

# The Structures of the *Sensus Fidelium* and Canon Law:

## Part II

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**Abstract:** *More than fifty years ago Pope John XXIII convoked the Second Vatican Council to which about 2,500 bishops were invited from all over the world. It was at this council, and in its reception over the years, that the *sensus fidelium* was re-discovered as an ecclesial reality and a theological insight that has characterized the Church since its inception. The central question of this study is how the *sensus fidelium* is expressed and received in the Church through the post-conciliar canonical norms and structures, since the post-conciliar legislation is believed to be the canonical reception of the ecclesial and theological insights rediscovered at Vatican II. In other words, the study investigates the *sensus fidelium*, highlighting particularly, how the post-conciliar canonical norms and structures aid its expression and reception in the Church. The study identifies canonical structures such as the parish pastoral council, finance council, presbyteral council and college of consultors, diocesan curia, diocesan synod, Synod of Bishops, Roman Curia and ecumenical dialogue, as structures of the *sensus fidelium*. It argues that, when these canonical structures are used to their fullest potential, they can be useful instruments for the expression and reception of the *sensus fidelium* in the Church.<sup>1</sup>*

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**Key Words:** *sensus fidelium*; canon law; pastoral council; finance council; presbyteral council; college of consultors; diocesan synod; diocesan curia; Synod of Bishops; Roman curia; ecumenical dialogue

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**I**n Part I of this article I reflected, in the light of the 1983 *Code of Canon Law* (hereafter CIC), on how the structures of the *sensus fidelium*—namely, the pastoral council, the finance council, presbyteral council and the college of consultors, the diocesan curia and the diocesan synod—aid the ongoing expression and reception of the *sensus fidelium*. The second part of the article is a continuation of that reflection. In this second part of the article, I reflect precisely on the Synod of Bishops, Roman Curia and Ecumenical dialogue as structures of the *sensus fidelium*.

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<sup>1</sup> By the phrase “expression and reception of the *sensus fidelium*” I mean the complex and varied ways through which the *sensus fidelium* is sought out, expressed, received and listened to in the Church. The term, “structure”, throughout this study, will be used both in the strict sense of its being the institutional and organizational ecclesiastical bodies within the Church, and, in a broad sense, of its being the functions, processes, procedures and ecclesial events that facilitate the ongoing expression and reception of the *sensus fidelium* in the Church. The phrase “ecclesial and theological insight” in this study means the ecclesial self-understanding or doctrinal insights and teachings that emerge in the Church’s life in different epochs, as it takes fresh look at itself, and goes through the process of faith, seeking understanding, interpretation and application. They are “ecclesial” because they capture something that is at the heart of the life of the Church. They are “theological” because they emerge or come to light through the Church’s reflection on itself.

## THE SYNOD OF BISHOPS

One major suggestion proposed by many bishops in the preparatory stages as well as in the conciliar debates was the establishment of a structure that would enable the episcopal college to exercise its authority over the universal Church. The bishops had different views when it came to the nature and the name that could be given to this particular structure. James Coriden summarizes it thus:

The proposals [of the bishops] were many and varied: a permanent synod to rule with the pope, a council of the presidents of episcopal conferences, permanent commissions of bishops for specific purposes, a consultative body of bishops to assist the pope in his governance of the church, a council in miniature, a central legislative organ for which the curia would serve as executive instrument, an apostolic council of residential bishops, a supreme sacred congregation as a court of appeal, or a supreme council representative of the entire college with decisive authority to govern the Church along with the pope.<sup>2</sup>

What was clear, though, is the fact that majority of the bishops wanted some kind of structure that would function as an instrument for the effective participation of the college of bishops in the universal governance of the Church. This proposal informed the articulation of the doctrine of collegiality by the conciliar Fathers in November 1964; especially in *Lumen Gentium* (hereafter LG) n.22 and n.23 which teaches that the order of bishops succeeds the college of the apostles in teaching authority and pastoral government, and that the college of bishops is the “subject of *full and supreme power* over the universal Church.”

Pope Paul VI took this teaching further when, on September 14, 1965, at the opening of the Council’s fourth session, he announced, to the surprise of everyone, that a synod of bishops would be established. This announcement was followed by his issuing of the motu proprio *Apostolica Sollicitudo* (hereafter AS) the following the day.<sup>3</sup> With the motu proprio AS, the synod of bishops was brought into being. The synod was to be constituted as “a central ecclesiastical organism,”<sup>4</sup> which would give the bishops more effective and creative share in the Roman Pontiff’s solicitude for the universal Church. It was stated in AS that the purpose of the synod is to give information and wise counsel to the Roman Pontiff, and it may have a deliberative power when this is given by the Roman Pontiff.<sup>5</sup> The teaching of Pope Paul VI in AS was incorporated in *Christus Dominus* (hereafter CD), *Ordines Synodi Celebrandae*, *Directory the Pastoral Ministry of Bishops* and in *Apostolorum Successores*, another *Directory for the Pastoral Ministry of Bishops*, published in 2004 by the Congregation for Bishops.

In the CIC, the synod of bishops is treated in the Part II of Book II, “The People of God”, in canons 342 through to 348. Canon 342 states:

<sup>2</sup> James Coriden, “The Synod of Bishops: Episcopal Collegiality Still Seeks Adequate Expression,” *The Jurist* 64 (2004): 116-136, at 117.

<sup>3</sup> *Acta Apostolicae Sedis* (henceforth, AAS) 57 (1965) 775-780; *Canon Law Digest* (henceforth, CLD) 6, 388-393.

<sup>4</sup> CLD 6, 389.

<sup>5</sup> CLD 6, 390.

The synod of Bishops is a group of bishops selected from different part of the world, who meet together at specified times to promote the close relationship between the Roman Pontiff and the bishops. These bishops, by their counsel, assist the Roman Pontiff in the defense and development of faith and morals and in the preservation and strengthening of ecclesiastical discipline. They also consider questions concerning the mission of the Church in the world.

When compared with AS and the drafts of the CIC, the definition of the synod of bishops in canon 342 seems to lack something that would have enriched the understanding of the meaning of the synod of bishops today. The words "*institutum quidem centrale*" which appeared in the 1977 draft was removed from the subsequent drafts of CIC by a committee of the Code Revision Commission as "inelegant and superfluous."<sup>6</sup> Another omission in canon 342 are "representational" phrases like "*utpote totius catholici episcopates partes agens*", which was used in AS and in the final revision of the CD 5. They were deliberately removed by the Code Revision Commission as juridically incorrect because the bishops cannot be said to represent any other church than their own. They argued that although the phrase "representing the whole Catholic episcopate" can be applied theologically to the synod of bishops, it is juridically incorrect. For them if the synod is to represent all the bishops, it means that it is no longer the synod of bishops; it is rather an ecumenical council.<sup>7</sup>

There had also been debates, during and after the council and the promulgation of the Code, regarding the issue of the synod and collegiality. While some canon lawyers and theologians argue that the synod is an instrument of true and authentic collegiality, which offers assistance to the Roman Pontiff and enables the bishops to participate the Roman Pontiff's solicitude for the Church, others maintain that it is a true and authentic instrument and expression of collegiality, which derives its power, not just from the Roman Pontiff, but from the bishops' episcopal ordination "strengthened by the consent or reception of the rest of the episcopate."<sup>8</sup>

Whatever the deficiencies and limitations regarding the structure and actual operation of the synod, it would seem difficult to deny that the synod is an instrument or at least a sign or expression of collegiality and an instrument for the reception of *sensus fidelium*, especially at the universal level. The synod, in a special way, provides "the opportunity for bishops from particular Churches around the world to gather and to express their opinion in a common act, by voting in a collegial manner on questions of primary importance for the Church in our time."<sup>9</sup> Although this is neither required nor encouraged, synods can also offer "opportunities for wider consultative processes of bishops' conferences and individual bishops with theologians, with priests, and with lay persons representing the entire people of God."<sup>10</sup> The communion among Churches is

<sup>6</sup> *Communicationes* 14 (1982) 92. See also Edward Peters, *Incrementa in Progressu 1983 Codicis Iuris Canonici* (Montréal: Wilson and Lefleur Ltée, 2005) 289.

<sup>7</sup> See James Coriden, "The Synod of Bishops" 122; see also Josef Tomko, "Il sinodo dei vescovi e Giovanni Paolo II," in *Studi sul sinodo dei Vescovi: Natura, Metodo, Prospettive*, ed. Josef Tomko (Vatican City: Libreria Editrice Vaticana, 1985): 179-181.

<sup>8</sup> For further elaboration on this, see James Coriden, "The Synod of Bishops" 126-128.

<sup>9</sup> Jan P. Schotte, "The Synod of Bishops: A Permanent yet Adaptable Church Institution," *Studia Canonica* 26/2 (1992): 289-306, at 295.

<sup>10</sup> Bradford Hinze, "The Reception of Vatican II In Participatory Structures of the Church: Facts and Friction," *Canon Law Society of America Proceedings* 70 (2008): 28-52, at 45.

maintained and manifested in a special way in the communion among their bishops who come together to engage in a mutual sharing of the *sensus fidelium* of their particular churches. John Paul II states: “The College of bishops join together with the bishop of Rome ... is an expression of the multifarious and universality of the people of God, and of the unity of the flock of Christ, insofar as it is assembled under one head.”<sup>11</sup>

When the bishops meet with the Roman Pontiff and with one another in the context of a synod, they bring their particular gifts to one another, thus allowing themselves to communicate, dialogue and work together to bring about unity in the Church.<sup>12</sup> This is also seen when the bishops and the Roman Pontiff gather in ecumenical councils to discuss, with the help of the Holy Spirit, matters which are of great importance to the Church and all its members. It is in such structural contexts that the *sensus fidelium* is expressed and received in the Church at the universal level.

The *sensus fidelium* is also expressed and received, not only at the Synod of Bishops but also at episcopal conferences (c.447). In the operation of the episcopal conference there is an evidence of collegiality, collaboration, dialogue and cross-pollination of ideas among bishops of different dioceses within a particular ecclesiastical region.<sup>13</sup> They share together the faith experiences of the members of the faithful from their respective dioceses, and seek for ways through which the Church can continue to make them grow in faith. At this level too there is also the mutual sharing of the *sensus fidelium* of the dioceses within a particular ecclesiastical region, hence making it possible for them to put it into one harmonious voice that could one day be declared a *consensus fidelium* by the Magisterium.

When this happens, communion and fellowship are deepened in the whole Church body. This helps every member of the Church to see, with the prompting of the Holy Spirit, the mystery of the Church in manifold patterns within this communion: for the Spirit “will lead the Church to the complete truth” (Jn. 16:13), unifying her in communion and in the work of ministry, and constantly renewing her and leads her to perfect union with Christ, her spouse.<sup>14</sup> This communion is the glue that binds the Church together.

## THE ROMAN CURIA

The Roman Curia is among the important “sensors” or “receptors” of the *sensus fidelium* in the Church at the universal level. It is made up of complex dicasteries serving the Supreme

<sup>11</sup> John Paul II, “Apostolic Constitution *Pastor Bonus*” (AAS, 80[1988], 841-934; CLD, 12, 158-215), n.2.

<sup>12</sup> Schotte, “The Synod of Bishops,” 295.

<sup>13</sup> Theologically the word “collegiality” is attributed in the strict sense to the activity of the whole episcopal college, but not to episcopal conferences, which are considered as an exercise of partial or analogous collegiality. “Collegial” action in the strict sense implies the activity of the whole college, together with its head (the Roman Pontiff), over the entire Church. From this understanding of collegiality, one must distinguish the diverse partial realizations which are authentically sign and instrument of collegial Spirit: the Synod of Bishops, the episcopal conferences, the Roman Curia, the *ad limina* visits. However, the word “collegiality” is used here in an extended sense of its diverse partial realizations: *affectus collegialis*, not in its strict sense. On *affectus* and *effectus collegialis* and the teaching authority of the episcopal conference, see John Paul II, Apostolic Letter, *Apostolos suos*, May 21, 1998, AAS 90 (1998): 641-658; the English translation can be seen in *Origins* 28:9 (July 30, 1998): 152-158.

<sup>14</sup> John Paul II, “Apostolic Constitution *Pastor Bonus*” n.1.

Pontiff.<sup>15</sup> Such dicasteries include the Secretary of State, congregations, tribunals, councils, commissions and offices.<sup>16</sup> The Curia facilitates the Supreme Pontiff's services of the universal Church and the particular Churches. In exercising his supreme, full and immediate authority over the universal Church, the Supreme Pontiff employs the various departments of the Roman Curia, which act in his name and by his authority for the good of the Churches and in service of the sacred pastors.<sup>17</sup> The Curia also helps to reinforce the unity of faith and communion of the people of God and promote the Church's proper mission in the world. John Paul II states:

For the Roman Curia came into existence for the purpose, that the fruitful communion we mentioned might be strengthened and make ever more bountiful progress, rendering more effective the function of pastor of the Church which Christ gave to Peter and his successors, a function that has been growing and expanding from day to day.<sup>18</sup>

The Curia, according to John Paul II, is for maintaining communion in the Church. It is an instrument for creative listening and dialogue through which the *sensus fidelium* is expressed in the Church.

The composition of the Curia is such that reflects more clearly the multiform image of the universal Church because it calls into service diocesan priests from all over the world, who by their share in the ministerial priesthood, are closely united with the bishops, male religious, most of whom are priests, and female religious, all of whom in their various ways lead their lives according to the evangelical counsel, furthering the good of the Church, and bearing special witness to Christ before the world, and lay men and women who by virtue of baptism and confirmation are fulfilling their own apostolic role. By this coalition of many forces, all ranks within the Church come to join in the ministry of the Supreme Pontiff and do ever more effectively help him to continue the pastoral work of the Roman Curia. This kind of service by all ranks in the Church clearly has no equal in civil society and their labour is given with the intent of truly serving and of following and imitating the *diaconia* of Christ himself.<sup>19</sup>

Furthermore, the Curia co-opts bishops, priests and religious men and women onto the dicasteries as members who are "better able to inform the Supreme Pontiff on the thinking, the hopes and the needs of all the churches."<sup>20</sup> They help the Supreme Pontiff in a special way to discern the signs of the times and to pay more attention to the *sensus fidelium* of the entire Church. The collegial spirit between the bishops and their head works through the Roman Curia, and finds *concrete* application, and this is extended to the whole Mystical Body which "is a corporate body of Churches."<sup>21</sup> The Curia helps the

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<sup>15</sup> It was Pope Sixtus V who gave the Roman Curia its formal organization through the Apostolic Constitution *Immensa aeterni Dei*, on 22 January 1588. He set up fifteen dicasteries, so that the single College of Cardinals would be replaced by several colleges consisting of certain cardinals whose authority would be confined to a clearly-defined field and to a definite subject matter. In this way, the Supreme Pontiff could enjoy maximum benefit from these collegial councils.

<sup>16</sup> For further insight on this, see John Paul II, "Apostolic Constitution *Pastor Bonus*," n.1.

<sup>17</sup> *Ibid.* n.7.

<sup>18</sup> *Ibid.* n.3.

<sup>19</sup> *Ibid.* n.9.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

Supreme Pontiff and other agents of the *sensus fidelium* to pay attention to, and listen ever more deeply to, the pastoral impulse by which the Church and all the faithful are moved.

## ECUMENICAL DIALOGUE

Ecumenism is one of the ecclesial and theological insights recovered and emphasized at the Second Vatican Council. The Council Fathers emphasized its importance and relevance in the Church.<sup>22</sup> This is highlighted in the opening line of the Decree on Ecumenism, *Unitatis Redintegratio* (henceforth, UR): “The restoration of unity among all Christians is one of the principal concerns of the Second Vatican Council.”<sup>23</sup> The Council Fathers encouraged all the Catholic faithful “to participate actively in the work of ecumenism” (UR, 4).<sup>24</sup> The Council’s interest is reflected even in the composition of its members. Observers from other ecclesial communities were invited to the Council and they were involved in discussions, giving their views as representatives of their ecclesial communities. There was a profound “ecumenical exchange of gifts” and a reciprocal enrichment on the side both of the Catholic Church and of other ecclesial communities.<sup>25</sup> Brendan Leahy, commenting on this, argues that “on the basis of the Council it is clear that the Church in its teaching, acting and juridical activities is expected to be guided by the will to do all it can to promote the unity of Christians.”<sup>26</sup> The varied *sensus fidei* of individual bishops and their *periti* were enriched through the ecumenical hospitality they showed Christians from other ecclesial communities and the insights these Christians brought with them. This ecumenical exchange of gifts led to the enrichment of the *sensus fidelium* operative at the Council, which was later articulated into the *consensus fidelium* for the universal Church.

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<sup>22</sup> John XXIII showed real interest in ecumenism and he undoubtedly influenced the Council’s decisions on ecumenism. Leo XIII and Pius XII showed some interest too in ecumenism before John XXIII. Leo XIII formed the Pontifical Commission for the Reconciliation of Dissidents with the Church in 1895 and, following Leo XIII, Pius XII issued some rules stipulating how Catholics are to be involved in the reconciliation enterprise. Although they did all of that, it was John XXIII who showed huge interest in ecumenism. He instituted the Secretariat for Promoting Christian Unity in 1960 and highlighted, when he announced the Council, extending “a cordial invitation to the faithful of the separated churches to participate with us in this feast of grace and brotherhood.” His successor, Paul VI, also displayed a deep interest for ecumenism and Christian unity. Examples are: he went to see the Patriarch of Constantinople Athénagoras I in Jerusalem in 1964 where they read and prayed together from one Bible and exchanged reciprocal act of justice and forgiveness. In 1964, he gave approval for a dialogue with the Lutheran World Federation. In 1966, he met with the archbishop of Canterbury Michael Ramsey in Saint Paul’s Basilica outside the Walls in Rome. Ever since then, especially since after Vatican II, the Catholic Church has been committed to promoting and engaging in bilateral and multilateral dialogues with other Christian Churches.

<sup>23</sup> This even affected Conciliar Fathers in their choice of words and articulation of the conciliar documents. For instance, in LG n.8, they changed the old understanding that “the Church of Christ is (*est*) the Catholic Church” to “the Church of Christ subsists (*subsistit*). They changed the use of the word “member”—used to refer to those who are Catholics—in previous drafts to the phrase “those who belong to the Catholic Church” (see LG nn.14, 15). This was also the case in the CIC (cc. 205; 11). As opposed to terms such as “Protestants”, a phrase such as “ecclesial communities” was used to refer to other Christian Churches. It was also pointed out that the Spirit is also at work in these Churches. UR nn.1, 3; *Ut Unum Sint* (hereafter UUS) n.10. See also Walter Kasper, “Canon law and ecumenism,” *The Jurist*, (Spring 2009): 171-89.

<sup>24</sup> The Pontifical Council for Promoting Christian Unity, under Walter Kasper, launched a project to review the fruits of forty years of intense ecumenical dialogue between Catholic Church and Anglican, Orthodox, Lutheran, Reformed and Methodist Churches since the Second Vatican Council. See Walter Kasper, *Harvesting the Fruits: Basic Aspects of Christian Faith in Ecumenical Dialogue* (London: Continuum, 2009).

<sup>25</sup> LG n.13; UUS nn.28, 57; UR n.4.

<sup>26</sup> Brendan Leahy, “The Role of Canon Law in the Ecumenical Venture: a Roman Catholic Perspective,” *Ecclesiastical Law Journal* 13/1 (2011): 15-25, at 16.

John Paul II named ecumenism and the Church's commitment to Christian unity as one of the elements which express the true and authentic image of the Church:

Foremost among the elements which express the true and authentic image of the Church are: the teaching whereby the Church is presented as the people of God (cf. LG n.2) and its hierarchical authority as service (LG n.3), the further teaching which portrays the Church as a communion and then spells out the mutual relationship which must intervene between the particular and the universal Church, and between collegiality and primacy; likewise, the teaching by which all members of the people of God share, each in their own measure, in the threefold priestly, prophetic, and kingly office of Christ, with which teaching is associated also that which looks to the duties and rights of Christ's faithful and specifically the laity; and the assiduity which the Church must devote to ecumenism.<sup>27</sup>

John Paul II, in *Ut Unum Sint*, continues:

The Catholic Church bases its commitment to gather all Christian into unity on God's plan. It is not a reality closed in on itself. It is sent to make present the mystery of communion and to gather all people and all things into Christ in order to be a sacrament of unity.<sup>28</sup>

John Paul II highlights the fact that commitment to ecumenism is essential to the ecclesial life of the Church. He encourages a profound reading of the conciliar documents from a pastoral and ecumenical lens.<sup>29</sup> For John Paul II, ecumenical commitment is a true and proper ecclesiology that should be pursued. Both the Conciliar Fathers and John Paul II spoke in an "ecumenically-friendly language."<sup>30</sup> At the 2008 Synod of bishops on "The Word of God in the Life and Mission of the Church", members of the faithful from other ecclesial communities were present as observers. The Ecumenical Patriarch of Constantinople gave an address while Grand Rabbi of Haifa spoke about how the Jewish people read, understand and interpret the Holy Scripture.

Although strictly speaking, the theology of the *sensus fidelium*, especially in the light of LG n.12, seems to be limited to the universal faithful within the Catholic Church, but a creative reading of the whole of LG in communion with other conciliar documents, especially UR, reveals that the Spirit of God also breathes in baptized non-Catholics. If this fact is denied, then the whole ecumenical enterprise becomes a futile adventure. If the Spirit of God also breathes in Christians who are non-Catholics it means then that the pneumatic gift of the *sensus fidelium* is not strictly limited to the confines of the Catholic Church. A little explanation on this is not out of place.

In his systematic consideration of the *sensus fidelium*, there is what Ormond Rush called "the sources of the *sensus fidelium*." For him the sources of the *sensus fidelium* are the various *loci receptionis* (places of reception) or places of expression of the *sensus fidelium* in the Church.<sup>31</sup> They are the different *loci* or places in the Church for listening to, determining and receiving the *sensus fidelium*. What Rush called "sources of the *sensus*

<sup>27</sup> John Paul II, "Apostolic Constitution *Sacrae Disciplinae Leges*."

<sup>28</sup> UUS n.5.

<sup>29</sup> Ibid. n.8.

<sup>30</sup> Myriam Wijlens, "That all my be one . . .' (John 17:21). The Lord's Prayer in the Work of Canon Lawyers: A Mere Option?", *Jurist* 65 (2005): 181-204.

<sup>31</sup> Ormond Rush, *The Eyes of Faith: The Sense of the Faithful and the Church's Reception of Revelation* (Washington D.C: The Catholic University of America, 2009) 244-52.

*fidelium*” is what, in this article, I call “subjects of the *sensus fidelium*”, because, in my understanding, the Holy Spirit is the source of the *sensus fidelium*.<sup>32</sup> And the subjects of the *sensus fidelium* can be categorized into primary, secondary and ancillary subjects.

The primary subjects of the *sensus fidelium*, within the context of the Catholic Church, are baptized, committed believers or Catholics who “are attempting to live the Christ life in the power of the Spirit, and to participate regularly in the sacramental life and mission of the Church.”<sup>33</sup> The primary subjects of the *sensus fidelium* are the multitude of individual Catholics who constantly seek to configure themselves to the image of Christ through such means as regular personal prayer, scripture reflection, celebration of the sacraments and charitable works. They are “baptized”, and not only “baptized”, they are “committed”, “practising,” “mature,” “obedient,” and “core” faithful who are actively involved in the mission of Christ. The primary subjects of the *sensus fidelium* include both the ordained and the lay in the Church, namely, the lay faithful, religious men and women, deacons, priests, bishops and the Roman Pontiff. This category of people who make up the subjects of the *sensus fidelium*, taken individually, are those I called “agents” of the *sensus fidelium* in Part I of this article.

In an article written in 2001 at the beginning of his inquiry into the *sensus fidelium*, Rush, following the ideas of Wolfgang Beinert and Bernard Sesboüè, believed that, in some sense, the “rule” or criterion for the determination of the authentic expression of the *sensus fidelium* should be restricted, first of all, to baptized committed Catholics or believers, since an active discipleship is a surer sign of an authentic sense of the faith.<sup>34</sup> In this article, Rush limited his enquiry on the *sensus fidelium* to committed and sacramental Catholics, claiming that they are the “ideal type” in the category of people in the Church that make sense of their faith.<sup>35</sup> This interpretation was seriously questioned by Burkhard in a couple of articles he wrote in 2005 and 2006 on the history of the *sensus fidelium*.<sup>36</sup> Burkhard claimed that the teaching of Vatican II on the *sensus fidelium* refers to all the faithful—from the bishop to the last of the faithful (LG n.12)—and makes no such distinction among the faithful. In a further exploration of this issue in his book, *The Eyes of Faith: The Sense of the Faithful and the Church’s Reception of Revelation*, Rush seems to have ignored Burkhard’s criticism. He asserts:

Any theology of the *sensus fidei* and the *sensus fidelium* must certainly give priority to a perception of the faith by one seeking constant conversion to the Gospel, who regularly avails himself or herself of the sacraments, who is constantly being nourished by the reading of Scripture and personal prayer, and who is attempting to apply the Gospel in his or her life by promoting the reign of God in the world. Such living faith commitment

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<sup>32</sup> The Conciliar Fathers teach that the *sensus fidelium* is “aroused and sustained by the Spirit of truth” (LG n.12). This “Spirit of Truth” helps the faithful to adhere to the faith, to “penetrate it more deeply with right judgment, and apply it more fully in daily life” (LG n.12). This implies that the Holy Spirit, within the inner life of the triune God, is the source of the *sensus fidelium*. The *sensus fidelium* is an *effect* or the *product* of the presence and influence of the Holy Spirit in the Church, as it moves towards a fuller understanding of itself and its faith. However, my reflections on the subjects of the *sensus fidelium* have their origin on Rush’s insights on the sources of the *sensus fidelium*. See Rush, *The Eyes of Faith* 244-52.

<sup>33</sup> Ibid. 245.

<sup>34</sup> See, Ormond Rush, “*Sensus Fidei*: Faith ‘Making Sense’ of Revelation,” *Theological Studies* 62 (2001): 231-61.

<sup>35</sup> See Rush, *The Eyes of Faith* 248.

<sup>36</sup> Burkhard, “*Sensus Fidei*: Recent Theological Reflection (1990-2001) Part I,” *Heythrop Journal* 46 (2005): 450-75, at 463-64. See also Burkhard, “*Sensus Fidei*: Recent Theological Reflection (1990-2001) Part II,” *Heythrop Journal* 47 (2006): 38-54, at 46-48.

gives insider knowledge through intimacy with Christ made possible through openness to the grace of the Holy Spirit. This insider knowledge gives rise to a consequent sense of the faith.<sup>37</sup>

On the contrary, Rush also maintains that giving priority to the primary subjects of the *sensus fidelium* is not to exclude those whom he called “critical, prophetic voices in the Church” in the ongoing determination and reception of the *sensus fidelium* in the Church. These “critical and prophetic voices” can also come from people who are baptized but not deeply committed in the Church. Rush argues that there are, indeed, quite a few other reasons why the determination and reception of the *sensus fidelium* should not be restricted exclusively to the so-called “practising Catholics” or “baptized committed Catholics.” A good example, according to him, is the question: how does one determine faithful adherence to Christ, since sinfulness and infidelity are among the realities that sometimes punctuate the Christian life? The primary subjects of the *sensus fidelium*, no doubt, also grapple with the reality of sin. Even though they participate faithfully in the sacraments, they may not be “open to all aspects of the message of Christ, and, therefore, are in need of ongoing conversion.”<sup>38</sup> How do they, in the midst of their sinfulness, still make sense of their faith? On this we learn anew from Rush:

Certainly sinfulness in the life of all believers can cloud interpretation of the faith in such committed believers, but just as importantly, experience of forgiveness and salvation within a life marked by sinfulness is fundamental to experience of the God of Jesus Christ; it is out of an experience of grace, forgiveness, and salvation that one senses the heart of faith. The Christian Gospel is fundamentally about the possibility of such salvation; that is the Good News.<sup>39</sup>

For Rush, baptized committed believers make sense of their faith within the reality and continuum of humanity, sin and grace. But this does not mean that inquiry into the ecclesial reality of the *sensus fidelium* should be limited and restricted to them alone. According to Rush, attention should also be paid to those seen as “inactive”, “lapsed”, “marginalized” and “disaffected” Catholics, because they can sometimes raise questions that may be a genuine call to greater fidelity to the Christ life.<sup>40</sup> On this category of people, we now focus our attention.

The secondary subjects of the *sensus fidelium* are baptized Catholics who, for one reason or another and in a variety of ways, are not fully committed and dedicated to their baptismal vocation “through ongoing participation in the sacramental life and mission of the Church, a vibrant prayer life, the reading of Scripture—all dimensions necessary for availing oneself fully of the power of the Spirit for living new life in Christ.”<sup>41</sup> They could be seen as the category of people in the Church who do not participate fully, consciously and actively in the mission of the Church and Christ. They are people who have been variously and somewhat vaguely described as “inactive”, “lapsed”, “disaffected” or

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<sup>37</sup> Rush, *The Eyes of Faith* 247.

<sup>38</sup> *Ibid.* 248.

<sup>39</sup> *Ibid.* 246.

<sup>40</sup> Rush’s call here is similar to the one made by Rosemary Haughton in 1979, who proposed that the fuzzy boundaries in describing who is *in* and who is *out* in Catholic membership should be retained. She buttressed her point by highlighting the evangelical witness of people on the margins of the Catholic Church. See Rosemary Haughton, *The Catholic Thing* (Springfield, Ill.: Templegate, 1979). See also Rush, *The Eyes of Faith*, 248.

<sup>41</sup> *Ibid.* 247.

“marginalized”, and who, for one reason or another, seem to have shut themselves off from the influence of the Spirit. People who belong to this category can be anybody in the Church—priests, bishops, religious men and women, and lay faithful.

According to Rush, this lack of openness to the Spirit surely weakens the effectiveness of the Spirit’s “eyes of faith” that helps all believers in their ongoing task of making sense of their faith.<sup>42</sup> Rush, however, maintains that this does not render this *locus receptionis* for the *sensus fidelium* unimportant since the Spirit can speak to the Church through them. He also maintains that a receptive listening to this *locus receptionis* for the *sensus fidelium* could also avail the Church of an unspeakable opportunity to proclaim the gospel effectively to this group.<sup>43</sup> Commenting further on this *locus receptionis* for the *sensus fidelium*, Rush maintains:

Such a diffuse and wide-ranging group of baptized Catholics must, in some way, be included among those whose sense of the faith is to be determined and discerned by the Church. They may well provide perspectives on the challenges of living the faith in contemporary society which may aid the church in responding to new questions never before posed to the tradition. Furthermore, their sense of the faith may indeed aid the church in finding new language to express new answers to old questions in a culture where old answers, while still true answers, no longer meaningfully animate the faith life of Christians in the way they have been expressed in the past.<sup>44</sup>

The Church, if it is to remain a sign and instrument of unity, peace, love, and justice in the world, should pay attention to secondary subjects of the *sensus fidelium* so that they too may be strengthened and be truly converted to Christ who is the way, the truth and the life.

The ancillary subjects of the *sensus fidelium* are those Christians who are baptized but who are members of ecclesial bodies that are *not* in *full* communion with the Catholic Church. They “have been justified by faith in baptism [and] are incorporated into Christ; they, therefore, have a right to be called Christians, and with good reason are accepted as brothers by the children of the Catholic Church.”<sup>45</sup> Regarding this, the Conciliar Fathers state:

Moreover, some, even very many, of the most significant elements and endowments which together go to build up and give life to the Church itself, can exist outside the visible boundaries of the Catholic Church: the written Word of God; the life of grace; faith, hope and charity, with the other interior gifts of the Holy Spirit, as well as visible elements. All of these, which come from Christ and lead back to him, belong by right to the one Church of Christ.<sup>46</sup>

As I highlighted before, although strictly speaking, the theology of the *sensus fidelium*, especially in the light of LG n.12, referred to the universal faithful within the Catholic Church, but a creative juxtaposition of UR n.3, quoted above, with LG n.12, quoted earlier, reveals that it could be interpreted that that same sense of the faith given to Catholics in

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid. 248-49.

<sup>45</sup> UR n.3.

<sup>46</sup> Ibid.

baptism is also given to Christians from other denominations at their baptism.<sup>47</sup> The *sensus fidelium* is one of those theological insights that were discovered by the Council Fathers, and were left to be interpreted and fleshed out by post-conciliar theologians and canon lawyers. The Church, through its post-conciliar ecclesial self-understanding and involvement in ecumenism, is gradually realizing, or at least wanting to recognize, perhaps in a tangible way, the richness in the sense of faith of believers from other faith communities. Rush adds:

Through participation in these ecumenical dialogues, the Catholic Church is implicitly recognizing, or is at least willing to explore the recognition of, the legitimacy of the different ecclesial ways of being Christian and senses of the faith which have developed since the division between the Eastern and Western wings of Christianity, and since the Reformation division in the West. If this is the case, then significant theological weight is to be given to these parallel spiritual and theological receptions of the Gospel.<sup>48</sup>

In the light of the post-conciliar ecclesial self-understanding, which encourages what has been recently called “Receptive Ecumenism,”<sup>49</sup> the *sensus fidelium* should now be expressed and received from the ecclesial experience of other Christian communities that have been outside the Catholic Church.<sup>50</sup> The ecclesial and theological insights of other Christian communities, discovered through dialogue, is to be recognized by Catholics as receptions of revelation which are genuine senses of the faith.<sup>51</sup> Christians from these denominations certainly constitute an ancillary source of the *sensus fidelium*.

It means then that ecumenism and involvement in ecumenical dialogue are necessary in the ongoing expression and reception of the *sensus fidelium* in the Church. The lived faith experience of the faithful of a particular ecclesial community, parish, diocese and province is enriched, challenged and enlightened whenever they come together to share their senses of faith and different ways of being Church.

In the post-conciliar legislation, especially the CIC, the ecumenical enterprise is commended into the hands of the bishops,—and vicariously to priests and the faithful—episcopal conferences, and the supreme authority of the Church. On the role of the bishop in promoting ecumenism in his diocese, the CIC legislates: “He [the bishop] is to act with humanity and charity to those who are not in full communion with the Catholic Church; he

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<sup>47</sup> Rush argued extensively on this, asserting that the documents of the Vatican II should not be read and interpreted in isolation from one another. For him, they should be read both intra-textually and inter-textually in the light of the three interpretative moments of world behind the text, world within the text and world before the text. See Rush, *Still Interpreting Vatican II: Some Hermeneutical Principles*, (New York: Paulist Press, 2004). See also Rush, *The Eyes of Faith* 249-51.

<sup>48</sup> *Ibid.* 250.

<sup>49</sup> On Receptive Ecumenism see *Receptive Ecumenism and the Call to Catholic Learning: Exploring a Way for Contemporary Ecumenism*, Paul Murray and Luca Badini Confalonieri (eds) (Oxford: Oxford University Press, 2008). On Receptive Ecumenism and the Canonical Structures that support or could support it to grow, see Myriam Wijlens, “Receptive Ecumenism and Canonical Structures: A Mutual Challenge and Support,” *Proceedings of the Canon Law Society of Australia and New Zealand* 45 (2011): 45-58.

<sup>50</sup> I agree with Rush, Hartin, Heft and others, who proposed this view earlier. For more inquiry into this view, see Patrick J. Hartin, “*Sensus Fidelium*: A Roman Catholic Reflection on Its Significance for Ecumenical Thought,” *Journal of Ecumenical Studies* 28 (1991): 82-84; James Heft, “*Sensus fidelium* and the Marian dogmas,” *One in Christ* 28/2 (1992): 106-125; Rush, *The Eyes of Faith* 249-51, esp.50-51.

<sup>51</sup> It is remarkable that the origin of the theological concept of triple *munera* of Christ, which was elaborately used by the Vatican II Fathers, originally came from John Calvin. For more insight on this, see Ormond Rush, “The Offices of Christ, *Lumen Gentium* and the People’s Sense of the Faith,” *Pacifica* 16 (2003): 137-52.

should also foster ecumenism as it is understood by the Church.”<sup>52</sup> The CIC, in this canon, encourages and urges bishops to support customs and activities that promote ecumenism as it is understood by the Church. Wijlens suggests that, for a diocesan bishop to be able to do this, he would have to take seriously the canonical norm of visitation raised in canon 396. She argues that since the “parish is seen primarily as a community of the faithful and thus as a juridic person composed of persons and not as in the pre-Vatican II church as a juridic person of goods and properties, the bishop is to listen and hear what the people believe, what they struggle with and what their needs are.”<sup>53</sup> The bishop should pay attention to their lived faith experience, inquire about existing customs, and reflect on the belief that governs them. “He should ask how they live the commitment as a community to restoring the relationship with the other churches in their immediate vicinity and what challenges they meet.”<sup>54</sup>

Knowing that a lot depends on the disposition and involvement of the faithful for the flourishing of the ecumenical enterprise in the Church, the bishop should foster ecumenical interactions at both parish and diocesan levels. Through the ecumenical interactions the people’s lived faith experience is stimulated, enriched and enlightened. This, implicitly, leads to a richer expression and reception of the *sensus fidelium* at the parish and at the diocesan levels. As pointed out before, the bishop, at the diocesan level, can use the canonical provision of the diocesan synod to listen to the lived faith experience of the members of other ecclesial communities (c. 463). The diocesan synod also offers the Catholic faithful and members of other ecclesial communities the opportunity to get involved in the cross-pollination of faith ideas and insights, resulting in a profound enriching of the *sensus fidelium* of that diocese. Regarding this, Wijlens urges:

The bishop can call a diocesan synod and listen there as well. Yes, canonically the diocesan synod is very much seen as an institution whose outcome is new diocesan legislation, but there is no need to restrict it to this. In the synod he could invite representatives of other churches and ecclesial communities to testify to their struggle with some of the questions that the Catholics are struggling with ... The bishop could follow the same path in the diocesan pastoral council and the presbyteral council. Having heard all of this, in his role as a witness of the faith of his church he could write his *ad limina* report and thus bring the faith and the concerns to his local church to the community of the churches at large.<sup>55</sup>

Canon 755 urges both the bishops—on a collective and collegial basis—and the Apostolic See to foster and direct the ecumenical movement among Catholics. This urging was encouraged in *Directorium Oecumenicum Noviter Compositum*, published in 1993 by the Pontifical Council for Promoting Christian Unity.<sup>56</sup> The *Directory* encourages both the hierarchy and all the faithful to support and maintain the life and vitality that are brought about in the Church through ecumenism. The *Directory* encourages and regulates

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<sup>52</sup> Canon 383, § 3 of the 1983 *Code of Canon Law*.

<sup>53</sup> Wijlens, “Receptive Ecumenism and Canonical Structures: A Mutual Challenge and Support,” *Proceedings of the Canon Law Society of Australia and New Zealand* 45 (2011): 54.

<sup>54</sup> *Ibid.*

<sup>54</sup> *Ibid.* 54.

<sup>55</sup> *Ibid.*

<sup>56</sup> Pontifical Council for Promoting Christian Unity, “*Directorium Oecumenicum Noviter Compositum*,” AAS 85 (1993): 1039-1119.

ecumenical activities at the diocesan, regional, provincial and universal levels of the Church.

Ecumenical dialogue at different levels is still needed for the ongoing expression and reception of the *sensus fidelium*. Certainly, more work needs to be done on ecumenism and its promotion, especially in the area of process, content, conditions of participation and, more importantly, the hard issue of truth. As Dennis Doyle noted, “dialogue does not create truth *ex nihilo*. But in a situation in which various parties are stressing dimensions of the truth that others are not, fuller and more satisfying portions of truth can be enjoyed by all who are willing to partake in the discussion.”<sup>57</sup> More work needs to be done also in the whole area of canon law and ecumenism, precisely in the way that canon law can help in the ongoing ecumenical dialogue between the Catholic and other ecclesial communities. Regardless of this, it can arguably be said that the post-conciliar legislation encourages a creative use of ecumenism—based on the Church’s understanding of it—in order to attain unity, love and peace that were envisioned by Christ.<sup>58</sup> Ecumenism is definitely a vehicle for learning in the Church and an instrument and structure that, when used to its fullest potential, aids the ongoing expression and reception of the *sensus fidelium*.

## CONCLUSION

What I have offered in this investigation is an attempt to discover what the Church would need to do to transfer its ecclesial and theological insights—in this case, the *sensus fidelium*—into real life. I sought to discover what it would take for the Church to appropriate fully into its life the ecclesial and theological insights of the Vatican II, particularly, the *sensus fidelium*. It is intended that this investigation will be a helpful contribution to the theological and canonical enterprises that reflect on, investigate, and aid the ongoing reception of both Vatican II and the post-conciliar legislation, especially aspects of them that promote communion, consultation, participation, dialogue, synodality and communal discernment in the Church.

It is my hope that this investigation will contribute to the ongoing search to develop a systematic theology of the *sensus fidelium* that brings to the fore the ecclesial and theological relevance of this concept, as well as its practical expressions, manifestations and reception in the canonical life of the Church. Further, it will provide useful insights on the relationship between the hierarchy and the faithful vis-à-vis the *sensus fidelium*, an issue many canon lawyers and theologians have grappled with (and are still grappling with) over the years. There is a call for a development of new habits of thought and action, new patterns of behaviour, and a constant rethinking not only of our structures of discernment and decision making, but, more fundamentally, of our perception of our relationships in the Church—namely, between the Supreme Pontiff and the bishops,

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<sup>57</sup> Dennis M. Doyle, *Communion Ecclesiology: Vision and Versions* (New York: Orbis Books, 2000) 4.

<sup>58</sup> Mark Hill, in articulating the history of the ecumenical dialogues that have been going on between Catholics and the Anglican Communion, lamented that “the 1983 Code of Canon Law and the subsequent 1993 Ecumenical Directory addressed some of the issues not covered by previous interventions, but the norms they contained still tended to set limits to what might be done.” He argued that in “none of these documents is there any mention of the possibility of using Canon Law as an instrument to further the dialogue between the Roman Catholic Church and others.” His argument is credible but he has to realize that the ecumenical enterprise is a slow adventure. See Mark Hill, “A Decade of Ecumenical Dialogue on Canon Law,” *Ecclesiastical Law Journal* 11/3 (2009): 284-328, at 285.

among bishops, between bishops and priests, and among the Supreme Pontiff, bishops, priests, deacons, religious men and women and the lay faithful.

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