

RESEARCH ARTICLE

The Roman Curia in Praedicate Evangelium: Toward Synodality and Co-responsibility

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Abstract

Since the early centuries of Christianity, the pope has had help in governing the universal church. Throughout history, the power of the Roman Curia has been centralized in a curia of cardinals—at the expense of diminishing the role of the college of bishops. The Second Vatican Council’s contributions to the episcopate and the role of the laity inspired, if only in part, the reforms of Paul V and John Paul II. *Praedicate Evangelium*, the apostolic constitution authored by Pope Francis, emphasizes the pastoral dimension of the curia, the participation of the bishops, and the co-responsibility of all the faithful. It recognizes, for the first time in church history, the possibility that lay people can, in some cases, direct dicasteries. This historic statement is, however, a starting point for reform. Synodality and decentralization may require further changes both in the Roman Curia and at the diocesan level. In addition, there is an urgent need for the institutions and individuals involved in the central governance of the Catholic Church to ensure respect for the law, transparency, accountability, and anything that could constitute an abuse of power.

Keywords: Roman Curia; primacy; synodality; co-responsibility; Second Vatican Council; faithful rights; laity; vicarious power; power of governance

Primacy and Central Government of the Catholic Church

The Roman Curia must be understood alongside the primacy of the Roman pontiff.¹ The specific function of the latter is to be the “perpetual and visible principle and foundation of unity both of the Bishops and of the multitude of the faithful.”² From the origins of Christianity, it was understood that the primatial power of the bishop of Rome should be oriented to charity and to the unity and good of all Christians.³ The expression “servant of

¹ The primacy is an institution of divine law that has a series of tasks inherent to its responsibility. Divine law is made up of those immutable and permanent aspects of Christ’s foundational will for the church. See Carlo Cardia, *Il governo della Chiesa* [The government of the church] (Bologna: Il Mulino, 2002), 84.

² Congregation for the Doctrine of the Faith, “The Primacy of the Successor of Peter in the Mystery of the Church,” *L’Osservatore Romano*, November 18, 1998, Weekly Edition in English, 5–6, https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19981031_primato-successore-pietro_en.html.

³ This is testified by the most ancient church fathers, such as Saint Irenaeus, bishop of Lyon, who, in his treatise *Adversus Haereses*, describes the church of Rome as “the very great, the very ancient, and universally known Church, founded and organized at Rome by the two most glorious apostles, Peter and Paul.” He continues: “For it is a matter of necessity that every Church should agree with this Church, on account of its pre-eminent authority; that

the servants of God,” which began to be used to describe the pope in the seventh century, is very significant in this approach.

The special ministry of the primacy includes various aspects, among which are the primacy of honor and, above all, the primacy of jurisdiction. The 1983 Code of Canon Law emphasizes the primacy of jurisdiction in canon 331: “The bishop of the Roman Church, in whom continues the office given by the Lord uniquely to Peter, the first of the Apostles, and to be transmitted to his successors, is the head of the college of bishops, the Vicar of Christ, and the pastor of the universal Church on earth. By virtue of his office, he possesses supreme, full, immediate, and universal ordinary power in the Church, which he can always exercise freely.”⁴ In addition, canon 333, 2 states: “In fulfilling the office of supreme pastor of the Church, the Roman Pontiff is always joined in communion with the other bishops and with the universal Church. He nevertheless has the right, according to the needs of the Church, to determine the manner, whether personal or collegial, of exercising this office.”⁵

The term *Roman curia* has not always had the same meaning. When the term was first used, it meant the court of the pope. Later, it referred to the Lateran Palace.⁶ Over time, it included all the people who surrounded the pope to assist him both in the government of the church and in the administration of the Papal States, and even in his private life. Today the Roman Curia is understood as all the central organs of the Holy See that assist the pope in the exercise of his supreme power for the government of the universal church. The progressive understanding of primacy,⁷ the historical circumstances, and the growing needs have been some of the determining factors in the evolution of the Roman Curia.

The bishop of Rome has always had people to assist him in the exercise of his primatial power.⁸ The increasingly specialized and complex organization has required that the size of the Roman Curia be adapted to the circumstances and needs of the moment. There has been a persistent tendency toward greater specialization and longer tenure of curial members to ensure consistency and effectiveness in their functions.

is, the faithful everywhere.” Irenaeus, *Against Heresies*, trans. Alexander Roberts and William H. Rambaut, in *The Ante-Nicene Fathers*, ed. A. Cleveland Coxe, vol. 1 (Buffalo: Christian Literature Publishing, 1885), III, 3, §§2–3. Consequently, the chair of the bishop of Rome represents not only his service to the Roman community but also his mission as guide of the entire people of God. For more references to the church fathers, see Benedict XVI, General audience (February 22, 2006), https://www.vatican.va/content/benedict-xvi/en/audiences/2006/documents/hf_ben-xvi_aud_20060222.html.

⁴ Code of Canon Law (1983), canon 331, Code of Canon Law: Latin–English Edition, accessed December 31, 2025, https://www.vatican.va/archive/cod-iuris-canonici/eng/documents/cic_lib2-cann330-367_en.html. Unless otherwise noted, quotations from and references to the 1983 code and individual canons are from this source.

⁵ Peter Erdő emphasizes that the exercise of the primacy has developed in harmony with episcopal collegiality, particularly after the Second Vatican Council. Although communion among the bishops is encouraged, the pope retains the capacity to act on his own, as evidenced by the promulgation of the codes of canon law and the apostolic constitution *Pastor Bonus*. Peter Erdő, “El principio del primado y su formulación técnica en el derecho canónico. El Canon 331 del Código de Derecho Canónico a la luz de sus fuentes” [The principle of primacy and its technical formulation in canon law. Canon 331 of the Code of Canon Law in the light of its sources], *Ius Canonicum* 52, no. 103 (2012): 5–12.

⁶ The first known use was in a document produced during the pontificate of Urban II (1088–1099). The term *Roman* was used, not because of the city in which it was located, but because the pope was the bishop of Rome: “Ubi Pontifex, ibi Roma.” For this reason, the papal curia continued to be called Roman even in times when the pope was not in Rome. The political instability of Italy in the thirteenth century forced the papal court to move to different places. See John W. O’Malley, *Historia de los papas* [History of the popes] (Santander: Sal Terrae, 2011), 153–82.

⁷ Sergio F. Aumenta and Roberto Interlandi, *La Curia Romana secondo “Praedicate Evangelium.” Tra storia e riforma* [The Roman Curia, according to *Praedicate Evangelium*. Between history and reform] (Rome: Edusc, 2023), 18.

⁸ Cardia, *Il governo della Chiesa*, 105.

Primacy and episcopacy are mutually dependent and cannot exclude each other.⁹ The College of Bishops is, by divine right, the holder of supreme power in the church. Just as the apostles acted in union with Peter, so they must continue to act *sub Petro* and *cum Petro*; therefore, the governing action of the successor of Peter must be placed in an *episcopal-collegial context*. The Second Vatican Council defined the juridical position of the papal primacy and that of the bishops at the head of their respective dioceses.¹⁰ It also established that the collegial exercise of the functions entrusted to bishops could take place in episcopal conferences, in the Synod of Bishops, or in meetings of the College of Cardinals. These are not institutions of divine right, nor do they have a formal relationship with the College of Bishops; the structure of the Roman Curia must therefore reflect this fundamental role of episcopal collegiality.

The ecclesiastical organization of the first and second Christian millennium fluctuated between an initial decentralization and the increasing centralization of power. In contrast, the impulse for episcopal autonomy and initiative of the Second Vatican Council marked the beginning of a new, slow process toward decentralization as some tasks previously exercised by the Roman Curia became the responsibility of diocesan bishops. The reason for this change was not merely organizational: it also reflected the uniqueness, efficacy, and capillarity of their governing action.

For centuries, the Roman Curia was primarily dedicated to collaborating in the exercise of the pope's power of government, together with the administration of the Papal States, until their loss in 1870.¹¹ Whereas its bureaucratic-administrative dimension prevailed for centuries, the pastoral and ministerial dimensions, however, were relegated and even forgotten. In the twentieth century, attention to human and spiritual care began to take on greater importance, as was evident during the two world wars and subsequent conflicts. In continuity with the Second Vatican Council, in *Praedicate Evangelium*, Pope Francis sought to mark yet another turning point.

Experience has shown that the competences of the curial bodies must be clearly defined to avoid overlapping functions, contradictory solutions, and rivalries. Hence, the importance of good coordination and balance among the various institutions of the curia. Historical circumstances have led to the predominance of some dicasteries over others. Sixtus V chose the Holy Office because of the need to counteract the influence of the Protestant Reformation; this position was maintained until 1908, when Pius X chose the secretariat of state as the heart of the Roman Curia. It is worth analyzing the value and effectiveness that the recognition of the priority of one dicastery over others can have today.

The universal character of the church was already reflected in the first councils, when the Roman pontiff invited bishops from different geographic regions to participate. Universality has manifested itself in the growing internationality of the Roman Curia. It has been fostered, especially since the Second Vatican Council, and has been strengthened by the different geographical origins of the last three popes (Poland, Germany, and Argentina).

The improvement of structures usually requires a *reform of mentalities and behaviors*. As the Roman Curia grew, so (inevitably) did abuses of power and unworthy behavior.¹² At various

⁹ Massimo Del Pozzo, "La 'complementarietà organica' tra primato e collegialità nella suprema autorità della Chiesa" [The "organic complementarity" between primacy and collegiality in the supreme authority of the church], *Ephemerides Iuris Canonici*, no. 57 (2017): 277–313.

¹⁰ Juan Ignacio Arrieta, "Primado, episcopado y comunión eclesial" [Primacy, episcopacy, and ecclesial communion], *Ius Canonium* 38, no. 75 (1998): 59–85, 72.

¹¹ In the first millennium, *ecclesial communion* was the fundamental aspect of the pope's task, while in the second millennium *jurisdiction* was emphasized, although both dimensions were always present. Ramiro Pellitero, "Papacy, Unity and Synodality," *Omnes*, June 29, 2023, <https://omnesmag.com/en/resources/papacy-unity-and-synodality/>.

¹² Robert Grosseteste, bishop of Lincoln, traveled in 1250 from England to Lyon, France, where Pope Innocent IV and his curia were staying, to protest corruption and abuses of power. See Norman Tanner, "La reforma de la curia romana a través de la historia" [The reform of the Roman Curia throughout history], *Concilium*, no. 353 (2013): 685–87.

times, many of the pope's collaborators sought power and honor. In the twelfth century, Saint Bernard of Clairvaux wrote *De Consideratione*,¹³ in which he harshly criticized the situation, which became more serious in the fifteenth century. In response, measures aimed at moral reform were adopted at various times to ensure that those involved in the governance of the church led exemplary lives.¹⁴ Pope Francis also considered the necessary conversion of curial persons.

The Roman Curia has been clericalized since the fourth century. With the freedom of the church, the clergy formed a privileged status. A hierarchical-monarchical church model was consolidated for centuries. The laity was rarely allowed to participate actively in the life of the church or to assume responsibilities, as laypersons were considered second-class members.¹⁵ Whereas some highly qualified lay people took part in the Council of Trent, the laity was not admitted to the First Vatican Council, not even as listeners. The markedly hierarchical vision of the church and the clerical mentality marked the first part of the twentieth century. It was the Second Vatican Council that affirmed that the specific participation of the laity in the mission of the church consists precisely in sanctifying secular realities, the temporal order, and the world. *Praedicate Evangelium* has made some innovations.

The Formation and Reform of the Roman Curia

The history of the Roman Curia is one of evolution and reforms, from its origins as advisory bodies assisting the pope to its institutionalization under Sixtus V in 1588; the centralization and modernization introduced by Pius X in 1908; the post-Vatican II adjustments aimed at internationalization and decentralization; and the promulgation of *Pastor Bonus* in 1988, which emphasized the vicarious nature of the curia's power and sought to harmonize hierarchical structure with broader participation, while addressing ongoing challenges of governance and organization.

The First Advisory Bodies

The first institution that arose to assist the pope was the *presbyterium*, composed of all the clergy of Rome.¹⁶ From the second century onward, the Roman synods and councils, composed of the bishops of the ecclesiastical province of Rome, were convened to discuss important doctrinal questions and to judge the cases of bishops referred to the Roman pontiff.¹⁷ Perhaps the statement that the church was, at that time, a society of equals may be surprising; in any case, priests and laity played different roles. Some lay people acted as

¹³ Bernard of Clairvaux, *Saint Bernard: On Consideration*, trans. George Lewis (Oxford: Clarendon Press, 1908), 44–55.

¹⁴ Ludovico Pastor, *Historia de los Papas* [History of the popes], vol. 3, *Pius II (1458–1464)* (Barcelona: Gustavo Gili, 1950), 262–64.

¹⁵ María García-Nieto Barón, *La presencia de la mujer en el gobierno de la Iglesia: perspectiva jurídica* [The presence of women in church governance: a juridical perspective] (Pamplona: Eunsa 2023), 79–94.

¹⁶ Later, as the number of members increased, only the major presbyters and the deacons in charge of the seven sectors of Rome attended the meetings. It was a permanent body, agile and simple, providing immediate help.

¹⁷ For more historical references, see Juan Sánchez, "La Curia Romana hasta Pablo VI. Las grandes líneas de su evolución histórica" [The Roman Curia until Paul VI. The main lines of its historical evolution], *Revista Española de Derecho Canónico* 32, no. 92 (1976): 439–58; José Orlandis, *El Pontificado Romano en la Historia* [The Roman pontificate in history] (Madrid: Ediciones Palabra), 1996.

judges,¹⁸ intervened in the selection of the clergy, and took part in the councils. The laity was defined by their specific richness as ordinary faithful.¹⁹

When the pope established his see in the Lateran Palace in the fourth century, a stable staff began to form.²⁰ In the sixth century, some priests and deacons from the main churches of Rome and other important sees began to be called *cardinals*. The pope sent them as legates to various parts of the Christian world. The Gregorian reform in the eleventh century led to a progressive centralization of papal power.²¹ The College of Cardinals was formally created in 1150 and included bishops from outside Rome who were better prepared than those who attended the councils.²²

As the church became more formally organized, the laity lost prominence. They were forbidden to teach in order to avoid doctrinal deviations and to collaborate with the hierarchy. At that time, Gratian considered the lay status a concession to human weakness.²³

From the thirteenth century onward, the Roman pontiff dealt with all the affairs of the church with the cardinals in a permanent advisory body known as the Consistory. Later, the pontiffs created commissions of expert cardinals to study some important matters. Each of these commissions was headed by a cardinal and became permanent; thus, a structure was formed that has been maintained to the present day.

Immensa Aeterni Dei (1588): The Creation of a Unitary Organization

The consistory had become an ineffective instrument due to the complexity of the matters, the slow pace at which it functioned, the expenses it required, and the rivalries that had arisen among its members. Therefore, it ended up being a ceremonial and consultative body for certain events, such as beatifications, canonizations, and the appointment of new cardinals.

Pope Sixtus V (1521–1590) wanted to institutionalize the system of permanent commissions. The formal configuration of the Roman Curia was approved in the apostolic constitution *Immensa aeterni Dei* in 1588. He established the congregations as specialized assemblies composed of cardinals with authority in a particular field, and he established tribunals,

¹⁸ Roberto Interlandi, *Potestà sacramentale e potestà di governo nel primo millennio. Esercizio di esse e loro distinzione* [Sacramental power and governmental power in the first millennium. Their exercise and their distinction] (Rome: Pontificia Università Gregoriana 2016), 84–87.

¹⁹ García-Nieto, *La presencia de la mujer en el gobierno de la Iglesia*, 84–85.

²⁰ Scribes, called *notarii apostolicae*, were appointed; the *vicedominus* oversaw the pope's domestic economy; the *archarius* oversaw the pontifical treasury and coffers. From the seventh century, the *sacellarius* was the steward who paid the salaries, wages, and alms. The *primicerius* signed pontifical documents together with the pope, and the *defensores* or advocates are also very ancient. The *nomenclator* or *adminiculator* took care of the poor, the widows, the orphans, the prisoners, and managed the petitions addressed to the pope. The seven palatine judges had an important role in the pope's court. Sánchez, "La Curia Romana hasta Pablo VI," 448; Niccolò Del Re, *La Curia romana: lineamenti storico-giuridici* [The Roman Curia: historical-legal features] (Vatican City: Libreria Editrice Vaticana, 1998).

²¹ Gregory VII (1073–1085) elaborated the doctrine of the primacy in the key text called *Dictatus papae*. Gregory VII, "Dictate of the Pope," in *Select Historical Documents of the Middle Ages*, ed. and trans. Ernest F. Henderson (London: George Bell and Sons, 1892), 366–67.

²² In 1179, the College of Cardinals became the pope's electoral college and an advisory body distinct from the episcopal college. From that time on, some permanent bodies began to develop, which later became congregations and tribunals. Sergio F. Aumenta and Roberto Interlandi, *La Curia Romana secondo "Praedicate Evangelium."* *Tra storia e riforma* [The Roman Curia, according to *Praedicate Evangelium*. Between history and reform] (Rome: Edusc, 2023), 26.

²³ In his famous decree, he selectively included a series of sources that established a secondary role for women and submission to men. In addition, after the moral crisis of the clergy from the tenth century onward, women were considered a danger, to be kept away. Carmen Peña, "Status jurídico de la mujer en el ordenamiento de la Iglesia" [Legal status of women in the church's legal system], *Revista Española de Derecho Canónico* 54, no. 143 (1997): 686–92.

offices, and secretariats.²⁴ Because some matters could be dealt with by several congregations, conflicts of competence arose, or contradictory solutions were given. Some congregations were overloaded with work, while others had no reason to exist. Administrative and judicial functions were often intertwined. Moreover, it was not always possible to separate temporal and spiritual duties. In the course of time, several congregations created their own tribunals, causing serious damage to the traditional tribunals, especially to the Tribunal of the Roman Rota, which almost disappeared.²⁵

The organization was maintained for three centuries, until the loss of the temporal power of the popes in 1870 rendered meaningless the sector of the curia that was responsible for the administration of the Papal States.

Sapienti Consilio (1908): Further Centralization and Delimitation of Competences

The First Vatican Council (1869–1870) addressed the question of papal primacy.²⁶ It was expected that the Roman Curia would be strengthened as a collaborating organ of the Roman pontiff. In the apostolic constitution *Sapienti Consilio*,²⁷ Pius X (1835–1914) wanted to further centralize and modernize the government of the church. The organization and responsibilities of each dicastery were defined.

The congregations were dedicated to administrative functions—except for the Holy Office—and the tribunals were dedicated exclusively to resolving judicial matters. The role of the Secretariat of State was strengthened, and the number of congregations was reduced. The Sacred Roman Rota, which had been suppressed in 1870, was reestablished, and the congregations were forbidden to resolve judicial matters.²⁸ The reform of Pius X was completed in canons 242–64 of the 1917 Code of Canon Law. The church was understood as a perfect hierarchical society in which the hierarchy had a relevant role. Ordained ministers were responsible for all the functions of leadership and government.

Regimini Ecclesiae Universae (1967): The Role of the Primacy, the Bishops, and Internationalization

Before the celebration of the Second Vatican Council (1962–1965), bishops from all over the world, universities, catholic institutes, and religious superior generals were asked to give their opinion on what topics should be discussed at the ecumenical assembly. Among the responses received, many referred to the Roman Curia or its organizations. Some themes

²⁴ Del Re, *La Curia Romana*, 28.

²⁵ Emmanuel Cabello, “San Pío X y la renovación de la vida cristiana” [Saint Pius X and the renewal of Christian life], *Anuario de Historia de la Iglesia*, no. 6 (2018): 45–60, 49.

²⁶ The dogmatic constitution *Pastor Aeternus* (1870) defined the supremacy and infallibility of the papal primacy; it has been considered the main obstacle to ecumenical union, particularly in relation to the Orthodox Church. Pius IX, *Pastor Aeternus* [Eternal shepherd] (July 18, 1870), https://www.vatican.va/archive/hist_councils/i-vatican-council/documents/vat-i_const_18700718_pastor-aeternus_it.html. See also Arrieta, “Primado, episcopado y comunión eclesial,” 59–85.

²⁷ Pius X, *Sapienti Consilio* [Apostolic constitution on the reform of the Roman Curia] (June 29, 1908), https://www.vatican.va/content/pius-x/la/apost_constitutions/documents/hf_p-x_apc_19080629_sapienti-consilio-index.html. See Giorgio Feliciani, “La riforma della Curia romana nella costituzione apostolica *Sapienti Consilio* del 1908 e nel Codice di diritto canonico del 1917” [The reform of the Roman Curia in the apostolic constitution *Sapienti Consilio* of 1908 and the Code of Canon Law of 1917], *Mélanges de l'École française de Rome* 116, no. 1 (2004): 173–87.

²⁸ This general principle, however, had several exceptions, for example, in the Congregation for Religious Affairs.

suggested were the universality and internationalization of the Roman Curia, the need for a coordinating body, excessive centralization, and the delay in dealing with matters.²⁹

The conciliar decree *Christus Dominus* (1965) expressly referred to the organization of the Roman Curia.³⁰ In response to the conciliar requests, Paul VI promulgated the apostolic constitution *Regimini Ecclesiae Universae* (1967). The text affirmed that the Roman Curia remained crucial; despite significant changes in its structure, powers, and procedures, it had not changed its original function: to cooperate with the pope in his universal mission.

An important step in the application of the principle of separation of powers was taken with the introduction of the second section in the Tribunal of the Apostolic Signatura. Previously, the decisions of the congregations could not be appealed unless there was a pontifical mandate. This was because such acts were understood to be issued in the name of the pope, the supreme authority, and were therefore final.³¹ With the possibility of judicial review of acts of administrative power, it seemed that the scope of the vicarious power of the Roman Curia's bodies had been clarified.³²

The greater internationalization of the curia, the participation of residential bishops as members of congregations, and the restoration or granting to bishops of many faculties reserved to the Holy See were encouraged. After the Second Vatican Council, a broad process of decentralization began in the church. Many competencies that had previously been exercised by the Roman Curia were recognized as competencies of the diocesan bishops. This process lasted for almost thirty years and was consolidated with the promulgation of the two codes, the Latin and the Eastern.³³

Regimini Ecclesiae Universae, in article 5, allowed for the possibility that some laypeople were consultors when the subject of a dicastery made this advisable. It was required that they be of marked virtue, learning and experience, with special reference to university professors. Article 3 established that the officials were to be chosen internationally from among those who were truly competent and had pastoral experience. Thus, while the vast majority were priests, lay officials were not excluded.

In addition, it was established for the first time that the appointment of prefects, officials, and consultors would be for a period of five years to counteract the tradition of life tenure.

All the congregations had juridical equality instead of the previous legislation that assigned a privileged position to the congregations of the Holy Office, the consistorial and of the Eastern churches. Their prefect was the pope. The decision to recognize the equality of the congregations was important to underline the internal responsibility of their members in their relationship with the other congregations and for the better defense of the

²⁹ José Luis Gutiérrez, "La Curia Romana ante la nueva codificación" [The Roman Curia in the face of the new codification], *Ius Canonicum* 23, no. 46 (1983): 527–46, 530.

³⁰ *Christus Dominus*, paragraph 8, recognized the specific faculties of the diocesan bishops which were not concessions of the supreme authority but originated in the particular churches. In paragraphs 9 and 10, it expressed the desire to carry out a reorganization to better define the responsibilities, the functioning of each dicastery, and the coordination between the organisms. It was requested that their composition be more international; it was also recommended that the members of the dicasteries should include diocesan bishops, and that the laity should be heard more. Second Vatican Council, *Christus Dominus* [Decree on the pastoral office of bishops in the church] (October 28, 1965), 8–10, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651028_christus-dominus_en.html.

³¹ Neither the Second Vatican Council, nor the Constitution *Regimini Ecclesiae Universae*, nor the Code of Canon Law explicitly states that the power of the dicasteries is vicarious. Antonio Viana, "La potestad de los Dicasterios de la Curia Romana" [The power of the dicasteries of the Roman Curia], *Ius Canonicum* 30, no. 59 (1990): 83–114, at 88.

³² José Antonio Souto-Paz, "La reforma de la Curia Romana" [The reform of the Roman Curia], *Ius Canonicum* 8, no. 16 (2018): 547–68.

³³ The 1983 Code of Canon Law granted the bishops broad powers to dispense universal law (canon 87) and established a system of express reservations to the authority of the Holy See. See Arrieta, "Primado, episcopado y comunión eclesial," 78.

individuals affected by their decisions because they could no longer take refuge in the principle *prima sedes a nemine iudicatur* (the First See is judged by no one).

Consideration was also given to the role that the pontificate can play in ecumenical dialogue to overcome or attenuate existing divisions among the Christian churches.

Regimini Ecclesiae Universae did not break with tradition, nor did it bring about a radical transformation of the Roman Curia. Rather, it rebalanced episcopal collegiality and the role of the papacy. It was promulgated shortly after the end of the council; moreover, the revision of the 1917 Code of Canon Law was underway. It was therefore difficult to carry out the profound reform that was needed. In fact, it was hoped that the revision would more clearly delimit the competencies of the central government and diocesan authorities. It was necessary to wait for a few more years.

Pastor Bonus (1988): The Vicarious Nature of the Roman Curia

Because the Code of Canon Law 1983 defined the Roman Curia very briefly in two canons (canons 360 and 361), its general regulation was referred to a specific law. In 1988, John Paul II promulgated the apostolic constitution *Pastor Bonus*, which adapted the structures and working methods of the curia to the new universal dimension of the church.³⁴ It emphasized both its hierarchical and clerical components, as well as the pastoral character of governmental action.³⁵

Pastor Bonus affirmed for the first time that the power of the Roman Curia was vicarious to the pope. This means that there is stable participation in direct collaboration with the capital office. The vicarious organ is distinct from the principal organ and acts under its responsibility, considering its relationship to dependence. Its acts should not be formally attributed to the Roman pontiff unless there is “specific approval”; therefore, they are subject to possible control.³⁶

The introduction of *Pastor Bonus* recognized that the participation of all types of faithful could make assistance to the pope more effective:

The Roman Curia calls into its service diocesan priests from all over the world, who by their sharing in the ministerial priesthood are closely united with the bishops, male religious, most of whom are priests, and female religious, all of whom in their various ways lead their lives according to the evangelical counsels, furthering the good of the Church, and bearing special witness for Christ before the world, and lay men and women who by virtue of baptism and confirmation are fulfilling their own apostolic role. By this coalition of many forces, all ranks within the Church join in the ministry of the Supreme Pontiff and more effectively help him by carrying out the pastoral work of the Roman Curia.³⁷

³⁴ Others consider that a “pastoral centralism was promoted, which is manifested in the expansion of curial activity in such a way that no pastoral issue of certain importance is left unattended.” David Seeber, “Retuschen und Gewichtsverschiebungen” [Retouching and weight shifts], *Herder Korrespondenz*, no. 42 (1988): 360–63, at 363 (my translation).

³⁵ Pontifical councils were created with the main functions of assistance, exhortation, and pastoral promotion. See Juan Ignacio Arrieta, “La reforma de la Curia Romana (comentario a la Constitución Apostólica *Pastor Bonus*)” [The reform of the Roman Curia (commentary on the apostolic constitution *Pastor Bonus*)], *Ius Canonicum* 29, no. 57 (1989): 185–204. See, on the same subject, Viana, “La potestad de los dicasterios de la Curia Romana” 93; Cardia, *Il governo della Chiesa*, 110–11.

³⁶ Viana, “La potestad de los dicasterios de la Curia,” 90.

³⁷ John Paul II, *Pastor Bonus* [Apostolic constitution on the reform of the Roman Curia] (June 28, 1988), Introduction, 9, https://www.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp-ii_apc_19880628_pastor-bonus.html.

In any case, the dicasteries were to be headed by a cardinal or an archbishop, who were the proper members of the congregations.³⁸ Nevertheless, it was admitted that some clerics and other Christian faithful could be attached to the assembly (articles 3 and 7). In addition, article 7 indicates that matters requiring the exercise of governmental power should be reserved for those with sacred orders. As a solution to harmonize these articles, the vote on certain questions was reserved for the cardinals and bishops who were members of the dicastery. The Plenary Assembly, which is the most important organ of the collegial *coetus*, was deprived of this competence,³⁹ thus limiting the principle of collegiality in voting on questions of great importance.

A few years earlier, during the drafting of the 1983 Code of Canon Law, some problems of interpretation of the conciliar texts arose regarding whether the laity could participate or exercise the power of governance or jurisdiction. The church has consistently affirmed the distinction between *the power of order* and *the power of jurisdiction*⁴⁰ throughout history. While the power of order is received through the sacrament of Holy Orders and exercised in the sacraments, the power of jurisdiction is transmitted and received through what is called a canonical mission. The *missio canonica*, which is the act of granting the power of jurisdiction, determines the scope of this power. The *power of order* cannot be lost; in contrast, the *power of jurisdiction* ends when one ceases to hold an office or when the canonical mission is revoked. However, the Second Vatican Council preferred to speak of *sacra potestas* in a global sense. It did not insist on the classic distinction, but neither did it completely overcome it.⁴¹ A doctrinal sector understood that the separation and distinction between the powers of order and jurisdiction was something medieval that had to be overcome. Therefore, according to this interpretation, all ecclesiastical power derived from Holy Orders and could not be separated from them.⁴²

³⁸ Fabio Blasigh, “Il ruolo dei Cardinali nella Costituzione Apostolica *Pastor Bonus* sulla Curia Romana” [The role of cardinals in the apostolic constitution *Pastor Bonus* on the Roman Curia], *Stato, Chiese e pluralismo confessionale*, no. 29 (2015): 1–22, at 19, https://d1vbbhqv6ow083.cloudfront.net/contributi/blasigh.2bis_il_ruolo.pdf.

³⁹ Antonio Viana, “El problema de la participación de los laicos en la potestad de régimen. Dos vías de solución” [The problem of lay participation in the power of governance. Two ways of solution], *Ius Canonicum* 54, no. 108 (2014): 603–30, at 621.

⁴⁰ From the earliest times of the church, some auxiliaries of the bishop who had only received the diaconate possessed powers and mission of government. Therefore, it is possible to speak of the existence of a power distinct from the power of order and not derived from it; this is the power of jurisdiction. The existence of the Roman primacy is also a clear recognition of the existence of an ecclesiastical power distinct from the power of order. See Alfonso Maria Stickler, “La bipartición de la potestad eclesiástica en su perspectiva histórica” [Bipartition of ecclesiastical authority in historical perspective], *Ius Canonicum* 15, no. 1 (1975): 45–76; Viana, “El problema de la participación de los laicos en la potestad de régimen,” 612.

⁴¹ On the empowerment of the laity to exercise jurisdiction during the codification, see Congregazione per la Dottrina della Fede, *Folium ex officio*, February 8, 1977 (“Dogmatically, the laity is excluded only from inherently hierarchical offices, whose capacity is linked to the reception of the sacrament of Holy Orders”) (my translation), quoted in Adriano Celeghin, “Origine e natura della potestà sacra. Posizioni postconciliari” [Origin and nature of sacred power. Postconciliar positions] (Brescia: Morcelliana, 1987), 451–52.

⁴² According to this interpretation, the canonical mission of the Roman pontiff would not add anything substantial to what had been sacramentally received but would specify the scope and the subjects over whom the power was to be exercised. If the power of order and jurisdiction are separated, the unity between the juridical and the spiritual element, between the visible and the invisible in the church, can be lost sight of; there can even be abusive situations of the exercise of episcopal jurisdiction without being based on sacred order. See Arturo Cattaneo, *Questioni fondamentali della canonistica nel pensiero di Klaus Mörsdorf* [Fundamental issues of canonistics in the thought of Klaus Mörsdorf] (Pamplona: Ediciones Universidad de Navarra, 1986), 129–226; Gerard Philips, *La Iglesia y su misterio en el Concilio Vaticano II. Historia, texto y comentario de la Constitución “Lumen gentium”* [The church and its mystery in the Second Vatican Council. History, text, and commentary of the constitution *Lumen gentium*] (Barcelona: Herder, 1968), 318.

Consequently, if it was understood that ecclesiastical power derived from the sacrament of Holy Orders, the participation of the laity in the power of jurisdiction was not possible, or at least had to be very limited. It is worth noting that the history of canon law provides much data that contradicts this view.⁴³

In this doctrinal debate, the 1983 Code of Canon Law took an eclectic position. Canon 129 proclaims that “those who have received sacred orders are qualified, according to the norm of the prescriptions of law, for the power of governance that exists in the Church by divine institution and is also called the power of jurisdiction.” On the other hand, canon 274, 1 proclaims that only clerics can receive offices, for the exercise of which the power of orders or the power of ecclesiastical governance is required. Finally, canon 1421, 2 states that the episcopal conference may authorize the appointment of some lay judges who, in case of necessity, may be selected to form a college. Harmonizing these three canons was not an easy task. Therefore, different interpretations were maintained in the years following the promulgation of the code. In other words, the inclusion of the laity in the dicasteries was still a very limited possibility,⁴⁴ even though the council had affirmed its co-responsibility in the church’s mission.

In short, in the system of the Roman Curia, the canonical status of those who worked in it was still significant. That requirement perhaps revealed a presumption of suitability, that is, that the clerics were better prepared than the laity.⁴⁵

There are justifications for such an approach. A cleric sent from his place of origin as an official may not have more scientific knowledge than the layperson, but he has gone through a long process of personal identification with the structure and goals of the ecclesiastical organization, which the layperson may lack. Moreover, he has made stable life choices precisely to serve that organization, choices that are not required of the non-ordained (although the lay faithful might take this path voluntarily). The ecclesiastical organization must provide the cleric with all the social benefits to which they are entitled; it must also provide for the ongoing formation of the clergy and protect them from secularism, whose influence can reach even the administration of the Roman Curia.⁴⁶

In the last years of Benedict XVI’s pontificate,⁴⁷ the need to review the functioning and coordination of some dicasteries was undisputed. There was an urgent need for economic review and financial transparency, as well as organizational simplification and optimization of resources.

⁴³ Viana, “El problema de la participación de los laicos en la potestad de régimen,” 608–10, quoting Orazio Condorelli, “La distinzione tra potestà di ordine e potestà di giurisdizione nella tradizione canonica bizantina” [The distinction between power of order and power of jurisdiction in the Byzantine canonical tradition], in *Rigore e curiosità. Scritti in memoria di Maria Cristina Folliero* [Rigor and curiosity. Writings in memory of Maria Cristina Folliero], ed. Giuseppe D’Angelo and Giuseppe Fauceglia, 2 vols. (Turin: Giappichelli, 2018), 1:241–71.

⁴⁴ “Finally, the fathers of the council think it would be most advantageous if these same departments would listen more attentively to laymen who are outstanding for their virtue, knowledge, and experience. In such a way they will have an appropriate share in Church affairs.” Second Vatican Council, Decree *Christus Dominus* [Decree on the pastoral office of bishops in the church] (October 28, 1965), 10.

⁴⁵ See Mirian M. Cortés-Diéguez, “Composición de la Curia Romana, participación de fieles laicos e idoneidad para el servicio” [Composition of the Roman Curia, participation of lay faithful and suitability for service], *Ius Canonicum* 63, no. 125 (2023): 99–140.

⁴⁶ Juan Ignacio Arrieta, “La Reforma de la Curia Romana [The reform of the Roman Curia],” in *Verdad, justicia y caridad: volumen conmemorativo del 50º aniversario de la Asociación Española de Canonistas* [Truth, justice, and charity: commemorative volume for the 50th anniversary of the Spanish Association of Canon Lawyers], ed. Lourdes Ruano Espina and Carmen Peña García (Madrid: Dykinson, 2019), 29–41.

⁴⁷ In 2012, the so-called Vatileaks case showed that there were serious organizational and coordination problems in the Roman Curia. Eugene Cullen Kennedy, “VatiLeaks: A Space and Information Age Effect,” *National Catholic Reporter*, July 13, 2012, <https://www.ncronline.org/blogs/bulletins-human-side/vatileaks-space-and-information-age-effect>.

Praedicate Evangelium (2022)⁴⁸

From the beginning of his pontificate, Pope Francis carried out several reforms in the Roman Curia, especially in economic and financial organizations.⁴⁹ Among these reforms, the apostolic constitution *Praedicate Evangelium*⁵⁰ was the result of a participatory process that lasted nine years.

The preamble of the *Praedicate Evangelium* recalls that the mission of the church is to proclaim the Gospel; therefore, the reform of the Roman Curia must be placed in the same context. Following the preamble are twelve guiding principles that could be summarized as follows: support for the pope and the bishops, promotion of co-responsibility, support for the particular churches and episcopal conferences, the vicarious nature of the Roman Curia, spirituality and integrity, professionalism, internal collaboration, and a reduction in the number of dicasteries. Importantly, the preamble emphasizes three other ideas: missionary service, synodality, and the need for authentic interior reform.

Missionary Service

The apostolic exhortation *Evangelii Gaudium*, which is the prophetic manifesto of Francis's pontificate, states in paragraph 33 that ministry in a missionary key seeks to abandon the complacent attitude of "We have always done it this way." He invited everyone to be bold and creative in this task of rethinking the objectives, structures, style, and methods in their respective community.⁵¹

"This new Apostolic Constitution seeks to attune its present-day activity more effectively to the path of evangelization that the Church, especially in our time, has taken" (preamble, number 3). In contrast to previous reforms, which primarily emphasized the *service function*, Pope Francis emphasizes the *missionary nature* of the church; for this reason, the curia must be exemplary and welcoming (article 5). This will require overcoming any temptation for bureaucratization.⁵²

It is even said that the organs of justice must have as their purpose "the Church's own mission: to proclaim and inaugurate the Kingdom of God and to work, through the order of justice applied with canonical equity, for the salvation of souls, which is always the supreme law in the Church" (article 189, section 1).

To ensure the good disposition of those who work in the Roman Curia, it is necessary that everyone, from the leaders to the officials, fulfill a series of conditions. *Praedicate Evangelium* mentions spiritual life, pastoral experience, sobriety, love for the poor, a spirit of communion and service, competence in the matters entrusted to them, and the ability to discern the signs of the times (preamble, 10). Careful attention must also be given to the process of selecting members, superiors, and officials (principles, number 7; article 14, section 4) to ensure that these conditions are met.

⁴⁸ Francis, Apostolic constitution *Praedicate Evangelium* [Apostolic constitution on the Roman Curia and its service to the church in the world] (March 19, 2022), https://www.vatican.va/content/francesco/en/apost_constitutions/documents/20220319-costituzione-ap-praedicate-evangelium.html. Subsequent citations to *Praedicate Evangelium* are made parenthetically in text.

⁴⁹ Antonio Viana, "Elementos de la futura reforma de la Curia Romana prevista por el papa Francisco" [Elements of the future reform of the Roman Curia envisaged by Pope Francis], *Ius Canonicum* 56, no. 111 (2016): 271–99.

⁵⁰ See Aumenta and Interlandi, *La Curia Romana secondo Praedicate Evangelium*, 55–56.

⁵¹ Francis, *Evangelii Gaudium* [Apostolic exhortation on the proclamation of the Gospel in today's world], (November 24, 2013) https://www.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html.

⁵² See Kurt Martens, "The Reform of the Roman Curia at the Service of the New Evangelization," *The Jurist: Studies in Church Law and Ministry* 75, no. 1 (2015): 197–228.

The orientation toward better service to the faithful should be manifested in matters such as the commitment to promptly acknowledge that files have been received, and the diligent examination of the matters that have been referred to it. It must be ensured that files affecting individuals and institutions are always processed in accordance with the law (article 23).

Synodality

Another new characteristic emphasized in *Praedicate Evangelium* is the “synodal” nature of the church (preamble, number 4). However, no definition of *synodality* is given. Pope Francis explained on another occasion that synodality is about walking together (laity, pastors, bishops of Rome). He admitted that it is an easy concept to express in words but difficult to put into practice. I dare to add that it is even more difficult to put such a concept into juridical terms. Thus, the normative specification is relatively generic and indeterminate.⁵³

Synodality encourages that decisions, especially the most important ones, be made in dialogue with the episcopate concerned (preamble number 12; article 42). *Praedicate Evangelium* insists that the curia is an entity at the service of the successor of Peter and at the service of the episcopate, in constant dialogue with the needs of the churches throughout the world.⁵⁴ The apostolic constitution also requires the dicasteries to support and collaborate with the episcopal bodies while respecting the proper authority of the bishops.⁵⁵ It is expressly stated that the Roman Curia “does not interpose itself between the Roman Pontiff and the Bishops, but places itself at the service of both, in a manner appropriate to the nature of each” (preamble, number 8; principles 1, 3, 4).

But how to coordinate the principles of collegiality, synodality and subsidiarity that inspired the reform? The universal collegiality of the episcopate is a fundamental feature of the church, of divine right. It is due to the specific relationship of the successor of Saint Peter with the successor of the college of the apostles. Therefore, it cannot be replaced or deactivated by synodality, however attractive it may be. Likewise, it is striking that article 33 of *Praedicate Evangelium* refers to the General Secretariat of the Synod, even though it is not an organ of the Roman Curia. Moreover, the expression “of the bishops” disappears. In fact, a group of non-bishops participated in the sixteenth Ordinary General Assembly of the Synod of Bishops in October 2023.

In a broad sense, I include within synodality the collegial, inclusive, and collaborative style that the administrative activity should have. Several articles promote the internationality of the members of the Roman Curia. Article 14, 3 states the desirability of having officials from different parts of the world so that the Roman Curia reflects the universality of the church. In addition, article 201 makes a similar recommendation in relation to the judges of the Roman Rota. This promotion of internationality, in my opinion, not only reflects the universality of the Catholic Church, but is also one more way of being able to count on the voice and participation of many within the framework of the great diversity among the faithful.

Praedicate Evangelium addresses another noteworthy aspect of synodality within the curia: collaboration or convergence within and among dicasteries (article 9). In fact, coordination among the dicastery has been pointed out as one of the weak points of the Roman Curia. Mutual listening should be encouraged (preamble, number 4) to develop dialogue and discussion that will help strengthen internal unity. For this reason, interdicasterial meetings and intradicasterial relations are recommended (articles 25, 28, 29). It is not specified in

⁵³ Massimo Del Pozzo, “La Curia romana y el principio de subsidiariedad” [The Roman Curia and the principle of subsidiarity], *Ius Canonicum* 63, no. 126 (2023): 47–97, at 76.

⁵⁴ See Antonino Piccione, “From Sixtus V to Francis, the Roman Curia in its Key Passages,” *Omnes*, April 15, 2023, <https://omnesmag.com/en/newsroom/de-sixto-v-a-francisco-la-curia-romana-in-his-key-passages/>.

⁵⁵ See Arrieta, “Primado, episcopado y comunión eclesial,” 66.

which situations such meetings should be convened or how often they should be held. Therefore, the decision will depend solely on the will of those in charge of the curial institutions.

In this aspect, too, no provision has been made for monitoring and control so that there can be constant improvement in the work of the curia.

Restructuring and Decentralization

“It has been necessary to reduce the number of the Dicasteries, unifying those whose purpose was very similar or complementary, and streamlining their functions with the aim of avoiding an overlap of competencies and improving the effectiveness of their work” (principles, number 11). In addition, principle 2 encourages the carrying out of “sound decentralization,” leaving to the competence of bishops the authority to resolve those issues with which they are familiar and that do not affect the church’s unity of doctrine, discipline, and communion (principles, number 2). However, despite these calls, the governance has undergone minimal alterations and the volume of tasks that correspond to the Holy See has not decreased substantially.⁵⁶ The number of ministries, now uniformly called *dicasteries*, was reduced only from twenty-one to sixteen.

The distinction between the congregations and the pontifical councils, which *Pastor Bonus* articulated around the jurisdictional authority of the congregations and the primarily pastoral character of the pontifical councils, disappears in *Praedicate Evangelium*.⁵⁷ The new constitution creates the term *curial institution*, which includes the Secretariat of State, the organisms, and the dicasteries. In addition, the Roman Curia is helped by the following offices: Prefecture of the Pontifical Household, the Office for Liturgical Celebrations of the Supreme Pontiff, and the Camerlengo of the Holy Roman Church. The Secretariat of State continues to have a unique role (article 12). There are other institutes that do not belong to the Roman Curia.⁵⁸

The new terminology should help to focus the activity of the organizational units *on the functions* assigned to them and to cushion some old rivalries. The service to the faithful should be what counts, *not the dignity* of the person who presides, the endowment of human and material resources, or the preponderance of functions. In fact, the juridical equality of the different entities is reaffirmed, as it was in *Pastor Bonus* (article 12, number 1).

⁵⁶ The apostolic letter *Competentias quasdam decernere* did not entail a relevant change in general ecclesiastical discipline. Francis, *Competentias quasdam decernere* [Apostolic letter introducing changes to some norms of the code of canon law and the code of canons of the Eastern churches] (February 11, 2022), https://www.vatican.va/content/francesco/en/motu_proprio/documents/20220211-motu-proprio-assegnare-alcune-competenze.html. The problem of decentralization is not new: see Ignacio Gordon, “De Curia Romana renovata. Renovatio desiderata et renovatio facta conferuntur” [On the Roman Curia renewed. Comparing actual renewal and desired renewal], *Periodica*, no. 58 (1969): 65–66 (reproducing the requested update and the performed update). Gordon recounts that an anonymous *Relatio* of 1964, distributed to the council fathers, already spoke of the desire for decentralization, internationalization, and reduction of dicasteries in the Roman Curia.

⁵⁷ See Julián Herranz, “El Pontificio Consejo para la Interpretación de los Textos Legislativos” [The Pontifical Council for Legislative Texts], *Ius Canonicum* 30, no. 59 (1990): 115–32, at 115.

⁵⁸ The Corps of Advocates of the Holy See who can act in apostolic tribunals, the Vatican Archive and the Vatican Library, the Fabric of St. Peter, the Pontifical Commission for Sacred Archaeology, the Pontifical Academies of Sciences, Social Sciences, and Life, the Agency for the Evaluation and Promotion of the Quality of Universities and Ecclesiastical Faculties, and the Authority for Financial Supervision and Information. *Praedicate Evangelium* also cites the Office of Labor of the Apostolic See, competent for all that concerns the labor affairs of the personnel in the service of the Roman Curia. *Praedicate Evangelium*, articles 241–49.

This potential for focus can be seen in the main novelties regarding the dicasteries and the volume of functions assigned to them.

A new dicastery, the Service of Charity, also called the Office of the Papal Almoner, assists the needy on behalf of the pope. Although it has no real impact on the government, it shows the essential and indispensable character of this task.

The priority of the Dicastery for Evangelization is established in the enumeration of the dicasteries; it is symbolically placed before the Dicastery for the Doctrine of the Faith to emphasize the importance of the missionary spirit and is presided over personally by the pope (article 54). When Benedict XV created the Congregation for the Oriental [Eastern] Churches in 1917, he stipulated that he would be the prefect. He wanted the solicitude of the Apostolic See for Eastern Catholics to be made clear and to show that the pope's love was equal for Latin and Eastern Catholics.⁵⁹ It is not a novelty, but the pope's presidency of the Dicastery for Evangelization has a great new significance because it explains the reason for the law of the Roman Curia: the evangelization of a church "which 'goes forth.'"⁶⁰

It is likely that the decision will have more symbolic than real weight so that it will not excessively condition the ordinary work of the pontiff. In any case, it would be inadvisable for the pope to intervene in the ordinary activity of the curia. His administrative activity is not subject to control or supervision, as is the case with all acts of the curia that have been specifically approved by him. Regular formal or informal intervention by the Roman pontiff in the ordinary work of the Dicastery for Evangelization or elsewhere would limit the possibilities of defense for the faithful or juridical people who might consider themselves harmed by a decision.

In the reforms, some new functions have been recognized for the new Dicastery for Legislative Texts that it was already carrying out in practice. It is responsible for clarifications in the form of declarations and explanatory notes and for the resolution of *dubia iuris* that do not require an authentic interpretation (article 177). It seems important to me to emphasize that curial institutions do not have legislative power. Therefore, a declaration or note of the dicastery in case of doubt of law will not have binding value. The dicastery may also propose to the pope ways to fill legal gaps or to update existing legislation (article 178). It is charged with the promotion of the study of ecclesiastical law as well as the supervision of its correct application, denouncing the possible presence of illegitimate practices (article 182, numbers 1, 2). That is something more typical of universities or of a pontifical academy. This novelty contrasts with the scant attention that has been devoted to canon law in the Roman Curia in recent times.⁶¹

The inclusion of the Pontifical Commission for the Protection of Minors within the Dicastery for the Doctrine of the Faith shows that particular attention is to be given to this issue (article 78, number 1). Its role is to develop appropriate strategies and procedures for an adequate response to cases of sexual abuse "by clergy and members of Institutes of Consecrated Life and Societies of Apostolic Life." The commission has a delegated president who autonomously carries out tasks distinct from those of the dicastery; it also has a secretary and various officials (article 78, number 2). It must have among its members clerics, members of institutes of consecrated life and societies of apostolic life, and lay

⁵⁹ It was also established that the pontiff would preside over the Congregation of the Holy Office and the Consistorial Congregation.

⁶⁰ Francis, *Evangelii Gaudium*, number 24.

⁶¹ Geraldina Boni, *La recente attività normativa ecclesiale: finis terrae per lo ius canonicum? Per una valorizzazione del ruolo del Pontificio Consiglio per i testi legislativi e della scienza giuridica nella Chiesa* [Recent ecclesial normative activity: finis terrae for ius canonicum? [For an appreciation of the role of the Pontifical Council for Legislative Texts and of Legal Science in the Church] (Modena: Mucchi Editore, 2021), 279.

people of various nationalities. Given the characteristics of the commission, it seems appropriate that it should have a significant participation of lay people.

Another novelty is the provision of article 105, number 2, which stipulates that it is up to the *Dicastery for Bishops*, in agreement with the episcopal conferences, to determine the criteria for the election of candidates to the episcopate, according to the various cultural requirements. The requirement of the candidate's solid faith, required by the Code of Canon Law (canon 378, 1), is omitted. In my opinion, no one should be promoted to the episcopate who does not manifest a solid faith; this is more important than any local cultural requirement. The new wording of the cited article indicates that the dicastery receives information about candidates through the pontifical legates, but also immediately from the presidency of the respective episcopal conference, from the metropolitan, and from members of the People of God of the dioceses concerned. This new formulation requires some reform of the norm foreseen in the Code of Canon Law for the appointment of bishops (canon 377, 3).⁶²

The list of functions of the Dicastery for the Laity is very broad and perhaps unmanageable. It is responsible for evaluating the apostolate of the lay faithful, the pastoral care of the young, the elderly, the family, and its mission, as well as the promotion and protection of life (article 128). Other challenges listed are particularly complex, such as that of promoting *protagonist role models for women in the Church* (article 131); there are objectives that, because of their doctrinal relevance, fall within the competence of various dicasteries due to their theological and juridical repercussions. For example, article 133 refers to the evaluation and approval of proposals from episcopal conferences to institute new ecclesiastical ministries and offices that can be entrusted to the laity according to the needs of the particular churches. Finally, other competencies are excessively technical and seem to exceed what corresponds to the nature of a dicastery. For instance, article 139 states that it shall study "the principal problems of biomedicine and law concerning human life." In my opinion, a realistic work plan and adequate procedures should be envisaged.

Regarding the *economic bodies*, the *Praedicate Evangelium* has created new entities to complete the long process of reform that began during the pontificate of Benedict XVI. In articles 205–27, the composition, and competencies of these six bodies are delimited: the Council for Economic Affairs; the Secretariat for Economic Affairs; the Administration of the Patrimony of the Apostolic See; the Office of the Auditor General; the Commission for Confidential Matters; and the Committee for Investments.⁶³

The *institutions of justice*—the Apostolic Penitentiary, the Supreme Tribunal of the Apostolic Signatura, and the Tribunal of the Roman Rota—have not undergone relevant changes.

Vicarious Power of Jurisdiction

The preamble of the *Praedicate Evangelium* emphasizes that the pope, bishops, and other ordained ministers are not the only evangelizers in the church: lay persons (men and women alike) can participate in the functions of governance and responsibility. Any member of the faithful can preside over a dicastery or curial body, given its particular competence, governing power, and function because every institution of the Roman Curia acts by virtue of the power entrusted to it by the pope (preamble, number 10).

⁶² Antonio Viana, "Novedades de la Praedicate Evangelium en cuanto a la terminología, distribución de competencias y actividad administrativa" [News from *Praedicate Evangelium* regarding terminology, distribution of powers and administrative activity], *Ius Canonicum* 63, no. 126 (2023): 517–39, at 526.

⁶³ Pilar Solá-Granell, "Los organismos económicos tras la reforma de la Curia Romana" [The economic bodies after the reform of the Roman Curia], *Ius Canonicum* 63, no. 126 (2023): 595–617.

The *Praedicate Evangelium* clarifies that a prefect or secretary of a dicastery who is a bishop does not have authority as such but exercises the authority conferred on him by the bishop of Rome. In the sphere of the Roman Curia, the power is the same whether it is received by a bishop, a priest, a religious, a layperson.⁶⁴ This is a logical consequence of the equality conferred by baptism on all the faithful in dignity and action. Therefore, the requirement of *Pastor Bonus* that matters requiring the power of government to be reserved to those who have been ordained, is abrogated.⁶⁵ The previous norms affirmed vicarious power but did not permit the laity to exercise the power of jurisdiction.⁶⁶

Praedicate Evangelium therefore gives a broad interpretation of canon 129, 2 of the Code of Canon Law. Those who assist the pope and the diocesan bishops in the area of universal government participate in the power of the pope in a stable manner according to law. The restrictive interpretation of canon 129, 1 was motivated by reasons of expediency, not because there was an incapacity. These were historical, not legal, considerations.⁶⁷

In any case, the *Praedicate Evangelium* still maintains some limits to the participation of the laity, as I discuss below.

Suitability: Spiritual Qualities and Professionalism

Benedict XVI, following the teachings of Saint Bonaventure, spoke of the reform of the church as an *ablatis*, the elimination of accidental and extraneous elements that obscure its *nobilis forma* or essence. He therefore stressed that the true reform did not consist in erecting new facades, but in a greater sanctity of life and in a lessening of bureaucracy and politics, in the pejorative sense of the expression.⁶⁸

Praedicate Evangelium specifies the spiritual characteristics and virtues that should distinguish everyone, from leaders to officials. The pastoral and missionary nature of work in the curia implies that everyone should strive to lead an exemplary life with dedication, piety, welcome to all and a spirit of service (article 5). Members of Institutes of Consecrated Life and Societies of Apostolic Life, as well as lay people, are encouraged to carry out some form of pastoral collaboration to the extent of their abilities and possibilities (article 6).

The pastoral dimension of curial work and the good of those concerned implies putting in place means to avoid “careerism.”⁶⁹ The aim is to prevent priests and consecrated people from becoming definitively detached from their dioceses or institutions of origin. For this reason, appointments are made for five years, although they are renewable (article 17, number 1). The temporariness of the officials at lower levels is greater since they can only continue for another five-year period. This limitation does not apply to higher levels and only affects clerics or members of institutes of consecrated life or societies of apostolic life. It does not, therefore, affect the lay faithful (article 17, number 4). Temporariness can be an obstacle to the promotion of professional growth and ongoing formation recommended by principle 7 and article 7. Even if there is the possibility of a longer term of office, instability can lead to a decrease in interest in formation and commitment. In addition,

⁶⁴ See the sections of *Praedicate Evangelium* titled “Principles and Criteria for the Service of the Roman Curia,” and “The Vicarious Nature of the Roman Curia.”

⁶⁵ John Paul II, *Pastor Bonus*, 7.

⁶⁶ Viana, “El problema de la participación de los laicos en la potestad de regimen,” 628.

⁶⁷ Piero Antonio Bonnet, “La natura del potere nella Curia Romana” [The nature of power in the Roman Curia], in *La Curia Romana nella Costituzione Apostolica Pastor Bonus*, ed. Piero Antonio Bonnet and Carlo Gullo (Vatican City: Libreria Editrice Vaticana, 1990), 113–14.

⁶⁸ Joseph Ratzinger, *Ser cristiano en la era neopagana* [Being a Christian in the neo-pagan era] (Madrid: Ediciones Encuentro, 1994), 18–22.

⁶⁹ Aumenta and Interlandi, *La Curia Romana secondo Praedicate Evangelium*, 704–07.

institutions will have to train new staff on an ongoing basis, which will make it difficult to create stable teams.

On the other hand, for a person to be considered suitable, a previous professional qualification and an adequate number of years of experience in pastoral activities are required. To carry out an effective ministry, *Praedicate Evangelium* insists on the need for greater professional formation of those who work in the Roman Curia (*iura novit curia*).⁷⁰ As for the officials, it demands that the selection process be carried out according to objective criteria and transparency (article 14, numbers 3, 4). However, the text does not specify how it is to be ensured that they are chosen based on equality, merit, and ability.

The Laity

Pope Francis affirmed in the apostolic exhortation *Evangelii Gaudium* that it was necessary to involve the laity in general in the mission of the church, even in positions of responsibility.⁷¹ He also stressed that there should be a greater presence of women in the church, including in the places where important decisions are made.⁷²

In 2015, a significant step was taken when the *motu proprio Mitis Iudex* reformed canon 1673, 3. The change allowed for two lay people to sit on ecclesiastical tribunals that are made up of three judges; however, the president was to remain a cleric. As Carmen Peña García points out, this is a realistic measure that respects the responsibility of the laity in the life and work of the church. Moreover, it is consistent with the growing presence of lay canonists in universities and in legal practice.⁷³

Praedicate Evangelium affirms the desirability of all types of faithful—priests, consecrated persons, deacons, and laity—serving in the curia (preamble, number 10).⁷⁴ The reasons for this change are the catholicity of the church and the co-responsibility of the lay faithful in the mission of the People of God. It is not a concession of extraordinary or merely auxiliary functions.⁷⁵ On the contrary, their presence, and participation are essential because they cooperate for the good of the whole church; their specific preparation can enhance the professionalism of the Roman Curia (preamble, number 10).

Furthermore, principle 5 declares that every curial institution fulfills its mission by virtue of the power it has received from the Roman pontiff, in whose name it acts with vicarious power. For this reason, any layperson⁷⁶ can preside over a dicastery or an organism, depending on the competence, the power of government and the function of those organisms.⁷⁷

⁷⁰ The capacities recognized to all the faithful in the Code of Canon Law are the aptitude for unipersonal or collegial ecclesiastical offices (canon 228) and to collaborate, also in stable tasks proper to the *munera docendi* (canons 229.3; 230.3; 766), *sanctificandi* (canons 230; 517.2; 1112) and *regendi* (canons 129.2; 1421.2). See also canon 274.1, already discussed.

⁷¹ Francis, *Evangelii Gaudium*, numbers 102–03.

⁷² Francis, *Evangelii Gaudium*, number 104.

⁷³ Carmen Peña García, “La reforma de los procesos canónicos de nulidad matrimonial: el Motu Proprio Mitis Iudex Dominus Iesus” [The reform of canonical marriage nullity proceedings: the motu proprio Mitis Iudex Dominus Iesus], *Estudios Eclesiásticos* 90, no. 335 (2015): 643–44.

⁷⁴ See also Francis, Presentation of the Christmas Greetings to the Roman Curia (December 22, 2016), https://www.vatican.va/content/francesco/en/speeches/2016/december/documents/papa-francesco_20161222_curia-romana.html.

⁷⁵ Ilaria Zuanazzi, “La corresponsabilità dei fedeli laici nel governo ecclesiale” [The co-responsibility of the lay faithful in ecclesial governance], in *Il governo nel servizio della comunione ecclesiale*, ed. Gruppo Italiano Docenti di Diritto Canonico (Milan: Glossa, 2017), 101–48, at 143.

⁷⁶ See Arturo Cattaneo, *Fondamenti ecclesiologici del diritto canonico* [Ecclesiological foundations of canon law] (Venice: Marcianum Press, 2011), 193–203.

⁷⁷ It seems to exclude the offices of the Roman Curia, which are also curial institutions. These are the Prefecture of the Pontifical Household, the Office for Liturgical Celebrations of the Supreme Pontiff, and the Camerlengo of the Holy Roman Church. See *Praedicate Evangelium*, articles 228–37.

It is important to keep in mind that *lay* in *Praedicate Evangelium* means the faithful who has not received the sacrament of Holy Orders in any of its degrees; therefore, it also includes members of institutes of consecrated life who have not been ordained.⁷⁸ It is certainly an incomplete and rather negative concept of the lay faithful, but this is the meaning of the word in the document.⁷⁹ In any case, the specific lifestyle of the laity is to live in the midst of the world exercising their apostolate through their work, family life, transformation, and participation in social structures. The laity, according to their state in life, are called by God to exercise their apostolate in the world as leaven, with the ardor of the spirit of Christ; therefore, it will be usual for them to exercise their co-responsibility precisely by living their own lay vocation.⁸⁰

The prefect must be a cardinal or archbishop only in two cases: the Council for Economic Affairs (article 206, number 2) and the Tribunal of the Apostolic Signatura (article 195, number 1). In all other cases, the pope may appoint any member of the faithful; there may be reasons of convenience that make the appointment of a layperson advisable; this would be the case, for example, in the Dicastery for the Laity, Family, and Life or the Dicastery for Communication; on the other hand, it would not be a good choice in the Dicastery for Bishops, that of the clergy or that of the Eastern churches. Access to the laity does not mean denying the appropriateness of reserving certain functions to clerics because of the subject or pastoral competencies.

Consequently, it is surprising that *Praedicate Evangelium* continues to speak of the cardinals as “primary members.” Article 15 says: “The members of curial institutions are appointed from among the cardinals living in Rome or outside the city, to whom are added some Bishops, especially diocesan or eparchial ones, insofar as they have expertise in the particular matters involved. Depending on the nature of the dicastery, priests, deacons, those in Institutes of Consecrated Life and Societies of Apostolic Life and lay faithful may also be appointed members.” In other words, the Roman Curia continues to be understood as a curia of cardinals with a decisive position in the dicasteries.

It is likely that the new General Regulations of the Roman Curia will establish some specific requirements to guarantee the suitability of the laity for the mission⁸¹ that goes beyond mere professional service. Suitability for service in the Roman Curia must be checked not only at the beginning of service, but also throughout it. In the case of laypersons, particular care must be taken to ensure that they have sufficient ecclesial formation for the service they are to render.⁸²

⁷⁸ Following Javier Hervada, nineteenth-century doctrine conceives of the church as a *societas inaequalis* made up of estates; the clergy assume the exercise of ecclesiastical powers. In this context, the layperson is a juridical-social concept, based on divine law, which includes the condition of the faithful or Christian, together with the characteristic of not being a cleric. This concept of a layperson as non-clerical is the prevailing one. However, there is another restricted notion that considers the layperson as the secular Christian and the religious as assimilated to the clergy, although not confused with it. In the theory of the bipartition (clergy-laity) the word *layperson* has a very broad meaning, which is equivalent to every man who can be the object of the powers of the church. Javier Hervada, *Tres estudios sobre el uso del término laico*. [Three studies on the use of the term lay], vol. 1 (Pamplona: Ediciones Universidad de Navarra, 1973), 202–03.

⁷⁹ Viana, “El problema de la participación de los laicos en la potestad de régimen,” 604.

⁸⁰ Second Vatican Council, *Apostolicam Actuositatem* [Decree on the apostolate of the laity] (November 18, 1965), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651118_apostolicam-actuositatem_en.html.

⁸¹ The General Regulations of the Roman Curia are currently available in Italian only: *Secretaria Status* [Secretary of State], *Regolamento Generale della Curia Romana, Apostolicae Sedis*, no. 91 (1999): 629–99, articles 31–40, https://www.vatican.va/roman_curia/labour_office/docs/documents/ulsa_b19_7_it.html.

⁸² On the argument of opening the curia to the laity and the necessary professionalism, see Massimo Del Pozzo, “Una lettura strutturale di *Praedicate Evangelium*” [A structural reading of *Praedicate Evangelium*], *Stato, Chiese e pluralismo confessionale*, no. 13 (2022): 47–94, 79, <https://statoechiese.it/autori/delpozzo-massimo#>.

Has the *Praedicate Evangelium* brought about a real change by including lay people in positions of responsibility in the Roman Curia?⁸³

For the moment, it seems not. The presidency of dicasteries or other bodies is assigned mainly to cardinals. Only the prefect of the Dicastery for Communication and the prefect of the Secretariat for the Economy (article 212) are lay people. The first has a highly technical profile. The latter functions as the Papal Secretariat, which controls and supervises the administrative, economic, and financial affairs of the curial institutions, offices and other institutions linked to the Holy See; it also controls the Saint Peter's Pence and other papal funds.

The secretary of the Dicastery for the Laity, the secretary of the Dicastery for Integral Human Development, and the secretary of the Administration of the Patrimony of the Apostolic See are laypersons. And there may also be lay officials (article 14) and consultors appointed for their knowledge, proven ability, and prudence (articles 16; 17, number 1; 25, number 2; 27).

But there are certain ways of working that in practice prevent the laity (and other members of the curia) from playing an active role. The regular meetings of the curial institutions are the Congress, the Ordinary, and the Plenary sessions (preamble, number 9).⁸⁴ The plenary sessions are infrequent, and they do not influence the daily work of the government. There is a danger, both in the Congress and in the usual handling of ordinary matters, that the leader, who is usually a cardinal, becomes too influential, with a practically exclusive role in decision-making, to the point of neglecting the principles of consultation and collegiality.⁸⁵ In practice, therefore, the participation of the laity in the collegial decisions of the dicasteries of the Roman Curia can still depend on many factors.

There are certain curial institutions in which a greater presence of the laity would be desirable. For example, the broadening of the competencies of the Dicastery for Legislative Texts could make it advisable for a more significant number of lay jurists to play a prominent role, even as presidents.

Praedicate Evangelium does not pronounce on the composition of the Dicastery for the Laity, the Family, and Life. Precisely in this dicastery it would be appropriate to promote a significant participation of lay faithful who are specialists in certain fields of knowledge (articles 128–41). At present, in addition to the secretary and two undersecretaries, several members and consultors are lay people.

It also seems appropriate that the Dicastery for Integral Human Development should include lay people in its structure. *Praedicate Evangelium* does not specify its potential members. At present, the prefect is a cardinal, a nun holds the position of secretary, and there are two undersecretaries who are priests.⁸⁶ This dicastery is dedicated to especially secular issues such as sustainability, migration, respect for human rights, promotion of

⁸³ Mirian-M. Cortés-Diéguez, "Composición de la Curia Romana, participación de fieles laicos e idoneidad para el servicio" [Composition of the Roman Curia, participation of lay faithful and suitability for service], *Ius Canonicum* 63, no. 125 (2023): 99–140, at 123.

⁸⁴ The Congress is composed of the prefect, the secretary, the undersecretary, and all or some of the officials (article 25). The members of the dicastery who live in the Urbe are summoned to Ordinary sessions to deal with regular or frequent business (article 26). All the members of the dicastery are summoned to the plenary session, which, in principle, must be held every two years. In addition, the consultors—all or some of them—may be summoned, when necessary and according to the nature of each dicastery, to study and give their opinion on specific questions (article 27).

⁸⁵ Already at the time of the reform carried out by Paul VI, there was concern that the Prefect would become the *dominus* of the dicastery. See Juan Sánchez y Sánchez, "Pablo VI y la reforma de la Curia Romana" [Paul VI and the reform of the Roman Curia], *Revista Española de Derecho Canónico* 21, no. 63 (1966): 468–70.

⁸⁶ Holy See, The Dicastery for Promoting Integral Human Development, <https://www.humandevlopment.va/en/il-dicastero/chi-siamo/i-superiori.html>.

peace, humanitarian aid and oversight of Caritas Internationalis, among many other areas. Therefore, the contribution of the laity could be especially enriching.

As for the organisms of justice, the Roman Rota will be composed of a certain number of judges (article 201), without further specification of their canonical status. Its law of 1994 refers to the judges as “prelate” auditors but provides for the possibility that the promoter of justice, the defender of the bond and the moderator of the offices of the chancery may not be presbyters by way of exception.⁸⁷

The Tribunal of the Apostolic Signatura continues to have a fully clerical composition (article 195 and article 1 of the Proper Law of the Supreme Tribunal of the Apostolic Signatura); it is composed of cardinals, bishops and priests, and the prefect must be a cardinal (article 195, number 1). Therefore, it excludes that deacons can be judges.⁸⁸

The reform of the Roman Curia might have been a good time to allow lay judges in these tribunals. Canon 1673, 3 of the Code of Canon Law allows for up to two lay judges in a college of judges in the matrimonial process; for other processes only one is admitted (canon 1421, 2).

And finally, what is the participation of the laity in the economic bodies? The Council of Economy is composed of eight cardinals or bishops and seven lay people (article 206). It must be chaired by a cardinal coordinator. As can be seen, the composition is not equal, and no explanation has been given in this regard. In principle, this appears to be inconsistent with the principles of the *Praedicate Evangelium*.

Article 117 of *Praedicate Evangelium*

Commenting on one article of *Praedicate Evangelium* might seem unnecessary or perhaps disproportionate within the scope of this article. However, the media impact of the news and the subsequent consequences of the change introduced justify these lines.

Article 117 of the *Praedicate Evangelium* changed the interlocutor of the Personal Prelatures in the Holy See, moving it from the Dicastery for Bishops to the Dicastery for the Clergy. In fact, the only existing personal prelature has 90,000 lay members and 2,000 priests; given this reality, the transfer of competencies to the Dicastery for the Clergy was difficult to understand. The article changed the provisions of three apostolic constitutions of two different popes, which included personal prelatures among the responsibilities of the Congregation (now the Dicastery) of Bishops: *Regimini Ecclesiae Universae* of Paul VI (1967) and two apostolic constitutions of John Paul II: *Ut sit* (1982), and *Pastor Bonus* (1988) on the Roman Curia. Moreover, the conciliar decree *Presbyterorum ordinis*, number 10 instituted the personal prelatures as an entity distinct from the territorial prelature *nullius dioecesis*, thus not as a clerical entity. Finally, it also contradicted the letter *Communione notio* (1992). The latter stated that complementary hierarchical communities, such as the personal prelature,

⁸⁷ The Norms of the Roman Rota (Normae Romanae Rotae Tribunalis) were approved with specific approval of the Holy Father on February 7, 1994, *Acta Apostolicae Sedis*, no. 86 (1994): 508–40 and *Acta Apostolicae Sedis*, no. 87 (1995): 366. See the articles 6, 7 and 8. The motu proprio *Mitex iudex Dominus Iesus* states that the Tribunal of the Rota should bring its law into conformity with the new provisions, but there is no record that this has been done. Francis, *Mitex iudex Dominus Iesus* [The Lord Jesus, Gentle Judge] (August 15, 2015), https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20150815_mitex-iudex-dominus-iesus.html.

⁸⁸ See Francis, Apostolic Letter given motu proprio *Munus Tribunalis* by which the Lex Propria Supremi Tribunalis Signaturae Apostolicae of June 21, 2008, is modified (February 28, 2024) (in Italian), https://www.vatican.va/content/francesco/it/motu_proprio/documents/20240228-motu-proprio-munus-tribunalis.html. The possibility that deacons can be judges of the Signatura has been eliminated with the 2024 reform.

did not harm the unity of the particular church but, on the contrary, contributed to its interior unity in the diversity proper to communion.⁸⁹

The reorganization of the competencies of the dicasteries was the first step in a series of normative dispositions of greater significance. In July 2022, the *motu proprio* *Ad charisma tuendum*⁹⁰ declared that it intended to apply the broad reforms of the *Praedicate Evangelium* to the institution of personal prelatures. It modified some points of the apostolic constitution *Ut Sit* and called for an adaptation of the statutes to Opus Dei, the only existing prelature. A year later, on August 8, 2023, a second *motu proprio* modified canons 295–96 of the Code of Canon Law regarding personal prelatures.⁹¹ According to the new wording of canon 295, 1, these were assimilated to public clerical associations of pontifical right with the faculty to incardinate clerics.⁹²

As Geraldina Boni points out, the assimilation of two such heterogeneous entities is questionable. In her opinion, the *motu proprio* adopted a minority doctrinal position in the debate on the hierarchical nature of the prelatures.⁹³

The elasticity of canon law makes it possible to find adequate solutions that do not compress life into an inappropriate structure. This is what the *Praedicate Evangelium* proposes when speaking of synodality.

Final Remarks: Vision, Mission, and Purpose of the New Roman Curia

Throughout the profound historical changes, the definition or *vision* of the Roman Curia, has remained unchanged: it is an organ of assistance to the Roman pontiff in the universal government of the Catholic Church. On the other hand, there has been an evolution in the understanding of its *mission* and *purpose*. *Praedicate Evangelium* proposes a model of a Roman Curia aimed at evangelization, fostering a deeper communion, in which all share responsibility. To this end, those who work in the curial bodies must work with the same purpose: to serve all with professionalism, apostolic sensitivity, and institutional loyalty.

⁸⁹ Congregation for the Doctrine of the Faith, *Communio notio*. [Letter to the bishops of the Catholic Church on some aspects of the church understood as communion] (May 28, 1992) 16, https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_28051992_communio-notio_en.html.

⁹⁰ Francis “Ad Charisma Tuendum” [Apostolic letter issued “Motu Proprio” To safeguard the charisma] (July 14, 2022), https://www.vatican.va/content/francesco/en/motu_proprio/documents/20220714-motu-proprio-ad-charisma-tuendum.html.

⁹¹ Francis, Apostolic Letter issued “Motu Proprio” of the Supreme Pontiff Francis modifying Canons 295–296 regarding Personal Prelatures (August 8, 2023), (in Latin), <https://www.vatican.va/content/francesco/en/events/event.dir.html/content/vaticanevents/en/2023/8/8/motu-proprio-prelature-personali.html>.

⁹² According to Viana, the assimilation provided for by the new pontifical law does not amount to an identification between personal prelatures and associations, but only to a similarity in certain aspects, particularly those referring to the dedication of the clergy. See Antonio Viana, “Por qué no son asociaciones ni las prelaturas personales ni el Opus Dei?” [Why are neither personal prelatures nor Opus Dei associations?], *Vida Nueva*, September 13, 2023, <https://www.vidanuevadigital.com/tribuna/prelaturas-personales-y-asociaciones-clericales-por-que-no-son-asociaciones-ni-las-prelaturas-personales-ni-el-opus-dei-antonio-viana/>.

⁹³ Geraldina Boni, “Análisis: la asimilación de las prelaturas personales a asociaciones clericales” [Analysis: the assimilation of personal prelatures into clerical associations], *Zenit*, August 20, 2023, <https://es.zenit.org/2023/08/20/analisis-la-asimilacion-de-las-prelaturas-personales-a-asociaciones-clericales/>. See also the following: Giuseppe Comotti, “Considerations on the motu proprio ‘Ad charisma tuendum’ on Opus Dei,” *Omnes*, July 26, 2022, <https://omnesmag.com/en/newsroom/considerations-ad-charisma-tuendum/>; Manuel Ganarin, “La riforma della Curia Romana nella Costituzione apostolica Praedicate Evangelium di papa Francesco. Osservazioni a una prima lettura” [The reform of the Roman Curia in Pope Francis’s apostolic constitution, *Praedicate Evangelium*. Observations on a first reading], *Il diritto ecclesiastico* 133, nos. 1 and 2 (2022): 271–310.

The promotion of collegiality, the internationalization, the dimensioning, and professionalization of the curia are objectives that were present in other previous reforms, with a greater or lesser degree of intensity.

Decentralization and synodality, however, appear in a novel way in the reform. The problem is that these concepts are difficult to translate into juridical-canonical language. It is telling that the terms *synodality* and *collegiality* do not appear in the canons of the Code of Canon Law, while synods and colleges are extensively regulated. For this reason, there is a risk that such ambitious objectives will remain merely declaratory and will not be concretized or put into practice; it is also necessary to avoid making decisions without first having carefully reflected on the ecclesiological and canonical implications. For example, *Pastor Bonus* mentioned episcopal conferences only five times. *Praedicate Evangelium* names them sixty-three times; however, it is not clear in practice how they will carry out their new collaboration. It should not be ruled out that this strengthening of the episcopal conferences could lead to greater bureaucratization, making it more difficult for the bishops to attend to their respective dioceses.

The great novelty of *Praedicate Evangelium* concerning the vicarious power of the organisms of the curia demands further reflection. It cannot be overlooked that this new approach will have repercussions on the juridical order of the church as a whole; it will probably lead to future modifications of the canons of the 1983 *Codex Iuris Canonici* regarding the governance of the particular churches. If, indeed, from now on, laypeople can assume the office of prefect or be part of the group of members of a dicastery, the possibility of their holding other offices such as that of judicial vicar in the dioceses (canon 1420, 4) will have to be reconsidered. The common priesthood of the faithful and the person as the center of the activity of government is valued.

Presently, the number of laypersons in principal positions in the dicasteries is still scarce; nevertheless, there are more laypeople occupying other types of tasks in the Roman Curia.⁹⁴ Moreover, noteworthy is the exponential increase in lay women appointed by Pope Francis to various positions in the Vatican:⁹⁵ the director of the Vatican Museums; the secretary of the Pontifical Commission for Latin America; the director of the Theological and Pastoral Directorate of the Dicastery for Communication; and the deputy director of the Holy See Press Office.⁹⁶ It is necessary to go deeper into the possible contribution of women in the Roman Curia to overcome the errors of the past, to humanize and supernaturalize the structures, and to foster personal relationships. *Praedicate Evangelium* could have established some kind of temporary measure to facilitate the incorporation of more women into positions of responsibility.

In reality, positive discrimination is foreseen in some articles of the *Praedicate Evangelium*. In article 14, number 3, it is requested that the officers come, as far as possible, from different parts of the country. Article 206 states that the Council for the Economy should be composed of eight cardinals (or bishops) and seven laypeople. Why could measures be implemented to achieve a proportional participation of women in curial bodies?

Could the exclusion of the laity from the Supreme Tribunal of the Apostolic Signatura (article 195, number 1) be qualified as a discriminatory practice? If there is no justified

⁹⁴ Fernando Puig, "Aspectos canónicos del servicio en la Curia romana" [Canonical aspects of service in the Roman Curia], *Ius Canonicum* 59, no. 117 (2019): 51–77, 69.

⁹⁵ In 2023, there were 1,165 women working at the Vatican; there were 846 in 2013. Gundrun Sailer, "10 Years of Pope Francis: Significantly More Women Working at the Vatican," *Vatican News*, March 8, 2023), <https://www.vaticannews.va/en/pope/news/2023-03/pope-francis-10-years-women-vatican.html>.

⁹⁶ In 2024, one woman will be the secretary at the Dicastery for Promoting Integral Human Development; there are also women serving as undersecretaries in the Dicastery for Culture and Education, the Dicastery for Institutes of Consecrated Life and Societies of Apostolic Life, and the Dicastery for the Laity, the Family, and Life.

juridical or theological reason for such a prohibition, it would be an unjustified exclusion. From my standpoint, it is not only a matter of giving greater presence to the laity in the Roman Curia but, above all, of eliminating clericalism and widespread curialism.⁹⁷

Finally, I note the Council of Cardinals created by Pope Francis to collaborate in the project of reforming the Roman Curia and in its governance.⁹⁸ It is surprising that this council is not mentioned or regulated in the *Praedicate Evangelium* despite the role it has played lately. Although it is logical for the pope to address himself to people he trusts, it is debatable whether the opinion of this council prevails over that of other councilors of the College of Bishops or the College of Cardinals. A system of government of councilors chosen by the ruler can become a closed and exclusive group around the authority. On the other hand, the principle of episcopal collegiality requires that information flow between the pope and the episcopate, and that the episcopate be able to participate in matters that affect it. Collegiality is not only external assistance of the bishops to the primate in decision-making; it is the joint participation of the primate and the episcopate in hierarchical communion.

Ultimately, the consistent application of the principles of the *Praedicate Evangelium* requires a profound change in the culture of governance and in the mentality of those who work in the Holy See. To achieve this requires an open disposition to horizontal collaboration, to work in a collegial way and professionally, in the joint work of cardinals and other faithful.

The Protection of the Rights of the Faithful since *Praedicate Evangelium*

Pope Francis, in his address on the eve of Christmas 2015, asked members of the Roman Curia to make an examination of conscience about fifteen possible “diseases” they may have contracted during their life in the service of the church: lack of professionalism, gossip, careerism, clericalism, dangerous belief in one’s own immortality or indispensability, excessive busyness leading to neglect of spiritual well-being, the risk of becoming rigid and insensitive, lack of coordination, rivalry, and idolatry of superiors for one’s own benefit.⁹⁹

As the old proverb says, desperate diseases require desperate cures. *Praedicate Evangelium* is not a desperate, radical cure. It will improve some aspects of the curia, but unless I am mistaken, it will not bring about a drastic change; there are still several important problems to be resolved that seriously affect the protection of the rights of the faithful.

The recognition of the distinction between legislative, administrative, and judicial functions in the 1983 Code of Canon Law was of undoubted value. It made it possible to guarantee equal juridical protection for superiors and subjects, to prevent the ecclesiastical administration from acting arbitrarily; it can prevent administrative bodies from encroaching on the functions of the legislator or administrative norms from contradicting those of legislative rank. To this end, it is essential that the curia submit to the principle of legality in the broad sense, faithfully respecting the provisions of canon law.

For the moment, the composition of the Signatura presents an unresolved issue with the current system of administrative justice. As the administrative tribunal of the curia, it judges appeals against individual administrative acts of the dicasteries. It is the one who determines whether such acts have violated any law in their deliberation or procedure. The

⁹⁷ Boni suggests that the government of the church could act with greater synodality, transparency, and collegiality. See Boni, *La recente attività normativa ecclesiale*, 324–25.

⁹⁸ Viana, “Elementos de la futura reforma de la Curia Romana prevista por el papa Francisco,” 285–86.

⁹⁹ See Francis, Presentation of the Christmas greetings to the Roman Curia, December 22, 2014, https://www.vatican.va/content/francesco/es/speeches/2014/december/documents/papa-francesco_20141222_curia-romana.html.

tribunal is composed of cardinals and bishops, who are often not in an objective situation of impartiality: they are simultaneously members of several dicasteries and may have a particular interest in the activities of one of these bodies. Because they exercise this mission alongside other pastoral tasks, their professionalism cannot be guaranteed.

Moreover, there has been no change regarding the lack of publication of jurisprudence, which directly affects the right of the faithful to the proper administration of justice (articles 194–199). The right of defense of the faithful requires that they be able to know the judgments to be able to invoke a certain constant criterion or to verify the equality of treatment.¹⁰⁰

It is also necessary to specify how the procedures for the selection of personnel will be carried out, for they are not mentioned in the apostolic constitution. If the faithful can know the formation and qualities of those entrusted with positions of governance, they could exercise control over the procedures followed.¹⁰¹

Article 30 of *Praedicate Evangelium* refers to the subsequent approval by the Roman pontiff of what is proposed by a dicastery: “A curial institution cannot issue laws or general decrees having the force of law, nor can it derogate from the prescriptions of the current universal law, except in individual and particular cases, and with the approval of the Roman Pontiff *in forma specifica*.” The specific approval supposes that the Roman pontiff assumes this norm, which can no longer be challenged. Therefore, it is significant that the dicastery has seriously studied the subject since the authority of the Roman pontiff is directly implicated.¹⁰² Furthermore, pontifical approvals should not be an escape route to prevent dicasteries or other curial institutions from assuming their responsibility and having their acts judged by the Apostolic Signatura.¹⁰³

Pontifical power is supreme but not absolute. The traditional principle of primacy is expressed in the formula *prima sedes a nemine iudicatur* (the first seat is judged by no one). However, this principle cannot be interpreted as if everything that comes from the Roman pontiff is justifiable, even if it harms the common good or the fundamental rights of the faithful. The pope is subject to divine law. Although he may apply other norms of human law discretionally, he must not contradict the law of the church without just cause, *utilitas Ecclesiae*. This was established by the First Vatican Council. However, there is no foreseen human authority that can control the correct exercise of pontifical power.¹⁰⁴ From this derives the grave responsibility of avoiding at the root any abuse of power and of guaranteeing respect for basic human rights such as the right to equality, the right to defense, the impartiality of the organs of justice, the principle of legality or the principle of non-retroactivity in criminal matters.

The idea I propose is somewhat audacious: the possibility of establishing a system of self-regulation for the exercise of primate power. The pope would establish nonnegotiable

¹⁰⁰ Eduardo Baura, “El desarrollo normativo posterior a la Constitución Apostólica *Pastor Bonus* de los tribunales de la Curia Romana” [The normative development after the apostolic constitution *Pastor Bonus* of the tribunals of the Roman Curia], *Ius Canonicum* 58, no. 115 (2018): 9–36, at 20–21.

¹⁰¹ Geraldina Boni, “Il diritto di denunciare la mancanza di idoneità dei titolari degli uffici ecclesiastici” [The right to denounce the lack of suitability of holders of ecclesiastical offices], *Ius Canonicum* 59, no. 117 (2019): 9–49, at 14.

¹⁰² Eduardo Baura, “El ejercicio de la potestad de la Curia Romana a la luz de la *Praedicate Evangelium* y el derecho de los fieles al buen gobierno” [The exercise of the power of the Roman Curia in light of *Praedicate Evangelium* and the right of the faithful to good governance], *Ius Canonicum* 63, no. 125 (2023): 9–45, at 23.

¹⁰³ Article 126 of the 1999 General Regulations of the Roman Curia establishes a procedure for requesting “specific approval” for acts of the dicasteries. To guarantee juridical certainty, it is necessary to state explicitly that the act has received this kind of approval.

¹⁰⁴ Nicolás Álvarez de las Asturias and Joaquín Sedano, *Derecho canónico en perspectiva histórica. Fuentes, ciencia e instituciones* [Canon law in historical perspective. Sources, science, and institutions] (Pamplona: Ediciones Universidad de Navarra, 2022), 194.

criteria that he would voluntarily assume in the form of a code of conduct. Norms of behavior would not be required by canon law, nor would there be a system of sanctions. The freely self-assumed commitment to act in accordance with the established criteria would be publicly declared by the interested party (or parties). The content of the codes of conduct should conform to the postulates of current canon law. This approach would be exemplary and would promote trust and legal certainty for all the faithful. At the state level, these self-regulatory techniques are designed to safeguard the general interest.¹⁰⁵ It may be a considerable time before this approach is applied in the church. However, I believe it is a path that will ultimately lead to a positive outcome.

Currently, the General Regulations of the Roman Curia and the norms proper to the curial institutions and offices are in the process of being drawn up. It would be desirable that these norms guarantee the missionary service dimension of the work, the protection of the rights of those to whom the acts of the curia are addressed, and the transparency and accountability of those who carry out the various functions of the curia.¹⁰⁶

It is striking that the word *service* appears seventy-one times in this apostolic constitution. In contrast, the word *rights* is used only six times in relation to the faithful. Specifically, the right to good governance is not mentioned, just as it does not appear in the Code of Canon Law.¹⁰⁷ Obviously, there should be an explicit reference to the right of the faithful to receive a timely response; the right to know the reasons for an administrative decision; the right to intervene in the process of making a certain decision; the right to respect the formality of acts to guarantee the defense of those to whom they are addressed; the right to know with certainty who the author of a juridical act is; and so many other rights.¹⁰⁸ Ensuring the proper exercise of government is a real legal obligation and not just a matter of ethics, virtue, or goodwill.¹⁰⁹

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¹⁰⁵ José Esteve Pardo, “La Administración garante. Una aproximación” [The guarantor administration. An approach], *Revista de Administración Pública*, no. 197 (2015): 11–39.

¹⁰⁶ Francis, Chirograph of the Holy Father Relating to the Institution of the Interdicastery Commission for the Revision of the General Regulations of the Roman Curia (May 5, 2022), <https://www.vatican.va/content/francesco/en/letters/2022/documents/20220412-chirografo-commissione-revisione-regulamento-curiaromana.html>.

¹⁰⁷ José Antonio Souto-Paz, “La reforma de la Curia Romana” [The reform of the Roman Curia], *Ius Canonicum* 8, no. 16 (2018): 547–68, at 568.

¹⁰⁸ Juan Ignacio Arrieta, “Principios informadores de la Constitución Apostólica *Pastor Bonus*” [Principles of the apostolic constitution *Pastor Bonus*], *Ius Canonicum* 30, no. 59 (1990): 59–81; Fernando Puig, “La provvista dell’ufficio episcopale come azione di governo relativa all’organizzazione istituzionale della Chiesa” [The provision of the episcopal office as a governing action relating to the institutional organization of the church], *Ius Ecclesiae* 29, no. 2 (2017): 359–73.

¹⁰⁹ Javier Canosa, “La consideración del buen gobierno en la Iglesia como un derecho de los fieles” [The consideration of good governance in the church as a right of the faithful], *Ius Canonicum* 62, no. 124 (2022): 625–61.

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