

The Function of the Laity in the Power of the Governance

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Introduction

In the mission of the early Church, the lay people played a significant role. With clericalism, their role was reduced to a passive one. The *CIC/1917* stated that the laity included all baptized persons, their rights, and obligations.¹ Cc. 682 and 683 deal directly with the laity as individuals. The Second Vatican Council restored the positive status of the laity and *CIC/1983* speaks about the involvement and cooperation of the laity in the three-fold function of the Church, that is, teaching (*docendi*), sanctifying (*sanctificandi*) and governing (*regendi*) functions.

This paperwork focuses on the third function i.e., the governing function in which the laity can participate and contribute for building up of the Church. According to c. 135 §1 the power of governance is divided into legislative, executive, and judicial power.

1. Legislative Power of Governance

Legislative power in the church is possessed by the Roman Pontiff (c.331) and the Ecumenical Council (cc. 337§1 and 341§1) for the universal church, the Diocesan Bishops and those who are equivalent to them in law for the dioceses (c.446) and General Chapters of clerical religious institutes for their members (c.631). Legislative power of governance cannot be delegated by a legislator below the supreme authority unless the law specifically provides for it (c.135§2). Legislative power is exercised through two types of votes, consultative and deliberative. Lay persons who are called to a legislative session, whether it is, be an ecumenical council (c.339) or a plenary and provincial council (c.443§4) or a diocesan synod (c.463§1,5) have the right and duty to express their opinions sincerely (c. 228§2). Their vote is only a consultative one. The final decision is reserved to the Bishops. The laity, by active and responsible participation, they “cooperate” in the exercise of the power of governance, at least by the exercise of consultative vote.²

2. Executive Power of Governance

Executive power of governance is that which is required for ordinary administration.³ The canons (cc.136 - 144) on the delegation of executive power of governance say nothing about the passive subject or recipient of delegated executive power. From this one can safely conclude that laypersons are not excluded from being recipients of delegated executive power.⁴ Lay persons are called to exercise delegated executive power of governance both at

¹ L. BOUSCAREN and A. C. ELLIS (eds), *Canon Law A Text and Commentary*, The Bruce Publishing Company, Milwaukee 1957, pp. 341-342.

² G. SHEEHY, *The Canon Law Letter and Spirit. A Practical Guide to the Code of Canon Law*, Bloomsbury Publishing Plc 1999, p. 81.

³ *Ibid.*, p. 81.

⁴ F. URRUTIA, “Delegation of Executive Power of Governance,” in *Studia Canonica*, 14 (1985), p. 341.



the diocesan and at the parish level by being members of the diocesan pastoral council (cc. 511-514), diocesan finance council (c. 492), parish pastoral council (c. 536) and the parish finance council (c. 537). A lay person, who is an expert in financial matters and with outstanding integrity, can be appointed (c.494 §1). Lay persons can also be appointed to the posts of the diocesan chancellor and vice-chancellor (c. 482) and notary (c. 483 §1).⁵

2.1. At the Diocesan Level

2.1.1. Diocesan Pastoral Council (cc. 511- 514)

Christus Dominus no. 27 spells out its composition and purpose: “It is highly desirable that in every diocese a special pastoral council be established, presided over by the diocesan bishop himself, in which clergy, religious and laity specially chosen for the purpose will participate. The function of this council to investigate and consider matters relating to pastoral activity and to formulate practical conclusions concerning them.”⁶

Ecclesiae Sanctae nn. 16-17 spell out its function as that of studying and evaluating pastoral activities in the diocese and to make practical suggestions concerning future programs in pastoral ministry. Although it is a permanent institution but, enjoys only a consultative vote, at the same time, it may be temporary about the membership. The bishop may convene it whenever he considers it advisable.⁷ The Diocesan Pastoral Council is a very important body where in the laity can exercise their rights, and to arrive at practical conclusions and to fulfill it effectively.⁸ Pertaining diocesan pastoral activities.

In cc. 511-514, *CIC/1983* recommend, even though this council has a consultative vote (c. 514), the laity actively participate in this council and share in the mission and ministry of the Church. Canon 512 is crucial for our study on the laity, as it explains the Pastoral Council membership. Members are to be drawn from the whole range of Christ’s faithful, namely clergy, members of institutes of consecrated life, and especially the laity. Hence the diocesan bishop is to consider geographic, social, and professional, as well as apostolic bases for council membership. If need be distinctive ethnic and language factors may also be considered.⁹

2.1.2. Diocesan Finance Committee (c. 492)

The establishment of a diocesan finance committee is obligatory by law for the Diocesan Bishop. The committee carries on even when the See is vacant. Expertise in the field of finance and civil law are the specific criteria for appointment to the finance committee in addition to the requirements of c. 149 §1.¹⁰ The committee should be composed of at least three Christ’s faithful who may be cleric, religious or lay persons. The members must be of outstanding integrity and may not be related to the Bishop either by consanguinity or affinity up to the fourth degree. The members are appointed for a fixed term of five years but

⁵ G. SHEEHY, *The Canon Law Letter and Spirit. A Practical Guide to the Code of Canon Law*, pp. 81- 82

⁶ VATICAN II, Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, 28 October 1965, in *AAS*, 58 (1966), pp. 680; in A. FLANNERY, *Vatican II, The Conciliar and Post Conciliar Documents*, Vol. 1, Mumbai, St Paul Publications, 1975, no. 27, p. 523.

⁷ PAUL VI, Apostolic Letter *Ecclesiae sanctae I*, 6 August 1966, no. 16, on Implementing the Decrees, *Christus Dominus, Presbyterorum Ordinis, Perfectae Caritatis*, in A. FLANNERY, *Vatican II, The Conciliar and Post Conciliar Documents*, Vol. 1, Mumbai, St Paul Publications, 1975, pp. 542 - 543.

⁸ SACRED CONGREGATION FOR BISHOPS, Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago*, 22 February 1973, Ontario, Publications Service of the Canadian Catholic Conference, 1974, p. 105.

⁹ J.P. BEAL, *New Commentary on The Code of Canon Law*, Paulist Press, New York 2000, pp. 669- 670.

¹⁰ In order to be promoted to an ecclesiastical office, one must be in communion with the Church, and be suitable, that is, possessed of those qualities which are required for that office by universal or particular law or by the law of the foundation.



may be reappointed for further five-year term.¹¹ The finance committee is presided over by the bishop in person, or by his delegate, who may not be the financial administrator.¹²

2.1.3. Diocesan Financial Administrator (c. 494)

Ecclesiastical property is the property of public juridical persons of the church (like parish, diocese, etc.), but it must be administered by some physical person, who is called administrator or *economus*. Financial administrator must be canonically appointed. This financial administrator need not be a cleric but can be a lay person or religious, provided he or she has the required qualifications.¹³ He/she can be removed only for a “grave cause”¹⁴ when the See is vacant, the Finance Council must appoint another Financial Administrator to serve temporarily.

2.2. At the Parish Level

2.2.1. Parish Pastoral Council (c. 536)

Although parish councils are not specified in detail in conciliar documents, the Decree on the Apostolate of Lay People, *Apostolicam actuositatem*, no. 26 promotes the idea of councils at the parochial level: “In dioceses, as far as possible, councils should be set up to assist the Church’s apostolic work, whether in the field of evangelization and sanctification or in the fields of charity, social relations and the rest; Such councils should be found, if possible, at parochial, inter-parochial and at the inter-diocesan levels.”¹⁵ The Sacred Congregation for the Clergy issued a circular letter on pastoral councils on 25 January 1973, which stated that nothing prevents “the institution within the diocese of councils of the same nature and function [as diocesan pastoral councils], whether parochial or regional.”¹⁶ The Parish Pastoral Council is a representative body of the faithful working in close collaboration with the clergy of the parish, and to plan out pastoral programs and to evaluate them.¹⁷ The Parish Pastoral Council has only a consultative vote and it is left to the Diocesan Bishop if he needs it for his diocese.

2.2.2. Parish Finance Council (c. 537)

The Parish Finance Council, which is mandatory, is a new concept in law. The Parish Priest who acts in the name of the parish (c.532) ensures that the parish goods are administered in accordance with both Canon Law (CIC/1983 c. 1281) and Civil Law. It is here that the Parish Finance Council helps the Parish Priest in the administration of the

¹¹ C.492 § 2 Membra consilii a rebus oeconomicis ad quinquennium nominentur, sed expleto hoc tempore ad alia quinquennia assumi possunt.

¹² G. SHEEHY, *The Canon Law Letter and Spirit, A Practical Guide to the Code of Canon Law*, p. 273.

¹³ G. NEDUNGATT, *Laity and Church Temporalities- Appraisal of a Tradition*, Dharmaram Canonical Studies 1, Dharmaram Publications, Bangalore 2000, pp. 234- 235.

¹⁴ C. 494 § 2. [...] durante munere, ne amoveatur nisi ob gravem causam ab Episcopo aestimandam, auditis collegio consultorum atque consilio a rebus oeconomicis.

¹⁵ VATICAN II, Decree on the Apostolate of Lay People, *Apostolicam Actusoitatem*, 18 November 1965, no. 26, 18 November 1965, in *AAS*, 58 (1966), p. 849; in FLANNERY, *Vatican II, The Conciliar and Post Conciliar Documents*, Vol. 1, p. 713.

¹⁶ SACRED CONGREGATION FOR THE CLERGY, *Omnes Christifideles*, in *CLD* 8, pp. 287- 288.

¹⁷ SACRED CONGREGATION FOR BISHOPS, Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago*, p. 179.



temporal goods of the parish.¹⁸ The diocesan bishop can set limits for financial actions, which could not exceed the parish level without his written permission.¹⁹

3. Judicial Power of Governance

Judicial Power is that by which individual judges or colleges of judges resolve controversies and make decisions, based on law and fact, which are binding on the parties involved in the case (c.16 §3). This power cannot be delegated, except for the purpose of certain preliminary acts, like the designation of an auditor to instruct the case (c. 1428 § 1).²⁰

In the diocese the bishop exercises judicial power either personally or through others (c. 391 § 2). The judicial vicar, the associate judicial vicar and the judges exercise judicial power by virtue of office.

3.1. Lay Judges in Ecclesiastical Tribunals

The mind of the Holy See about the use of lay judges, can be found in an answer of the Sacred Congregation of the Council, dated 14 December 1918. Lay judges truly exercise the power of governance not through delegation but by virtue of their office.

3.2. Various Roles of Laity in Tribunals

In diocesan tribunals laypersons can be appointed as., judge c. 1421, Assessor c. 1424, Auditor c.1428, relator c. 1429, promotor of the justice cc. 1430 and 1435, defender of the bond cc. 1432 and 1435, notary c. 1437, experts cc. 1574-1581, interpreter c. 1471, advocate c. 1483, procurator c. 1483, tutor and curator.

4. The Catholic Bishops Conference of India (CBCI)

In 1944 the Indian Bishops gathered under the ‘Catholic Bishops Conference of India.’ With the juridical and structural change taking place during Vatican II, the C.B.C.I began to restructure its Conference into National Commission, Regional Council and National Organization.

On May 28, 1987, Pp. John Paul II, in his Letter gave permission to establish a separate Episcopal body for all the three rites. Hence, in the year

1988, in the General Body Meeting of C.B.C.I the bishops of all the three rites passed a resolution to establish three separate conferences according to the three existing rites. In January 1994, the Holy See approved the status of the conferences.²¹

4.1. Structure of Catholic Bishops Conference of India

The Church in India consists of three *Sui Iuris* Churches: The Latin Church, the Syro-Malabar Church, and the Syro-Malankara Church. The Latin Church has its own conference which is known as, ‘Conference of the Catholic Bishop of India’, (C.C.B.I).²²

4.2. General Body meetings regarding *MONUS REGENDI*.

The Catholic Bishop’ Conference in India meet every year for their General Body meetings. The decisions of the meeting are published as Final Statements. It is very

¹⁸ J. E. LYNCH, “The Parochial Ministry in the New Code of Canon Law,” in *The Jurist* 42 / 4 (1982), p. 385.

¹⁹ G. SHEEHY, *The Canon Law Letter and Spirit. A Practical Guide to the Code of Canon Law*, p. 299.

²⁰ G. SHEEHY, *The Canon Law Letter and Spirit. A Practical Guide to the Code of Canon Law*, p. 81.

²¹ Cfr. F. MAROTTICKAPARAMBIL, “The Latin Catholic Church”, in INDIAN CHRISTIAN DIRECTORY, *Indian Christian Directory for the New Millennium*, Kottayam, 2000, 222.

²² Cfr. CONFERENCE OF THE CATHOLIC BISHOPS’ CONFERENCE, *About CBCI*, [www.cbci.in/About-CBCI.aspx], (06-04-2014).



interesting to note that out of the 31 meetings the conference had only 10 conferences touched on the active role of the laity and out of the 10 General Body meetings only 2 General Body meetings were dedicated specifically for the Role of the laity in the Church of India.

4.2.1. General Body meeting - New Delhi

At the General Body meeting held in New Delhi from October 13-20, 1966 CBCI for the first time formed a Commission for the Lay Apostolate.²³

4.2.2. General Body meeting – Ernakulam

The General Body meeting which took place in Ernakulam was a significant one as it discussed the findings of the ‘All India Seminar for the Laity’. “We wish to make it clear to all that, in accordance with the teaching of Vatican II, the CBCI stands committed to lay participation in Church affairs.”²⁴

4.2.3. General Body meeting – Calcutta

The General Body meeting of Calcutta which was supposed to be CBCI’s official report to be presented at the Synod of Bishops in Rome, reports about the formation of the Laity. This is the first step taken towards a great responsibility and role of the laity in the future.²⁵

4.2.4. General Body meeting – Nagpur

This General Body meeting has significance in the history of the Conference because for the first time the theme chosen for the Conference was on Laity. The theme read, “The Church’s Response to the Challenges of Contemporary Society with Special reference to the Role of the Laity.”²⁶

Finally, the Conference jots down two-fold concrete solutions which they term it as “two-fold strategy”, they are,

- 1) “Adequate formation and training of the laity”
- 2) “Organizational change.”²⁷

Conclusion:

Though c. 274 §1 restricts to clergy those offices for whose exercise the power of governance is required, in practice this restriction has not been observed in the Code (e.g., on judges c. 1421 §2 and other examples in legislative and executive functions). In this paper-work we analyzed various areas where lay participation in the governing function of the Church is possible. In practice, lay persons have exercised jurisdiction in the past by cus-

²³ Cfr. Catholic Bishops’ Conference of India, General Body Meeting: *Message to the Clergy, Religious and Faithful of India*, 3- 4.

²⁴ Catholic Bishops’ Conference of India, General Body Meeting: *Message of the Conference to the Clergy, Religious and Faithful of India*, 07 – 16 January 1970, in *Final Statements of the General Body Meetings of Catholic Bishop’ Conference of India*, THOMAS D’AQUINO SEQUEIRA (editor), 2nd ed., New Delhi 2012, 10.

²⁵ Catholic Bishops’ Conference of India, General Body Meeting: *The Communication from CBCI to the Synod of Bishops in Rome*, 06 – 14 January 1974, in *Final Statements of the General Body Meetings of Catholic Bishop’ Conference of India*, THOMAS D’AQUINO SEQUEIRA (editor), 2nd ed., New Delhi 2012, 30.

²⁶ Catholic Bishops’ Conference of India, General Body Meeting: *Statement Of the CBCI*, 31 – 06 January February 1984, in *Final Statements of the General Body Meetings of Catholic Bishop’ Conference of India*, THOMAS D’AQUINO SEQUEIRA (editor), 2nd ed., New Delhi 2012, 98.

²⁷ Catholic Bishops’ Conference of India, General Body Meeting: *Statement Of the CBCI*, 107.



toms, they do so today by law. But the manner of lay cooperation in these ecclesiastical offices must be such as to avoid any form of “clericalization” of the lay Christian faithful.

ABBREVIATIONS

Can. / cann.	Canon / canons
CIC/1917	codex iuris canonici, 1917
CIC/1983	codex iuris canonici, 1983
Ibid	ibidem (in the same place)
Vol. / vols	volume / volumes
C.B.C.I	Catholic Bishops Conference of India

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