

Inclusive Governance in a Synodal Church: Approaches to the Exercise of Authority by Lay Persons: Background Paper

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**Inclusive Governance for a Synodal Church:
Approaches to the Exercise of Authority by Lay Persons**

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In the context of this meeting's reflection on "Inclusive Governance for a Synodal Church," and more particularly on the model and experience Ministerial Public Juridic Persons (PJPs) where lay persons participate in the governance of Catholic institutions, sharing oversight for the Catholic identity and mission of institutions for education, health care, and a variety of social services and caritative works "in the name of the Church" (CIC 116.1), I want to reflect on the various theological approaches that ground our understanding of the exercise of authority, or the office of governance in the church. The present context is a critical one. For over thirty years we have experimented with Ministerial PJPs, where members of the founding religious orders continued to preside over or were at least represented by delegates to ensure that their ministries be carried on despite declining religious personnel. Today, as many religious institutes approach "completion" and are no longer be able to ensure this presence, lay persons play an increasing role as both members and leaders of Ministerial PJPs. It is important to note, in passing, that consecrated religious sisters and brothers are also "lay" persons according to ecclesiastical law, which understands consecrated religious life as a radical living out of one's baptismal promises.

The evolution in the governance of Catholic institutions and works by lay persons, and the recent the participation of lay persons in the deliberations of the XVI Ordinary General Synod, "For a Synodal Church: Communion, Participation, and Mission" (2021-2024), are revealing the limits of our operative theologies of church governance. Pope Francis repeatedly called our attention to the ways that the continuing influence of clericalist paradigms have hindered the full reception of the Second Vatican Council's insight into the equal dignity of all

the baptized Christian faithful and their co-responsibility for the life and mission of the church.¹ In what follows, I will consider the enduring influence of theologies of power in the church and how they hamper our ability to take seriously the role of the lay person as a co-responsible subject to whom one might entrust with an ecclesiastical office or role in church governance. As I hope to show, Vatican II's shift from a clerical and juridical ecclesiology to an understanding of the church as a gathering of the *Christifideles*, the Christian faithful² - the People of the messianic covenant whose participation in the dying and rising of Christ is sealed in baptism – awaits a fuller reception and further theological development today.

Paradigms of Power in the Theological Understanding of Church Governance

In the lay investiture controversy of the Middle Ages, ecclesiastical authorities “freed” themselves from the unseemly interference of the laity (in this case, temporal rulers, whose original role was ostensibly the protection of their peoples), to the point where popes would claim superiority over the Holy Roman Emperor and other temporal rulers. In the context of this struggle between the temporal and sacred orders, twelfth-century theologians began to conceive the sacrament of orders as a conferral of sacred power – the power to consecrate the eucharist and jurisdiction over the ecclesial body. The exercise of power in these two domains – the sacramental life and the ordering of ecclesial life – came to be described as the power of orders and the power of jurisdiction – categories that continue to exercise great influence upon theories of canon law and of ecclesiastical governance.

¹ By way of example: Pope Francis, Apostolic Exhortation *Evangelii Gaudium*, On the Joy of the Gospel, (2013), no. 102; “Address of the Holy Father Pope Francis on the Occasion of a Moment of Reflection at the Beginning of the Synodal Journey,” (9 October 2021); “Intervention of the Holy Father on the 18th General Congregation of the XVI Ordinary General Assembly of the Synod,” (25 October 2023).

² For this historic speech of Cardinal Emile-Joseph Suenens at Vatican II, see AS V/1, 92. For more extensive discussion, see Rafael Luciani, “Reconfiguring the Identities and Relationships of the Ecclesial Subjects in a Church as People of God: Rediscovering the Generative Bond of all *Christifideles*,” *Studia Canonica* 58, no. 1 (2024): 103-129, especially 107-109 and 117-119.

Because there was no clear consensus on the precise relationship of the sacrament of orders and jurisdiction, the Second Vatican Council refers sparingly to “sacred power” and altogether avoids all mention of the “power of jurisdiction.” It opted instead to prioritize a baptismal ecclesiology, describing the vocation of the *Christifideles* or baptized Christian faithful – which includes lay persons, consecrated religious, and ordained ministers alike – as participating in the offices of Christ as prophet, priest, and king. All are thus considered co-responsible for the proclamation and handing on of the Word, for a life of self-offering that is joined to the unique sacrifice of Christ our High Priest, for bringing about the reign of God through the right ordering of relations among the People of God both within the Church and within the whole human community. The source and model for all authority is Christ, the Good Shepherd and head of the Church. In the broad tradition, the power or authority necessary for right ordering of the church and its mission is conferred upon the whole church, where every baptized Christian participates in the royal office of Christ according to their various vocations and charisms. In what follows I hope to show how this theology has remained largely dormant, and clerically centered paradigms continue to influence official teaching and practice. I will then attempt return to consider how Vatican II’s baptismal ecclesiology invites fresh thinking today.

In the longer paper which you will have received,³ I attempt to describe two paradigms or approaches to the power of jurisdiction. The first considers the powers of orders and of jurisdiction in a unitary and organic perspective, as something conferred exclusively by the sacrament of orders. The second treats jurisdiction as something related to, yet distinct from, the power conferred by the sacrament of orders, and as a force acquired by law or delegation. In the former view laypersons do not, properly speaking, exercise jurisdiction or pastoral authority; their pastoral

³ Catherine E. Clifford, “Power and the Exercise of Authority in Service of the People of God,” *Studia Canonica* 58, no. 1 (2024): 201-224.

activities or role in institutional governance are understood as a “cooperation” in the ministry of the ordained (LG 33). In the latter model, jurisdiction tends to be viewed as something delegated to another, whose role appears as an extension of the ministry of the delegating bishop or priest. Neither approach adequately reflects the lived reality of laypersons who receive an official mandate to assume ecclesial offices. Both tend to neglect the ecclesial context of all ministries. I propose two cases which exemplify these two paradigms respectively.

Instruction *Ecclesia de mysterio* (1997)

The clearest example of the first unitary paradigm in recent times is found in the 1997 Instruction “On Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Ministry of Priests, (*Ecclesia de Mysterio*).”⁴ Signed by the heads of eight Roman dicasteries, it sought to respond to perceived abuses in the unprecedented emergence of new of lay ecclesial ministries in the wake of Vatican II. The Council’s Dogmatic Constitution on the Church acknowledges that the lay faithful may “be appointed by the hierarchy to carry out certain ecclesiastical offices which have a spiritual aim in view” (LG 33). Article 33 of *Lumen gentium* reflects a certain tension or lack of coherence, as it places two differing theological frameworks alongside one another. The overall framework is that of the people of God into which all are gathered through baptism and co-responsible for mission: “The apostolate of the laity is a sharing in the Church’s mission of salvation, and everyone is commissioned to this apostolate by baptism and confirmation.” Yet it goes on to echo the perspective of Pope Pius XII who, in a 1957 speech to a meeting of the Catholic Action movement, maintained a sharp distinction between the

⁴ CONGREGATION FOR CLERGY et al., “Instruction on Certain Questions regarding the Collaboration of the Non-ordained Faithful in the Sacred Ministry of Priests, *Ecclesia de Mysterio*,” (15 August 1997), *AAS*, 89 (1997): 852-877.

apostolate of the laity and that of the hierarchy.⁵ The Council goes beyond his exclusivist perspective but retains a clerical focus when it affirms that some laypersons “can also be called in various ways to a more immediate cooperation in the apostolate of the hierarchy” (LG 33). The language of “cooperation” would be retained in the 1983 Code of Canon law when it speaks of the laity’s share in the “power of governance” (CIC 129.2).

This approach leads inevitably to a conception of the ecclesiastical “offices” of the laity as dependent upon the ministry of the ordained, rather than as flowing from their baptism. The Instruction takes little account of the creative and Spirit-led development of new ministries in the forty years that had passed since Pope Pius’ speech, nor of the broader baptismal framework of the *tria munera* proposed by the Council.⁶ Relying on an essentialist interpretation of the Council’s teaching concerning the difference between the baptismal and ministerial priesthoods (LG 10), the Instruction emphasized the sacred power (*sacra potestas*) received in ordination, adopting a defensive stance with the stated intention of “safeguarding the integrity of the pastoral ministry of priests.” Its argument is rooted in a conception of the “indivisible unity” of the “exercise of the *munus docendi, sanctificandi et regendi* of the sacred minister” (§ 2).

Ecclesia de Mysterio follows closely the line of reasoning developed in a speech given by Pope John Paul II several years earlier at a symposium on the theme, “The Participation of the Lay

⁵ PIUS XII, Allocution *Six ans se sont écoulés*, 5 October 1957, in *AAS*, 43 (1957), 924-939, at 927. See LG 33, note 3. Pope Pius XII recognized the possibility of laypersons being mandated to carry out certain ecclesiastical offices as teachers of theology. But he insisted that the hierarchy alone is “responsible before God for the governance of the Church” (p. 925).

⁶ The unprecedented development of new theologically trained lay ecclesial ministries was a development unanticipated by the Council. Their rapid emergence, combined with the decline of the priestly vocations, has been experienced by many as destabilizing. In North America, this development has been the occasion for significant new theological reflection. The US Conference of Catholic Bishops helpfully initiated a series of colloquia in this same period, inviting deeper reflection on the new reality of “lay ecclesial ministries” and leading to the publication of the helpful resource, *Co-Workers in the Vineyard of the Lord: A Resource for Guiding the Development of Lay Ecclesial Ministry*, Washington, DC, USCCB, 2005, at: <https://www.usccb.org/upload/co-workers-vineyard-lay-ecclesial-ministry-2005.pdf>. See also Zeni FOX, *New Ecclesial Ministry: Lay Professionals Serving the Church*, rev. ed., Franklin, WI, Sheed & Ward, 2002; id., *Lay Ecclesial Ministry: Pathways toward the Future*, Lanham, Rowman & Littlefield, 2010; and Susan K. WOOD (ed.), *Ordering the Baptized Priesthood*, Collegeville, Liturgical Press, 2003.

Faithful in the Priestly Ministry.” In that context he warned against the danger of clericalizing the laity and insisted on the need to distinguish more clearly the distinctive roles of the laity and clergy. Indeed, the pope argued, “the services performed by the lay faithful are never, properly speaking, pastoral, not even when they supply for certain actions and concerns of the shepherd.”⁷ Carrying his thought forward, the Instruction discourages the use of the term “ministries” for the pastoral activities or ecclesiastical offices of laypersons.⁸ It deems the application of “pastor, chaplain, coordinator, moderator and such similar titles [to lay persons] ... unlawful,” claiming that such usage causes confusion between the role of the non-ordained faithful and that of the Pastor, who is always a Bishop or Priest” (§ 1). “Directing, coordinating, moderating, or governing the parish,” even in the absence of a residential priest, remain “competencies of a priest alone” (§ 4).

Lay persons, annoyingly labelled as “non-ordained persons,” are forbidden to give a “homily” in the liturgy of the Eucharist, a task “reserved to the sacred minister, priest or deacon” (§ 3). Readers are reminded that diocesan and parish councils “are consultative only and cannot in any way become deliberative structures” (§ 5). Throughout its consideration of the roles of non-ordained persons in liturgical celebrations – including the distribution of Communion, administration of baptisms, witnessing marriages, or leading the Sunday Celebration of the Eucharist in the Absence of a Priest – the emphasis of the Instruction is on the supplemental and

⁷ JOHN PAUL II, “The Participation of the Lay Faithful in the Priestly Ministry,” in *L'Osservatore Romano [English edition]*, (24 May 1994); *OR*, 22 April 1994. Here the pope appeals to the 1994 *Directory for the Life and Ministry of Priests*, no. 19, under the sub-heading “Only the Priests are Pastors.” “One way to avoid falling into this ‘democratic’ mentality is to shun the so-called ‘clericalization’ of the laity, which tends to diminish the ministerial priesthood of the priest. After the Bishop, the term ‘pastor’ can only be attributed in a proper and univocal sense to the priest by virtue of the ministerial priesthood received at Ordination. The attribute ‘pastoral,’ in fact, refers to both the *potestas docendi et sanctificandi*, and to the *potestas regendi*.”

https://www.vatican.va/roman_curia/congregations/ccclergy/documents/rc_con_ccclergy_doc_31011994_directory_en.html. Note the return to the language of the two powers, a language that *Lumen Gentium* sought to avoid.

⁸ The Instruction fails to account for Vatican II’s application of “ministry” to laypersons, a woeful omission. See Elissa RINERE, “Conciliar and Canonical Applications of ‘Ministry’ to the Laity,” in *J*, 47 (1987), 204-227; also id., *The Term ‘Ministry’ as Applied to the Laity in the Documents of Vatican II, Post Conciliar Documents of the Apostolic See, and the Code of Canon Law*, Washington, DC, Catholic University of America Press, 1986.

extraordinary nature of such actions, made necessary by the shortage of priests. While the Instruction claimed to provide greater clarity and precision regarding the respective roles of the ordained and lay faithful, it is hard to escape the impression of a defensive drawing a line in the sand.⁹ In many regions, this document had a chilling effect on the development and integration of stable, theologically trained lay ecclesial ministries into parish and diocesan community structures.

Apostolic Constitution *Praedicate Evangelium* (2022)

The renewal of a synodal culture at every level of ecclesial life, which entails the participation of laypersons in processes of discernment and decision-making and their assumption of more stable roles in effective governing bodies of the Church, invites a reopening of this contentious dossier. Pope Francis sought a deeper reception of the Second Vatican Council's teaching on the co-responsibility of the baptized Christian faithful for the life and mission of the church. He embraced the necessity of relying on the gifts of competent laypersons – not merely to supply for the lack of ordained ministers, but because of their baptismal dignity and of the many gifts and competencies they bring in the service of the Church and its mission.

The recent restructuring of the Roman Curia allows for the possibility of laypersons to participate in the “pastoral” work of the Roman dicasteries and to preside over them. This is not entirely new. Since the Second Vatican Council laypersons, including lay and religious women, have served as staff members of various dicasteries, including as undersecretaries for the dicasteries of the Laity, Justice and Peace, Consecrated Life, Secretary of State, and communications. Yet Pope Francis has invited a broader and more intentional inclusion of competent laypersons in leadership at every level of the church.

⁹ For a helpful commentary, see John HUELS, “Interpreting an Instruction Approved *in forma specifica*,” in *StC*, 32 (1998), 5-46.

The 2022 Apostolic Constitution on the Roman Curia, *Praedicate Evangelium*, provides a reasoning for this development that bears the marks of the fraught history of doctrine we have been exploring here. Among the principles that are to guide the service of the Roman Curia laid out in the Constitution is its “vicarious nature.” Thus, it is stated, “Each curial institution carries out its proper mission by virtue of the power it has received from the Roman Pontiff, in whose name it operates with vicarious power in the exercise of his primatial *munus*. For this reason, any member of the faithful can preside over a dicastery or office, depending on the power of governance and the specific competence and function of the Dicastery or Office in question.”¹⁰

The principal canonical advisor to the pope for the drafting of the Constitution, the canonist Cardinal Gianfranco Ghirlanda, maintains the more “traditional” distinction between the power of jurisdiction and the power of orders, the latter of which he identifies with sacred power in his interpretation of Vatican II’s teaching. In his view, jurisdiction is not conferred by sacramental ordination but is delegated through the conferral of a canonical mission which, he claims, conveys a “*potestas hierarchica communio*” (power of hierarchical communion), a capacity to act in hierarchical communion with the Bishop of Rome.¹¹

In *Praedicate Evangelium*’s description of the vicarious nature of the Roman Curia (whose offices act in the name of the Bishop of Rome), we run the risk of returning to the image of all

¹⁰ Pope FRANCIS, *Praedicate Evangelium*, II, §5.

¹¹ G. GHIRLANDA, *Hierarchica communio. Significato della formula nella Lumen gentium*, Analecta Gregoriana 216, Rome, Università Gregoriana Editrice, 1980. For further discussion, see VILLEMEN, *Pouvoir d’ordre et pouvoir de juridiction*, 410-423. Villemen points out that in his interpretation of *Lumen gentium*, Ghirlanda’s relies primarily on the draft schema of LG 28, not the final version which set aside the categories of the two powers and the notion of a conferral of power. See also G. GHIRLANDA, “La notion de communion hiérarchique dans le concile Vatican II,” in *AC*, 25 (1981), 231-253, at 242. Villemen rightly suggests that such an interpretation is highly problematic from a methodological perspective. Yves CONGAR is highly critical of Ghirlanda’s interpretation of the Council’s teaching on this point, which he characterizes as “barbare” (“Bulletin d’ecclésiologie,” in *Revue de sciences philosophiques et théologiques*, 66, no. 1 (1982), 93-97, at 94). Ghirlanda’s position is shared by others in the line of the Roman School of canonists. See Jean BEYER, “De natura potestatis regiminis seu iurisdictionis recte in codice renovato enuntianda,” in *Periodica de re morali, canonica, liturgica*, 71 (1982), 93-145. See note above.

powers originating in the person of the pope – a notion that was widely held in late 19th and early 20th century ecclesiologies - and being delegated at will. The principle for the appointment of persons, lay or ordained, to the offices of the Roman Curia thus emerges as an arbitrary exercise of power, one that might appear both unlimited and unchecked. A more adequate understanding of the canonical mission must consider the broader ecclesial horizon of one's ministry.

Assuming a new ecclesiastical office entails more than a delegation of power from or communion with a minister in authority; it is the conferral of a mandate to assume a new role within the communion of all the baptized faithful. "Hierarchical communion" (LG 22, 23) involves more than communion with the Bishop of Rome and his primatial office. It must be more clearly related to one's service to a community within an ordered ecclesial communion. Similarly, the reduction of the canonical mission to the idea of conferring power from one person to another is highly problematic. When the notion of "sacred power" was introduced into the treatises on the sacraments in the Middle Ages by the likes of Peter Lombard or Thomas Aquinas, it was understood as the action of God in the sacramental economy, but never as a personal possession of the priest or minister of the sacraments. Sacred power, properly speaking, is attributed to God alone. The ministries of the church are at its service (and were described in classical metaphysics in terms of "instrumental," not effective causality).

In the Christian dispensation, power originates in the Holy Spirit and is entrusted to the whole church. Classical theology understood jurisdiction, or the authority of one's office as something determined by the parameters of one's office as the service of a particular community with a precise set of needs. Jurisdiction might also be restricted by limited terms of office. Thus, the canonical mission ought to be seen less as a conferral of power than a canonical determination of the parameters of one's ministry, which will be largely defined by the community one is called to

serve. It would be better understood as an authorization or commissioning of the new office holder to act in the name of the church. The one redeeming feature of *Praedicate Evangelium* is that it locates the ministry of the curia within a context of “mission,” an ecclesial reality, which serves as the horizon for the entire Apostolic Constitution. All ecclesial ministries exist within an ordered communion and serve to enable the participation of the baptized faithful in God’s mission towards the world. Thus, any conferral of office and its related jurisdiction might be seen essentially as an authorization to act in the name of and at the service of a precise community and its mission.

Participation in the Threefold Office of Christ and Inclusive Governance

This excursus may seem far from our consideration of Ministerial PJPs. But I hope that it enables us to appreciate the limits and inadequacies of existing operative theological and canonical frameworks. The paradigms that I have sketched out all too briefly bear the marks of a theology of ministry that is all too clerically centered and disconnected from the community of the baptized Christian faithful. I don’t know many lay persons engaged in ministry or leadership within the church that would express their experience of call or mission as an extension of the ministry of ordained persons or a mandate to act in their name. The sacrament or orders and ministry of ordained persons is neither the source nor the horizon of their call to service. Christ is the source of their call to contribute to building up the church and to supporting the realization of its mission in the world. Returning to a baptismal ecclesiology can help us to recover the Christological source of all ecclesial service and to locate it within the horizon of the church in whose name all those in any ministry will act. Insisting on the baptismal roots of lay participation in church governance takes nothing away from the essential bond of communion between the baptized lay faithful with the ordained (CIC 209). But it makes clear the Christological origin of their call and the pneumatological foundation of their charisms for leadership and service.

Let me conclude with a very brief consideration of the need for a further development of Vatican II's theology of participation in the offices of Christ, including the *munus regendi* or office of governance. We see an initial development in this direction when Chapter II of *Lumen Gentium* on the Pilgrim People of God considers of the participation of all the baptized Christian faithful in the three offices of Christ. Following a reflection on the participation of the faithful in the priestly (LG 10-11) and prophetic (LG 12) offices of Christ, article 13, with only a passing reference to Christ's royal office, limits its reflection to bringing about the reign of God in the world, or the contributions of the diversity of nations and cultures to the realization of the church's catholicity. The laity's sharing in the royal office of Christ is taken up again in chapter IV of the Constitution, On the Laity, where the focus is again on extending God's kingdom by serving others and working for the transformation of the world: "they must help each other towards greater holiness of life even through their secular activity, so that the world may be penetrated by the Spirit of Christ and more effectively attain its purpose in justice, in love, and in peace" (LG 36). This secular orientation is echoed in the Code of Canon Law's treatment of the participation of the Christian faithful in the church's mission that flows from baptism (CIC 225).

The chapter on the Laity also acknowledges the laity's sense of faith (LG 35), born from their share in Christ's prophetic office (LG 12), which grounds their right and obligation to "make known their opinion on matters which concern the good of the church," especially given "the knowledge, competence, or authority that they possess" (LG 37). In this context, practices of mutual consultation are essential to sustaining the bonds of communion. Bishops are urged "to acknowledge and promote the dignity and responsibility of the laity in the church, ... to willingly make use of their counsel, ... confidently entrust to them offices in the service of the church and leave them the freedom and the space to act" (LG 37). Further, whenever the laity embrace such

responsibilities, their experience is said to help the bishops “to make clearer and more suitable decisions in both spiritual and temporal affairs,” strengthening the whole church to carry out its mission (LG 37). Although not stated explicitly, this synodal dynamic ought to be understood not merely as aiding the bishop in the exercise of his prophetic teaching office, but also as a share in the actual governance of the church, a contribution to the discernment of its pastoral and missional priorities, as well as the right ordering of the inner life of the church and its ministries in order to accomplish them.

The attributes of the lay persons described in article 37 of *Lumen Gentium* should not be taken lightly: “knowledge, competence, and authority.” Those lay persons who assume oversight for the administration of apostolic works in health care, education, and social services must not only be competent professionals, but must receive a solid formation in the teachings of the Catholic tradition, including the basics of Catholic ethics, ecclesiology, social teaching, principles of ecumenical and interfaith cooperation, the stewardship of ecclesial goods, and the charism of the founding institute, where this applies. They must be living witnesses to the faith of the church, willing to embrace and articulate the charism and values reflected in the mission of the institution or work for which they assume a governing role. The recent synod “For a Synodal Church” drew attention to the need for serious investment in the continuous formation of all the Christian faithful if we are to grow into a truly synodal church.¹² A similar commitment to the education and formation for all those who participate in Ministerial PJPs will be essential to their success.

¹² Pope Francis and XVI Ordinary General Assembly of the Synod, *For A Synodal Church: Communion, Participation, Mission. Final Document* (26 October 2024), at: https://www.synod.va/content/dam/synod/news/2024-10-26_final-document/ENG---Documento-finale.pdf. See especially Part V, “So I Send You: Forming a People for Missionary Discipleship,” 49-52.

If we were to take these few lines of *Lumen Gentium* more seriously, taking them as the basis for the development of a more coherent theology participation in the *munus regendi* by all the baptized, we might begin to see that the participation of all the baptized faithful in the governance of the church and its institutions not as a stop-gap measure, but rather an essential means of living out one's baptismal commitment. Ministerial PJPs provide us with an opportunity not simply to fill a void left by the decline of consecrated religious but to help us move toward more inclusive models of governance for all Catholic institutions and works that call forth the best gifts and competencies of the baptized Christian faithful – lay persons, consecrated religious, and ordained ministers – in a non-competitive dynamic. They represent an opportunity to foster a deeper consciousness of the co-responsibility of the baptized Christian faithful for the life and mission of the church.