

Whom to obey: the law or the prophets?¹

A quem obedecer: à lei ou aos profetas?

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Abstract

A discussion of synodality in the Catholic Church, addressing the competing claims of prophecy and law, and examining the ways lay people are excluded from governance and from having their voices heard. The paper addresses the question of whom to obey, the law or the prophets, and reviews the ongoing confusion between the two apparent opposing forces. The paper describes the creation and recent functioning of the Synod of Bishops and lay-clerical tension in the Church, and the ways each contributes to either positive or negative discernment. Finally, in light of the ongoing Synod on Synodality, the paper examines and explains the discernment process in Ignatian terms, concluding that only Spirit-driven discussion is fruitful.

Keywords: Synodality. Synod of bishops. Discernment. Clericalism. Laity.

Resumo

O artigo discute a sinodalidade na Igreja Católica, abordando as reivindicações concorrentes da profecia e da lei, examinando as formas como os leigos são excluídos da governança e não têm suas vozes ouvidas. O artigo aborda a questão sobre a quem se deve obedecer, à lei ou aos profetas, e também analisa a confusão em curso entre as duas forças aparentemente opostas. O artigo descreve também a criação e o funcionamento recente do Sínodo dos Bispos, assim como a tensão entre os leigos e o clero na Igreja e as formas como cada um contribui para o discernimento positivo ou negativo. Finalmente, à luz do Sínodo em andamento sobre a Sinodalidade, o documento examina e explica o processo de discernimento em termos ignacianos, concluindo que apenas a discussão movida pelo Espírito é frutífera.

Palavras-chave: Sinodalidade. Sínodo dos bispos. Discernimento. Clericalismo. Leigos.

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Introduction

Synodality depends on many voices, but not all are or should be listened to. So, the question arises: Whom to obey: the law or the prophets? The answers come in the Bible, where Moses declares “If only all the people of the LORD were prophets! If only the LORD would bestow his spirit on them!” (Nm 11, 29).

I like to think of Saint Catherine of Siena (1347-1380) as one of the prophets. Catherine had no problem speaking, as the phrase goes, “truth to power.” She was a fourteenth-century third order Dominican, a member of a group of women who ministered to the poor and needy in her hometown of Siena, Italy. Catherine wrote more than 400 letters and made no secret of her disgust at some of the clerical excesses and abuses of power she saw around her. She is credited with convincing Pope Gregory XI to leave Avignon, in the south of France and return to Rome. What she wrote and what she did caused her (with Saint Teresa of Avila) to be named one of the two women doctors of the Church in 1970. In 1999, Catherine was named a patron of Europe.

The Middle Ages presented the same types of problems the Church faces today. In Catherine’s day, the corruption in the Church gave rise to reformers such as John Wycliffe (1330-1384) and Jan Hus (c. 1369-1415), along with several sects the Church called heretical. The Black Death—the bubonic plague—that ravaged Europe also ravaged the power of the clergy, who could not stop its spread and who too often worked more for themselves than for the people. They preached, but to what avail?

Like the people of the Church today, the people of medieval Europe were faced with the same question: whom to obey? Should they obey the law? Or should they listen to the prophets? Which laws? Which prophets?

Now, as then, the law and the prophets seem to be in constant collision. Today’s Church needs updating. Today’s Church needs to pay attention to the needs of the people. Today’s Church does not seem to be working very well. Fracture and factions, infighting and insults abound. The whole Church—the People of God—must figure out how to go forward as one. That is called “synodality.”

Synodality is the way the Church—the whole Church—once made decisions, and it is the way Pope Francis wants to make decisions again. Synodality involves prayerful discernment—not parliamentary procedure—to resolve the questions before the Church. (CZERNY, 2021a; 2021b). True synodality could quell the tension between the law and the prophets. But then, what?

1. Synodality and the Synod of Bishops

Synodality means, or at least connotes, prayer, mutual discernment, collaborative discussion, and reflection on the topic at hand. The process is so distinctive that Pope Francis has made it the topic of the next meeting of the Synod of Bishops in Rome. That synod was proposed for October 2022 and is now postponed to October 2023, to be preceded by regional synods.

The Synod of Bishops is not exactly a standing body. In September 1965, at the start of the fourth meeting of the Second Vatican Council, Pope Paul VI announced the formation of the Synod of Bishops as an advisory body of bishops that would discuss topics of deep interest, even of pressing concern, to the Church as a whole. Bishops would be appointed to synods. (O'MALLEY, 2010).

Since then, various synods have met in Rome. Just before Francis became pope, the Thirteenth Ordinary General Assembly of the Synod of Bishops studied “The New Evangelization for the Transmission of the Christian Faith.” (SYNOD OF BISHOPS, 2011). Subsequently, Pope Francis called an Extraordinary General Assembly of the Synod of Bishops in 2014 on the family, and two Ordinary General Assemblies of the Synod of Bishops: one on the family in 2015 and another on young people in 2018.²

Shortly before the 2018 Ordinary General Assembly on young people, Pope Francis promulgated the Apostolic Constitution *Episcopalis Communio*, On the Synod of Bishops, a solemn magisterial act that changed the norms for calling and

² 2014 Third Extraordinary General Assembly. Pastoral Challenges of the Family in the Context of Evangelization; 2015 Fourteenth Ordinary General Assembly. The Vocation And Mission Of The Family In The Church And The Contemporary World; 2018 Fifteenth Ordinary General Assembly. Young People, the Faith and Vocational Discernment.

conducting synods. (FRANCIS, 2018, 5).³ *Episcopalis Communio* recalls that the Synod of Bishops was created as an

‘instrument of shared knowledge among the Bishops’ who would meet with ‘common prayer, [and] honest exchange, [for a] deepening of Christian doctrine, reform of ecclesiastical structures and promotion of pastoral activity throughout the world.’ (FRANCIS, 2018, 1).

In that Apostolic Constitution, Francis goes even further. He writes:

[...] the Bishop is both teacher and disciple. He is a teacher when, endowed with the special assistance of the Holy Spirit, he proclaims to the faithful the word of truth in the name of Christ, head and shepherd. But he is a disciple when, knowing that the Spirit has been bestowed upon every baptized person, he listens to the voice of Christ speaking through the entire People of God, making it ‘infallible *in credendo*’, or, in believing. (EG, 119).

The term “*in credendo*” refers to the statement in *Lumen Gentium*, The Dogmatic Constitution on the Church of the Second Vatican Council, that “[t]he entire body of the faithful, anointed as they are by the Holy One, cannot err in matters of belief.” (LG, 12).

So, the Synod of Bishops would be successful if the bishops attending understood the people of their respective dioceses. No one can disagree with that. But what about “the entire body of the faithful”?

The question arises: why not have other members of the Church at the synod? Could the People of God be better served if their voices were heard at the assemblies of the synods of bishops? Could the whole Church be better served, could the resulting “final document” of the synod genuinely be “infallible *in credendo*,” if laity could have input? Would the result be more in keeping with the developing doctrine of the Church if everyone in attendance, not just the bishops, had a vote?

The most recent synod, the 2019 Special Assembly of the Synod of Bishops for the Pan-Amazon Region, asked for some interesting changes in the Church, specifically in and among the countries and territories of South America bordering the Amazon River: Brazil, Bolivia, Colombia, Ecuador, Guyana, Peru,

³ Os únicos documentos superiores são as Bulas Papais, que fazem declarações ou anúncios oficiais, e as Encíclicas, que tratam da doutrina da Igreja.

Suriname, Venezuela, and the territory of French Guiana. The Amazon synod asked for, among other things, a limited married priesthood, the installation of women as lectors and acolytes, and for continued consideration of the restoration of women to the ordained diaconate (FRANCIS, 2019, 102; 103).

Other concerns and requests raised during the 2019 Amazon synod directly impact the question of synodality. Pope Francis named some 185 voting members to the synod, and some 100 non-voting experts.

Many of the non-voting experts were female. None had a vote, and that fact created a significant amount of controversy.

There is an interesting wrinkle to the vote-no-vote controversy. Two groups, the Union of Superiors General (USG) and the International Union of Superiors General (UISG), represent the majority of the major superiors of the world's religious institutes and orders. The men's group, the USG, named fifteen members and each had a vote. The women's group, UISG, named ten sisters, but none had a vote. Arguably, the men superiors are the equivalent to bishops. Equally, women major superiors might be considered the equivalent of the medieval abbesses (many ordained as deacons) who had jurisdiction over large territories and who granted priestly faculties within them. All but one of the voting USG members were priests, but not all were major superiors. None of the women named by the UISG was a major superior. So, were the women denied votes based on their lay status, or because they were not general superiors, or because they were women? Or all three? (ELENCO, 2019).

The Code of Canon Law describes the Synod of Bishops as:

a group of bishops who have been chosen from different regions of the world and meet together at fixed times to foster closer unity between the Roman Pontiff and bishops, to assist the Roman Pontiff with their counsel in the preservation and growth of faith and morals and in the observance and strengthening of ecclesiastical discipline, and to consider questions pertaining to the activity of the Church in the world. (CIC, 342).

Pope Francis's Apostolic Constitution *Episcopalis Communio* adds:

Besides the members, certain invited guests without voting rights may attend the Synod Assembly. These include Experts (*Periti*), who help with the redaction of documents; Auditors (*Auditores*), who have particular competence regarding the issues under discussion; Fraternal Delegates from Churches and Ecclesial Communities not yet in full communion with the Catholic Church. To these may be added further special guests (*Invitati Speciales*), chosen because of their acknowledged authority. (EPISCOPALIS COMMUNIO, 8).

The result: the USG men were members of the Amazon Synod and the UISG women were auditors. At least one lay USG member had a vote, but it appears that the only opinions that counted were those of the clerics.

The restriction against lay involvement in decision-making is borne out in Church law. In fact, as it developed, Canon Law continually erected and even today maintains a large barrier that serves to keep lay men and women away from policy and sacrament.

2. Lay-Clerical Tension

The tension in today's Church is not new, but it is now voiced by academics in professional journals and by the general public in social media. Are some of these writers—the professionals and the amateurs—prophets? Do they, or does any one of them, proclaim the will of God?

There is a tremendous amount of chatter, but who is listening? If the whole Church includes the People of God, whom do the members of the Synod of Bishops pay attention to? To whom does the pope pay attention? Who depends on law, and who depends on prophets?

2.1. The Law

The Catholic Church has the oldest continual legal system in the world. Canon Law historians speak about the *Jus Antiquum* (“ancient law” or the law of the ancient Church), the *Jus Novum* (“new law” or the law from the twelfth to the sixteenth century), the *Jus Novissimum* (“newest law” or the law of the sixteenth century), and the *Jus Codicis* (“the law of the code”), which is the 1917 Code of Canon Law compiled at the request of the First Vatican Council. Today, the Church is governed by another “new” Code of Canon Law, this one promulgated

in 1983, after several years of meetings and consultations with canonists and theologians and bishops.⁴

Many sections in the 1983 Code avert, even overrule, any legal responsibilities of laity. The bedrock of clerical control is Canon 129 §2, which rules that lay persons may “cooperate” but not “share” in the power of governance. Two schools of thought, the so-called “German school” and “Roman school,” debated that canon. The Roman school wanted Canon 129 to indicate that lay persons could share (*partem habere*) in the exercise of power. The German school wanted the Canon to say that lay persons could cooperate (*cooperari*) in the exercise of power. The German school won the vote: 52 votes to exclude lay persons from the exercise of power (*potestas*), and therefore from obtaining any jurisdiction. The concept of including laity in governance and jurisdiction received only 9 votes. So, Canon 129 §2, which regulates the “power of governance...also called the power of jurisdiction” described in Canon 129 §1, reads: “Lay members of the Christian faithful can cooperate in the exercise of this same power according to the norm of law.”⁵

The point is, there is really no way to bypass Canon 129 §2. The law dictates that laity are permitted to cooperate, not share governance and jurisdiction.

There are two responses to this barrier surrounding the powers of governance and jurisdiction. One is to walk away. The other is to stay and complain.

We see many people walking away from the Church, for many different reasons. On the right, we have individuals whose ire is fueled by blogs and news media proclaiming “authentic” beliefs, for example, Church Militant, LifeSite News, Eternal Word Television Network (EWTN), the *Wanderer*, and others. On the left, news media and publications of various organizations fuel anger against the right: Catholics for Choice, New Ways Ministry, and the *National Catholic*

⁴ Promulgated by the Apostolic Constitution *Sacrae Disciplinae Leges* (25 January 1983), the 1983 Code has seven books and 1752 canons. Book VI, Penal Sanctions in the Church, has recently been updated. (HOLY SEE, 2021).

⁵ The Canon was written by then-Archbishop Joseph Ratzinger, at the time, Prefect of the Congregation for the Doctrine of the Faith, a position he held for 23 years, from 1982 to 2005, when he was elected Pope Benedict XVI. (MCDONOUGH, 1996, p. 292-307).

Reporter come to mind. In the middle, but leaning one way or the other, are older publications, such as *America* and *Commonweal*, and their attendant blogs and podcasts.

The issues these all discuss include many having to do with sex and marriage (i.e. divorce and remarriage, contraception, and homosexual relationships) and each outlet falls on one side or the other of the conversation.

Abortion, at least in the United States, has become more of a political than a moral issue. With the U.S. Conference of Catholic Bishops (USCCB) there is dissent from the Conference's 2020 pre-election statement that abortion is the "preeminent priority" (UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, 2020) and greater upset over attempts by a few within the USCCB to draft a document barring Catholic politicians who support current U.S. abortion law from receiving Communion. That document, on "Eucharistic coherence" is aimed squarely at the current president of the United States and the current speaker of the U.S. House of Representatives, each of whom happens to be Roman Catholic.⁶

The USCCB discussion does not appear to focus on the argument that accepting the law of the land does not constitute moral cooperation with abortion, although it does highlight President Biden's willingness to rescind the Hyde Amendment restricting federal expenditures on abortion and which forbids abortions in most federal facilities. Those opposed to USCCB general intervention point out that an individual's bishop would more properly restrict or allow an individual to approach Communion. They point out that in Latin, Canon 915, presents the restriction in the subjunctive, expressing what might be done, not what must be done. (CIC, 915). Meanwhile, the more proper request of the USCCB would be for all persons, especially Catholics, to voice their opinions in the proper *fora*, objecting to federal expenditures for abortion, and there is movement in that direction.

⁶ Joseph R. Biden, Jr., both a former U.S. senator and former vice president of the United States, defeated Donald J. Trump in the November 2020 presidential race. Congresswoman Nancy Pelosi of California was elected Speaker of the House of Representatives in 2007 and regained her position in 2019. After the vice president, she is second in order of succession to the presidency..

Returning to the exercise of power as far as participation in governance and jurisdiction *within* the Church, Canon Law says laity cannot exercise governance and jurisdiction. So, we have the prophets.

2.2. The Prophets

It is the right and duty of the laity to make their needs known to the hierarchy. (CIC, 212 §2). Such is either an exciting possibility or a lost cause. Every parish in every culture has suffered the imperious pastor, who listens to no one (especially women) and whose only path is his own. There is the pastor who refuses to meet with the older women in the parish – “Don’t waste my time with old women” – even though they are the backbone of ministry to the homebound. Then there is the pastor who smiles through pastoral council meetings and goes on with his own agenda. There are even COVID-denying pastors who preach that lockdowns and masks demonstrate lack of belief in the afterlife. Added to these, the bishops who ignore the laity are legion.

In large part, the People of God must depend on the prophets, the inspired speakers and writers rooted in the Word of God and who address the situation, whatever it is, directly and forcefully. But there are many false prophets, more than enough to confuse things.

The things prophets speak about are both internal and external to Church matters and affairs. Much like the political discussion of abortion, another example of an external matter would be Spain’s legalization of euthanasia and assisted suicide. In Spain today, anyone over the age of 18 may choose to end his or her life after claiming intolerable pain, despite the advances of palliative care. (CATHOLIC, 2021). Currently, euthanasia is legal in many other “developed” countries, including Belgium, Canada, Colombia, Luxembourg, Netherlands, and Western Australia. To these we might add the countries with legalized abortion or that allow transgender surgery for minor children. The prophet might say: “The life you save, may be your own.”

External matters include the environment and the horrific worldwide tragedies of migrants. Pope Francis’s masterful 2015 encyclical, *Laudato Si’* On

Care for Our Common Home, has yet to be fully received, and the causes of migrants are too often unheard, especially now as the world endures a pandemic of exponential proportions. Prophetic voices raise these concerns, and will continue to raise these concerns, as the earth and its people continue to suffer.

Internal Church matters are also subject to prophetic voices. The discussion about the place of women in the Church echoes the maltreatment of women in too many societies. Think of the women forced into menstruation huts in Nepal, the women subject to “dowry burning” or “kitchen fire” deaths in India, or the women now sterile because of childhood female genital mutilation in any one of a number of African or Eastern countries. None of them can look to Saint Peter’s Basilica and see a woman proclaiming the Gospel. Neither can the women in Australia, the United States, or the United Kingdom, or in any South American or European Union nation easily find a trained woman minister supported (that is, paid) by her parish or diocese. More than once, Pope Francis has called for a “more incisive” presence of women in the Church (EG, 103; MCELWEE, 2015), but aside from a few appointments within the Vatican and a few diocesan chancellors here or there, and some 2000 parish life coordinators around the world, including some women,⁷ what changes do women see?

Are women allowed to speak in church, or in the Church? (1 Corinthians 14:34).

The interesting point is that there is no legal way for a woman, a trained woman, to preach during the Mass about the pressing questions external or internal to the Church. So, online preaching *fora* have sprung up. Catholic Women Preach in the United States and Australian Women Preach will surely be joined by women preachers in other lands and languages as women are continually fenced off from diaconal altar service. The ordained deacon is permitted to preach the homily in a Mass he — and someday hopefully she —

⁷ Center for Applied Research in the Apostolate (CARA), “Frequently Requested Church Statistics” reports as of 2018 there were 1956 Canon 517.2 parishes in the world where a bishop has entrusted the pastoral care of the parish to a deacon or some other person. (CENTER FOR APPLIED RESEARCH IN THE APOSTOLATE, 2021).

participates in. Today, the usual way a woman can preach at a Mass is at a Mass for children. (HOLY SEE, 1997, 3).⁸

Beyond preaching, how does a woman gain access, how does a woman gain a hearing when she wants to fulfill her right and duty, as Canon Law rules, “to make known to the pastors of the Church their needs, especially spiritual ones, and their desires”? (CIC, 212 §2) Part of the answer depends on a given culture, and, unfortunately, on the culture of clericalism that infects every level of the clergy.

Recall the problems the writer Dorothy Day had with the Archdiocese of New York over her use of the term “The Catholic Worker,” not to mention over some of her comments about poverty, hunger, and war. The place of women in the Church is an ongoing discussion fraught with anger and misinformation.

If clericalism is the barrier, how can the people get prophetic messages across? How can the People of God leverage the message of prophets to get the hierarchy to pay attention and to act?

3. Discernment

The answer to the tension between the law as it has constrained the Church and the over-anxious prophets who perhaps want, metaphorically at least, to throw the law into the Tiber, is discernment. Consider the possibility that the law is the guardrail keeping the prophets from crashing over the cliff, or that law is the training wheels keeping the prophets on the straight and narrow. There are many so-called “false prophets” only too happy to take up your time. But there are true prophets, ones whose words may challenge structure or tradition, ones to seek to build up rather than tear down, and they are all around us. The problem is to seek out those who use the law as a guide and not as a weapon.

That is where the entire Church is called to discern, to discern what is possible and to discern between the good and the bad. And whether individually

⁸ Citing *Sacred Congregation for Divine Worship, Directory for Masses with Children Pueros Baptizatos* (1 Nov. 1973), n. 48: AAS 66 (1974), p. 44. See also CIC, 766; 767, §1.

or as part of a group, requires facts and understanding of the questions the prophets may be presenting, along with the facts and understandings of the law.

3.1. What is discernment?

So, what is discernment? It is clearly a term taken from the *Spiritual Exercises* of Saint Ignatius of Loyola, the founder of the Society of Jesus, or the Jesuits. In his *Exercises*, Ignatius presents a methodology for careful discernment. The process is delicate but not complex. A part of Ignatius's teaching involves the "good angel" and the "evil spirit," each of whom is capable of exciting the soul to acceptance of an idea or a way of proceeding. It is a mark of the evil spirit to give the appearance of the good angel. But, Ignatius warns, if a good person carefully follows the logic, the train of thought, if you will, of the evil spirit, the result is desolation. The telling point of failed ideas presented by the evil spirit is "it seemed like a good idea at the time."

Good people can discern bad ideas quickly. Ignatius says bad ideas are

‘violent, noisy, and disturbing...[like] a drop of water falling on a stone.’ Likewise, good people can immediately recognize the suggestions of the good angel, whose action is “delicate, gentle, delightful...[like] a drop of water penetrating a sponge.” (LOYOLA, 1951, Ex. 351).

Discernment, a wise bishop once wrote to me,

is not an organizational technique and not even a passing fashion, but it is an interior attitude rooted in an act of faith. Discernment is the method and at the same time the goal...it is based on the belief that God is at work in the history of the world, in the events of life, in the people we meet and [who] speak to us. This is why we are called to listen to what the Spirit suggests to us, with often unpredictable ways and directions.⁹

The point is discernment. The question is: Whom to obey? Whom to listen to?

4. Whom do you really obey?

The idea is to head in the right direction, to take advice and sift through the facts, and make a decision. Yet a cacophony of words, sounds, and pictures

⁹ Private correspondence, June 15, 2020.

floods our space, minds, and lives. Despite the restrictions of COVID, despite the isolation, there is little silence in our lives unless we take the chance to embrace it. Then we can, with quiet careful meditation, discern the answer to whatever question presents itself. The tension between the law and the prophets will always be there. The wish of both the Bible and the Church, that all God's people be prophets (Nm 11,29), is real and workable only if the speech is informed, and if the writing is respectful.

All people know not to get involved with physical violence, but there is genuine violence taking place every day on the internet, in chat rooms, in all manner of social media. For example, terms like “China Virus” have appeared on blogs written by Catholic priests. One disgraced priest even blogged online exorcisms, not only against the current pandemic, which he renamed the “Wuhan Devil,” but against the so-called “stolen U.S. presidential election.” (ZUHLSDORF, 2021a; 2021b). He seems to have stopped, but his number is legion. (LAMB, 2021). How has social media fomented the January 6, 2021 U.S. Capitol riot, racist violence, and more?

How has the strident, angry denigration of Pope Francis emanating from some quarters fed an undercurrent of law-wielding clerics, who seem to prefer Benedict XVI as pope, and even say so?

How has the frothy “anything goes” commentary—recently and always attacking restatements of Catholic doctrine—created a segment of the Church that is in and of itself schismatic? I think here of break-away movements like the worldwide Roman Catholic WomenPriests, one of the current century's mirrors to the Protestant Reformation.

What to do? Is it better to listen to the preacher who is concentrated on the negative: “Don't do this; don't do that”? Or, is it better to pay more attention when the preaching skirts the law: “Well, this is OK under these circumstances, because we need to be kind and accept everyone's opinion.” Which is the voice of the Spirit?

Conclusions

Recall the Book of Numbers. In it, the people are angry. They are distraught because they are in a foreign land with no comfort and little to eat besides unappetizing manna. They remember the easier times, when they had fish in Egypt, and cucumbers, melons, leeks, onions, and garlic. They had God's promise in their wanderings, but they did not have meat. Why, they asked, did they ever leave Egypt?

To find an answer to their plight, Moses gathered seventy elders. But, even among them, there was no prophecy, no answer. Then, the Bible tells us, the Spirit came to rest on two men — Eldad and Medad — who were not part of the original gathering. Someone complained about them, and Moses declared: “If only all the people of the Lord were prophets! If only the Lord would bestow his spirit on them!” (Nm 11,29).

Like the people in the Book of Numbers, the people of the Church today are wanderers. There are other prophets, but perhaps Catherine of Siena can point the way. Catherine, you will recall, spent no time on false prophets, on the voices that drew people away from the project of synodality and who either ignored or abused the law.

Catherine also knew she had to speak. She had to speak against the abuses of her day, although more than once she was called to silence. Her answer was simple: “We’ve had enough exhortations to be silent. Cry out with a thousand tongues,” she wrote, “the world is rotten because of silence.” (*Letter n. 16*).¹⁰

Our question was: Whom to obey: the law or the prophets? The problem is discerning which position is guided by the Spirit. It is not easy. No one ever said it would be.

¹⁰ Oimè, non più tacere! Gridate con cento migliaia di lingue. Veggo che, per tacere, il mondo è guasto, la Sposa di Cristo è impallidita, toglie il colore, perchè gli è succhiato il sangue da dosso, cioè che il sangue di Cristo, che è dato per grazia e non per debito.

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