

ADMINISTRATION OF JUSTICE ACCORDING TO *PRAEDICATE EVANGELIUM*

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Abstract

Based on the reform of the Roman Curia made by Pope Francis through the apostolic constitution *Praedicate Evangelium*, the presentation analyzes the role, structure, and function of the Dicastery of the Doctrine of the Faith and the three institutions of justice, namely, Apostolic Penitentiary, the Supreme Tribunal of the Apostolic Signatura and the Tribunal of the Roman Rota. It also discusses the role they play in the administration of justice in the Church. The study analyzes the changes brought about by these four organs of the Curia, the reasons behind the reform, and their far-reaching positive impact on the life of the Church.

Keywords: Roman Curia; Dicastery; Protection of Minors; Delicts; Tribunal; Competence; Penalty; Apostolic See

Introduction

All the reforms connected with the administration of justice made by Pope Francis since he assumed the throne of St Peter have been based on the legal maxim *fiat iustitia ruat caelum* (let justice be done even if the heavens fall). The institution of the Pontifical Commission for the Protection of Minors on 22 March 2014¹, reform of the marriage nullity process on 15 August 2015,² the apostolic letter *Come una madre*

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¹ AAS 107 (2015), 562-563.

² Pope Francis, by the apostolic letters *Mitis Iudex Dominus Iesus* and *Mitis et Misericors Iesus* issued on 15 August 2015, reformed the procedures for the declaration of nullity of marriage contained in the Code of Canon Law (CIC) and the Code of Canons of the Eastern Churches (CCEO) respectively and simplified the marriage nullity process.

amoreveole (As a Loving Mother),³ which sets new procedures that provide for the removal of diocesan bishops, their equivalents and major superiors of institutes of consecrated life who are negligent in addressing complaints of sexual abuse or other serious issues, Vatican sexual summit of February 2019, the *motu proprio* “*Vos Estis Lux Mundi*” issued on 9 May 2019, which established a set of procedural norms to prevent and combat sexual abuses and violations,⁴ raising the age limit of minors in child pornography cases from 14 to 18⁵, abolition of pontifical secret in cases of sexual violence and abuse of minors by clerics⁶, new provisions in the Roman Curia and in Vatican City State, changes introduced to the penal law contained in both CIC and CCEO through the apostolic constitutions *Pascite Gregem Dei*⁷ and *Vocare Peccatores* and other similar radical initiatives by the Holy Father are clear proofs of his strong determination to provide a faster and more effective system of administration of justice, devoid of unnecessary technicalities and loopholes.

This is all the truer in the reform of the Roman Curia brought about by Pope Francis through the apostolic constitution *Praedicate Evangelium* promulgated on 19 March 2022.⁸ These changes made in the structure and functioning of the Roman Curia, the central governing body assisting the Roman Pontiff in the administration of

³ Franciscus, littera apostolica, die 1 mensis iulii 2013, in AAS 108 (2016), 715-717.

⁴ Franciscus, Littera Apostolica *Vos Estis Lux Mundi*, die 7 mensis Iunii 2019, in AAS 111 (2019), 823-832.

⁵ This change was made by Pope Francis by a rescript in the Audience granted to Cardinal Pietro Parolin, Secretary of State, and Cardinal Luis Francisco Ladaria, Prefect of the Congregation for the Doctrine of the Faith on 4 October 2019. (cf. <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/12/17/191217a.html>)

⁶ The historic decision to issue the Instruction on the Confidentiality of Legal Proceedings was communicated by His Holiness Pope Francis, in the Audience granted to His Excellency Archbishop Edgar Peña Parra, Substitute for General Affairs of the Secretariat of State, on 4 December 2019.

⁷ The Holy Father through the apostolic constitution *Pascite Gregem Dei* issued on 23 May 2021, reformed book VI of CIC which deals with “Penal Sanctions in the Church” and through the apostolic constitution *Vocare Peccatores* issued on 20 March 2023 revised the canons on Penal Sanctions in the Church given in title XXVII of CCEO.

⁸ https://www.vatican.va/content/francesco/en/apost_constitutions/documents/20220319-costituzione-ap-praedicate-evangelium.html accessed on 23 May 2023.

the Catholic Church, was the fruition of nine years of reform work started in the same year, 2013, in which Pope Francis became the head of the Universal Church.⁹ The apostolic constitution, which came into force on 5 June 2022, the feast of Pentecost, inaugurated a new era in the central administration of the Catholic Church. The principles of synodality, collegiality, and subsidiarity championed by Pope Francis throughout his papacy find their expression in the reform of the Curia as well. The apostolic constitution outlines the structure and responsibilities of the various dicasteries and offices that make up the Curia, and the principles that should guide their work. This article, however, limits its attention to the four organs of administration of justice in the Church, namely the Dicastery for the Doctrine of the Faith, Apostolic Penitentiary, the Supreme Tribunal of the Apostolic Signatura, and the Tribunal of the Roman Rota with a special focus on the novelties introduced to these four institutions through *Praedicate Evangelium*. Although the Dicastery of Doctrine of Faith (DDF)¹⁰ is not included in the list of three ordinary Institutions of Justice by *Praedicate Evangelium* (art 189-204)¹¹, an analysis of its role and mission reveals that it plays a major and explicit role in ensuring right administration of justice in the Church.

1. Dicastery for the Doctrine of the Faith

The Dicastery for the Doctrine of the Faith is one of the most important institutions that occupies a predominant position in the Catholic Church. It is responsible for promoting and defending the teachings of the Catholic Church. The Dicastery was established in 1542 and was known as the Sacred Congregation of the Universal Inquisition until 1908.¹² Although after the latest reform by *Praedicate Evangelium*, it has lost the first place in the hierarchy of dicasteries and is placed after the Dicastery for Evangelization, it should in no way be considered a diminution of its role in the Church. It continues to be the custodian of faith and morals in the Church. The Roman Pontiff, placing the Dicastery for Evangelization in the first place,

⁹ Sergio F. Aumenta – Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, Roma: Pontificia Università della Santa Croce, 2023, 55-58.

¹⁰ In *Pastor Bonus*, the Dicastery for the Doctrine of the Faith (DDF) was known as the Congregation for the Doctrine of the Faith.

¹¹ *Pastor Bonus* arts 117-128 put Apostolic Penitentiary, the Supreme Tribunal of the Apostolic Signatura and the Tribunal of the Roman Rota under the title 'tribunals.'

¹² Sergio F. Aumenta – Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 108-111.

gives greater importance and added thrust to evangelization, reminding every member of the Catholic Church of his/her innate right and obligation to preach the Gospel. In articles 69-78 of the apostolic constitution, Pope Francis reaffirms the importance of the Dicastery and outlines its role in the Church.

According to *PE* art. 69, the task of the Dicastery for the Doctrine of the Faith is to help the Roman Pontiff and the Bishops to proclaim the Gospel throughout the world by promoting and safeguarding the integrity of Catholic teaching on faith and morals. After the modification made to the internal structure of the Congregation for the Doctrine of the Faith through the Apostolic Letter *Fidem Servare* issued *motu proprio* by the Supreme Pontiff Francis on 11 February 2022, now as indicated in *PE* art. 70, the Dicastery consists of two Sections: Doctrinal and Disciplinary, each coordinated by a Secretary who assists the Prefect in accordance with the specific area of its competence. The Doctrinal Section is entrusted with the task of encouraging and supporting study and reflection on the understanding of faith and morals and the progress of theology in different cultures in the light of sound doctrine and contemporary challenges in order to offer a response in light of the faith, to the questions and arguments arising from scientific advances and cultural developments (*PE* art. 71).

The role of the Dicastery in the administration of justice is exercised through its Disciplinary Section. “The Disciplinary Section, through its Disciplinary Office, deals with delicts reserved to the Dicastery and adjudicated by the Supreme Apostolic Tribunal established therein, which then declares or imposes canonical sanctions according to the norm of law, both common and proper, without prejudice to the competence of the Apostolic Penitentiary” (*PE* art 76 §1). Concerning the delicts reserved to the Dicastery, the Section, by mandate of the Roman Pontiff, has the competence to judge Cardinals, Patriarchs, Legates of the Apostolic See, and Bishops, as well as other physical persons, in conformity with canonical provisions (*PE* art 76 §2). In this regard, “the Section promotes the training programmes offered by the Dicastery to Ordinaries and legal professionals to foster a proper understanding and application of the canonical norms related to its proper area of competency” (*PE* art 76 §3).

1.1. Delicts Reserved to the Dicastery for the Doctrine of the Faith (DDF)

The delicts reserved for the Dicastery have undergone changes over a period of time from 2001 to 2021. Through the *motu proprio Sacramentorum sanctitatis tutela* (SST), Pope John Paul II, on 30 April 2001 reserved certain *delicta graviora* (graver delicts) to the judgment of the Dicastery for the Doctrine of the Faith (DDF).¹³ Pope Benedict XVI revised it through the *Rescriptum ex Audientia SS.mi* dated 21 May 2010.¹⁴ His Holiness Pope Francis, in the Audience granted to the Cardinal Secretary of State and the Cardinal Prefect of the Congregation for the Doctrine of the Faith on 4 October 2019, again introduced a few amendments to the *Normae de gravioribus delictis*. It was again reformed by Pope Francis with a Rescript dated 11 October 2021, published on 7 December on the website of the Holy See, and entered into force on 8 December 2021.¹⁵

The crimes currently reserved to the Dicastery for the Doctrine of the Faith come under five categories: i) The graver delicts against the faith; ii) The graver delicts against the sanctity of the most Holy Sacrifice and Sacrament of the Eucharist; iii) The graver delicts against the sanctity of the Sacrament of Penance; iv) The graver delict Against the Sacrament of Holy Orders and v) The graver delicts against Morals. About these delicts, the DDF, by mandate of the Roman Pontiff, may judge Cardinals, Patriarchs/Major Archbishops, Legates of the Apostolic See, Bishops, as well as other physical persons who don't have a superior authority below the Roman Pontiff.

1.1.1. The Graver Delicts Against the Faith

The graver delicts against the faith reserved to DDF, according to article 2 of *SST* are heresy, apostasy, and schism according to the norm of CIC cc. 751 and 1364, and CCEO cc. 1436 and 1437. While CCEO does not define the concepts of heresy, apostasy, and schism. CIC c. 751 defines these concepts. Heresy is an obstinate post-baptismal denial of or doubt concerning some truth which must be believed with divine and Catholic faith. Apostasy means a total

¹³ AAS 93 (2001), 737- 750.

¹⁴ AAS 102 (2010), 419-431.

¹⁵ Cf. DDF, "*Vademecum* in some points of procedures in the treatment of the sexual abuse of minors committed by clerics, 16 July 2020.

repudiation of the Catholic faith. Schism is the withdrawal of submission to the Roman Pontiff or from communion with the members of the Church subject to him. When CIC c. 1364 §1 prescribes the penalty of *latae sententiae* excommunication for these crimes, the corresponding CCEO cc. 1436 §1 and 1437 prescribe major excommunication for those who are found guilty of these offenses. According to CCEO, these penalties can be imposed only after being legitimately warned.

1.1.2. Graver Delicts Against the Sanctity of the Most Holy Sacrifice and Sacrament of the Eucharist

The five graver delicts against the sanctity of the most Holy Sacrifice and Sacrament of the Eucharist are reserved to the DDF for judgment as per *SST* art. 3 are:

1° the taking or retaining for a sacrilegious purpose or the throwing away of the consecrated species, as mentioned in CIC c. 1382 and in CCEO c. 1442;

2° attempting the liturgical action of the Eucharistic Sacrifice spoken of in CIC c. 1379 § 1, n. 1 and in CCEO c. 1443 CIC c. 1379 § 1, n. 1

3° the simulation of the same, spoken of in CIC c. 1379 and in CCEO c. 1443;

4° the con-celebration of the Eucharistic Sacrifice prohibited in CIC c. 908 and in CCEO c. 702, in CIC c. 1381 and in CCEO c. 1440 with ministers of ecclesial communities which do not have apostolic succession and do not acknowledge the sacramental dignity of priestly ordination; and

5° the delict which consists in the consecration for a sacrilegious purpose of one matter without the other or even of both, either within or outside of the Eucharistic celebration. One who has perpetrated this delict is to be punished according to the gravity of the crime, not excluding dismissal or deposition.

1.1.3. The Graver Delicts Against the Sanctity of the Sacrament of Penance

The graver delicts against the sanctity of the Sacrament of Penance listed in *SST* art. 4 reserved to the DDF come under six categories. They are:

1° the absolution of an accomplice in a sin against the sixth commandment of the Decalogue, mentioned in CIC c. 1384 and in CCEO c. 1457;

2° attempted sacramental absolution or the prohibited hearing of confession, mentioned in CIC c. 1378 § 2, 2° of the and CCEO c. 1443 §1, 3°;

3° simulated sacramental absolution, mentioned in CIC c. 1379 and in CCEO c. 1443;

4° the solicitation to a sin against the sixth commandment of the Decalogue in the act, on the occasion, or under the pretext of confession, as mentioned in CIC c. 1385 and in CCEO c. 1458, if it is directed to sinning with the confessor himself;

5° the direct and indirect violation of the sacramental seal, mentioned in CIC c. 1386 § 1 and CCEO c. 1456 §1;

6° recording, by whatever technical means, or in the malicious diffusion through communications media, of what is said in sacramental confession, whether true or false, by the confessor or the penitent, mentioned in CIC c. 1386 § 3 and CCEO c. 1456 §3.

1.1.4. The Graver Delicts Against the Sacrament of Holy Orders

The graver delict against the sacrament of Holy Orders reserved to DDF outlined in *SST* art. 5 is the attempted sacred ordination of a woman. The recent revision of penal law given in CIC and CCEO has incorporated the *SST* stipulations in this regard. As per CIC c. 1379 § 3 both the one who attempts to confer sacred ordination on a woman, and she who attempts to receive sacred ordination, incurs a *latae sententiae* excommunication reserved to the Apostolic See. The oriental code which has discarded *latae sententiae* penalties however, states that both the person who has attempted to confer sacramental ordination on a woman and the woman who has attempted to receive sacramental ordination are to be punished with a major excommunication reserved to the Apostolic See (CCEO c. 1459 § 3). In the case of a cleric, both CIC, CCEO, and *SST* add the extra punishment of dismissal from the clerical state.

1.1.5. The Graver Delicts Against Morals

The graver delicts against morals which are reserved to the DDF according to *SST* art. 6 § 1 are:

1° the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this number, a person who habitually has the imperfect use of reason is to be considered equivalent to a minor;

2° the acquisition, possession, exhibition¹⁶ or distribution by a cleric of pornographic images of minors under the age of eighteen, for purposes of sexual gratification, by whatever means or using whatever technology.

The norms given in *SST* art. 6 § 2 stipulates that a cleric who commits these delicts is to be punished according to the gravity of his crime, not excluding dismissal or deposition. Notably, these *SST* provisions are included in the revised *CIC* c. 1398 and the revised *CCEO* c. 1453 §5.

1.2. Establishment of Pontifical Commission for the Protection of Minors at DDF

One of the notable novelties introduced by *PE* was bringing the Pontifical Commission for the Protection of Minors into the DDF. This Commission established with a chirograph dated 22 March 2014 had been functioning as an autonomous institution linked to the Holy See with public juridical personality (*Statute*, art. 1 §1).¹⁷ The reason to make it part of DDF seems to be to strengthen the protection of minors through an appropriately more organic and close collaboration between the judicial bodies and the consultative-preventive bodies for the protection of minors and vulnerable persons.¹⁸ Thus, currently at the DDF, in addition to the Pontifical Biblical Commission and the International Theological Commission, both presided over by the same Prefect (*PE* art. 76), there exists the Pontifical Commission for the Protection of Minors (*PE* art. 78).

This commission is charged with providing guidance and advice to the Roman Pontiff, as well as proposing the most appropriate

¹⁶ Norms Regarding Delicts Reserved to the Congregation for The Doctrine of the Faith published on 11 October 2021 added the word exhibition (cf. https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20211011_norme-delittiriservati-cfaith_la.html).

¹⁷ Pope Francis, Chirograph of His Holiness for the Institution of a Pontifical Commission for the Protection of Minors, 22 March 2014. Cf. https://www.vatican.va/content/francesco/en/letters/2014/documents/papa-francesco_20140322_chirografo-pontificia-commissione-tutela-minori.html, accessed on 21 May 2023.

¹⁸ Sergio F. Aumenta – Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 114.

measures for safeguarding minors and vulnerable persons (*PE* art 78 §1). It also has the task of assisting diocesan and eparchial bishops, episcopal conferences and Eastern hierarchical structures, the Superiors of the Institutes of Consecrated Life and the Societies of Apostolic Life and their Conferences in drafting the Guidelines according to the canonical norms and taking into account the requirements of the Civil Law in this regard (*PE* art 78 §2).

The Pontifical Commission for the Protection of Minors is presided over by a President Delegate and a Secretary, both appointed by the Roman Pontiff for a five-year term (*PE* art 78 §4). The members of it are also appointed by the Roman Pontiff for five years and are chosen from among clerics, members of Institutes of Consecrated Life and Societies of Apostolic Life, and lay people of various nationalities who are distinguished by science, proven ability, and pastoral experience (*PE* art. 78 §3).

This Pontifical Commission governed by its own law, makes all the efforts to prevent the occurrences of such abuses sexual abuse against minors and vulnerable adults in the future and to heal the wounds caused by applying the coercive power of the Church, as and when required even by the imposition of penal measures against the culprits.

2. Institutions of Justice

The three institutions of justice outlined in *PE* arts. 189-204 were put under the heading 'Tribunals' in articles 117-129 of *Pastor Bonus*. The task of the institutions of justice is to ensure that justice always prevails in the Church of Christ, founded on the commandment of love. It is our experience that because of the fallible human nature, there always exists the possibility of this communion among the faithful broken by violation of rights and conflicts.¹⁹ Church, which is divine and human at the same time, requires visible structures and appropriate measures to maintain good order and to restore it when the bonds of communion are broken.²⁰ Thus, "the service provided by the Institutions of Justice is one of the essential functions in the governance of the Church. The aim of this service, pursued by each institution in the forum of its own competence, is that of the Church's

¹⁹ Cfr. Zenon Grochowski, "Theological Aspects of the Judicial Activity of the Church," *The Jurist* 46 (1986), 552-567, at p. 554.

²⁰ Sergio F. Aumenta - Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 139.

own mission: to proclaim and inaugurate the Kingdom of God and to work, through the order of justice applied with canonical equity, for the salvation of souls, which is always the supreme law in the Church" (*PE* art. 189 §1).

The three ordinary institutions of justice that are independent of each other are the Apostolic Penitentiary, the Supreme Tribunal of the Apostolic Signatura, and the Tribunal of the Roman Rota (cf. *PE* art. 189 §2). According to CIC c. 1442, the Roman Pontiff, the supreme judge for the whole Catholic world, gives judgment either personally or through the ordinary tribunals of the Apostolic See or through the judges he delegates. Supreme Tribunal of Apostolic Signatura and the Tribunal of the Roman Rota are the ordinary tribunals of the Apostolic See. Although along with the above-mentioned two tribunals, the apostolic penitentiary, which deals with cases of the internal forum only, is also one of the three institutions of justice, it is not included in the category of ordinary tribunals of the Apostolic See.

2.1. Apostolic Penitentiary (*PE* arts. 190-193)

The Apostolic Penitentiary, established in the 12th century, is one of the oldest institutions of the Catholic Church. It is responsible and competent in all matters regarding the internal forum and indulgences as expressions of divine mercy²¹ (*PE* art. 190 §1). In *PE*, Pope Francis reaffirmed the importance of the Apostolic Penitentiary and outlined its role in the Church. Its role, function, and administrative structure remain unchanged even after the reform. As far as its internal organization is concerned, it is headed by the Major Penitentiary, assisted by the Regent, and by several officials (*PE* art. 190 §2). According to *PE* arts. 191-193, it has the following four major functions: i) for the internal forum, whether sacramental or non-sacramental, it grants absolution from censures, dispensations, commutations, validations, remissions, and other favours (*PE* art. 191); ii) it sees to it that the Papal Basilicas of Rome are provided with a sufficient number of Penitentiaries supplied with appropriate faculties (*PE* art. 192 §1); iii) it oversees the proper training of the Penitentiaries appointed in the Papal Basilicas and of those appointed elsewhere; iv) it is charged with the granting and use of indulgences, without prejudice to the competence of the Dicastery for the Doctrine of the Faith concerning their doctrine and of the

²¹ The term 'as expressions of divine mercy' is an addition given by the reform through *PE*.

Dicastery for Divine Worship and the Discipline of the Sacraments for ritual matters (PE art. 193).

2.2. Supreme Tribunal of the Apostolic Signatura (arts. 194-199)

This tribunal dates back to the time when, during the thirteenth century the Popes made use of the *referendarii* to investigate and prepare the signature (*signatura*) of the petitions and the commissions of causes of *iustitia* or *gratia* to the auditors (*cardinales auditores and cappellani auditores*).²² Hence, it got the name 'Apostolic Signatura'. It achieved certain stability during the pontificate of Pope Eugene IV (1431-1447) who asked the same *referendarii* to sign certain petitions. It underwent several changes over a period of time. It was divided into two Dicasteries, namely *Signatura iustitiae* and *Signatura gratiae* by Pope Alexander VI (May 4, 1493) and from the end of the fifteenth century it was chaired by two Cardinals.²³ Of these two, the *Signatura iustitiae* became more and more characterized as a real tribunal. Pius X with the *Sapienti consilio* and with the *Lex propria Sacrae Romanae Rotae et Signaturae Apostolicae* of 29 June 1909 abolished these divisions in the Apostolic Signatura and reconstituted a single Apostolic Signatura as Supreme Tribunal, whose composition was fixed initially at 6 Cardinals, of which one with the task of Prefect. With the CIC of 1917, this number was made unlimited. Before the promulgation of CIC 1917, Pope Benedict XV, with the Chirograph of June 28, 1915, had already reconstituted the College of Voters and that of referendaries as consultative bodies of the Tribunal. The apostolic constitution *Pastor Bonus* promulgated in 1988 by Pope John Paul II through its articles 121-125 and the new *Lex propria*, promulgated with the *motu proprio Antiqua ordinatione* by Pope Benedict XVI on 21 June 2008, regulated its powers and activities.²⁴ *Praedicate Evangelium* of Pope Francis did the latest reform of the curia and consequently that of the Supreme Tribunal of the Apostolic Signatura.

Apostolic Signatura's importance lies in its "functions as the Church's Supreme Tribunal and ensures that justice in the Church is correctly administered" (PE art. 194). It comprises of Cardinals,

²² Sergio F. Aumenta - Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 141.

²³ Sergio F. Aumenta - Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 141.

²⁴ Sergio F. Aumenta - Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 141.

Bishops, and priests appointed by the Roman Pontiff for a term of five years and is headed by the Cardinal Prefect.²⁵ Moreover, in dispatching the affairs of the Tribunal, the Prefect is assisted by a secretary,²⁶ the Promoter of Justice, the defender of the bond²⁷.

The Apostolic Signatura can act as a Tribunal of ordinary jurisdiction and an administrative Tribunal. CIC c. 1445 also speaks in detail about its competence.²⁸ As outlined in *PE* arts. 196-198, the Tribunal has a threefold competence.

a) As a tribunal of ordinary jurisdiction: It is to be borne in mind that the Apostolic Signatura is not an appeal tribunal. Nevertheless, it judges challenges of various kinds (other than ordinary appeals) against the decisions of the Rota.²⁹ According to *PE* art. 196, it adjudicates: i) complaints of nullity and petitions for *restitutio in integrum* against sentences of the Roman Rota; ii) recourses in cases involving the status of persons when the Roman Rota has denied a new examination of the case; iii) exceptions of suspicion and other proceedings against judges of the Roman Rota arising from the

²⁵ *PE* art. 195 §1; Unlike other dicasteries which could be presided over by non-cardinals and even by lay Christian faithful, Apostolic Signatura can be headed only by a cardinal.

²⁶ *PE* art. 195 §2.

²⁷ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit: A Practical Guide to the Code of Canon Law*, Dublin 1: The Canon Law Society of Great Britain and Ireland, Veritas Publications, 1995, 839.

²⁸ CIC c. 1445 §1. The supreme tribunal of the Apostolic Signatura adjudicates:

1° complaints of nullity, petitions for *restitutio in integrum* and other recourses against rotal sentences;

2° recourses in cases concerning the status of persons which the Roman Rota refused to admit to a new examination;

3° exceptions of suspicion and other cases against the auditors of the Roman Rota for acts done in the exercise of their function;

4° conflicts of competence mentioned in can. 1416.

§2. This tribunal deals with conflicts which have arisen from an act of ecclesiastical administrative power and are brought before it legitimately, with other administrative controversies which the Roman Pontiff or the dicasteries of the Roman Curia bring before it, and with a conflict of competence among these dicasteries.

§3. Furthermore, it is for this supreme tribunal:

1° to watch over the correct administration of justice and discipline advocates or procurators if necessary;

2° to extend the competence of tribunals;

3° to promote and approve the erection of the tribunals mentioned in cann. 1423 and 1439.

²⁹ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit*, 839.

exercise of their functions; iv). conflicts of competence between tribunals that are not subject to the same appellate tribunal.³⁰

b) As the administrative Tribunal for the Roman Curia: Since the Apostolic Signatura is empowered with the competence to handle all controversies arising from administrative acts, it is the place of final recourse against an administrative decree.³¹ Consequently, as the administrative tribunal for the Roman Curia, it adjudicates recourses against individual administrative acts, whether issued by the Dicasteries or the Secretariat of State or else approved by them, whenever it is contended that the act being impugned violated some law, either in the decision-making process or in the procedure employed (*PE* art 197 §1). *Praedicate Evangelium* goes on to state that "in these cases, in addition to its judgement regarding the illegality of the act, the Apostolic Signatura, at the request of the plaintiff, can also judge concerning the reparation of possible damages incurred through the act in question" (*PE* art 197 §2). Furthermore, the Apostolic Signatura is competent to adjudicate other administrative controversies referred to it by the Roman Pontiff or by institutions of the Curia as well as conflicts of competence between Dicasteries or between Dicasteries and the Secretariat of State (*PE* art 197 §2).

c) As an administrative institution of justice in disciplinary matters: As an administrative institution of justice in disciplinary matters, the Signatura has extensive power over the universal Church and according to *PE* art 198, it is competent: i) to exercise vigilance over the correct administration of justice in the different ecclesiastical tribunals and, if need be, to censure officials, advocates or procurators; ii) to adjudicate petitions presented to the Apostolic See for obtaining the referral of a case to the Roman Rota; iii) to adjudicate concerning any other request relative to the administration of justice; iv) to extend the competence of lower

³⁰ According to CIC c. 1416, a conflict of competence between tribunals subject to the same appeal tribunal is to be resolved by the appeal tribunal. If they are not subject to the same appeal tribunal, the conflict is to be resolved by the Apostolic Signatura. However, according to the parallel CCEO c. 1083, a conflict between judges as to which of them is competent is to be decided by the appellate tribunal of that judge before whom the action was first advanced by an introductory *libellus* of appeal. If, however, one of the two tribunals is the appellate tribunal of the other, the conflict is to be decided by the tribunal of the third grade for the tribunal before which the action was first introduced.

³¹ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit.*, 839.; CIC cc. 1732-1739 gives the detailed norms in this regard.

tribunals; v) to grant approval of a tribunal of appeal, as well as approval, if reserved to the Holy See, of the erection of inter-diocesan/inter-eparchial/inter-ritual, regional, national and, if need be, supranational tribunals.

It is obvious that ensuring the right administration of justice in the different ecclesiastical tribunals all over the world requires regular and periodic contact with them and collecting from them an annual report of their activities. In that capacity, if the situation demands it, it is also incumbent on the *Signatura*, to censure officials, advocates, or procurators.³² However, as per the provisions of CCEO c. 1062 §5, the general moderator for the administration of justice³³ has the right to exercise vigilance (*ius vigilandi*) over the tribunals situated within the territory of the patriarchal/ major archiepiscopal Church. Apart from having the power to extend the competence of the lower tribunals, if, for some special reasons, a tribunal is to deal with a case for which it is not competent by law, the *Signatura* is empowered to grant to the lower tribunals the faculty to judge appeals ordinarily reserved to the Holy See.³⁴

The novelty of *PE* in this regard is the competence given to the *Signatura* to grant approval of a tribunal of inter-diocesan/inter-eparchial/inter-ritual, regional, national, and, if need be, supranational tribunals. *Pastor Bonus* art. 124, 1^o, spoke only of the competence of *Signatura* to erect inter-diocesan tribunals. As per CIC cc. 1445 §1, 1423, and 1439, these inter-diocesan tribunals could be tribunals of first and second instance. A distinction that exists between CIC and CCEO in matters connected with the erection of inter-diocesan and inter-ritual tribunals deserves to be mentioned in this connection. According to CCEO c. 1067 §1, within the territorial boundaries of a patriarchal/major archiepiscopal Church, the

³² Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit: ...* 839.

³³ The role of General moderator for the administration of justice can be understood only in the context of the judicial power of governance possessed by the synod of bishops of a patriarchal/major archiepiscopal Church. Although the synod being the superior tribunal within the territorial boundaries of a patriarchal/major archiepiscopal Church, in the first instance it exercises its judicial power through an elected portion of the same synod constituted as a tribunal. For that purpose, the synod of bishops of the Patriarchal/ major archiepiscopal Church for a five-year term elects from among its members a general moderator for the administration of justice and two bishops. These three bishops together constitute what is called the synodal tribunal.

³⁴ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit: ...* 1995, 839.

patriarch/major archbishop erects it with the consent of individual bishops concerned. According to §2 of the same canon within the territorial boundaries of a patriarchal/major archiepiscopal Church, if the situation warrants such a tribunal is to be established by the synod of bishops. However, CCEO c. 1067 §1 makes it clear that in other cases, such a tribunal can be established only with the consent of the Apostolic See. That implies that for dioceses/eparchies outside the territorial boundaries of a patriarchal/major archiepiscopal Church and non-patriarchal/major archiepiscopal Churches, the approval for the establishment of such a tribunal must be given by the Apostolic Signatura. Although CCEO c. 1068 which speaks about the erection of inter-eparchial tribunal of first instance for different Churches *sui iuris* does not explicitly mention that, given the fact that the Latin Church is also one of the Churches *sui iuris* in the catholic communion, it can be reasonably argued that if the inter-diocesan tribunals are inter-ritual in nature, then the intervention of the Apostolic Signatura would be required.³⁵

2.3 Tribunal of the Roman Rota (*PE* arts. 200-204)

The historic origins of the Tribunal of the Roman Rota date back to the 12th century. The Tribunal originated from the Apostolic Chancery, where the individual cases were handled by curial officials, often in the presence of the pope.³⁶ Innocent III conferred to it the power to pronounce sentences, and gradually, it emerged as a tribunal with the first Council of Lyons. Since in this tribunal, the Auditors were seated in a circular enclosure in order to judge the cases it assumed the name Rota.³⁷ *Pastor Bonus* of 1988 and the norms approved by John Paul II on 7 February 1994, outlined clearly the role and structure of the Rota. This article analyses Roman Rota as per the arts. 200-204 of *PE*, through which the latest reform of the curia was brought about by Pope Francis on 19 March 2022.

³⁵ William L. Daniel, "Title XXIV. Trials in General," in In J. D. Faris, & J. Abbass, (Eds.), *A Practical Commentary to the Code of Canons of the Eastern Churches*, vol. II, Montreal: Librairie Wilson & Lafleur inc., 2019, 1989-2168, at p. 2020.

³⁶ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit: ...* 836.

³⁷ Sergio F. Aumenta - Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 143.

2.3.1 Roman Rota as Ordinarily Appellate Court of Higher Instance at the Apostolic See

As outlined in *PE* art. 200 §1, “the Tribunal of the Roman Rota ordinarily acts as an appellate court of higher instance at the Apostolic See, to safeguard rights within the Church; it fosters unity of jurisprudence and, by virtue of its decisions, provides assistance to lower tribunals.” *Praedicate Evangelium’s* immediate predecessor *Pastor Bonus*, in its art. 126 also contained this idea in more or less the same words. Speaking of Roman Rota, without giving any room for ambiguity, CIC c. 1443 states that the ordinary tribunal constituted by the Roman Pontiff is the Roman Rota. This competence speaks of its role as the tribunal competent to hear appeals made to the Holy See in judicial processes.³⁸

This tribunal helps the Roman Pontiff administer justice as the supreme pastor of the Church³⁹ and acts in his name and with his authority⁴⁰. As Zenon Grocholewski says, “Unlike some dicasteries of the Roman Curia whose competence is limited only to the Latin Church or to the Oriental Church or mission territories - the two tribunals (Apostolic Signatura and Roman Rota) exercising their jurisdiction in the whole Church, carry out a truly universal function.”⁴¹ In other words, “the competence of the Roman Rota *ratione territorii* is universal. It is the tribunal of appeal of the universal Church.”⁴² Apart from the traditional role of Roman Rota as a tribunal of appeal, the law additionally grants three functions to the Rota,⁴³ namely, protecting the rights in the Church, providing for the unity of jurisprudence, and being a help to other tribunals

³⁸ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit: ...*, 836-837.

³⁹ According to CIC c. 1442, the Roman Pontiff as the Supreme Pastor can render judicial decisions personally, through the ordinary tribunals of the Apostolic See, or through judges he has delegated.

⁴⁰ Cfr. Zenon Grocholewski, “I tribunali apostolici,” in Michel Thériault, Jean Thorn (eds.), *The New Code of Canon Law: Proceedings of the 5. International Congress of Canon Law, organized by Saint Paul University and held at the University of Ottawa, August 19-25 1984*, Ottawa, Canada: Saint Paul University. Faculty of Canon Law, 1986, 457-479, at p. 459.

⁴¹ Cfr. Zenon Grocholewski, “I tribunali apostolici,” 459.

⁴² Cfr. Raffaello Funghini, “La Competenza della Rota Romana,” in Piero Antonio Bonnet and Carlo Gullo (eds.), *Le “Normae” del Tribunale della Rota Romana*, Città del Vaticano: Libreria Editrice Vaticana, 1997, 151-164, at p. 154.

⁴³ Cfr. Redazione di Quaderni di diritto ecclesiale (ed.), *Codice di Diritto Canonico Commentato*, Milano, Italia: Ancora, 2001, 1139-1140.

through its own judgement (*PE* art.200 §1).⁴⁴ These roles enhance the importance of the Rota in the administration of justice in the Church.

2.3.1.1 Its Competence for Non-Consummation of Marriage

As per *PE* Art. 200 §2, the Tribunal of the Roman Rota also includes the Office competent to adjudicate the fact of the non-consummation of marriage and the existence of a just cause for granting dispensations.⁴⁵ Both the Latin and the Oriental Code speak of the possibility of a ratified but non-consummated marriage being dissolved by the Roman Pontiff for a just cause at the request of both or either of the parties, even if the other is unwilling (CCEO c. 862; CIC c. 1142). In this regard, CCEO c. 1384 stipulates that in order to obtain the dissolution of a non-consummated marriage or the dissolution of a marriage in favour of the faith, the special norms issued by the Apostolic See are to be strictly observed. In the Latin code, CIC cc. 1697-1706 deal in detail with the process of dispensation from a ratified and non-consummated marriage. It was only in 2011, through article 2 of the *motu proprio Quærit semper*⁴⁶ that the Rota received the competence to deal with cases of ratified and non-consummated marriages which until then belonged to the Congregation for Divine Worship and Discipline of Sacraments.⁴⁷ *Praedicate Evangelium* has reconfirmed this faculty of the Roman Rota, and thus, currently, the Tribunal of the Roman Rota is competent to adjudicate, through a special Office, the fact of the non-consummation of the marriage or the existence of a just cause for granting the dispensation.

2.3.1.2 Roman Rota and the Cases of the Nullity of Sacred Ordination

Praedicate Evangelium art. 200 §3 unambiguously states that the Office established at the Roman Rota with the competence to adjudicate the fact of the non-consummation of marriage is also competent to deal with cases of the nullity of sacred ordination, pursuant to the norm of

⁴⁴ Article 126 of *Pastor Bonus* also spoke of these three-fold roles of the Roman Rota.

⁴⁵ *Pastor Bonus* however did not speak of inclusion of such an office at the Tribunal of the Roman Rota.

⁴⁶ Benedict XVI, Apostolic Letter issued 'Motu Proprio' *Quærit Semper*, 30 August 2011 in AAS 103 (2011), 569-571.

⁴⁷ Sergio F. Aumenta – Roberto Interlandi, *La Curia Romana Secondo Praedicate Evangelium*, 143.

universal and proper law, in accordance with the different cases.⁴⁸ This competence was given to the Rota by the same *motu proprio Quærit semper* that gave it the competence to deal with cases of nullity of sacred ordination. It is to be understood in this context that the competence in cases for the declaration of the nullity of sacred ordination was formerly vested in the Congregation for Divine Worship and the Discipline of Sacraments for clerics of Latin Church *sui iuris*⁴⁹ and in the Congregation for the Eastern Churches for clerics of the Eastern Catholic Church *sui iuris*.⁵⁰ However, the competence of all nullity of sacred ordination cases, including that of clerics of Latin Church *sui iuris* and the Eastern Catholic Church *sui iuris* was transferred to a special office of the Tribunal of the Rota effective on 1 October 2011.⁵¹ *Quærit semper* states thus concerning processes of dispensation from ratified and non-consummated marriage and cases concerning the nullity of sacred ordination: “On the day of the entry into force of these regulations, any processes of dispensation from ratified and non-consummated marriage and cases concerning the nullity of sacred ordination still pending at the Congregation for Divine Worship and the Discipline of the Sacraments will be transferred to the new Office at the Tribunal of the Roman Rota and will be decided by the latter.”⁵²

2.3.2 Structure and Internal Organization of the Roman Rota

The Tribunal of the Roman Rota has a collegiate structure and is composed of a certain number of judges of proven doctrine, competence and experience selected by the Roman Pontiff from various parts of the world (*PE* art. 201 §1). The selection of judges from various parts of the world clearly indicates Rota’s universal function in the Church. This College of the Tribunal is headed by the dean, as *primus inter pares*, who is appointed for a term of five years by the Roman Pontiff, who chooses him from among the judges (*PE*

⁴⁸ CCEO cc. 1385-1387 and CIC cc. 1708-1710 deal with cases for declaring the nullity of sacred ordination

⁴⁹ *PB* 68.

⁵⁰ *PB* 58.

⁵¹ *Quærit semper*, art. 2 §3; Francis J. Marini, “Title XXVI. Certain Special Processes,” in In J. D. Faris, & J. Abbass, (Eds.), *A Practical Commentary to the Code of Canons of the Eastern Churches*, vol. II, Montreal: Librairie Wilson & Lafleur inc., 2019, 2375-2516, at p. 2442.

⁵² *Quærit semper*, art.4.

art. 201 §2).⁵³ Unlike eparchial tribunals, ordinarily, the judges sit in rotation. This is because the same tribunal will have to handle a given case in more than one instance.

When cases are brought to the Tribunal, it is the duty of the dean⁵⁴ to constitute a *turnus* of auditors and the relator, who is generally senior among the auditors.⁵⁵ Normally, a collegiate tribunal of three auditors is constituted to deal with a case. If a serious case is to be considered, sometimes, a greater number of judges are assigned a particular case,⁵⁶ and occasionally a case is considered by all the auditors.⁵⁷ The system of *turnus* of auditors to deal with each case and the fact that a judge, promoter of justice, defender of bond, etc., are not allowed to participate in a further instance of the same case⁵⁸ ensures that the possibility of biased judgments is eliminated to the maximum possible extent.⁵⁹

An additional provision which was not there in *PB* is found in *PE* art. 201 §3. As per this new norm, the Office for procedures of dispensation from a marriage *ratum et non consummatum* and for cases of the nullity of sacred ordination is headed by the dean, assisted by its proper officials, and by designated commissioners and consultors.

⁵³ *PB* art. 127 without dividing it into two paragraphs expresses the idea in similar words. One notable difference between *PB* and *PE* on this matter is while *PB* states that the dean of the Rota is appointed for a specific term of office, *PE* stipulates that he is appointed for a term of five years.

⁵⁴ Cfr. *Normae Sacrae Romanae Rotae Tribunalis* 1982, 18.

⁵⁵ Cfr. *Normae Sacrae Romanae Rotae Tribunalis* 17-18, in AAS 86 (1994), 508-540; Ernst Caparros, Michel Thériault and Jean Thorn (eds.), *Code of Canon Law Annotated*, 1128.

⁵⁶ E.g. a case of nullity of marriage was heard by nine Auditors in 1986 because the matter was complicated and of great importance: cfr. Rota Romana *coram* Serrano 27.VI.1986.

⁵⁷ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit: ...*, -837.

⁵⁸ The current law proper to the Roman Rota the *Normae Sacrae Romanae Rotae Tribunalis* was promulgated on April 18, 1994 and came into force on October 1, 1994. The full text of the Norms are published in AAS 86 (1994), 508-540. The statement of *PE* art. 204 that the Tribunal of the Roman Rota is governed by its own law in principle implies that the Rota is governed by *Normae Sacrae Romanae Rotae Tribunalis*.

⁵⁹ Apart from the Rota, the patriarchal/ major archiepiscopal ordinary tribunal is also competent to handle a given case in different instances with the judges serving in rotation.

2.3.3 Cases the Rota Handles in Second, Third, and Further Instances

The role of Roman Rota as an appellate tribunal to adjudicate cases in the second instance is given in *PE art. 202*.⁶⁰ According to *PE art. 202 §1*, the Tribunal of the Roman Rota adjudicates in second instance cases that have been decided by ordinary tribunals of first instance and referred to the Holy See by legitimate appeal. Regarding its competence for third and further instance cases, *PE art. 202 §2* states that it adjudicates in third or further instances cases already decided by the same Apostolic Tribunal and by any other tribunals, unless they have become *res iudicata*. Canon 1444 § 1 of CIC also speaks of this competence.

Although by universal law, Roman Rota is the only tribunal established with the faculty to adjudge third instance in the Latin Church, it must not be forgotten that even in the Latin Church, this faculty is given to other tribunals, either habitually or occasionally. The Rota of the Nunciature of Spain and the Tribunal of the Primate of Hungary are examples of such habitually (permanently) established tribunals. Other tribunals have this faculty given to them occasionally, but only for each specific case, by the Apostolic Signatura in virtue of a special concession.⁶¹ Thus, all the third instance tribunals in the Latin Church other than the Roman Rota are established not by universal law but by virtue of a special concession.

The same principle, however, is not true for the Eastern Catholic Patriarchal and Major Archiepiscopal Churches, which, according to the provisions of the *CCEO c. 1063 § 3*, have the power to erect Ordinary Tribunals with the competence to handle cases in the second, third and further instances. Moreover, going by the stipulations of *CCEO c. 1065*, for non-patriarchal and non-major archiepiscopal Churches and for those eparchies of Patriarchal and Major Archiepiscopal Churches outside the territorial boundaries, the tribunal of third grade is the Roman Rota.

2.3.4. Cases for which the Rota is Competent in First, Second and Further Instances

Although the Rota is an appeal tribunal, it also has to judge in the first instance some cases reserved by law itself and those cases which the Roman Pontiff, either on his own initiative or at the request of the

⁶⁰ This competence was enumerated in *PB 128*.

⁶¹ Gerard Sheehy and others, (eds.), *The Canon Law Letter and Spirit: ...*, -837.

parties, has reserved to his own tribunal and has entrusted to the Roman Rota.⁶² The Rota also judges These reserved cases in second or further instances. Following are such cases enumerated by *PE* art. 203: i) Bishops in contentious matters, unless they concern the rights or temporal goods of a juridical person represented by the Bishop; ii) Abbots Primate or Abbots Superior of monastic congregations and Supreme Moderators of Institutes of Consecrated Life and Societies of Apostolic Life of Pontifical right; iii) Dioceses/Eparchies or other ecclesiastical persons, whether physical or juridical, which have no Superior below the Roman Pontiff; iv) cases which the Roman Pontiff entrusts to this Tribunal.

Of these four cases, in the patriarchal and major archiepiscopal Churches, contentious cases of bishops and eparchies in the first instance is adjudged by the synodal tribunal,⁶³ and if there is an appeal, it is made to the synod of bishops, with any further appeal excluded.⁶⁴ This, however, does not exclude the possibility of *provocatio ad Romanum Pontificem*,⁶⁵ which cannot be equated with a true appeal.⁶⁶

Conclusion

Administering justice effectively without unnecessary delays and with a human face requires a combination of efficient processes, adequate resources, and a focus on fairness and empathy. The Dicastery for the Doctrine of the Faith, the Apostolic Penitentiary, the Supreme Tribunal of the Apostolic Signatura, and the Tribunal of Roman Rota outlined in *Praedicate Evangelium* are preeminent institutions in the central administrative structure of the Catholic Church that play a vital role in enforcing and interpreting Church doctrine, as well as ensuring the proper administration of justice within the Church. While each of these institutions has its own

⁶² CIC c. 1444 §2.

⁶³ CCEO c. 1062 §3.

⁶⁴ CCEO c. 1062 §4.

⁶⁵ CCEO c. 1059 §1.

⁶⁶ This is because of the fact that *provocatio ad Romanum Pontificem* (Deferring Cases to the Roman Pontiff) doesn't suspend the exercise of power by a judge who has already begun to hear the case except in the case of an appeal or unless it is evident that the Roman Pontiff has reserved the case to himself (CCEO c. 1059 §2). If the Roman Pontiff takes up the case, he judges these cases personally, through tribunals of the Apostolic See or through judges delegated by him (CCEO c. 1059 §1).

unique responsibilities and functions, they all work together to uphold the teachings of the Catholic faith and promote justice and morality within the Church. Through their work, these institutions play a major role in ensuring that justice is administered fairly and consistently and the Catholic Church remains a strong and cohesive institution that serves the spiritual needs of its followers and upholds the values of the faith. As the Church continues to evolve and adapt to the needs of its followers, the reform of the Roman Curia through the apostolic constitution *Praedicate Evangelium* will serve as a major step in the onward march of the Church to its final goal, namely the salvation of the souls. In line with all the reforms carried out during the pontificate of Francis, this reform also seems to hold fast to the principle that simplifying legal procedures and reducing unnecessary formalities can expedite the judicial process and ensure speedy administration of justice, and avoid the danger of a delayed justice in effect becoming denied justice.

For the pilgrim Church journeying towards Heavenly Jerusalem, these institutions serve as a critical component of its mission, ensuring that the values of justice, compassion, and integrity are upheld in all aspects of its life. The conviction of Pope Francis that our times require a deeply merciful Catholicism that is unafraid of change and is manifested through his well-known statement that “we are not living an era of change but a change of era”⁶⁷ is clearly reflected in the reform.

⁶⁷ This statement is from the message of Pope Francis to Italian Catholics inside the Cathedral Santa Maria del Fiore during his visit to Florence Tuesday, Nov. 10, 2015 where he outlined his vision of reform. (Cf. https://www.vatican.va/content/francesco/en/speeches/2015/november/documents/papa-francesco_20151110_firenze-convegno-chiesa-italiana.html accessed on 24 May 2023)