine law ordination can be administered only by bishops. This has not been taught by the councils and is not Catholic doctrine. . . . The point is that the church, according to Catholic doctrine, must empower a presbyter before the latter can ordain." Avery Dulles, "Toward a Mutual Recognition of Ministries," *dialog* 22 (1983): 111.

priesthood and ministry of Christ” (PO 7), but “depend [*pendent*] on them [the bishops] in the use of their power” (CD 15). The doctrinal stage is set for the conclusion that, since Lutheran and other bodies lack a “valid episcopate, they are not “church in the strict sense.”

Vatican II’s doctrine of the episcopate is generally seen as an ecumenical advance in its affirmation of a collegial understanding of church governance that helps meet non-Catholic worries about papal absolutism. Nevertheless, its implication for ecumenical discussions of orders is more problematic. By breaking with the priestly focus (and thus “presbyter-centric” character) of much medieval discussion, post-Reformation Catholic theology of the episcopate, culminating in Vatican II, increased the distance between Catholic and Lutheran understandings of ministry. Lutheran theology at the time of the Reformation, while critical of the medieval understanding of priesthood, retained its “presbyter-centric” mold of thinking. Ironically, the way in which Lutheran understandings of ministry were in continuity with their medieval forebears now constitutes a point at which they are separated from Catholic teaching.<sup>35</sup>

I earlier said that the disagreement on episcopacy forms a lynch pin of ecclesiastical division. The metaphor in the present situation might better be that of a bottleneck, with the cork firmly in the bottle. Ecumenical agreements have been reached between Catholics and various non-Catholic Western churches, especially with Anglicans and Lutherans, on a wide number of topics over the last 40 years. Besides the obvious achievement of the Catholic-Lutheran *Joint Declaration on the Doctrine of Justification*, which affirmed a “consensus on basic truths” of justification as an official statement of both communions,<sup>36</sup> there have been extensive agreements on the nature of the Eucharist and the presence of Christ’s body and blood therein, on the nature of ordained ministry, on Mary and the saints, and a series of other topics. Yet these agreements produce little change in relations on the ground because such relations seem to require some mutual recognition of ministries and that cannot occur as long as Anglican, Lutheran, and other churches are judged not to possess a valid episcopate.

#### *Shifts in Lutheran Practice*

Changes that have made reconciliation more difficult have not occurred only on one side. Actions of non-Catholic Western churches, even if one believes the actions justified, have made some mutual recognition of ministry and episcopacy more difficult. Almost all European and North American Lutheran churches, e.g., now ordain both men and women. Women bishops are still a minority among the

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<sup>35</sup>The argument of this paragraph is laid out in further detail in Michael Root, “The Roman Catholic Bishop in Ecumenical Perspective,” in *Unfailing Patience and Sound Teaching: Reflections on Episcopal Ministry*, ed. David A. Stosur (Collegeville MN: Liturgical Press, 2003) 111–32.

<sup>36</sup>The Lutheran World Federation and The Roman Catholic Church, *Joint Declaration on the Doctrine of Justification* (Grand Rapids MI: Eerdmans, 2000).

Lutheran bishops, but they have ceased to be unusual and one presumes that over time they will come to parity with men in numbers among the episcopate, as is rapidly occurring among pastors.

Ecumenical dialogues between Catholics and both Lutherans and Anglicans have argued that extensive agreement can be reached on the nature of ordained ministry, even while the churches disagree on precisely who is eligible for ordination.<sup>37</sup> Such arguments, however, have not been well received by Catholic officials.<sup>38</sup> In addition, the turmoil within the Anglican communion over a bishop with a same-sex partner casts a deeper, emotionally charged and conceptually complex, shadow over discussions of ministry. Bishops are not concepts, they are persons. The reconciliation of episcopates is the reconciliation of groups of institutionally organized persons and the persons who make up such groups inevitably impact discussions of the reconciliation of the related theologies. The problem is working out just what that impact rightly ought to be.

### III. THE TENSION WITHIN CATHOLIC ECUMENICAL THEOLOGY OF THE EPISCOPATE

The ecumenical situation then is one in which Catholics and Lutherans, Anglicans, and others appear to have made highly significant ecumenical progress, but that progress produces few canonical changes because of the non-recognition of ministries, focused on a non-recognition of the episcopate in such non-Catholic churches.

The central thesis of this presentation is: *Present Roman Catholic official judgments about non-Catholic Western communions contain an internal tension (or incoherence or contradiction<sup>39</sup>) between what is said about such communities' soteriological role and the communion that exists between them and the Catholic Church, on the one hand, and what is said about the absence (not just defect) in them of the sacrament of order and thus of an authentic ordained ministry, on the other.* This internal tension can be solved only by judgments that use more flexible,

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<sup>37</sup>See, e.g., Anglican-Roman Catholic International Commission, *Final Report*, Ministry and Ordination (Elucidation), ¶5, in Harding Meyer and Lukas Vischer, eds., *Growth in Agreement: Reports and Agreed Statements of Ecumenical Conversations on a World Level* (New York: Paulist Press, 1984) 87; and, more cautiously, Hervé Legrand and John Vikström, "Admission of Women to the Ministry," in *The Ministry in the Church*, Roman Catholic/Lutheran Joint Commission (Geneva: Lutheran World Federation, 1982) 107.

<sup>38</sup>See, e.g., the Roman Catholic response to ARCIC I (1991), §25, in Christopher Hill and Edward Yarnold, eds., *Anglicans and Roman Catholics: The Search for Unity* (London: SPCK, 1994) 164.

<sup>39</sup>Tension, incoherence, and contradiction are meant as a scale of increasingly severe logical problems. I am not sure just how to label the problem I am describing. I think it is more than a tension, but am not sure that I can establish that it is a contradiction in the strict sense.

scalar concepts that allow for discernment of more or less, rather than only an all-or-nothing concept of validity. Surprisingly enough, the concept of “ecclesial communities” may here be by a model. Let me first develop the two sides of this tension, incoherence, or contradiction.

*Positive Assessments of the “Ecclesial Communities”*

In the texts of Vatican II and in many official statements since, the Catholic Church has made a series of positive judgments about the “ecclesial communities” of the West.

1. While Vatican II stated only that a “certain, but imperfect communion” [UR 3] exists between the members of these communities and the Catholic Church, John Paul II’s encyclical *Ut unum sint* goes a step further and states that such a certain but imperfect communion exists between the Catholic Church *and these communities* [UUS 11], i.e., the communities as such (and not just their members) stand in an imperfect communion with the Catholic Church.

2. Even while Catholic theology has maintained that the church of Christ subsists (and, one presumes, uniquely subsists) in the Catholic Church, *Ut unum sint* states that the church of Christ is present and at work in the “ecclesial communities” [UUS 11]. These communities may not be, in the language of *Dominus Jesus*, “church in the strict sense,” but the church is active among them.

3. Vatican II states that these ecclesial communities are instruments of salvation.<sup>40</sup> Through their actions, they mediate the grace of salvation to their members. Thus, their members are included in salvation not *despite* their membership in these communities, but *through* their membership in these communities.

4. In the *Joint Declaration on the Doctrine of Justification*, the Catholic Church recognizes that the Lutheran churches have preserved the “basic truths” of the doctrine of justification, which the Catholic Church agrees is “an indispensable criterion that constantly serves to orient all the teaching and practices of our churches to Christ” (JDDJ 14, 18).

These assertions hang together; it would be difficult to affirm one without the others. If the ecclesial communities are as communities in a sort of communion with the Catholic Church, in which subsists the community of salvation, then it is hard to see how that communion would not play a role in the salvation of their members, making the communities as such mediators of grace. If salvation, which is inherently communal and thus ecclesial, is communicated through this imperfect communion, then how can the church not be active in this communication and thus the church be present and active in these ecclesial communities? How could these communities be means of grace if they had not preserved the “basic truths” of the core of the gospel? In the documents of Vatican II and subsequent Catholic

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<sup>40</sup>“The Spirit of Christ has not refrained from using them [the ecclesial communities] as means of salvation whose efficacy comes from that fullness of grace and truth which has been entrusted to the catholic church” (UR 3).

ecumenical teaching, there has developed an understanding of the real, but imperfect, salvific, and thus ecclesial role of the “ecclesial communities.”

*The “Absence” of the Sacrament of Order*

These affirmations are accompanied, however, by the assertion that the sacrament of order is simply absent from these communities. As noted, Vatican II in its Decree on Ecumenism linked the status of the “ecclesial communities” as not churches to the *defectus* of the sacrament of order within them. Ever since Vatican II, there has been a low-level, but highly significant, debate on how to translate *defectus*, as “defect” or as “lack” or “absence.” Some (e.g., Walter Kasper) have argued for “defect”;<sup>41</sup> others have argued for “lack” or “absence.”<sup>42</sup> Some ecumenical dialogues have presented arguments for an understanding of *defectus* as defect<sup>43</sup> and this point has been pressed by some Lutheran churches in their responses to ecumenical dialogues.<sup>44</sup> Nevertheless, translations of *Unitatis redintegratio* on the Vatican website and in the official versions of other Catholic texts which quote the relevant passage uniformly render *defectus* as “lack” or “absence.”<sup>45</sup> In the “ecclesial communities,” the sacrament of order is not present with a defect or present defectively; it is simply not present. It is absent or lacking.

More significantly, the implications of this understanding of *defectus* are drawn in various official documents. *Dominus Jesus* 17 states that the ecclesial communities are communities which “have not preserved the genuine episcopate,” citing UR 22. The judgment is not that such communities have not preserved the

<sup>41</sup>Walter Kasper, “Die apostolische Sukzession als ökumenisches Problem,” in *Lehrverurteilungen—kirchentrennend?: III Materialien zur Lehre von den Sakramenten und vom kirchlichen Amt*, ed. Wolfhart Pannenberg (Freiburg i.B.: Herder, 1990) 345.

<sup>42</sup>I have encountered a grammatical argument, that *defectus* plus the genitive (as in *sacramenti ordinis defectum*) must mean the lack or absence of the noun in the genitive. As Kasper argues, however, grammar cannot here be decisive, but only the total context of the Council’s assertions can settle the question (ibid.). For example, in *Dominus Jesus*, ¶17, the last sentence begins: “Unitatis defectus inter christianos *vulnus* est quidem Ecclesiae illatum . . .,” translated into English as “The lack of unity among Christians is certainly a wound for the Church.” But “lack” cannot here mean simply “absence,” since the imperfect communion between non-Catholics and the Catholic Church would imply the existence of an imperfect unity, or, to use the language of UR 22, of a lack of “the fullness of unity” [“Communitates ecclesiales a nobis seiunctae, quamvis earum plena nobiscum unitas . . .,” cf. UR 4].

<sup>43</sup>Roman Catholic/Lutheran Joint Commission, *The Ministry in the Church* (Geneva: Lutheran World Federation, 1981) ¶77. Also in Meyer and Vischer, *Growth in Agreement: Reports and Agreed Statements of Ecumenical Conversations on a World Level*, 272.

<sup>44</sup>Wolfhart Pannenberg and Theodor Schneider, eds., *Lehrverurteilungen—kirchentrennend? IV. Antworten auf kirchliche Stellungnahmen*, Dialog der Kirchen 8 (Göttingen: Vandenhoeck & Ruprecht, 1994) 134.

<sup>45</sup>All translations of Vatican II documents on the Vatican website and the official English text of *UUS* 67.

episcopate in its integrity or purity or that they have preserved it with deep defects, but they have not preserved it *simpliciter* and thus are not just churches which have lost a certain integrity or purity, defective churches or, to use a traditional Lutheran term, erring churches, but simply not “churches in the proper sense.” (A judgment with which, granted its premises, a Lutheran would agree. A community which simply lacked the office of word and sacrament, entered by ordination, is also for a Lutheran judgment not a church in the strict sense.)

The implications of the judgment embodied in the translation of *defectus* are difficult to overestimate. If in a certain “ecclesial community” there is a defective sacrament of order, one could then conclude that in that community there is a real but defective realization of the one special priesthood, the one office of ministry of the one church. Such a recognition both opens up paths to real, but limited forms of common life in the present, and opens up paths to the repair of that defect in the future that do not imply that the community has simply been without the one ministry of the one church.<sup>46</sup> If in an ecclesial community, the sacrament of order is simply absent, however, then the conclusion would seem to follow (and is apparently drawn by official Catholic teaching) that the special priesthood constituted by that sacrament is also absent. Forms of common life that require cooperation between real, even if defective, realizations of ordained ministry are then impossible. The only ecumenical path forward then requires, not that defective orders be repaired, but that what is simply absent be provided.

*Imperfect Communion without Any Ministerial Communion?*

How is this denial of the presence of even a defective ordained ministry in the ecclesial communities consistent with the positive affirmations about such communities that I noted above? Let me return to the four affirmations I listed. What follows when Catholic affirmations about the ecclesial communities are combined with the insistence that the sacrament of order (and thus ordained ministry) is simply absent?

1. An imperfect communion exists between the Catholic Church and communities which lack any, even defective, form of the ordained ministry. A real but imperfect ecclesial communion thus exists without any form of ministerial or hierarchical communion. The inevitable implication is that while hierarchical or ministerial communion is needed for full ecclesial communion, it is not essential to ecclesial communion as such, since an imperfect communion can exist between the Catholic Church and the ecclesial communities which lack ordained ministry.

2. The church is present and active in the ecclesial communities even though they lack the sacrament of order and thus lack the ordained ministry. The implication again would be that ordered ministry is needed to be church in the strict sense, but the church can be present and active even though ordered ministry is simply absent.

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<sup>46</sup>See on this point Harry McSorley, “Roman Catholic Recognition of Protestant Ministries,” *Ecumenical Trends* 10 (1981): 99.

3. Within the ecclesial communities, the means of grace effectively transmit salvation and thus participation in the Trinity without the presence of even a defective ordained ministry. Vatican II certainly seems to indicate that this communication of saving grace occurs in the ecclesial communities regularly and, so to speak, institutionally and not simply occasionally in the manner of uncovenanted graces. The ordained ministry and episcopate thus would seem to be essential only to some full or integral functioning of the means of grace, but accidental to their regular effective functioning.

4. The affirmation of the *Joint Declaration on the Doctrine of Justification* by the Catholic Church implies that the Lutheran communities have preserved what the Catholic Church seems also to see as the core of the gospel, the “basic truths” about our standing justified before God, even though these Lutheran communities have been utterly lacking for centuries the teaching function that goes with ordained ministry. How important can the ordained ministry and its attached teaching function be, if churches with a simple lack of that office are adequately, if less than fully, preserved in the truth?

There is not time here to elaborate in even a sketchy form the recent Catholic theology of the role of the episcopate in the realization of communion among local churches, the role of the episcopate and ordained ministry more generally in the mediation of salvation through the communion of the church, or the role of the episcopal teaching office in maintaining the church in the truth.<sup>47</sup> Suffice it to say, such a theology of the episcopate contradicts strongly the conclusions that would seem to follow from the combination of present Catholic affirmations and denials about the ecclesial communities. This combination would imply that ordained ministry and episcopacy are less significant for Catholics than they even are for Lutherans, since the Lutheran Confessions clearly state that the ongoing efficacy of the gospel in Christian communities requires the presence of the office of ministry.<sup>48</sup>

How can Catholic theology avoid the implications of this combination of affirmations and denials? Catholic theology must say either less about the saving character of these ecclesial communities and their imperfect communion with the Catholic Church, pulling back from the positive statements of Vatican II and post-conciliar texts, or they must say more about the ordained ministry and episcopacy in these communities, conceding some greater reality and status to such ministry. I see no other alternative if Catholic ecumenical theology is to achieve conceptual coherence.

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<sup>47</sup>For a good recent summary, see Hermann J. Pottmeyer, “The Episcopacy,” in *The Gift of the Church: A Textbook on Ecclesiology in Honor of Patrick Granfield, O.S.B.*, ed. Peter C. Phan (Collegeville: Liturgical Press, 2000) 337–53.

<sup>48</sup>“Not bodily but eternal things and benefits are given in this way, such as eternal righteousness, the Holy Spirit, and eternal life. These benefits cannot be obtained except through the office of preaching and through the administration of the holy sacraments” Augsburg Confession 28:8; Kolb and Wengert, *Book of Concord*, 92.

## IV. THE NEED FOR A SCALAR CATEGORY

It may seem presumptuous for a “separated brother” to suggest how Catholic theology might move forward in this area, but let me appeal to the imperfect communion that links me to the Catholic Church and suggest at least the sort of category that is needed. Unlike some of my Lutheran and Anglican sisters and brothers, I do not believe that a rush simply to affirm the validity of non-Catholic ministries by the Catholic Church would be ecumenically fruitful. Catholics have legitimate concerns that need to be met by theological reasoning and ecclesial reform, not by an act of ecumenical will. But is validity as an all-or-nothing category the only one to use in this context?

Validity is a necessary, even if slippery, concept, but it has the drawback of being in its most common use, so to speak, non-scalar. In most uses I have seen, validity is all-or-nothing.<sup>49</sup> A sacrament is valid or it is not. To use the analogy that is, perhaps unfortunately, always used in this context, one cannot be a little bit pregnant. Validity is like the p and not-p of elementary logic.

But is such a nonscalar understanding of validity the only resource to use in this context?<sup>50</sup> It is here useful to look at the much-maligned term “ecclesial communities.” While this term is often heard (and often used) negatively, as a way to deny that certain Christian bodies are “church in the strict sense,” this term was introduced at Vatican II precisely to move beyond the dominance of this non-scalar, all-or-nothing judgment about whether a community is or is not “church.” The point of the appellation was to say something positive, to say that such communities are, in fact “ecclesial.” They have ecclesiological significance.<sup>51</sup> They have, to use a term coined by Harding Meyer, a certain “ecclesial density.”<sup>52</sup> Their ecclesial

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<sup>49</sup>Francis Sullivan, however, argues that episcopal succession is necessary for ministry to be “fully valid.” The phrase “fully valid” seems to imply that there might be a ministry that is less than *fully* valid, but not simply invalid. See Francis A. Sullivan, *From Apostles to Bishops: The Development of Episcopacy in the Early Church* (New York: Paulist Press, Newman Press, 2001) 236.

<sup>50</sup>Francis Sullivan makes a similar point: “I believe that we have tended to pay too exclusive attention to the conditions for the validity of ministry and have not sufficiently explored the implications of the fruitfulness of a ministry that may not meet all the conditions we believe are required for validity.” Sullivan, *Apostles to Bishops*, 236.

<sup>51</sup>See the statement of the Doctrinal Commission explaining the introduction of the term, *Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II* (Vatican City: Typis polyglottis Vaticanis, 1970) III/2, 335; quoted in Sullivan, *Apostles to Bishops*, 233. See especially also Jérôme Hamer, “Die ekklesiologische Terminologie des Vatikanum II und die protestantischen Ämter,” *Catholica* 26 (1972): 146–53.

<sup>52</sup>For the original use of this term, see Harding Meyer, “Wandlung eines Weltbundes. Für eine Intensivierung der ökumenischen Verantwortung,” *Lutherische Monatshefte* 19 (1980): 329–33.

“specific gravity” may not be 1, but neither is it 0.<sup>53</sup> As a scalar, more-or-less rather than all-or-nothing concept, “ecclesial community” offers flexibility. The ecclesial character of communities varies. Vatican II implicitly ascribes a higher ecclesial character to the Anglican communion than to other ecclesial communities of the West (UR 13).

Similarly, in the years before Vatican II and in its early debates, much discussion centered around the concept of membership in the Church.<sup>54</sup> Were non-Catholic Christians members of the church and, if so, in some way members of the Catholic Church? Membership, however, had a tendency to be understood in non-scalar ways. Could one be a semi-member? The language of “imperfect communion” offered a flexible, scalar way of addressing the issue and, for the most part, replaced the concept of membership when trying to describe the status of non-Catholic Christians.

What is needed is such a flexible, scalar category to apply to the episcopacy and ministries of the ecclesial communities, especially to the churches of the Lutheran and Anglican communions that affirm and practice episcopal succession. Catholic theology need not invent such a category; it is already present in Vatican II, namely, *defectus*, if *defectus* is understood as defect and not as lack or absence. A real but defective episcopacy (and thus a real, but defective ordained ministry) could be understood to be such that it mediates a real, but imperfect ministerial or hierarchical communion with the Catholic Church. It can be a medium through which the church is present and active in a community, even if it is not capable of bearing the weight that goes with being “church in the strict sense.” It can be an instrument of the Holy Spirit in the saving operation of the means of grace, even if not in the same way that a non-defective ministry can be. It can be a real, but imperfect bearer of the teaching office that is inherent in the office of ministry, even if, in Catholic judgment, it is also erring in certain respects and lacks that participation in the church’s infallibility that accompanies full communion with the episcopal college headed by the bishop of Rome.

Again, some such category of defect would permit and indeed require varying judgments, judgments of more or less. Judgments about the episcopacy and ministry in ecclesial communities with a clear doctrinal confession and a functioning episcopacy that claims and practices a succession of episcopal consecrations would be

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<sup>53</sup>I hesitate to make the suggestion, because the term can be easily misunderstood, but just as fuzzy logic introduces truth values other than 1 and 0 (Graeme Forbes, *Modern Logic* [New York: Oxford University Press, 1994] 349–57) so we need an ecclesiological and sacramental fuzzy logic that ascribes values other than valid or invalid, present or absent.

<sup>54</sup>On debates in the preparatory work for Vatican II, see Giuseppe Alberigo and Joseph A. Komonchak, eds., *History of Vatican II: Vol. 1, Announcing and Preparing Vatican Council II: Toward a New Era in Catholicism* (Maryknoll: Orbis, 1995) 291–93. On the theology of membership in the Catholic Church and how it was handled in Vatican II, see Avery Dulles, *Church Membership as a Catholic and Ecumenical Problem* (Milwaukee: Marquette University Press, 1974).

judged differently than the ministry in communities which practice congregational ordination and lack a definite doctrinal norm.

How such a concept of defect in ordained ministry would relate to validity would be a complex question. Does “defect” point to a minimal validity, adequate for certain functions but not for full ecclesial communion?<sup>55</sup> Or does “defect” point to a scalar application of the concept of validity, which accompanies its non-scalar, absolute application? At what point does defect destroy validity? What would be the implications of a real, but defective ministry for judgments about the Eucharist in such communities? These questions are not trivial (but that is why God made canonists!). The seriousness and difficulty of such questions should not mean, however, that a non-scalar concept of validity must remain the solely determinative and dominant concept when thinking about the episcopacy and ministry of the ecclesial communities of the West.

The application by Catholics of some such scalar, more-or-less category to the episcopacy and ministries of non-Catholic communities would be of significant ecumenical value. It would grant legitimacy to what in fact already occurs. Since 1991, for example, the Lutheran archbishops of Uppsala and Turku (the primates of the Swedish and Finnish churches) have on more than one occasion celebrated an ecumenical vespers in St. Peter’s with the Pope on the feast of St. Bridget of Sweden. On such occasions they have been vested as bishops; they are not treated as laymen. Is this just an act of civility, masking a strictly negative dogmatic judgment? Or is it a recognition that some sort of genuine ministry of oversight is represented by these bishops, even if not such that it could bear the weight of full hierarchical communion?

The use of such a more flexible category would be a spur to greater ecumenical efforts. If the episcopacy of at least some of the ecclesial communities is a real, but defective or imperfect realization of episcopal ministry, then such episcopacy is also a real, but imperfect agency of teaching. Joint teaching statements would seem then to be desirable, when possible. While a full reconciliation of episcopates is probably not an event that might occur in the foreseeable future, such a reconciliation is only thinkable if some form of the true episcopate is present in the communities with whom reconciliation is at least contemplated.

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<sup>55</sup>Karl Rahner suggested a distinction between a basic sacramental validity, which meets the requirements for the essential function of the sacrament, and a sacramental-canonical validity (Karl Rahner, *Vorfragen zu einem ökumenischen Amtsverständnis*. [Freiburg: Herder, 1974]. Dulles summarizes Rahner’s conclusion: “Where the precanonical conditions are fulfilled, Rahner argued, the basic reality of the sacrament is given, even though in a deficient way that lacks the full intensity of ecclesial realization” (Dulles, “Mutual Recognition of Ministries,” 112). As the uses of Rahner’s point by both Dulles (with hesitancy) and McSorley show, some such understanding would meet the argument of this essay for a more flexible category.

## V. CONCLUSION

The problem at the center of this essay has been noted before. In an important but infrequently cited essay on Vatican II's understanding of Protestant ministries, Jérôme Hamer concluded with this statement:

If the Protestant communities receive the significance noted in relation to the specified goods and actions [the mediation of salvation], we must ask ourselves what path these communities pursue in the administration and distribution of these goods and the realization of these actions. *In other words, we must ask ourselves what part in this area is to be ascribed to the Protestant ministerial office. If the task of the office is an essential one, then we must conclude that a certain significance and a certain weight in the mystery of salvation must be ascribed to the office.*<sup>56</sup>

As noted, categories have been suggested in the almost fifty years since Vatican II by Rahner, Dulles, and others that might solve the problem. Perhaps these categories are in some way inadequate. Some solution to the problem, however, is an important contemporary ecumenical need. Is the glass of ecumenical progress on the topic of episcopacy and ordained ministry almost full or close to empty? I would say, perhaps predictably, that it is both. Significant progress has been made between Catholics and Lutherans, both in theological understanding and in the move toward a greater acceptance of episcopacy and episcopal succession among Lutheran churches. But if the judgment that such communities simply lack the sacrament of order and thus simply lack the episcopate and the ordained ministry cannot be replaced or at least supplemented by more internally differentiated judgments that might recognize a "real, but imperfect" episcopacy and ministry among them, then I worry that the progress that has been made will be sterile and perhaps not lasting.

Ecumenism cannot be a matter of all-or-nothing. Imperfect communion is, at best, conceptually anomalous and calls for more flexible categories than we have used within our own communions. We need such categories both to understand our present situation and, even more, to overcome it.

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<sup>56</sup>Hamer, "Ekklesiologische Terminologie," 153; italics in original.