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**Canonical Reflections on Requests by the Faithful
for the *Usus Antiquior* in Light of the Rights of the Faithful ***

*Riflessioni canonistiche sulle richieste dei fedeli
riguardanti l'usus antiquior alla luce dei diritti dei fedeli **

ABSTRACT: This contribution examines the canonical status of the *usus antiquior* within the Roman rite following *Traditionis custodes*. It argues that the 1962 *Missale Romanum* is not a distinct rite but an older historical form of the same Roman rite, whose juridical status has evolved from an indult, through the broader framework of *Summorum Pontificum*, to a regulated exception under *Traditionis custodes*. The analysis situates this development within the ecclesiology of the Second Vatican Council, emphasizing that liturgical diversity is legitimate only insofar as it serves ecclesial communion, respects hierarchical authority, and affirms the normative character of the postconciliar liturgical reform. It further examines whether canons 213 and 214 of the Code of Canon Law provide the faithful with a subjective right to receive the sacraments according to the *usus antiquior*. It concludes that these canons guarantee access to the Church's spiritual goods and worship according to one's own rite, but not a right to choose a former historical liturgical form. Finally, it argues that the pastoral aspirations often associated with the *usus antiquior* should be addressed primarily through a more faithful and enriched celebration of the postconciliar Roman liturgy.

ABSTRACT: Il contributo esamina lo status canonico dell'*usus antiquior* all'interno del rito romano dopo *Traditionis custodes*. Esso sostiene che il *Missale Romanum* del 1962 non costituisce un rito distinto, bensì una forma storica più antica del medesimo rito romano, il cui status giuridico si è evoluto da quello di indulto, attraverso il quadro normativo più ampio di *Summorum Pontificum*, fino a quello di eccezione regolamentata sotto *Traditionis custodes*. L'analisi colloca tale sviluppo nel contesto dell'ecclesiologia del Concilio Vaticano II, sottolineando che la diversità liturgica è legittima solo nella misura in cui serve la comunione ecclesiale, rispetta l'autorità gerarchica e riconosce il carattere

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normativo della riforma liturgica postconciliare. Esamina inoltre se i canoni 213 e 214 del Codice di Diritto Canonico conferiscano ai fedeli un diritto soggettivo a ricevere i sacramenti secondo l'*usus antiquior*. La conclusione è che tali canoni garantiscono l'accesso ai beni spirituali della Chiesa e al culto secondo il proprio rito, ma non un diritto a scegliere una forma liturgica storica anteriore. Infine, si sostiene che le aspirazioni pastorali spesso associate all'*usus antiquior* dovrebbero essere affrontate principalmente attraverso una celebrazione più fedele e più ricca della liturgia romana postconciliare.

KEYWORDS: Canon law, *usus antiquior*, *Traditionis custodes*, Vatican II, rights of the Christian faithful. Diritto canonico, *usus antiquior*, *Traditionis custodes*, Vaticano II, diritti dei fedeli Cristiani.

SUMMARY: 1. Introduction - 2. Canon Law as a Translation of Ecclesiology - 3. The Second Vatican Council as the Criterion for Liturgical Diversity - 4. The Evolution of the Legal Status of the *Usus Antiquior* - 5. Do the Faithful Have a Right to Receive the Sacraments According to the *Usus Antiquior*? - 6. Limits, Possibilities, and Perspectives - 7. Conclusion.

1 - Introduction

In this contribution, the term *usus antiquior* refers to the use of the liturgical books employed in the Roman Rite prior to the liturgical reform following the Second Vatican Council (1962-1965), in particular the *Missale Romanum* according to the 1962 typical edition. This terminological choice is not insignificant. Designations such as "Tridentine Mass", "Latin Mass" or "Tridentine Rite" are less precise from both a canonical and a liturgical perspective. The postconciliar liturgy may likewise be celebrated in Latin, while the *usus antiquior* does not constitute a distinct rite alongside the Roman Rite.

The place of this older liturgical form within the Latin Church has remained an enduring canonical and pastoral question since the liturgical reform. Its legal regulation has undergone several revisions over the past decades. These changes have affected not only the concrete juridical position of the faithful and ministers attached to the *usus antiquior*, but also the manner in which the Church assesses the place of this older liturgical form within her own life.

This development is not merely disciplinary. Canon law is not independent of the self-understanding of the Church. Rather, it gives that self-understanding concrete juridical expression. The successive



regulations concerning the *usus antiquior* therefore each reflect a particular vision of the relationship between liturgical diversity and ecclesial unity. The fundamental question is not simply whether there is room within the Church for liturgical diversity. The Second Vatican Council does not reject such diversity in principle. The more precise question is whether two historical phases of the same Roman Rite can coexist on a lasting basis, and what ecclesiological significance should be attributed to such coexistence.

Against this background, this article examines whether the faithful may invoke, on the basis of canons 213 and 214, a fundamental right to receive the sacraments according to the *usus antiquior*. To this end, it first considers how canon law should be understood in this context as an expression of ecclesiology. It then examines the criteria provided by the Second Vatican Council for the relationship between liturgical diversity and ecclesial unity. Next, it analyzes the development of the legal status of the *usus antiquior*, before assessing the significance of canons 213 and 214 in this regard. Finally, it explores how the pastoral aspirations associated with the *usus antiquior* may be addressed more adequately in light of this analysis.

2 - Canon Law as a Translation of Ecclesiology

Before the canonical and pastoral implications of the *usus antiquior* can be examined, a more fundamental question must first be addressed: how are liturgical diversity and ecclesial unity related within the self-understanding of the Church after the Second Vatican Council? Canon law does not exist in isolation but presupposes a particular understanding of the Church. In this sense, canon law may be regarded as a practical implementation of ecclesiology, not because every legal norm can be directly deduced from a dogmatic proposition, but because the law gives concrete juridical expression to the self-understanding of the Church. It is therefore no coincidence that Pope John Paul II (1978-2005), in the apostolic constitution *Sacrae disciplinae leges*, described the Code of Canon Law as “a great effort to translate this same doctrine, that is, the conciliar ecclesiology, into canonical language” (*Sacrae disciplinae leges*, xxi). Accordingly, any analysis of the current law must be preceded by an examination of the ecclesiological principles that determine the relationship between liturgical diversity and ecclesial unity.



At the same time, this proposition must be understood with due precision. Canon law is not simply theology expressed in juridical language. The Second Vatican Council primarily provided an ecclesiological vision. The task of translating that vision into a concrete juridical order belongs properly to the canonist. This task consists in reflecting on the transition from theological principles to legal norms, competencies, rights, and procedures, without reducing canon law to theology. Theology and canon law remain distinct disciplines, yet in this area they cannot be studied independently of one another¹.

With respect to the present question, this means that the law governing the *usus antiquior* should not be interpreted merely in a positivistic manner, as though it consisted only of a succession of permissions, restrictions, and competencies. Nor is a purely theological approach sufficient, as though the issue were resolved simply by appealing to tradition, ecclesial communion, or pastoral necessity. Rather, what is required is a canonical-theological assessment: the law must be analyzed as the instrument through which the Church orders a particular liturgical situation in light of her self-understanding since the Second Vatican Council.

Such an assessment must also take account of the reception of ecclesiastical legislation. A legal norm exists not only in the intention of the legislator but also in the manner in which it is received and applied throughout the concrete history of the Church. Its practical effects may therefore differ from those originally intended. Reception does not imply that the validity of a law depends upon its acceptance by the community. Ecclesiastical laws acquire binding force through their promulgation (cc. 7-8). Reception instead reveals how a norm is concretely understood, applied, and rendered fruitful in the life of the Church².

This insight also finds support in the Code of Canon Law itself. Although the Code does not treat the reception of laws as a general condition for their validity, it nevertheless recognizes that the ecclesial community is more than a merely passive recipient of legal norms. Canon 25 refers to a *communitas legis saltem recipiendae capax*, that is, a community capable of receiving a law, while canon 29 presupposes the same idea with regard to general decrees having the force of law. The

¹ L. ORSY, *The Reception of Laws by the People of God: A Theological and Canonical Inquiry in the Light of Vatican Council II*, in *The Jurist*, 55 (1995), pp. 504-505.

² Cfr. L. ORSY, *The Reception of Laws*, cit., pp. 504-507, 516-519.



ecclesial community thus appears as a juridical subject to which norms are addressed and within which the law acquires its concrete effectiveness³.

This principle is expressed even more clearly in the provisions concerning custom (cc. 23-28). The Code acknowledges that custom possesses its own juridical significance alongside the law, albeit in a subordinate capacity. Canon 23 speaks of a custom introduced by a community of the faithful and approved by the competent legislator. Thus, through a stable, free, and ecclesially inspired practice, the community may contribute to the formation and interpretation of the law, while such practice always remains subject to the approval of the legislator and to the limits imposed by reasonableness, ecclesiastical discipline, and divine law. Canon 27 summarizes this interaction succinctly: "*consuetudo est optima legum interpret*", or: "custom is the best interpreter of laws"⁴.

For this very reason, the reception of the legislation governing the *usus antiquior* is of particular importance from the perspective of canon law. Depending on the manner in which it is received within the concrete life of the Church, the same legal framework may function either as an instrument of reconciliation and communion (*communio*) or as a source of tension and polarization⁵. Consequently, an evaluation of the successive legislative interventions since the Second Vatican Council cannot be limited to the intention of the legislator alone, but must also take into account the manner in which these norms have actually functioned in the life of the Church.

The method adopted in this article is therefore to interpret the current law concerning the *usus antiquior* as the canonical expression of an underlying ecclesiological principle. The juridical development from indult, through broader universal legislation, to a regulated exception will not merely be described as a change in legal competencies or conditions, but as a development in the Church's evaluation of the

³ W. AYMANS, *Lex Canonica. Consideraciones sobre el concepto de Ley Canónica*, in *Ius Canonicum*, 25 (1985), p. 467.

⁴ R.G.W. HUYSMANS, *Algemene normen van het Wetboek van Canoniek Recht: De Normis generalibus (Novum Commentarium Lovaniense in Codicem Iuris Canonici I)*, Peeters, Leuven, 1993, pp. 122-127.

⁵ L. ORSY, *The Reception of Laws*, cit., pp. 507, pp. 520-521.



coexistence of two historical phases of the same rite⁶. Only within this framework can one subsequently assess what claims the faithful may legitimately advance under the current law and which pastoral or liturgical responses are genuinely compatible with the ecclesiology of the Second Vatican Council.

3 - The Second Vatican Council as the Criterion for Liturgical Diversity

3.1 - General Framework

The question of the *usus antiquior* cannot be addressed as though the Second Vatican Council were merely one historical event among many. For the Latin Church, the Council constitutes the decisive point of reference for the contemporary understanding of the liturgy, the Church, and ecclesiastical governance. This is all the more evident because *Sacrosanctum Concilium*⁷, the Constitution on the Sacred Liturgy, promulgated on 4 December 1963, was the first document issued by the Council. When the conciliar documents are read in their chronological order, it becomes apparent that the Council did not begin its reflection on the Church with the Dogmatic Constitution on the Church, but with the Constitution on the Liturgy. The liturgy thus appears not as a secondary application of ecclesiological principles developed elsewhere, but as the place where the Church manifests herself. Indeed, the liturgy is “the summit” and “the font” of the Church's life (SC 10), and the full, conscious, and active participation of the entire people is presented by the Council as both a right and a duty flowing from baptism (SC 14).

It follows that the Second Vatican Council cannot simply be invoked either for or against liturgical diversity in the abstract. Rather, the Council provides the criteria by which liturgical diversity is to be evaluated. These criteria are twofold. On the one hand, the liturgy is subject to the authority of the ecclesiastical hierarchy and is never a private matter belonging to individual priests, communities, or members of the faithful. On the other hand, the Council does not exclude legitimate

⁶ See also: P.-M. BERTHE, *L'usage du missel romain de 1962 après Traditionis Custodes: Un débat à poursuivre*, in *Revista Española de Derecho Canónico*, 79 (2022), pp. 18-22.

⁷ SECOND VATICAN COUNCIL, *Apostolic Constitution Sacrosanctum Concilium*, 4 December 1963, in *AAS*, 56 (1964), pp. 77-138. Hereinafter referred to as: SC.



liturgical diversity. The decisive question, therefore, is not whether diversity as such is possible, but under what conditions it remains conducive to *communio*.

Moreover, this question must be situated within the broader ecclesiology of the Council. *Lumen gentium*⁸, the Dogmatic Constitution on the Church, promulgated on 21 November 1964, describes the Church as the People of God. God sanctifies and saves human beings not merely as isolated individuals, but gathers them together as one people who acknowledge Him in truth and serve Him in holiness (LG 9). Within this People of God, all the baptized participate, each according to his or her own proper manner, in the priesthood of Christ, especially through participation in the Eucharistic sacrifice, the reception of the sacraments, prayer, thanksgiving, witness, self-denial, and works of charity (LG 10-11). Likewise, the holy People of God shares in Christ's prophetic office and possesses a *sensus fidei* sustained by the Holy Spirit (LG 12). Consequently, the faithful who are attached to a particular liturgical tradition are not merely objects of liturgical governance, but members of the People of God whose participation in the Church's liturgical life is of theological and ecclesiological significance.

At the same time, the Second Vatican Council understands ecclesiastical authority not as the arbitrary exercise of power, but as service directed toward the building up of the Church. *Lumen gentium* teaches that Christ established various ministries within His Church for the growth of the People of God, and that sacred ministers serve their brothers and sisters so that all may advance toward salvation in dignity and ordered freedom (LG 18). The episcopal office is explicitly described as a *diakonia*, that is, a ministry of service (LG 24). Consequently, the evaluation of the *usus antiquior* cannot be based solely on norms of competence, but must also consider how liturgical authority serves the unity, spiritual welfare, and active participation of the People of God.

3.2 - The Liturgy is Subject to the Authority of the Hierarchy

The first criterion is the public and ecclesial nature of the liturgy. *Sacrosanctum Concilium* defines every liturgical celebration as an action of Christ the Priest and of His Body, the Church. It is therefore neither a

⁸ SECOND VATICAN COUNCIL, *Dogmatic Constitution Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), pp. 5-71. Hereinafter referred to as: LG.



merely human gathering nor a private devotional practice. Liturgical celebrations belong to the whole Body of the Church, make that Body visible, and affect the entire life of the Church. Even though the concrete participation of the faithful differs according to office, function, and actual involvement, the liturgy remains an action of the Church as such (SC 26).

For this reason, the regulation of the liturgy cannot be left to individual preference. The Council explicitly states that the regulation of the sacred liturgy belongs solely to the authority of the Church: to the Apostolic See and, according to the norms of law, to the bishop (SC 22, § 1). Within the limits established by law, competence in liturgical matters also belongs to the various legitimately established territorial conferences of bishops, insofar as this is provided for by law (SC 22, § 2). Consequently, no one else, not even a priest, may on his own authority add, remove, or change anything in the liturgy (SC 22, § 3). This norm is not merely a disciplinary safeguard but follows from the very nature of the liturgy itself. Because the liturgy is the public worship of the Church, it cannot be appropriated by an individual, a particular group, or a specific liturgical preference.

This point is important for the subsequent question concerning the rights of the faithful. Even though the faithful possess fundamental rights to the spiritual goods of the Church, they cannot treat the liturgy as an object available for private choice. The rights of the faithful exist within the *communio* of the Church and within the public order of sacramental celebration. The liturgy is not the sum of individual religious claims, but an ecclesial act in which the faith, sacramental unity, and visible communion of the Church are expressed.

This does not mean, however, that liturgical authority is arbitrary. The Council associates authority over the liturgy with the responsibility to promote reform, clarity, and pastoral fruitfulness. The liturgy contains immutable elements of divine institution, but also mutable elements which, over the course of time, may and sometimes ought to be adapted when they no longer correspond adequately to the inner nature of the liturgy or to the circumstances of the age (SC 21). Accordingly, *Sacrosanctum Concilium* calls for the revision of texts and rites so that they may express more clearly the sacred realities they signify and enable the faithful to participate as fully as possible in a conscious, active, and communal manner (SC 21). Likewise, the Council's emphasis on noble



simplicity, clarity of structure, and the avoidance of unnecessary repetitions forms part of this same logic of reform (SC 34).

The exercise of liturgical authority therefore possesses a distinct conciliar purpose. Those entrusted with authority over the liturgy are called not only to preserve it validly and licitly, but also to ensure that it remains intelligible, conducive to the building up of the Church, and pastorally fruitful. According to the Council, the full, conscious, and active participation of the People of God is not merely a desirable pastoral objective, but a right and a duty flowing from baptism (SC 14). This criterion bears directly upon the evaluation of the *usus antiquior*. A liturgical form cannot be assessed solely on the basis of its historical venerability or ritual beauty; it must also be evaluated in relation to the Council's understanding of participation, intelligibility, ecclesial unity, and pastoral fruitfulness.

The role of the bishop must likewise be understood within this framework. The liturgical life of the particular Church cannot be separated from its bishop. *Sacrosanctum Concilium* presents the bishop as the high priest of his flock and situates the liturgical life of the diocese around him, especially in the cathedral church. The fullest manifestation of the Church takes place when the entire holy People of God participates actively in the same Eucharist, the same prayer, and at the same altar under the presidency of the bishop, surrounded by his priests and ministers (SC 41).

This episcopal dimension is further developed in *Lumen gentium*. Individual bishops are described as the visible principle and foundation of unity within their particular Churches, which are formed in the image of the universal Church; in and from these particular Churches the one Catholic Church exists (LG 23). In every legitimate local community of the faithful united with its pastors, the Church of Christ is truly present, and in every eucharistic assembly celebrated under the sacred ministry of the bishop, the unity of the Mystical Body becomes visible (LG 26). Every legitimate celebration of the Eucharist is carried out in communion with the bishop, to whom has been entrusted the office of offering Christian worship to God and regulating it according to the commandments of the Lord and the laws of the Church, as specified by his own judgment for his diocese (LG 26). The bishop governs the particular Church entrusted to him with proper, ordinary, and immediate authority, always within the limits established by the supreme authority of the Church (LG 27).



*Christus Dominus*⁹, the Decree on the Pastoral Office of Bishops in the Church, promulgated on 28 October 1965, further specifies this responsibility. A diocese is a portion of the People of God entrusted to a bishop to be shepherded by him with the cooperation of the presbyterate. Remaining united to its pastor and gathered by him in the Holy Spirit through the Gospel and the Eucharist, this portion of the People of God constitutes a particular Church in which the one, holy, catholic, and apostolic Church of Christ is truly present and operative (CD 11). In exercising his office of sanctification, the bishop is the principal steward of the mysteries of God and at the same time the moderator, promoter, and guardian of the entire liturgical life of the Church entrusted to his care (CD 15). He is to ensure that the faithful come to a deeper knowledge and experience of the Paschal Mystery, especially through the Eucharist, so that they may become one closely united body in the love of Christ (CD 15). In the exercise of his pastoral office, the bishop also stands among his people as one who serves; he must know his faithful, listen to them, and guide them with paternal care (CD 16).

This episcopal dimension is of particular importance for the subsequent analysis of the legislative measures adopted by Pope Francis. Where different liturgical sensibilities exist within a diocese, the question is not simply which form a particular group prefers. Rather, the issue is how that liturgical practice is integrated into the one particular Church that becomes visibly manifest around the bishop. Liturgical diversity therefore cannot be conceived as a parallel structure existing alongside diocesan *communio*, but only as a form of liturgical life that is ordered within that *communio*¹⁰.

3.3 - The Second Vatican Council Does and Liturgical Diversity

The second criterion is equally important: in the teaching of the Council, unity and uniformity are not synonymous, and absolute uniformity is not the norm. *Sacrosanctum Concilium* explicitly declares that the Church accords equal right and equal dignity to all legitimately recognized rites, wishes to preserve and foster them, and, where necessary, to revise them

⁹ SECOND VATICAN COUNCIL, *Decree Christus Dominus*, 28 October 1965, in AAS, 58 (1966), pp. 673-697. Hereinafter referred to as: CD.

¹⁰ See also: S.T. DOYLE, *Traditionis Custodes: Ecclesiological Difficulties*, in *The Jurist*, 80 (2024), pp. 15-20.



carefully in the light of sound tradition and the needs of the times (SC 4). The Council therefore does not proceed from a uniformist model in which ecclesial unity necessarily coincides with a single external liturgical form.

Even within the Roman Rite itself, the Council provides room for variation and adaptation. The Church does not wish to impose rigid uniformity in matters that do not affect the faith or the good of the entire community (SC 37). On the contrary, she respects and fosters the distinctive characteristics of different peoples, provided that elements of their way of life are not inseparably bound up with superstition or error and can be harmonized with the true and authentic spirit of the liturgy. Accordingly, in the revision of the liturgical books, provision should be made for legitimate variations and adaptations for different groups, regions, and peoples, provided that the substantial unity of the Roman Rite is preserved (SC 38).

This openness, however, is carefully structured. The Council does not permit every community to establish its own liturgical order. Adaptations are to be made within the limits established by the typical editions of the liturgical books and by the competent territorial ecclesiastical authority (SC 39). More extensive adaptations require particular prudence, prior study, and the intervention of the Apostolic See (SC 40). Conciliar diversity is therefore always an ordered diversity: it is legitimately recognized, ecclesially integrated, and directed toward the building up of the community.

The same structure emerges from the broader ecclesiology of the Second Vatican Council. *Lumen gentium* describes the Church as the one People of God taking concrete form among different peoples, places, and states of life. This catholic diversity does not threaten unity when it is lived in *communio*. The particular Churches have their own place within the one Catholic Church: they are formed in the image of the universal Church, while in and from them the one Catholic Church exists (LG 23). The *communio* between the particular Churches and the universal Church therefore does not exclude diversity, but orders it within the one sacramental and hierarchical communion.

This becomes even clearer when the Decree on the Eastern Catholic Churches, *Orientalium Ecclesiarum*¹¹, also promulgated on 21

¹¹ SECOND VATICAN COUNCIL, *Decree Orientalium Ecclesiarum*, 21 November 1964, in AAS 57 (1965), pp. 76-89. Hereinafter referred to as: EO.



November 1964, is taken into consideration. Although this decree concerns the Eastern Catholic Churches and therefore does not deal directly with the Latin Church, much less with the *usus antiquior*, it is of considerable ecclesiological importance. The decree explicitly states that the Catholic Church consists of the faithful who are organically united by the same faith, the same sacraments, and the same ecclesiastical governance, while at the same time belonging to different Churches or rites (OE 2). Diversity within the Church does not diminish her unity but rather manifests it. Accordingly, the Church desires that the traditions of each particular Church or rite be preserved whole and intact, while permitting their manner of life to be adapted to the varying needs of time and place (OE 2).

Closely connected with this is the equality of the rites. *Orientalium Ecclesiarum* teaches that the particular Churches of both East and West differ in rite – that is, in their liturgy, ecclesiastical discipline, and spiritual patrimony – yet all are equally entrusted to the pastoral governance of the Roman Pontiff as the successor of Peter (OE 3). The decree further provides that throughout the world appropriate measures should be taken to protect and foster all the particular Churches wherever the spiritual welfare of the faithful requires it (OE 4). The proper liturgical rite and way of life of the Eastern Churches are to be preserved and may be modified only with a view to organic development (OE 6). This does not mean that every liturgical form automatically possesses the same juridical status, nor that every form of liturgical plurality is necessarily desirable. It does, however, prevent ecclesial unity from being identified in principle with a single liturgical expression.

*Unitatis redintegratio*¹², the Decree on Ecumenism, likewise promulgated on 21 November 1964, further clarifies the distinction between legitimate diversity and a rupture of *communio*. The Council affirms that Christ founded one Church and that divisions among Christians openly contradict His will, constitute a scandal to the world, and hinder the proclamation of the Gospel (UR 1). At the same time, it does not define the unity of the Church as mere uniformity, but as a communion brought about by the Holy Spirit in one faith, one sacramental life, and one ecclesiastical governance under the apostles

¹² SECOND VATICAN COUNCIL, *Decree Unitatis redintegratio*, 21 November 1964, in AAS 57 (1965), pp. 90-112. Hereinafter referred to as: UR.



and their successors, with the successor of Peter at their head (UR 2). Liturgical diversity can therefore be ecclesiologicaly justified only when it is lived within the visible *communio* of the Church.

For the present discussion, this distinction is fundamental. *Unitatis redintegratio* acknowledges that differences in doctrine, discipline, and ecclesiastical structure can constitute genuine obstacles to full ecclesial communion (UR 3), while at the same time calling for renewal, conversion, and an active commitment to unity (UR 4, 7). Its positive appreciation of the liturgical, spiritual, disciplinary, and theological traditions of the Eastern Churches likewise confirms that diversity in itself need not threaten the fullness of Catholic communion (UR 15-17).

Accordingly, attachment to the older liturgical books can be ecclesially fruitful only when it is lived within the visible *communio* of the Church, accompanied by acceptance of the Second Vatican Council, recognition of the validity and legitimacy of the liturgical reform, and acknowledgment of the authority of the Pope and the bishops. Once a liturgical preference becomes associated with a distinct ecclesial identity set in opposition to the hierarchical communion of the Church, the issue shifts from legitimate diversity to separatism.

This yields a first positive criterion for liturgical plurality: diversity is ecclesiologicaly possible when it makes the unity of the Church visible rather than weakening it. It can express catholicity, pastoral adaptation, and the richness of the Church's traditions. Yet it always remains subject to the conditions laid down by the Council itself: recognition by the competent authority, preservation of the common faith, maintenance of the substantial unity of the Roman Rite, communion with the bishop, and orientation toward the active participation of the People of God.

For precisely this reason, it is insufficient to frame the discussion concerning the *usus antiquior* simply in terms of "plurality" versus "uniformity." The Second Vatican Council embraces neither position in the abstract. It rejects both rigid uniformity and liturgical particularism. The decisive question is always whether a particular form of diversity serves the faith of the Church, sacramental unity, and visible *communio*.

3.4 - The Difference between Diversity and Historical Coexistence



At this point, an important distinction must be made. The fact that the Second Vatican Council permits liturgical diversity does not automatically imply that two historical phases of the same rite may coexist permanently as parallel forms. The *usus antiquior* is not merely a local variation, a linguistic option, a musical tradition, a particular degree of solemnity, or a form of inculturation within the post-conciliar liturgical order. Rather, it involves the use of liturgical books that predate the reform called for by the Second Vatican Council and implemented after its conclusion.

This observation is more than a chronological fact. *Sacrosanctum Concilium* did not merely reaffirm the existing liturgical practice, but explicitly called for the revision of the liturgical books (SC 21 and 25). The Council expressly required that the rites be revised so that they might express more clearly the sacred realities they signify and enable the faithful more readily to achieve conscious, active, and communal participation (SC 21). More specifically, it called for a revision of the *Ordo Missae* (SC 50), a richer presentation of Sacred Scripture (SC 51), the restoration of certain elements that had been lost over the course of history (SC 50), a broader use of the vernacular (SC 36), and a liturgical order that would more clearly manifest the ecclesiology of the People of God.

The 1962 Missal is the final typical edition of the Roman Missal preceding this reform. It preserves the liturgical order as it existed before the implementation of the conciliar decisions. By contrast, the Missal of Paul VI was explicitly promulgated as the concrete implementation of the reform called for by the Second Vatican Council. This is evident not only from the context of its promulgation but also from the nature of the revisions introduced: the *Ordo Missae* was revised, certain duplications were removed, the Universal Prayer was restored, the place of the homily was strengthened, new Eucharistic Prayers were introduced, and both the liturgical year and the euchological corpus were comprehensively revised¹³.

Particularly illustrative is the reform of the Liturgy of the Word. *Sacrosanctum Concilium* required that “the treasures of the Bible are to be

¹³ PAULUS VI, *Apostolic Constitution Missale Romanum*, 3 April 1969, in AAS, 61 (1969), pp. 217-222. See also: L. PRISTAS, *The Collects of the Roman Missals: A Comparative Study of the Sundays in Proper Seasons Before and After the Second Vatican Council* (T&T Clark Studies in Fundamental Liturgy), T&T Clark, London, 2013.



opened up more lavishly”, so that over a prescribed number of years the faithful would hear a more representative portion of Sacred Scripture (SC 51). The post-conciliar introduction of a multi-year lectionary with a significantly broader use of Old Testament readings constitutes a direct implementation of this mandate¹⁴. The difference from the 1962 Missal is therefore not marginal but structural. The same is true of the place accorded to the homily and the Universal Prayer, both of which acquired a more prominent and integrated role within the reformed liturgy in accordance with the Council's directives.

The Council's emphasis on the active participation of the faithful also deserves attention. Participation in the liturgy was, of course, possible before the Second Vatican Council, and forms of conscious and fruitful participation certainly existed within the older liturgical tradition. Nevertheless, the Council sought to promote more than merely interior participation. One of the principal aims of the liturgical reform was to make the participation of the entire People of God more visibly manifest within the rites themselves. Accordingly, the structure of the reformed liturgical books was shaped to a significant extent by the ecclesiological vision developed by the Council: the liturgy as the action of Christ and of the whole Church, in which the faithful are not merely present but actively participate in the celebration according to their proper place and function.

The Council's emphasis on noble simplicity, clarity of structure, and the avoidance of unnecessary repetitions likewise belongs within this same framework (SC 34). These criteria explain why the reform aimed not merely at a limited updating of existing rubrics but at a broader revision of the liturgical books in light of the nature of the liturgy and the participation of the People of God.

None of this implies that the 1962 Missal is doctrinally incompatible with the teaching of the Second Vatican Council, nor that celebrating according to this Missal necessarily constitutes a rejection of the Council. The older liturgical form remains part of the Catholic liturgical tradition and can, at least in principle, be celebrated by the faithful in full *communio* with the Church. It must nevertheless be

¹⁴ A useful overview comparing the pre-conciliar lectionary with the post-conciliar three-year cycle may be found in: F. JUST, *Lectionary Differences: 1970 USA vs. 1998 USA Editions* (<https://catholic-resources.org/Lectionary/Differences-Canada-USA.html>), accessed 8 July 2026.



recognized that it is not the liturgical form in which the reform mandated by the Second Vatican Council found concrete expression. It is precisely in this respect that the *usus antiquior* differs from ordinary liturgical variations within the post-conciliar order: it does not represent an alternative implementation of the conciliar reform, but rather a pre-conciliar historical phase of the same Roman Rite.

For this reason, the question of the *usus antiquior* is of a different order from that of ordinary liturgical variation. Ordinary variations remain within the liturgical framework reformed by the Second Vatican Council: examples include the degree to which Latin or the vernacular is used, the choice of chants, legitimate adaptations, or local customs incorporated into the approved liturgical books. The *usus antiquior*, by contrast, concerns the coexistence of a pre-conciliar form alongside a post-conciliar form of the same Roman Rite.

That coexistence carries significant ecclesiological implications. When an older liturgical phase is maintained permanently alongside the post-conciliar form, the question inevitably arises as to what normative significance is attributed to the Second Vatican Council. Is the post-conciliar reform understood as the ordinary and normative liturgical expression of the Roman Rite after the Council? Or does it appear merely as one possible option alongside an earlier form that was not revised according to the same theological and liturgical principles?

This is the heart of the matter. The older liturgical books may be valued as expressions of reverence, continuity, sacred language, and ritual depth. Their continuing juridical availability, however, has implications that extend beyond aesthetic or pastoral considerations. It raises the question of the normative significance of the liturgical reform of the Second Vatican Council. When a form that has not been adapted in accordance with the post-conciliar reform continues to exist alongside the reformed liturgy, it may in certain contexts develop into an alternative point of ecclesial identification. The issue then ceases to concern merely a liturgical preference and instead touches upon one's relationship to the post-conciliar liturgy, the conciliar reform, and the broader ecclesiological self-understanding of the Church.

Accordingly, the *usus antiquior* should not be evaluated according to an abstract opposition between plurality and uniformity, but in light of the criterion of ecclesial *communio*. Liturgical diversity is possible when it is legitimately ordered, remains in communion with the Pope and the bishop, preserves the common faith and sacramental unity,



promotes the active participation of the People of God, and is not employed as a sign of distance from the Council or from the liturgical reform.

4 - The Evolution of the Legal Status of the *Usus Antiquior*

4.1 - General Overview

When the *usus antiquior* is understood as an older form of the Roman Rite that was not adapted through the conciliar reform, its juridical status since the Second Vatican Council acquires particular significance. The law is not merely regulating a liturgical preference; rather, it determines the conditions under which a pre-conciliar historical form may continue to exist within the post-conciliar Latin Church without weakening ecclesial *communio*.

The juridical history of the *usus antiquior* since the liturgical reform therefore cannot be reduced to a simple movement from permission to prohibition, or vice versa. Rather, it exhibits three distinct phases: first, an exceptional regime governed by the logic of the indult; second, a broader universal juridical framework under Pope Benedict XVI (2005-2013), and finally, a return to a regulated exception under Pope Francis (2013-2025). The development thus moves from exception, through universal law, to a regulated exception.

4.2 - The Logic of the Indult: Exception Following the Reform

Following the liturgical reform that emerged from the Second Vatican Council, the post-conciliar liturgical books promulgated by Pope Paul VI (1963-1978) and, subsequently, Pope John Paul II became the ordinary liturgical order of the Latin Church. Although the older liturgical books, particularly the Roman Missal according to the 1962 typical edition, continued to be used within a limited number of communities, this use was not regarded as an ordinary parallel possibility within the Roman Rite. The fundamental juridical framework was that of exception: anyone wishing to use the older liturgical form required a special authorization.



This logic assumed a more general, though still exceptional, form in 1984 with the letter *Quattuor abhinc annos*¹⁵ of the Congregation for Divine Worship, issued at the direction of John Paul II. The document granted diocesan bishops the faculty to make use of an indult whereby priests and faithful - who had to be explicitly identified in a petition submitted to their own bishop - could celebrate Mass according to the 1962 Roman Missal. This authorization remained subject to clear conditions. It had to be publicly evident that the priests and faithful concerned did not associate themselves with those who questioned the legitimacy or doctrinal correctness of the Roman Missal promulgated by Paul VI in 1970. Furthermore, such celebrations could take place only for the benefit of the groups requesting them, in churches or chapels designated by the diocesan bishop, not in parish churches except in extraordinary circumstances, and on days and under conditions approved by the bishop. The celebration had to follow the 1962 Missal, in Latin, without any mixing of rites or texts taken from the two missals.

The juridical significance of this phase lies precisely in its exceptional character. An indult does not confer a general juridical status whereby the older liturgical books become available as an ordinary contemporary form of the Roman Rite. Rather, it constitutes permission, granted in specific cases and under ecclesiastical supervision, to depart from the ordinary liturgical order. Within this framework, the post-conciliar form of the Roman Rite remained normative, while the older form was permitted solely out of pastoral concern for particular groups of the faithful.

In 1988 this arrangement acquired a new ecclesiological and canonical context through the *motu proprio Ecclesia Dei adflicta*¹⁶. This document was issued in response to the illicit episcopal ordinations carried out by Archbishop Marcel Lefebvre, assisted by Bishop Antônio de Castro Mayer, on 30 June 1988 without the required pontifical mandate. These ordinations directly affected the hierarchical structure of the Church and communion with the Pope. John Paul II therefore characterized the act as a grave act of disobedience to the Roman Pontiff in a matter touching directly upon the unity of the Church, and as a

¹⁵ CONGREGATION FOR DIVINE WORSHIP, *Letter Quattuor abhinc annos*, 3 October 1984, in AAS, 76 (1984), pp. 1088-1089.

¹⁶ JOHN PAUL II, *Motu proprio Ecclesia Dei adflicta*, 2 July 1988, in AAS, 80 (1988), pp. 1495-1498.



schismatic act, since in practice it constituted a rejection of the Roman primacy. Consequently, the canonical provisions concerning schism, particularly canons 751 and 1364, § 1, became directly applicable.

The ordaining and ordained bishops thereby incurred ecclesiastical penalties. Lefebvre and the four priests¹⁷ whom he consecrated as bishops incurred *latae sententiae* excommunication by virtue of canon 1364, § 1, in conjunction with canon 1382, according to the numbering of the Code of Canon Law then in force. Bishop Antônio de Castro Mayer was mentioned separately because, as co-consecrator, he had participated directly in the liturgical celebration and had publicly associated himself with the schismatic act. In any event, canon 1364, § 1, likewise applied to him. The excommunications were therefore incurred automatically by operation of law but were subsequently formally declared by the Congregation for Bishops¹⁸.

The canonical significance of this determination must, however, be carefully distinguished. Lefebvre's schismatic act was immediately associated with the episcopal ordinations performed without a pontifical mandate, but it was simultaneously understood as the culmination of a broader rupture of hierarchical *communio*. Until that necessary communion had been restored, the Lefebvrist movement as such could be regarded as schismatic. It did not follow, however, that every priest, deacon, religious, seminarian, or lay faithful associated in any way with the Priestly Fraternity of Saint Pius X automatically incurred the same penalty. This point was clarified in the *Nota explicativa* issued by the Pontifical Council for the Interpretation of Legislative Texts on 24 August 1996.

The decisive question is whether there exists formal adherence (*adesione formale*) to the schism. Such adherence requires both an internal and an external element. Internally, the individual must freely and knowingly embrace the substance of the schism by placing allegiance to the followers of Lefebvre above obedience to the Roman Pontiff.

¹⁷ The bishops ordained were Bernard Fellay (1958), Bernard Tissier de Mallerais (1945-2024), Richard Williamson (1940-2025), and Alfonso de Galarreta (1957).

¹⁸ CONGREGATION FOR BISHOPS, *Decree of Excommunication*, 1 July 1988, (https://www.catholicculture.org/culture/library/view.cfm?recnum=1222&utm_source), accessed 8 July 2026; JOHN PAUL II, *Motu proprio Ecclesia Dei adflicta*, 1, 3 and 5c-6a; PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS, *Explanatory Note on the Excommunication for Schism Incurred by Those Who Adhere to the Movement of Bishop Marcel Lefebvre*, 24 August 1996, in *Communicationes*, 29 (1997), pp. 239-243.



Externally, that choice must also be manifested in observable conduct. For deacons and priests who exercise their ministry permanently within the schismatic movement, such ministerial activity constitutes particularly strong evidence of formal adherence. For other members of the faithful, by contrast, occasional participation in liturgical celebrations or other activities of the movement does not in itself suffice, provided that they have not personally adopted its doctrinal and disciplinary stance of separation. Their situation must therefore be evaluated on a case-by-case basis, taking into account both their internal intention and their external conduct. Moreover, a clear distinction must be maintained between the moral question of the sin of schism and the canonical-criminal question of the delict of schism together with its corresponding penalty.

The events of 1988 therefore prompted not only a penal response directed toward the bishops immediately involved, but also a broader pastoral and ecclesiological approach toward those associated with the Priestly Fraternity of Saint Pius X (FSSPX)¹⁹ without necessarily participating formally in the schism. John Paul II wished to prevent priests, seminarians, religious, and lay faithful who were associated in various ways with the fraternity founded by Lefebvre, yet who did not wish to separate themselves from the Catholic Church, from becoming further alienated from ecclesial *communio*.

Accordingly, he established the Pontifical Commission *Ecclesia Dei*. Its mission was to cooperate with bishops, the dicasteries of the Roman Curia, and the interested groups in facilitating the restoration of full ecclesial communion for priests, seminarians, religious communities, and individual faithful who had previously been associated in various ways with the fraternity but desired to remain united to the Successor of Peter within the Catholic Church while preserving their spiritual and liturgical traditions. At the same time, the Pope requested that respect be shown everywhere for the sentiments of those attached to the Latin liturgical tradition through a wide and generous application of the directives previously issued by the Apostolic See concerning the use of the Roman Missal according to the 1962 typical edition.

¹⁹ For a more detailed treatment of the Priestly Fraternity, see, for example: C. GLENDINNING, *The Priestly Society of Saint Pius X: The Past, Present, and Possibilities for the Future*, in *Studia Canonica*, 48 (2014), II, pp. 331-372.



From the perspective of canon law, *plena communio*, or full communion, does not refer merely to a subjective sense of ecclesial belonging but to the visible communion of the baptized with the Catholic Church. Canon 205 defines this full communion by reference to three bonds: the profession of faith, the sacraments, and ecclesiastical governance. This provision must be read in light of canon 96, according to which baptism constitutes a person within the Church with corresponding rights and obligations, and canon 204, §§ 1-2, which describes the baptized as members of the People of God and identifies the Church as a visible community governed by the Successor of Peter and the bishops in communion with him. Canon 209, § 1, further provides that the Christian faithful are obliged at all times to maintain communion with the Church.

The loss of *plena communio* therefore does not necessarily mean that a person stands entirely outside the Church. The ecclesial bond established through baptism remains a permanent reality. Full communion may, however, be weakened or lost when one or more of the bonds identified in canon 205 are ruptured. In penal law, such ruptures correspond to the delicts of heresy, apostasy, and schism as defined in canon 751. Canon 1364, § 1, attaches the penalty of excommunication to these delicts, provided that their legal elements are fulfilled and that the conditions for personal imputability are present. Consequently, the assessment of ecclesial communion and the assessment of penal liability do not necessarily coincide.

This first phase therefore possessed a clear pastoral, ecclesiological, and consequently canonical purpose. It did not constitute recognition of two contemporary, juridically equivalent forms of the Roman Rite, but rather an exceptional arrangement intended to prevent or heal ruptures in ecclesial *communio*. The older liturgical books were permitted because certain groups of the faithful and communities remained attached to them and because their communion with the Church was to be safeguarded or restored, not because those books were regarded as an ordinary parallel liturgical order alongside the post-conciliar liturgical books.

4.3 - *Summorum Pontificum*: The Juridical Normalization of Coexistence



Benedict XVI did not abandon the concern for reconciliation and the preservation of *communio* already present in *Ecclesia Dei adflicta*, but instead gave it a different juridical form. Between 1988 and 2007, it had become clear that the logic of the indult was only partially adequate. The full reconciliation with the Priestly Fraternity of Saint Pius X (FSSPX) envisioned by John Paul II had not been achieved, while at the same time a number of communities in full communion with Rome gratefully made use of the possibilities opened by *Ecclesia Dei*. Outside those circles, however, difficulties persisted, precisely because the use of the 1962 Missal remained dependent upon individual permissions and because precise juridical norms were lacking. Benedict XVI also observed that some bishops feared that broader permission for the older form would call into question the authority of the Second Vatican Council. At the same time, attachment to the earlier liturgical form did not disappear with the generation that had grown up with it; younger members of the faithful likewise discovered this form and experienced it as a path toward a deeper encounter with the Eucharistic mystery.

For this reason, Benedict XVI did not simply opt for a further expansion of the existing indult practice, but instead reformulated the underlying juridical principle. Central to his broader theological interpretation of the Second Vatican Council was the hermeneutic of reform in continuity: the Church before and after the Council is the same Church, and renewal must therefore not be understood as a rupture with her earlier liturgical tradition²⁰. His legislative intervention concerning the *usus antiquior* must accordingly be read as an attempt to replace the exceptional logic of 1984 and 1988 with a more general juridical framework directed toward pastoral care, internal reconciliation within the Church, juridical certainty for the faithful concerned, and the preservation of *communio*.

With the *motu proprio Summorum Pontificum*²¹, the juridical status of the *usus antiquior* changed fundamentally. Benedict XVI maintained the distinction between the Missal of Paul VI and the Missal according to the 1962 typical edition, but reformulated the relationship between them.

²⁰ Cfr. BENEDICT XVI, *Address to the Roman Curia Offering Them His Christmas Greetings*, 22 December 2005, (https://www.vatican.va/content/benedict-xvi/en/speeches/2005/december/documents/hf_ben_xvi_spe_20051222_roman-curia.html), accessed on 8 July 2026.

²¹ BENEDICT XVI, *Motu Proprio Summorum Pontificum*, 7 July 2007, in AAS, 99 (2007), pp. 777-781. Hereinafter referred to as: SP.



The Missal of Paul VI was described as the ordinary expression of the *lex orandi* of the Catholic Church of the Latin Rite, whereas the 1962 Missal was designated the extraordinary expression of that same *lex orandi*. Both forms were explicitly identified as two usages of the one Roman Rite. Benedict XVI further declared that the 1962 Missal had never been juridically abrogated and that, under the conditions established by the *motu proprio*, it could therefore be used as the extraordinary form of the Church's liturgy. The provisions of *Quattuor abhinc annos* and *Ecclesia Dei* were expressly replaced by the regime established in *Summorum Pontificum* (SP 1).

The significance of this reformulation becomes clearer in light of the accompanying letter that Benedict XVI addressed to the bishops together with *Summorum Pontificum*²². In that letter, the Pope explicitly responds to two objections that, in his view, could be raised against the *motu proprio*. First, he rejects the concern that the broader permission to use the 1962 Missal would undermine the authority of the Second Vatican Council or call the liturgical reform into question. Secondly, he likewise considers unfounded the fear that a wider use of the older Missal would lead to disorder or even division within parish communities. Benedict XVI emphasizes that the Missal promulgated by Paul VI remains the ordinary form (*forma ordinaria*) of the Roman Rite, whereas the 1962 Missal may be used as its extraordinary form (*forma extraordinaria*). He further argues that the use of the earlier Missal presupposes such a degree of liturgical formation and familiarity with Latin that, in practice, the reformed liturgy will remain the ordinary form of the Roman Rite.

Antonio Sánchez-Gil (1962) places these statements within a broader liturgical and canonical framework. In his view, the innovative character of *Summorum Pontificum* lies not so much in the broader permission to use the 1962 Missal as in the new way in which the relationship between the two Missals is conceptualized. The question is no longer approached in terms of categories such as abrogation, indult, or prohibition, but rather from the premise that both Missals constitute two expressions of the same *lex orandi*. According to Sánchez-Gil, however, this very formulation also gives rise to new questions, since it

²² A.S. SÁNCHEZ-GIL, *Gli innovativi profili canonici del Motu proprio Summorum Pontificum sull'uso della Liturgia romana anteriore alla riforma del 1970*, in *Ius Ecclesiae*, 19 (2007), pp. 692-693 and 697-701.



relativizes the earlier, predominantly juridical and normative interpretation of the liturgical reform. This is of particular importance for the present analysis. *Summorum Pontificum* normalizes the co-existence of two historical phases of the same Roman Rite, but does so on the explicit condition that this co-existence neither entails a rupture in the *lex credendi* nor weakens ecclesial *communio*²³.

In 2011, the Pontifical Commission *Ecclesia Dei* issued the Instruction *Universae Ecclesiae*²⁴, promulgated in accordance with canon 34 to ensure the correct interpretation and application of *Summorum Pontificum* (UE 12). As an instruction, *Universae Ecclesiae* did not create new law but clarified the existing legislation and specified the manner in which it was to be implemented. It explicitly confirmed that Benedict XVI had promulgated *Summorum Pontificum* as a universal law for the Church, intended to establish new norms governing the use of the Roman liturgy as it existed in 1962 (UE 2). In doing so, the instruction made the broad canonical significance of the *motu proprio* particularly evident²⁵. It further explained that *Summorum Pontificum* sought to fill an existing juridical gap: when the new Missal was introduced under Paul VI, it had not been considered necessary to issue separate norms governing the use of the 1962 liturgy, but the increasing demand for that form made a clearer normative framework necessary (UE 7).

The juridical consequences were considerable. Every Catholic priest of the Latin Rite, whether secular or religious, was permitted to use the 1962 Missal for Masses celebrated without a congregation (*Missae sine populo*), without requiring permission from either the Apostolic See or his ordinary, with the exception of the Sacred Triduum (SP 2; UE 23). Members of the faithful who spontaneously requested to participate in such celebrations could be admitted (SP 4). In parishes where there existed a stable group of faithful attached to the earlier liturgical tradition, the pastor was to accept their requests for celebrations according to the 1962 Missal willingly, while ensuring harmony with the ordinary pastoral care of the parish, under the governance of the bishop

²³ **BENEDICTUS XVI**, *Letter to the Bishops on the Occasion of the Publication of the Apostolic Letter Summorum Pontificum Given Motu Proprio*, 7 July 2007, in AAS, 99 (2007), pp. 795-799.

²⁴ **PONTIFICAL COMMISSION ECCLESIA DEI**, *Instruction Universae Ecclesiae*, 30 April 2011, in AAS, 103 (2011): pp. 413-20. Hereinafter referred to as: UE.

²⁵ **J.J.M. FOSTER**, *Canonical Reflections on Universae Ecclesiae, the Instruction on the Application of Summorum Pontificum*, in *The Jurist*, 73 (2013), pp. 90-92.



in accordance with canon 392, avoiding division, and promoting the unity of the Church (SP 5, § 1; UE 13-15).

Universae Ecclesiae further clarified what was meant by a stable group of the faithful. Such a group need not have existed before *Summorum Pontificum*; it could also come into being after the promulgation of the *motu proprio*. Moreover, it could consist of faithful belonging to a single parish or of persons from different parishes or even different dioceses who gathered in a particular parish church, chapel, or oratory to celebrate the liturgy according to the *usus antiquior* (UE 15). At the same time, the instruction established an important limitation: those requesting the extraordinary form could in no way belong to or support groups that opposed the validity or legitimacy of the Mass or the sacraments celebrated in the ordinary form, or that rejected the Pope as the supreme pastor of the universal Church (UE 19).

The *motu proprio* also established a juridical framework for other situations. Whenever the good of souls suggested it, the pastor could permit the use of the older *Rituale Romanum* for the celebration of baptism, marriage, penance, and the anointing of the sick (SP 9, § 1). The ordinary, when the good of souls recommended it, was authorized to confer confirmation using the older *Pontificale Romanum* (SP 9, § 2; UE 29), and clerics were permitted to use the 1962 *Roman Breviary* (SP 9, § 3; UE 32). In addition, the local ordinary could, if he judged it appropriate, establish a personal parish in accordance with canon 518 for celebrations according to the older form of the Roman Rite or appoint a rector or chaplain for that purpose (SP 10). The Pontifical Commission *Ecclesia Dei* was also entrusted with supervising the observance and application of the norms of *Summorum Pontificum* and, according to *Universae Ecclesiae*, possessed ordinary vicarious authority within its competence, including the authority to adjudicate hierarchical recourse against administrative decisions that appeared to conflict with the *motu proprio* (SP 11-12; UE 9-12).

From a canonical perspective, this meant that under *Summorum Pontificum* the *usus antiquior* was no longer primarily dependent upon individual permissions or exceptional concessions. From 14 September 2007 onward, celebrations according to the 1962 liturgical books were no longer based on an indult or privilege, but on universal law²⁶. For that reason, it was no longer accurate during this period to speak of an “indult

²⁶ J.J.M. FOSTER, *Canonical Reflections*, cit., p.103.



Mass.” *Summorum Pontificum* may therefore be described as a *lex favorabilis* - that is, a law favorable to those whom it benefits. This expression should not be understood as denoting a distinct category of legislation within the Code of Canon Law, but rather as an interpretative qualification: the *motu proprio* broadened the juridical possibility of using the older liturgical books and, according to *Universae Ecclesiae*, was to be interpreted generously in favor of the faithful for whose benefit that possibility had been established²⁷.

The Instruction *Universae Ecclesiae* itself confirms this development. As an instruction within the meaning of canon 34, it neither created new law nor modified the law itself; rather, it clarified the existing legislation and specified the manner of its implementation. For precisely that reason, it is particularly important for the juridical interpretation of *Summorum Pontificum*: it confirms that Benedict XVI did not merely relax a series of restrictions but introduced a general papal legal framework governing the use of the 1962 liturgical books. Canon 34 provides that instructions clarify the prescriptions of laws and determine the manner in which they are to be executed, but they cannot derogate from legislative norms²⁸.

What occurred here therefore amounted to more than a pastoral broadening of existing practice. Benedict XVI established a juridical framework within which the extensive coexistence of two historical phases of the same Roman Rite became possible. The older form was no longer merely tolerated as an exception to the ordinary liturgical order, but was accorded its own place within a universal juridical framework. In this sense, the *usus antiquior* underwent a process of juridical normalization, albeit explicitly as the extraordinary form and not as the ordinary expression of the Roman Rite. Moreover, this normalization remained dependent upon an essential ecclesiological condition: the extraordinary form could function within the *communio* of the Church only insofar as it was not used to contest the validity or legitimacy of the post-conciliar liturgy, the authority of the Roman Pontiff, or the unity of the Church.

²⁷ J.J.M. FOSTER, *Canonical Reflections*, cit., pp. 92-94; D. PIETRAS, *The Motu Proprio Summorum Pontificum and the Motu Proprio Traditionis Custodes. A Comparative-Canonical Study*, in *Ephemerides Theologicae Lovanienses*, 101 (2025), pp. 319-322.

²⁸ J.J.M. FOSTER, *Canonical Reflections*, cit., pp. 90-94.



4.4 - *Traditionis custodes*: A Return to a Regulated Exception

The juridical normalization introduced by *Summorum Pontificum* proved not to be without tension in its reception. It rested on the assumption that the broader availability of the 1962 Missal would not relativize the significance of the Second Vatican Council or harm the unity of the Church, but could instead serve the cause of internal reconciliation. Benedict XVI had in fact stated that the two expressions of the *lex orandi* would not lead to a division in the *lex credendi*, since they were two usages of the one Roman Rite (SP, art. 1). Francis acknowledges this original intention: the broader possibility of using the 1962 Missal was meant, among other things, to respond to members of the faithful, including younger people, who discovered this liturgical form and found in it a suitable path for encountering the mystery of the Eucharist²⁹.

According to Francis, the difficulty did not lie in every attachment to the older liturgical form as such. The faithful could live such attachment in sincere communion with the Pope, the bishops, and the Church. The problem arose where the use of the 1962 Missal no longer functioned within acceptance of the post-conciliar liturgical reform, but became associated with rejection of that reform and sometimes even of the Second Vatican Council itself. In his accompanying letter, Francis states that the possibility granted by John Paul II and Benedict XVI, intended to restore the unity of an ecclesial body marked by different liturgical sensibilities, was in some cases used to widen distances, harden opposition, and foster division. He regrets not only abuses in the celebration of the post-conciliar liturgy, but also the instrumental use of the 1962 Missal when this is accompanied by rejection of the liturgical reform, the Council, or ecclesiastical institutions in the name of the “true Church.”

This makes a critical revision of *Summorum Pontificum* possible without denying Benedict XVI's intention. The 2007 regime can be understood as an attempt at continuity, reconciliation, and pastoral integration. Yet when the *usus antiquior* in practice no longer functions primarily as a means of keeping existing groups within *communio* or bringing them back to it, but becomes an alternative point of identification over against the post-conciliar liturgy, its ecclesiological

²⁹ FRANCIS, *Letter to the Bishops of the Whole World that Accompanies the Apostolic Letter Motu Proprio Traditionis custodes*, 16 July 2021, in AAS, 113 (2021), pp. 802-811.



meaning changes. The juridical normalization of the older form then risks producing the opposite effect from that intended: not reconciliation, but distance; not integration, but the emergence of a parallel liturgical identity.

With the *motu proprio Traditionis custodes* of 16 July 2021, Francis therefore fundamentally redrew the juridical framework. This document explicitly begins from the diocesan bishop as guardian of the tradition and as the visible principle of unity in his particular Church. The older liturgical books are no longer described as the extraordinary form of the Roman Rite. On the contrary, the liturgical books promulgated by Paul VI and John Paul II in accordance with the decrees of the Second Vatican Council are identified as the sole expression of the *lex orandi* of the Roman Rite (TC, art. 1). The competence to authorize the use of the 1962 Missal is again expressly entrusted to the diocesan bishop, who must exercise this competence according to the guidelines of the Apostolic See (TC, art. 2).

The concrete norms express this new logic. Where groups already exist that celebrate according to the Missal preceding the 1970 reform, the bishop must determine whether they deny the validity and legitimacy of the liturgical reform, the Second Vatican Council, and the Magisterium of the Popes (TC, art. 3, § 1). He must designate places where they may gather, but not in parish churches and without erecting new personal parishes (TC, art. 3, § 2). He also determines the days on which such celebrations may take place, with the readings proclaimed in the vernacular according to translations approved by the episcopal conference (TC, art. 3, § 3). Furthermore, he must appoint a priest who, as his delegate, is responsible for these celebrations and for the pastoral care of the faithful concerned (TC, art. 3, § 4). Existing personal parishes are to be evaluated (TC, art. 3, § 5), and the bishop must ensure that no new groups are established (TC, art. 3, § 6).

The regime also became more restrictive for priests. Priests ordained after the promulgation of *Traditionis custodes* who wish to use the 1962 Missal must submit a formal request to the diocesan bishop, who must consult the Apostolic See before granting authorization (TC, art. 4). Priests who already celebrated according to the 1962 Missal must request permission from the diocesan bishop in order to retain this faculty (TC, art. 5). The dicasteries of the Holy See - namely, at the time, the Congregation for Divine Worship and the Discipline of the Sacraments and the Congregation for Institutes of Consecrated Life and Societies of



Apostolic Life - exercise oversight, within their competence, over the observance of these norms (TC, art. 7). Moreover, previous norms, instructions, permissions, and customs that do not conform to *Traditionis custodes* are abrogated (TC, art. 8).

This explicit reference to “customs” is not without canonical significance. It shows that the legislator intended not only to replace earlier written norms but also to prevent appeals to local or established practice from relativizing the new discipline. In canon law, custom can acquire juridical significance under the conditions set out in cc. 23-28³⁰. In particular, canon 26 provides that a custom contrary to or apart from the law obtains the force of law only if it has been lawfully observed for thirty continuous and complete years, unless it has been specially approved by the competent legislator. When a law expressly prohibits future customs, only a centenary or immemorial custom can prevail against it.

The *Responsa ad dubia*³¹ published by the Congregation for Divine Worship on 18 December 2021 clarified this restrictive interpretation. They confirm that the purpose of *Traditionis custodes* is to restore a single and identical form of prayer in the Roman Rite, namely the liturgical books of Paul VI and John Paul II as the sole expression of the *lex orandi* of the Roman Rite. Accordingly, the use of the older *Pontificale Romanum*, the liturgical book for episcopal rites such as confirmation and ordinations, is excluded. The use of the older *Rituale Romanum*, which contains rites normally celebrated by priests, such as baptism, marriage, penance, the anointing of the sick, and blessings, may be permitted only in a limited way. Such permission can be granted only by the diocesan bishop and only in canonically erected personal parishes that celebrate according to the 1962 Missal. The *Responsa* also place strong emphasis on accompanying the faithful toward a full understanding of the value of the liturgical form that emerged from the reform of the Second Vatican Council.

The *Rescriptum ex audientia SS.mi*³² of the Cardinal Prefect of the Dicastery for Divine Worship and the Discipline of the Sacraments of 20

³⁰ R.G.W. HUYSMANS, *Algemene normen*, cit., pp.125-131.

³¹ CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Responsa ad dubia*, 18 December 2021, in AAS, 114 (2022): 139-149.

³² DICASTERY FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, *Rescriptum ex Audientia Sanctissimi Concerning the Implementation of the Motu Proprio Traditionis custodes*, 20 February 2023, in AAS, 115 (2023), pp. 370-371.



February 2023 further tightened this line. It confirms that certain dispensations are reserved in a special way to the Apostolic See: the use of a parish church or the erection of a personal parish for celebrations with the 1962 Missal, and authorization for priests ordained after *Traditionis custodes* to celebrate with that Missal. Where a diocesan bishop has already granted dispensations in such cases, he must inform the Dicastery for Divine Worship and the Discipline of the Sacraments so that it may evaluate the individual cases. This substantially limits the dispensing power of diocesan bishops³³. The same rescript also confirms the validity of the *Responsa ad dubia* and their explanatory notes.

The canonical significance of this third phase therefore does not consist in a simple return to the indult logic that existed before 2007. *Traditionis custodes* does indeed restore the exceptional character of the use of the 1962 Missal, but it does so within a new ecclesiological framework. The question is no longer only whether certain members of the faithful can be pastorally assisted through access to the older liturgical books, but also whether such use genuinely contributes to the *communio* of the Church and to the acceptance of the liturgical reform as a fruit of the Second Vatican Council. The development therefore does not simply move from freedom to restriction, but from juridically normalized coexistence to a regulated exception under the responsibility of the diocesan bishop and under the oversight of the Apostolic See³⁴. This corresponds to the trajectory outlined above: from exception, through universal law, to regulated exception.

4.5 - The Ecclesiological Significance of the Juridical Development

The foregoing juridical reconstruction demonstrates that the status of the *usus antiquior* since the liturgical reform has never been stable or self-evident. It was first permitted within the framework of an indult, subsequently juridically normalized by Benedict XVI as the extraordinary form within a universal legal framework, and later placed by Francis under a stricter regulation grounded in ecclesiological considerations. This development cannot be explained merely as an

³³ D. PIETRAS, *A Canonical Analysis of the February 20, 2023 Rescriptum ex audientia SS.mi Concerning Implementation of the Motu Proprio Traditionis custodes*, in *The Jurist*, 79 (2023), p. 414.

³⁴ This insight emerges clearly and is explained with particular juridical and technical clarity in: D. PIETRAS, *The Motu Proprio*, cit., pp. 311-333.



alternation between broader and narrower permissions. Rather, each phase expresses a particular judgment concerning whether the coexistence of the older and the post-conciliar forms serves the *communio* of the Church.

Benedict XVI evaluated this coexistence primarily from the perspective of continuity and reconciliation. The older liturgical form was not regarded as a foreign rite alongside the Roman Rite, but as an earlier expression of the same liturgical tradition. Provided that the Second Vatican Council, the validity and legitimacy of the post-conciliar liturgy, and the authority of the Pope and the bishops were accepted, this older form could, according to his interpretation, serve a reconciliatory function within the Church. The broader juridical availability of the 1962 Missal was therefore intended to contribute to internal reconciliation and to the integration of the faithful attached to this form.

Francis does not begin from a principled rejection of that intention, but from its concrete reception. The question is not whether every attachment to the older liturgy is problematic, but whether the broader juridical availability of the *usus antiquior* has, in certain contexts, fostered a distinct liturgical identity no longer directed toward integration but toward distancing itself from the Second Vatican Council and the post-conciliar liturgy. In such cases, the ecclesiological significance of the older form changes: it no longer functions merely as a liturgical preference but as an alternative point of ecclesial identification.

Francesco Ferrara (1986) rightly observed that, following the Second Vatican Council, the 1962 *Missale Romanum* functioned not merely as a liturgical book but also as a marker of identity within various traditionalist circles. Under *Summorum Pontificum*, this symbolic significance could be integrated into an effort at reconciliation within the post-conciliar Church. Under *Traditionis custodes*, however, it is reassessed in light of the risk that the same liturgical form may come to function as a sign of distance from the post-conciliar Church. This interpretation confirms that the canonical status of the *usus antiquior* cannot be considered independently of its concrete reception and symbolic significance³⁵.

³⁵ F. FERRARA, *Lex orandi, lex credendi? Il Messale Romano e il suo valore simbolico tra Summorum Pontificum e Traditionis Custodes*, in *Stato, Chiese e pluralismo confessionale*, Rivista telematica (<https://riviste.unimi.it/index.php/statoechiese/index>), 19 (2021), pp. 81-85.



It is here that the reception of the law becomes decisive. A law exists not only in the intention of the legislator but also in the concrete manner in which it is received by the faithful, priests, and ecclesial communities. A norm may be intended by the legislator to fulfill a particular function, yet in the concrete history of the Church it may produce different effects³⁶.

Accordingly, the difference between Benedict XVI and Francis lies less in the fundamental criterion than in their respective diagnoses³⁷. Both begin from a concern for the unity of the Church and the preservation of *communio*. Benedict XVI trusted that a juridically ordered coexistence could serve continuity and reconciliation. Francis, by contrast, judges that the actual reception of that coexistence has, in certain places, weakened *communio* and therefore requires more stringent regulation.

This observation is decisive for the subsequent question concerning the rights of the Christian faithful. If the juridical status of the *usus antiquior* depends upon the manner in which the supreme authority of the Church evaluates its relationship to ecclesial *communio*, it can scarcely be understood as an inviolable subjective right of the faithful. The question, therefore, is not simply whether the faithful may have a preference for this liturgical form, but whether the current law gives rise to an enforceable right to receive the sacraments according to that older form.

5 - Do the Faithful Have a Right to Receive the Sacraments According to the *Usus Antiquior*?

5.1 - The Rights of the Christian Faithful

Following the analysis of the juridical development and the different ecclesiological interpretations of Benedict XVI and Francis, it is first necessary to examine the juridical status of the rights of the Christian faithful within the Code of Canon Law. This is not merely a theoretical preliminary question. If certain rights of the Christian faithful are to be regarded as fundamental rights, this has important consequences for the

³⁶ L. ORSY, *The Reception of Laws*, cit., pp. 504-505, 520.

³⁷ D. PIETRAS, *The Motu Proprio*, cit., pp. 317-318.



interpretation and application of other canonical norms. Such norms cannot simply be read independently of those rights; rather, they must be assessed in light of them or, at the very least, interpreted in a manner consistent with them.

It is therefore necessary to determine, as a first step, to what extent canons 213 and 214 may be regarded as fundamental rights. Only then can it be assessed whether these provisions give rise to a juridical claim to receive the sacraments according to the *usus antiquior*. The question, therefore, is not whether the faithful possess rights within the Church. That is beyond dispute. The Code of Canon Law recognizes, in canons 208-223, a body of obligations and rights belonging to all the Christian faithful. These provisions flow from the dignity and equality of all the baptized. Canon 208 expressly affirms the true equality of all the faithful in dignity and action, whereby each, according to his or her own condition and function, cooperates in the building up of the Body of Christ.

Canons 208-223 are not merely a collection of isolated subjective claims existing alongside other canonical norms. They stand at the beginning of Book II, under the title concerning the obligations and rights of all the Christian faithful, and express the fundamental juridical position of the baptized within the People of God. They give canonical expression to the dignity, equality, responsibility, and freedom that belong to all the Christian faithful by virtue of baptism.

It follows that these rights should not be interpreted in a minimalist fashion. In this regard, the Belgian canonist Rik Torfs (1956) has argued that, if they are regarded merely as general principles that must invariably yield to more specific canonical provisions, they risk losing their practical significance in concrete cases. The principle *lex specialis derogat generali* undoubtedly retains its importance in canon law, but it cannot be applied mechanically to the relationship between fundamental rights and other canonical norms. Rather, the rights of the faithful should be understood as fundamental interpretative norms. They are neither absolute claims excluding all further ecclesiastical regulation nor merely aspirational declarations devoid of juridical effect. Consequently, wherever more than one interpretation is possible, preference should be given to the interpretation that gives these rights genuine practical significance. In this respect, the approach accords with the maxim *potius ut valeat quam ut pereat*: where possible, a legal norm



should be interpreted so that it has real effect rather than becoming meaningless³⁸.

At the same time, this does not imply that every concrete preference associated with a fundamental right thereby becomes the object of an enforceable legal claim. Every fundamental right has a specific object and is exercised within a juridical and ecclesiological order. For precisely that reason, it is necessary to distinguish carefully between the existence of a right, its scope, and the concrete manner in which that right is exercised within the Church.

This distinction is decisive for what follows. The first question is whether the right to worship God according to one's own rite can provide a basis for a claim to the *usus antiquior*. The second is whether the right to receive spiritual assistance, and in particular the sacraments, can support such a claim. Finally, these rights must be situated within their broader ecclesiological and juridical context. Only in light of that broader framework can it be determined whether the rights of the Christian faithful entail a fundamental right to the *usus antiquior*, or whether its use remains dependent upon the regulation established by the competent ecclesiastical authority.

5.2 - Rights Concerning Rite

Canon 214 provides that the Christian faithful have the right to worship God according to the prescriptions of their own rite, as approved by the legitimate pastors of the Church, and to follow their own form of spiritual life, provided that it is in accord with the doctrine of the Church. At first sight, this canon might appear to provide a possible foundation for a right to receive the sacraments according to the *usus antiquior*. Those attached to the older liturgical books could argue that they wish to worship God according to a particular liturgical form that was once approved by the Church.

This line of reasoning is, however, unpersuasive. The decisive point is that the *usus antiquior* is not a distinct rite. As established earlier, it is not an independent rite existing alongside the Roman Rite, but rather an older usage or historical form of the same Roman Rite. For this reason,

³⁸ R. TORFS, *Mensen en rechten in de kerk (Forumreeks XII)*, Davidsfonds, Leuven, 1993, pp. 77-81. See also: R. TORFS, *Rights in Canon Law: Real, Ideal or Fluff?*, in *CLSA Proceedings*, 61 (1999), pp. 375-383.



expressions such as “Tridentine Rite” are canonically imprecise. The *usus antiquior* is not a rite in the same sense in which one speaks of the Latin Church and the Eastern Catholic Churches, each possessing its own liturgical, disciplinary, and spiritual traditions. It is an older historical form within one and the same Roman Rite.

This has a direct consequence for the interpretation of canon 214. When the canon speaks of the right to worship God according to one's own rite, it cannot simply be extended to include a right to any earlier historical edition of the liturgical books within the same rite. The canon protects not a subjective preference for a particular historical phase of a rite, but rather the right of the faithful to worship according to their own rite within the liturgical order approved by the Church.

Nor does the second part of canon 214, concerning the right to follow one's own form of spiritual life, substantially alter this conclusion. The faithful may undoubtedly cultivate a spirituality nourished by silence, sacredness, the Latin language, Gregorian chant, devotional traditions, or a profound sense of liturgical continuity. Such preferences may fall within the right to one's own form of spiritual life, provided that they are consistent with the doctrine of the Church. A spiritual preference, however, does not in itself generate a right to public liturgical celebrations according to liturgical books that are no longer generally in force. The liturgy is not a private expression of spirituality but a public act of the Church.

Canon 214 may therefore support the proposition that the attachment of some of the faithful to the older liturgical tradition should not be dismissed lightly. It cannot, however, serve as the juridical foundation for a fundamental right to the *usus antiquior* as one's “own rite.” The underlying premise is absent: the *usus antiquior* is not a distinct rite.

5.3 - Rights Concerning the Reception of the Sacraments

Canon 213 provides that the Christian faithful have the right to receive assistance from their sacred pastors out of the spiritual goods of the Church, especially the Word of God and the sacraments. This canon is more fundamental than canon 214 because it relates directly to access to the sacraments. The canonical commentary tradition rightly emphasizes that this concerns an essential right of the faithful: the means of salvation have been entrusted to the Church, and the faithful must genuinely be



able to draw upon them. This right is expressly linked to the spiritual goods of the Church, above all the Word of God and the sacraments³⁹.

Nevertheless, canon 213 likewise does not establish a right to the *usus antiquior*. The canon guarantees the right to sacramental assistance, not the right to receive that assistance according to every liturgical form that has existed throughout the history of the Roman Rite. The sacraments belong to the spiritual goods of the Church, but the manner in which they are celebrated liturgically is regulated by ecclesiastical authority.

This follows clearly from the general norms governing the liturgy and the sacraments. Canon 837, § 1, provides that liturgical actions are not private acts but celebrations of the Church herself, who is the sacrament of unity. Canon 838 further provides that the regulation and direction of the sacred liturgy depend solely upon the authority of the Church, namely the Apostolic See and, according to the law, the diocesan bishop (c. 838, § 1). The Apostolic See is competent to regulate the liturgy of the universal Church, publish the official liturgical books, review vernacular translations, and ensure that liturgical norms are faithfully observed everywhere (c. 838, § 2). Episcopal conferences are responsible for preparing and publishing translations of the liturgical books into the vernacular. In doing so, they must remain within the limits established by the liturgical books themselves and obtain the prior approval of the Holy See (c. 838, § 3). Within his own diocese and within the limits of his competence, the diocesan bishop may issue binding liturgical norms that are to be observed by all the faithful (c. 838, § 4). Canon 841 further provides that it belongs to the supreme authority of the Church to determine what is required for the validity of the sacraments and to that same authority, or another competent authority, to regulate what pertains to their licit celebration, administration, and reception.

³⁹ D. SENALMOR, *Can. 213*, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (ed.), *Exegetical Commentary on the Code of Canon Law*, Vol. II, Wilson & Lafleur/Midwest Theological Forum, Montréal/Chicago, 2004, pp. 76-83; R.J. KASLYN, *Title I: The Obligations and Rights of the Christian Faithful*, in J.P. BEAL, J.A. CORIDON, T.J. GREEN (ed.), *New Commentary on the Code of Canon Law*, Paulist Press, New York/Mahwah, 2000, pp. 267-268; H.J.F. REINHARDT, *Volk Gottes: Die Christgläubigen*, in K. LÜDICKE (ed.), *Münsterischer Kommentar zum Codex Iuris Canonici. Unter besonderer Berücksichtigung der Rechtslage in Deutschland, Österreich und der Schweiz*, EOS Editions, Sankt Ottilien, Lieferung 61, p. 213/3.



Canon 213 must therefore be interpreted together with these norms governing liturgical authority. The right to the sacraments is genuine, but it is not a right to determine the liturgical form in which the sacraments are celebrated. This conclusion is reinforced by canon 846 §1, which provides that, in celebrating the sacraments, the liturgical books approved by the competent authority are to be faithfully observed and that no one may on personal initiative add, omit, or alter anything in them.

Nor does canon 843, § 1, alter this conclusion. That canon provides that sacred ministers may not deny the sacraments to those who seek them at appropriate times, are properly disposed, and are not prohibited by law from receiving them. This norm prevents the arbitrary refusal of the sacraments. It does not, however, establish that the faithful possess a right to a particular historical form of the Roman Rite. A member of the faithful who wishes to receive the Eucharist, penance, the anointing of the sick, or another sacrament has a right to the sacramental assistance that the Church provides according to her current liturgical order. That is not equivalent to a right to the liturgical books of, for example, 1962.

At this point, the question of coexistence must once again be taken into account. The *usus antiquior* is not merely a particular way of celebrating the post-conciliar liturgical books with greater solemnity, dignity, or traditional ceremonial. Rather, it represents a pre-conciliar historical phase of the same Roman Rite. An appeal to canon 213 would therefore seek not merely access to the sacraments, but access to the sacraments according to a liturgical form that was not adapted in accordance with the Second Vatican Council. Such a claim exceeds the proper scope of canon 213.

5.4 - Rights in Their Ecclesiological and Juridical Context

The decisive reason why canons 213 and 214 do not give rise to a fundamental right to the *usus antiquior* is not merely technical or juridical, but also - and indeed primarily - ecclesiological. Such a subjective right would imply that the faithful could claim access to an earlier historical phase of the same Roman Rite as though it were juridically necessary for it to continue existing alongside the post-conciliar form. This would immediately raise the question of the normative significance of the Second Vatican Council for the liturgy. Moreover, such an approach would implicitly assume that the Church lacks the authority to



determine and regulate definitively the concrete liturgical form in which the faithful exercise their right to the sacraments.

This certainly does not mean that the fundamental rights of the faithful are of only limited significance, or that they are weak or merely decorative. On the contrary, they belong to the constitutional structure of the Church. The Spanish canonist Juan Fornés (1939) emphasizes that the fundamental rights of the faithful are rooted in baptism and in the constitutional position of the faithful within the Church⁴⁰. His fellow Spanish canonist Javier Hervada (1934-2020) develops the same line of thought, arguing that the dignity and freedom of the children of God are not merely ascetical or moral concepts but possess genuine juridical significance for the position of the faithful within the People of God⁴¹.

The American canonist Robert J. Kaslyn (1956-2019) likewise interprets canon 213 from this ecclesiological perspective. According to Kaslyn, the right to spiritual assistance flows from *communio* itself: because the Church continues the saving mission of Christ, the faithful have a right to the spiritual goods of the Church, especially the Word of God and the sacraments. At the same time, this right corresponds to the duty of sacred ministers to make these spiritual goods available in accordance with their office. Significantly, Kaslyn does not connect this right with a claim to a particular ritual form, but with the Church's *munus sanctificandi* as a whole. The object of the right is therefore access to the means of salvation, not the choice of the liturgical form in which they are celebrated⁴².

The general provisions concerning the rights of the faithful point in the same direction. Rights within the Church do not function as isolated individual claims. Canon 209 obliges the faithful to maintain communion with the Church at all times. Canon 223 further provides that, in exercising their rights, the faithful must take account of the common good of the Church, the rights of others, and their own obligations toward others. For the sake of that common good, ecclesiastical authority may regulate the exercise of the rights proper to the faithful. This approach is further developed by the American canonist James Coriden (1932-2025), who emphasizes that canonical rights attain

⁴⁰ J. FORNÉS DE LA ROSA, *Los derechos fundamentales del fiel en el Código de 1983*, in *Fidelium Iura*, 10 (2000), pp. 90-91, 97-100.

⁴¹ J. HERVADA XIBERTA, *La dignidad y la libertad de los hijos de Dios*, in *Fidelium Iura*, 4 (1994), pp. 10-11.

⁴² R.J. KASLYN, *Title I: The Obligations*, cit., pp.267-268.



their full meaning only within the sacramental communion of the Church. The common good is therefore not opposed to the rights of the faithful but presupposes their proper exercise within *communio*⁴³.

It follows from this broader framework that the discussion concerning the *usus antiquior* is not primarily a question of individual rights. The fundamental rights of the faithful guarantee access to the means of salvation that the Church provides, whereas the concrete regulation of the liturgy belongs to the responsibility of ecclesiastical authority exercised in the service of *communio* and the unity of the Church. Consequently, canons 213 and 214 cannot be interpreted as conferring a subjective right to the continuing use of an earlier historical form of the Roman Rite.

6 - Limits, Possibilities, and Perspectives

The foregoing analysis leads to a negative, but by no means merely restrictive, conclusion. Canons 213 and 214 do not confer a subjective, enforceable right to receive the sacraments according to the *usus antiquior* of the Roman Rite. The 1962 liturgical books do not constitute a distinct rite to which the faithful may appeal as their “own rite,” but rather an earlier historical phase of the same Roman Rite. Their use therefore remains dependent upon the judgment of the competent ecclesiastical authority as to whether, and in what manner, this form serves the good of the Church and ecclesial *communio*.

This does not, however, resolve the pastoral question. On the contrary, once it is acknowledged that no enforceable juridical claim exists to the continued availability of the 1962 Missal, the question arises all the more forcefully as to what spiritual and liturgical needs underlie the attachment of certain members of the faithful to this form. Is the attraction found in silence, sacredness, ritual continuity, the use of Latin, Gregorian chant, a stronger sense of adoration, a more careful *ars celebrandi*, or rather in a reaction against liturgical abuses and banalizing practices? Such questions cannot be answered simply by focusing on the juridical status of the older Missal. They require an evaluation of the

⁴³ J. CORIDON, *Reflections on Canonical Rights*, in H. PROVOST, K. WALF (ed.), *Studies in Canon Law. Presented to P.J.M. Huizing (Annua Nuntia Lovaniensia XXXII)*, Leuven University Press / Uitgeverij Peeters, Leuven, 1991, pp. 30-32.



manner in which the post-conciliar liturgy is celebrated and experienced today.

This approach avoids two opposite extremes. On the one hand, criticism of the concrete implementation of the liturgical reform should not automatically be interpreted as opposition to the Second Vatican Council. Canon 212 recognizes that the faithful have the right to make known their views concerning the good of the Church, including in matters relating to the liturgy. Where the implementation of the reform has been deficient or where abuses exist, these may legitimately be identified and discussed. On the other hand, such criticism does not imply that the solution necessarily lies in the permanent parallel availability of a liturgical form that was not adapted in accordance with the conciliar reform. Deficiencies within post-conciliar practice call first and foremost for the improvement of that very practice.

It is therefore useful to distinguish between the *usus antiquior* as a historical liturgical form and the liturgical values that the faithful recognize within it. These values are not exclusively tied to the 1962 Missal, nor must they necessarily be interpreted in ideological terms. Benedict XVI himself already spoke of a mutual enrichment, not only of the older form but also of celebrations according to the Missal of Paul VI⁴⁴. When the ordinary form is celebrated with reverence and fidelity to the liturgical norms, it can itself manifest precisely the sacredness that many appreciate in the older form.

From this perspective, the discussion shifts. The central question is no longer whether the *usus antiquior* ought to continue permanently alongside the ordinary form, but whether the post-conciliar liturgy itself provides sufficient scope to express the richness of the Roman tradition. Although it constitutes the ordinary and normative expression of the Roman Rite, it is not an immutable scheme. The Second Vatican Council itself rejected rigid uniformity, acknowledged legitimate variations, and situated them within the framework of ecclesiastical authority, *communio*, and the substantial unity of the Roman Rite.

Liturgical plurality therefore need not consist in the continued coexistence of two historical phases of the same rite. It may instead find expression within the post-conciliar liturgy itself by providing room for

⁴⁴ **BENEDICTUS XVI**, *Letter to the Bishops on the Occasion of the Publication of the Apostolic Letter Summorum Pontificum Given Motu Proprio*, 7 July 2007, in AAS, 99 (2007), pp. 795-799.



different legitimate expressions of the same Roman tradition. Such a model is more coherent from an ecclesiological perspective. It affirms the normative place of the liturgical reform following the Second Vatican Council while at the same time recognizing that its concrete implementation has, in some places, been incomplete or unbalanced. In this way, genuine deficiencies may be corrected without creating the impression that the post-conciliar form is merely one option alongside an alternative liturgical order.

This understanding is also more consistent with the public character of the liturgy. Neither the faithful nor priests may combine elements from different liturgical forms on their own authority. Precisely because the regulation of the liturgy belongs to ecclesiastical authority, that same authority may revise, enrich, or supplement the liturgical books whenever the spiritual welfare of the faithful so requires. The issue is not one of individual liturgical experimentation, but of an ecclesially ordered development of the post-conciliar liturgy. Within their respective spheres of competence, the Apostolic See, episcopal conferences, and diocesan bishops each bear their own responsibility in this regard.

Such development must not, however, be understood as a return to the situation that existed before the Second Vatican Council. Rather, it must proceed from the very principles articulated by the Council itself: the active participation of the People of God, fidelity to the nature of the liturgy, respect for sound tradition, intelligibility of the rites, ecclesial *communio*, and the authority of the Pope and the bishops. The objective is not the restoration of the older form, but a deeper and more balanced realization of the post-conciliar liturgical reform.

Viewed in this light, the development following *Summorum Pontificum* may also be assessed differently. The broader availability of the *usus antiquior* could initially contribute to reconciliation and integration. Where, however, it gave rise to the formation of a distinct liturgical identity no longer situated within the framework of the post-conciliar reform, an ecclesologically ambiguous situation emerged. The enrichment of the ordinary form offers a more durable solution: it takes the legitimate aspirations of the faithful seriously while integrating them within the common liturgical framework of the Latin Church.

This does not mean that every liturgical preference ought to be accommodated. Liturgical reform always requires discernment. The criterion is not personal taste, but the contribution made to the faith of



the Church, the dignity of the celebration, the active participation of the faithful, and ecclesial *communio*. Some aspirations are legitimate, while others may arise from a mistaken interpretation of the Second Vatican Council or from a rejection of the post-conciliar Church.

Within this process, the diocesan bishop retains a central responsibility. *Traditionis custodes* confirms his task of regulating liturgical discipline within his particular Church in accordance with the directives of the Apostolic See. That responsibility is not merely restrictive. It also includes the pastoral discernment of which liturgical needs genuinely exist and how they may best be addressed within the ordinary liturgical order. The bishop is not only the guardian of liturgical unity but also the steward of a liturgical life that promotes the spiritual growth of the Church.

Finally, this approach accords closely with the proper purpose of canon law itself. Ecclesiastical law exists not merely to regulate but to build up the Church, to foster *communio*, and ultimately to promote the *salus animarum*, which always remains the supreme law (c. 1752 *in fine*). As the Spanish canonist Juan Ignacio Arrieta (1951) emphasizes, that salvation cannot be separated from the manner in which law, mercy, and pastoral care converge⁴⁵. Consequently, the rejection of a subjective right to the *usus antiquior* must not degenerate into pastoral indifference. It calls instead for both a clear juridical order and a liturgical practice that genuinely serves the spiritual welfare of the faithful.

The discussion concerning the *usus antiquior* thus culminates in a broader question concerning the future of the post-conciliar Roman Rite. The question is not: how can an older form that was not adapted in accordance with the Second Vatican Council be preserved as extensively as possible? Rather, it is: how can the ordinary form be celebrated, deepened, and, where necessary, further developed so that it fully embodies the richness of the Roman tradition while at the same time giving visible expression to the ecclesiology of the Second Vatican Council? From this perspective, liturgical plurality is sought not in parallel historical phases but within a single common post-conciliar liturgical order that offers sufficient room for the Catholic richness of the Roman Rite.

⁴⁵ BENEDICTUS XVI, *Letter to the Bishops*, cit., p. 797.



7 - Conclusions

The question whether the Christian faithful may invoke canons 213 and 214 as the basis for a claim to receive the sacraments according to the *usus antiquior* can only be answered adequately if it is not reduced to a matter of liturgical preference. Rather, it concerns the canonical qualification of this older liturgical form within the Roman Rite and the ecclesiological significance attributed to its continued availability. The liturgical books of 1962 unquestionably belong to the Catholic liturgical tradition. At the same time, they do not constitute the liturgical expression in which the reform called for by the Second Vatican Council has been normatively realized. It is precisely this dual reality that explains the tension surrounding the *usus antiquior* since the post-conciliar liturgical reform. It is not foreign to the Church's tradition, yet neither can it simply be regarded as a contemporary parallel form upon which the faithful may rely according to personal preference.

It follows, first, that canon 214 does not provide a sufficient juridical basis for such a claim. This canon guarantees the right of the Christian faithful to worship God according to the prescriptions of their own rite, as approved by the legitimate pastors of the Church, and to follow their own form of spiritual life, provided that it accords with the doctrine of the Church. The *usus antiquior*, however, is not a distinct rite in the canonical sense. It does not constitute an independent ritual tradition alongside the Roman Rite but rather an older historical form within that same rite. An appeal to canon 214 as the foundation of a subjective right to the 1962 Missal therefore involves a shift in categories: a provision concerning the faithful's own rite is applied to an earlier edition of the liturgical books within the same rite. Nor can the right to one's own form of spiritual life sustain such an interpretation. Spirituality and liturgy are closely related, but they are not canonically identical. A spiritual attachment to silence, sacredness, Latin, ritual continuity, or older devotional forms may have genuine pastoral significance, but it does not thereby become a right to public liturgical celebrations according to books that no longer constitute the ordinary liturgical order of the Latin Church.

Nor can canon 213 be interpreted as an independent basis for such a right. This canon recognizes the right of the faithful to receive assistance from their sacred pastors out of the spiritual goods of the Church, especially the Word of God and the sacraments. This right is



fundamental and belongs to the constitutional position of the baptized within the Church. Its object, however, is access to the means of salvation entrusted to the Church, not the authority of the faithful to determine the historical liturgical form in which that sacramental assistance is provided. The sacraments are spiritual goods of the Church; their public celebration, however, is regulated by the competent ecclesiastical authority. Canon 213 must therefore be read together with the norms that establish both the public nature of the liturgy and the competence of the Apostolic See and the diocesan bishop. The faithful have a right to sacramental assistance. It does not follow that they possess a right to receive that assistance according to the 1962 Missal.

This conclusion is not merely technical or juridical. It concerns the very manner in which rights function within the Church. The fundamental rights of the Christian faithful are not isolated individual claims asserted against the ecclesial community, but rights exercised within the *communio* that they both presuppose and are intended to serve. Canons 209 and 223 prevent these rights from being interpreted according to an individualistic paradigm foreign to the constitutional order of the Church. To interpret canons 213 and 214 as conferring an enforceable right to the *usus antiquior* would implicitly assume that the permanent coexistence of two historical phases of the same Roman Rite is juridically necessary. Such an interpretation would substantially restrict the Church's authority to regulate the liturgical form of her public worship. It finds no sufficient support either in the current law or in the ecclesiology that underlies it.

The juridical development following the post-conciliar liturgical reform confirms this assessment. The movement from the logic of the indult, through the universal expansion introduced by *Summorum Pontificum*, to the regulated exception established by *Traditionis custodes* demonstrates that the status of the *usus antiquior* has always remained dependent upon an assessment by the supreme authority of the Church. That assessment concerned not merely practical permissions or pastoral accommodations, but also the relationship between liturgical diversity and ecclesial unity. Benedict XVI proceeded from the conviction that broader juridical availability of the 1962 Missal could manifest the continuity of the Church's liturgical tradition and contribute to internal reconciliation. Francis, on the basis of a different assessment of the reception of that arrangement, concluded that the same availability had, in certain contexts, fostered the emergence of a parallel liturgical identity.



The difference between these two legislative approaches therefore lies not in the existence or non-existence of fundamental rights concerning the older liturgical form, but in their differing ecclesiological evaluation of the consequences of its juridical normalization.

It is precisely at this point that the critical contribution of the present study becomes clear. An appeal to tradition is not, in canonical terms, sufficient to establish a subjective right. Nor can an appeal to pastoral sensitivity replace the public juridical order of the liturgy. Conversely, it would be equally mistaken to identify every attachment to the older liturgical form as such with opposition to the Second Vatican Council or to the post-conciliar Church. A sound canonical analysis must avoid both reductions. On the one hand, it must resist an inflationary interpretation of fundamental rights whereby every liturgical preference is transformed into an enforceable juridical claim. On the other hand, it must acknowledge that the aspirations associated with the *usus antiquior* do not simply disappear through juridical restriction. The absence of a right to the 1962 Missal does not relieve ecclesiastical authority of its responsibility to take seriously the pastoral and liturgical questions revealed by that attachment.

The contribution of this study therefore consists in two principal clarifications. First, it demonstrates that the debate concerning the *usus antiquior* cannot adequately be conducted within a simple opposition between plurality and uniformity. The Second Vatican Council does not reject liturgical diversity; rather, it orders such diversity according to the criteria of *communio*, hierarchical authority, sacramental unity, and the active participation of the People of God. The decisive question is therefore not whether diversity as such is possible, but what kind of diversity can be justified ecclesologically and canonically. Secondly, the study makes clear that ordinary liturgical plurality within the post-conciliar order is not equivalent to the permanent coexistence of two historical phases of the same rite. The latter form of coexistence carries greater ecclesiological significance because it directly concerns the normative place of the conciliar liturgical reform.

From this perspective, *Traditionis custodes* appears not merely as a restrictive law, but as an attempt to correct the juridical ambiguity created by the previous normalization. This does not mean, however, that restriction in itself constitutes an adequate liturgical program. If the *usus antiquior* continues to attract certain members of the faithful because of its silence, sacredness, ritual discipline, Latin language, Gregorian



chant, or more tangible sense of continuity with tradition, then the critical question must be asked why these dimensions are sometimes insufficiently visible in ordinary post-conciliar practice. The most canonically coherent path does not lie in establishing a parallel pre-conciliar form within the juridical order, but rather in celebrating, deepening, and enriching the post-conciliar Roman Rite itself with greater seriousness, dignity, and fidelity.

The conclusion is therefore negative, but not merely restrictive. Canons 213 and 214 do not confer a subjective right to receive the sacraments according to the *usus antiquior*. The rights of the faithful guarantee access to the Church's means of salvation; they do not guarantee a claim to a particular historical liturgical form. At the same time, the *salus animarum* requires more than formal juridical clarity. It calls for a liturgical legal order that safeguards the normative significance of the Second Vatican Council, preserves the unity of the Roman Rite, and does not neglect genuine pastoral needs. The future of liturgical plurality therefore lies not in perpetuating competing historical identities, but in a common post-conciliar liturgical order that gives credible, ecclesially ordered, and *communio*-building expression to the richness of the Roman tradition.

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