

Missionary Pragmatism? The Apostolic Constitution *Praedicate Evangelium* in the light of power and participation at Francisco Suárez SJ (1548-1617)

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The apostolic constitution *Praedicate Evangelium* is part of a series of documents on the reform of the roman curia that were promulgated in the past 500 years. In a first wave of commentaries, special focus is given to the possibility of appointing laypeople to leadership positions in the roman curia sparking an old discussion on ecclesiastical power and participation of laypeople in ecclesiastical leadership. As a fundamental canonistic-historical contribution, this article wants to focus on the thought of Jesuit scholar Francisco Suárez SJ (1548-1617) on ecclesiastical power and participation. Known as *doctor eximius*, Suárez has essentially influenced the moral theological and canonistic literature of the past centuries (Virt) and shares not only the name with Pope Francis, but also the membership in the Society of Jesus. Suárez writes furthermore in a time that experienced with *Immensa Aeterni Dei* (1588) a curial reform as well. Interestingly, the Jesuit allocates the power of orders and power of governance not only to two different types of law - the *New law* and Canon Law -, but subordinates with his concept of the *sacra potestas* the latter similarly as in *Praedicate Evangelium* to the overall mission of the Church. In doing so, he goes a middle way between contradicting opinions, arguing ultimately for the possibility of laypeople to take over power of governance in the context of a *missionary pragmatism*. The analysis of Suárez can thus show that *Praedicate Evangelium* not only stands on traditional ground, but also, that the power of governance as in this apostolic constitution was already similarly thought during the first curial reform by Suárez in the Thomistic tradition.

Introduction

“And he said to them: Go into all the world and proclaim the good news to the whole creation” (Mk. 16:15). *Praedicate Evangelium*, with these words Pope Francis has promulgated the long-expected constitution for the reform of the roman curia on 19th March 2022. As apostolic constitution, this document follows a long tradition of curial reform documents with landmarks such as *Immensa Aeterni Dei* by Sixtus V. (1588), *Sapienti Consilio* by Pius X. (1908), *Regimini Ecclesiae Universae* by Paul VI. (1967) and *Pastor Bonus* by John

Paul II (1988).¹ Besides several publications before its promulgation,² one can find first reactions foremost in the English-speaking world. One of these voices comes from Marie Collins criticizing the integration of the *Pontifical Commission for the Protection of Minors* into the *Dicastery for the Doctrine of Faith*.³ By contrary, Cardinal O'Malley praises this step as an important reform when dealing with abuse, „making safeguarding and the protection of minors a fundamental part of the church's central government.“⁴ The point, however, that most commentators highlight is the fact that laypeople could be involved “in roles of government and responsibility”⁵ within the roman curia. Brian Davis for example speaks about this as “big news”⁶. Even though the constitution looks like a brave implementation of the documents of the Second Vatican Council and a spear-head against clericalism,⁷ the question arises, if the apostolic constitution with its possibility that laypeople can be appointed to roles of leadership is really such a novelty („no precedent“)⁸. In this context,

¹ Cf. *Pope Francis*, *Praedicate Evangelium* (abbreviated as PE), 3: “Nel contesto della missionarietà della Chiesa si pone anche la riforma della Curia Romana. Fu così nei momenti in cui più urgente si avvertì l'anelito di riforma, come avvenuto nel XVI secolo, con la Costituzione apostolica *Immensa aeterni Dei* di Sisto V (1588) e nel XX secolo, con la Costituzione apostolica *Sapienti Consilio* di Pio X (1908). Celebrato il Concilio Vaticano II, Paolo VI, riferendosi esplicitamente ai desideri espressi dai Padri Conciliari [5], con la Costituzione apostolica *Regimini Ecclesiae universae* (1967), dispose e realizzò una riforma della Curia. Successivamente, Giovanni Paolo II promulgò la Costituzione apostolica *Pastor bonus* (1988), al fine di promuovere sempre la comunione nell'intero organismo della Chiesa.”

² For an overview see: *Ambros, Matthias*, *Die Teilhabe von Laien an der päpstlichen Primatialgewalt. Ein Blick auf die Kurienreform durch die Apostolische Konstitution Praedicate evangelium*, at: <https://www.nomokanon.de/nomokanon/article/view/215/458>, FN.1. Ambros refers to: *Rhode, Ulrich*, *Wie Papst Franziskus die Kurie reformiert: Der Kardinalsrat und die schrittweise Umsetzung*, in: *AfkKR* 185 (2016), 42-61; *Graulich, Markus*, *Vereinfachung – Synodalität – Dezentralisierung. Papst Franziskus und die Reform der Römischen Kurie*, in: *Reform an Haupt und Gliedern. Impulse für eine Kirche „im Aufbruch“*. Edited by Heribert Hallermann/ Thomas Meckel/ Sabrina Meckel-Pfannkuche/ Matthias Pulte, Würzburg 2017, 263-278; *Schüller, Thomas*, *Kurie im Werden – Papst Franziskus und sein Projekt der Reform der Römischen Kurie*, in: *Im Dienste der Gerechtigkeit und Einheit* (FS Reinhardt). Edited by *Rüdiger Althaus/Judith Hahn/ Matthias Pulte*, Essen 2017, 401-414

³ Cf. PE, Art. 78: “§ 1. Presso il Dicastero è istituita la Pontificia Commissione per la Tutela dei Minori il cui compito è fornire al Romano Pontefice consiglio e consulenza ed altresì proporre le più opportune iniziative per la salvaguardia dei minori e delle persone vulnerabili.” *Davies, Brian*, *Comment: Praedicate Evangelium*, *New Blackfriars* 103 (2022), 320-321: “Take, for example, the decision to place the former Pontifical Commission for the Protection of Minors within the Dicastery for the Doctrine of the Faith. Marie Collins, a founder member of the Pontifical Commission for the Protection of Minors, has recently described this change as likely to erode the significance of that body.”

⁴ *Davies, Brian*, *Comment: Praedicate Evangelium*, 321.

⁵ PE, 10.

⁶ *Davies, Brian*, *Comment: Praedicate Evangelium*, 320.

⁷ *Ibid.* 320: “But much of it is innovative, and its tone indicates that Pope Francis is serious about implementing Vatican II in a way that Pope John Paul II and Pope Benedict XVI seemed to many to shy away from. It makes clear that the goals of Vatican II should be those of the Curia. And it seriously challenges a long prevailing view according to which governance in the Church comes only with the grace of ordination. In this sense, the Constitution can be read as an attempt to debunk clericalism, if ‘clericalism’ is taken to assume that it is only priests, bishops, and cardinals who are truly qualified to govern the Church and the people who make it up.”

⁸ *Davies, Brian*, *Comment: Praedicate Evangelium*, 320.

Ambros refers to the fifth reform principle of *Pastor Bonus* stressing the option that offices at the roman curia can "be given to baptized women and men"⁹. Ambros further reflects on a twofold problem with *Praedicate Evangelium* that he identifies 1) with the strong fixation on the role of the pope¹⁰, but also 2.) with a marginal justification and specification of these offices. There is a lack in the "justification of the transmission of offices to men and women, who are not clerics"¹¹, as well as norms for "offices and services (...), which can be transmitted systemically to laypeople on the basis of their special education and capability in the future."¹²

Questions on the origin and a criteriology on a systematic level that are raised by Ambros are undoubtedly linked to the right understanding of ecclesiastical power, its distribution and participation leading to more fundamental questions. Where does the canonical power of the church come from? How can it be described more precisely, and who are the bearers of this power?

This article wants thus to contribute with a fundamental canonistic perspective on *Praedicate Evangelium* focusing on Francisco Suárez' SJ thought on power in the Church. On the one hand, this canonist, who is also called *Doctor Eximius* or *Europae atque adeo orbis universi magister*¹³, has "significantly influenced the moral theological and canonistic literature until the present age"¹⁴. As „*alter Aquinas*"¹⁵, he further not only stands on traditional Thomistic ground, but overviews a wealth of medieval literature on the turnstile between the late

⁹ Ambros, Die Teilhabe von Laien, 8: "an getaufte Frauen und Männer zu übertragen" (own translation).

¹⁰ Cf. Ibid. 14: "Der Ansatz, der nämlich dort gewählt wird, ist die Hervorhebung der Tatsache, dass es sich „lediglich“ um stellvertretende Vollmacht handelt, die der Papst denen überträgt, die eine Behörde der Römischen Kurie leiten. Weil es also stellvertretende Leitungsvollmacht ist, könne diese auch von Laien ausgeübt werden. Die Vollmacht leitet sich daher völlig vom Papst ab." Further 8: "Derjenige, der frei entscheidet, die Leitung einer Kurienbehörde an Laien zu übertragen, ist allein der Papst. Als Ausfluss seines Jurisdiktionsprimats muss er seine Personalentscheidungen nicht begründen oder durch objektives Recht an bestimmte Kriterien binden. Es obliegt der Person des jeweiligen Inhabers des Papstamtes, ob und wie er das fünfte Prinzip der Kurienreform umsetzen will."

¹¹ Cf. Ibid. 14: "Begründung für die Vergabe von Leitungsämtern an Frauen und Männer, die keine Kleriker sind" (own translation).

¹² Cf. Ibid. 14: "Ämter und Dienste (...), die künftig systemisch, aufgrund ihrer besonderen Vorbildung und Befähigung, an Laien übertragen werden sollen."

¹³ Quote taken from: *Pereira, José*, Suárez between scholasticism and modernity, in: Marquette Studies in Philosophy, Vol. 52, Milwaukee 2007, 10. He refers to *Fichter, Joseph Henry*, Man of Spain. A Biography of Francis Suárez, Macmillan, New York City 1940, 340. According to Fichter, this dictum can be found at an inscription at the University of Coimbra.

¹⁴ *Virt, Günter*, Epikie, Verantwortlicher Umgang mit Normen. Eine historisch-systematische Untersuchung zu Aristoteles, Thomas von Aquin und Franz Suarez, Mainz 1983, 172: "moraltheologische und die kirchenrechtliche Literatur bis zur Gegenwart am nachhaltigsten beeinflusst" (own translation).

¹⁵ *Encomium* at the beginning of Vol.2 in the *Opera Omnia* by Vivès: *Francisco, Suárez*, Opera Omnia, Ed. nova / a D. M. André iuxta ed. Venetianam XXIII tomos in-f continentem, accurate recognita ..., Vivès, Paris 1856-1878, at: <http://sydneypenner.ca/SuarLat.shtml#google>.

middle ages and early modernity¹⁶ bringing Étienne Gilson to conclude that Suárez can be described as the last judgment of medieval theology and philosophy in total.¹⁷ Additionally, the Jesuit writes at a time that experienced with *Immensa Aeterni Dei* (1588) a curial reform as well. One will thereby easily see that this canonist, who shares the same name and also the membership of the Jesuit order with Pope Francis, reveals not only an astonishing account on ecclesiastical power on a theoretical level, but also reveals parallels with *Praedicate Evangelium* when it comes to the distribution of it showing that the curial reform stands on the ground of tradition. It is, in the word of Söhngen, however not up to us here to “lead back our scholarship to scholastic thought”¹⁸, but “regain scholastic thought for our scholarship”¹⁹, to get incentives that are relevant for argumentative lines and justification in contemporary discussions.

Before the focus will be on Suárez, it is thus important to throw a brief light on these contemporary discussions on ecclesiastical power. Is the transmission of ecclesiastical power to laypeople really “big news”²⁰?

1 The Justification of Power and Participation in the contemporary canonistic discussion

The problem linked with questions about the participation of laypeople in leading positions within the roman curia as given with *Praedicate Evangelium* lies particularly in the ongoing discussion on the right allocation of the power of orders and power of governance in the Church. In other words: Is the ordination as bishop, priest or deacon a necessary precondition to hold power of governance in the Church?

There are undoubtedly several contributions in recent years dealing with this topic with Beal providing a detailed overview of different approaches and current developments.²¹ Whereas

¹⁶ For theories of the justification of ecclesiastical power see: *Stickler, Alfons*, Die Regierungsgewalt in der klassischen Kanonistik. Einheit der Träger und Unterscheidung der Funktionen, Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung 69 (1983), 267-410.

¹⁷ “Suárez enjoys such a knowledge of medieval philosophy, as to put to shame any modern historian of medieval thought. On each and every question he seems to know everybody and everything, and to read his book is like attending the Last Judgment of four centuries of Christian speculation by a dispassionate judge.” *Gilson, Étienne*, Being and Some Philosophers, Pontifical Institute of Medieval Studies, Toronto 1949, 99.

¹⁸ *Söhngen, Gottlieb*, Philosophische Einübung in die Theologie: Erkennen, Wissen, Glauben, Freiburg 1964², 137 (taken from: *Graulich, Markus*, Unterwegs zu einer Theologie des Kirchenrechts: die Grundlegung des Rechts bei Gottlieb Söhngen (1892-1971) und die Konzepte der neueren Kirchenrechtswissenschaft, Paderborn 2006, 31): “unsere Wissenschaft auf scholastisches Denken zurückzuführen” (own translation).

¹⁹ *Söhngen*, Philosophische Einübung, 137 (taken from: *Graulich*, Unterwegs zu einer Theologie, 31): „scholastisches Denken für unsere Wissenschaft zurückzugewinnen“ (own translation).

²⁰ *Davies, Brian*, Comment: Praedicate Evangelium, 320.

²¹ For an overview see: *Viana, Antonio*, El problema de la participación de los laicos en la potestad de régimen. Dos vías de solución. The Problem of the Participation of the Laity in the Power of Governance. Two Solution

the pre-conciliar discussion was primarily shaped by c. 118 CIC/1917 binding the power of governance strictly to the clergy,²² the II. Vatican Council hardly speaks of the power of governance as *potestas iurisdictionis*.²³ It rather uses expressions such as *potestas* or *sacra potestas*, „terms that, depending on the context, could denote either the power of orders or the power of jurisdiction or both powers united in the same subject.“²⁴ Consequently, two argumentative lines can be identified with Bertrams and Mörsdorf highlighting 1.) the unity

Approaches, *Ius Canonicum*, 54 (2014), 635-638. At this point only some titles: *Amann, Thomas*, Laien als Träger der Leitungsgewalt? Eine Untersuchung aufgrund des Codex Iuris Canonici, St. Ottilien 1996; *Arrieta, Juan*, Diritto dell' organizzazione ecclesiastica, Giuffrè, Milano 1997; *Assenmacher, Günter*, Laien als kirchliche Richter. Die Situation in den Bistümern der Bundesrepublik Deutschland, in: *Lüdicke, Klaus*, *Iustus Iudex*, Essen 1990, 349-361; *Aymans, Winfried*, Laien als kirchliche Richter? Erwägungen über die Vollmacht zu geistlicher Rechtsprechung, *AfkKR* 144 (1975), 3-20; *Beal, John*, The Exercise of Power of governance by lay people: state of the question, *The Jurist* 55 (1995), 1-92; *Beyer, Jean*, De natura potestatis regiminis seu iurisdictionis recte in Codice renovato enuntianda, *Periodica de re morali, canonica, liturgia* 71 (1982), 93-145; *Cattaneo, Arturo*, Quaestioni fondamentali della canonistica nel pensiero di Klaus Mörsdorf, Ediciones Universidad de Navarra, Pamplona 1986; *Coriden, James*, Lay persons and the power of governance, *The Jurist* 59 (1999), 335-347; *Ghirlanda, Gianfranco*, «Hierarchica communio». Significato della formula nella «Lumen Gentium», *Analecta Gregoriana* 216; *Series Facultatis Iuris Canonici A* 9, Freiburg im Breisgau 1981; *Hervada, Javier*, Elementos de derecho constitucional canónico, Barañáin 2014; *Hervada, Javier*, *Vetera et Nova*. Cuestiones de derecho canónico y afines (1958-2004), *Estudios eclesiásticos*, 2018, Vol.81 (319), 897-898; *Huels, John*, The power of governance and its exercise by lay persons: a juridical approach, *Studia Canonica* 35 (2001), 59-96; *Laukemper-Isermann, Beatrix*, Zur Mitarbeit von Laien in der bischöflichen Verwaltung: Rechtliche Möglichkeiten der Anwendung des 129 § 2 CIC, Essen 1996; *Lüdicke, Klaus*, Laien als kirchliche Richter. Über den Inhalt des kirchlichen Richteramtes, *Österreichisches Archiv für Kirchenrecht* 28 (1997), 332-352; *Malumbres, Emilio*, Los Laicos y la potestad de régimen en los trabajos de reforma codicial: una cuestión controvertida, *Ius Canonicum* 26 (1986), 269-283; *Platen, Peter*, Die Ausübung kirchlicher Leitungsgewalt durch Laien - Rechtssystematische Überlegungen aus der Perspektive des "Handelns durch andere", Essen 2007; *Stickler, Alfons*, Die Regierungsgewalt in der klassischen Kanonistik. Einheit der Träger und Unterscheidung der Funktionen, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung* 69 (1983), 267-410.

²² Even if the CIC/1917 presupposed a wider definition of clergy (c. 108 § 1: "Qui divinis ministeriis per primam saltem tonsuram mancipati sunt, clerici dicuntur"), one must say: "The norms of the 1917 code wiped away some longstanding customs that had permitted the exercise of power of governance by lay people in some places." (*Beal, John*, *The Exercise of Power*, 7). Exemplary is here the diocese of Breslau, its longstanding tradition of appointing laypeople as judges and the answer of the Congregation for the Council, if this custom can remain. (Ibid. 7: "The Bishop of Breslau inquired of the Congregation for the Council whether this centenary custom could continue despite canons 1574, 1575 and 1581 of the 1917 code, which reserved these tribunal roles to priests"). The answer by the Congregation was negative referring to c. 118 of the CIC/1917 (Cf. Ibid. 7), whereas one can see a kind of caution towards secular powers which can be explained by the *Kulturkampf* atmosphere at the end of the 19th century in Prussia. (Ibid. 7-8: "The congregation's rationale for its decision and the law on which it was based did not identify any inherent quality or deficiency in lay people that disqualified them from exercising jurisdiction. Rather, the congregation pointed to the danger posed to the freedom of the Church from the meddling of secular authorities if jurisdiction were granted to lay people").

²³ *Beal, John*, *The Exercise of Power*, 10: "The term "jurisdiction," which pervaded ecclesiological literature during the period leading up to Second Vatican Council, was found infrequently in the documents of the council itself. Nor did the conciliar documents highlight the traditional distinction between the power of orders and the power of jurisdiction."

²⁴ *Beal, John*, *The Exercise of Power*, 10.

of the power of orders and power of governance,²⁵ whereas Beyer, the Roman School and School of Navarra arguing historically and thus 2.) promoting the view that baptism alone provides the capacity to take over power of governance in the church.²⁶ A crucial aspect in these discussions is however the Code of Canon Law itself. With a detailed analysis of the reform of the code leading too far at this point,²⁷ attention should be given to cc. 129, 274 § 1 and 1421 § 2 CIC/1983. It is thereby no miracle that c. 129 § 1 states that “those who have received sacred orders are qualified (*habiles*), (...) for the power of governance, which exists in the Church by divine institution and is also called the power of jurisdiction.” Paragraph 2 then speaks of cooperation (*cooperari*) by laypeople being unclear about its more concrete understanding. Jaeger thus argues in the tradition of the Bertrams-School for a strict

²⁵ Bertrams starts with the sacramentality of the church. According to him, the *sacra potestas* of the council documents must be strictly interpreted as being monistic. “For technical and practical reasons, the episcopal ministry or power can be distinguished into a sacerdotal power and a pastoral power, a distinction that corresponds to the traditional distinction between the powers of orders and jurisdiction” (*Beal, John, The Exercise of Power*, 23). Since the mission of the church is strictly sacramental, the unity of powers must be followed and thus the necessary connection between the power of orders and the power of governance (Cf. 18-36). Similarly, yet with an emphasis on historical circumstances, Mörsdorf argues against the background of the historical separation between jurisdiction and ordination in German-speaking countries for the unity of both powers highlighting the experience of an episcopacy in the history of the *Reichskirche* that was solely representative and whose power of orders was performed by auxiliary bishops (Cf. *Ibid.* 29-30). On the other hand, the influence of Sohm must not be underestimated who strictly distinguishes between charisma, jurisdiction and law (*Ibid.* 30-31: “Mörsdorf sensed that Sohm had identified a critical weakness in the Catholic ecclesiology that predominated after the Council of Trent and especially in the era between the two Vatican Councils. To the extent that order and jurisdiction, charisma and law were seen as separate realities, the door was open to set up an unflattering opposition between the charismatic Church and the institutional Church”).

²⁶ By contrast, the Roman School and particularly Jean Beyer argue for a separation of the power of orders and governance as grounded in historical facts (Cf. *Beal, John, The Exercise of Power*, 37: “He contends that historical studies show that the essential elements of that distinction were inchoately present in the Church’s tradition throughout the first Christian millennium and that ecclesial praxis demonstrates an intuitive grasp of the distinction between the two powers”). The argumentative line of Bertrams and Mörsdorf are thus “tantamount to claiming that the Church erred in a matter of fundamental doctrinal significance for nearly a millennium” (*Ibid.* 37). In the center is for Beyer also the fact that a validly elected, yet not ordained bishop could perform power of governance in the church (Cf. *Ibid.* 41). For a list of further historical examples, see: *Coriden, Lay persons*, 337. Coriden refers to: Leadership of the house churches; the performance of councils by secular rules; the implementation of priests by feudal rulers; the power of governance in the hands of medieval abbesses and prioresses; examples of power of governance granted by the pope; the tonsure and thus the admittance to the clerical state as prerequisite to perform power of governance in the church which was only implemented in the 12th century. See further: *Viana, El problema*, 608. The School of Navarra argues in a similar direction and focusses on a “Personalization” of ecclesiastical power and its emphasis on the clerical state (Cf. *Beal, John, The Exercise of Power*, 42ff). It is thus all about a renewed understanding of the sacrament of baptism: “People, community, and society are three diverse but inseparable dimensions of the Church. As a people, the Church gathers the one family of God composed of all those who have become brothers and sisters of Christ through baptism into a unity of thought and action without sacrificing the unique individuality of each person” (*Ibid.* 43). Alongside ordination, the competence of the single member of the church is thus put to the focus of attention (*Ibid.* 48). “The qualification for exercising these staff or line and staff functions is not sacramental ordination but canonical mission and professional competence” (*Ibid.* 52).

²⁷ See *Beal, John, The Exercise of Power*, 52ff.

limitation of the power of governance to clerics²⁸ focusing on c. 274 § 1 whereas “only clerics can obtain offices for whose exercise the power of orders or the power of ecclesiastical governance is required.” He further interprets c. 129 § 2 as an option limited to counselling or administrative cooperation within the boundaries of ecclesiastical law.²⁹ Aymans similarly argues for this limitation in the tradition of the Munich School.³⁰ By contrary, the Roman School starts with the right understanding of cooperation as intended by the reform commission³¹ further asking, why the code in c. 129 § 2 then speaks explicitly of cooperation, if this should ultimately be not the case and why c. 1421 § 2 CIC/1983 then further mentions the possibility of implementing lay judges in the Church? Speaking of c. 274 § 1 one must thus look at the systematic of the norm. „The context of canon 274 is the section of Book II dealing with the obligations and rights of clerics.”³² The focus on clerics is consequently the result of the respective context and mirrors less the intention of the legislator.³³

Beal mentions further that there are theories in recent years that try to unify both argumentative lines and emphasize especially the missionary character of the church. In the center is the relationship between the common and ministerial priesthood³⁴ against the backdrop of the *Communio* Ecclesiology that understands the Church rather in Trinitarian and pneumatological terms thus giving space for a plurality of offices alongside the focus on the priesthood as imitation of Christ in a stricter sense. „As a result of the multifold action of the Spirit in the Church, the Church can be understood not only as the Mystical Body of Christ but also as the Image of the Trinity [...], the Church itself is sacramental precisely in that it is ministerial, carrying on the one mission entrusted to it by the Father through the

²⁸ Ibid. 71: “The exclusive capacity of the ordained for receiving power of governance also excludes lay people from receiving power of governance through delegation”.

²⁹ Cf. Ibid. 71.

³⁰ Cf. Ibid. 71: “According to Aymans, it is legitimate to distinguish the power of orders and jurisdiction. Nevertheless, the unity of sacred power is preserved by the fact that the power of governance only exists in relationship to the power of orders and can never be really separated from it.” See the discussion with Corecco in: *Ambros, Matthias, Die Teilhabe von Laien an der päpstlichen Primatialgewalt. Ein Blick auf die Kurienreform durch die Apostolische Konstitution Praedicate evangelium*, in NomoK@non: <https://www.nomokanon.de/nomokanon/article/view/215/458>, 11.

³¹ Cf. *Beal, John, The Exercise of Power, 76-77*: “Through the code revision process, draft canons uniformly spoke of lay people having a part “in the exercise of this same power” (in exercitio eiusdem potestatis) and it was always understood by all participants in the revision process that this language implied a fundamental capacity of baptized lay people to exercise jurisdiction, albeit in a subordinate and dependent way.”

³² Ibid. 78.

³³ Along the question of the power of governance performed by a validly elected, yet not ordained Pope over c. 332 § 1, authors particularly refer to *Causas Matrimoniales* (1971) and c. 1421 § 2, according to which Bishop conferences can implement lay judges. The School of Navarra thus differentiates between primary and secondary offices in the Church that are transmitted by delegation (Ibid. 84-85: “Since the holders of these secondary offices do not act in the name and person of Christ but in the name of the primary office holder, they do not exercise the function of head. Thus, these secondary offices can be held by lay people unless the configuration of a particular office requires the exercise of the power of orders. For those offices not entailing the exercise of the power of orders, baptism and the requisite professional competence are sufficient”).

³⁴ Ibid. 85: “As a result, the ministerial priesthood which represents Christ the Head ruling over the Body plays a decisive role and necessitates the concentration of sacred power (“Headship”) in the ordained.”

Son in the Spirit.”³⁵ Individual members of the Church are undoubtedly called to a greater participation in the sacramentality of the Church by ordination. Starting point for taking over power of governance in the Church is however baptism.³⁶ This interpretation of ecclesiastical power thus starts with a fundamental difference between the common and ministerial priesthood, yet interprets this difference as a mutual relationship and cooperation with offices and functions transmitted by canonical mission.³⁷ However, the question, if this transmission of power is solely a delegation or substantial transmission of power is also here still open.³⁸

But how does Suárez then think about power of orders and power of governance? Can he be assigned to one of the above-mentioned argumentative lines and what follows from that for a better understanding of *Praedicate Evangelium* and the question of ecclesiastical power and its bearers?

2 Francisco Suárez and ecclesiastical power³⁹

2.1 On the *spiritualis potestas*

Like the II. Vatican Council, Suárez is grounding the power of jurisdiction of the church in a spiritual power. However, this spiritual power must not be understood as the power of orders being sacramentally constituted and thus immediate between Christ and the ordinand. In contrast to Bertrams or Mörsdorf, Suárez does not claim a monism of powers similar to their interpretation of the *sacra potestas* as stated by the II. Vatican Council. He much more thinks the *potestas spiritualis* as containing the power of jurisdiction (governance) alone. This step is, however, only understandable, if one points to the difference between the *New Law* and Canon Law. Whereas Canon Law is essentially human law, it is oriented to the *New Law* as an independent type of law and fulfilment of the *Old Law* and *Natural Law*.⁴⁰ Suárez defends the *New Law* in *De Legibus X* as a real type of law and not just as *New Testament ornament* causing not only the theological virtues (faith, hope, charity) but also prescribing the “that” of the sacraments, whose particular organization is then part of Canon Law as human law. The power of orders rests therefore solely in the *New Law* creating space for separating and allocating the power of orders and power of governance differing fundamentally from the

³⁵ Ibid. 86.

³⁶ Ibid. 87. “However, the fundamental sacramental basis for sharing in the ministeriality of the Church is baptism which indelibly configures a person to Christ, entrusts him or her with the gift of the Spirit, and gives him or her a share in the munera of sanctifying, teaching, and governing.”

³⁷ Ibid. 88.

³⁸ Cf. Ibid. 88.

³⁹ References and quotes refer to *Francisco, Suárez, Opera Omnia*, Ed. nova / a D. M. André iuxta ed. Venetianam XXIII tomos in-f continen-tem, accurate recognita ..., Vivès, Paris 1856-1878.

⁴⁰ *De Legibus X*. 3,11 (abbreviated as *De Leg.*): “quatenus naturaliter ad honestum inclinatur, nihilominus id est per concupiscentiam et corporis infirmitatem impedita, ut sine auxilio gratiae nec impleri possit, nec ab erroribus pura servari.”

monism of the Bertrams and Mörsdorf school. The power of governance namely grounds in the spiritual power (*potestas spiritualis*) that was given to the Church by Christ himself.⁴¹ It is thus no wonder why the Jesuit focusses his discussion on Canon Law solely on the justification of this power following an argumentative scheme of thesis and counter argument trying to find a *via media* between both. In doing so, he consequently starts with the counter argument referring to Epiphanius Panarion⁴², Augustinus,⁴³ Marsilius of Padua⁴⁴, but also Petrus of Cordoba⁴⁵ denying that the church has a special spiritual power. As a child of the 16th century, he but also mentions Petrus Waldes and the Waldensians, Wyclif and Hus, but also Luther, Melanchthon, Calvin or Joachim Westphal.⁴⁶

A spiritual power being different from the secular is then foremost justified on biblical grounds. Suárez mentions here Mt. 16,19⁴⁷; Jn. 21,15-17⁴⁸; Lk. 10,16⁴⁹ or Jn. 20,21⁵⁰. In Ps. 2, Christ is further not only mentioned as doctor, but as legislator.⁵¹ With Lk. 1,33⁵² he justifies that this power must have surpassed the death and resurrection of Christ and must thus also befit his vicar.⁵³ Talking about the time after Christ, Suárez refers to Acts. 15,28-29⁵⁴. Do not the burdens mentioned at this passage reveal, that the early church must have had an

⁴¹ De Leg. X. 2,2: "Quinimo etiamsi in Ecclesia Christi, ut talis est, aliquae leges judiciales sint necessariae ad politicum regimen ecclesiasticum, quod suo modo spirituale est, nihilominus noluit Christus Dominus per seipsum illas leges ferre, sed id vicariis suis commisit, potestatem ad illas ferendas eis tribuendo, et ideo illae leges non sub lege divina, sed sub canonica computantur."

⁴² Cf. De Leg. IV. 1,1. *Adversus Haereses*, 75.

⁴³ De Leg. IV. 1,1: "quatenus dixit jejunia Ecclesiae non esse servanda, ne sub lege esse videamur".

⁴⁴ Suárez mentions Albert Pighi and his work *De Ecclesiastica hierarchica*, Alvarus Pelagius' *De statu et planctu ecclesiae libro duo*, Castro and Prateolus, mentions at the same time, that they refer to Marsilius (Cf. De Leg. IV. 1,1).

⁴⁵ De Leg. IV. 1,1: "quod est negare ecclesiasticam potestatem ad leges ferendas."

⁴⁶ De Leg. IV. 1,1: "Idem postea Luther, quem secuti sunt Melanchton, Calvin, Joan. Westphalus et alii, de quibus apud Prateol. et Bellarm. l.4 de Summ. Pontif. cap.13".

⁴⁷ "I will give you the keys of the kingdom of heaven; whatever you bind on earth will be bound in heaven, and whatever you loose on earth will be loosed in heaven."

⁴⁸ "When they had finished eating, Jesus said to Simon Peter, 'Simon son of John, do you love me more than these?' 'Yes, Lord,' he said, 'you know that I love you.' Jesus said, 'Feed my lambs.' Again Jesus said, 'Simon son of John, do you love me?' He answered, 'Yes, Lord, you know that I love you.' Jesus said, 'Take care of my sheep.' The third time he said to him, 'Simon son of John, do you love me?' Peter was hurt because Jesus asked him the third time, 'Do you love me?' He said, 'Lord, you know all things; you know that I love you.' Jesus said, 'Feed my sheep'."

⁴⁹ "Whoever listens to you listens to me; whoever rejects you rejects me; but whoever rejects me rejects him who sent me."

⁵⁰ "Again Jesus said, "Peace be with you! As the Father has sent me, I am sending you.""

⁵¹ De Leg. IV. 1,3: "missus est autem Christus non solum ut doctor, sed etiam ut legislator et gubernator, juxta illud Ps.2: Dabo tibi gentes haereditatem tuam, reges eos in virga ferrea".

⁵² "and he will reign over Jacob's descendants forever; his kingdom will never end."

⁵³ De Leg. IV. 1,3: "ergo necessarium fuit ut relinqueret in terris potestatem vicem ejus tenentem, per quam hoc regimen spirituale perpetuo duraret."

⁵⁴ "It seemed good to the Holy Spirit and to us not to burden you with anything beyond the following requirements: You are to abstain from food sacrificed to idols, from blood, from the meat of strangled animals and from sexual immorality. You will do well to avoid these things."

independent jurisdiction and a spiritual power different from the secular? Acts 15,41⁵⁵ speaks further of apostolic mandates. Does not Paul speak of a power to build up the Christian communities, further in 1. Cor. 4,21⁵⁶ of the *virga* (stick)⁵⁷, and are not all Christians according to Hebr. 13,17⁵⁸ and 1 Tim. 5,19⁵⁹ obliged to obedience? This spiritual power but can also be derived from tradition⁶⁰ and numerous quotes from the church fathers.⁶¹ Is it, according to Rom. 13,1⁶², further not necessary to have a head to reign over the church securing order within it?⁶³

That this power must, however, also be juridical and not only governmental is then justified by means of Aristotle referring to perfect communities. In contrast to families as the smallest social unit, the perfect communities are always governed by a legislation and thus differ from imperfect communities, that are in need for a superordinate community.⁶⁴ This ecclesiastical power is then described as fundamentally spiritual and supernatural in character („*potestas spiritualis et supernaturalis*“)⁶⁵. An aspect, that can easily be explained by its basic orientation and service dealing with and ordering a community that contrary to the secular society is oriented towards eternal felicity („*aeterna felicitas*“)⁶⁶. Since this power deals especially with the external governance of the church („*ad externum forum ecclesiasticum*“)⁶⁷, it does not ground in the ordination of the one who holds it, but in the election of him not excluding an immediacy with God as its origin.⁶⁸

⁵⁵ „Perambulabat autem Syriam et Ciliciam, confirmans ecclesias: praecipiens custodire praecipua Apostolorum et seniorum.“

⁵⁶ „What do you prefer? Shall I come to you with a rod of discipline, or shall I come in love and with a gentle spirit?“

⁵⁷ De Leg. IV. 1,4: „Deinde Paulus in suis epistolis saepe commemorat potestatem, quam ait *sibi dedisse Dominum in aedificationem, non in destructionem*. 2 ad Corinth. 13“.

⁵⁸ „Have confidence in your leaders and submit to their authority, because they keep watch over you as those who must give an account. Do this so that their work will be a joy, not a burden, for that would be of no benefit to you.“

⁵⁹ „Do not entertain an accusation against an elder unless it is brought by two or three witnesses.“

⁶⁰ De Leg. IV. 1,5: „ex Ecclesiae traditione et consuetudine“.

⁶¹ De Leg. IV. 1,5: „Ex Patribus videri potest Clemens Rom. Epist. 1 ad Jacobum fratrem Domini, ad finem; B. Ignatius, Epistol. 6 ad Magnesiam., circa initium, et in Epistol. ad Trallian.; Hieronymus, Epist. ad Rusticum Monachum; Origenes hom. 20 in Lucam; Cyprian., lib. 1, Epist. 3, Epist. 1; alias Epist. 55 et 58: Epiphanius, haeres. 21; Leo, serm. 2 de Jujun.; Chrysost., Hom. 83 in Matth., et Epist. 1 ad Innocent. et Hom. 70 ad Populum; Augustinus, serm. 42 et 46 de Verbis Domini, et Epistol. 76 ad Casulanum; Bernard. Lib. de Praecepto et dispens.“

⁶² „non est enim potestas nisi a Deo quae autem sunt a Deo ordinatae sunt“.

⁶³ De Leg. IV. 1,5: „esset enim corpus sine capite, et multitudo sine ordine, quae non potest non esse confusa. Et ita ad hoc propositum dixit Leo Papa Peist. 85, alias 87: *In domo Dei nihil inordinatum esse debet*, referturque in cap. *Miramur*, dist. 61“.

⁶⁴ See the discussion at: De Leg. I. 6,19-22.

⁶⁵ De Leg. IV. 1,7.

⁶⁶ De Leg. IV. 1,7.

⁶⁷ De Leg. IV. 1,7.

⁶⁸ De Leg. IV. 1,7: „sed per electionem, vel deputationem voluntate hominis aut hominum factam, sive detur ab homine, tanquam a ministro Dei, sive immediate ab ipso Deo“.

Even though this power is rudimentary also present in non-Christian nations⁶⁹, an aspect, that can be derived from Rom. 1,21⁷⁰ and its claim that there exists a natural form of knowledge of God amongst heathens and thus the need to order religious life, Suárez states that this power is only imperfectly in these nations and ultimately mixed up with the secular one.⁷¹ With Francisco de Victoria one can further state that this power differs from the juridical power of the *Old Testament* since it is neither spatial, nor temporal nor limited to one nation, but ex se and substantially supernatural („ex se (...) supernaturalis in substantia“)⁷² and not only with regards to its performance („in fieri et modo, quia Deus illam dedit“)⁷³. It is thus a singular gift of Christ („singulari dono a Christo datam“)⁷⁴ referring only directly to the *forum externum*.⁷⁵

To summarize: Suárez seems to claim that 1.) there is a juridical power in the church, which, however, is essentially human in nature, but 2.) based on a spiritual power, which was given to the church by Christ and differs 3.) from the power of orders, that must not be subsumed under this spiritual power, but is object to the New Law, that the Jesuit thinks parallel to natural law, but differs essentially from the ecclesiastical jurisdiction. But what follows for the bearers of this power and thus for the power of governance in the Church?

2.2 The bearers of the spiritual power

It is no wonder that Suárez emphasizes the role of the pope as a member of the Society of Jesus.⁷⁶ In the center are the words of Christ to Peter (Mt. 16) and about him as a shepherd (Jn. 21), as well as evidence from the „*traditio Pontificum, Conciliorum et Patrum*“⁷⁷. Referring to Durandus, Antonius of Butrio, but also Cajetan⁷⁸, also the Apostles seem to partake in this

⁶⁹ De Leg. IV. 2,2: „Perfectam autem potestatem, prout nunc est in Ecclesia, propriam esse legis gratiae, et a Christo Domino fuisse collatam.“

⁷⁰ „For although they knew God, they neither glorified him as God nor gave thanks to him, but their thinking became futile and their foolish hearts were darkened.“

⁷¹ De Leg. IV. 2,4. Ferner De Leg. IV. 2,3: „ergo indigeret etiam potestate, quae illam gubernaret in ordine ad hunc finem, et praescriberet sacrificia, caeremonias, et alias circumstantias necessarias ad verum Dei cultum: ergo haec potestas ex ipsa ratione naturali convenit hominibus, non minus, quam potestas politica; et confirmatur, nam in omni natione, etiam falsos deos colente, semper fuit potestas sacerdotalis vel pontificia distincta persona.“

⁷² De Leg. IV. 2,10.

⁷³ De Leg. IV. 2,10.

⁷⁴ De Leg. IV. 2,11.

⁷⁵ De Leg. IV. 2,12: „effectus, vel actus supernaturales in se“.

⁷⁶ Cf. *Ignatius von Loyola, The Spiritual Exercises of St. Ignatius*, translated by *Louis J. Puhl*, Connecticut 2010, 365: „If we wish to proceed securely in all things, we must hold fast to the following principle: What seems to me white, I will believe black if the hierarchical Church so defines. For I must be convinced that in Christ our Lord, the bridegroom, and in His spouse the Church, only one Spirit holds sway, which governs and rules for the salvation of souls. For it is by the same Spirit and Lord who gave the Ten Commandments that our holy Mother Church is ruled and governed.“ Further 361: „Finally, we must praise all the commandments of the Church, and be on the alert to find reasons to defend them, and by no means in order to criticize them.“

⁷⁷ De Leg. IV. 3,1.

⁷⁸ Cf. De Leg. IV. 3,3.

power to found Churches⁷⁹ with Peter, however, holding a special role⁸⁰ whose Power now persist in the papal office (Mt. 16,18)⁸¹.

Talking about the right distribution of this power amongst the bishops as successors of the Apostles, Suárez now speaks about the right allocation between the power of orders and the power of governance. Referring to Acts. 20,28⁸², Hebr. 13,17⁸³ or Mt. 18,18⁸⁴, the Jesuit then follows on a first glance that the bishops must have their juridical power *directly* from Christ. It is thus not „jure humano“⁸⁵, but rests on divine law with the peculiarity that it is always linked with the subordination under the Pope.⁸⁶ Suárez mentions as representatives of this view amongst others Francisco de Victoria, Castro and Gabriel Vasquéz, together with passages such as Mt. 18,18⁸⁷, Hebr. 13,17⁸⁸, or Lk. 10,16⁸⁹ and Rom. 13,1⁹⁰. The power of orders and governance are thus intrinsically linked to each other.⁹¹

Pointing to the counterarguments, i.e. that the legislative power of the bishops rests essentially not on divine, but human law, Suárez then refers to authors such as Durandus, Soto, Cajetan, Antonius de Butrio, Francisco de Vargas or Thomas⁹². Navarro now seems to

⁷⁹ De Leg. IV. 3,6: “Ergo necesse erat, ut singuli irent cum potestate plantandi Ecclesias, creandi Episcopos, et ordinandi, ac praeciendi omnia quae essent necessaria”.

⁸⁰ De Leg. IV. 3,7: “Fuitque necessarium ad unitatem Ecclesiae constituendam, quia nec poterat esse unum corpus sine capite, neque cum multis capitibus: illud enim imperfectum, hoc monstruosum fuisset, quod notavit Cyprian. lib. de Unitate Ecclesiae”. Suárez still refers here to other Church Fathers like Augustine, Jerome and Leo I.

⁸¹ “And I tell you, you are Peter, and on this rock I will build my church, and the gates of Hades will not prevail against it.”

⁸² “Keep watch over yourselves and over all the flock, of which the Holy Spirit has made you overseers, to shepherd the church of God[d] that he obtained with the blood of his own Son.”

⁸³ “Obey your leaders and submit to them, for they are keeping watch over your souls and will give an account. Let them do this with joy and not with sighing—for that would be harmful to you.”

⁸⁴ “Truly I tell you, whatever you bind on earth will be bound in heaven, and whatever you loose on earth will be loosed in heaven.”

⁸⁵ De Leg. IV. 4,3.

⁸⁶ De Leg. IV. 4,3: “jure divino, et immediate a Christo, quamvis cum subordinatione et dependentia a summo Pontifice.”

⁸⁷ “Truly I tell you, whatever you bind on earth will be bound in heaven, and whatever you loose on earth will be loosed in heaven.”

⁸⁸ “Obey your leaders and submit to them, for they are keeping watch over your souls and will give an account. Let them do this with joy and not with sighing—for that would be harmful to you.”

⁸⁹ “Whoever listens to you listens to me, and whoever rejects you rejects me, and whoever rejects me rejects the one who sent me.”

⁹⁰ “Let every person be subject to the governing authorities; for there is no authority except from God, and those authorities that exist have been instituted by God.”

⁹¹ De Leg. IV. 4,4: “Sed jurisdictio ad ferendas leges est necessario conjuncta cum episcopali munere, quia non potest convenienter pastorale munus exerceri sine tali potestate”.

⁹² De Leg. IV. 4,5: “Illud autem principium sumitur ex Thoma, 4 contra Gentes, cap. 76, ratione 4, ubi dicit ideo Christum specialiter Petro promississe: *Tibi dabo claves, ut ostenderetur potestas clavium per eum ad alios derivanda ad conservandam Ecclesiae unitatem*. Item sentit 2, distinct. 44, fine, circa expositionem litterae. Et loquens de potestate concedendi indulgentias in 4, distinction 20, quaest. unic., art. 4, quaest. unic., c. 3, dicens:

speak of an intrinsic link between the power of orders and governance as well. Is it not obvious from the ordination to the priesthood, that the ordinand receives with it a habitus to jurisdiction that one can for example see in the competence to hear confessions?⁹³

The Jesuit, however, contradicts this claim vehemently and recurs to the subservient relationship⁹⁴, that is established by legislative power, but would be bypassed when based on an automatic transmission of power by means of ordination. Even though Navarro is right in showing that spiritual power „in foro poenitentiae“⁹⁵ is strongly linked with power of orders, numerous historical examples show, that an elected and yet not ordained bishop can take over juridical duties in his diocese⁹⁶, which also counts for abbots and priors.⁹⁷ The power of governance in the Church must thus rest on human law with the implication that one must strictly differentiate between power of orders and power of governance (jurisdiction) in the church. A fact that ultimately rests in the papal office itself whose juridical power grounds in an election and not in ordination.⁹⁸ The power of governance is thus solely transmitted by the pope, which also counts for other ecclesiastical dignitaries, but not necessarily linked with ordination. But why is there an ordination then? Suárez now justifies this aspect, referring to the mission of the church. Christ did not only want to have papal delegates, but true shepherds⁹⁹. A connection between the power of orders and governance is thus not *necessary*, but *most appropriate* and *suitable* for the overall mission of the church.¹⁰⁰

What follows for the connection between the power of order and the power of governance in the context of this suárezian-thomistic interpretation?

3 Missionary Pragmatism – Suárez as pioneer of Praedicate Evangelium?

Papa habet plenitudinem potestatis pontificalis quasi rex in regno; Episcopi vero assumuntur in partem sollicitudinis quasi iudices singulis civitatibus praepositi“.

⁹³ De Leg. IV. 4,7: “ex vi ordinationis suae recipere jurisdictionem in habitu“.

⁹⁴ De Leg. IV. 4,8: “quia superior et subditus correlativa sunt, et ideo non potest unum fieri prius quam aliud, neque unum sine alio.“

⁹⁵ De Leg. IV. 4,9.

⁹⁶ Cf. De Leg. IV. 4,9.

⁹⁷ De Leg. IV. 4,10: “ut certum est de multis Abbatibus et de Praelatis religionum“.

⁹⁸ De Leg. IV. 4,11: “Illa autem non datur Pontifici per ullam consecrationem, sed per electionem, et nudam concessionem Dei; quando enim dixit Petro: *Pasce oves meas*, nullam novam consecrationem, vel characterem illi impressit, sed puram potestatem jurisdictionis illi praebuilt.“

⁹⁹ De Leg. IV. 4,13: “voluitque idem Christus Dominus ut illi intermedii gubernatores essent non tantum delegati, et quasi vicarii Papae, sed ut essent veri Pastores ordinarii, et Principes spirituales sub Pontifice summo.“

¹⁰⁰ De Leg. IV. 4,16: “congruentior ad majorem unionem membrorum omnium, etiam principalium cum suo capite, et perfectiorem subordinationem, et consequenter majorem Ecclesiae pacem: ergo merito credimus ita fuisse Ecclesiam a Christo institutam.“

At a first glance, Suárez seems to promote a monism when it comes to ecclesiastical power with the juridical power resting in a spiritual power that was given to Peter and the Apostles and persists in the papal office, whereas the Jesuit differentiates between power or orders and power of governance (jurisdiction). The former, however, is as a sacramental power object of the *New Law* being a type of law that was founded by Christ as legislator himself and needs to be thought parallel to natural law and is thus not under human control. The latter is part of human legislation and can thus be transmitted to every faithful within the church. An aspect, that brings Suárez close to the School of Rome and School of Navarra. Interestingly, however, the connection between the power of orders and the power of governance (jurisdiction) seems solely to be *appropriate*. On a legal theoretical basis, this *appropriateness* is mirrored in the fact, that ecclesiastical law is for Suárez „ut annexa“¹⁰¹ and „conjuncta“¹⁰² with the *New Law*. With this construct, Suárez seems to deliver an interesting contribution to contemporary discussions on power and participation in the church. At the same time, the emphasis on papal power and the subordination of it under the overall mission of the church seems to underline the theory of ecclesiastical power and power or governance as propagated by Pope Francis in his reform of the roman curia. Referring to the mission of the church, one can conclude that a systemic legislation about offices for laypeople, as suggested by Ambros,¹⁰³ might appear of little use. With Pope Francis, who again and again insists on the role of discernment in the life of the Church, the question rather arises, if the missionary spirit, that underlies the reform of the curia, not points to a *missionary pragmatism* propagating a closeness between the power of orders and power of governance in the church, yet contextualizes it similarly to the traditional justification at Suárez within the overall mission of the church.

Is the connection between the priesthood and offices such as that of the vicar general¹⁰⁴ or juridical vicar¹⁰⁵ then still appropriate if read against the backdrop of *Praedicate Evangelium* and the possibility to transmit juridical power to laypeople? Would it not be consequent, if laypeople could take over these offices in urgency, necessity, against the background of a certain professionalism, or in order propagate a more independent judiciary beyond clerical authority?

It is a fact that the transmission of power of governance to laypeople is neither historically nor systematically “big news”¹⁰⁶, since it seems to be thought already by Francisco Suárez

¹⁰¹ De Leg. IV. 2,12.

¹⁰² De Leg. IV. 2,12.

¹⁰³ Ambros, Matthias, Die Teilhabe von Laien an der päpstlichen Primatialgewalt. Ein Blick auf die Kurienreform durch die Apostolische Konstitution *Praedicate evangelium*, in NomoK@non: <https://www.nomokanon.de/nomokanon/article/view/215/458>, 14.

¹⁰⁴ Cf. c. 478 § 1: “A vicar general and an episcopal vicar are to be priests not less than thirty years old, doctors or licensed in canon law or theology or at least truly expert in these disciplines, and recommended by sound doctrine, integrity, prudence, and experience in handling matters.”

¹⁰⁵ Cf. c. 1420 § 4: “Both the judicial vicar and adjutant judicial vicars must be priests, of unimpaired reputation, doctors or at least licensed in canon law, and not less than thirty years of age.”

¹⁰⁶ Davies, Brian, Comment: *Praedicate Evangelium*, 320.

during the time of the first curial reform in the 16th century. Yet it gained with Pope Francis an appreciation on the highest-level posing questions on the shape and performance of power on lower levels. Both – Francisco Suárez, as well as Pope Francis – seem to put office and power of the church under a motto, to which the Code of 1917 was already committed and is the code of the order that binds both together over 500 years. *A.M.D.G – Ad majorem Dei Gloriam!*