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Consensus, Church and Papacy

"Consensus" is a brilliantly chosen concept for a conference, because it stimulates many kinds of investigation. One could adopt a comparative approach and juxtapose at the "*Quod ubique et ab omnibus*" concept of tradition in the West with Islamic *Ijma*. The big difference would be that *Ijma* is in practice the consent of the jurists, whereas in the Latin West Councils and Popes exercised control over doctrine and religious law. (Caliphs had probably done that in early Islam, but their role would be air-brushed out by the jurists.) Or again, and perhaps most obviously, there is potential for multiple investigations in the *Begriffsgeschichte* tradition. That would mean studying the evolution of the concept as understood by medieval writers. There would be no shortage of material. A search under "consens*" in the 'Patrologia Latina' database produced 13964 hits and 1996 entries.

Rather than following the pure *Begriffsgeschichte* path, I will use consensus as (fairly common-sense) analytical concept – a scholar's concept – and ask how far the government of religious life in medieval Europe was based on consensus and consent. The medieval Church had a government structurally similar to that of a state, though the content of its power overlapped with state power to only a limited degree. Furthermore, state power nearly always depends on a combination of consensus (elicited by successful legitimation) and physical force. Many people believe that the state is a legitimate authority and are inclined to obey it, but if they feel otherwise, they can be made to obey it by being arrested, tried, and put into prison. Some medieval kings, notably the kings of France and England in the later medieval centuries, had a great deal of physical enforcement power at their disposal. The papacy, by contrast, did not. By the later Middle Ages it had the sanction of excommunication, but that was a poor substitute for men-at-arms. For one thing, people knew that they could defy an excommunication and get forgiven later, a possibility always left open on principle. For another, there was not a lot that pope and bishops could do against someone who defied excommunication, if the recalcitrant person or institution had some support.

Consequently, the medieval Church and in particular the papacy must have relied on consensus to a much greater extent that the secular monarchies of the day. The paper aims to explore and explain the consensus on which it relied.

Heretics?

At first it may seem counter-intuitive to emphasize consensus as the basis of papal government. What about heretics, who obviously did not consent except under torture? And what about our friend Foucault? He and his endless academic entourage would see even consensus as the result of a power (of the "*episteme*") over bodies of which people were not even aware. But Foucault was never very good at explaining the genesis of bio-power etc., and even the history of the persecution of heretics cannot be explained without invoking consensus, though not the consent of the dissidents of course.

Consensus of popes and kings

What prevented "medieval heresies" turning into "reformations" à la Martin Luther was the consensus of secular rulers and Churchmen with a substantial quantum of popular support. When it faltered, heresies almost got of the ground (Cathars in County of Toulouse, early Lollards, Hussites), to be ground down when monarchs joined in with the efforts of the Church. The first time that a prince gave effective protection to a religious dissident leader, the Reformation happened.

In the early Middle Ages we see a consensus of kings and Churchmen about the need to convert populations to Christianity and to help it take root.

Despite the phases of conflict that have tended to attract the attention of historians, consensus between pope and monarch was the "default setting". In the early Middle Ages, the same monastery often had privileges of protection from both king and pope. In the later Middle Ages, the two powers worked together to minimize the problem of clerics in minor orders.

For most of the early Middle Ages, Churchmen did not oppose the appointment of bishops by kings. In the eleventh and twelfth century that consensus did indeed break down, and the outcome was the election of bishops by the "*maior et sanior pars*" of the cathedral chapter. Consensus among the electors was often hard to find, however, and appeals to the pope were common. In the last two medieval centuries popes usually appointed bishops, but they tended to accept the preference of the local secular ruler: another example of royal-papal consensus.

Consensus behind a surface of conflict

A constant source of conflict was metropolitan jurisdiction. Different episcopal sees vied for it from late Antiquity on, and even in late Antiquity the papacy tried to act as arbiter. By the thirteenth century, papal arbitration was effective, thanks to the burgeoning of canon law. Elite canon lawyers put the cases for the sees they represented.

Even in such conflicts however the careful observer may perceive a background of consent. This is true at least with the conflict of Bourges and Bordeaux where a careful reading of a key document reveals consensus behind the scenes between proctors of the two Archbishops.

Judges delegate

Proctors played a key role in turning the papal judge delegate system into a de facto system of consensus to arbitration. The judge delegate system enabled the papacy to provide rational justice all over Europe at minimal cost. Close knowledge of the working of the system is needed to understand how this was possible. In effect, the papacy – Innocent III – devised a way to nudge conflicting litigants to consent to arbitration. There was much demand for dispute resolution by judges delegate.

Why consensus?

Efficiency in meeting the demand is itself an explanation of the expansion of the demand, but it does not explain the genesis of the general consensus that the papacy had the authority to resolve any religious dispute (it never dealt with property disputes between laymen outside the papal states). There are many explanations, but one is the inheritance, via Pseudo-Isidore then Gratian, of (genuine) late Antique papal law. That in turn can be explained by the need bishops in the late Roman West felt to have uncertainties resolved, notably about how to make the variety of evolving religious systems of the time fit together.

Conclusion

The medieval Church was structurally more like a state than any other religion not actually part of a state, but a key difference was that it relied more than any major state on consent and consensus.