

## The purpose and significance of the establishment of a personal prelature\*

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### 1. Principles of the development of the Church's organization

The saving will of Christ has revealed itself in the founding of the Church, the convoking of the children of God called to form the new People of God, an instrument of salvation for all men and women. As the *sacramentum salutis*, the People of God has a precise structural form, based on the existence of an *ordo* structured in three grades, aimed at serving the *christifideles* by providing them with the means of salvation.

The constitution and mission of the Church are such that the People of God needs to be organized, and the tasks of the sacred Pastors suitably distributed. The historical development of this organization has naturally been guided by the requirements of the Church's essential structure; it must also respect the intrinsic aim of the organization itself—the carrying out of the mission received from Christ to preach the Gospel and sanctify men and women through the sacraments.<sup>1</sup>

Throughout history, ecclesiastical organization has been based on the requirements of evangelization and the duty to nourish the Christian people. The single reality that is called Church is made up of a divine and a human element,<sup>2</sup> and so it is not surprising that the historical development of the ecclesiastical organization should be subject to the sorts of influences that affect all human organizations when it comes to distributing roles. Apart from the command to take the message of the Gospel to every part of the world where the name of Christ is not known, and the need to provide for the spiritual requirements of the faithful, the particular form that the ecclesiastical organization takes at any given moment in history also depends on the intrinsic needs of the organization. More specifically, pastoral organization must take into account such considerations as the maintenance of ecclesiastical discipline, support of the clergy, other rights of those involved in the organization, the administration of

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\* Published in: *Studies on the Prelature of Opus Dei. On the Twenty-Fifth Anniversary of the Apostolic Constitution Ut sit*, Translated and Edited by Paul Hayward [from the original: *Finalità e significato dell'erezione di una prelatura personale*, in *Studi sulla prelatura dell'Opus Dei. A venticinque anni dalla Costituzione apostolica "Ut sit"*, a cura di Eduardo Baura, Roma 2008, pp. 35-67], Gratianus Series, Montréal, Wilson & Lafleur Ltée, 2008, pp. 39-75.

<sup>1</sup> Cf. INTERNATIONAL THEOLOGICAL COMMISSION, *Themata selecta de ecclesiologia* (Vatican City, 1985), n. 5.1.

<sup>2</sup> Cf. SECOND VATICAN COUNCIL, Const. *Lumen gentium*, n. 8.

places of worship and works of charity, relations with civil society, and other factors that may influence how pastoral structures are constituted.

It is easy to see how ecclesiastical organization could become entangled amid all these internal requirements and its proper development hindered, making it difficult for it to achieve the very purposes for which it exists.

Without wishing to pass judgment on the state of ecclesiastical organization prior to the Second Vatican Council—which would be difficult to do, and in any event would go beyond the scope of this paper—what is certain is that the Council planned to give new impetus to pastoral and evangelical requirements by making ecclesiastical organization more flexible and more aware of its specific purpose, with pastoral needs becoming the primary factor in determining the organizational structure. Relevant in this regard are not only the directives for re-examining incardination and the support of the clergy, but above all the principles laid down to guide pastoral hierarchical organization. Among these, one that stands out is the principle of allowing a personal criterion as an element for determining ecclesiastical circumscriptions, without prejudice to the principle of territoriality which would continue to be the normal criterion. In this context, the decree *Presbyterorum ordinis*, n. 10, widened the range of ecclesiastical organizational possibilities by allowing the establishment of special personal dioceses or prelatures wherever this might seem pastorally useful.

The introduction of the personal criterion for determining ecclesiastical circumscriptions opened up the possibility of making systematic provision, within general Church law, for a number of pastoral phenomena that had arisen and been growing in importance during the 20th century. Hitherto it had been necessary to resort to extraordinary solutions such as the ordinariates established from 1930 onwards for the spiritual care of Eastern-rite faithful in countries where the Eastern hierarchy was not present,<sup>3</sup> or the military vicariates (ecclesiastical circumscriptions not catered for by the Church's general law but made possible by virtue of their direct connection with the power of the Pope),<sup>4</sup>—or the

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<sup>3</sup> On the nature of these ecclesiastical circumscriptions and corresponding data, see J.I. ARRIETA, “Chiesa particolare e circoscrizioni ecclesiastiche”, in *Ius Ecclesiae* 6, 1994, pp. 31–33.

<sup>4</sup> In view of their conditions of life, the Holy See made special provision in some countries for the pastoral care of Army faithful, by appointing a vicar (of the Pope) who was given power of personal jurisdiction, cumulative with that of the local Ordinaries. The Instruction issued by the Sacred Consistorial Congregation *Sollemne semper* on April 23, 1951 (AAS 43, 1951, pp. 562–565) introduced into Church law the type of ecclesiastical circumscription known as the military vicariate, which although evidently clashing with the thinking that lay behind the Code then in force was nevertheless considered to be a legitimate application of the Roman Pontiff's power. (For the history of the military ordinariates in past centuries see, for example, J. TOVAR PATRÓN, *Los primeros súbditos de la jurisdicción castrense española* (Bilbao, 1964), especially pp. 81–123, and A. VIANA, *Territorialidad y personalidad en la organización eclesiástica. El caso de los ordinariatos militares* (Pamplona, 1992), pp. 17–64. After the Council these vicariates were transformed by John Paul II in his Ap. Const. *Spirituali*

temporary conferral of personal jurisdiction on certain prelates to allow them to carry out special tasks such as that of providing spiritual attention to Catholic refugees during the World Wars.<sup>5</sup>

Apart from these examples, it should also be remembered that before the Second Vatican Council, and specifically during the pontificate of Pius XII, a number of organizational principles had developed (and remain substantially valid today) which were aimed at meeting the pastoral needs arising out of the ever-increasing phenomenon of human mobility, albeit within the narrow margins permitted by the criterion of territoriality then applicable.<sup>6</sup> The possibility opened up by the Council of establishing personal circumscriptions, and in particular personal prelatures, was seen by the Holy See and by canonists as one of the possible organizational measures that could help in addressing the

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*militum curae* of April 21, 1986 (AAS 78, 1986, pp. 481–486) into military ordinariates, under an Ordinary with proper (no longer vicarious) power. Thus there came into being a form of organization substantially resembling the personal prelate. On the nature of military ordinariates, see my study “Gli ordinariati dalla prospettiva della *communio ecclesiarum*”, in *Fidelium Iura* 6, 1996, pp. 337–365; cf. also E. BAURA, *Legislazione sugli ordinariati castrensi* (Milan, 1992).

<sup>5</sup> For example, in 1918 the Holy See decided to appoint, for the pastoral care of refugees in Italy, “a Prelate who will take the place of the proper and immediate Ordinary for all the said priests and seminarians in whatever place or diocese they may be residing [...]. By this means the Holy See also intends to make better provision for the religious assistance of lay refugees, especially those who find themselves grouped in small centers that require more special care. To this end the said Prelate is given authority to appoint the refugee priests—after consulting, if possible, their proper Ordinaries, and in any case the Bishops of the place where they reside—to the task of attending to these groups and providing for their spiritual needs” (S. CONSISTORIAL CONGREGATION, *Decree* of September 3, 1918, in AAS 10, 1918, pp. 415–416).

<sup>6</sup> Cf. Pius XII, Ap. Const. *Exsul familia* of August 1, 1952 (AAS 44, 1952, pp. 649–704).

Before the pontificate of Pope Pius XII a particular role had been created which consisted of looking for suitable priests to be sent—with the consent of their proper Ordinaries and of the Ordinaries of the places to which they would be assigned—for the pastoral assistance of Italian emigrants; it also involved the duty of supervising these priests, as well as the faculty of transferring them or removing them from office (cf. S. CONSISTORIAL CONGREGATION, *Notificatio*, January 31, 1915, in AAS 7, 1915, pp. 95–96). Initially this role was entrusted to a diocesan bishop, but subsequently it was decided to appoint a prelate who was free of other responsibilities, upon whom episcopal dignity would be bestowed (cf. S. CONSISTORIAL CONGREGATION, *Notificatio*, October 23, 1920, in AAS 12, 1920, pp. 534–535).

Thus one way of dealing with the pastoral phenomenon of human mobility was through the establishment of a personally circumscribed jurisdiction, cumulative with that of the diocesan bishops. This was also reflected in the pastoral care of seamen; in this regard it is significant to note how some proposed, for example, the establishment of an international ordinariate for the Apostoleshship of the Sea: cf. G. FERRETTO, *L’Apostolato del Mare. Precedente storici e ordinamento giuridico* (Pompeii, 1958), p. 52. In addition, certain canonists classed the *de facto* situation in Italy in relation to this Apostoleshship (a bishop in charge, sea chaplains) as a “personal prelate”, before this expression had yet been legally coined (cf. L.M. DE BERNARDIS, “La giurisdizione ecclesiastica sulle navi”, in *Rivista del Diritto della Navigazione* 6, 1940, pp. 425–426).

The same basic structure envisaged by *Exsul familia* was once again proposed, after the Council and before the coming into force of the present Code, by the Instruction of the S. CONGREGATION FOR BISHOPS, *De pastoralis migratorum cura*, of August 22, 1969 (AAS 61, 1969, pp. 614–643) (also referred to as *Nemo est*); and most recently by the Instruction from the PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE, *Erga migrantes Caritas Christi* of May 3, 2004 (AAS 96, 2004, pp. 762–822). Cf. also JOHN PAUL II, Motu. pr. *Stella maris*, of January 31, 1997 (AAS 89, 1997, pp. 209–216).

pastoral needs of migrants, nomads and other faithful who were not completely rooted within a specific territory.<sup>7</sup>

The Second Vatican Council's contribution to ecclesiastical organization consisted not only in an express desire that pastoral demands should prevail over internal organizational needs, but also included other ideas deriving from the Church's deeper self-awareness which lead to a better development of pastoral organization. For instance, the acceptance of personal jurisdictions can be understood only in the light of the particular vision of the episcopate that is reflected in the text of the Decree *Christus Dominus*, where both the universal and the particular dimensions of the episcopal ministry are rediscovered. The Decree's conclusion was that there ought to be tasks—which can also be entrusted to bishops—for the good of several particular Churches.<sup>8</sup> This is something that can be put into practical effect thanks to a clearer understanding of the concept of power as service,<sup>9</sup> which helps highlight certain constitutional principles of ecclesiastical organization such as collaboration and coordination between Pastors (since all of them share the same goal).<sup>10</sup>

On the basis of these considerations, and abandoning any notion of ecclesiastical circumscriptions as simply spheres of personal power, there is no obvious difficulty in having cumulative jurisdiction in cases where there is personal jurisdiction over faithful who continue to belong to territorial dioceses. Furthermore, the fact that individual faithful may belong simultaneously to more than one ecclesiastical circumscription does not affect the

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<sup>7</sup> Cf. Instructions *De pastoralis migratorum cura*, n. 16 and *Erga migrantes Caritas Christi*, n. 24, footnote 23. Among canonical commentators, cf., for instance, A. BENLLOCH POVEDA, “La nuova legislazione canonica sulla mobilità sociale”, in *Migrazioni e diritto ecclesiale. La pastorale della mobilità umana nel nuovo codice di diritto canonico* (Padua, 1992), p. 14; J. BEYER, “The new Code of Canon Law and pastoral care for people on the move”, in PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE, *Migrazioni. Studi interdisciplinari* (Rome, 1985), vol. 1, pp. 177–179; P.A. BONNET, “The fundamental duty-right of the migration faithful”, *ibid.*, vol. 1, p. 209.

It is interesting to read the text of a plenary meeting of the Pontifical Council for the Pastoral Care of Migrants and Itinerant People: “A personal prelatore is seen as the best solution for the pastoral care of gypsies, a homogeneous ethnic group radically cut off from all normal pastoral contact (10.4.1). Directing it there should be a Bishop familiar with their mentality and language (11.5.2; 11.2.2) [...] Migrant agricultural workers, of whom there are two million in the United States, and ‘who do not live in any place but all over’, should be attended to by a personal prelatore (5.2.1). A temporary personal prelatore seems useful in cases of mass displacement (7.2.1)”: cf. S. TOMASI, “La missione del Pontificio Consiglio alla luce di una inchiesta presso le Conferenze Episcopali—attese e proposte”, in PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE, *La missione del Pontificio Consiglio della Pastorale per i Migranti e gli Itineranti nel crescente fenomeno odierno della mobilità umana. Atti della XII Riunione Plenaria* (Vatican City, 1993), p. 140.

<sup>8</sup> Cf. SECOND VATICAN COUNCIL, Decr. *Christus Dominus*, n. 43.

<sup>9</sup> Cf. for instance, *Lumen gentium*, nn. 18 and 24.

<sup>10</sup> Cf. J. HERVADA, *Diritto costituzionale canonico* (Milan, 1989), pp. 228 and 229. For an explanation of the principle from the technical perspective of the coordination of offices, see J.I. ARRIETA, *Diritto dell'organizzazione ecclesiastica* (Milan, 1997), pp. 166 and 167.

unity of the diocese, since at the pinnacle of the diocesan structure there is only one bishop, who is the sole head (under the authority of the Roman Pontiff) of the portion of the People of God entrusted to him, but not the sole and exclusive Pastor of the faithful *uti singuli*, who may also have relationships with other sacred Pastors.<sup>11</sup> Precisely because they are faithful of a portion of the People of God, the baptized belong to the universal Church; hence the possibility of multiple relationships between the faithful and the Church's sacred Pastors. The special responsibility of the bishop for the portion of the People of God entrusted to him does not therefore imply any kind of exclusivity with respect to each of the individual faithful who belong to it. On the contrary, in pasturing the People of God he needs to bear in mind the Church's constitutional principle of collaboration between sacred Pastors.

Another area important for pastoral organization is that of the awareness of the universal call to holiness and the active role of every *christifidelis* in building up the Church,<sup>12</sup> which is such as to rule out a “minimalist” distribution of the means of salvation. It is in this light that we should consider the fundamental right of the faithful in can. 213, that of receiving the spiritual goods of the Church from the sacred Pastors—a right which constitutes an operative principle of ecclesiastical organization.<sup>13</sup> Indeed, bearing in mind that, as *Lumen gentium* reminds us in n. 40, “omnes christifideles cuiuscumque status vel ordinis ad vitae christianae plenitudinem et caritatis perfectionem vocari” [“all the faithful of Christ of whatever rank or status are called to the fullness of the Christian life and to the perfection of charity”], it needs to be acknowledged that the faithful have the right to receive the means of salvation from the sacred Pastors not simply for their own “salvation”, in the minimalist sense of the term, but with a view to attaining the perfection of charity. The sacred Pastors therefore have the duty of administering and organizing the administration of the salvific goods in such a way as to satisfy this requirement. In short, the desire for greater flexibility in ecclesiastical structures so as to achieve greater pastoral effectiveness, and the recognition of the pastoral importance of administering the means of salvation so as to attain the fullness of Christian

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<sup>11</sup> Cf. CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Litterae ad Catholicae Ecclesiae Episcopos de aliquibus aspectibus Ecclesiae prout est Communio*, May 28, 1992, n. 16, in AAS 85, 1993, pp. 847 and 848.

<sup>12</sup> Cf. VATICAN II, Const. *Lumen gentium*, chap. IV and cann. 204 §1 and 208 of the CIC.

<sup>13</sup> “Ius est christifidelibus ut ex spiritualibus Ecclesiae bonis, praesertim ex verbo Dei et sacramentis, adiumenta a sacris Pastoribus accipiant” (can. 213). This canon is taken almost word for word from n. 37 of *Lumen gentium*, although the conciliar text made it clear that the faithful have the right to receive the spiritual goods of the Church “abundanter”, an adverb omitted from the text of the Code. In any event, the conciliar doctrine retains its interpretative value for the Code. Furthermore, if, as can. 210 states, the faithful are required to make a wholehearted effort to lead a holy life, it is absolutely necessary for the sacred Pastors to provide them with the spiritual help they need in order to do so: cf. J.L. GUTIÉRREZ, “La llamada universal a la santidad en el estatuto jurídico del fiel cristiano”, in *Ius Canonicum* 42, 2002, pp. 491–512.

life, have been the principal pillars of the development of ecclesiastical organization since Vatican II.

## **2. The pastoral phenomenon of Opus Dei**

In view of the foregoing and in the light of the Council's teaching, it is not surprising, even if it is something new in history, to find the Church's pastoral organization creating a new ecclesiastical circumscription—determined according to a personal criterion—aimed at imparting the spiritual goods in order to facilitate the quest for holiness and the practice of apostolate in the middle of the world.

The perfection of Christian life and the exercise of apostolate in the middle of the world require diligent sacramental practice and a deep doctrinal and ascetical formation: in other words, assiduous pastoral assistance. Of course, since we are talking about the same means of salvation as are available to the Church, it would be possible to administer them within the diocese itself, without needing to establish any new complementary structure. However, there is nothing to prevent the establishment of a suitable circumscription for providing better assistance in the quest for sanctity and the exercise of apostolate in the world.

In fact, it would be possible to imagine a situation in which, with the aim of giving greater effectiveness to the *ad intra* sanctification of the world and the doctrine on the universal call to sanctity, the Church—which is a “convocation”—invited some of the faithful to commit themselves in a well-defined manner to carrying out apostolate in their daily life while seriously seeking Christian perfection; at the same time, the ecclesiastical authority would take charge of administering all the spiritual help these faithful would require. In such a situation, we could envisage this initiative as being so demanding that it would require specially dedicated priests; and with a view to ensuring greater efficacy, it might also be seen that greater unity of governance would be desirable, so that the pastoral task of governing this whole new initiative might be entrusted to a single ecclesiastical authority. In other words, although the putting into practice of the universal call to holiness does not in itself require any special structure (precisely because it is universal and therefore pertains to the normal life of the Church) there is nothing to prevent the ecclesiastical organization from establishing—from among many other possibilities—a structure for those faithful who wish to commit themselves to this task (a task which they believe they are called to carry out and to spread to

others) and providing them with the special pastoral attention they need, while they continue to belong exactly as before to the dioceses in which they live.<sup>14</sup>

Undoubtedly such a hypothesis, however possible from a strictly theoretical point of view, appears rather complex and not very realistic. Nevertheless, it can happen that something that appears complicated *a priori* when looked at conceptually turns out in real life to be very simple. Nor should it be forgotten that, when viewed from the perspective of faith, what is decisive in the development of the Church is the action of the Holy Spirit, who guides not only the acts of teaching and governance, but also the lives of the faithful (albeit in a different way and with different consequences). While it is true that it would have been possible for the Holy Spirit to have given light to the Hierarchy to undertake the sort of task I have outlined, as a matter of fact it came about in a different manner. The Holy Spirit did inspire the Hierarchy to become more fully aware of the universal call to holiness and other aspects of the mystery of the Church, and to proclaim this doctrine in an ecumenical Council; but the way in which the specific instrument which is now Opus Dei came into being was by other channels—channels that are more usual in the life of the Church.

In order to give the Church the gift of Opus Dei, God chose a holy priest to whom he communicated his Will at a precise historical moment—the moment foreseen by his most wise Providence (thirty years prior to the Council, and in specific historical circumstances)—and bestowed on him the necessary graces for seeing the task through to fulfillment. Responding to his vocation with heroic faithfulness, St Josemaría ensured that in the life of the Church there would be thousands of faithful, spread across the five continents, engaged in the effort to achieve the fullness of Christian life and to spread the message of the universal call to holiness, carrying out an intense apostolate in the middle of the world through the activities of their daily life, while being pastorally assisted by a good number of priests dedicated to that task.

It would be going beyond the limits of the present work to try to give a complete description of Opus Dei. Here my intention is simply to highlight certain essential features that will help provide an understanding of why the Church decided to establish a personal prelate as a way of catering for the particular pastoral needs that had arisen. To do this it will be sufficient to have recourse to a few very eloquent expressions used by the Founder of Opus Dei himself.

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<sup>14</sup> Cf. S. BAGGIO, “A benefit for the whole Church”, in *L'Osservatore Romano*, November 28, 1982.

At the personal level, St Josemaría used to compare Opus Dei to the “early Christians”.<sup>15</sup> The faithful of Opus Dei are men and women who seek sanctity through their work and the other duties of daily life, and try to spread the ideal of holiness in the middle of the world. They are no different from other citizens, and their belonging to Opus Dei in no way affects their situation in civil society or the Church. St Josemaría frequently uses the expression “ordinary Christians” to refer to the faithful of Opus Dei, because of the natural way in which they strive to live in accordance with the demands of their Christian faith, without claiming any special title or adopting any special way of life (even if a specific spirituality is involved), and without needing to form a group or act together. Each of the members of Opus Dei follows his or her vocation not only in the few moments when they find themselves with other members of Opus Dei for the purpose of receiving or imparting the means of formation, but also and above all when they are fulfilling their professional, family or social duties: it is there—according to the teaching of St Josemaría—that they “do” Opus Dei precisely by trying to “be” Opus Dei themselves.

At the institutional level, the Founder of Opus Dei used to describe the Work as a “great work of teaching”,<sup>16</sup> in the sense that its activity consists fundamentally in providing a broad and profound doctrinal and ascetical formation, adapted to the different circumstances in which the faithful live and strive to attain the ideal of sanctity and apostolate in the middle of the world. However, this apostolic and formative activity, while aiming to be truly effective in promoting an intense Christian life, comes up against what St Josemaría would call the “sacramental wall”,<sup>17</sup> that is, the need to rely on the priestly ministry, because part of this formation is received through preaching and the administration of certain sacraments (especially the sacrament of penance). In other words, Opus Dei’s aim is achieved only through the joint exercise of the common priesthood of the faithful (who carry Christ into their own family, professional and social environments) and the priestly ministry which helps these faithful and the many others who rely on this “great work of teaching” by providing them with the means of salvation. This involves more than the mere presence of priests and lay people: the point is that the institution itself is structured on the basis of the interaction between the common priesthood and the ministerial priesthood.<sup>18</sup>

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<sup>15</sup> Cf., for example, ST JOSEMARÍA, *Conversations with Josemaría Escrivá* (New York; New Jersey, 2002), n. 24.

<sup>16</sup> Cf., for example, ST JOSEMARÍA, interview in *ABC*, Madrid, March 24, 1971. Cf. also ID., *Christ is passing by* (New York; New Jersey, 2002), n. 149.

<sup>17</sup> Cf., for example, ST JOSEMARÍA, *Conversations*, n. 69.

<sup>18</sup> Art. 4 § 2 of the statutes of the Prelature states: “Sacerdotium ministeriale clericorum et commune sacerdotium



During his own lifetime, St Josemaría was himself the Shepherd who guided this *de facto* organically-structured body, thanks to his charismatic authority and without having been given any kind of episcopal role by the Church, since the provisional and inadequate institutional forms given to this new pastoral phenomenon allowed Opus Dei only a precarious existence as it awaited a suitable future solution, once it had come to be considered sufficiently consolidated.<sup>19</sup> After the ecclesial importance of Opus Dei had been confirmed, the problem arose of how to cater for it pastorally, and the answer came precisely with the establishment of a personal prelate, that is, by entrusting the mission of guiding Opus Dei to a Prelate.

To acquire a better understanding of the reasons behind the establishment of a personal prelate, the natural first step is to go to the sources: i.e. the reasons given by the ecclesiastical authority itself at the moment of implementing its decision. Those reasons are contained in the preamble to the Ap. Const. *Ut sit*, of November 28, 1982, by which John Paul II established the prelate.<sup>20</sup> The Pope considers in the first place that Opus Dei had been founded “by divine inspiration” and that, since it pledges itself “to illuminate with new lights the mission of the laity” and “to put into practice the teaching of the universal call to sanctity”, it is an apt instrument for the mission that the Church is called to accomplish. After this assessment, the Pope considers the substance of Opus Dei, spread over a large number of dioceses throughout the world, and offers a succinct analysis: it is an apostolic body, made up of priests and laity, which is described as “organic”, meaning that priests and lay persons work together like organs in the same body to fulfill the aims of Opus Dei, each in their own way, precisely through the joint exercise of the common priesthood of the faithful and the priestly ministry. The preamble of *Ut sit* also applies another adjective to this body, calling it “undivided”, by which it means that it is “an institution endowed with a unity of spirit, of

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laicorum intime coniunguntur atque se invicem requirunt et complent, ad exsequendum, in unitate vocationis et regiminis, finem quem Praelatura sibi proponit”. Almost twenty years after the establishment of the Prelature of Opus Dei, John Paul II explained its nature and stressed that it is “organically structured, that is, [consisting] of priests and lay faithful, men and women, headed by their own Prelate” (Address of March 17, 2001 to the participants in the Workshop on “Novo millennio ineunte” organized by the Prelature of Opus Dei, in *L'Osservatore Romano*, Italian edition, March 18, 2001, p. 6). For an explanation of the nature of personal prelates, and in particular that of Opus Dei, by reference precisely to their being structured on the *ordo-plebs* relationship, see J. HERVADA, “Aspetti della struttura giuridica dell’Opus Dei”, in *Il Diritto Ecclesiastico* 97, 1986, I, pp. 410–430. The idea of the mutual interaction between the common priesthood and the ministerial priesthood has been developed by P. RODRÍGUEZ (cf., for example his “Sacerdocio ministerial y sacerdocio común en la estructura de la Iglesia”, in *Romana* 4, 1987, pp. 162–176).

<sup>19</sup> Cf. A. DE FUENMAYOR, V. GÓMEZ-IGLESIAS and J. L. ILLANES, *The Canonical Path of Opus Dei. The History and Defense of a Charism* (New Jersey; Chicago, 1994).

<sup>20</sup> Cf. AAS 75, 1983, pp. 423–425.

aims, of government and of formation”. Now, an organic body that is based on the exercise of the priestly ministry and the common priesthood, and that is to remain undivided, needs to be placed under the guidance of a Bishop or Prelate with the necessary power to govern a body structured on the *ordo–plebs* relationship. This is why the Apostolic Constitution concludes with the statement that, from the time that the figure of personal prelatures was introduced, it was seen to be perfectly suited to Opus Dei.<sup>21</sup>

There is, of course, another essential characteristic implicit in all these considerations, which completes the description of Opus Dei and personal prelatures in general. I refer to the fact that the faithful of Opus Dei continue to belong to the dioceses in which they live, in the same way as any other faithful. Consequently the jurisdiction of the Prelate of the prelature is not, as is often said, “exclusive”.<sup>22</sup>

The establishment of the Prelature of Opus Dei has attracted a great deal of attention in some quarters, not so much because it is the first instance of a personal prelature, but rather because it involves an ecclesiastical circumscription being established for a pastoral phenomenon arising out of a charism, as opposed to coming about through circumstances of the natural order (for instance, the way of life of a particular profession; migration; nomadism; etc.) which would in themselves be sufficient to justify the establishment of a personal prelature. It is true that at the source of many ecclesiastical circumscriptions (and,

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<sup>21</sup> “Ut sit validum et efficax instrumentum suae ipsius salvificae missionis pro mundi vita, Ecclesia maternas curas cogitationesque suas maxima cum spe confert in Opus Dei, quod Servus Dei Ioseph Maria Escrivá de Balaguer divina ductus inspiratione die II Octobris anno MCMXXVIII Matriti inivit. Haec sane Institutio inde a suis primordiis satagit missionem laicorum in Ecclesia et in humana societate non modo illuminare sed etiam ad effectum adducere necnon doctrinam de universali vocatione ad sanctitatem re exprimere [...] Cum Opus Dei divina opitulante gratia adeo crevisset ut in pluribus orbis terrarum dioecesibus extaret atque operaretur quasi apostolica compages quae sacerdotibus et laicis sive viris sive mulieribus constabat eratque simul organica et indivisa, una scilicet spiritu fine regimine et spirituali institutione, necesse fuit aptam formam iuridicam ipsi tribui quae peculiaribus eius notis responderet [...] Ex quo autem tempore Concilium Oecumenicum Vaticanum Secundum, Decreto Presbyterorum Ordinis, n. 10 per Litteras “motu proprio” datas Ecclesiae Sanctae, 1 n. 4 rite in actum deducto, in ordinationem Ecclesiae figuram Praelaturae personalis ad peculiariora opera pastoralia perficienda induxit, visa est ea ipsa Operi Dei apprimere aptari”.

<sup>22</sup> The terminology is not completely accurate. Strictly speaking it would be more precise to say that the jurisdiction of the Prelate, like that of the head of any ecclesiastical circumscription, is exclusive (without prejudice to the supreme jurisdiction of the Pope) for his own circumscription, but not for his faithful. By saying that the jurisdiction of the Prelate is not “exclusive” the intention is to show that the faithful of the prelature (like the faithful of military ordinariates and other circumscriptions of this type, whatever name happens to be applied to them) are also necessarily subject to at least one other jurisdiction.

A similar terminological question arose during the work of drafting the present Code over the expression “cum proprio populo”: “The Msgr Secretary and the Relator also point out that in the case of the personal prelature the expressions ‘cum proprio populo’ do not seem to be suitable because: a) a certain people composed of faithful ‘speciali quadam ratione devincti’ will always be necessary, and this is already implicitly contained in the words ‘portio populi Dei’ (a prelature made up only of priests, or of priests and a few lay persons, would not seem fitting); and b) it would not seem accurate to say that this people was ‘proper’ in the sense of exclusive jurisdiction of the Prelate over his faithful [...]. The other Consultors agree”: *Communicationes* 12, 1980, p. 279. The important thing, nonetheless, is to express the essence of what is intended.

when all is said and done, at the source of the early development of the Church) we can find a charismatic element in the form of some particular individual's evangelizing zeal, but in our case the presence of a charism has a special significance.<sup>23</sup>

There is a tendency, based on long historical experience, to assume that an entity which has at its vital source a charismatic element must necessarily be of an associative nature. In the case of Opus Dei, however, the inspiration received by St Josemaría was not that of creating of a group of priests who would gather together in order to pursue a particular spirituality or dedicate themselves to some specific activity in which lay people could also join, nor that of setting up a group of lay people who would meet to carry out certain activities consistent with the aims of the Church and who would ask for priestly assistance; nor, indeed, that of forming an association of laity and clerics wishing to form a group to carry out some work of charity, formation or piety. St Josemaría never felt called to set up a new group in the Church in which the members would commit themselves to act collectively or perform some common task. The faithful of Opus Dei fulfill their vocational commitment above all when they carry out, in total freedom, and on their own responsibility, their professional, family and social duties, and it is precisely there that they aim at the ideals of holiness and apostolate. The task with which St Josemaría was inspired was that of bringing into being a gathering of Christians, who would be offered a deep Christian formation to enable them to commit themselves to living out (personally, without forming a group) the ideal of the perfection of charity in the world and transmitting this to others—a commitment whose characteristics are such as to require specific pastoral care. To sum up, the charism which St Josemaría received did not involve the creation of a group of faithful, but the bringing about of a “mobilization” of Christians, whom the ecclesiastical Hierarchy would later need to provide for.

In the specific case of the Prelature of Opus Dei, what may have led to confusion in some people's minds is the fact that membership is acquired by an act of the will. It is certainly fair to assume that in the majority of cases, membership of the people of a personal prelatore will come about *ex auctoritate*, by the very act of establishing the personal prelatore (membership in these cases coming as a consequence of the particular pastoral needs that have been identified as requiring the new circumscription: immigrants in a certain country or of a certain nationality; membership of a certain professional category; etc.). Of course the

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<sup>23</sup> Concerning certain doctrinal difficulties over the precise nature of personal prelatres, which were probably connected with the establishment of the first prelatore, I would refer to what I have written in “Le attuali riflessioni della canonistica sulle prelatres personali. Suggestimenti per un approfondimento realistico”, in S. GHERRO (ed.), *Le prelatres personali nella normativa e nella vita della Chiesa* (Padua, 2002), pp. 15–53, with the appropriate bibliographical references.

faithful who become involved in this way are not merely passive subjects of a particular pastoral activity, but are living members of the Church. Although it was by an act of the authority that the people of the first personal prelatore was determined (it could not have been otherwise), it was nevertheless an act referring to those faithful who would join voluntarily, so that an individual member of the faithful becomes a member of the prelatore by an act of his or her own will, in accordance with the possibility mentioned in can. 296 (“*conventionibus cum praelatura initis, laici operibus apostolicis praelaturae personalis sese dedicare possunt; modus vero huius organicae cooperationis atque praecipua officia et iura cum illa coniuncta in statutis apte determinantur*”) [“Lay people can dedicate themselves to the apostolic work of a personal prelatore by way of agreements made with the prelatore. The manner of this organic cooperation and the principal obligations and rights associated with it, are to be duly defined in the statutes”].<sup>24</sup>

Nonetheless, the presence of a voluntary element could lead some to think that what we are concerned with here is an associative phenomenon. Certain authors have posed the problem of the respective natures of the Church’s constitutional and associative entities, attempting to identify the elements that distinguish them.<sup>25</sup> This question involves a very complex intellectual process of abstraction and classification, the analysis of which goes beyond the scope of the present work, which aims simply to highlight some of the points

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<sup>24</sup> Cf. G. COMOTTI, “Somiglianze e diversità tra le prelature personali ed altre circoscrizioni ecclesiastiche”, in GHERRO (ed.), *Le prelature personali nella normativa e nella vita della Chiesa*, pp. 81–114, especially pp. 107–112. Even when the people of a personal prelatore is determined *a priori* in the act of establishment, there could still—by virtue of can. 296 and its proper statutes—be lay persons cooperating with the pastoral activity of the prelatore by means of suitable agreements, as is also foreseen for military ordinariates (cf. JOHN PAUL II, *Spirituali militum curae*, art. X, 4<sup>o</sup>). The possibility—not the necessity—of these agreements should not lead us to think of possible prelatures made up only of the Prelate with his own *presbyterium*, which some lay persons could (or could equally choose not to) join, since “personal” prelatures can only be circumscriptions that are, precisely, personal, i.e. determined according to personal criteria, and established to meet the pastoral needs of a group of persons present in several dioceses, who therefore constitute the people of the prelatore (cf. *supra*, footnote 22). On the essential need for the Prelate, helped by a *presbyterium*, to relate to a people, cf. my own “Le dimensioni “comunionali” delle giurisdizioni personali cumulative”, in P. ERDŐ and P. SZABÓ (eds.), *Territorialità e personalità del Diritto canonico ed ecclesiastico. Il Diritto canonico di fronte al Terzo Millennio (Atti dell’XI Congresso Internazionale di Diritto Canonico e del XV Congresso Internazionale della Società per il Diritto delle Chiese Orientali, Budapest 2–7 settembre 2001)* (Budapest, 2002), pp. 427–439.

<sup>25</sup> It is well known that Aymans tried to distinguish the *Verfassungsrecht*, determined by the principle of *communio*, from *Vereinigungsrecht*, determined by the principle of *consociatio*: cf. W. AYMANS, “Kirchliches Verfassungsrecht und Vereinigungsrecht in der Kirche. Anmerkungen zu den revidierten Gesetzentwürfen des kanonischen Rechtes unter besonderer Berücksichtigung des Konzeptes der personalen Teilkirchen”, in *Österreichisches Archiv für Kirchenrecht* 32, 1981, pp. 79–100. For a critical analysis of this position, cf. C.J. ERRÁZURIZ M., “La distinzione tra l’ambito della Chiesa in quanto tale e l’ambito associativo e le sue conseguenze sulla territorialità o personalità dei soggetti ecclesiali transpersonali”, in ERDŐ and SZABÓ (eds.), *Territorialità e personalità del Diritto canonico ed ecclesiastico*, pp. 157–167.

connected with the establishment of Opus Dei. Here it will suffice to offer a number of brief observations on “voluntariness” in the Church and the nature of ecclesial associations.<sup>26</sup>

What should be emphasized above all is that while the voluntary element is certainly essential for associative phenomena, it is not exclusive to such entities: suffice it to think of the many areas in which, *de facto*, the faithful enjoy freedom to join an entity without its thereby becoming associative.<sup>27</sup> To be able to say that a particular entity is associative, it would be necessary not only to identify a voluntary element, but also to consider the role that it plays, which in the case of associations must be a foundational one.

We also need to bear in mind that not even the canonically-defined purpose of an entity is a determining factor for declaring it to be associative: it would be so, only if that purpose were the result of the constitutive will of the members, and if it related to some activity that fell within the scope of associative phenomena, i.e. if it were within the sphere of activity that properly pertains to the faithful. However, defining the purpose of a “pastoral” task is in itself an act of ecclesiastical organization, which seeks to make provision for the needs of the faithful and satisfy their right to receive the means of salvation in abundance. Thus the establishment of an entity whose aim is to carry out a particular pastoral activity (“particular”, either on account of the special circumstances of the faithful for whom it is intended, as in the case of military ordinariates, or else because it concerns only certain sectors of the Church’s pastoral activity, as in the case of the prelatore under study) is to be considered as a typical instance of the creation of an entity pertaining to the hierarchical structure of the Church.<sup>28</sup>

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<sup>26</sup> On the impossibility of considering personal prelatres to be associations, cf. A. STANKIEWICZ, “Le prelatore personali e i fenomeni associativi”, in GHERRO (ed.), *Le prelatore personali nella normativa e nella vita della Chiesa*, pp. 137–163.

<sup>27</sup> Within the Church sphere we could think of the freedom to be admitted (and to admit) to the sacred *ordo*, without the sacred order thereby being an association: on the contrary, it is precisely an *ordo*; also, the freedom to receive or administer the other sacraments, including baptism (and as everyone knows, the error of considering the Church to be an association is the cause of an important limitation on her freedom). Nor could it be argued that in these cases what prevents them from being associative phenomena is the presence of a sacrament, since there are other examples in the extra-sacramental realm where we cannot speak of associative phenomena (for instance, the College of Cardinals). Furthermore, the faithful can voluntarily change membership of a diocese (which could be for apostolic reasons); they can also be sent away from it (cf., for example, the prohibition on residence mentioned in can. 1336 § 1, 1) or take on responsibilities in entities that are certainly not of an associative nature (such as the role of catechist or a post in a diocesan curia or the Roman Curia).

<sup>28</sup> Klein, following Aymans’ thought, identifies four elements that give the personal prelatore an associative nature: a) a group of persons (“Personengesamtheit”); b) a freely chosen and canonically-defined purpose (“frei gewählte kanonisch umschriebene Zielsetzung”); c) an internal structure determined by means of autonomous statute law (“durch autonomes Satzungsrecht festgelegte Struktur”); and d) norms on the free condition of the members (“Bestimmungen über die freie Mitgliedschaft”): cf. R. KLEIN, *Die Personalprälatore im Verfassungsgefüge der Kirche* (Würzburg, 1995), p. 704. It seems quite obvious to me that, simply because an entity is an *universitas personarum* (and in personal prelatres, as we shall see later, there are other elements apart from the personal one), it does not necessarily mean that it has an associative nature. It is also an

Furthermore the fact that the pastoral phenomenon may have originated in a charism does not prevent the Hierarchy from itself identifying the pastoral need at a later date and providing the appropriate solution.

The various canonical configurations applied to Opus Dei throughout its history have misled some into thinking that its establishment as a prelature was the culmination of a process of evolution of an associative body, which succeeded in obtaining an unprecedented degree of autonomy.<sup>29</sup> However, anyone who thought in this way would be forced to find a way to identify personal prelatures with the associative phenomenon so as to find a plausible explanation for the act of establishment of the first personal prelature. Apart from revealing a failure to grasp the essence of Opus Dei, this would mean adopting a mode of interpretation that would make it very difficult to find any satisfactory explanation for the figure of the personal prelature.

In fact, the establishment of the personal prelature of Opus Dei has nothing to do with evolutionary processes; it is, rather, an act by which a group of faithful belonging to several dioceses is stably entrusted to the pastoral care of a Prelate assisted by a *presbyterium*. (The faithful concerned do not cease to belong to their own dioceses: therefore they are living, active members both of their dioceses and of the prelature.) Opus Dei has never been an associative phenomenon, a union of wills to achieve a common goal,<sup>30</sup> even if to be able to take its first steps it had to assume certain associative forms while waiting for the Hierarchy to

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indisputable fact that the statute law of the personal prelature does not come from the autonomy of the faithful but rather from the supreme authority. On the free condition of a member, the examples given in the preceding footnote show that this is not a decisive element. With respect to the purpose, if it concerns an activity proper to the Hierarchy, it cannot be considered a determining element of the associative nature of an entity. Regarding Klein's work, cf. A. VIANA, "La prelatura personal en la estructura constitucional de la Iglesia. Observaciones sobre un libro reciente", in *Ius Canonicum* 37, 1997, pp. 749–763.

<sup>29</sup> Without mentioning specific examples, it needs to be pointed out how misleading the approach is of those who, on the basis of the juridical forms which Opus Dei had in the past, still try to describe the constitution and organization of the Prelature of Opus Dei according to the same structures as those of institutes of consecrated life. Possibly an even deeper problem is that resulting from the mentality that any form of committed Christian life necessarily flows into consecrated life, erroneously interpreting the universal call to holiness as the universal call to consecrated life, something which is harmful first and foremost to consecrated life itself, as it dilutes it and minimizes the mission it is called to fulfill in the Church.

<sup>30</sup> Already in 1934 St Josemaría, without attempting a technical canonical formulation, explained Opus Dei by saying that "we are not souls who have joined with other souls, in order to do a good thing", an expression which contains a simple but very complete definition of what an association of the Church is: cf. ST JOSEMARÍA, *Instruction*, March 19, 1934, n. 27, quoted in ID., *Camino. Edición crítico-histórica preparada por Pedro Rodríguez* (Madrid, 2004), n. 942, p. 1003. Can. 298 § 1 defines associations precisely as the place where the faithful "communi opera contendunt" ["strive with a common effort"]; this common effort can be aimed "ad perfectiorem vitam fovendam [...] aut ad alia apostolatus opera, scilicet ad evangelizationis incepta, ad pietatis vel caritatis opera exercenda et ad ordinem temporalem christiano spiritu animandum" ["at a more perfect life (...) or to other works of the apostolate, such as initiatives for evangelization, works of piety or charity, and those which animate the temporal order with the Christian spirit"].

adopt it as its own. With the establishment of the prelature, the substance of Opus Dei has not undergone any change; on the contrary, once those extrinsic forms—which it needed for circumstantial motives—were abandoned, the substance remained; and it is precisely for this substance that provision was made by way of a development in the ecclesiastical organization. The establishment of this prelature, therefore, was not the result of the exercise of the right of association (which would be impossible); rather, as with any other ecclesiastical circumscription, it came about as a consequence of the ecclesiastical Hierarchy's self-organization, even though in this particular case (as is also possible in other cases) it was initiated by the exercise of the right of petition (cf. can. 212 § 2). For an association to acquire the juridical form of an ecclesiastical circumscription, there would have to be some kind of “genetic miracle”.

Consequently it would not make sense, when talking about the establishment of this prelature, to take as one's starting point the idea that by means of this act of establishment Opus Dei acquired “autonomy”. To imagine that an associative entity could evolve to the point of acquiring full independence from the ecclesiastical Hierarchy would be a canonical absurdity. In fact what has happened in this case is the precise opposite: the phenomenon that came into being was actually adopted by the Hierarchy.<sup>31</sup>

The establishment of a prelature brings with it the institution of the ecclesiastical office of Prelate, with the competences established by general Church law, and possibly also (as in the case of personal prelatures) the prelature's own constitutive particular law, namely the statutes issued by the same authority in establishing the prelature (can. 295 § 1). Naturally it is for the supreme authority to make the appointment to this office, as can easily be deduced from the principles underlying the norms on the creation and provision of ecclesiastical offices in general, and by analogy those on the appointment of bishops, as well as the practice of the Holy See and the specific norms regulating the Prelature of Opus Dei.<sup>32</sup>

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<sup>31</sup> This has been dealt with in masterly fashion by G. LO CASTRO in *Le prelature personali. Profili giuridici* (Milan, 1999), pp. 177–237.

<sup>32</sup> In general terms, provision of an office corresponds to the authority instituting it (can. 148). Although it can be exercised by a priest, the office of Prelate is in itself of an episcopal nature, in that, with the help of his own *presbyterium*, he is entrusted with the pastoral care of an ecclesiastical circumscription. The norm for the Latin Church is that “*Episcopus libere Summus Pontifex nominat, aut legitime electos confirmat*” (can. 377 § 1). In the case both of free appointment and of confirmation of the elected person (as happens at present in some Central European dioceses, for reasons to do with history and concordats), there is also involvement on the part of other persons who indicate suitable candidates, and the final judgment is made by the Roman Pontiff (cf. *Normae de promovendis ad episcopale ministerium in Ecclesia latina*, March 25, 1972, in AAS 64, 1972, pp. 386–391; cf. also M. COSTALUNGA, “La Congregazione per i Vescovi”, in P.A. BONNET and C. GULLO (eds.), *La Curia Romana nella Cost. Ap. “Pastor Bonus”* (Vatican City, 1990), pp. 287–289).

In fact, at the same time as the establishment of the prelatry, John Paul II made provision for the appointment of the first Prelate by free conferral of the office.<sup>33</sup> That this appointment fell on Msgr Alvaro del Portillo, St Josemaría's first successor as head of Opus Dei, does not alter the fact that from the formal standpoint it was a free conferral of the office; while from the substantive standpoint, it is important to bear in mind that freedom of choice in making appointments is to be exercised in such a way as to ensure that suitable Bishops or Prelates are identified for the tasks to be entrusted to them: they should be people well acquainted with the pastoral reality they are to lead. The choice made in this case, then, could hardly come as a surprise. However, for the appointment of successors, the Pope laid down in the statute law of the prelatry a number of qualities which the Prelate to be appointed would need to possess,<sup>34</sup> and he decided that from among the various possible procedures foreseen by the general law for the provision of such an office, the Prelate would be appointed by means of confirmation of an election carried out by an electoral college, the composition of which was also outlined by the Roman Pontiff.<sup>35</sup>

In this way, the pastoral guidance of Opus Dei, an apostolic phenomenon that began in 1928 under the divine inspiration received by St Josemaría, was adopted by the Hierarchy in 1982 and entrusted in a stable manner to a Prelate, by means of the establishment of a prelatry.

### **3. Some of the substantive features of the Prelature of Opus Dei**

With the establishment of the Prelature of Opus Dei the substance of the divine inspiration remained unchanged; indeed it was confirmed in its institutional aspects. So strongly did the essence of this pastoral phenomenon call for a juridical configuration of a "personal" nature that when it was established, the life and apostolic practice of Opus Dei did not undergo any change. Nevertheless, the establishment of an ecclesiastical circumscription means a new presence of the Church among the faithful. I will now go on to show some of the consequences of the establishment of the prelatry, and some of what I consider to be its more important features, even if only briefly, since each one of them would merit specific analysis.

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<sup>33</sup> Cf. FUENMAYOR, GÓMEZ-IGLESIAS and ILLANES, *The Canonical Path of Opus Dei*, pp. 416–417.

<sup>34</sup> Apart from personal qualities of piety, doctrine, prudence, culture, and good reputation, he needs to be at least 40 years old, to have been a priest for at least five years, etc. Cf. *Codex iuris particularis seu Statuta Praelaturae Sanctae Crucis et Operis Dei* (henceforth *Statuta*), in Appendix to FUENMAYOR, GÓMEZ-IGLESIAS and ILLANES, *The Canonical Path of Opus Dei*, pp. 633–634, n. 131.

<sup>35</sup> Cf. *Statuta*, n. 130.



The first thing to mention is that, since Opus Dei now found itself under the pastoral guidance of a Prelate, a bond of (hierarchical) communion was established between him and the faithful under his pastoral care and jurisdiction. Prior to the establishment of the prelature, there was a *de facto* (not *de iure*) spiritual bond, with a charismatic basis, between the head of Opus Dei (the Founder himself and his immediate successor) and the faithful, which had several of the features of the bonds of hierarchical communion (although this did not exist) in the sense that within Opus Dei there was the conviction that this was something that was wanted by God and needed to be guided by a single Pastor. Thus the effects of the bond went further than those of a mere *pactum unionis et subiectionis*, and involved more than simply deciding the question of who should be in charge of it.<sup>36</sup> Following the establishment of the prelature, what had hitherto been a charismatic reality now became an institutional one, acquiring the strength of the Church's mediation, enabling it to develop its mission normally. The Church was now entrusting a Prelate with the task of providing the spiritual means and formation needed by the faithful of Opus Dei, assiduously and abundantly, in order to enable them to fulfill their apostolic aim (“ut sacerdotibus ac laicis sibi commissis assidue et abundanter praebeantur media et auxilia spiritualia atque intellectualia, quae necessaria sunt ad eorum vitam spiritualem alendam ac fovendam eorumque peculiarem finem apostolicum exsequendum”),<sup>37</sup> while asking him to be “omnibus Praelaturae fidelibus magister atque Pater” [“teacher and Father of all the faithful of the Prelature”].<sup>38</sup> To this end he is given the *sacra potestas* which allows him to ensure that within the prelature universal and particular law is followed,<sup>39</sup> by means of “consiliis, suasionibus, immo et legibus, praeceptis et instructionibus, atque si id requiratur, congruis sanctionibus” [“counsels, exhortations, and indeed laws, precepts and instructions, and if necessary appropriate sanctions”].<sup>40</sup>

Within Opus Dei, therefore, there are the bonds proper to communion in the Church: the *communio hierarchica* referred to above, and the *communio fidelium*. As regards hierarchical communion, it should be noted that this is not limited to the relationship between the Prelate and the faithful: in ecclesiastical circumscriptions it also includes the set of bonds that exist

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<sup>36</sup> How St Josemaría himself acquired the awareness of being a “Pastor”, with a spiritual fatherhood, in the early years of Opus Dei can be seen in A. VÁZQUEZ DE PRADA, *The Founder of Opus Dei*, vol. 1 (New Jersey, 2001), pp. 424–429. Also among the early faithful of Opus Dei there was the conviction of not being “companions” of the Founder, but “sons”.

<sup>37</sup> *Statuta*, n. 132 § 4.

<sup>38</sup> *Statuta*, n. 132 § 3.

<sup>39</sup> Cf. *Statuta*, n. 132 § 2.

<sup>40</sup> *Statuta*, n. 132 § 5.

between the clergy and the Bishop, and between the clergy and the faithful. The priests incardinated in the Prelature of Opus Dei are at its service,<sup>41</sup> which means that their priestly ministry is subordinated to the mission and power of the Prelate, to whose pastoral mission they contribute by the exercise of their ministry, and in this way they make up the *presbyterium* of the prelature.<sup>42</sup> The Prelate's episcopal status allows these bonds to have sacramental and liturgical manifestations.<sup>43</sup> And precisely because their position is that of co-workers of the Prelate in the pastoral mission, there is a relationship between the priests (and deacons, if any) and the faithful which consists in the ministerial service (theologically hierarchical, insofar as it represents Christ) that the clergy offer the faithful.

The faithful are also united with one another by the *communio fidelium*, which includes the bonds of fraternity and co-responsibility in their role in the *aedificatio Ecclesiae*. Because of this role, they can be said to form a particular communion of the saints.<sup>44</sup> These bonds, although powerful, do not in any way destroy the sphere of personal autonomy and responsibility proper to the faithful, since they are not bonds created for the purpose of carrying out common activities, but have arisen out of the common membership of a particular area of the *communio Ecclesiae*.

Since it forms part of the hierarchical ecclesial communion, this *communio* is nourished by the Eucharist,<sup>45</sup> even though the great majority of the faithful of Opus Dei generally receive this sacrament in the churches of their own diocese. Ecclesial communion is formed precisely because there is a Prelate assisted by a *presbyterium*, that is, because of the presence and action of the priestly ministry. Hence the principal purpose, and principal service, of the priest is the celebration of the Holy Mass. The priests incardinated in the Prelature of Opus Dei help ensure that, “from east to west”, the “perfect offering” may be made for the apostolic

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<sup>41</sup> Cf. can. 295 § 1.

<sup>42</sup> Cf. *Statuta*, Tit. II and, more specifically n. 36 § 1. Cf. also SECOND VATICAN COUNCIL, Const. *Lumen gentium*, n. 28 and ID., Decr. *Presbyterorum ordinis*, n. 2.

<sup>43</sup> Cf. in this connection V. GÓMEZ-IGLESIAS, “L’ordinazione episcopale del Prelato dell’Opus Dei”, in *Ius Ecclesiae* 3, 1991, pp. 251–265. In the ceremonies of diaconal and priestly ordination, when the consecrating bishop is the Prelate himself, he requests from those to be ordained, in accordance with the liturgical rites (cf. *Pontificale Romanum. De ordinatione episcopi, presbyterorum et diaconorum*, ed. typica altera (Vatican City, 1990), nn. 201 and 125 respectively), the promise of obedience owed by sacred ministers to the Hierarchy, by means of the formula “Promittis mihi et successoribus meis reverentiam et oboedientiam?” [“Do you promise me and my successors reverence and obedience?”]: thus, obedience in clerical discipline and in the exercise of the ministry refers to the Prelate of the Church with whom the ordinand is to cooperate.

<sup>44</sup> For this description of the bonds deriving from *communio* I have made use of the reflections of J. HERVADA, *Pensieri di un canonista nell’ora presente* (Venice, 2007), pp. 216–218. See also ID., *Diritto costituzionale canonico*, pp. 68–72.

<sup>45</sup> Cf. JOHN PAUL II, Enc. *Ecclesia de Eucharistia*, April 17, 2003.

work of the prelatry, in communion with the whole Church, the Pope, the Bishop of the diocese in which the Eucharist is celebrated, and the Prelate of Opus Dei.<sup>46</sup> It is precisely the Holy Mass that forms the center and root of the spiritual life of the faithful of the Prelature of Opus Dei,<sup>47</sup> and all their effort is directed towards turning their daily life into a Mass, by offering their work and their other daily occupations, which they try to present in union with the offering of Christ on the altar. The Eucharist therefore has a constitutive role in the prelatry, transcending the merely devotional aspect. As the real presence of Christ, the Eucharist also gives life to this particular *communio*, since in the pastoral Centers of the prelatry it is always the tabernacle that takes pride of place, So true is this that St Josemaría used to calculate the presence of Opus Dei in any particular city or country according to the number of tabernacles there.<sup>48</sup>

To give a theological classification to a particular area of ecclesiastical communion such as the Prelature of Opus Dei is of course the task of theology, which like every science must make use of conceptual categories and classifications and its own terminology. The present topic is quite complex because when all is said and done it is a question of reflecting on the mystery of the Church and trying to express this by means of abstract concepts, while keeping in mind many aspects of the internal relationships within the People of God that are difficult to express univocally through human language. Furthermore, in this case it is necessary to be aware of a certain variability in the Magisterium's use of ecclesiological expressions such as "particular church".<sup>49</sup>

A personal prelatry is not a diocese, principally because, unlike a diocese, it does not have (just as the military ordinariates do not have) a "primary" people: in other words, the people of the personal prelatry are those faithful who already belong—and do not cease to

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<sup>46</sup> Cf. *Roman Missal*, Eucharistic Prayer III.

<sup>47</sup> This was a frequent expression of St Josemaría (cf. Letter, February 2, 1945, quoted in A. GARCÍA, "Holy Mass, Center and Root of Christian Life", in *Romana* 15, 1999, English edition, p. 144), which was later adopted by the SECOND VATICAN COUNCIL, Decr. *Presbyterorum ordinis*, n. 14; cf. also ST JOSEMARÍA, *Christ is passing by*, nn. 87 and 102; *Forge*, n. 69; *In Love with the Church*, nn. 43 and 49.

<sup>48</sup> Cf. A. VÁZQUEZ DE PRADA, *The Founder of Opus Dei*, vol. 2 (New Jersey, 2003), p. 458.

<sup>49</sup> The *Catechism of the Catholic Church* (n. 833) states that "The phrase 'particular church,' which is first of all the diocese (or eparchy), refers to a community of the Christian faithful in communion of faith and sacraments with their bishop ordained in apostolic succession". However, in other documents the expression "particular church" has a different meaning (cf., for example, SECOND VATICAN COUNCIL, Decr. *Orientalium ecclesiarum*). It is significant that in the Code of Canon Law itself, two different uses of the expression are found: can. 368 states that the particular churches *are* the dioceses and the other ecclesiastical circumscriptions listed there, whereas according to can. 134 § 1, these dioceses and other ecclesiastical circumscriptions are *equivalent (aequiparatae)* to particular churches. Theological science can certainly help bring about a (greatly to be desired) stability in the Magisterium's terminology, without attempting to claim for itself the Magisterium's binding authority.

belong—to the dioceses in which they have their domicile, which means that the mission received by the Prelate is that of providing a service (the particular pastoral care of those faithful) to the dioceses to which they belong.<sup>50</sup> It is understandable therefore if theologians are reluctant to include dioceses and personal prelatures (or other similar juridical figures) within the same conceptual category.<sup>51</sup> However, it would not be right to reject the substantial content explained above,<sup>52</sup> which among other things allows a juridical analogy to be drawn between dioceses and personal prelatures, without denying the differences (including juridical differences) that exist between them.<sup>53</sup>

Since the mission of the Prelate does not consist in the pastoral guidance of a “primary” part of the Church, we may wonder about the origin or foundation of his power, always bearing in mind, however, that the power with which he guides his prelatore is a sacred power exercised in his own name, in accordance with can. 295 § 1.<sup>54</sup> Whatever the ultimate basis of

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<sup>50</sup> Cf. VATICAN II, Decr. *Christus Dominus*, n. 42. The Prelature of Opus Dei’s specific mission is such that its pastoral activity is sectorial (compared to, say, that of the military ordinariates, which are also made up of faithful who do not cease to belong to their own dioceses, but which carry out a “complete” pastoral activity, in the sense of administering all the sacraments).

<sup>51</sup> The insistence of some theologians on distinguishing between personal prelatures and particular churches seems to be reasonable, provided the latter expression is reserved for those parts of the Church which, as a result of their primary organizational development, are a perfect image of the universal Church—the *whole* in one part—and which bear the note of catholicity even in their own particularity. However, we should not forget what was said in footnote 49, nor, more specifically, the fact that military ordinariates—which do not belong to the first phase of ecclesiastical organization—have often been classified in official documents as particular churches.

<sup>52</sup> In my opinion this content allows a strictly accurate classification of ecclesiastical circumscriptions such as the Prelature of Opus Dei as *portiones Populi Dei*, in which there is a Prelate assisted by a *presbyterium* to whom a people is entrusted and in which the bonds of *communio (hierarchica et fidelium)* proper to the People of God are present (on the notion of *portio Populi Dei*, cf. HERVADA, *Diritto costituzionale canonico*, pp. 296–298). Of course, to avoid confusion with the dioceses, we would immediately have to add that this *portio* is made up of faithful who necessarily belong to another *portio*.

There are certainly other possible theological expressions to describe the substantial content of personal prelatures, distinguishing these circumscriptions from dioceses. But I believe that we should avoid expressions that are so general as to beg the question, or that are simply misleading, such as “coetus fidelium”, since *coetus fidelium* could also include associations or, indeed, any “group” of faithful, while a prelatore is not a group but a part of the Christian people guided by a Prelate.

<sup>53</sup> On the necessary real basis for juridical analogy and its limits, cf. C.J. ERRÁZURIZ, “Circa l’equiparazione quale uso dell’analogia in diritto canonico”, in *Ius Ecclesiae* 4, 1992, pp. 215–224 and ID., “Ancora sull’equiparazione in diritto canonico: il caso delle prelature personali”, in *Ius Ecclesiae* 5, 1993, pp. 633–642.

<sup>54</sup> Starting from the fact that bishops rule their particular churches with proper power (but vicarious of Christ) and that personal prelatures are the fruit of a later organizational development in the Church, some theologians have explained this phenomenon by saying that the power of the Prelate of a personal prelatore has its foundation in the power of the Pope who holds direct power over the whole Church: this would explain the possibility of the Prelate being only a priest: cf. P. RODRÍGUEZ, “The Place of Opus Dei in the Church” in P. RODRÍGUEZ, F. OCÁRIZ and J.L. ILLANES, *Opus Dei in the Church* (Dublin; Princeton, 1993), pp. 52–56, and F. OCÁRIZ, “La consacrazione episcopale del prelatore dell’Opus Dei”, in *Studi Cattolici* 35, 1991, pp. 22–29. Some canonists—first of all Hervada, who has been followed by others, especially Miras—taking into account the historical origin of prelatures, hold that the power of those who govern the prelatore is participated power *a iure* from the Roman Pontiff (according to a classical expression used in Title VII of the first Book of the 1917 Code), a power they also call “prelatoreal”: cf., for instance, J. HERVADA, *Diritto costituzionale canonico*, pp.

the *sacra potestas* of the Prelate of Opus Dei, it is classified as ordinary and proper, and to be exercised in accordance with the Church's general laws and the statutes issued by the supreme authority.

To complete the picture of the pastoral phenomenon of Opus Dei and the way in which the supreme authority made provision for it, it is also necessary to consider the fact that on November 28, 1982, it was not only the Prelature of Opus Dei that was established, but also the Priestly Society of the Holy Cross.

#### 4. The Priestly Society of the Holy Cross

After a moment of deep suffering when St Josemaría thought that the Lord was asking him to leave Opus Dei in order to begin “another” foundation for the good of priests, the Founder of Opus Dei received light to see that priests ordained for the service of the dioceses could receive the same divine calling to Opus Dei, in the sense that these priests are called to sanctification and apostolate in the middle of the world, and to seek that sanctification precisely through their ordinary duties, by sanctifying their work, which consists above all in the exercise of the priestly ministry; thus they too can receive the divine call to seek sanctity by following the spirit of Opus Dei and receiving its help.<sup>55</sup>

Independently of the fact that some priests may receive this specific vocation to the “great work of teaching” which Opus Dei consists of, it is also directed to all priests who wish to receive further formation for their quest for holiness through their daily occupations. Indeed, as “faithful” they too are called to holiness in the middle of the world in which they find themselves.

The vocation of priests incardinated in the different dioceses is the same as that of the lay faithful insofar as it refers to Opus Dei—the call to be Opus Dei and do Opus Dei in the

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306–308 and J. MIRAS, “Tradición canónica y novedad legislativa en el concepto de prelatura”, in *Ius Canonicum* 39, 1999, pp. 575–604.

I believe that the question of the foundation of the power of prelates (of territorial prelatures, but above all personal prelatures) remains an open one. At the source of the topic there are also some ecclesiological issues that are far from definitively resolved, such as the relationship between the power of orders and the power of jurisdiction. The theories mentioned above, although forming part of a coherent global conception of the Church and at times claiming the support of time-honored explanations, in my view fail to make totally clear the nature of the power of Prelates, which is described as vicarious power of the Pope or a sharing in the primatial power, but then again as proper power. It may be possible to look for the basis of the power of the head of a personal prelatore or a military ordinariate not so much in the primatial office of the Pope (for a specific mission) as in the *ordo episcopalis* itself, from which would flow, under the direction of the Roman Pontiff, the power both to govern a diocese and to be the head of a pastoral mission in favor of several dioceses.

<sup>55</sup> Cf. A. VÁZQUEZ DE PRADA, *The Founder of Opus Dei*, vol. 3 (New Jersey, 2005), pp. 123–127.

world. These priests must seek their own sanctification through their ordinary duties and promote the universal call to holiness in the middle of the world. Thus by doing their own work, like the lay faithful (and like the priests incardinated in the Prelature of Opus Dei), they fulfill the aim of Opus Dei, even though their ministry is not geared to the service of the Prelature of Opus Dei but to that of their respective dioceses, and they are answerable only to their own bishop for the exercise of this ministry. Like other faithful, to fulfill the duties of their own vocation they need appropriate spiritual assistance.

To provide for the needs of these priests and the work of formation which Opus Dei also offers secular priests, Art. I of the Ap. Const. *Ut sit* lays down that, by the very act of establishing the Prelature of Opus Dei, “erigitur Societas sacerdotalis Sanctae Crucis qua Adsociatio Clericorum Praelaturae intrinsece coniuncta” [“The Priestly Society of the Holy Cross is erected as a clerical Association intrinsically united to the Prelature”], to which clergy incardinated in the different dioceses may belong. The President of the Priestly Society of the Holy Cross is *ope legis* the Prelate of Opus Dei himself;<sup>56</sup> and to it, *ipso iure*, from the moment of their ordination, all clerics incardinated in the Prelature belong.<sup>57</sup>

Those who join the Priestly Society of the Holy Cross do so in response to the conviction that they have received a divine vocation; and membership brings with it the immediate advantage of providing them with specific spiritual assistance.<sup>58</sup> The priests incardinated in the various dioceses who follow this vocation do so freely, since the fact that they are priests totally dedicated to the service of a diocese (or other ecclesiastical circumscription) does not eliminate the sphere of autonomy enjoyed by all the faithful, in virtue of which they may look to Opus Dei for specific spiritual support. As the Founder of Opus Dei put it, “What these priests find in Opus Dei is, above all, the permanent, continuous ascetical help which they want to receive, with a secular and diocesan spirituality, and independent of the personal and circumstantial changes which may take place in the government of the respective local Church. Thus, in addition to the general spiritual direction which the bishop gives with his preaching, pastoral letters, conversations, disciplinary instructions, etc., they have a personal spiritual guidance which continues no matter where they are, and which helps to complement, while always respecting, as a grave duty, the

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<sup>56</sup> Cf. *Statuta*, n. 36 § 3.

<sup>57</sup> Cf. *Statuta*, n. 36 § 2.

<sup>58</sup> “... qui Domino in Societate Sacerdotali Sanctae Crucis iuxta spiritum Operis Dei, peculiari superaddita vocatione, sese dicare volunt, ad sanctitatem nempe in exercitio sui ministerii pro viribus prosequendam, quin tamen eorum dioecesana condicio plenaque proprio uniuscuiusque Ordinario subiectio quoquo modo ex hac dedicatione afficiantur, sed contra, iuxta infra dicenda, diversis respectibus confirmantur” (*Statuta*, n. 58 § 1).

common guidance imparted by the bishop. This personal spiritual direction, so strongly recommended by the Second Vatican Council, and by the ordinary Magisterium, helps to foster the priest's life of piety, his pastoral charity, his steady continued doctrinal training, his zeal for the diocesan works of apostolate, his love and obedience for his own Bishop, his concern for vocations of priests and for the seminary, etc."<sup>59</sup>

To follow this vocation in no way impairs the service owed to the diocese; rather, it reinforces it. We should remember, again with the words of St Josemaría, that “an essential characteristic of the spirit of Opus Dei is that it does not take anyone out of his place: *unusquisque, in qua vocatione vocatus est, in ea permaneat* [“Every one should remain in the state in which he was called”] (1 Cor 7:20). Rather it leads each person to fulfill with the greatest possible perfection the tasks and duties of his own state, of his mission in the Church and in society. Therefore when a priest joins the Work, he neither modifies nor abandons any part of his diocesan vocation. His dedication to the service of the local Church in which he is incardinated, his full dependence on his own Ordinary, his secular spirituality, his solidarity with other priests, etc., are not changed. On the contrary, he undertakes to live his vocation to the full, because he knows that he must seek perfection precisely in fulfilling his obligations as a diocesan priest.”<sup>60</sup>

In relation to this area of Opus Dei's apostolate, we could highlight three needs that are to be met simultaneously: the need to make provision for the spiritual care of these priests and the formative work which Opus Dei carries out for the benefit of diocesan priests; the need for unity of direction in this service, which is a result of, among other things, the unity of vocation involved; and last but not least, the need to ensure that the position of these priests in their respective dioceses remains totally unchanged, juridically and otherwise. It was in order to satisfy these requirements that the Church's supreme authority established the Priestly Society of the Holy Cross simultaneously with the Prelature of Opus Dei.

It is worth emphasizing that it was the same Apostolic Constitution that established both the Priestly Society of the Holy Cross and the Prelature of Opus Dei. This document states that the Priestly Society of the Holy Cross is “intrinsically united” to the Prelature of Opus Dei. From a formal perspective, this union is also reflected in the fact that the statutes of the Society find their origin within the statutes of the Prelature, of which n. 36 § 2 states that the Priestly Society of the Holy Cross “*aliquid unum constituit*” [“constitutes one thing”] with the

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<sup>59</sup> ST JOSEMARÍA, *Conversations*, 16.

<sup>60</sup> ST JOSEMARÍA, *Conversations*, 16.

Prelature of Opus Dei, “et ab ea seiungi non potest” [“and cannot be separated from it”]. One should not therefore think of some pre-existing entity being united to the Prelature from outside: rather, the Priestly Society of the Holy Cross is intrinsically united to the Prelature of Opus Dei to such an extent that it constitutes “aliquid unum” with the Prelature, from which “seiungi non potest”. In short, it is necessary to start from the fact that, although not a part of the Prelature of Opus Dei, the Priestly Society of the Holy Cross is nonetheless part of the apostolic phenomenon of Opus Dei. Through this special union between the Priestly Society of the Holy Cross and the Prelature of Opus Dei—manifested above all in the fact that the Prelate of Opus Dei is *ipso iure* the President of the Society—the unity of the vocational phenomenon is guaranteed.

The need for specific spiritual attention is also guaranteed by the provision established by the Legislator to the effect that all clerics incardinated in the Prelature of Opus Dei belong *eo ipso* to the Priestly Society of the Holy Cross. These priests are under the jurisdiction of the Prelate, not as members of the Society, but because of their incardination in the Prelature; and the Prelate may entrust them with the spiritual attention of other priests who are members of the Priestly Society, and with the formative work that the Priestly Society performs for the benefit of all secular priests.

Finally, the Priestly Society of the Holy Cross is precisely the instrument that allows priests incardinated in the different dioceses of the world to live out their own vocation to Opus Dei without modifying their juridical situation within the diocese, as there is no jurisdictional bond between them and the Prelate of Opus Dei. Hence there is no conflict between the Prelate of Opus Dei’s jurisdiction and that of the bishops of the priests of the Priestly Society of the Holy Cross. In view of the need to make provision for this sector of Opus Dei’s activity without in any way harming the jurisdiction of the diocesan bishops over their priests, while at the same time respecting the unity of the vocational phenomenon of Opus Dei, the Church’s supreme authority ensures that unity of direction is preserved by limiting the Prelate’s power of jurisdiction in such a way as not to affect priests incardinated in other ecclesiastical circumscriptions.

The activity carried out by Opus Dei through the Priestly Society of the Holy Cross also benefits the dioceses, in that it provides assistance to their priests.<sup>61</sup> The Priestly Society of the Holy Cross, being intrinsically united to the prelature and forming “aliquid unum” with it,

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<sup>61</sup> “The fruits of this work are for the local Churches where the priests serve. My soul of a diocesan priest rejoices at this. Moreover, on repeated occasions, I have had the consolation of seeing with what affection the Pope and the bishops bless, desire and encourage this work” (ST JOSEMARÍA, *Conversations*, 16).



is part of the instrument for promoting holiness in the middle of the world, which the Church established on November 28, 1982 and gave formal execution to on March 19, 1983 by means of the Papal Bull containing the Apostolic Constitution *Ut sit*.

