

Receiving the Council

Theological and Canonical
Insights and Debates

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Discourse about the Laity

A Sacred Power

Today, one of the most debated issues in the church concerns the laity. Questions are raised far and wide: Who are the laity? What is their role? Or: In the best state of the church, what would be the rights and duties of the laity?

In searching for the correct response, I initially followed the traditional path set by practical theologians and reflective canon lawyers:¹ I took the sharp distinction between the laity and the hierarchy for granted and was ready to sketch a “theology of the laity.” But gradually I became aware that I was trying to respond to a faulty question that can lead only to a deficient conclusion. The laity—set apart—cannot be the subject of a self-contained and adequate theological or canonical treatise because the laity does not exist in that manner. It is no more an autonomous part of the social body of the church than the heart is an autonomous organ in a living human body.

The laity in its entirety and the hierarchy together constitute the people of God. Together they are the one social body of the church that is internally structured in a unique manner. No self-standing “theology” of one part can be construed; no norms for the operation of the one can be set without taking into account the task of the other. The laity comes to life and best operates when it is harmoniously blended with the hierarchy. The hierarchy simply cannot exist without the laity. They are meant to support and balance each other. They exist and work for a common purpose.

THE PRESENT STATE OF THE LAITY

In the beginning of this twenty-first century we live in the middle of a paradox—and the faithful are hardly aware of it. On the one hand, the pronouncements of Vatican Council II brought remarkable results and opened the door

1. For example, Yves Congar, *Lay People in the Church: A Study for a Theology of Laity* (London: Geoffrey Chapman, 1965); Gustave Thils, *Les laïcs dans le nouveau Code de droit canonique et au IIe Concile du Vatican* (Louvain-la Neuve: Faculté de Théologie, 1983).

for an increased promotion of the laity. On the other hand, the official policy of the church based on a recent theological opinion that found its way into the revised Code of Canon Law excludes the laity from any *major* decision-making processes—reversing an immemorial tradition. We live in a time of progress and regress.

INTRODUCTION TO THE PROBLEM: A POPE'S LAST TESTAMENT

The following is an excerpt from the memoirs of Alex Carter (1909–2002), former Bishop of Sault Ste. Marie, Ontario, Canada.² Carter describes a farewell talk by Pope Pius XI to a group of Canadian students—he was one of them. It was a farewell talk in more than one sense. The students were returning home, and the pope knew his days on earth were numbered. The bishop recalls:

Our most striking meeting with [Pius XI] took place [in 1939] at a special audience held during the 50th anniversary celebrations of the Canadian College, led by Monseigneur Perrin. He was visibly weakened. Every now and then, [his] eyes would flash and a little of his old vigour would come back, but this strong man, who had been an Alpine climber and who usually looked so powerful, was obviously in physical pain. He would slump a little in his chair and then pull himself up again as he gave us a most striking talk. It was not very long, but it was very prophetic. He said something like this:

“You are the young priests who have come to Rome. You are going back to Canada and will continue to build the Church there. I do not place any limits on the providence of God, but I am sure that my life expectancy is very short. I want you to take this message away with you. The Church, the mystical Body of Christ, has become a monstrosity. The head is very large, but the body is shrunken. You, the priests, must rebuild that body of the Church and the only way that you can rebuild it is to mobilize the lay people. You must call upon the lay people to become, along with you, the witnesses of Christ. You must call them especially to bring Christ back to the workplace, to the marketplace.”

This powerful message was like a Last Will and Testament of the Pope. As a matter of fact that was his last public audience. All audiences were cancelled the following day and he died not long afterwards. From the beginning of his Pontificate, Pius XI was the Pope of Catholic Action. He was the one who had often written to the

2. Carter was ordained priest for the Diocese of Montreal. He studied canon law at St. Apollinaris in Rome and was resident of the Canadian College. He became coadjutor Bishop of Sault Ste. Marie in 1956, was consecrated in 1957, and succeeded to the See in 1958. He attended all the sessions of Vatican Council II, was president of the Canadian Conference of Bishops from 1967–1969 and its elected delegate at the synod of Bishops in 1969 and 1971. On having reached the statutory age limit, he resigned his See in 1985.

Bishops of the world, calling for the participation of lay people in the work of evangelization. Thus it was in keeping with his own teaching that he gave us this last message—a message from the grave, you could almost say. The memory of the moment remains with me. I can visualize it, even now, in my old age. I have never forgotten that audience and as a matter of fact, I believe that it has shaped, in part, my own life and my approach to my role as pastor, chaplain, and bishop.³

ANALYSIS OF THE POPE'S DIAGNOSIS: A NEW TYPE OF CRISIS

Referring to the church, the pope speaks of a “monster,” not a flattering image, certainly not from the lips of a pope. What is he suggesting?

By “monster,” he presumably means a living and functioning organism that is ill structured and dysfunctional. He tries to convey a hard truth through a dramatic word: he sees the church as suffering from a lack of structural balance and of some dislocation in its vital operations. “The head is very large but the body is shrunken”—one organ has grown beyond its due size and is encroaching on the others. By saying that “the head is very large,” he can mean only that the hierarchy has overreached its normal limits, has grown weightier than is good for the rest of the people, and its overwhelming presence impedes the normal functioning of the rest. By speaking of “the shrunken body,” he can refer only to the laity that is underdeveloped and deprived of the use of its potential.

The crisis is of internal origin. An external enemy has not brought it on. The vital balances that govern the body and keep it sound are out of order. The affliction impedes the normal working of energies hidden in the “shrunken members.” Inevitably, some external consequences follow: the attractive beauty of the community is lost precisely because beauty exists in the right balances.⁴

This is the state of the church seen by Pope Pius XI, in 1938, at the end of his life. After Vatican Council II, does his judgment still stand?

AFTER VATICAN COUNCIL II: EXPANSION OF THE ROLE OF THE LAITY

Vatican Council II, in its great charter, the Dogmatic Constitution on the Church (*Lumen gentium*), repeatedly affirmed the dignity of the universal “people of God”—to which the laity belong. Within the same Constitution, the Council dedicated an entire chapter to explaining the doctrinal foundation

3. Alex Carter, *A Canadian Bishop's Memoirs* (North Bay, Ontario: Tomiko Publications, 1994) 50–51.

4. The consequences are bound to be far reaching: a community whose image is not attractive is not likely to expand. Go and preach to all nations: grow and show God's beauty. Beauty is harmony of proportions.

of the laity's position and vocation. Further, in its Decree on the Apostolate of the Laity (*Apostolicam actuositatem*, a document more practically oriented), the Council acknowledged the right of the laity to proclaim the Good News and to witness for Christ on the strength of their baptism, without any need "to be mandated by the hierarchy."

As a result, after the Council, laypersons emerged as ministers of the Gospel in a great variety of situations. Today we see them having a visible role in liturgical celebrations, occupying diocesan offices, directing Catholic educational and charitable works, voicing their concerns in councils and synods, and so forth.

For such progress, we must rejoice.

AFTER VATICAN COUNCIL II: RESTRICTION OF THE ROLE OF THE LAITY

After the Council, however, a new provision in canon law moved in the opposite direction. It excluded laypersons from significant decision-making processes where ecclesiastical "jurisdiction" is in play. The provision is now honored in practice: no layperson is a member, or for that matter a "major official" (a technical term, well defined in law) of a Roman congregation; no layperson has a vote within synods and councils of higher rank (although they may be present in a lesser capacity); no lay judge at an ecclesiastical court may function as a single judge.⁵ In sum, no layperson is admitted "into the inner sanctuary" that is to have a significant role in building the church from within.⁶

Let the Code of Canon Law speak:

Canon 129 § 1—Those who have received sacred orders are qualified, according to the norm of the prescripts of the law, for the power of governance, which exists in the church by divine institution and is also called the power of jurisdiction.

§ 2—Lay members of the Christian faithful can cooperate in the exercise of this same power according to the norm of the law.

The two paragraphs taken together state and rule that

- * they who have received sacred orders have the capacity to exercise the "power of governance,"
- * this power is of divine institution,
- * this power is identical with the power traditionally known as "jurisdiction,"

5. See Canon 1421 § 2.

6. The difference between an "advisor" and a "participant in a dialogue" is that the former is outside the creative process of the giving and taking of an exchange, the latter is inside it.

- * no layperson is capable of exercising this power,
- * laypersons can cooperate with the ordained without participating in the power.

Such a neat and radical exclusion of the laity from any participation in the power of governance is discontinuous with an immemorial tradition. It is an innovation. The opinion that inspired it is not “what has everywhere, always, by all, been believed” (*quod ubique, quod semper, quod ab omnibus creditum est*)—to use the well-known criteria of Vincent of Lerrin.

Recalling a few historical facts, events, and structures that *were in the past recognized as legitimate* should be enough to show that the new rule is a break with the Tradition and that laypersons did indeed *participate* in the power of governance.

The ecumenical councils of the first millennium, called by the Byzantine emperors and empresses, were surely acts of jurisdiction by laymen and laywomen. The majority of the participants at the Council of Florence were not “in orders”; therefore, “lay votes” had a real impact on the determinations concerning the reunion of the Eastern and Western churches. Abbesses for centuries exercised “quasi-episcopal jurisdiction” in governing “quasi-dioceses”—except in dispensing the sacraments, for which ordination was necessary. Such lay “prelates” had the “power of jurisdiction”—with the full and direct support of the Holy See well into the nineteenth century.⁷

History is not on the side of Canon 129. Therefore, the restriction can hardly be grounded in dogma. It must be a disciplinary provision, and if so, it can be changed. Participation of the laity in the power of governance cannot be absolutely excluded, but it must be integrated into the higher power conferred on the hierarchy by the sacrament of orders.⁸

If Canon 129 has no roots in the past, whence does it come?

THE THEORY OF “THE SACRED POWER”

With Canon 129 comes a newly intuited understanding of the episcopal power that was given a new name: “*the sacred power.*”⁹ When the expression

7. For more explanation and documentation see Ladislav Orsy, “Lay Persons in Church Governance: A Disputed Question,” *America* 174 (1996) 10–13.

8. For a concise exegesis of Canon 129, see *Il Codice di Diritto Canonico* by Luigi Chiappetta, vol. 1 (Rome: Dehoniane, 1996) 202–5. He gives a concise, clear, and fairly comprehensive survey of the legal issues. What he says, however, needs to be completed and corrected by taking into consideration the historical sources and the relevant theological values.

9. See Adriano Celeghin, *Origine e natura della potestà sacra: Posizioni postconciliari* (Brescia: Morcelliana, 1987).

was introduced into the theological and canonical literature in the postconciliar years, it was new, but by now it has become standard. It is the specific sacramental gift (charism) conferred by episcopal ordination. When broadly interpreted, it includes the combined powers to teach (prophet), to sanctify (priest), and to govern (king); when used strictly, it refers exclusively to the power of governance, *potestas regendi* or *regiminis*, called also "jurisdiction," as in Canon 129.

This new theory should have begun its life among theologians at the stage of a "disputed question" and it should have gone through a crucible of their critical assessment *before it reached the state of standard language*. This did not happen, certainly not to a sufficient degree. Now through policies and laws, it shapes the future of the church. Theologians (who could evaluate it in function of the sources) have scarcely taken notice of the new language, let alone the doctrine behind it. Canon lawyers whose primary interest is in practicalities simply take the new approach for granted.

Some reservation, however, should be voiced.

- * To appropriate the expression "*the sacred power*" exclusively for the episcopal power shows a lack of good manners in theology and an unnecessary rhetoric in canon law. "*The sacred power*" in (of) the church is vested in the entire people of God through the all-pervading presence of the Spirit. It is present and operative in the ordained and non-ordained; for this the people *unfailingly adhere to the faith, penetrate it more deeply through right judgment, and apply it in daily life* (cf. LG 12). Episcopal power is privileged participation in the power of the Spirit.¹⁰
- * The doctrine that non-ordained persons can only cooperate with the power of governance but not participate in it assumes that the said power is indivisible. This is surely incorrect because whatever power a bishop has, it comes from two sources, the human and the divine. The church, before being a grace-filled assembly, is a human community that demands a functioning order to exist. There is no theological reason why a bishop could not let a qualified person "participate" in his power to govern provided such participation does not encroach on the exclusive charism that is given by ordination.
- * As it is, the doctrine perpetuates and supports a sharp separation between the laity and the hierarchy.¹¹

10. The wedding liturgy of the Eastern church brings out clearly that the sacrament of matrimony confers a sacred power on the spouses to generate and educate children.

11. No better example could be found to show how one single word in the law can give a new direction to the life of the church for centuries to come and have an impact on the worldwide operation of the community as well as on the life of the individuals in local parishes.

A LINGUISTIC SHIFT AND A STRUCTURAL CHANGE

The first Code of Canon Law promulgated in 1917 stated in Canon 118: "Clerics only can (*possunt*, 'are able') obtain (*obtinere*, 'to receive and to possess') the power of orders and of jurisdiction."

The same Code defined clerics in Canon 108 as "they who have been installed (*mancipati*) by first tonsure in divine ministries."¹²

The second Code of Canon Law promulgated in 1983 states in Canon 207 § 1: "By divine institution, there are among the Christian faithful in the Church sacred ministers who in law are also called clerics; the other members of the Christian faithful are called lay persons."

Further, Canon 266 § 1 states: "Through the reception of the diaconate, a person becomes a cleric . . ." ¹³

And Canon 274 § 1 adds: "Only clerics can obtain offices for whose exercise the power of orders or the power of ecclesiastical governance is required."

As the quotes show, behind the linguistic shift a real change has occurred in the definition of a "cleric." Until 1972 tonsure, not ordination, made a cleric. In the new regime ordination to the diaconate does it. Tonsure was a purely ritual act, not a sacrament; the theological status of the tonsured person remained exactly what it was. He continued to be a layperson. Yet from the moment he received the tonsure he could participate (and many did) in the exercise of the power of governance, *in potestate regiminis*, which is now the exclusive domain of the ordained persons.

The linguistic change, however, left the door open to a substantial doctrinal misunderstanding. Some may claim that nothing has changed: clerics and clerics only can participate in the power to govern. The contention is correct—if nothing matters but language. Otherwise we have a structural change: the laity has been excluded from participation.

If the present situation becomes a norm for the future, the church will be more clerical than it ever was. Since the laity will have no part in any major decision-making office or process, much of their God-given gifts and talents will lay fallow. The hierarchy will stress to them that obedience ought to be

I am thinking of the word *cooperari*, "to cooperate," in Canon 129 § 2. It shows also the singular priority that laws can have in the existential order.

12. Tonsure is a religious ceremony, a partial cutting of the hair or some shaving of the head. It is of monastic origin, but from the sixth century it developed into the sign of admission to the clerical state. It was never considered part of the sacrament of orders. In 1972 Paul VI abolished it and declared that the entry into the clerical state is the ordination to the diaconate. See MP *Ministeria quaedam*, AAS 64 (1972) 529–34.

13. See also Canon 1008.

their principal virtue. Sure, the laity will be promoted in many minor ways, but the line between the ordained and non-ordained will remain sharply drawn.

In particular, no woman will ever have the opportunity (or capacity) to have a share in major decision-making processes—not even when the subject matter of a decision does not require the sacramental power of ordination.

We need to think afresh.

LET US RETURN TO THE ORIGINAL QUESTION: WHO ARE THE LAITY?

Whenever I am invited to speak on “The Theology of the Laity,” I never argue about the title. But once there (say, at the parish), by way of introducing my subject, I ask the laypeople, “*At what point in your life did you become a layperson?*” As a rule, they look surprised. Then, after some hesitation, they say, “at baptism.”

“Yes, but,” I continue, “were you baptized to be ‘laypersons’ forever?”

In response, a consensus soon emerges that all of us, laity and clerics, were baptized to be God’s people—with all the gifts that such an exalted status implies. Baptism brings a substantial equality to all and it is never to be lost. To speak at that point of the “special charism of the laity” does not make sense.¹⁴

All this leads to a theological starting point that no sacrament, sacramental, or institutional rite in the church would (could) confer “the charism of laity”—as sacraments do confer a specific charism.¹⁵

Continuing my conversation with the audience, to consolidate this conclusion, I press further, “*How do you define the laity?*”

The response is mostly prompt and clear: they are the non-ordained.

“Yes, but,” I retort, “can something that exists be defined by a negative sentence that simply states the absence of a substance—such as that of priesthood?”

Obviously, not. It follows that we cannot construe a theology, let alone a rich theology, of the “charism of the laity” when there is no evidence of any particular sacramental (or lesser) action that would confer such specific

14. This is not to say that the Spirit could not, or would not, or does not ever grant a special charism “to sanctify the world,” that is, to sanctify some aspect of the secular world, but it is to say that such charism—when granted—is not the specific fruit of any sacrament or any sacramental.

It would be wrong to assume that a charism seemingly for the sanctification of the “secular” follows the status of a person in the church; history shows a much broader picture. Gregory the Great (a cleric) certainly did much for the betterment of the secular state of the city of Rome, and Catherine of Siena (a laic) worked powerfully for the internal health of the church.

15. In scholastic language *ex opere operato*, an expression much maligned but that retains a sound meaning even outside the “School”: a sacrament is a gesture of Christ that confers grace—precisely because a gesture of Christ cannot be grace-less—assuming the recipient is disposed to receive the gift.

charism. Nor can the nature of this charism be explained by a purely negative affirmation with no positive content.

But we have by no means come to a dead end. We are learning a lesson that in order to understand the place and the role of the laity in the church, we must not look at the laity as a distinct unit in the church. We must focus on the entire people as a whole. When we contemplate the undivided body and watch its organic and harmonious operation, we are in position to assess the place and role of its parts.

Vatican Council II gives us an authentic description of God's people and of their gifts:

The holy people of God share also in Christ's prophetic office: it spreads abroad a living witness to him, especially by a life of faith and love and by offering to God a sacrifice of praise, the fruit of lips confessing his name. . . . The whole body of the faithful who have received an anointing which comes from the holy one . . . cannot fail in belief (*in credendo falli nequit*). It shows this characteristic through the entire people's supernatural sense of the faith, when "from the bishops to the last of the faithful" it manifests a universal consensus in matters of faith and morals. By this sense of faith, aroused and sustained by the Spirit of truth, the people of God, guided by the sacred magisterium which it faithfully obeys, receives not the word of human beings, but truly the word of God . . . "the faith once delivered to the saints." . . . The people unfailingly adheres (*indefectibiliter adhaeret*) to this faith, penetrates it more deeply through right judgment, and applies it more fully to daily life. (LG 12)

The Council names two principal gifts that God has granted, and continues to grant, directly to his people baptized with living faith, hope, and love: infallibility in belief and indefectibility in right judgment.

In other words, God has entrusted the history of salvation, the subject of our belief, to the memory of the entire people. God has endowed the church with the prudence that is necessary in daily life to reach salvation. Some portion of that infallibility and indefectibility belongs to the non-ordained—otherwise it cannot belong to the "whole." Divine light and divine energy is diffused in the whole church. How can the right balance in the body of the church be restored?¹⁶

THE ROLE OF THE HIERARCHY

It should be enough to recall what we hold for our faith.

16. When the church appears to be in ferment and even in confusion, we should be slow to blame the people. The root of the trouble may well be that there is a lot of holy but unused energy around, precisely in the people—in women as well as men—with no outlet. It is the nature of energy, any energy, to become restless when it is compelled to be idle. When it is given scope, it can produce fruit hundredfold.

The episcopal college, with the bishop of Rome presiding over it, is assisted by the Spirit to proclaim the evangelical message and to be the ultimate judge in doctrinal matters. The bishops, and in a special way the bishop of Rome, are the authentic witnesses of our Tradition, but the history of God's self-revelation and mighty deeds lives in the memory of all the people. Further, the episcopal college as a corporation and the individual bishops in their dioceses are mandated "in the Spirit" to bring and sustain "tranquility in order" so that the communities may live in peace and the church may prosper, but the practical prudence needed for fair and balanced judgments is spread among all the members.

Thus, nothing is taken away from the traditional role of the hierarchy. But their role is defined with greater precision. The Spirit assists them, but they emerge from among the people; they must turn to the entire people for the full memory of the evangelical message; they need the prudent help of the people in practical matters. In so many ways, the hierarchy depends on the people, and of course, it exists for the well-being of all.

THE FUTURE

A trend that has affected the church for centuries cannot be changed overnight. But the work for change may start right now. First and foremost, the minds and hearts of all the people ought to be lifted up to a higher viewpoint where they begin to discover and appreciate the riches of God's gift in the entire body. The hierarchy need to affirm their mandate but must also proclaim the riches of the rest—and the limits of their own charism. The so-called laity should come to a better knowledge and a stronger awareness of what they possess and how much they can contribute to the building of the church; they are God's people. Without such conversion, little can be done.

Then the legal barrier contained in Canon 129 that allows the non-clerics to cooperate only with the "power of governance" but not to participate in any way must be removed. Once done, the search for new balances can take off. The search itself should be both theoretical and practical. The theoretical inquiry must proceed in the usual manner of theological quests, moving from the data of revelation through creative but well-grounded insights to firm proposals. The practical search should rely on the sense of faith and religious prudence by shifting responsibilities from the hierarchy to the rest of the faithful so as to restore the shrunken members to their pristine strength, and relieve the head of unnecessary burden. A delicate operation—in a sensitive body!¹⁷

17. Here is an attempt to make some practical suggestions. They may look simple and small, but, in truth, they are like the mustard seed: they contain a potential that can bring a growth that all will admire.

PAUL THE APOSTLE SPEAKS

Around the year A.D. 52 Paul wrote his first letter to the Corinthians. Interestingly, he addressed it not to any leader but "to the church of God which is at Corinth, to those sanctified in Christ Jesus, called to be saints . . ." (1 Cor 1:2). He then states: "To each is given the manifestation of the Spirit for the common good. To one is given through the Spirit the utterance of wisdom, and to another the utterance of knowledge according to the same Spirit . . ." (12:7-8). Paul goes on to enumerate the various gifts of the Spirit manifested in the community: the gift of healing, the working of miracles, prophecy, discernment of spirits, various kinds of tongues, and the interpretation of tongues. He tells them to bring order to their meetings, but he is equally emphatic that they should not extinguish the Spirit.

If Paul the Apostle ever returned to the face of the earth and found a church where silent obedience is the rule far and wide, a church without the merry manifestations of the gifts of the Spirit, one wonders: what would Paul say?¹⁸

Our tradition admits the participation of laypersons in decision-making processes, which are an integral part of the governance of the church. Granted, the unique character of the episcopal power ought to be respected, but the power given through baptism must not be frustrated. To work out the formalities and the details, creative theologians and canon lawyers are needed. They could start their work immediately.

Laypersons could be voting members of synods or councils. (Some earlier ecumenical councils permitted it; surely, it was not a doctrinal deviation.) There is no theological reason why persons without orders could not be members of some decision-making bodies in the ordinary administration of the church, e.g., some of the Roman congregations and offices. (Often one hears the suggestion that laypersons should be made cardinals in order to participate in such tasks. That is hardly a good idea because it demeans the dignity that baptism confers. They should be invited for what they are: people of God.)

Laypersons could be in charge of the administration of the assets of the church. Those duly qualified could be officially designated as the preachers of the Word.

The basis for such commission should be *the sacred power* given to every Christian through baptism. Then, in this way, we honor the mystery and let faith seek not only understanding but also practical action.

18. Many Christian women may sigh and say: Was it not Paul who wrote that ". . . the women should keep silence in the churches. . ." (1 Cor 14:34)? How can we expect him to stand up for us? The correct answer may well be that Paul (like Peter) had his weak moments; he too was a fragile person. After all, on a deeper doctrinal level, he wrote that in the church ". . . there is neither male nor female; for you are all one in Christ Jesus" (Gal 3:28). Paul failed in adjusting his practical advice to the doctrine he preached, as Peter failed to live up to received teaching in Antioch when he refused to eat with the Gentiles. Paul responded forcefully and corrected him. In the history of the church women such as Catherine of Siena, Teresa of Avila (now doctors of the church), even more, countless women who handed down the faith through teaching succeeding generations have responded forcefully to Paul and corrected him. Looking at these women, what would Paul say? Probably, certainly, "I stand corrected."