

## **Bishops and their Dioceses**

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Metaphors have defined the relationship of a bishop and his diocese since Apostolic times. From the earliest church a bishop was the head of a community, the pastor, the shepherd who cared for his flock. His relationship to that community was based on the recognition that his leadership was personal, caring, and mutual. The shepherd needs flock; the flock needs a shepherd. The bishop was the pastor of his community, the shepherd of the flock who defended them from the wolves of the community and from the dangers of the outside world. His relationship to his church was matrimonial — he was married to his church. This metaphor emphasized the bishop's commitment to his church and his life-long obligation to it. The bishop, his church, and his flock were also part of a larger institution, the congregatio fidelium, the ecclesia Catholica, and the ecclesia universalis. In large part the constitutional position of the bishop in his diocese is the story of the clash of these metaphors.

Like every geographical space, a bishop's diocese can be thought of as an imagined place, shaped more by the human mind than by geological formations. When the place's boundaries are traced on paper to create a map, a place gains substance, solidity, and permanence that it never had in the past. If we look back to the origins of dioceses through the prism of historical experience, we can begin by seeing the diocese as being a territorial unit inherited from the Roman empire. In the early church a bishop was associated with his civitas and the pagus that surrounded the civitas. As the church's constitution became Romanized, the civitas and the pagus were transformed into a diocese. In their origins dioceses were Roman but were shaped and formed by local conditions in many non-Roman parts of Europe. This was a long, slow, and diverse process. In Italy dioceses remained small units. In England and Northern Europe they were much larger territories. In no case did the ecclesiastical diocese conform to the boundaries of the ancient Roman territory. During the Christianization of Europe, for reasons we can often not discern, bishoprics were sometimes founded in insignificant civitates, a practice that ran counter to the precepts of canon law. Although a few anomalies remain on the ecclesiastical landscape, in later times many of these dioceses were either abolished or moved to larger civitates. In the first fifteen centuries ecclesiastical geography is an ever changing landscape that does not follow any set of rules.

There is also a difference between the imagined territory of the Eastern and Western churches. The Western church views itself as hierarchical with vertical jurisdictions; the Eastern church as a collegial church with horizontal bonds between communities of believers. This is a simplification, but it contains central elements of truth. If the entire

*ecclesia primitiva* considered itself to be communities of believers without a hierarchical jurisdiction, the main question confronting those of us interested in ecclesiology is how and why the Western church departed from this model.

Although cartographers have confidently given us maps of the territorial structure of the church, these maps can only approximately and very inaccurately describe the jurisdictional authority of a bishop in any particular period of time. The early church councils forbade bishops from exercising jurisdiction outside their *civitates*, but bishops were rarely limited by territorial boundaries. To give an example: The English bishop of Winchester, St. Aethelwold, was an enthusiastic founder of monasteries. Most of his foundations were far outside the boundaries of his diocese. When he died in 984 in the monastery that he founded at Beddington 100 kilometers North of Winchester and outside the boundaries of his diocese, he was carried from Beddington to Winchester in a great procession to be buried. His death replicated his life. During his episcopate he spent much of his time outside the diocese. It is not surprising, therefore, that when he died he was far from the seat of his diocese.

In the tenth century a bishop's jurisdictional authority was defined far more by the network of personal and family connections than by the territory over which he ruled. We may make a comparison to the secular world. Princes ruled over people and regions rather than over territories, and bishops imitated secular rulers in their conceptions of their power and authority. Although we cannot imagine these "imagined communities" as territorial in its modern meaning, during the next three centuries, boundaries began to replace personal and familial relationships.

In the secular world the names reflect the changes. The kings of France gradually evolved from the *Rex Francorum* to *Rex Franciae*. The kings of England from *Rex Anglorum* to *Rex Angliae*. In the ecclesiastical world, papal titles reflected the popes' gradual imperial dominance of the church with titles like *vicarius Christi* and the Roman Church assumed the title *mater omnium ecclesiarum*. Bishops just remained bishops as they gathered in the reins of authority and power within their dioceses.

In the time of Burchard of Worms in the beginning of the eleventh century, bishoprics began to be called "*patriae*". Clerics could be considered to be "citizens" of the *patria* by ordination; laymen by birth. Clerics could not or should not travel outside the diocese without *litterae formatae* that might be seen as a very early form of passport. During the same time, the *civitas* of the diocese, the episcopal see, became more and more like a capital city. Again a comparison to the secular world is instructive. In the tenth and eleventh centuries kings, princes, dukes, counts and other temporal rulers wandered about the countryside within their domains. Their territories were defined by the places where they exercised lordship and where their subjects owed them hospitality. There was little distinction made between the peripheries and the centers of power and authority.

Bishops, however, were the first rulers in Europe to transform their sees into capital cities. The bishop occupied his sedes in a specific geographical location much earlier than any secular ruler identified his rule with a particular place within his domains. This happened primarily during the eleventh and twelfth centuries. There are stone and mortar witnesses to this development. It is not by chance that the great building projects of Europe in the eleventh and twelfth centuries were not secular princely palaces but great palaces of worship that represented Christian power, episcopal authority, and urban pride throughout Europe.

Since episcopal power was secular and ecclesiastic, the centralization of a bishop's authority brought them in conflict with secular rulers. This part of the story is well known. In Italy, Germany, France and England, bishops struggled with the nobility and the rising merchant classes to maintain their jurisdictional rights within the city and in the surrounding countryside. In the tenth and eleventh centuries bishops were successful in establishing a "sacral space" in which the bishop's authority was dominant. They established a ring of churches and other ecclesiastical institutions around the cathedral church. Bishops became princes of small territorial states in every sense of the word, "territorial state."

These developments are reflected in the public liturgy of bishops ascension to power and in their deaths. At their election, bishops entered their sees accompanied by great processions and were installed into their offices with liturgical ceremonies that proclaimed their ascension to power. When they died their bodies again entered the city with ceremony and pomp that imitated their arrival. As Timothy Reuter has observed: The bishops possessed "the symbols of state. Bishoprics were small states with everything that corresponds to our conception of the state."

From the pontificate of Pope Innocent III (1198-1216) on, these small states were buffeted by the authority and power of the Mater omnium ecclesiarum in two different ways: through papal control of episcopal appointments and through translations. From the very beginning of his pontificate Innocent claimed the prerogative to approve all forms of episcopal translations: Translations of bishops, translations of bishoprics, and translations of a bishopric to a bishop. In the early days of his pontificate (March 17, 1198) Innocent III sent a letter to Petrus of Antioch in which he asserted for the first time in the history of the Church the pope's clear and unambiguous right to "translate and depose bishops and to transfer bishoprics from one place to another." A short time later (August 21, 1198) the pope sent another decretal to bishops in Germany that was remarkable for its language and for its content, *Quanto personam*. In the previous letter Innocent had claimed his prerogative was based on the Petrine Privilege. In this letter, his claims bypass St. Peter and establish a new rhetoric for papal power:

God, not man, separates a bishop from his Church because the Roman pontiff dissolves the bond between them by divine rather than by human authority, carefully considering the need and the usefulness of each translation. The pope

has this authority because he does not exercise the office of man, but of the true God on earth [non puri hominis sed veri Dei].

Innocent's extraordinary claim did not go unnoticed. Johannes Teutonicus excoriated Innocent by pointing out that the pope had scorned the traditional papal titles of Servant of the servants of God and the vicar of Peter in *Quanto personam* and claimed more exalted titles. Laurentius Hispanus, on the other hand, was intrigued by Innocent's rhetoric and commented on Innocent's claim that the pope exercised the office of God on earth by breathlessly expanding upon Innocent's words:

Hence the pope is said to have a divine will . . . O, how great is the power of the Prince. He changes the nature of things by applying the essences of one thing to another . . . he can make iniquity from justice by correcting any canon or law; for in these things that he wishes, his will is held to be reason (est pro ratione voluntas) . . . and these is no one in this world who would say to him, why do you do this?

Innocent changed the relationship of the pope to his bishops forever. Since the early church a bishop's relationship to his church was based on a close bond that was described as a marriage. Consequently a bishop could not, according to canon law, leave his church without good and serious reasons. Bishops did leave their bishoprics but transfers were not regular and were not a part of an episcopal *cursus honorum*. In the thirteenth century there was an explosion of translations that continues until modern times. Bishops were no longer wedded to their churches; they were wedded to their careers. The pope appointed his pastors to new offices with little attention to the feelings of the bishop's spouses.

The small central Italian diocese of Rieti is a good example of the practice and of the change that took place after Innocent III. Until the middle of the thirteenth century, although information is scarce, almost all the bishops of Rieti were local clerics who were elected by the cathedral chapter. This changed in 1252 when Pope Innocent IV appointed a curial official, Tommaso, to the bishopric. Tommaso was not a cleric from Rieti; he had no connections to Rieti. Innocent appointed him to the bishopric and bypassed the niceties of canonical electoral doctrine. Seven of the next eight bishops of Rieti were appointed by the pope. Six of these used Rieti as a temporary station in their *cursus honorum*. They were appointed to other bishoprics. Of the seven bishops who were translated to Rieti, six had been bishops at other places before they were translated.

Papal appointments and translations of bishops profoundly changed the relationship of a bishop to his diocese from the thirteenth century on. From the earliest church the canons that regulated episcopal translations dictated that bishops could be moved only "for the good of the community (utilitas ecclesiae) and in case of necessity." These concepts entered the canonical tradition very early and remained until very late. Although the words were still used in the thirteenth century they conceal the fundamental changes in episcopal authority and ecclesiastical geography. At the same time that bishops consolidated their jurisdictional powers within the boundaries of a diocese and at the same time as diocesan

boundaries become clearly defined in the thirteenth and fourteenth centuries, the traditional bonds between the bishop and his flock were transformed. The rhetoric remained; the reality did not.

From the historian's point of view it is remarkable how little opposition there was to this constitutional change within the church. In the thirteenth and fourteenth centuries I have found little criticism. Dante Alighieri placed Andrea dei Mozzi in Hell because he was a sodomite. Andrea had been a notoriously bad bishop in Florence. Dante wrote:

colui potei che dal servo de' servi fu  
trasmutato d'Arno in Bacchiglione,  
dove lasciò li mal protesi nervi (He  
who the Servant of Servants  
translated from Florence to Vicenza  
where he left his abused sinews).

Pope Boniface VIII translated Andrea from Florence to Vicenza because of his sins. We can guess from these lines what Dante thought of this translation — if not all translations — but we can only imagine what the people of Vicenza thought. One of the Vicenzan bishops, Biaggio da Leonessa, was translated to Rieti in 1347. While bishop of Vicenza, Biaggio became embroiled in the politics of the region, attacked the powerful Scaligeri family, abandoned his episcopal see in 1339 for the episcopal palace in Padua, and was suspended from his office in 1345 by Pope Clement VI. Clement, however, found bad behavior no barrier to becoming a pastor of other flocks. He translated Biaggio to Rieti in 1347. Biaggio remained bishop of Rieti until he died in 1378.

The papacy translated Andrea and Biaggio to less important sees for political and moral reasons. This may have reflected a certain kind of necessity, but as one chronicler described Biaggio he was “un affamato lupo verso le pecore,” like a starved wolf among the sheep, in Vicenza. One may not stretch the truth too much by imagining that the people of Rieti may have had their doubts about Biaggio. Biaggio's only merit was that his home town of Leonessa was in the region. Leonessa was not part of the Reatine diocese but was 35 mountainous kilometers distant. Whether this qualifies Biaggio as a “native son” is difficult to say. It is not until the sixteenth century that we can find sustained criticism of translations. Emanuele Gonzalez Tellez, a Spanish canonist, Saint Robert Bellarmine and a few others lamented the widespread practice of moving bishops from diocese to diocese. Their criticisms, however, did not influence papal policy.

After the papacy had established the right to approve all episcopal translations, stripping local cathedral chapters of their right to elect a local bishop followed inevitably. The process through which local chapters lost their rights of election stretched out over centuries. It is possible to gain some insight into the attitudes and presuppositions of canonists and, more generally, of local clergy by looking at the canonists' views of the relationship of the cathedral chapter and the bishop and their views on how a canonical election of a bishop should proceed.

If the story of a bishop's relationship to the territory over which he exercised jurisdiction is the featured event of the ninth, tenth, and eleventh centuries, the development of the bishopric into a corporate unit that was governed by a bishop and his chapter of canons was the main story of the twelfth and thirteenth centuries. In the early Middle Ages bishops exercised their authority and jurisdiction unfettered by any formal constitutional structures. By the thirteenth century, a bishop's power and the exercise of his office was limited by a new conception of the bishop's juridical personality that embraced the joint authority of the bishop and the cathedral chapter.

In the period between ca. 1180 and 1300, the canonists generally concurred that the bishop and chapter together constituted the basic administrative unit of the diocese. The canons of the cathedral chapter usurped the rights of the lower clergy and spoke for the people and the clergy of the entire diocese. To describe this new juridical entity, the canonists worked out corporate theories that they applied to a wide range of institutions. In canonistic thought, the relationship of the bishop and the cathedral chapter divides into three categories: What the bishop can do in the name of the church; what the chapter may do without the consent of the bishop; and what the bishop and chapter ought to do together. The canonists limited both the bishop and chapter considerably in what they could do alone. Normally a bishop and chapter had to alienate property, to confer benefices and offices, to ordain priests and to judge cases in the episcopal court jointly. One canonist, Johannes Teutonicus, asked whether the consent of the parish priests was necessary in some cases, a question that may have still been asked by recalcitrant conservatives in the early thirteenth century. In the late twelfth century Huguccio and Laurentius thought that in some cases parish priests ought to be consulted by the bishop and chapter. Johannes and the later canonists were not, however, inclined to let the parish priests share in the governance of the diocese.

If the participation of the entire clergy in the governance of the diocese represented the old world, we can discern a tension in canonistic electoral theory between the rights of the local cathedral chapter and its corporate prerogatives and the expanding claims of papal power. Electoral theory is important for understanding the relationship of the person of the bishop and his territorial domain, his diocese. We have already seen that the bishop gradually became a stranger in a strange land during the thirteenth and fourteenth centuries. They were no longer native sons; they were not even committed to a stable, monogamous marriage. We can see in the jurisprudence of thirteenth-century electoral theory a reflection of the old and new order of episcopal power.

The key to the canonists views on election is their opinions on what constitutes a numerical majority in an election. The canonists used the term *maior et sanior pars* to describe a majority of the electors in a corporation. The *maior et sanior pars* was not a numerical majority — although it could be — but was the most important part of the corporate body. Geoffrey Barraclough has written optimistically that “it is striking enough that the church had the wisdom to reject the democratic fallacy of ‘counting heads,’ and to attempt an estimate of the intelligence and enlightened good faith of the voters.” What may have seemed wise in the context of 1934 does not resonant as well today. Nonetheless,

Barraclough's generalization is off the mark for the Middle Ages because the church did not have the wisdom to reject fallacious democratic reasoning until the first half of the thirteenth century. The double papal election of 1159 had demonstrated to the canonists the dangers of rejecting democracy. In this case the papacy and the canonists quickly concluded that elections based on the principle of majority rule avoided schism and fostered stability. At the Third Lateran Council of 1179 a conciliar canon established the rule that a pope-elect must have the consent of a two-thirds majority in the college of cardinals.

In the early thirteenth century Johannes Teutonicus propounded a theory of election that advocated a clear numerical majority in ecclesiastical elections. But Johannes was one of the last of the Old School. His theory was rejected by Bernardus Parmensis and, most importantly, by Pope Gregory IX, who stated in the decretal, *Ecclesia vestra*, that the *maior et sanior pars* could not always be the numerical majority. The most interesting aspect of Johannes' electoral theory for our purposes is his views on electing an "extraneus," a foreigner, as bishop. As we have seen, until the twelfth and thirteenth centuries, most bishops were local men. Although Johannes was a fervent democrat in ecclesiastical elections, he was a committed oligarch when an ecclesiastical corporation wanted to elect an extraneus. Johannes may have been reacting to the increasing presence of foreign shepherds among local flocks. He believed that an extraneus could be elected only if there were no worthy candidates to be found locally, and only if the election were almost unanimous. Almost unanimous in this case means all but one. If the chapter elected an extraneus but two canons favored a local candidate, the two canons become the *maior et sanior pars* no matter how many canons voted for the other candidate.

Johannes' electoral theory reflects his conviction that foreign shepherds should not care for local flocks. He believed that an extraneus could be elected only with great difficulty, and he believed that even the pope could not provide a bishop to an unwilling flock. Johannes firmly rejected the constitutional structure of the church that was slowly evolving during his lifetime.

Johannes Teutonicus was in a minority. All the later canonists agreed that the cathedral chapter could elect an extraneus if the bishop had been elected by the *maior et sanior pars*. Johannes, the old conservative, conceived of the church as being a local institution, serving local interests, and controlled by local people. In general his ecclesiology emphasized local rights.

By the later Middle Ages the church was moving steadily towards centralization. The person of the bishop became a prince who ruled over his territory. His territory was more clearly defined than it had ever been, and his jurisdiction over institutions within his territory was more vigorously defined than it had ever been. The bishop, however, became less a creature of the diocese. The bonds between a bishop and his flock were attenuated and the legal relationship between them diminished. By the later Middle Ages, when bishops were generally appointed by papal mandates rather than elected by local cathedral

chapters, the metaphors that had traditionally described the *bonus pastor* often became more and more rhetorical embellishments rather than descriptions of reality.

The diocese and the bishopric were, as I have argued above, the forerunners of the modern state. Bishops, like secular princes, exercised increasingly centralized jurisdiction over their territories. Here, however, the comparison between the secular and the ecclesiastical world diverges. Bishops were gradually subjected to the central authority of the pope. Secular princes became autonomous rulers. At this point we may make some comparisons with bishops of the Eastern, Orthodox churches. What strikes us first about the Orthodox church is the doctrine of episcopal equality that permeates its ecclesiological thought. In part the doctrine of equality, recently defined as a “*communio ecclesiology*,” finds its roots and its legitimacy in the history of the early church which modern Orthodox scholars have characterized as a “*eucharistic community*,” presided over by a bishop. These communities were linked by faith, not by hierarchy. Bishops were equal and bishoprics were autonomous. Eastern ecclesiology is shaped by history, but we can see that the Latin church was not significantly different before the twelfth and thirteenth centuries.

The Orthodox tradition has interpreted the primacy of Rome as having been a primacy of solicitude — *sollitudinis* that finds its justification in the earliest descriptions of papal power. The shepherd should care for his flock. Sollicitude is an general pastoral concern that does not have limits but does have jurisdictional limits. The bishop of Rome’s primacy of solicitude is not a primacy of jurisdiction. Orthodox scholars have argued that the role of the patriarch of Constantinople or any other central power within the Orthodox church is very limited. The patriarch was responsible for the solicitude of the church and its people.

John Erickson has observed that it is paradoxical that:

in the course of late antiquity and the Middle Ages the Roman Catholic Church insisted that its primacy was due not to the contingencies of politics and history but to Christ’s promise to Peter . . . <while> the Byzantine Church, on the other hand freely acknowledged that primacies depend on the order of the principalities of this world.”

Yet what is clear from our survey of Western ecclesiology is that during the period in which papal centralization was established this development within the church was contrary to contemporary political developments and contrary to its own traditions of power and authority within local churches. There is no question, however, that the power of the tradition of Saints Peter and Paul’s founding of the Roman church was the essential ingredient for creating the monarchical constitutional structure of today’s Latin church.

Many questions and avenues remain unexplored in this survey of ecclesiology. However, I would like to explore briefly an alternative universe of ecclesiological thought. I base these considerations on the unpublished work of Orazio Condorelli. In a book that will appear shortly Condorelli explores another tradition within the Latin church that dates back to the *ecclesia primitiva* but that was taken up in the later Middle Ages: that several prelates

could exercise jurisdiction and pastoral care in the same territory. A variant of the idea that prelates could share the same territory can be found in canon 9 of the Fourth Lateran Council. In that canon Pope Innocent III declared that although there can be only one head in each diocese the bishop could appoint a vicar if there were groups within the diocese that spoke other languages and used other rites. As Condorelli points out the canonists reacted to this canon in several different ways during the next two centuries. In the fifteenth century with the attempt to reunite the Greek and Latin churches this canon gained significance and importance in their writings. While commenting on the Lateran canon the great Sicilian jurist Panormitanus concluded that, if necessary, the pope could appoint two bishops to one diocese. What Panormitanus undoubtedly had in mind were the dioceses of Southern Italy where large groups of Greek speaking Christians lived under Italian bishops. In the post-Schism era Panormitanus flatly rejected the horror of two popes, but two ordinary bishops, he thought, could rule the same diocese. To use the terminology of the political scientists, the bishops would share sovereignty over a single territorial state. Shared sovereignty was common in medieval and early modern states. In fact, in the medieval and early modern world, shared sovereignty was the rule rather than the exception. It is a concept that has attracted much interest and attention recently as a means through which some of the worst excesses of the nation state might be ameliorated.

Shared episcopal sovereignty is a remarkable idea, whose time has probably not come. It would entail a church with many prelates, *diversa capita*, exercising pastoral care and jurisdiction over many different rites, languages, and, dare I say dogmas, but all participating in one community, *unum corpus*. The church has been and still is a varied and multi-faceted institution. The ecclesiology of *unum corpus, diversa capita* may still hold promise for Christendom in the early 21<sup>st</sup> century. It is not completely alien to the traditions of the *Ecclesia universalis*.