

THE CHURCH AS MYSTICAL BODY OF CHRIST: ANY NEED FOR LAWS?

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Abstract

This paper attempts give to a theological argument for the relevance of law in the Church based on the very nature of the Church. Its objective is to show that the juridical structure of the Church has a relevance that can be understood by contemplating the mystery of the Church (Presbyterorum Ordinis, 16). Thus, despite the Church being a mystical community of persons gathered together by Word and Sacraments, there is a need for structures of governance, defined rights and obligations, instruments of orderliness, and mutual respect. Drawing insights from ecclesiology vis-à-vis law, the paper concludes that they are not opposed to each other; they are mutually and necessarily complementary in fulfilling the very mission of the Church which is salvation for all (Mystici Corporis Christi, 65).

Keywords: Church; Ecclesiology; Mystical Body; Law; Theology and Law; Sacraments; Protestant Theology.

Introduction

The Church is conceived as the Body of Christ (Rm. 12:5; 1 Cor. 12:12-27; Col 1:18) instituted by Christ himself. Over time, it has also come to be seen as an Institution with structures of laws and

governance. There have been objections to the necessity of such structures in the Church especially from the Protestant movement that rather preferred an *ecclesia spiritualis* (a spiritual church). This movement prefers an ecclesial dualism between that which is visible and that which is invisible.¹ Since, therefore, every attempt at explaining certain realities in the Church have called for an adoption of a given ecclesiological image of the Church in history², this paper shall attempt to explain and justify the necessity of law in the Church as a visible juridically organized institution using the ecclesiological image of the Church as a mystical and spiritual reality. It does this by analysing the Church as a concept, by reviewing the ecclesiological image of the Church as a Mystical Body. It then uses the same ecclesiological image as a template for highlighting some reasons why the law is necessary for the Church despite its mystical nature.

Church: a Conceptual Analysis

Etymologically, the concept of “Church” is traceable to the bible. The Hebrew word *qahal* means an assembly of people³ (1 kings 12:13; Deut. 9:10, 10:4, 23:1-3). In the New Testament, we find the Greek word *ekklesia* which also means a gathering, a community. The Catholic Church takes up these etymologies interpreting them and applying them in terms understood as liturgical assembly, local community, or the universal community of believers.⁴ Paul used *Ekklesia* to refer to a gathering of believers in a community (1 Cor. 1:2; 2 Cor. 1:1; Gal. 1:2; Acts 5:11, 13:1).⁵ Thus, the Church is an assembly of the faithful convoked and gathered by God, consecrated to him, redeemed by Christ, and animated by the Holy Spirit for the continuing mission of Christ’s redemption (*Missio Dei*). A systematic inquiry into the nature and mission of the Church is what is known as ecclesiology.⁶

Apart from the etymological and biblical understandings, some theologians have also attempted to give us an understanding of the meaning of the Church. There is the school of thought called the *substantialist school*. It understands the Church as ageless, an eternal patrimony, in terms of the Word and Sacraments that have existed from the Apostles through history. It is the Church known as the One, Holy, Roman, and Catholic. This school shares a specific idea of history intuited from Collingwood.⁷ In this sense, the

Church as a constant historical reality is a substance in and of itself because it is sustained by Word and Sacraments. Philosophically, substantialists posit that every subject requires an absolute substance to be able to produce a substantial effect. In the same way, the Church (its members) is sustained by the merits of the Word and Sacraments which both visible and invisible effects. As we shall see later, the Word and Sacraments have juridical dimensions in their causes and effects.

On the other hand, St. Bellarmine in his analysis of the Church proposed three requisites for membership of this One, Holy, Roman, Catholic Church which he also described as the mystical body of Christ: *the profession of faith, the communion of the seven sacraments, rule of ecclesiastical authority*.⁸ By this, one is a true Catholic and is in communion with the Catholic Church if one professes the Catholic faith, participates and shares in the sacraments, and submits to the church's hierarchical authority.

Oftentimes, especially before the Second Vatican Council, a presentation of the Church tended to one side. For example, St. Robert Bellarmine and those who belonged to the school of the *ius publicum ecclesiasticum*⁹ presented the Church more in its physical reality than its spiritual reality. The general understanding here is that the Church is a physical and historical reality, a perfect society, organized here in the world directing men to the final goal which is the salvation of souls. This kind of description, according to Avery Dulles, is referred to as *gesellschaft*. It is the *institutional model* of the Church with structures of governance, offices, and institutions that are coordinated by rules, often codified. He notes that this institutional model cannot do justice to the idea of the Church.¹⁰ Meanwhile, the sense of the *Church as the community* was proposed by the Protestants led by Martin Luther in a way that opposes the necessity of law in the Church¹¹ because it rejects every visible structure of governance. However, Saldanha says that understanding the Church as People of God is to “not to be understood as the result of the natural processes, as the self-explication of the life of nature...or history...it must be understood as the consequence of a divine and historical initiative”.¹²

It can be seen, thus, that there is a tendency to separate two fundamentally inseparable aspects of the Church; the Church that

is a mystical community (ecclesial communion), and the Church that is an Institution (made up of a people). A look at another image of the Church should help us see that this separation is futile.

Church as Mystical Body of Christ

St. Paul first developed a theology of the Church as the body in an attempt to elicit harmonious living among the Corinthians (1 Cor. 12:12-20).¹³ Although Paul writes from a Greco-philosophical background, it can be seen that he intended, with this image, the Christian “experience of the sacraments of Baptism and Eucharist.”¹⁴ By these, the believer becomes incorporated into Christ and all are constituted into one body in a way that Christ acts in the Church as Head. On this basis, some Fathers of the Church insisted on a mystical communion by which all believers are united in Christ and among themselves. It was around the 11th century that the use of “mystical body” for describing the Church became widespread.¹⁵ Saldanha writes that the Protestant reformers accepted only the Pauline usage in terms of the invisible dimension of the Church and set aside the sense of juridical structure which the term bears as well.¹⁶ As noted above, certain writers like Bellarmine used the concept in a one-sided sense. One reason for this was the need to establish the Church’s authority and right to make her laws without interference from secular authorities. Thus, the separation between a hierarchical Church and the mystical Body image of the Church lingered.¹⁷

However, with Pope Pius XII’s *Mystici Corporis Christi* of 1943, a bridge of the gap between the visible and invisible dimensions of the Church began to emerge more predominantly. The encyclical, while maintaining previous ecclesiology, deepened an understanding of the Church as the mystical Body of Christ where an understanding between charism and community service is well presented in the sense of fostering unity and orderliness. It presented the Church in its historical experience of the visible world in persecution and her historical struggle and made it clear that membership of the Church also from a visible reality of the Church to living a life of the Divine Spirit. In numbers 62-63 of the document, Pope Pius XII states that this union is “something not of the natural but of the supernatural order; rather it is

something in itself infinite, uncreated". So that according to him, the visible, physical reality that is the Church is not made up of merely moral and juridical elements. The Church, which is a supernatural spiritual society, is a whole that encompasses and embraces the visible and civil society. Furthermore, the juridical principles on which the Church lives are derived from Christ himself and not from the Society. Therefore, the Church does communicate supernatural life as much as it communicates disciplinary codes.¹⁸

Pope Pius XII balanced conception of the Church found its ultimate theological concretization at the emergence of the **Second Vatican Council** when *Lumen Gentium* was promulgated. The document teaches that Christ mystically communicates his Spirit and gathers his children into one body through baptism (*Lumen Gentium*, 7). It goes further to say that the dual elements of visible and invisible, natural and supernatural, earthly and the heavenly of which the Church is made should not be seen to be in opposition with each other (*Lumen Gentium*, 8). In the same vein, the social, visible organism of the Church serves the spirit of Christ who vivifies it, just as the assumed human nature serves the Incarnate Word as a living organ.¹⁹

In this way, we see that the Church can be presented neither in its physical, visible elements nor in its supernatural, invisible elements alone. Both must be seen as substantially united just in the same way as human nature and divine nature are substantially united in Christ. We shall now go on to an analysis of canon law and theology.

What is the Place of Law in the Church?

Theology and Law: Law obliges humans to act in a given way, to follow a course of conduct, or to avoid a certain action concerning others. This is the sense understood as *erga omnes*. Nevertheless, the law is conceived as a reasonable command of a sovereign.²⁰ Since theology is a systematic study of what God has revealed to man, and man's understanding of divine revelation over time, it is important to find out what place law has in divine revelation.²¹ Based on the *aggiornamento* of Vatican II and the consequent revision of the 1917 Code promulgated in 1983, it became obvious that the emerging theology (ecclesiology) of Vatican II (*Lumen*

Gentium for example)²² would need a new legislative structure.²³ The Decree of the Congregation for Catholic Education, calls for a theological exposition in teaching Canon Law by explaining the Code “in the light of the ecclesiology of the Second Vatican Council...”²⁴ The decree also proposed a theology of Canon Law as an update of Article 56 of the norms of the Apostolic Constitution, *Sapientia Christiana*.²⁵ It becomes abundantly clear that theology and canon law are very much related. It suffices to say here that scholars such as Klaus Morsdorf and Corecco believe that both disciplines are integrally connected; the only difference is in their methods which are: theological and juridical.²⁶ Other differences could be in terms of language. One is imperative (Canon Law) while the other is indicative (theology). Theology has faith and reason as its point of departure. Canon Law, though rooted in faith and reason, goes as far as invoking ecclesiastical authority (the Legislator), guided by the Holy Spirit, as the origin of command. Theology also embarks on a critical evaluation of canonical norms all for *salus animarum*. Essentially, theology gives Canon Law its foundation for reasonableness while Canon Law gives order and structure to the pastoral dimension of theology.

The Place of Law in the Church

Is law necessary in the Church? The early protestant thinkers (John Calvin, Martin Luther, Thomas Cranmer, and Menno Simons) belonged to what may be referred to as the *Reformation movement* against ecclesiastical laws. These reformers and their followers believe that faith alone (*sola fides*), and not some system of rules, is necessary for salvation. Canon law (ecclesiastical law), for them, is only an obstruction to the individual’s encounter with God. They taught their followers that the Church is essentially a community of believers guided by the Gospel and ordered by grace and not a social organisation structured and ordered by laws. This last function, they argued, should be left to the State.²⁷

In his natural law theory, for example, Calvin implies that man cannot make laws for himself outside that which is already made by God as human reason is deprived and the will is corrupted. He argued that man cannot know and act upon the truth. Therefore, the only reliable source of perfect law is God’s overruling justice and providence.²⁸ For him, the conscience is a sufficient and

objective means by which we follow God's commands and the law must be devoid of all human elements.²⁹ Calvin's view is in contrast with Aquinas who asserts that despite man's fall from grace, he has a natural inclination to do good and so participates in the Eternal law of God through reason.³⁰

The Lutheran reform, generally, sought to challenge the institutional and hierarchical dimensions of the Church and its visible structure of governance because it believed that the Church cannot be anything but a spiritual community of believers. In addition, it argued that faith is a gift from God by which alone man can attain salvation and human works and rules are useless and vain. It should be noted that though the protestant school argued against a system of law in the Church, they later adopted the Church's canon law system and other legal principles from Roman law.³¹

Nevertheless, there are ample reasons to justify the relevance of law in the Church. The Old and New Testaments accounts of the Bible make it clear that God ordered the assembly of Israel by law and ordinances. In the Old Testament God built a rapport with the Israelites based on the Torah and the Covenant (Ex. 19-23). The Prophets not only called on man to remember his juridical responsibility to the Covenant but also called for social justice and mutual respect for the human person.³² As the Church began to take form after the Pentecost, certain norms that prescribed and forbade a way of living with punishment for wrongdoing also began to emerge.³³ Klaus Morsdorf holds that the juridical nature of the Church rests on the very elements of Word and Sacrament and that natural law gives a normative bond not only to the community of human existence but also to the Church.³⁴ Let us take an answer from Pope Benedict XVI,

The *ius ecclesiae* is not only a body of norms formulated by the Ecclesial Legislator for these special persons who form the Church of Christ. It is, in the first place, the authoritative declaration on the part of the Ecclesial Legislator of the duties and rights that are based in the sacraments and are therefore born from the institution of Christ himself. This series of juridical realities treated by the Code forms a wonderful mosaic in which are portrayed the faces of all the faithful, laypeople and

Pastors, and all the communities, from the universal Church to the particular Churches.³⁵

Pope Benedict XVI, quoting A. Rosmini (*Filosofia del diritto, Part I, bk I, ch. 3*), concluded that “‘The human person is the essence of law’...the essence of canon law is the Christian person in the Church.”³⁶ Thus, the Pope reiterates the sacramentality of the Church and how the sacraments themselves have a juridical character, a normative effect. In other words, the Church, though a mystery, is made up of men and women who come together to form a community of believers through the sacraments, they necessarily need to be ordered by law even in the Church. A justification for the place of law in the Church is also crystal in the Apostolic Constitution, *Sacrae Disciplina Legis*, where Pope John Paul II stated that laws are needed in the Church so that:

her hierarchical and organic structure be visible; so that exercise of the functions divinely entrusted to her, especially that of sacred power and the administration of the sacraments, may be adequately organized; so that mutual relations of the faithful may be regulated according to justice based on charity.³⁷

As cited earlier, the Roman school of *Ius Publicum Ecclesiasticum* has also sought to defend the Church against the Protestants by saying that the Church is a *juridically perfect society* with its **autonomous laws and system of governance** which does not come from the State but divine natural law.³⁸ De Paolis, on his part, sees an inseparable connection between the missionary nature of the Church and the juridical nature of the Church both in their origin in Christ and their end which is the salvation of souls. The Catholic Church is the only Church with its sovereign and independent juridical system, according to him.³⁹

Conclusion

It suffices to say then that there is a metaphysical/ontological relationship between God and man; man relates with God in a mystical way (the Covenant) just as much as he relates with his fellow men guided by laws to preserve values of human dignity and respect. God directs his people to do his will through laws and commandments (Gen. 3:15; Gen. 12:1-4). Thus law has a

theological relevance. Law also serves the Church by way of an organized structure of governance, by way of a just exercise of sacred power, by organizing the exercise of the administration of the sacraments. Law also serves the Church by ensuring a harmonious living together of all her members in charity and respect for rights and obligations of all her members.

Endnote

¹Inciti Giacomo, *Popolo di Dio. La struttura giuridica fondamentale tra uguaglianza e diversità*, (Rome: Urbaniana University Press, 2009), 12.

²Girlanda Gianfranco, *Il diritto nella chiesa mistero della comunione: Compendio di diritto ecclesiale*, (Rome: Editrice Pontificia Università Gregoriana, 1990), 30.

³ Peter Paul Saldanha, *The Church Mystery of Love and Communion*, (Rome: Urbaniana University Press, 2014), 26-27.

⁴ Saldanha, *The Church Mystery of Love and Communion*, 26-27.

⁵ Erickson J. Milliard, *Christian Theology*, 10th edition (Michigan: Baker Publishing Group, 2007) 955.

⁶ Peter Paul Saldanha, *The Church Mystery of Love and Communion*, 20.

⁷ Collingwood George Robin, *The Idea of History*, (Oxford: Oxford University Press, 1956). A view of substantialist epistemology is found in the work of O'Malley John, "Reform, Historical Consciousness, and Vatican II's Aggiornamento", in *Theological Studies* 32, (1971): 590-591.

⁸*De Ecclesia Militante* cited by Fenton Joseph Clifford, "The Status of Robert Bellarmine's Teaching about the Membership of Occult Heretics in the Catholic Church", in *The American Ecclesiastical Review* 122, 3, (1950): 207.

⁹ We shall discuss more of this when evaluating the necessity of law in the Church.

¹⁰ Avery Dulles, *Models of the Church*, (New York: Image Books, 2002), 39.

¹¹ Avery Dulles, *Models of the Church*, 39.

¹² Peter Paul Saldanha, 128.

¹³ For an understanding of Paul's usage of the concept, see Joseph Ratzinger, *Called to Communion, Understanding the Church Today*, (San Francisco: Ignatius Press, 1996), 34-35.

¹⁴ Peter Paul Saldanha, 162.

¹⁵ Peter Paul Saldanha, 164-165.

¹⁶ Peter Paul Saldanha, 165.

¹⁷ Peter Paul Saldanha, 166.

¹⁸ Pius XII, Encyclical Letter *Mystici Corporis Christi* (29 June, 1943) in AAS 35 (1943): 194-253. Romano Guardini also develops this theme further in his intuition of the Church as a living spiritual being just around the time of Vatican II. See *La Chiesa del Signore* (Brescia: Morcelliana, 1967), 160.

¹⁹ Paul VI, Dogmatic Constitution *Lumen Gentium* (21 November, 1964) in AAS 57 (1965): 5-67.

²⁰ This is intuited from the definition of St. Thomas Aquinas, "an ordinance of reason for the common good, made by him who has care of the community, and promulgated." (Thomas Aquinas, *Summa Theologica* I-II, 2a, Q 90-93, Translated by

the Fathers of the Dominican Province, 1903). See also the 17th Century work of Thomas Hobbes, "The Leviathan". In fact Heraclitus said, "to obey the will of one man is also *nomos*": Kelley R. Donald, *The Human Measure: Social Thought in Western Legal Tradition*, (Harvard: Harvard University Press, 1990), 19.

²¹ Danich Severino, *Diritto e teologia: Ecclesiologia e canonistica per una riforma della chiesa* (Bologna: EDB, 2015), 55.

²² Malone K. George, "The Possible Effects of Ecclesiology on Canon Law" *The Catholic Lawyer* 17, 2, (1971): 138.

²³ Walter Kasper, "The Continuing Challenge of the Second Vatican Council: The Hermeneutics of the Conciliar Statements" *Theology and Church*, (New York: The Crossroad, 1989), 166-176.

²⁴ Congregation for Catholic Education, Decree for the Faculty of Canon Law, Rome, September 2, 2002. See also John Paul II, Apostolic Constitution *Sapientia Christiana; on Studies in Ecclesiastical Universities and Faculties* (April 15, 1979) in AAS 71 (1979): 469-499.

²⁵ Congregation for Catholic Education, Decree for the Faculty of Canon Law, 469-499.

²⁶ Wijlens Myriam, *Theology and Canon Law: The Theories of Klaus Morsdorf and Eugenio Corecco*, (Lanham: University Press of America, 1992).

²⁷ John Witte, "Law and the Protestant Reformation" Heikki Pihlajamak et al (Eds) *Oxford Handbook of European Legal History* (Oxford: Oxford University Press, 2018), 584-586.

²⁸ John Calvin, *Institutes of the Christian Religion* John McNeill (Ed) (Westminster Press, 1960) n.3, II.ii.2; n.3 I.XVII.2. See also Gunther Haas, *The Concept of Equity in Calvin's Ethics* (Wilfrid Laurier University Press, 1997), 70.

²⁹ Susan E. Schreiner, *The Theatre of His Glory: Nature and Natural Order in the Thought of John Calvin* (Labyrinth Press, 1991), 78.

³⁰ Thomas Aquinas, *Summa Theologica I-II*, 6a, Q 93; 2a, Q 91.

³¹ John Witte, "Law and the Protestant Reformation", 586.

³² Examples may be found in the call for social justice by Prophet Amos. Others are Isaiah 49:9 and Psalm 118. The entire Israelite relations with God were regulated by laws.

³³ St. Paul was a moral authority for the early Church and he organised the Corinthian community based on norms (I Cor. 11; Acts 15: 1-35).

³⁴ Klaus Morsdorf, *Fondamenti del diritto canonico* (Venice: Marcianum Press, 2008), 153.

³⁵ Benedict XVI, Address to Participants in the Study Congress Organised by the Pontifical Council for the Legislative Texts on the Occasion of the 25th anniversary of the Promulgation of the Code of Canon Law, *Canon Law in the Life of the Church. Investigations and Perspectives in Keeping with the Recent Papal Magisterium*, Rome, 25 January, 2008.

³⁶ Ibid

³⁷ John Paul II, Apostolic Constitution *Sacrae Disciplina Legis* (25 January, 1983) in AAS, 75, 2 (1983): 7-14.

³⁸ Inciti Giacomo, *Popolo di Dio*, 12-13.

³⁹ Velasio De Paolis, *Note di Teologia del Diritto*, (Venezia: Marcianum, 2013), 394-395.