

This note is intended as a supplement to the article of Avery Dulles, S.J., entitled 'Ius Divinum as an ecumenical problem', already circulated to members of the Commission.

1. It is somewhat misleading to translate 'Ius Divinum' as 'divine right', as that phrase ~~is~~ carries the triumphalistic overtones of a personal prerogative which/attached to the theory of the divine right of kings. ^{English} ~~were~~ ^{faithfully.} the phrase 'divine law' conveys the sense of the Latin more ~~properly~~.

2. The language of Ius Divinum is an attempt to speak of that which is necessary to the Church if it is to perform its true function. We do not normally speak of matters of necessary faith as being binding upon believers 'by divine law'. The terminology of Ius Divinum is more at home in the context of questions of the proper ordering of the church than in matters / belief such as faith in the Holy Trinity and the Incarnation. ^{immediately relating to}

3. Fundamentals of the faith belong to the constitutive foundation of the community. They are an indispensable source of permanent authenticity in the Church's life, and we do not naturally speak of the Church possessing power to change its title deeds.

4. Matters of faith, however, are not confined to beliefs in Creation, sin, Incarnation, Redemption; ~~the Church~~ they extend to the being and nature of the Church and sacraments. Therefore they also extend to external discipline and ceremonies in so far as the sacraments of Baptism and the Supper of the Lord are not ceremonies which the Church has power to abrogate (Hooker, Eccl. Pol. III xi 13). There can be many matters of 'order' and discipline which belong, if not to the very being of the Church, at least to the necessary fulfilment and performance of its functions. ^{For example,} the control of communion by penitential discipline has New Testament foundations. A Christian society which has lost all power to declare that there are limits to its community which a man can put himself outside, has also ceased to be a community in which

a declaration of adherence can carry deep meaning. The possibility of excommunication is a matter of ecclesiastical discipline and order (and early canon law is much concerned with the proper conditions of penitential discipline). Yet it cannot be simply lost altogether or classified among those indifferent things that any local Christian community is at liberty to enjoy or change at its arbitrary discretion.

5. According to, there is not a clearcut distinction between that which is, iure divino, essential to the being of the Church, because inherent in Christ's foundation and the witness of the apostles, and those matters of order which, iure humano, the Church is at perfect liberty to develop or undevelop in accordance with the various accidents of the historical process in time and space.

6. The divisions of the 16th century made men bandy about in controversy the language of ius divinum in a way we find unsatisfactory (though Richard Hooker was directly aware of the confusions current in his time on this topic). The different groups that emerged from the turmoil liked to claim ius divinum for whatever they felt to be necessary, and to dismiss as merely human arrangement, changeable at will, whatever some other group regarded as essential.

7. In addition to the problems which arise from the use of the term 'ius divinum', Venice 24b expresses the further difficulty felt by some Anglicans, that the R.C. understanding of universal primacy seems to imply that 'as long as a church is not in communion with the bishop of Rome, it is regarded as less than fully a church'. This difficulty has a genuine basis. But it is phrased in terms which are not those of official statements of the R.C. position, and a statement of that position in its own terms may go some of the way to alleviate the difficulty. Although the documents of Vatican II speak of the bodies separated from Rome as 'churches and ecclesial communities', they avoided defining these two categories and a fortiori from deciding which particular ecclesial communities qualified as churches.

Roman Catholic theology asks not so much whether such and such a body is a church, but to what extent it is part of the Church. The answer given at vatican II, after much debate and redrafting, was that Christ's Church is embodied (subsistit) in the Roman Catholic Church, whereas other communions possess 'elements of sanctification and truth' (often 'plurima et eximia'), which are gifts proper to Christ's Church and exert a movement towards catholic unity (LG8, UR3).

The bishops rejected the extreme statements that Christ's Church was identical with the R.C. Church, or was embodied in it integro modo.

This teaching seems to admit the inference that even the R.C. Church is an imperfect embodiment of Christ's Church, and may possess some of the elements of sanctification and truth to a lesser degree than other communions. But other communions suffer from a defect of a different order from the defects of the R.C. communion; because they are not in communion with the Roman See, they do not belong to the visible society which embodies Christ's Church.

8. It may be possible to restate this Roman Catholic theology of the Church in other terms which, while doing equal justice to the importance of communion with the universal primate, do so with less exclusiveness.

9. After this long preamble perhaps we may suggest an answer to the questions raised in 24b, as follows. The universal primacy of the bishop of Rome is part of God's design for the universal koinonia. The universal primate is not the source of the Church, as if salvation came from Christ to the Church through him. He is rather the focus of the unity Christ wills for his Church, and the instrument through which its catholicity is realised.

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