

Across Canada and the United States, many Catholic dioceses are without bishops, and nearly thirty more could be without bishops this year if all those eligible to retire do so. Vacancies are piling up as the system that produces appointments is increasingly backlogged. But that system—in which the nuncio collaborates to produce a terna, a list of three candidates whose names are sent to Rome for examination before the pope makes the final decision—presents problems more severe than an excessive workload.

The system fell apart in early January in Poland in a spectacular and ugly way. There, the pope appointed Archbishop Stanislaw Wielgus to Warsaw, only to see Wielgus resign just before his installation because of a massive controversy that erupted when it came to light that he had collaborated with the Communists when they were in power.

Two aspects of this tale are especially egregious: First, Wielgus was already a bishop and thus had passed Rome's scrutiny when he was appointed in 1999. Second, even when these revelations came to light and the massive outcry grew, Rome vigorously defended the appointment and initially refused to back down. When it finally did so, its spokesman, Federico Lombardi, SJ, issued a statement crankily blaming unnamed "persecutors of the past and other adversaries" for the fiasco.

The whole affair undermines trust in the Roman system, which obviously failed to scrutinize Wielgus closely enough, and then, when exposed, still tried to force him on the local church of Warsaw. If the Roman curia knew about his past and did not care, it is guilty of malfeasance; if it did not know of his past, it is guilty of incompetence. In either case it shows that the system is totally unreliable.

Rome's reasons for the stiff defense of its decision include not just the usual face-saving concerns of large institutions, but also that the church fought for centuries to have the freedom to make independent decisions and is not about to surrender that to secular pressures. But this was Poland in January 2007, not Canossa in January 1077, and the pressure was from the people of the most faithfully Catholic country in Europe, not from an overbearing German emperor like Henry IV.

Over the centuries Rome has gradually taken over the appointment of bishops, and there were good reasons for this. By the turn of the second millennium, the local prince or political "heavy" with the money and men to enforce his will would often appoint his cronies to plum parishes and dioceses. Many of these appointees had never been ordained, lived openly with concubines, could not read Latin, and were in every respect thoroughly unsuited to holding ecclesial office.

To correct such scandalous situations, and to deal with the widespread political interference generally known as the "Investiture Crisis," popes such as Leo IX (1049-54) and especially Gregory VII (1073-85), who excommunicated Henry IV, rightly began to demand that the church be left alone to make appointments independent of secular control. (The separation of church and state is good not just for the state but also for the church.) The popes increasingly sought to centralize episcopal appointments in Rome, where, it was thought, they could serenely regard the local situation and select the best man for the job without political pressure clouding their judgment.

That, in theory, is how things were supposed to work. Rome, however, never really could make it work for centuries to come. Few realize that it was not until 1917, when the first code of canon law was promulgated, that Rome finally got its way in appointing all the world's bishops. Fewer still realize that Rome was able to insist on its own way because it had the money to do so.

The Cambridge historian John Pollard, in his recent study *Money and the Rise of the Modern Papacy: Financing the Vatican 1850-1950* (Cambridge University Press), has shown that the Vatican as we know it, an independent city-state having diplomatic relations with 175 countries, and the papacy as we know it, an institution exercising universal jurisdiction over a vast flock, are distinctly modern creations. Both institutions owe their rise in large part to two major developments in the last century and a half: the "Peter's Pence" fund, to which laity around

the world donate directly to Rome, and which encourages the idea that they have a personal relationship with the pope; and the Lateran Treaty of 1929, which also provided financial assistance and, most important, gave the Vatican its independence and ability to appoint bishops and nuncios (the latter regarded in some cases as spies on the former, whose authority was undermined and whose funds for local needs were often diverted to the pope's projects in Rome).

Armed with diplomatic clout and financial heft, and with increasing ease of communications, Rome was able to appoint its own men everywhere. This was not simply a vulgar exercise of *libido dominandi* on the part of the Roman curia. As Pollard notes, many bishops, especially the new Americans and the newly restored and predominantly ultramontane English hierarchs, actually encouraged Roman centralization and stepped back from having any serious role in episcopal appointments because of a desire to demonstrate their loyalty to the pope, who, especially between the loss of the papal states in 1870 and the Lateran Treaty in 1929, was adroitly portrayed as a persecuted, impoverished, long-suffering "prisoner of the Vatican." At a moment when the temporal authority of the papacy was stripped away, there was—as Owen Chadwick, George Wiegel, and Hermann Pottmeyer have demonstrated—a concerted movement to exalt the "spiritual" authority of the pope as global teacher, pastor, and sovereign pontiff. Having the power to appoint bishops was a crucial component in that movement.

Thus, through the twists and turns of history, a system that began as an emergency corrective to a truly deplorable situation of political strangulation became slowly regularized and rationalized and applied to the whole church, even coming in many cases to usurp the ancient rights and prerogatives of Eastern Catholics—much to their chagrin and to the scandal of their confreres, the Orthodox. Along the way, the impression was created that it was always this way and must always remain this way "for the good of the church."

Recent research on the papacy (including that of Pollard and other historians such as Eamon Duffy and Kathleen Cushing) has indicated that this system of appointments is not only of modern origin but is theologically dubious, ecumenically suspect, and practically unworkable.

Theologically there is no reason why the bishop of Rome should be able to appoint his brother bishops all over the world. There is nothing inherent in the office of pope or bishop, or in the church's ecclesiological self-understanding that can explain why all bishops should be appointed by one man in Rome. For more than a thousand years this system was unheard of in either East or West and would have been scoffed at by early Christians. Even today one cannot find any serious theologian writing in favor of the pope's supposed right of appointment.

Of course, there is much written about papal and episcopal offices in *Pastor aeternus* of Vatican I and especially in *Lumen gentium* and *Christus dominus* of Vatican II. But while the documents say a lot about the theology of episcopal and papal offices and the relation between them, they say almost nothing about the manner in which bishops are appointed. *Christus dominus*, in fact, begins by saying that bishops are "appointed by the Holy Spirit," and only later on, in passing and without any justificatory development, asserts that "bishops [are] chosen from various parts of the world, in ways and manners established or to be established by the Roman pontiff." Such a formulation is unhelpfully ambiguous. When set alongside the claim that "the Roman pontiff...enjoys supreme, full, immediate, and universal authority over the care of souls" (*Christus dominus*, 2; see *Lumen gentium*, 22), it can be misused to justify an ultramontane position that has nothing to do with its original purpose. The tacit assumption—never theologically articulated—is that full, supreme, and immediate universal power necessarily entails the appointment of every bishop. It does not.

Papal appointment of bishops has never been defined as a matter of dogma. Neither theologians nor bishops and popes in council have even bothered to come up with a theological justification for it. Such a system of appointment is both theologically unsupported and ecumenically intolerable.

Ecumenically, the chief hope and concern of the last pope and the current one has been for unity with the Orthodox churches. One thing has been overwhelmingly clear from dialogue with the Orthodox: in no way,

under no circumstance, and for no conceivable reason would they ever submit to this Roman system of appointment and give up their local independence and cherished right to elect their own leadership.

My research into Orthodox structures and polity suggests that laypeople, the ordinary faithful, are often very involved in the election of bishops and primates. The catholicos of the Armenian Church, for example, is elected not just by bishops and clerics but also by laypeople. Other Orthodox churches-including the Russian and Bulgarian-allow for lay involvement in electoral bodies. The other pope in the world, the Coptic patriarch of Alexandria (the Coptic use of the title “pope” is thought by some scholars to predate Roman usage), has historically been chosen by an election in which for many centuries laypeople have been represented prominently.

Even if one leaves aside weighty concerns of theology and ecumenism, the system of one man appointing Catholic bishops around the world remains practically unfeasible. How can one man be responsible for knowing the intimate details of more than three thousand men whom he must trust enough to appoint to high office? The answer to that, as recent history makes painfully clear, is that he cannot. The Polish example is simply the latest in a long line of recent appointments that have shown how profoundly faulty this system is. Where it does not promote Communist agents or pedophile protectors (or abusers themselves), it often produces mediocrities.

When the system makes mistakes, it too often compounds them by defensively denying any wrongdoing, by seeking to place the blame elsewhere-as Lombardi did with the Warsaw case-or, worst of all, by continuing to appoint one disaster after another. Who can forget the stunning events in Florida’s Diocese of Palm Beach? In March 2002, its bishop, Anthony O’Connell, resigned after the press reported that he had engaged in sexual improprieties with a seminarian a quarter-century earlier. O’Connell’s resignation came just four years after his predecessor, Bishop Keith Symons, was also forced to resign because he had sexually abused five young men earlier in his career. These appointees sailed through Rome’s supposedly rigorous scrutiny.

Given this track record-and I have mentioned only a fraction of the examples that come to mind-is it not obvious that the system is in need of serious reform?

What are the alternatives? There are of course no panaceas: no system is perfect. But just about any system would be better than the current one, at least for mature local churches in stable sociopolitical contexts. (Rome should continue to appoint bishops in places like China and Cuba, where a government is likely to appoint yes-men who will not resist political oppression or who will otherwise place the integrity of the gospel at risk.)

Consider one historical alternative that is both thoroughly Catholic and ecumenically acceptable. I refer to the option of local synodical election, which took place for centuries in many Catholic dioceses in Europe. This method is used by most Anglicans and some Orthodox today.

Popular election, of course, does not guarantee that every bishop will be a saint. And popular elections can be abused to produce infelicitous results. Observers of current Anglican troubles will tell you that popular election can and does result in bishops who are so far apart from other bishops on major issues as to be in de facto schism. That, clearly, is not a path Catholics should take. What Catholics would do well to consider is not simply a local election but such an election in conjunction with modified papal oversight for the good of the church as a whole. The current Roman system could introduce a greater element of local and lay involvement while still ensuring that the transnational nature of the church is not severely compromised, as it currently is in China, for example.

Consider, then, that for a vacant see, lay and priestly delegates from each parish could gather in synod in the diocesan cathedral to elect a new bishop. Rome could be involved beforehand, collaborating discreetly with the local nomination committee, so that both could scrutinize the proposed candidates and disallow the nomination of men they find inappropriate. Both Rome and the local nominators would thus have a check on one another, and the scrutiny of candidates would benefit from local information and universal perspective. Such a system would quietly prevent the election of a popular but heterodox local figure, which could precipitate a division between the local and universal church. Such a system would also help ensure that Rome never again appoints

severely flawed bishops to a local church. Once the candidates were agreed to, Rome could step back and ask the bishop in a neighboring diocese to supervise the election, making sure that the whole process would be carried out in a dignified, prayerful manner free of outside interference.

Such a system would entail dramatic changes in the church, and some may be nervous about the vagaries and vulgarities of elections. But consider the following: Elections have worked in the past; they still work for many Orthodox; they have largely worked in the cardinalatial electoral college out of which the bishop of Rome emerges; and they work in the Eastern Catholic Churches, where synods regularly elect new bishops. Indeed, the 1990 Code of Canons of the Eastern Churches, promulgated by Pope John Paul II, contains provisions (see canons 63-77 and 183-85) for the election not just of a patriarch but also of diocesan bishops. If Eastern Catholics can elect their own bishops, why are Roman Catholics not entrusted with this responsibility?

For its part, the 1983 Code of Canon Law, pertaining to the Latin Church, also contains provisions for diocesan synods (see canons 460-68), which, though rarely convoked in the Western church, have a venerable history and solid precedent and could certainly be brought back to life again as electoral assemblies. There is one other canon in this Code that is especially relevant but often overlooked: canon 377 notes that “the Supreme Pontiff freely appoints bishops or confirms those lawfully elected” (my emphasis). The code does not specify all the ways in which lawful election could take place, and neither its stipulations for synods nor those of the Eastern Catholic churches have many clear provisions for lay representation—a sign of the latter’s Latinization—but there is no good theological reason why laypeople could not be involved.

In any event, and regardless of the mechanics involved, the point is that Catholics deserve good leadership—and deserve to have a say in the selection of that leadership. Clearly the current system is not working and it is time to think of alternatives, not so the church will be turned into a “democracy,” but so the demos, the people, can have leadership worthy of their trust and obedience.