

The Role of the Conference of Bishops in the Translation of Liturgical Texts

The Council of Trent prescribed that the Liturgy, including the administration of the Sacraments, be continued in Latin. In the discussion on the matter of the vernacular, the Council of Trent taught: “Though the mass contains much instruction for the faithful, it has, nevertheless, not been deemed advisable by the Fathers that it should be celebrated everywhere in the vernacular tongue” (Council of Trent, 22nd Session, Chapter VIII). Note that this did not *prohibit* the celebration in the vernacular in *some* places. Nor did it preclude the use of the vernacular in the future. What the Fathers were saying here was that, given the conditions in Europe following the Protestant Reformation, the shift to the vernacular was “not...advisable.”

Almost four hundred years later, during the 1940s and 1950s, Pius XII began to give permission to particular countries for the introduction of some parts of the liturgy in the vernacular, e.g., November 28, 1947, the dioceses of France; March 21, 1950, the dioceses of Germany; June 3, 1954, the dioceses of the US. When the topic of the vernacular in the liturgy was discussed at Vatican II, the Council fathers agreed to a more open use of the vernacular in the liturgy. The resulting teaching is found in the Constitution on the Sacred Liturgy, *Sacrosanctum Concilium*. Pope Paul VI called for the implementation of this liturgical reform in his *motu proprio*, *Sacram Liturgiam*, and provided the first authoritative guidelines on a number of key matters including vernacular translations. Further guidelines on vernacular received direction from the 1964 instruction, *Inter Oecumenici*, the 1969 document of the *Consilium*, the 1983 *Code of Canon Law* as well as the 2001 instruction, *Liturgiam authenticam*.

With the promulgation of the new *Roman Missal* in 2000 and the subsequent need for translation of this text, many have begun to ask questions about the authority of various documents that govern the translation of liturgical texts. In this article, I would like to begin by considering the teaching of Vatican II in relationship to the translation of liturgical texts into the vernacular and then consider some of the teaching from other documents from the Holy See. Once this teaching is outlined, I would like to provide a canonical analysis of these documents to discover the Church’s teaching and legislation on the topic of vernacular translation.

A. Some Introductory Comments

As we begin, we need to acknowledge two technical issues. First, the official liturgical books that have been issued by the Holy See since Vatican II are issued in Latin. The Latin version is called the *editio typica*, while a revised Latin edition is called the *editio typica altera* or *editio typica tertia*. All vernacular translations are made from these Latin editions.

Second, the rules that govern the vernacular translation are issued in documents that vary in authority. In the analysis of the teaching regarding vernacular translation, one must be aware of the kind of document that is used as well as the authority behind each particular document, for example, a constitution from an ecumenical council, a *motu proprio* from the pope, or an instruction from a Roman Dicastery. Documents containing universal laws issued from legislative authority have the highest authority, e.g., legislative acts of an ecumenical council, the *Code of Canon Law* or other

legislative acts of the pope (e.g., apostolic constitutions). Thus, in considering the teaching and legislation, certain legal principles flow from an awareness of the kind of document involved as well as whether or not the document is issued with legislative or executive authority.

B. Vatican II, Constitution on the Sacred Liturgy, *Sacrosanctum Concilium*, December 4, 1963

The Constitution on the Sacred Liturgy, *Sacrosanctum Concilium* [SC], deals with the issue of vernacular translation in four different paragraphs. SC, no. 22, §1 states that the regulation of the sacred liturgy depends solely on the authority of the Church, that is, on the Apostolic See and, as laws may determine, on the bishop. SC, no. 22, §2 acknowledges the role of the bodies of bishops (later during the Council called conferences of bishops): “In virtue of power conceded by the law, the regulation of the liturgy within certain defined limits belongs also to various kinds of competent territorial bodies of bishops lawfully established.” Here one notes that the law gives conferences of bishops certain roles. These roles are defined in article 36, §§3-4: to decide whether, and to what extent, the vernacular language is to be used (§3); to have their decrees approved, that is, confirmed, by the Apostolic See (§3); to consult, as necessary, with bishops of neighboring regions which have the same language (§3); and to have translations from the Latin text into the mother tongue intended for use in the Liturgy approved by the competent territorial ecclesiastical authority mentioned above (§4). Here the text in §3 provides that the decrees of the bodies of bishops must be “approved” or “confirmed” (*probatis seu confirmatis*) by the Apostolic See, while the text in §4 says that translations must be approved by territorial authority. Article 36, §4 seems to give the territorial body of bishops the right to approve vernacular translations without any reference to the Holy See. However, when one properly interprets paragraphs 36, §§3-4, one realizes that the approval of translations would be done through a decree, which according to §3, must be “approved” or “confirmed” by the Apostolic See. Furthermore, the meaning of the terms, “approved” or “confirmed”, are not defined in the text.

The third reference occurs in SC, no. 63 and deals with the administration of the Sacraments and sacramentals. SC, no. 63 permits the use of the vernacular language in administering the Sacraments and sacramentals, according to the norm of Art. 36. As well, SC, no. 63 requires that particular rituals shall be prepared without delay by the competent territorial ecclesiastical authority mentioned in Art. 22, §2, of this Constitution. These rituals, which are to include certain adaptations, a decision of the language employed, and an awareness of the needs of the different regions, are to be “reviewed” (*recognitis*) by the Apostolic See and then introduced into the regions for which they have been prepared. Here the text uses the terms “review”. The meaning of this term, “review”, is not defined in the text, nor is it distinguished from the terms, “approved” or “confirmed” in SC, no. 36.

The fourth reference occurs in SC, no. 101 and deals with the Divine Office. This article gives the ordinary, in individual cases, the power of granting the use of a vernacular translation to those clerics for whom the use of Latin constitutes a grave obstacle to their praying the Office properly, with the proviso that the vernacular version be drawn up according to the provision of Art. 36.

In considering these four references, the question arises as to whether the council taught that

territorial ecclesiastical authorities had the authority to prepare translations without reference to the Apostolic See. While SC, no. 36, §4 might be used to argue that the territorial ecclesiastical authorities did not have to refer to the Apostolic See, other sections of SC (no. 36, §3 and no. 63) clearly call for the “approval”, “confirmation” or “review” of the Apostolic See, before translations of liturgical rituals are introduced into a local region.

The interpretation of these articles on the matter of the vernacular translations must acknowledge the larger context regarding the relationship between episcopal conferences and the Holy See. While the recognition of conferences of bishops emerged from Vatican II, the initial stages whereby these conferences tried to find their rightful place caused some tension with those at the Roman Curia, where decisions regarding the liturgy had been made for almost four hundred years. An awareness of this tension will also assist in understanding the development of some of the other documents connected with vernacular translations.

C. Paul VI, apostolic letter *motu proprio*, *Sacram Liturgiam*, January 25, 1964

As a result of the promulgation of the Constitution on the Sacred Liturgy in December 1963, Pope Paul VI recognized the need to implement the Second Vatican Council’s liturgical reform. Thus, he issued an apostolic letter *motu proprio*, *Sacram Liturgiam*, providing the first authoritative guidelines on several important liturgical matters, including vernacular translations, so that the Council’s liturgical reform could proceed immediately. Also in January 1964, the special group of experts to implement the Council’s liturgical reform was established. Known as the Consilium, the group had full authority over the reform of the liturgy from 1964 until it was disbanded, following the establishment of the Sacred Congregation for Divine Worship on May 12, 1969.

In Article IX of *Sacram Liturgiam*, Paul VI dealt with the procedure concerning the translation of liturgical texts:

IX. To those bound to recite the divine office art. 101 of the Constitution grants the faculty – in various ways and for various classes of people – to use the vernacular instead of Latin. Therefore it seems advisable to make it clear that the various vernacular versions must be drawn up and approved by the competent, territorial ecclesiastical authority, as provided in art. 36, §§3 and 4; and that, as provided in art. 36, §3, the acts of this authority require due approval, that is, confirmation, of the Holy See. This is the course to be taken whenever any Latin liturgical text is translated into the vernacular by the authority already mentioned.¹

The history of this *motu proprio* gives some appreciation of the tension associated with the role of

¹ *Documents on the Liturgy 1963 – 1979: Conciliar, Papal, and Curial Texts* (Collegeville, Minnesota: The Liturgical Press, 1982), no. 20, p. 86, par. 287.

episcopal conferences in the translation of liturgical texts.² There were several drafts of this document: one from the Secretariat General of the council (January 11, 1964), one from the Congregation of Rites (January 14, 1964) and one from the pre-Consilium (January 17, 1964). When *Sacram Liturgiam* was published in *L'Osservatore Romano* on January 29, 1964, but before it was to take effect, much criticism was expressed that there was “the limitation to episcopal conferences of the right to approve translations in the vernacular.”³ At the suggestion of the secretariat of the Consilium, nineteen corrections were introduced when the *motu proprio* was published in the *Acta Apostolicae Sedis*.⁴ Bugnini explains the change:

In section IX of the original text, the *motu proprio* said that vernacular translations were to be *proposed* by the competent territorial authority, while the Holy See was to *review and approve them*. The definitive text, on the contrary repeats the liturgical Constitution, article 36, §4 and says that the conferences are to *approve* the translations and submit them to the Holy See for *confirmation*.⁵

The changes in the text resulted from the strong positions taken by some episcopal conferences which felt that the original text of the *motu proprio* limited the authority of the conferences. This original text also manifested the desire on the part of some in the Roman Curia to want to have a certain control over the process of vernacular translations. Marini sees the changes as “a warning to be on guard against the danger of the Roman Curia, which had historically tended to impede the reforming impetus of councils and bishops.”⁶ Bugnini diagnosed the changes as primarily an issue of “trust” and he thought that “the uneasiness was increased by a series of imprecise wordings and liturgical and historical inaccuracies which made it clear, at the very least, that the final editors of the document lacked familiarity with the style of the Constitution.”⁷ In the end, the legislative *motu proprio* of the Holy Father provided a certain clarity regarding the respective roles of the episcopal conferences and the Apostolic See in the task of the translation of liturgical texts.

² For a discussion of the events connected with the various versions of this *motu proprio*, see Piero Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal*, Mark Francis, John Page, and Keith Pecklers, eds. (Collegeville MN: Liturgical Press, 2007), pp. 19-29; Annibale Bugnini, *The Reform of the Liturgy 1948–1975*, trans. Matthew J. O’Connell (Collegeville, MN: Liturgical Press, 1990), pp. 54-59.

³ Annibale Bugnini, *The Reform of the Liturgy 1948–1975*, trans. Matthew J. O’Connell (Collegeville, MN: Liturgical Press, 1990), p. 59.

⁴ The two texts read:
L'Osservatore Romano text:

... opportunum ducimus significare varias huiusmodi populares interpretationes a competente auctoritate ecclesiastica territoriali propositas, ab Apostolica Sede de esse rite recognoscendas atque probandas. Quod ut semper

Acta Apostolicae Sedis text:

... opportunum ducimus significare, varias huiusmodi populares interpretationes, a competente auctoritate ecclesiastica territoriali conficiendas et approbandas esse, ad normam art. 36, §§3 et 4; acta vero huius auctoritatis, ad normam eiusdem art. 36, §3, ab Apostolica Sede esse rite probanda seu confirmanda. Quod ut semper

⁵ Annibale Bugnini, *The Reform of the Liturgy 1948–1975*, p. 59, footnote 4; the emphasis in italics is found in the original.

⁶ Piero Marini, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal*, p. 24.

⁷ Annibale Bugnini, *The Reform of the Liturgy 1948–1975*, p. 59.

D. Sacred Congregation of Rites, Instruction, *Inter Oecumenici*, First Instruction For the Right Implementation of the Constitution on the Sacred Liturgy of the Second Vatican Council, September 26, 1964

A few months after the publication of *Sacram Liturgiam*, the Sacred Congregation of Rites, with the specific approval of Pope Paul VI, issued *Inter Oecumenici*, the First Instruction For the Right Implementation of the Constitution on the Sacred Liturgy of the Second Vatican Council. This instruction provided further details on the procedure for conferences in seeking the approval and confirmation from the Holy See of the translations of liturgical texts:

29. The *acta* of the competent territorial authority, to be transmitted to the Holy See for approval, that is, confirmation, should include the following:
- a. the names of participants in the assembly;
 - b. a report on matters dealt with;
 - c. the outcome of the vote on each decree.

These *acta*, signed by the president and secretary of the assembly and stamped with a seal, shall be sent in duplicate to the Consilium.

30. With regard to *acta* containing decrees on use of the vernacular and the manner of its introduction into the liturgy, the *acta*, following the Constitution on the Liturgy art. 36, §3 and the *motu proprio Sacram Liturgiam* no. IX, should also contain:
- a. a list of the individual parts of the liturgy for which use of the vernacular has been decided;
 - b. two copies of the liturgical texts prepared in the vernacular, one of which will be returned to the assembly of bishops;
 - c. a brief report on the criteria used for the work of translation.

31. The decrees of the territorial authority needing the approval, that is, confirmation, of the Holy See shall be promulgated and implemented only when they have received such approval, that is, confirmation.

This procedure became the usual manner whereby conferences sought the approval, that is, confirmation of the Holy See.

E. Consilium for Implementing the Constitution on the Sacred Liturgy, *Comme le prévoit*, on the Translation of Liturgical Texts for Celebrations with a Congregation, January 25, 1969

The issue of translation quickly became one of the most important matters connected with the liturgical reform. In the midst of the activity of translation, all realized that detailed and complete principles needed to be established. In 1969 the *Consilium* issued the document, *Comme le prévoit*, as a guide for the translation of liturgical texts, using the principles that were accepted in both secular and ecclesial circles. Three points were emphasized as important in liturgical communication: 1) what is being said in the original text must be accurately translated; 2) the addressee of the text must be considered and the language must be accessible to the majority of the faithful; 3) the manner and

form of expression are integral elements in oral communication.⁸

Two texts from this document are important for our discussion. One reasserts the understanding of the role of the conferences of bishops in liturgical translation and the second provides the reasons for the principles, i.e., to make confirmation by the Apostolic See easier and to achieve greater unity of practice:

2. In accordance with art. 36 of the Constitution, *Sacrosanctum Concilium*, and no.40 of the Instruction of the Congregation of Rites, *Inter Oecumenici*, the work of translation of liturgical texts is thus laid down: It is the duty of the episcopal conferences to decide which texts are to be translated, to prepare or review the translations, to approve them, and “after approval, that is, confirmation, by the Holy See” to promulgate them.

3. Although these translations are the responsibility of the competent territorial authority of each country, it seems desirable to observe common principles of procedure, especially for texts of major importance, in order to make confirmation by the Apostolic See easier and to achieve greater unity of practice.

The document further affirms the procedure of the approvals that were to be done by the episcopal conferences as well as those by the Holy See. However, while the document was published under the aegis of the Consilium and, seen by the pope, it never became an official document of the Congregation. Although published in six major languages, *Comme le prévoit* was not published in Latin, bears no official signature and was not published in the *Acta Apostolicae Sedis*, the official organ of the Holy See.

F. *Code of Canon Law, January 25, 1983*

From the time of Trent to Vatican II, the Church entered a four century period of uniformity in the liturgy. Although the bishops did not lose their authority over the liturgy after Trent, which some of them reasserted at certain times (as in France and central Europe in the 18th century), by and large the liturgy was totally controlled by the Holy See. In the 1917 Code of Canon Law this situation was made official in law: “Only the Apostolic See is to regulate the sacred liturgy and approve the liturgical books” (canon 1257). The role of the bishops was to be vigilant that the prescripts of the canons on divine worship be zealously observed and to prevent superstitious practices and other abuses (canon 1261).

Vatican II recovered a more balanced approach to authority in the Church, upholding the divine law powers of the bishops. In this context, the council returned to bishops some of their authority over the liturgy. The Constitution on the Sacred Liturgy states: “Regulation of the sacred liturgy depends solely on the authority of the Church, that is, on the Apostolic See and, in accord with the law (*ad normam iuris*), on the bishop” (*SC*, n. 22, §1). The authority of diocesan bishops was “as the law

⁸ Annibale Bugnini, *The Reform of the Liturgy 1948–1975*, p. 237.

determines”, that is, they may enact positive legislation regarding the liturgy when the liturgical books permit adaptations or local regulations, or when diocesan legislation is not *contrary* to universal law.

Within the 1983 *Code of Canon Law*, canon 838, §2 deals with the principal competencies over the liturgy of the Apostolic See: to regulate the sacred liturgy, to publish the liturgical books and review (*recognoscere*) their vernacular translations, and to be vigilant that liturgical regulations are observed faithfully throughout the Latin church. At present, the Congregation for Divine Worship and Discipline of the Sacraments handles liturgical matters at the Holy See and its competencies are given in the apostolic constitution *Pastor bonus*, nn. 62-70.

Vatican II envisioned that to some extent the conferences of bishops would be able to regulate the liturgy “within certain defined limits” (*SC*, no. 22, §2; also *CD*, nn. 37-38). The 1983 code incorporated this teaching in canons 391, 135, §2, 838, §4, 392, 687, §1. Paragraph 3 of canon 838 gives the three principal competencies of conferences of bishops: (1) preparing vernacular translations of the liturgical books, (2) making permissible adaptations, and (3) publishing the vernacular versions after receiving the *recognitio* of the Holy See. The various English-speaking conferences of bishops in 1963 established the International Commission on English in the Liturgy (ICEL), located in Washington. ICEL prepares all liturgical translations and suggests adaptations, which are then voted on by each conference of bishop. Each conference is free to accept the ICEL text, or make its own changes and adaptations. Once a conference approves a text, it is sent to the Holy See for a *recognitio*. This canon gives the highest legal expression to the procedure that had evolved since Vatican II.

The *recognitio* of the Holy See is a legal review by which the Holy See considers the translation or adaptation made, and sometimes requires changes, before the text can be published on the authority of the conference itself. More technically, the *recognitio* is an act of the competent higher authority permitting the promulgation of the law of a lower-level authority. This is not a mere formality, but an absolutely necessary act of the power of governance which may also impose modifications of the text presented for *recognitio*. While the action of the Apostolic See is described as confirming (*SC*, n. 36, §3) or reviewing (*SC*, n. 63 b), the conciliar commission on the liturgy stated that a law enacted by the conference of bishops is subsequently acknowledged and completed by the Apostolic See. This subsequent action, called *recognitio* in the canon, adds juridic and moral weight, but it does not change the nature of the law.⁹

As for the liturgical competence of episcopal conferences, the code mentions only that these national bodies may prepare translations of the liturgical books into the vernacular and make adaptations in the liturgy permitted by the liturgical books themselves (canon 838, §3). There are many liturgical matters that the universal law relegates to the conference of bishops, e.g., canon 891 and the age for confirmation. In cases where the universal law itself does not specify that episcopal conferences may legislate, a conference must obtain permission from the Holy See in order to do so. Whether the permission to legislate comes by way of the law itself or in a particular case from the Holy See, a two-

⁹ Frederick R. McManus, “Introduction” and “Introductory Canons 834-839,” in Beal, J., J. Coriden, and T. Green, *New Commentary on the Code of Canon Law [NCCCL]*, Mahwah, Paulist, 2000, p. 1014.

thirds vote of the total membership of the conference is always necessary for a decision to be binding in that conference's territory, and before the decision can be promulgated, it must be reviewed by the Apostolic See (canon 455).

G. Congregation for Divine Worship and Discipline of the Sacraments, Instruction *Liturgiam authenticam*, On the Use of Vernacular Languages in the Publication of the Books of the Roman Liturgy, March 28, 2001

The Instruction *Liturgiam authenticam*, provides detailed rules, principles, and criteria to assist conferences of bishops, and those who advise them, in the translation of the liturgical books from Latin to the vernacular languages, both the prayer and scriptural texts and the liturgical laws. *Liturgiam authenticam* is the fifth in a series of Instructions for the right implementation of the Constitution on the Sacred Liturgy of the Second Vatican Council, and it supersedes all earlier norms on liturgical translation, except those in the 1994 Instruction on the Roman Liturgy and Inculturation, *Varietates legitimatae*. The major exception to this rule is any provision of universal law; as canon 34, §2 provides: "The regulations of an instruction do not derogate from the law, and if there are any which cannot be reconciled with the provisions of the law, they have no force."

The guiding principle of *Liturgiam authenticam* may be found in article 20 which states that the translation of the liturgical texts is not so much a work of creative innovation as it is of rendering the original texts faithfully and accurately into the vernacular language. This principle leans heavily on the method of formal correspondence as a way of translating the texts, as it subtly warns against the dangers of the method of dynamic equivalence, the method that had been used since the 1969 document, *Comme le prévoit*. To ensure that the desired type of translation occurs, "it has been determined that in the future the Congregation for Divine Worship and the Discipline of the Sacraments will be involved more directly in the preparation of the translations into...major languages" (n. 76).

In the future, whenever the Latin *editio typica* of a liturgical book is promulgated, it should be followed "in a timely manner" by the necessary vernacular translations, approved by the bishops' conference and sent to the Congregation for Divine Worship and the Discipline of the Sacraments for the *recognitio* (n. 73). It is the responsibility of each conference of bishops to determine which languages will be introduced into liturgical use in its territory. However, this decision itself must receive the *recognitio* of the Apostolic See before translation work begins (n. 15). Furthermore, the instruction has a startling provision in no. 104: "For the good of the faithful, the Holy See reserves to itself the right to prepare translations in any language, and to approve them for liturgical use." This seems to be a new provision that will need some interpretation (as found below).

H. Weighing the Law on Vernacular Translations: an Exercise in Canonical Interpretation

The six texts under consideration are all juridic documents, some legislative and some executive, and they require that they be interpreted in relationship to one another. Within this process of examining their relationship, the juridic value of the various norms must be assessed, the text of the law must be consulted and a reasonable interpretation must be considered by acknowledging the values behind the law.

One of the first rules of interpretation involves an awareness of the authority behind a document as well as an awareness of the kind of document that is involved. One needs to distinguish between legislative and administrative or executive authority as well as to acknowledge the variety of documents, each of which has specific guidelines to weigh their juridic value. Universal laws issued from legislative authority have the highest authority, e.g., the *Code of Canon Law*, other legislative acts of the pope (e.g., *motu proprio*), legislative acts of an ecumenical council, general decrees of the Roman curia issued with a mandate from the pope (c. 30), and documents of the Roman curia approved *in forma specifica* by the pope. On the other hand, lower level legislators, e.g., particular councils or conferences of bishops, may also issue legislative documents. All these laws enjoy a certain degree of stability, and the rules for the interpretation and application of both universal and particular laws (*leges*) are the same as those for all ecclesiastical laws (cc. 7-21). For example, a later law (*lex*) contrary to an earlier law revokes the earlier law.

Besides these laws that are issued from legislative authority, the generic term for laws in the Code, *ius*, includes other laws which are issued from executive authority, e.g., various kinds of general administrative documents published by the Roman curia, the conference of bishops, or the diocesan bishop, e.g., directories, circular letters, letters, instructions, etc. In general, the dicasteries of the Roman Curia do not have legislative power unless this has been delegated by the pope. This principle is important because a norm issued through executive power, e.g., through an instruction, cannot revoke law (*lex*), whether universal or particular.

In our present case, the Constitution of Vatican II, the *motu proprio Sacram Liturgiam* of Paul VI, and the *Code of Canon Law* are all legislative texts, while the instruction, *Liturgiam authenticam* was issued with the executive authority of the Congregation for Divine Worship and Discipline of the Sacraments. The document, *Comme le prévoit* was issued under the executive authority of the *Consilium*. The Instruction, *Inter Oecumenici* issued by the Sacred Congregation of Rites, with the specific approval of Pope Paul VI, has an authority different from a regular instruction. The fact that it has the specific approval of Pope Paul VI changes the authority of the document from an act of executive power to one of papal, legislative power.¹⁰

Thus, one might categorise the documents in question as follows:

Document	Nature of Document
Constitution on the Sacred Liturgy <i>motu proprio Sacram Liturgiam</i>	Highest document of an ecumenical council papal universal law
<i>Inter Oecumenici</i> , with specific papal approval	curial text with the force of universal law
<i>Code of Canon Law</i>	papal universal law

¹⁰ The instruction has a rather forceful concluding formula noting that Pope Paul VI “gave it specific approval as a whole and in its parts” (“in omnibus et singulis speciali modo approbavit”) (*Inter Oecumenici*, no. 99). These phrases as well as the fact that its contents derogate from the liturgical and canonical laws, indicate approval that would today be called *in forma specifica*. With the 1992 Rules of the Roman Curia, a certain clarity emerged regarding the issuance of church documents, a clarity that was not present when *Inter Oecumenici* was issued. See James Provost, “Approval of Curial Documents *In Forma Specifica*,” in *The Jurist*, 58 (1998), pp. 213-225; John Huels, “Interpreting an Instruction Approved *in forma specifica*,” *Studia canonica*, 32 (1998), pp. 5-46.

*Comme le prévoit
Liturgiam authenticam*

curial administrative text
curial executive text

Besides the authority underlying a particular document, one must also acknowledge other basic rules of interpretation. While the norms in legislative texts are true laws (*leges*), the norms in general documents of executive power may be called “general administrative norms” to distinguish them both from laws and from singular administrative acts. Both laws and general administrative norms are binding, but the latter are inferior to laws. For example, norms of executive power cannot derogate from laws; if they are contrary to laws, they lack all force (cc. 33, §1; 34, §2). Thus, general administrative norms in documents of the Roman Curia are subservient to laws (*leges*), both universal and particular laws. As acts of executive power, they cannot abrogate or derogate from laws. If a norm in a curial document is contrary to a universal law, that norm lacks all force. If such a norm is contrary to a particular law, it lacks force in the territory where that particular law or custom exists.

The teaching and provisions of *Liturgiam authenticam* need to be properly interpreted.¹¹ *Liturgiam authenticam* is an instruction, an act of executive power. The pope approved it only in general form (*in forma communi*), which does not give it the force of law (*lex*). The congregations of the Roman Curia are executive authorities. Only the pope and the college of bishops have legislative power for the universal Church. The congregations of the Roman Curia do not have legislative power unless this has been delegated by the pope, which was not done in this case. Consequently, *Liturgiam authenticam* must be read together with the universal law, not in opposition to it. The principal sources of universal law on the liturgy are the *Code of Canon Law* and the laws contained in the liturgical books. According to canon 34 of the Code, instructions clarify laws, elaborate on them, and determine the methods to be followed in the observance of laws. Instructions may not be contrary to the law in any way. If any norm in an instruction is contrary to the law, it lacks all force (c. 34, §2).

According to canon 838, §3, the conference of bishops has the authority to prepare translations of the liturgical books and to publish them after the Holy See has granted them its *recognitio* (a kind of approval). The norms of *Liturgiam authenticam* should not be interpreted in such a way as to restrict the authority of the conferences of bishops to prepare and approve the vernacular editions of the liturgical rites for their countries. The instruction, technically, is not telling the conferences of bishops how they must do translations, but setting out the criteria and rules that will guide the Apostolic See itself in determining whether to grant its *recognitio*. This is, in the end, more of a technical difference than a real one, because the conferences will have to observe these criteria if they expect to get the *recognitio* for their liturgical translations.

¹¹ For comments on the interpretation of this instruction, see Amy Jill Strickland, “*Liturgiam authenticam*: Canonical Implications,” unpublished article; John M. Huels, “*Liturgiam authenticam*: Canonical Observations,” *Rite* published by Liturgy Training Publications (August/September 2001); John M. Huels, “Canonical Notes on *Liturgiam authenticam*,” in *Celebrate!*, 1/41 (Jan.-Feb. 2002), pp. 24-27; Anscar J. Chupungco, “*Liturgiam Authenticam* and Inculturation,” *East Asian Pastoral Review*, 39 (2002), pp. 95-100; Frederick McManus, “Liturgical Translation before *Liturgiam Authenticam*,” in *Celebrate!*, 2/41 (March-April 2002), pp. 21-24; Archbishop Oscar Lipscomb, Chairman of the Committee on the Liturgy, address at plenary meeting of the National Conference of Catholic Bishops on June 14, 2001; Anthony Ward, “The Instruction *Liturgiam authenticam*: Some Particulars,” in *Notitiae*, 39 (2003), pp. 152-184; Donald W. Trautman, “The Relationship of the Active Participation of the Assembly to Liturgical Translations,” in *Worship*, 80 (2006), pp. 290-309.

Because an instruction cannot contradict the law, if there is any apparent discrepancy between universal canonical legislation and a norm of the instruction, the text of the instruction must be read in such a way that the universal law is upheld. For example, *Liturgiam authenticam* states in no. 104: “For the good of the faithful, the Holy See reserves to itself the right to prepare translations in any language, and to approve them for liturgical use.”¹² Clearly, the Congregation for Divine Worship and Discipline of the Sacraments has the authority to approve translations (the *recognitio*), but just as clearly it does not have the right or the authority to prepare its own translation and impose it on a conference of bishops.

While this provision may seem contrary to canon law, the next sentence of the norm clarifies that, even when the congregation prepares a translation, the conference of bishops itself must still approve it and send it back for *recognitio*. Technically, the law is upheld when the conference approves a translation submitted to it by the Apostolic See; the authority remains with the conference. Likewise, the conference has the power not to approve such a translation. In that case, the congregation could impose it on the conference only with a special mandate from the pope, since it lacks the legal authority to do this on its own.

Ordinarily, instructions do not revoke previous documents of executive power, but *Liturgiam authenticam* does this in no. 8. It says the norms set forth in this instruction are to be substituted for all norms previously published on the matter of liturgical translations, with the exception of the 1994 Instruction on the Roman Liturgy and Inculturation. There are no footnotes indicating which previous documents are intended, so the wording of no. 8 must be taken at face value. All previous norms are revoked, that is, norms of executive power, not legislative norms, since the congregation lacks the power to revoke laws. Accordingly, this provision would revoke the most important document on the vernacular in the liturgy, *Comme le prévoit* of 1969.

Conclusion

Liturgiam authenticam marks a much more “activist” approach for the Roman curia in the preparation of translations of liturgical texts than has been the rule since Vatican II. The Council had entrusted this task to the conferences of bishops (*Sacrosanctum Concilium*, 36, §4), but now the Congregation for Divine Worship and Discipline of the Sacraments has made abundantly clear its intention to become directly involved itself in the details of translation, particularly for the major vernacular languages such as English, French, and Spanish. In spite of this more activist approach, conferences of bishops still have the legitimate right to approve texts of translation, after which they are presented to the Apostolic See for *recognitio*.

As we reflect on the teaching and legislation associated with this topic, one might acknowledge a kind of organic growth since Vatican II. This growth describes the development that has taken place since Vatican II: a movement from territorial bodies of bishops to national conferences of bishops; a movement from a variety of terms describing the role of the Holy See, e.g., approval, confirmation,

¹² For a technical discussion connected with this provision, see John M. Huels, *Liturgy and Law. Liturgical Law in the System of Roman Catholic Canon Law* (Montreal: Wilson & Lafleur, 2006), footnote 71, pp. 54-55.

review, to the consistent use of the term “*recognitio*”; a movement from the approval of a text by the conference of bishops to the approval of a text that might include some minor changes that have been incorporated by the Holy See. Ultimately, the Congregation of Divine Worship and the Discipline of the Sacraments does not have the authority to impose a new translation upon a country. This can occur only if the conference freely approves the translation or if the Congregation receives a papal mandate with legislative authority to legislate the text for a country. This latter procedure would blatantly contradict the teaching and legislation of the Church since Vatican II. As one reviews the documents connected with this topic, one can appreciate that a real and legitimate growth has taken place in this issue of the role of conferences of bishops in the translation of liturgical texts.

In the end, this entire discussion needs to be rooted in the fundamental provision connected with the liturgy since Vatican II: “In the restoration and promotion of the sacred liturgy the full and active participation by all the people is the aim to be considered before all else, for it is the primary and indispensable source from which the faithful are to derive the true Christian spirit” (SC, no. 14).

Brian Dunn, JCD, MA (Liturgical Studies)
Bishop of Antigonish, Nova Scotia