

The Church as a Fragile State: A New Institutional Model for Understanding the Persistence of the Sexual Abuse Crisis

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The institutional model of the church has fallen into disfavor as a means for ecclesiological investigation because Avery Dulles, SJ, regarded it with suspicion because of its association with the notion that the church is a perfect state and the ways that institutionalism encourages clericalism. At the same time, there has been an ongoing debate as to the value of models for addressing the concrete reality of the church and for engaging the social sciences. Engaging economics as a dialogue partner, the author considers how the institutional model can be understood in terms of a fragile state instead of a perfect society to explain the persistence of sexual abuse in the Catholic Church and to suggest a strategy for institutional reforms.

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Introduction

THE Catholic understanding of the church as a mystery means that there are manifold ways to analyze it as Avery Dulles, SJ, artfully demonstrated in his book *Models of the Church*. Dulles identified six models of the church: institution, mystical communion, sacrament, herald, servant, and community of disciples.¹ Models are drawn from analogies provided by our experience of the world and can, Dulles argued, be used to better understand the church. Thinking of the church in terms of models allows for creativity because “the number of models may almost be varied at will.”² Models are the means to help people to move beyond the limitations

¹ See Avery Dulles, SJ, *Models of the Church*, rev. ed. (New York: Image, 2002).

² Dulles, *Models of the Church*, 3.

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of their perspectives and to enter into conversations with those who have a different outlook.³ Given *Lumen Gentium's* teaching that the church is one complex reality that coalesces from a divine and human element, the institutional model provides a means to combine theological and social scientific analysis to focus on the fragility of the human elements of the church.⁴ Using the institutional model of the fragile state, I offer a deconstructive analysis of the rules that have been guiding how Catholics respond to issues related to sexual abuse and provide a brief reconstructive analysis as to strategies for reforming them.

The church as an institution, which is the model that considers the visible or human dimensions of the church, has fallen into disfavor. This is largely due to Dulles's critique of "institutionalism" or treating the institutional element as primary.⁵ Dulles described institutionalist ecclesiology as totally clerical with the ordained being responsible for teaching, sanctifying, and ruling the laity. He believed it gave rise to clericalism defined as the attempt to reduce the role of the laity to complete passivity.⁶ Those who support this ecclesiology, he explained, identify the church itself with the members of the hierarchy.⁷ As a result, he was leery of it and its association with a preconciliar theology that described the church as a perfect society. Dulles was also uncomfortable with the institutional model because he feared it lowered the church to the same level as other human communities.⁸

Dulles's caution concerning the institutional model was well founded given his ecumenical aims and the theological context of the early 1970s; nonetheless, he admitted that "the Church of Christ does not exist in this world without an organization or structure that analogously resembles the organizations of other human societies."⁹ He affirmed that the institutional model is one of the necessary elements of a balanced ecclesiology; yet he maintained that the institutional model "raises obstacles to creative and fruitful

³ Dulles, *Models of the Church*, 5.

⁴ See Dogmatic Constitution on the Church (*Lumen Gentium*), §8, in Norman P. Tanner, ed., *Decrees of the Ecumenical Councils*, 2 vols. (Washington, DC: Georgetown University Press, 1990), 2:854. All citations of the Second Vatican Council in this current article are from this volume and will be identified by documents' Latin titles followed by the section and page numbers in the Tanner edition.

⁵ Dulles, *Models of the Church*, 27.

⁶ See Dulles, *Models of the Church*, 35. As we shall see, there is a historical connection between the model of the church as a perfect society and an effort to free the clergy from secular or lay oversight.

⁷ See Dulles, *Models of the Church*, 29–30, 35.

⁸ See Dulles, *Models of the Church*, 9.

⁹ Dulles, *Models of the Church*, 2–3.

theology” because it restricts theology too exclusively to the defense of official positions.¹⁰

More generally, the usefulness of models has been called into question. In a recent article, Elyse Raby outlined a broad critique by a number of prominent systematic theologians that models are too abstract and idealized for understanding the concrete church.¹¹ A central critique is that models, as a subset of metaphors, are incapable of connecting ecclesiology to empirical studies and the social sciences.¹² Raby described these critiques writing: “At best, they [metaphors or models] may offer some nice flourish in preaching or liturgical language, but at worst they are prone to ideological usage and serve as ‘rallying cries for conflicting factions’ in the church.”¹³ Because there is no consensus as to which model ought to be foundational, they contend it is impossible to deduce a systematic ecclesiology from models.¹⁴ Whereas Raby responded to these critiques of metaphors and models using Janet Martin Soskice’s work on metaphor and how it functions in religious language, I hope to show how the model of the church as an institution can provide insight into the concrete church and build bridges to the social sciences, particularly the science of economics, in order to explain at least one dimension of the Catholic Church’s persistent problems with sexual abuse.¹⁵

Several Catholic theologians, including Daniel K. Finn and Richard R. Gaillardetz, have worked to apply the insights of critical realism in sociology to the sexual abuse crisis. Finn identified the primary contribution of critical realism to Christian ethics as offering an improved understanding of social structures and culture; however, he noted that the social scientific

¹⁰ Dulles, *Models of the Church*, 36.

¹¹ See Elyse J. Raby, “The Potential for Ecclesial Metaphors in Systematic Theology,” *Horizons* 49, no. 1 (June 2022): 51.

¹² Raby, “The Potential for Ecclesial Metaphors in Systematic Theology,” 57–58. Neil Ormerod critiqued ecclesial models as ignoring “the discrepancy between the idealized form and historical facts” in “The Structure of a Systematic Ecclesiology,” *Theological Studies* 63, no. 1 (2002): 5. Joseph Komonchak argued that models are a form of first order discourse rather than a second order discourse such as theology in “History and Social Theory in Ecclesiology,” *Foundations in Ecclesiology*, ed. Fred Lawrence, suppl. issue Lonergan Workshop, no. 11 (Boston, MA: Boston College, 1995), 12.

¹³ Raby, “The Potential for Ecclesial Metaphors in Systematic Theology,” 51–52. Raby cites Brian P. Flanagan, “The Limits of Ecclesial Metaphors in Systematic Ecclesiology,” *Horizons* 35, no. 1 (Spring 2008): 52.

¹⁴ See Raby, “The Potential for Ecclesial Metaphors in Systematic Theology,” 56. She cites Nicholas M. Healy, *Church, World and the Christian Life* (New York: Cambridge University Press, 2000), 31–35.

¹⁵ Janet Martin Soskice, *Metaphor and Religious Language* (New York: Oxford University Press, 1985).

insights of critical realism arise from its more fundamental insights concerning the natural sciences, the philosophy of science, and epistemology.¹⁶ Finn uses critical realism to explain how sinful structures can exist in the church, and Gaillardetz explores the role of structures in ecclesiology and church reform.¹⁷ Insofar as critical realism is concerned with ontology, epistemology, organizations, social positions, authority relations, incentives, disincentives, and other matters, I see it as a metatheory that is primarily explanatory in nature.

There are some similarities between critical realism in sociology and the new institutional economics I am employing. Both affirm that people are making rational decisions shaped by incentives and disincentives. Like critical realism, institutional analysis has explanatory objectives insofar as it seeks to understand the historical and cultural origins of behavior, but it is more narrowly focused on identifying and changing incentives and disincentives. Unlike critical realism in sociology, new institutional economics has been applied in international development and has implemented sustainable reforms in fragile states. Fragile states are countries that lack the capacity or will to carry out essential functions such as protecting their citizens or administering justice and ultimately become stuck in their efforts to implement reforms.¹⁸

While some may wonder whether the model of the fragile state is appropriate, there are precedents for using models to consider ecclesial defects. Augustine transmitted Tychonius's exegetical rule that one must interpret some Scripture passages as referring to the "true and mixed body of the Lord." Augustine taught that this mixed quality called for "a wide-awake understanding" of the nature of the church.¹⁹ Similarly, Gregory the Great described the Donatists as heretics who failed to recognize the legitimacy of

¹⁶ See Daniel K. Finn, *Moral Agency Within Social Structures and Culture: A Primer on Critical Realism for Christian Ethics* (Washington, DC: Georgetown University Press, 2020), 19 and Richard R. Gaillardetz, "The Chimera of a 'Deinstitutionalized Church': Social Structure Analysis as a Path to Institutional Church Reform," *Theological Studies* 83, no. 2 (June 2022): 219–44.

¹⁷ See Daniel Finn, "What Is a Sinful Social Structure?," *Theological Studies* 77, no. 1 (March 2016): 136–64; Richard R. Gaillardetz, "The Chimera of a 'Deinstitutionalized Church': Social Structure Analysis as a Path to Institutional Church Reform."

¹⁸ See Lant Pritchett and Frauke de Weijer, "Fragile States: Stuck in a Capability Trap," *World Development Report 2011: Background Paper*, November 5, 2010, <https://documents1.worldbank.org/curated/en/681031468337197655/pdf/620080WPoFragioBOX0361475B00PUBLICo.pdf>.

¹⁹ Augustine, *De doctrina Christiana*, 3.34.47–3.34.49. The critical edition is Augustine, *De doctrina Christiana*, ed. J. Martin, *Corpus Christianorum Latinorum* 32 (Turnholt, Belgium, 1962) 1–167. I am working from the translation: Augustine, *Teaching*

the wounded church whereby they recapitulated the mistake of those who could not accept the wounded messiah.²⁰ Rather than employ the spotless bride as a model, Catherine of Siena presented the church as a disfigured bride, writing: “But look how my bride has disfigured her face! She is leprous with impurity and selfishness.”²¹ Just as the model of the body can be seen as wounded and the model of the bride as disfigured, the institutional model can be understood in terms of an imperfect society and opens a means to consider the persistence of the problems over sexual abuse in the Catholic Church.

Clericalism is frequently invoked as one of the primary causes of the sexual abuse crisis in recent magisterial documents, but they do not cast it as an ideology that seeks to reduce the role of the laity to complete passivity; instead, they describe clericalism as a sin on the part of individual priests and bishops. In his 2018 post-synodal exhortation, *Christus Vivit*, Francis wrote: “Clericalism is a constant temptation on the part of priests who see ‘the ministry they have

Christianity: De Doctrina Christiana, ed. John E. Rotelle, OSA, trans. Edmund Hill OP (Hyde Park, NY: New City Press, 1996).

²⁰ Gregory wrote: “Haeretici quippe cum sanctae Ecclesiae facta considerant, oculos levant, quia videlicet ipsi in immo sunt et cum eius opera respiciunt, in alto sunt sita quae cernunt; sed tamen hanc in dolore positam non cognoscunt. Ipsa quippe appetit hic mala recipere ut possit ad aeterna remunerationis praemium purgata pervenire. Plerumque prospera metuit et disciplina eruditionis hilarescit. Haeretici igitur, quia pro magno praesentia appetunt, eam in vulneribus positam non cognoscunt. Hoc namque quod in illa cernunt, in suorum cordium cognitione non relegunt (*Moralia*, 3.24.47).” The English translation is in *Moral Reflections on the Book of Job*, vol. 1, trans. Brian Kerns, OCSO (Collegeville, MN: Liturgical Press, 2014), 219: “To be sure, heretics lift up their eyes to consider what Holy Church does: obviously they are below, and when they look at what the church does, what they see is situated in a higher region. For all that, they do not recognize her in her painful position. She indeed wishes to experience misfortune here, that she may be purified and reach the reward of eternal life. She often fears prosperity and is gladdened by discipline and instruction. The heretics love the present life very much, and that is why they do not recognize the church when she is covered with wounds. What they do see in her they do not reflect upon in the thoughts of their hearts.”

²¹ Catherine of Siena, *The Dialogue*, trans. Suzanne Noffke (New York: Paulist Press, 1980), 50. The critical edition is *Il Dialogo della divina Provvidenza: ovvero Libro della divina dottrina*, 2nd ed., ed. Guiliiana Cavallini (Siena: Cantagalli, 1995). For a more recent example of the metaphor see Henri de Lubac, SJ, *Catholicism: Christ and the Common Destiny of Man*, trans. Lancelot C. Sheppard and Sr. Elizabeth Englund, OCD (San Francisco, CA: Ignatius Press, 1988), 68–69: “The one metaphor of the Bride conjures up two contrary visions, both founded on Scripture and both frequently portrayed: the wretched being on whom the Word took pity and whom he came to save from prostitution at his Incarnation; on the other hand, the new Jerusalem, the bride of the Lamb ‘coming out of heaven from God’ (Rev 21:9): the daughter of strangers or the daughter of the king.”

received as a power to be exercised, rather than a free and generous service to be offered.”²² The Congregation for the Clergy’s 2016 *Ratio Fundamentalis*, which guides formation in seminary programs, also categorizes clericalism as a species of pride affecting priests.²³ However, identifying clericalism as a species of pride by individual clerics is a form of the “few bad apples” apologetic that the magisterium has employed since the papacy of Leo XIII.²⁴

Defining clericalism as a sin indicates the proper response is through pastoral care reform. As a pastoral issue, clericalism implies that it is a problem for the clergy to resolve and implicitly denies the competence of the laity to address it. Pastoral care emphasizes patience and mercy with the goal of reconciliation. It protects the privacy of sinners using terms such as “charitable discretion” and “fraternal correction,” which also serves to create a culture of concealment. Certainly, sin is an aspect of the crisis, but it does not explain why the problem of sexual abuse is so pervasive and persistent except insofar as sin can be invoked to explain all the evils of the world. Starting from sin obscures the institutions, structures, and systems contributing to the crisis.

Clericalism is better understood in terms of its cultural dimension, which is manifested in patterns of thinking and concrete behaviors by laity as well as by clergy.²⁵ Recently, Massimo Faggioli has argued that the comprehensiveness of the sexual abuse crisis demonstrates the need to develop a theological approach to the problem that can account for history and warned that failing to

²² Francis, *Christus Vivit* (March 25, 2019), §98, https://www.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20190325_christus-vivit.html. The quotation within the quote is from the Address at the Opening of the XV Ordinary General Assembly of the Synod of Bishops: L’Osservatore Romano (October 5, 2018), https://www.vatican.va/content/francesco/en/speeches/2018/october/documents/papa-francesco_20181003_apertura-sinodo.html.

²³ Congregation for the Clergy, *The Gift of Priestly Vocation*, L’Osservatore Romano (December 8, 2016), 19, <https://www.clerus.va/content/dam/clerus/documenti/ratio-2026/Ratio-EN-2017-01-03.pdf>.

²⁴ Leo XIII, *Depuis Le Jour* (September 8, 1899), §26, https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_08091899_depuis-le-jour.html. Leo XII wrote: “The Church historian will be all the better equipped to bring out her divine origin, superior as this is to all conceptions of a merely terrestrial and natural order, the more loyal he is in naught extenuating of the trials which the faults of her children, and at times even of her ministers, have brought upon the Spouse of Christ during the course of centuries. Studied in this way, the history of the Church constitutes by itself a magnificent and conclusive demonstration of the truth and divinity of Christianity.”

²⁵ See George Wilson, *Clericalism: The Death of the Priesthood* (Collegeville, MN: Liturgical Press, 2010), 3. See also Bishop Geoffrey Robinson, “Changing the Culture,” in *Sexual Abuse in the Catholic Church: A Decade of Crisis*, ed. Thomas G. Plante and Kathleen L. McChesney (Santa Barbara, CA: Praeger, 2011), 91–102; Richard Gaillardetz, “A Church in Crisis: How Did We Get Here? How Do We Move Forward,” *Worship* 9 (January 1, 2019): 204–24.

do so will result in leaving the root causes unaddressed.²⁶ There are many theological issues related to sexual abuse and clericalism that have been explored by Catholic theologians over the last two decades, but I hope to add to the discussion in a small way by considering how economics could contribute to our understanding of the church as an organization and its history.

Rather than defining clericalism in terms of sin, I use the definition employed by the Australian Royal Commission into Institutional Responses to Child Sexual Abuse. Like Pope Francis, the Royal Commission found a relationship between Catholic ecclesiology and a culture of clericalism and concluded clericalism is a central factor in the sexual abuse crisis. Instead of presenting clericalism as a moral failure or sin, they defined it as “the idealization of the priesthood, and by extension, the idealization of the Catholic Church.”²⁷ They made a case that this idealization fostered the sense of entitlement, superiority, and exclusion that created the conditions for abuses of power. Clericalism also nurtured the idea that the Catholic Church was autonomous and self-sufficient to handle these crimes.²⁸ The Australian Royal Commission concluded this “culture of clericalism” motivated church leaders to avoid public scandals that could undermine the status of the priesthood and thus the reputation of the church.²⁹ In a similar fashion, leaders in fragile states are motivated to hide corruption and the failure to implement positive change from donor organizations.

The Church as a Fragile State

The fragile state provides a useful analogy to consider the intersection between the culture of clericalism and the problem of sexual abuse using the method of institutional analysis employed in economics. Such states, in the language of international development, are attempting to transition to being modern states but fail to implement sustainable change. Douglass North developed institutional analyses to explain why states and private sector organizations persist on unproductive paths when they could benefit from

²⁶ Massimo Faggioli, “The Catholic Sexual Abuse Crisis as a Theological Crisis: Emerging Issues,” *Theological Studies* 80, no. 3 (Spring 2019): 573–74.

²⁷ The Australian Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Religious Institutions* 16, no. 1 (Commonwealth of Australia, 2017): 43, <https://www.childabuseroyalcommission.gov.au/final-report>.

²⁸ The Australian Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Religious Institutions* 16, no. 1, 41.

²⁹ The Australian Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Religious Institutions* 16, no. 1, 43.

implementing changes.³⁰ North described the aim of institutional analysis this way:

What we are concerned with is the cultural heritage of humans. By that I mean something very specific; I mean a set of institutions and beliefs that has been carried forward over the generations that constitutes the basic way we perceive the world. We have a very limited ability to change it; it is path dependent in the sense that the inheritance we have of rules, norms, beliefs—those that have survived—is deeply embedded. Sometimes the embeddedness is deeper than at other times but it poses a genuine problem because that cultural heritage produces a mix of good and bad that shapes the way in which we make choices and the ways in which societies and institutions evolve.³¹

Like other societies, the Catholic Church has a mixed cultural inheritance of institutions and beliefs that have been carried forward over generations. This inheritance shapes the choices made by those charged with maintaining discipline and enforcing canon law in the church, namely, bishops and religious superiors.

What is the connection between North's understanding of institutions as rules and Dulles's understanding of institutions as organizations? When theologians like Dulles write about the church as an institution, they are usually discussing the church as an organization or society. North distinguished institutions from organizations writing: "Institutions are the rules of the game in society or, more formally, are the humanly devised constraints that shape human interaction."³² Organizations are groups of people and the governance structures that they create for the purpose of coordinating their efforts to survive and compete. Although Dulles and North use the term differently, Dulles characterizes the institutional model of the church as the means of examining how the church functions similarly to other human organizations, and North's method is used to analyze how rules shape the performance of human organizations.

³⁰ See Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (Cambridge: Cambridge University Press, 1990), 100. For a brief history of the study of institutions, see Geoffrey M. Hodgson, "What Are Institutions?," *Journal of Economic Issues* 40, no. 1 (March 2006): 1–21. Hodgson also provides a critique of several aspects of Douglass North's position, particularly the distinction between organizations and institutions, though he largely accepts North's overall approach.

³¹ Douglass C. North, "The Role of Institutions in Economic Development," United Nations Economic Commission for Europe Discussion Papers Series (Geneva: United Nations, 2003), 4, https://www.unece.org/fileadmin/DAM/oes/disc_papers/ECE_DP_2003-2.pdf.

³² North, *Institutions, Institutional Change, and Economic Performance*, 3.

Like other organizations, the church has “humanly devised” rules that provide incentives and disincentives influencing decisions. Their influence grows when there is a gap between the competence of the decision-maker in deciphering problems and the difficulty of discerning the preferred alternatives.³³ The greater the gap and the less common the problem, the more likely people are to rely on the regularized and limited patterns embedded in institutions. North’s key insight was that institutions serve the important purpose of reducing uncertainty in terms of how people interact with one another, which allows individuals to plan; however, this quality also makes institutions difficult to reform because they emerge from routine behavior, change incrementally, and are often internalized and unconscious.³⁴

There are two types of institutions: formal and informal. Formal institutions are usually expressed in written policies, constitutions, charters, and laws; however, laws, charters, and policies are not necessarily institutions. Changing a law or policy does not indicate institutional reform because not all laws are rules. As Geoffrey M. Hodgson aptly phrased it, “Ignored laws are not rules.”³⁵ A law is only a rule or an institution when it has become internalized, customary, and normative. Informal institutions can be found in customs, undocumented norms, unwritten traditions, rules governing client-patron chains, and patrimonial political relationships. Adrian Leftwich and Kunal Sen have demonstrated how fragile states that have many informal institutions are particularly well adapted to impede the implementation of changes to laws, policies, charters, and constitutions.³⁶ Their research suggests that most formal institutions rely on informal rules for their efficacy.³⁷ Though they

³³ Ronald Heiner, “The Origins of Predictable Behavior,” *The American Economic Review* 73 (September 1983): 570–71; North, *Institutions, Institutional Change, and Economic Performance*, 22–24.

³⁴ See Anuradha Joshi and Becky Carter, “Public Sector Institutional Reform: Topic Guide” (Birmingham, UK: GSDRC, University of Birmingham, 2015), 4, https://assets.publishing.service.gov.uk/media/57a08992ed915d622c0002ad/PSIR_TG.pdf.

³⁵ Hodgson, “What Are Institutions?,” 6.

³⁶ See Adrian Leftwich and Kunal Sen, “Beyond Institutions: Institutions and Organizations in the Politics and Economics of Growth and Poverty Reduction—A Thematic Synthesis of Research Evidence” (Manchester, UK: DFID-funded Research Programme Consortium on Improving Institutions for Pro-Poor Growth, University of Manchester, 2010), 16–17, https://assets.publishing.service.gov.uk/media/57a08b00e5274a31e00008e8/8933_Beyond-Institutions-final.pdf. See also Kathleen Collins, “Clans, Pacts, and Politics in Central Asia,” *Journal of Democracy* 13, no. 3 (July 2002): 137–52, http://muse.jhu.edu/journals/journal_of_democracy/v013/13.3collins.pdf.

³⁷ Leftwich and Sen, “Beyond Institutions,” 16–17. See also Collins, “Clans, Pacts and Politics,” 137–52.

are deeply embedded in social and cultural norms, the unwritten quality of informal institutions makes them difficult to identify and challenge.

To understand the dynamics between formal and informal institutions, institutional analysis employs distinctions between organizations and their institutions, organizations and their members, and organizations and their objectives. Geoffrey Hodgson explains that organizations are composed of individual actors who often have conflicting objectives.³⁸ The objective of a baseball team, for example, is to win games; however, an individual or group of players might have the objective to throw a game for financial gain as in the 1919 Black Sox scandal. Blurring the distinctions between the members and the organization provides cover for members whose objectives are contrary to the organization's mission, obscures how institutions affect behavior, and shifts responsibility away from the organization to the individual.³⁹

Given the dynamics between formal and informal institutions, there is a broad consensus in economics that institutional embeddedness in societies and organizations requires third-party enforcement of reforms until they become customary and normative.⁴⁰ Such enforcement requires clear metrics for performance and specific remedies for officeholders or authorities who fail to meet them. Repeated failure to implement effective reforms leads fragile states into a capability trap, which is composed of three primary elements: isomorphic mimicry, wishful thinking, and premature load bearing.⁴¹ Each element leads to the next and sets up a cyclical dynamic that further undermines a fragile state's credibility with its citizens, neighbors, and donor organizations. This dynamic is set in motion when a fragile state decides to deflect critiques by employing the strategy of isomorphic mimicry.

Sociologists of organizations borrowed the term "isomorphic mimicry" from biology to describe how organizations can take on the appearance of being something they are not.⁴² In biology, isomorphic mimicry refers to situations where an animal takes on the behavior or appearance of a more dangerous creature to deter predators. Lant Pritchett and Frauke de Weijer explain the drive to mimicry, "When an organization is overloaded with tasks it cannot perform the temptation is strong to retreat behind a façade of isomorphic

³⁸ See Hodgson, "What Are Institutions?," 10.

³⁹ See Hodgson, "What Are Institutions?," 10.

⁴⁰ See Hodgson, "What Are Institutions?," 13–16.

⁴¹ Pritchett and de Weijer, "Fragile States," 1–2.

⁴² Pritchett and de Weijer, "Fragile States," 6–7. The seminal article on institutional isomorphism is Paul J. DiMaggio and Walter W. Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields," *American Sociological Review* 48, no. 2 (1983): 147–60.

mimicry.”⁴³ In terms of states, it describes situations where it is simpler to create what looks like an organization with ranks, offices, and policies than to create a functioning organization. This can be seen in organizations such as the police or judiciary in fragile states where there are ranks of officers and judges, but they do not actually serve the purpose of protecting the people and providing justice. The conditions that make mimicry an optimal strategy are when an organization exists in an environment in which the space for innovation is closed, there is no functional evaluation of performance, and the organization holds a monopoly position. Fragile states establish mimics that “adopt the camouflage of capable organizations without any associated drive for performance.”⁴⁴ Under these conditions, an organization can thrive simply by projecting an appearance of being functional regardless of the behavior of its front-line agents.⁴⁵

Establishing organizations without a metric for performance naturally flows into the second element of the capability trap, wishful thinking. Wishful thinking is a failure of planning. The dangers of wishful thinking have to do with unrealistic expectations over the speed with which organizational capacity can be established and the scale of actions a fragile state can accomplish.⁴⁶ Wishful thinking can be manifested in many ways, but a common form of this tendency is the identification of a reform champion or group of champions in powerful positions who will implement change.⁴⁷ Pritchett and his colleagues say this idea is commonly expressed in statements like: “The country would progress if only it had less corrupt leaders and more capable and concerned civil servants.”⁴⁸

Blaming the leaders and civil servants suggests corruption is the result of individual failures rather than systemic or institutional deficiencies. Attempting to implement institutional change through leaders fails to recognize that powerful leaders in formal positions are the most embedded in their institutional context and are the least likely to perceive the need for change.⁴⁹

⁴³ Pritchett and de Weijer, “Fragile States,” 27.

⁴⁴ Pritchett and de Weijer, “Fragile States,” 2.

⁴⁵ Pritchett and de Weijer, “Fragile States,” 6.

⁴⁶ Pritchett and de Weijer, “Fragile States,” 2.

⁴⁷ See Matt Andrews, Lant Pritchett, and Michael Woolcock, “The Challenge of Building (Real) State Capability,” working paper no. 306 (Center for International Development at Harvard University: December 2015), 22, <https://dash.harvard.edu/handle/1/37366338>.

⁴⁸ Matt Andrews, Lant Pritchett, and Michael Woolcock, “Escaping Capability Traps through Problem-Driven Iterative Adaptation,” *World Development* 51 (November 2013): 235.

⁴⁹ See Andrews, Pritchett, and Woolcock, “Escaping Capability Traps through Problem-Driven Iterative Adaptation,” 240.

Another weakness of relying on leaders to implement institutional reform is that members with lower positions in an organization have internalized institutional rules and are unlikely to change simply because leaders command them to do so; instead, they simply wait for a change in leadership before returning to their customs, modes of operation, and ways of proceeding.⁵⁰

Even when there is some progress in implementing reform, the failure to meet the expectations engendered by wishful thinking erodes legitimacy and trust. In this way, wishful thinking leads to premature load bearing, which is when an organization is expected to move forward so quickly that it creates pressures that collapse existing capabilities.⁵¹ Premature load bearing draws on an analogy of an athlete who begins to compete too quickly after an injury and subsequently exacerbates it. Fragile states succumb to this when they are asked to do “too much of too little too soon too often.”⁵² When fragile states adopt policies or laws without the ability to implement them, they create parallel universes between the law or public policies (*de jure*) and the real characteristics within the state (*de facto*).⁵³ As a result, states further erode the capacity to function thereby reinforcing the tendency to embrace mimicry. Although mimetic strategies can help an organization survive in the face of public criticism, they do so by further sacrificing integrity and functional capacity.⁵⁴

In what ways is the Catholic Church similar to a fragile state? The sexual abuse crisis has demonstrated the lack of capacity of the church to protect its vulnerable members and exercise effective oversight of its “front-line agents,” the ordained clergy. Like a fragile state, the church is struggling in its efforts to adjust more successfully to contemporary standards of governance.⁵⁵ The church has many informal institutions in terms of patrimonial patronage chains, unwritten traditions, and ways of proceeding that have

⁵⁰ See Andrews, Pritchett, and Woolcock, “Escaping Capability Traps through Problem-Driven Iterative Adaptation,” 240.

⁵¹ See Pritchett and de Weijer, “Fragile States,” 2.

⁵² Lant Pritchett, Michael Woolcock, Matt Andrews, “Capability Traps? The Mechanisms of Persistent Implementation Failure,” working paper no. 234 (Washington, DC: Center for Global Development, 2010), 37, https://www.cgdev.org/sites/default/files/1424651_file_Pritchett_Capability_FINAL.pdf.

⁵³ See Pritchett and de Weijer, “Fragile States,” 28.

⁵⁴ See Pritchett and de Weijer, “Fragile States,” 28.

⁵⁵ Although there is an ongoing debate over whether the church can change or should adjust to the times, see *Gaudium et Spes* (December 7, 1965), §44, 1098–99, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html: “Since the Church has a visible and social structure as a sign of her unity in Christ, it can and does benefit from the development of human life in society, not in the sense that anything is lacking in the constitution given

been internalized. There seems to be little space for innovation, and there is no functional evaluation of leadership. Although the Catholic Church lost its monopoly position in the West, it continued to claim to be the only path to salvation.⁵⁶ Even those who rejected the Catholic Church's exclusivist doctrines faced disincentives to exit the Catholic Church such as alienating family members and damaging social relationships. Given these conditions, one could expect that mimicry would be an attractive strategy to deflect criticism over scandals. Additionally, the novelty of persistent and public criticism of priests and bishops would reinforce the tendency to fall back on formal and informal institutions to guide decisions. The repeated failures to respond to the problem of sexual abuse over almost fifty years may indicate the Catholic Church has fallen into a capability trap and is stuck in a counterproductive pattern.

According to North, unproductive paths result from institutions or rules that initially provide a benefit despite creating impediments to more productive strategies by giving organizations a stake in maintaining the status quo.⁵⁷ Over time the members will generate an ideology that rationalizes the society's institutions and accounts for its poor performance resulting in an economy that reinforces existing rules.⁵⁸ Once this occurs, a society develops path dependence rooted in the rules it has inherited from the past without understanding how or why those institutions developed.⁵⁹ The first step in reforming institutions leading to path dependency is to identify how they emerged and why. Applying institutional analysis to the history of the Catholic Church illustrates how pastoral care reform rhetoric in the Middle Ages established rules and an ideology that continue to guide decisions related to disciplining the clergy. These rules are deeply embedded as part of the church's cultural inheritance and act on an unconscious level. In effect, these rules are a form of bounded rationality.

it by Christ, but in order to gain a deeper appreciation of that constitution and to express it in better terms and to adapt it more successfully to the present day."

⁵⁶ Recent magisterial documents such as *Dominus Iesus* continue to present the Catholic Church as necessary for salvation, though in a modified form. See Cardinal Joseph Ratzinger, Declaration *Dominus Iesus* on the Unicity and Salvific Universality of Jesus Christ and the Church (Rome: Offices of the Congregation of the Faith) §20 and §21, https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20000806_dominus-iesus_en.html. See also *Lumen Gentium* (November 21, 1964), §14, 860, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html.

⁵⁷ See North, *Institutions, Institutional Change, and Economic Performance*, 99.

⁵⁸ See North, *Institutions, Institutional Change, and Economic Performance*, 99.

⁵⁹ See North, *Institutions, Institutional Change, and Economic Performance*, 100.

Medieval Apologetics and Path Dependency

Pope Gregory VII (1073–1085) and the medieval reformers who were inspired by him sought to achieve the liberty of the church by idealizing the priesthood. John O'Malley, SJ, has called the Gregorian Reform a landmark event in the history of the idea of reform and has designated it “a great reformation” in that the reformers gradually replaced rules consistent with feudal society concerning who had the right to install men into benefices.⁶⁰ It also replaced the rules as to who had the right to discipline and correct the clergy. The apologetic for the liberty of the church crafted by Gregory VII and the later “Gregorian Reformers” denied that the clergy should be subject to secular laws, that the church should pay taxes, and that the laity could publicly criticize the clergy. These issues were deeply contested by royal apologists, monks, mendicants, and theologians from the eleventh to the sixteenth centuries; nonetheless, after some initial setbacks, the Gregorian reformers won significant victories that established path dependency.⁶¹

The medieval controversy over who had the right to invest a man into a benefice had significant economic implications. The benefice system was established by Charlemagne and his heirs to provide a means of support for the clergy and religious as well as to provide charitable works on behalf of the poor. Those who were installed into a benefice were entitled to the revenues generated by the church, diocese, or abbey in which they served. Colin Morris has illustrated how, over time, both the lords who held the rights to the benefices and the clergy installed into them began to see churches, abbeys, and dioceses as revenue sources that could be leased in the same way as a mill or a toll bridge. As a result, the benefice system nearly erased the model of the church as a community by the middle of the eleventh century.⁶²

Both ecclesiastical and secular leaders who held the right to install men into these benefices frequently sold the positions to raise revenues or to consolidate their power in some other way. Buying and selling benefices had been condemned as the heresy of simony, but the practice continued because it was

⁶⁰ See John W. O'Malley, SJ, “The Hermeneutic of Reform: A Historical Analysis,” *Theological Studies* 73, no. 3 (2012): 524. O'Malley's discussion of institutional reform is consistent with North's use of the term. For a recent study on Gregory VII, see Ken A. Grant, “Pope Gregory VII's Idea of Reform,” in *Reassessing Reform: A Historical Investigation into Church Renewal*, ed. Christopher M. Bellitto and David Zachariah Flanagan (Washington, DC: Catholic University of America Press, 2012), 61–83.

⁶¹ See C. Colt Anderson, “Reforming Priests in the High Middle Ages: The Diverse Rhetorics of Ordination and Office 1123–1418,” in *Priesthood and Holy Orders in the Middle Ages*, ed. Greg Peterson and C. Colt Anderson (Leiden: Brill, 2015), 281–306.

⁶² See Colin Morris, *The Papal Monarchy: The Western Church from 1050–1250* (Oxford: Clarendon Press, 1989), 28–30.

firmly ensconced in custom as an informal institution. Pastoral care reformers opposed simony because it led to the installation of untrained and mercenary men who were not committed to a life of virtue into ecclesiastical offices. Unfortunately, Rome did not have the capacity to enforce the laws against simony.⁶³

By restricting who had the right of investiture, Gregory VII hoped to limit the number of unworthy ecclesiastical officeholders undermining the quality of pastoral care. He developed an apologetic for ecclesiastical liberty based on the dignity of the pastoral office and the need to improve the quality of the men installed into those roles. The pope was not opposed to investiture or the benefice system; instead, he aimed at transferring investiture rights held by the laity to the papacy and episcopacy, which was promoted as a restitution movement.⁶⁴ Although the pope faced resistance to implementing this institutional change, the promise of ecclesial liberty and the transfer of investiture rights provided powerful incentives for subsequent popes, bishops, and other prelates to support his agenda.

Rather than starting from personal holiness or service to justify ecclesial authority, Gregory VII argued for the superiority of sacramental power to royal power. He asked whether male members of the nobility could create the Body and Blood of the Lord by their word to illustrate the superiority of priestly power.⁶⁵ Gregory went so far as to claim that exorcists, who were unordained members of the clergy, were superior in power and dignity to kings because they commanded spirits rather than men.⁶⁶ In the Middle Ages, the term “cleric” applied to ecclesiastical orders in the hierarchical establishment, such as porters, exorcists, lectors, acolytes, and subdeacons who did not receive the sacrament of holy orders but were nonetheless installed into these positions with liturgical rites and received benefices.⁶⁷ He exhorted “prelates,” a term that primarily refers to bishops but includes other leaders in the church, to measure themselves and their subordinates in terms of the pastoral care

⁶³ One difficulty was the general attitude in the tenth and early part of the eleventh centuries that it was impossible to follow all the details of canon law. See Heinrich Fichtenau, *Living in the Tenth Century: Mentalities and Social Orders*, trans. Patrick J. Geary (Chicago, IL: University of Chicago Press, 1991), 118.

⁶⁴ See Morris, *The Papal Monarchy*, 60–62.

⁶⁵ See Gregory VII, *The Register of Pope Gregory VII 1073–1085*, trans. H. E. J. Cowdrey (Oxford: Oxford University Press, 2002), 392. This is letter 8.21 in the register. The Latin edition is *Das Register Gregors VII*, ed. Erich Caspar, in *Monumenta Germaniae Historica* (Berlin: Weidmannsche Buchhandlung, 1920–23).

⁶⁶ See Gregory VII, *The Register of Pope Gregory VII 1073–1085*, 392.

⁶⁷ For more information see Roger E. Reynolds, “The Imago Christi in the Bishop, Priest, and Clergy,” in *Priesthood and Holy Orders in the Middle Ages*, 140–87.

models of holy priests transmitted by Gregory the Great and others. By leaving it to the prelates to measure themselves and the clerics under their rule with exhortatory and thus idealized models, Gregory VII's policies unintentionally opened an enormous degree of latitude in discipline.

This distinction between the holiness of the individual cleric and the dignity of the clerical order built upon an earlier distinction Peter Damian had used to respond to rigorist reformers of his day. The rigorists claimed the sacraments of prelates guilty of simony were invalid.⁶⁸ Peter Damian believed that all clergy guilty of simony should be deposed; however, he realized that denying the validity of their sacramental acts was inconsistent with the mission of pastoral care. In short, the rigorists' position implied that sacramental power was rooted in the person rather than the sacramental office, which would mean that people were indebted to men rather than to God for their salvation. Peter Damian argued that when the Apostles ordained men, the ordinations were valid due to the Holy Spirit's response to their prayers rather than the personal gifts of the Apostles, even if they were Peter or John.⁶⁹ His goal was to reassure people that the church could provide for the care of souls regardless of the purity or impurity of its ministers; however, Gregory VII reframed this distinction to emphasize the inherent dignity of the priestly office.

The emphasis Gregory VII placed on priestly dignity was designed to deny lay investiture rights as well as the right of lay leaders to assess whether priests lived up to the demands of their office. He strictly reserved this role for the clerical hierarchy drawing upon the patriarchal assumptions of medieval society to justify his position writing:

Who may doubt that the priests of Christ are to be reckoned the fathers and masters of kings, princes, and all of the faithful? Is it not acknowledged to be a sign of wretched insanity, if a son should try to subject to himself a father or a disciple a master, and to make subject to his power by wrongful obligations him by whom he believes that he can be bound and loosed not only on earth but also in heaven?⁷⁰

⁶⁸ See Owen J. Blum, *St. Peter Damian: His Teaching on the Spiritual Life* (Washington, DC: Catholic University of America Press, 1947), 19–22.

⁶⁹ Peter Damian, Letter 40.5. The English translation is from *Peter Damian: Letters*, vol. 2, *The Fathers of the Church: Medieval Continuation*, trans. Owen J. Blum and Irven M. Resnick (Washington, DC: Catholic University of America Press, 1989–2005). This letter is more of a treatise than a simple letter and also was known as the *Liber Gratissimus*. For more context, see C. Colt Anderson, *The Great Catholic Reformers: From Gregory the Great to Dorothy Day* (New York: Paulist Press, 2007), 45–48; Patricia Ranft, *The Theology of Peter Damian "Let Your Life Always Serve as a Witness"* (Washington, DC: Catholic University of America Press, 2012), 114–20.

⁷⁰ Gregory VII, *The Register of Pope Gregory VII 1073–1085*, 390.

Bernold of Constance, a contemporary, exhibits how his ideas were received when he wrote: “He [Gregory VII] wished that the ecclesiastical *ordo* should not be in the hands of laymen, but rather should rise above them by virtue of the holiness of their conduct and the dignity of their *ordo*.”⁷¹ Gregory VII wove strands of pastoral theology, patriarchy, and an idealized model of priesthood together into a cord that could not be broken easily.

Other contemporaries, such as Emperor Henry IV, were less enthusiastic than Bernold. The emperor drove Gregory VII out of Rome and placed his own man on the papal throne. Even so, subsequent popes who carried Gregory’s agenda forward won important victories with the Concordat of Worms (1122) and the Golden Bull of Eger (1213). With the Concordat of Worms, the emperor ceded the right to invest men in ecclesiastical offices though he could still invest them in secular offices. Almost a century later, Emperor Frederick II conceded the free right of appeal in all ecclesiastical matters to Rome, traditional rights to the personal property of deceased bishops, and the revenues generated by vacant sees in Germany. Following the Concordat of Worms, Gregory VII’s theology was quickly incorporated into twelfth-century sources such as Gratian’s *Decretum* as well as into influential works of theology such as Hugh of St. Victor’s *De Sacramentis Christianae Fidei*.⁷²

The process whereby Gregory VII’s apologetic began to take on a quasi-dogmatic quality fits the pattern of how organizations develop path dependency. His justification for the liberty of the church had reaped considerable economic and political benefits to the papacy and the episcopacy, but it undercut the Catholic Church’s capacity to implement sustainable reforms because medieval popes did not have enough personnel or power to enforce the canons consistently and uniformly. The repeated promulgation of canons against lay investiture, simony, and clerical concubinage at councils held in 1123, 1139, 1179, and 1215 reveal that the problems persisted.⁷³ Even though there were

⁷¹ The translation is from Peter J. Leithart, “The Gospel, Gregory VII, and Modern Theology,” *Modern Theology* 19 no. 1 (January 2003): 11. Leithart argued that the term “lay” took on a negative connotation after Gregory VII. There is a relatively new critical edition *Die Chroniken Bertholds von Reichenau und Bernolds von Konstanz 1054–1100*, ed. I. S. Robinson (Hanover: Hahnsche, 2003).

⁷² See Hugh of St. Victor, *De Sacramentis Christianae fidei* 2.2.4; Gratian, *Decretum* C12.q1.c.7 and D96.c.9–10.

⁷³ The texts of these canons can all be found in Norman P. Tanner, *Decrees of the Ecumenical Councils*, 1: 190–91, 194, 197–98, 202, 214–15, 217, 242, 264–65. For those without access to the Tanner volume, I list the canons as well. Canons against lay investiture: First Lateran Council, Canon 18; Second Lateran Council, Canon 25; Fourth Lateran Council, Canon 25. Canons against simony include: First Lateran Council, Canon 1; Second Lateran Council, Canon 1 and Canon 2; Third Lateran Council, Canon 7; Fourth Lateran

some successes, reform tended to die with the prelates who supported it, and the existing institutions, formal and informal, reasserted themselves.

Clerical superiority and independence rested on the cultic holiness of priests and the dignity or perfection of the clerical *ordo*, which created incentives to mimicry and to hide clerical crimes.⁷⁴ They also led to the development of formal institutions that created disincentives to reporting. The effort to conceal clerical malfeasance can be seen in Canons 7 and 8 of the Fourth Lateran Council (1215). Canon 7 directed prelates to prudently and diligently correct their clergy. The bishop was advised to correct by ecclesiastical censure as the care of souls requires, which positioned the canon in a pastoral rather than a judicial framework.⁷⁵ Canon 8 outlined the process prelates should employ for investigating and punishing clerical crimes and instructed superiors to investigate when some outcry or rumor reached him, but only after determining that the rumor or accusation did not come from malevolent or slanderous people.⁷⁶ Further, investigations should begin only if the matters come up more than once.⁷⁷

Because the council fathers at the Fourth Lateran assumed many people make false accusations against prelates, Canon 8 instructed superiors leading investigations to avoid acting as an accuser or judge.⁷⁸ It warned that accusations against prelates threaten the stability of the church and affirmed that accusations against them should not be admitted readily. Thus a criminal complaint that could entail a loss of status against a prelate could not go forward “except when his offenses are so notorious that it cannot be ignored without scandal or tolerated without danger.”⁷⁹ Even in such notorious

Council, Canon 63, Canon 64, Canon 65, and Canon 66. Canons against clerical marriage and concubinage were also repeatedly passed: First Lateran Council, Canon 7 and Canon 21; Second Lateran Council, Canon 6 and Canon 7; Third Lateran Council, Canon 11; Fourth Lateran Council, Canon 14.

⁷⁴ See Morris, *Papal Monarchy*, 100: “There is little in the whole literature of the papal reform movement about the need to make the clergy personally more devout, to build up their character, or to provide better instruction or pastoral care for the laity. Indeed, there is only a limited amount of discussion designed to define the priestly office in its inner character. These things do indeed become important in the thirteenth century, but in the age of Leo IX and Gregory VII we are still in a primitive society, in which it is more accurate to think in terms of cultic reform.”

⁷⁵ Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:237. Cited herein as Fourth Lateran.

⁷⁶ See Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:238.

⁷⁷ See Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:238.

⁷⁸ See Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:238.

⁷⁹ Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:238.

cases, the superior should act out of charity when deciding on how to punish the offender. If such a complaint against a powerful prelate was allowed to proceed, the canon declared that the accused must be provided the depositions with the witnesses' names attached, which created a strong disincentive to make accusations.⁸⁰

In effect, the process established by the Fourth Lateran was a form of mimicry. It appeared to create a legal process for investigating and punishing the clergy, but it served to discourage accusations, investigations, and loss of status due to offenses such as simony and clerical sexual sins. Insofar as it identified the prelates with the columns of the church, it reveals the lack of distinction between the organization and its agents.⁸¹ A diligent and reform-minded prelate could use the process to investigate and punish his subordinates, but it formalized the rule that the testimony of superiors was more reliable than that of subordinates. Given that all members of the clergy were deemed superior to the laity, the process made it difficult and dangerous for the laity to make an accusation. What appeared to be a disciplinary process was in fact a pastoral care process guided by charity rather than justice.

The Fourth Lateran also passed Canon 46 forbidding the taxation of the church by secular authorities without papal consent, which led to the controversy between Boniface VIII (r. 1294–1303) and Phillip of France (r. 1285–1314) over ecclesial authority and independence.⁸² Phillip had taxed the church to raise money for his war with Edward I of England. In response, Boniface VIII issued a papal bull threatening to excommunicate rulers who taxed the church without his consent. Giles of Rome (1247–1316), who was the principal apologist for Boniface, wrote:

Perfection or sanctity or spirituality is of two kinds: the one is personal, the other according to status. Thus the status of the clergy is more perfect than the status of laity, and that of rulers than that of subjects; but if we speak of personal perfection, there are many laity who are holier and more spiritual than clerics, and many subjects who are more so than rulers. . . . But if we speak of perfection or spirituality according to status, and especially according to the status of prelates, which consists in jurisdiction and fullness of power, then he who occupies the holier and higher status will judge more things and will not be able to be judged by his inferiors; for as the Apostle says at 1 Corinthians 4, "He who judges me is the Lord."⁸³

⁸⁰ See Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:238.

⁸¹ See Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:238.

⁸² See Fourth Lateran Council, in Tanner, *Decrees of the Ecumenical Councils*, 1:255.

⁸³ R. W. Dyson, ed., *Giles of Rome's on Ecclesiastical Power: A Medieval Theory of World Government*, trans. R.W. Dyson (New York: Columbia University Press, 2004), 26–27.

In the case of the pope, Giles argued that because he holds the holiest status, it is fitting, reasonable, and probable that he was personally holy as well. Citing Gregory VII, he concluded that the Roman see “either receives a saint or makes a saint.”⁸⁴ By doing so, he effectively erased the distinction between personal and positional holiness. Boniface VIII incorporated Giles’s premises into the papal bull *Unam Sanctam* and concluded that “it is altogether necessary to salvation for every human being to be subject to the Roman Pontiff.”⁸⁵

Phillip and the other European monarchs were not convinced of the spiritual perfection of the clerical state. Phillip sent mercenaries who captured Boniface with the intent of putting him on trial, but Boniface escaped before dying a few weeks later. In 1305, the French king managed to influence a papal election and had his cousin installed as Pope Clement V (r. 1305–1314). Clement filled the curia with French cardinals and moved the papacy to Avignon in 1309. Even with this calamitous defeat, the clergy continued to promote the liberty of the church based on the perfection of the clerical state. The repeated failures to reform pastoral care led to a variety of forms of wishful thinking including apocalyptic expectations of a third age of the world ushered in by a great saint, holy emperor, or angelic pope who would renovate the church.

As the crisis in the papacy deepened with the Great Western Schism, when there were two and eventually three competing popes from 1378 to 1417, reform efforts coalesced behind the rallying cry *reformatio in capite et in membris* (reformation in the head and the members). Christopher Bellitto has argued the efforts at reforming the head and the members arose out of rising expectations for the church.⁸⁶ Different reformers in the late Middle Ages emphasized reform of the head or reform of the members, but they generally saw these ideas as linked. As Gerhard Ladner has shown, the idea of reform was almost exclusively understood as personal in the early and medieval church.⁸⁷ His students, Louis B. Pascoe, SJ, and Philip H. Stump, showed that reform

The Latin edition is Richard Scholz, ed., *De Ecclesiastica Potestate* (Weimar: H. Böhlhaus Nachfolger, 1929).

⁸⁴ Dyson, *Giles of Rome's on Ecclesiastical Power*, 11.

⁸⁵ See Brian Tierney, *The Crisis of Church and State 1050–1300* (New York: Prentice-Hall 1964; repr., Toronto: University of Toronto Press, 1988), 189.

⁸⁶ See Christopher M. Bellitto, “The Reform Context of the Great Western Schism,” in *A Companion to the Great Western Schism (1378–1417)*, ed. Joel Rollo-Koster and Thomas Izbicki (Leiden: Brill, 2009), 303. This article was my original impetus for studying how institutions are understood in disciplines such as political science and economics.

⁸⁷ See Gerhart B. Ladner, *The Idea of Reform: Its Impact on Christian Thought and Action in the Age of the Fathers* (Cambridge, MA: Harvard University Press, 1959).

continued to be largely conceived of in personal terms.⁸⁸ The emphasis on personal conversion is understandable given the increasing tendency to conflate the distinction between office and person in the schools of theology at the time, but from the perspective of institutional analysis this idea that having a personally reformed pope who would be able to change the church by reforming the clergy looks like wishful thinking for at least three reasons.⁸⁹ First, converting individuals does nothing to address structural or institutional deficiencies. Second, it fails to recognize resistance among the ordained because it does not sufficiently acknowledge that there are priests, bishops, and cardinals who have different objectives than those of the church. Third, it does not account for the history of priests, religious superiors, bishops, and cardinals who have deployed the strategy of waiting out a papacy before returning to their former practices and customs.

The blurring of distinctions between the men and the offices they held shaped how reformers understood their task. John Olin offered this description of Catholic reform:

The state of the clergy loomed large in Catholic reform. If their ignorance, corruption, or neglect had been responsible for the troubles that befell the Church, as nearly everyone affirmed, then their reform required urgent attention and was the foundation and root of all renewal. This involved personal reform, that of the priests and prelates who are the instruments of the Church's mission and the ones principally charged with the *cura animarum*. The reform of the faithful would follow as a consequence, but the immediate objective was institutional or pastoral.⁹⁰

Pastoral care reform rhetoric sought to convince the bishops either to implement new laws or to enforce existing ones over simony, clerical sexual activity, multiple benefices, and a host of other issues.

Reformatio in capite was understandably the primary concern at the Council of Constance given that it was called to end the Great Western Schism. On March 30, 1415, the Council of Constance issued *Haec Sancta*: "First, that this synod, legitimately assembled in the holy Spirit, constituting a general

⁸⁸ See Louis B. Pascoe, SJ, *Church and Reform: Bishops, Theologians, and Canon Lawyers in the Thought of Pierre D'Ailly, 1351-1420* (Leiden: Brill 2005); Phillip H. Stump, *The Reforms of the Council of Constance (1414-1418)* (New York: Brill, 1994).

⁸⁹ For a concise history, see C. Colt Anderson, "Reforming Priests and the Diverse Rhetorics of Ordination and Office from 1123-1418," in *Priesthood and Holy Orders in the Middle Ages*, 281-306.

⁹⁰ John Olin, *Catholic Reform: From Cardinal Ximenes to the Council of Trent* (New York: Fordham University Press, 1990), 36. See also John C. Olin, *The Catholic Reformation: Savonarola to Ignatius Loyola* (New York: Fordham University Press, 1992), xvi-xix.

council, representing the catholic church militant, has power immediately from Christ, and that everyone of whatever state or dignity, even papal, is bound to obey it in those matters that pertain to the faith and the eradication of said schism.”⁹¹ Like most medieval conciliar statements, *Haec Sancta* lacked any specific enforcement mechanism; but unlike most medieval councils, Constance had representation from the leaders of the European nations who wished to avoid a war among the supporters of the competing papacies. What made this decree enforceable at Constance was the third-party support of civil authorities, particularly the emperor and the French king.

The council fathers sought to change how the church was governed. They envisioned regular councils to ensure the popes followed through on Constance’s decrees against exemptions, dispensations, simony, and the ostentatious dress of the clergy among other matters.⁹² The council enacted *Frequens* in October of 1417, which declared:

For this reason [neglect of councils fosters evils in the church] we establish, enact, decree and ordain, by a perpetual edict, that general councils shall be held henceforth in the following way. The first shall follow immediately after the end of this council, the second in seven years immediately after the end of the next council, and thereafter they are to be held every ten years for ever.⁹³

The hope was that the pope, as the head, would sponsor reform of the members and that *Frequens* would ensure that reforms would continue to be spread, implemented, and policed. As Christopher Bellitto noted, *Frequens* was simply ignored because there was little incentive for the popes to call councils that might seek to limit papal power; furthermore, the bishops had no incentive to advocate for councils that would bring their transgressions to light.⁹⁴

The Council of Basel-Ferrara-Florence (1431–1445) repeated many of the themes of Constance and tried to assert its authority over the pope on the basis of *Haec Sancta*; however, this effort failed. The council had been reluctantly convoked by Pope Martin V (r. 1417–1431) shortly before his death and began to meet in July, but Pope Eugenius IV (r. 1431–1447) distrusted the assembly and attempted to dissolve the council on December 18, 1431.⁹⁵ The council refused and in February of 1432 reasserted the decree, *Haec Sancta*, and the

⁹¹ Council of Constance, in *Decrees of the Ecumenical Councils*, 1:408.

⁹² See Council of Constance, in *Decrees of the Ecumenical Councils*, 1:447–50.

⁹³ Council of Constance, in *Decrees of the Ecumenical Councils*, 1:439.

⁹⁴ See Bellitto, “The Reform Context of the Great Western Schism,” 330.

⁹⁵ See Council of Basel-Ferrara-Florence, in *Decrees of the Ecumenical Councils*, 1:453.

principle of conciliar supremacy.⁹⁶ Because the council initially had the support of secular rulers, Eugenius was forced to capitulate and recognize the legitimacy of the Council of Basel in December 1433. Over time, the support of the secular rulers eroded because Basel was challenging a pope who was duly elected and universally acknowledged.⁹⁷

In its efforts to reform the head, Basel limited appeals to Rome and fixed the college of cardinals at twenty-four. In 1435, the council removed papal rights to sources of income such as annates and benefices. In response, Eugenius released a bull affirming the pope's authority to convoke, transfer, and dissolve councils. In 1437, he dissolved the council and ordered its removal to Ferrara. On May 16, 1439, the Council of Basel declared as a dogma of the faith, "The general council is above the pope."⁹⁸ In June 1439, it deposed Pope Eugenius IV and elected a rival pope, Felix V (r. 1439–1449). Many of the council fathers, including the leaders of the reform movement, defected because they distrusted the motives of the majority that saw reform only in terms of the head and not of the body, and the longer the conciliar schism lasted, the wearier European leaders became of councils.⁹⁹

The defectors recognized Eugenius's power to dissolve the council and transfer it to Ferrara. Eugenius offered secular authorities far-reaching privileges, including the rights to benefices and the investiture of Naples, in return for their support.¹⁰⁰ The result was no movement to reform and its decrees against simony, concubinage, and other clerical excesses had little impact. The lower clergy would not accept any change to their rights and customs without a council, but the popes were unwilling to call a council for the next sixty-three years. When the Fifth Lateran Council was called in 1512, it renewed and repeated canons against a familiar set of clerical abuses calling for personal reform or conversion.

The repeated efforts to pass or renew canons against clerical abuses were ineffective for several reasons. First, the Catholic Church did not have the organizational capacity to enforce the canons in a consistent way. Second, the council members did not understand the incentives driving behavior, particularly those arising from informal institutions such as unwritten traditions or the client–patron system. Unsurprisingly, the bishops, cardinals, and

⁹⁶ See Council of Basel-Ferrara-Florence, in *Decrees of the Ecumenical Councils*, 1:456–57.

⁹⁷ See Steven Ozment, *The Age of Reform 1250–1550* (New Haven, CT: Yale University Press, 190), 173.

⁹⁸ Hubert Jedin, *A History of the Council of Trent*, vol. 1, trans. Dom Ernest Graf (London: Thomas Nelson, 1963), 18.

⁹⁹ See Bernhard Schimmelpfennig, *The Papacy*, trans. James Sievert (New York: Columbia University Press, 1992), 234.

¹⁰⁰ See Ozment, *The Age of Reform*, 188.

popes who led these councils did nothing that would challenge their authority to dispense with many aspects of canon law or that would diminish their revenues.

The repeated failures of pastoral care reformers in the late Middle Ages to make gains against simony, plural benefices, and other abuses through enacting new laws or processes have the hallmarks of a capability trap. The *de jure* reforms passed by the councils had little effect *de facto* on the behavior of those in Holy Orders. Studying the history of reform in the Middle Ages is like watching children trying to reinforce a sandcastle as the tide relentlessly comes in and erodes its foundations to the point of collapse. Pastoral care reformers would ameliorate problems, but without addressing the need for institutional reform ecclesial inertia eroded their gains.

The initial successes of the Gregorian reform agenda stalled the capacity for institutional change by denying any role for the laity in holding the clergy accountable. Because the justification for this liberty was that the clergy were holier than the laity, at least according to their state, there were strong incentives to hide clerical crimes. The councils in the late Middle Ages took on the character of mimics insofar as they appeared to have the function of governance without the structures to ensure accountability. The effort to project an image of holiness became increasingly difficult with the advent of the printing press, which made it possible to publicize clerical corruption. Using the new technology, Martin Luther instigated and led a religious revolution that led to a series of devastating wars between Catholics and Protestants. In an effort to end a civil war in the Holy Roman Empire, Emperor Charles V and representatives of the Schmalkaldic League signed the Peace of Augsburg, which set in place the principle of *cuius regio, eius religio*. As a result, the Catholic Church was able to maintain its monopoly position in much of Europe—leaving mimicry an effective strategy throughout the modern period.

The Transmission of Clericalism from the Nineteenth Century to the Present

After the Peace of Augsburg, the idealization of the priesthood and the rules necessary to preserve it, such as concealing clerical offenses, have flowed into the present through a variety of channels. Following the Protestant Reformation, Cesare Baronius (1538–1607) wrote a history that eradicated all evidence of ecclesial scandal and became the standard source for history textbooks employed in the seminaries until the first half of the twentieth century. Pope Gregory XVI (1831–1846), whose knowledge of church history was informed at least indirectly by Baronius, declared that the church

cannot need reform because it is impervious to defects of any kind.¹⁰¹ Ecclesial claims to perfection were also promoted in Pope Pius IX's 1863 *Syllabus Errorum* and Pope Pius X's 1910 *Sacrorum Antistitum*.¹⁰² The blurring of the distinction between a person and his office or between the ordained and the Catholic Church was so successful that it has influenced how more contemporary Catholic and Protestant church historians understand ecclesial reform. Reviewing the literature associated with reform during the time of the Great Schism, Christopher Bellitto has shown that "institutional reform" and "hierarchical reform" are used synonymously and interchangeably by church historians.¹⁰³

Given the lack of functional distinction between person and office, maintaining the perfection of the church required concealing the crimes and abuses of priests. The 1917 Code of Canon Law states, "Clerics shall in all cases, whether contentious or criminal, be brought before an ecclesiastical judge, unless it has been legitimately required otherwise in certain places."¹⁰⁴ The reference to legitimate requirements in certain places points to concordats between the Vatican and nation-states. Many of these agreements granted some form of clerical immunity, and the 1917 Code threatened Catholic judges in countries without concordats with excommunication for ruling against priests or bishops in civil or criminal cases.¹⁰⁵

To ensure total silence around the problem of priests soliciting sex in confessions, Pope Pius XI approved a secret document titled *Instructio de Modo*

¹⁰¹ See Gregory XVI, *Mirari Vos*, §10. The Latin text can be found in *Acta Gregorii Papae XVI*, vol. 1 ed. A. M. Bernasconius (Rome, 1901), 169–74.

¹⁰² Pius IX, *Pii IX Pontificis Acta*, pars prima, vol. 3 (no date), 701–17; Pius X, *Sacrorum Antistitum*, http://www.vatican.va/content/pius-x/la/motu_proprio/documents/hf_p-x_motu-proprio_19100901_sacrorum-antistitum.html.

¹⁰³ Bellitto, "The Reform Context of the Great Western Schism," 304. Bellitto provides a historiographical review of the literature on ecclesial reform in the late Middle Ages in this article.

¹⁰⁴ The translation is from John F. Wirenius, "Command and Coercion: Clerical Immunity, Scandal, and the Sexual Abuse Crisis in the Roman Catholic Church," *Journal of Law and Religion* 27, no. 2 (January 2011): 466. John Paul II, *Codex Iuris Canonici* (New York: P. J. Kennedy, 1918), canon 120, §1: "Clerici in omnibus causis sive contentiosis sive criminalibus apud iudicem ecclesiasticum conveniri debent, nisi aliter pro locis particularibus legitime provisum fuerit."

¹⁰⁵ See Wirenius, "Command and Coercion," 468. See John Paul II, *Codex Iuris Canonici*, canon 2334, §§1–2: "Excommunicatione latae sententiae speciali modo Sedi Apostolicae reservata plectuntur: §1 Qui leges, mandata, vel decreta contra libertatem aut iura Ecclesiae edunt; §2 Qui impediunt directe vel indirecte exercitium iurisdictionis ecclesiasticae sive interni sive externi fori, ad hoc recurrentes ad quamlibet laicalem potestatem."

Procendi in Causis Sollicitacionis (Instructio), which was held in the secret archives of the bishop's chancery. The provisions of the *Instructio* were reissued by Pope John XXIII in 1962 as *Crimen Sollicitationes*. Like the Fourth Lateran, the *Instructio* calls for a searching investigation of the accusers (victims) concerning their lives, morals, and public reputation. It instructs the promoter of justice to consider whether "there has ever been any case of hatred, spite or enmity between the accuser and the accused."¹⁰⁶ The penalty for priests who had sex with minors was to be suspended and deprived of every office, but offenders could be degraded from the priesthood only in the worst cases where abuse was habitual.¹⁰⁷

The 1983 Code of Canon Law also promoted secrecy as a paramount concern and supported the tradition of providing pastoral care to clerical sex offenders. Moreover, it required that bishops try to cure priests before putting them on trial.¹⁰⁸ In 2001, Pope John Paul II increased the statute of limitations from five years to ten years from the time a victim reached the age of eighteen, but he also placed all such cases under the pontifical secret with no exceptions for reporting child sexual abuse to the police.¹⁰⁹ Pope Francis abolished papal secrecy in cases of sexual misconduct by the clergy in 2019; nonetheless, *Vos Estis* states that all information is to be protected and treated in such a way as to guarantee its safety, integrity, and confidentiality.¹¹⁰ While it calls for compliance with state laws that mandate reporting, there are many states that do not mandate reporting child sexual abuse, and there these crimes remain confidential and protected by the local bishop or by religious superiors.¹¹¹

¹⁰⁶ *Instructio de Modo Procendi in Causis Sollicitacionis*, §33; English translation at https://www.vatican.va/resources/resources_crimen-sollicitacionis-1962_en.html. See Wirenius, "Command and Coercion," 473–74.

¹⁰⁷ See *Instructio de Modo Procendi in Causis Sollicitacionis*, §33. For more information see Wirenius, "Command and Coercion" 470–71.

¹⁰⁸ See Kieran Tapsell, "Canon Law: A Systemic Factor in Child Sexual Abuse in the Catholic Church," Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse (August 10, 2015), 94, <https://www.childabuseroyalcommission.gov.au/sites/default/files/SUBM.2398.001.0001.pdf>.

¹⁰⁹ Tapsell, "Canon Law," 95. See John Paul II, *Sacramentorum Sanctitatis Tutela*, article 5, §§1–2, and article 25, §1, <http://www.documentcloud.org/documents/243690-10-sacramentorum-sanctitatis-2001-with-2003.html>.

¹¹⁰ See Francis, *Vos Estis Lux Mundi*, article 2, §2, https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html.

¹¹¹ See Francis, *Vos Estis Lux Mundi*, article 19.

Whereas canon law has functioned to conceal the imperfections of the clergy, contemporary magisterial documents continue to obscure the distinctions between officeholders and their offices. The primary source that communicates these ideas to the clergy and laity alike is the *Catechism of the Catholic Church*, which describes ecclesial ministry as personal:

Finally, it belongs to the sacramental nature of ecclesial ministry that it have a personal character. Although Christ's ministers act in communion with one another, they also always act in a personal way. Each one is called personally: "You, follow me" (John 21:22) in order to be a personal witness within the common mission, to bear personal responsibility before him who gives the mission, acting "in his person" and for other persons.¹¹²

If ministry is personal rather than functional, then there can be no clear metrics for the evaluation of performance.

The *Catechism* further obscures the possibility of assessment by citing *Lumen Gentium's* statements that declare bishops are "heralds of faith," "authentic teachers of the apostolic faith," and "endowed with the authority of Christ."¹¹³ It does not say that they should be "authentic teachers" or consider the possibility that some bishops, like former cardinal Theodore McCarrick, might be what the New Testament describes as "lovers of pleasure rather than lovers of God, holding to the outward appearance of godliness but denying its power (2 Timothy 3:4-5)." In fact, the *Catechism* states that Catholics should follow the bishop "as Jesus Christ follows the Father"¹¹⁴ and that the church is the "spotless spouse endowed with holiness."¹¹⁵ In this way, Catholics are taught to assume that bishops share the same objectives as the church, which generates rules requiring deference to their decisions. There is a brief mention in the *Catechism* that the church has real but imperfect holiness, however, the imperfection is located in the members rather than the church.¹¹⁶

The idealization of the clergy was useful in advocating for the liberty of the church but hindered the church's ability to honestly recognize ecclesial deficiencies. The effort to project an image of perfection has sapped the Catholic

¹¹² *Catechism of the Catholic Church*, 2nd ed. (Rome: Libreria Editrice Vaticana, 2000), §878, https://www.vatican.va/archive/ENGO015/_INDEX.HTM.

¹¹³ *Catechism of the Catholic Church*, §888. The source is *Lumen Gentium* §25, 869. I cite the catechism to indicate how widely diffused these ideas are. The catechism shapes what Catholics are taught to think about the church and holy orders from an early age.

¹¹⁴ *Catechism of the Catholic Church*, §896. This is drawn from *Lumen Gentium*, §27, 872.

¹¹⁵ *Catechism of the Catholic Church*, §757 and §796. The source is *Lumen Gentium*, §6, 852.

¹¹⁶ See *Catechism of the Catholic Church*, §825 and *Lumen Gentium*, §48, 888.

Church of the capacity to even recognize the need for change, much less implement it if it requires accountability to the laity. Cardinal Donald Wuerl provided a window into the problem of an idealized understanding of the church when he argued against employing a political model of transparency and accountability “for a reality that transcends human political institutions.”¹¹⁷ In this way, he pointed to the ideology that rationalizes the Catholic Church’s formal and informal institutions and accounts for its poor performance. Wuerl also effectively rejected *Lumen Gentium*’s teaching that the church is “one complex reality which coalesces from a divine and a human element” and proposed—to extend the analogy the council made between Christology and ecclesiology—a form of ecclesial Monophysitism.¹¹⁸ Recovering the institutional model of the church opens a door for exploring ecclesial aspects that do not transcend human political institutions.

The Institutional Model and Institutional Analysis

Ultimately, the value of understanding the church as it is today by institutional analysis rests on how well it accounts for history and illustrates contemporary ecclesial dynamics. Considering the Catholic Church as analogous to the fragile state raises valuable questions. Is there evidence of the Catholic Church persisting on unproductive paths when it would benefit from implementing changes?¹¹⁹ Does the Catholic Church distinguish between the person and the office, the person and ecclesial structures, or the person and the organization? Are there metrics and processes in place for evaluating leadership in dioceses and religious institutes? Does the Catholic Church have clear remedies that it consistently and regularly applies to bishops who fail to live up to their offices? Are there formal and informal institutions operative

¹¹⁷ Cardinal Donald W. Wuerl, “Reflections on Governance and Accountability in the Church,” in *Governance, Accountability, and the Future of the Catholic Church*, ed. Francis Oakley and Bruce Russett (New York: Continuum, 2004), 18. See also Richard Gaillardetz, *By What Authority? Foundations for Understanding Authority in the Church*, rev. ed. (Collegeville, MN: Liturgical Press, 2018), 22.

¹¹⁸ See *Lumen Gentium*, §8, 854. In a similar vein, De Lubac warned against deifying the church’s visibility and rejected what he called a monophysite ecclesiology in *Catholicism*, 74–75.

¹¹⁹ See North, *Institutions, Institutional Change, and Economic Performance*, 100. During the period from 2017 to 2021, dioceses and eparchies spent more than \$1.29 billion on sexual abuse allegations, which fits the definition of an unproductive path. These sums are from the Secretariat of Child and Youth Protection, *2021 Annual Report: Findings and Implications* (Washington, DC: United States Conference of Catholic Bishops, 2022), 39.

in the Catholic Church that provide disincentives to report abuse?¹²⁰ Is there evidence of mimicry, wishful thinking, or premature load bearing?¹²¹ Finally, is the Catholic Church so different from other human societies, states, and organizations that the preceding questions are irrelevant to its governance as Cardinal Wuerl contended?

The various elements of a capability trap, which could be identified as a clericalism trap, can be seen in Pope Francis's *Vos Estis Lux Mundi*. Pope Francis began by addressing the bishops: "You are the light of the world. A city set on a hill cannot be hidden (Matthew 5:14 NSRV)."¹²² Francis did not say the bishops *ought* to be the light of the world, thus failing to distinguish between these men and their offices. The pontiff framed the changes to canon law in pastoral terms:

The crimes of sexual abuse offend Our Lord, cause physical, psychological and spiritual damage to the victims and harm the community of the faithful. In order that these phenomena, in all their forms, never happen again, a continuous and profound conversion of hearts is needed, attested by concrete and effective actions that involve everyone in the Church, so that personal sanctity and moral commitment can contribute to promoting the full credibility of the Gospel message and the effectiveness of the Church's mission.¹²³

The expectation that the problem will be resolved by a continuous and profound conversion of hearts is evidence of wishful thinking, especially in light of church history and more contemporary events such as those described in the *McCarrick Report*.¹²⁴ *Vos Estis* calls for bishops to police themselves, has no

¹²⁰ For example, norm 235:5, which is related to fraternal correction in the Society of Jesus, directs superiors to "not lightly give credence" to a member reporting another member and instructs the superiors to listen in particular to the one reported. If the subject of the report is found innocent, the one who reported "is to be reprehended or punished." See the *Constitutions of the Society of Jesus and Their Complementary Norms* (Saint Louis, MO: Institute of Jesuit Sources, 1996), 263.

¹²¹ I conducted interviews using questions generated by institutional analysis. I interviewed thirty-nine people who work for Catholic and Jesuit educational organizations or youth groups to identify institutions guiding disciplinary decisions, the role of patronage, the importance of reputation, the existence of mimics, and so on. I hope to publish the results next year.

¹²² Francis, *Vos Estis Lux Mundi* (May 7, 2019), prologue, http://w2.vatican.va/content/francesco/en//motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html.

¹²³ Francis, *Vos Estis Lux Mundi*, prologue.

¹²⁴ Secretariat of State of the Holy See, *Report on the Holy See's Institutional Knowledge and Decision-Making Related to Formal Cardinal Theodore Edgar McCarrick* (Vatican City

role for the laity in assuring the law is being followed, contains no remedies for those metropolitans who are derelict in their duty, and lacks an enforcement mechanism.¹²⁵

Even if many metropolitans make a good-faith effort to implement the provisions of *Vos Estis*, they have not been trained to take on this new role. Further, most archdioceses lack the resources required to effectively implement *Vos Estis*, which is evidence of premature load bearing. Given the nature of contemporary media and communications, an individual failure on the part of a metropolitan to effectively discipline a fellow bishop will undermine the Catholic Church's credibility further and reinforce the tendency to hide problems. The Charter for the Protection of Children and Young People (Dallas Charter) provides a cautionary example of how new laws can both promote progress and mimicry. The preamble frames the document in pastoral terms of forgiveness and reconciliation:

We feel a particular responsibility for the “ministry of reconciliation” (2 Cor. 5:18) which God, who reconciled us to himself through Christ, has given us. The love of Christ impels us to ask forgiveness for our own faults but also to appeal to all—to those who have been victimized, to those who have offended, and to all who have felt the wound of this scandal—to be reconciled to God and one another.¹²⁶

This demonstrates that the rules associated with mercy and forgiveness, which played a role in guiding episcopal decisions to allow abusive priests another chance, are still operative. Although appropriate for the confessional, these rules are not appropriate for administration.

State, 2020), https://www.vatican.va/resources/resources_rapporto-card-mccarrick_20201110_en.pdf.

¹²⁵ See National Review Board for the Protection of Children and Young People, “2019 Progress Report to the Body of the Bishops,” June 2019, 3, <https://www.usccb.org/issues-and-action/child-and-youth-protection/upload/2019-Annual-Progress-Report-6-4-2019.pdf>; Tom Reese, SJ, “U.S. Catholic Bishops Adopt Process for Reviewing Misconduct of Bishops,” *National Catholic Reporter*, June 17, 2019, <https://www.ncronline.org/news/accountability/signs-times/us-catholic-bishops-adopt-process-reviewing-misconduct-bishops>; John L. Allen, “Thoughts on Populism, Liability, and Unfinished Business on Abuse Norms,” *Crux*, May 12, 2019, <https://cruxnow.com/news-analysis/2019/05/thoughts-of-populism-liability-and-unfinished-business-on-abuse-norms>; J. D. Flynn, “Analysis: Is Pope Francis’ New Abuse Plan the Answer Catholics Are Looking For?” *Catholic News Agency*, May 9, 2019, <https://www.catholicnewsagency.com/news/analysis-is-pope-francis-new-abuse-plan-the-answer-catholics-are-looking-for-32480>.

¹²⁶ United States Conference of Catholic Bishops, Charter for the Protection of Children and Young People, Revised 2018, 4, <https://www.usccb.org/resources/Charter-for-the-Protection-of-Children-and-Young-People-2018-final%281%29.pdf>.

The Dallas Charter created a yearly audit for dioceses and eparchies in the United States to assess how well they were implementing its provisions, revealing significant failures. The fact that the audits take place and are publicly released represents some progress; dioceses and eparchies, however, are not required to participate, and there has not been full participation in any of the audits from 2010 to 2021.¹²⁷ While these audits typically review what is going on in schools and parishes, they do not have access to clergy files or files from seminaries.¹²⁸

The 2021 audit indicates that 30 percent of the diocesan review boards they audited were dysfunctional due to lack of meetings, inadequate composition or membership, not following the bylaws of the board, members not being confident in their duties, a lack of rotation of members, and a lack of review of diocesan/eparchial policies and procedures.¹²⁹ In cases where members of review boards are not confident in their duties, the problem may be evidence of premature load bearing because of a lack of training or resources, but the other issues identified by the audit are evidence of mimicry.

A report from the *Associated Press* provides a more detailed account of the mimetic quality of some of the review boards. They revealed that bishops were appointing church defense attorneys and top aides to the boards.¹³⁰ Bishops also controlled whether issues went to the board, what evidence the board could see, and what criteria they used in making decisions. Additionally, all of the work of these boards is confidential. Half of the dioceses do not even reveal the names of the members of the review boards.¹³¹ Nonetheless, it is important to recognize that the 2021 audit indicated that 70 percent of the dioceses and eparchies had functional review boards—at least according to the standards laid out in the charter. Because power is personal in the Catholic

¹²⁷ Secretariat of Child and Youth Protection, *2021 Annual Report: Findings and Implications*, 14–15, [https://www.usccb.org/resources/2021%20CYP%20Annual%20Report.PDF%20\(1\).pdf](https://www.usccb.org/resources/2021%20CYP%20Annual%20Report.PDF%20(1).pdf).

¹²⁸ See Secretariat of Child and Youth Protection, *2021 Annual Report: Findings and Implications*, 15.

¹²⁹ See Secretariat of Child and Youth Protection, *2021 Annual Report: Findings and Implications*, 15–16.

¹³⁰ See Reese Dunklin, Mitch Weiss, and Matt Seden, “Catholic Boards Hailed as a Fix for Sex Abuse Often Fail,” *Associated Press*, November 20, 2019, <https://apnews.com/article/wa-state-wire-mi-state-wire-id-state-wire-ct-state-wire-wv-state-wire-66ffb032675b4e599eb77c0875718dd4>.

¹³¹ See Dunklin, Weiss, and Seden, “Catholic Boards Hailed as a Fix for Sex Abuse Often Fail.” The process that religious orders follow is similar; see Praesidium, *Accreditation Standards for Catholic Men’s Religious Institutes 2020*, https://www.jesuits.org/wp-content/uploads/2021/04/Accreditation-Standards-for-Religious-Institutes_2020.pdf.

Church, the difference between these dioceses is the character and diligence of the individual bishops.

The model of the church as a fragile state caught in a capability trap provides insight into some of the dynamics of the sexual abuse crisis in the United States. Like the fragile state, the Catholic Church seems to be caught in a capacity trap due to institutions or rules that have developed incrementally over time to protect the idealized understanding of the priesthood and the church. Many of these rules are based on pastoral practice and theology, such as maintaining people's privacy. Although dioceses are supposed to publish their reporting procedures according to the charter, there is no equivalent requirement to publish the results of investigations. The problem with the silence regarding outcomes is that it creates uncertainty on the part of the victim as to what happens when a person reports abuse, which serves as a disincentive to report, and fosters the conditions that make abuse more likely. At the same time, the pastoral mission of reconciliation, with its emphasis on mercy, patience, and forgiveness, justifies bishops' poor performance in maintaining discipline or having an effective administration.

Problems with a capability trap extend beyond the sexual abuse crisis to financial scandals as well. Perhaps the paradigmatic example of this dynamic involving mimicry, wishful thinking, and premature load bearing is the Vatican Bank, which is formally named the Institute for the Works of Religion. Established to manage the money and assets of the Catholic Church, it has always lacked the internal controls, transparency, and accountability typical of financial institutions. In effect, it mimics being a financial institution. After a series of scandals involving the bank's role in laundering money for the Mafia, Pope Paul VI appointed a new leader, Archbishop Paul Marcinkus, to clean it up in 1971, which proved to be wishful thinking. Under Marcinkus, who had no background in international banking, the bank became enmeshed in another scandal involving money laundering resulting in more than \$1 billion in losses and \$240 million in claims.¹³² Marcinkus was indicted in 1982, but he declared diplomatic immunity from prosecution.

Following another round of scandals in the early 2000s, Pope Benedict XVI sought to reform the bank by appointing a layman, Ettore Gotti Tedeschi, who had extensive banking experience, president in 2009. Yet two years later, Italian authorities investigated Tedeschi for potentially violating anti-money

¹³² See Christopher Reed, "Archbishop Paul Marcinkus," *Guardian* (February 22, 2006), <https://www.theguardian.com/news/2006/feb/23/guardianobituaries.religion>. See also John L. Allen, "Vatican Bank Transactions Subject of Italian Probe," *National Catholic Reporter* 46, no. 25 (October 1, 2010): 14.

laundering protocols, which led to his resignation.¹³³ A new scandal emerged in January 2013 when Italian authorities charged Monsignor Nunzio Scarano, a Vatican financial officer, with smuggling millions into Italy from Switzerland on behalf of a wealthy family to evade taxes.¹³⁴ Benedict then appointed Ernst von Freyberg to head the bank in February 2013 at the end of his papacy. Freyberg imposed a zero-tolerance strategy for suspicious transactions; nonetheless, during his tenure, the bank lost \$60 million due to dubious investments.¹³⁵

In July 2014, Pope Francis appointed Jean Baptiste de Franssu president with the mandate to reform the bank. When Cardinal Angelo Becciu, who had been the chief of staff for the Vatican Secretariat of State, tried to get the bank to cover losses from transactions that led to charges including embezzlement, money laundering, fraud, and extortion,¹³⁶ De Franssu refused and reported the matter to prosecutors in 2019, which is a hopeful development.¹³⁷ Thomas Reese, SJ, has suggested that the decision to submit the Vatican Bank to supervision from Moneyval, an international monitoring body created to crack down on money laundering, played a role in cleaning up the bank as well.¹³⁸ A less hopeful sign is Pope Francis's direction to the staff of the Office of the Auditor General in the Vatican in December 2023 to use fraternal correction as a guide to their work before stating:

Certainly, those who work at the Holy See and the Vatican City State do so faithfully and honestly, but the lure of corruption is so dangerous that we must be very vigilant. I know that you devote a great deal of attention to this, with work that is managed with both firmness and merciful discretion because, without prejudice to the need for absolute transparency in

¹³³ See John L. Allen, "Scandal and Reform Swirl around Vatican Bank," *National Catholic Reporter* 49, no. 20 (July 19, 2013): 1.

¹³⁴ See Allen, "Scandal and Reform Swirl around Vatican Bank," 14.

¹³⁵ See Maria Tadeo, "Scandal Hit Vatican Bank Turns to French Financier for Redemption," *Independent* (July 10, 2014), <https://www.independent.co.uk/news/business/news/scandalhit-vatican-bank-turns-to-french-financier-for-redemption-9594796.html>.

¹³⁶ See Tadeo, "Scandal Hit Vatican Bank Turns to French Financier for Redemption."

¹³⁷ See Junno Arocho Esteves, "In Corruption trial, Vatican Bank Chief Says His Office Refused to Bail Out Real Estate Deal," *Religion News Service* (February 17, 2023), <https://religionnews.com/2023/02/17/in-corruption-trial-vatican-bank-chief-says-his-office-refused-to-bail-out-real-estate-deal/>.

¹³⁸ See Thomas Reese, SJ, "Vatican Financial Scandals: Corruption, Stupidity, or Both?" *National Catholic Reporter* (August 3, 2023), <https://www.ncronline.org/opinion/guest-voices/vatican-financial-scandals-corruption-stupidity-or-both>.

every action, scandals serve more to fill the pages of the newspapers than to correct behavior in depth.¹³⁹

As long as the informal rule is that auditors should be guided by fraternal correction and merciful discretion, the Institute for the Works of Religion will remain a mimic of a functioning financial organization.

One of the benefits of considering the church as analogous to a fragile state is that doing so opens avenues to draw upon the experience of states that have escaped the capability trap. Scholars in international development have shown that establishing independent and accountable organizations composed of local people who take a problem-solving approach is a strategy that is more likely to escape a capability trap and successfully implement institutional reforms.¹⁴⁰ The most effective groups are composed of local people throughout society, including officials who can serve as bridges between the people with ideas and those who have power. These groups are authorized to make decisions and are encouraged to experiment.¹⁴¹ Experimentation is important because pressures to embrace mimicry occur when the space for innovation is closed. Identifying the problems and finding solutions on the local level is more effective than trying to find a universal solution or best practice to implement.

Local people's involvement helps build organizational capacity and provides a window into the challenge of building capacity. People are forced to assess the weaknesses of existing structures and to identify the formal and informal rules that need to be deinstitutionalized. As agents across the social and political system become aware of weaknesses they do not normally consider, they build coalitions across networks to deal with common concerns.¹⁴² Andrews, Pritchett, and Woolcock argue that centralized and top-down approaches emphasize compliance whereas locally defined problems and solutions emphasize performance. The emphasis on performance leads these groups to establish metrics to discern what is successful, what is not,

¹³⁹ Francis, "Address of His Holiness Pope Francis to the Staff of the Office of the Auditor General," *Holy See Press Office Bulletin* (December 11, 2023), <https://www.vatican.va/content/francesco/en/speeches/2023/december/documents/20231211-ufficio-revisoregenerale.html>.

¹⁴⁰ See Andrews, Pritchett, and Woolcock, "Escaping Capability Traps through Problem-Driven Iterative Adaptation," 234–44.

¹⁴¹ See Andrews, Pritchett, and Woolcock, "Escaping Capability Traps through Problem-Driven Iterative Adaptation," 238–39.

¹⁴² See Andrews, Pritchett, and Woolcock, "Escaping Capability Traps through Problem-Driven Iterative Adaptation," 237.

and why.¹⁴³ Rather than trying to craft a perfect solution, they take an iterative approach that looks to find better ways of doing things.¹⁴⁴ Adopting this problem-solving approach to institutional reform is consistent with the principle of subsidiarity, and it would begin to shift colloquial discourse about the church from them, meaning the bishops, to us. Inviting people to examine problems would help liberate them from an idealized and triumphalistic understanding of the church, which sets people up for scandal when they encounter the wounded church.

Conclusion

Using the institutional model to consider the church as a fragile state illuminates some aspects of the church but not others. If the problem being considered is persistent failures in how bishops and religious superiors have responded to the abuse crisis and strategies for moving forward, it is an appropriate model insofar as one source of these problems lies in what North called humanly devised institutions. One might use another institutional model, like a hospital, to bring forward more positive aspects of the church and its mission. The fragile state is not what Dulles called a paradigmatic model because it cannot successfully solve a great variety of theological problems, but it can help theologians understand both concrete and persistent problems in the church and also how these problems are connected to magisterial teachings that promote clericalism.¹⁴⁵

The institutional model, as Dulles understood it, serves as a bridge to connect theology and the social sciences. It widens the scope of ecclesiology and makes it a collaborative and interdisciplinary project. To undertake a comprehensive ecclesiology of the Catholic Church would require a team of anthropologists, economists, historians, political scientists, psychologists, sociologists, and theologians. Further, the theologians would need to be drawn from diverse specialties in the field including pastoral and practical theologians with experience working in ecclesial ministries in different cultural contexts. I do not believe it is feasible, however, to construct a comprehensive ecclesiology; instead, I envision small teams of theologians and social scientists using a variety of institutional models to foster dialogue and a deeper understanding of the church in particular contexts.

¹⁴³ See Andrews, Pritchett, and Woolcock, "Escaping Capability Traps through Problem-Driven Iterative Adaptation."

¹⁴⁴ See Andrews, Pritchett, and Woolcock, "Escaping Capability Traps through Problem-Driven Iterative Adaptation," 238.

¹⁴⁵ See Dulles, *Models of the Church*, 21.

Using models to integrate the social sciences into Catholic ecclesiology will inevitably complicate how we understand the Catholic Church because the fields are methodologically diverse and often reach different conclusions.¹⁴⁶ Adding to the complexity, empirical social sciences are also in a state of frequent revision, which means that ecclesiology would need to be updated more frequently to incorporate new findings. A more frequently updated field of ecclesiology would be a welcome development, but it would portend a proliferation of models. Such a proliferation would enrich dialogue but would not be useful for constructing a systematic theology that demands clear and stable definitions of all of its terms.

The question is whether one sees theology as a remnant or as a continuation of the scholastic theology that aimed to demonstrate the unity of the data from revelation with that acquired through natural experience. If a scholar does understand theology in this manner, then that person must build a system that is satisfactory, being wary of everything that does not fit well into prescribed categories.¹⁴⁷ But if one sees theology as a reflection on Scripture and tradition as well as on the experiences of Christians today, the data are vast and variegated in a way that resists easy categorization. Much of the information is subjective and perspectival. The wider the field, the more questions, methods, and perspectives are germane. According to Dulles, models facilitate communication, dialogue, and mutual comprehension between people who have fundamentally different mentalities, such as theologians and economists. Due to their synthetic quality, models can support what Dulles called a “pluralism that heals and unifies.”¹⁴⁸

It seems clear that the magisterium needs to abandon the apologetics of perfection as the means to justify the authority of priests and bishops because of the perverse incentives it creates to conceal crimes. The whole community

¹⁴⁶ Neil Ormerod sees the methodological diversity of the social sciences as requiring a clear criterion for opting for a particular social science in order to avoid implicit assumptions on the part of the theologian as to what society should look like; this is only true, however, if a theologian chooses one social science to the exclusion of others or attempts to hierarchize the sciences and their methods. Although I agree with him on the need to incorporate the social sciences into ecclesiology, I understand this in terms of an ongoing and mutual dialogue. One of the benefits of dialogue is that participants come to recognize their own assumptions more clearly. See Neil Ormerod’s essay, “A Voice Cries in the Wilderness: The Place of the Social Sciences in Ecclesiology,” in *A Realist’s Church: Essays in Honor of Joseph A. Komonchak*, ed. Christopher D. Denny, Patrick J. Hayes, and Nicholas K. Rademacher (Maryknoll, NY: Orbis Books, 2015), 213.

¹⁴⁷ In this paragraph I am paraphrasing George Tavard, AA. See George H. Tavard, AA, *The Pilgrim Church* (New York: Herder and Herder, 1967), 21.

¹⁴⁸ Dulles, *Models of the Church*, 5.

needs to recover the distinction between the men who are ordained and the offices and positions they hold that was operative in the early church, which would allow for the development of metrics to assess performance. Some form of third-party accountability structure must be established on the local level. To restore credibility, the members of an accountability organization would require the authority to audit all of the files, including those related to the seminaries and to clergy, as well as to publicize what they find. Finally, they would need to be authorized to experiment—restoring a space for innovation and a drive to improve performance—if we wish to reduce mimicry, wishful thinking, and premature load bearing.

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