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The Participation of the Laity in the Exercise of Jurisdictional Power within the Orthodox Church: A Canonical Study

Abstract: In the specialist literature of the Eastern Orthodox Church, canonical studies devoted to the norms governing the participation of laypeople in the exercise of the Church's jurisdictional power are relatively few and, in most cases, lack a holistic approach that includes references to both the biblical text and the texts of the early liturgical-canonical literature and canonical collections of the third and fourth centuries. Therefore, insofar as time and space have permitted, we have sought in the present study to examine and evaluate the testimonies provided by these sources, correlating them with the provisions of the canonical legislation of the first Christian millennium.

In order to illustrate how the participation of the laity in the exercise of jurisdictional power was understood and implemented throughout history, we have also made use of the canonical doctrine of the Eastern Church, as reflected especially in the commentaries of the twelfth-century Byzantine canonists. Finally, in order to provide the reader with an understanding of how the participation of the laity in the exercise of the Church's jurisdictional power is realised today, we have examined and evaluated the Statute for the Organisation and Functioning of the Romanian Orthodox Church as an example of the normative framework of a local Orthodox Church.

Keywords: canonical collections, Eastern Orthodox Church, ecclesiastical power, jurisdictional power

1. Introduction

Since ancient times, it has been observed that for an author the most important part is the beginning of their work, that is, the Introduction, because this “leads us with pleasure to the reading of the proposed subject matter, and when we reach the core of the issue, it offers us a much clearer understanding of it” (Gaius, *Ad legem duodecim tabularum*, Book I).¹

Aware of this reality, already recognised eighteen centuries ago by the famous Roman jurist Gaius, of Thracian origin, we considered it necessary to make a few preliminary clarifications regarding the concepts of power and jurisdiction and to present the subject matter and content of the work, in order to offer the reader a better understanding of how the laity participated in the exercise of jurisdictional power within the Church through one of its principal acts, namely, participation in the election of hierarchs.

As collaborators of the divinely instituted clergy, the laity participated in the exercise of ecclesiastical power (ἐκκλησιαστικὴ ἐξουσία / *potestas ecclesiastica*) in its threefold manifestation (teaching, sanctifying, and governing), as confirmed both by the text of canonical legislation from the first millennium and by the canonical doctrine of the Ecumenical Church.² But, in the present work, we have presented only the participation of the laity in the exercise of jurisdictional power and its canonical basis.

In the Eastern Church, the hierarchical relationship between the degrees deriving from the *hierarchy ordinis* and those deriving from the *hierarchy jurisdictionis*³ is grounded in the power of governance of the Church, received by virtue of grace through the Holy Sacrament of Ordination.

The jurisdictional power (*potestas jurisdictionis*), known in the specialist literature as *potestas regiminis*, that is, the power of leadership or governance of the Church, has its canonical basis in the text of the canons

¹ Apud *Corpus Iuris Civilis, Editio stereotypa septima*. Volumen Primum. Ed. P. KRUEGER. New Jersey 2010, p. 2.

² N. V. DURĂ: *Le Régime de la synodalité selon la législation canonique, conciliaire, oecuménique, du Ier millénaire*. Bucharest 1999, pp. 287–382; N. V. DURĂ: “Colecții canonice, apusene, din primul mileniu” [Canonical and Western Collections from the First Millennium]. *Analele Universității Ovidius. Seria: Drept și Științe Administrative* 1 (2003), pp. 19–33.

³ C. MITITELU: “The hierarchical relationships between the degrees resulting from the ‘*hierarchy ordinis*’ and the ‘*hierarchy jurisdictionis*’. Canonical-legal study.” *International Journal of Theology, Philosophy and Science* 15/8 (2024), pp. 62–73.

of the Canonical Collection of the first millennium,⁴ which incorporates the Apostolic Canons, the canons of the Ecumenical and Local Councils, as well as those of certain Holy Fathers, whose writings constitute canonical sources of the Orthodox Church.⁵

The first official listing of these canons (ecclesiastical laws) took place at the Sixth Ecumenical Council (Second Session of 691/692), and the process culminated in the Pan-Orthodox Council of Constantinople in 920, which reaffirmed that the *Corpus Juris Canonici* of the Eastern Church constituted the official canonical collection of the Eastern Orthodox Church.

As for the concept of *potestas* (power), this was adopted by the first Christian jurists – that is the Church’s canonists – from the *jus Romanum*, from which the phrase *in potestate episcopi* (under the authority of the bishop), in the sense that any cleric, whether of divine or human appointment, is subject to the canonical obedience of his own bishop and is therefore not *sui iuris*.

The fact that, even in the pre-Nicene period, full authority was exercised by the Synod of Bishops is also confirmed by imperial edicts. Thus, through the Imperial Edict promulgated at Trier on 17 May 376, Emperors Valens, Gratian and Valentinian II decreed that “the custom (*mos*) existing in civil proceedings should also be observed in ecclesiastical matters (*in negotiis ecclesiasticis*). Consequently, if lawsuits give rise to disputes or minor offences, these must be referred to the hearings of the diocesan synods (*dioeceseos synodis*); an exception is, however, criminal proceedings (*actio criminalis*), which must be judged by ordinary and extraordinary judges or by high-ranking magistrates (*potestatibus*) (*illustribus*)” (*Codex Theodosianus*, Book XVI, 2, 2, 23).⁶

The text of this Edict therefore refers to jurisdiction in civil cases, exercised by persons who administered justice because they held the authority to judge. However, the Imperial Edict of 376 also reveals the following two ecclesiological realities, namely:

- a. Whenever a dispute arose between clergymen, the bishops were required to convene the diocesan synod and decide the dispute, thereby putting an end to the disagreements between them.

⁴ C. MITITELU: “‘Corpus Juris Civilis’ and ‘Corpus Juris Canonici’. Legal and Canonical Considerations.” *Teologia* 61/4 (2014), pp. 127–137.

⁵ C. MITITELU: “Internal (Material) Sources of Orthodox Canonical Law.” *Philosophical-Theological Review* 1 (2011), pp. 111–120.

⁶ *Le Code Théodosien, livre XVI. Texte latin et traduction française*, par É. Paris 2002, pp. 135–136.

- b. If the matter concerned criminal law, it had to be brought to the attention of the city judge, who was competent to punish the criminal offence committed. At the same time, the case could also be referred to the Praetorian Prefect, who was one of those *illustribus potestatibus* (high-ranking magistrates).

In fact, from the time of Emperor Constantine the Great onwards, such cases were also referred to the courts of the Roman State, since, according to Roman law, “religious matters” (*in sacris*) and “the priesthood” (*sacerdotium*) belonged to the sphere of *jus publicum*, as the renowned Roman jurist Ulpian (second–third centuries) likewise observed (cf. *Institutiones*, Book I).⁷ Roman public law also provided for “religious obligations, obedience to parents, and devotion to the fatherland” (Pomponius, *Manual*).⁸

With regard to the concept of *jurisdiction*, derived from the noun *jus* and the verb *dicere*, it means “the declaration or utterance of the law, in the sense of pronouncing or establishing it, an act which is usually carried out through the law,”⁹ so in fact it amounts to “an act of law-making,”¹⁰ which *ipso facto* also implies the application of the law. Hence the fact that the term *jurisdictio* signifies the act by which the law is established, which “involves first the enactment and then the application of the law,” implemented through “the act of governance or administration.”¹¹ The scope of this type of jurisdiction does not include “acts of adjudication or justice, because these concern *iudicium*, which derives from *iudicare*, and not from *ius dicere*.”¹²

In Latin, the word *potestas/-tis* expresses the notion of having something at one’s disposal, the power of dominion, of authority,¹³ whilst the word *jurisdictio/-nis* has three meanings, namely: ‘function and territory subject to jurisdiction’, ‘authority to judge, jurisdiction (in civil cases)’, and ‘competence and authority’.¹⁴ In this article, I have used the concept of *jurisdiction* both in the sense of authority and competence

⁷ Apud *Corpus Iuris Civilis, Editio stereotypa septima*. Volumen Primum..., p. 1.

⁸ Ibidem.

⁹ L. STAN: “Har și jurisdicție” [Grace and Jurisdiction]. In: L. STAN: *Biserica și Dreptul. Principiile dreptului canonic ortodox*, vol. III. Sibiu 2012, p. 311.

¹⁰ Ibidem.

¹¹ Ibidem, p. 312.

¹² Ibidem.

¹³ G. GUȚU: *Dicționar latin-român* [Latin-Romanian Dictionary]. Bucharest 1983, p. 340.

¹⁴ Ibidem, p. 670.

in the administration of jurisdictional power, and in the sense of the authority to judge.¹⁵

According to the canonical doctrine of the Eastern Church, ecclesiastical jurisdictional power – understood as the authority to judge – is based on *divine law*, on the basis of which the exercise of “the function of judge in the Church is held by the bishops”¹⁶ (cf. can. 5 First Ecumenical Council), in their capacity as successors within the sphere of the Apostles’ power. It follows from this that the Synod of Bishops constitutes the supreme governing body of the Church and holds the fullness of ecclesiastical jurisdiction.

Within the Church, the Synod has functioned as a judicial body since the apostolic era, both in civil and criminal matters. Hence, the synodal regime has characterised the system of leadership and governance of each Orthodox local Church, even though councils did not always lead to fortunate solutions. Indeed, if we are to give credence to Saint Gregory of Nazianzus, such councils often created “only additional problems.”¹⁷

In this regard, the Holy and Great Council of the Orthodox Church, held in Crete in 2016, cannot be considered a good example of the freedom of the laity to participate in the exercise of ecclesiastical power. For instance, during this Pan-Orthodox Council, women were permitted to speak during the sessions only after their express insistence.¹⁸

We have also made some brief conceptual clarifications, as these are necessary for a proper understanding of the participation of the laity in the exercise of the Church’s jurisdictional power through the election of the clergy.

¹⁵ C. MITITELU: *Pravilele românești, tipărite, din secolul al XVII-lea. Infrațiuni și pedepse* [Romanian Printed Law Codes of the Seventeenth Century. Crimes and Punishments]. Bucharest 2012, pp. 33–66.

¹⁶ N. MILAȘ: *Dreptul bisericesc oriental* [Eastern Ecclesiastical Law]. Trans. D. I. CORNILESCU, V. S. RADU, rev. I. MIHĂLCESCU. Bucharest 1915, p. 377.

¹⁷ GREGORIUS NAZIANZENUS: “Epistula CXXX ad Procopium.” In: *PG*, t. 37. Ed. J. P. MIGNE. Paris 1862, col. 220A.

¹⁸ N. KAZARIAN: “The Holy and Great Council of the Orthodox Church (Crete, 2016).” In: *Listening to the East. Synodality in Eastern and Oriental Orthodox Church Traditions*. Ed. INSTITUTE FOR ECUMENICAL STUDIES OF THE ANGELICUM and PRO ORIENTE FOUNDATION. Vatican 2023, pp. 93–101.

2. The role of the laity in the election of the clergy in the pre-Nicene period

The Apostles were called to the apostolate *secundum divina magisteria*,¹⁹ that is, directly by God. Consequently, the word “brethren” in Acts 1:16, used by Saint Peter the Apostle on the occasion of the election of Matthias (Acts 1:23–26) “to take the place in this ministry (διακονίας) and apostleship (ἀποστολῆς) from which Judas turned aside” (Acts 1:25), should not be understood merely as referring to a procedure for the election of clergy established in the apostolic era, but also as an affirmation by the Apostles of “the principle of the people’s participation in the election of those called to ecclesiastical ministry.”²⁰

According to the teaching of the great Ecumenical Father Saint John Chrysostom, the true meaning of the term “brothers” is revealed above all by the manner in which the Apostle Peter acted, namely, “not through authority or domination, but by common consent; he simply said: ‘Let us choose [...] to take Judas’s place.’ Behold the dignity and angelic character of the Church.”²¹

The same Holy Ecumenical Father tells us that the Apostles prayed to God to show them “which of the two (Joseph Barsabbas, also called Justus, and Matthias, n.n.) He would choose”²² to take the place of the ministry and apostleship from which Judas had fallen, and that “they cast lots because the Spirit had not yet been given (οὐπω γὰρ ἦν Πνεῦμα), and the lot fell upon Matthias (ὁ κληρὸς ἐπὶ Ματθίαν ἔπεσεν), and they added him to the eleven Apostles (μετὰ τῶν ἑνδεκα ἀποστόλων).”²³

With the descent of the Holy Spirit on the day of Pentecost – the Jewish feast (Acts 2:1) commemorating the giving of the Tablets of the Law through Moses, also called the Feast of Weeks, that is, the period of seven weeks considered necessary for the harvest – “they were all filled with

¹⁹ I. CHRYSOSTOMUS: “In Acta Apostolorum,” Homilia III, 1. In: PG, t. LX. Ed. J. P. MIGNE. Paris 1862, col. 34.

²⁰ L. STAN: *Mirenii în Biserică. Importanța elementului mirean în Biserică și participarea lui la exercitarea puterii bisericești. Studiu canonic-istoric* [The Laity in the Church. The Importance of the Lay Element in the Church and Its Participation in the Exercise of Ecclesiastical Power. A Canonical-Historical Study]. Sibiu 1939, p. 254.

²¹ I. CHRYSOSTOMUS: “In Acta Apostolorum,” Homilia III..., col. 34.

²² Ibidem, col. 36.

²³ Ibidem.

the Holy Spirit” (Acts 2:4), namely, both the Apostles and the laity. From that moment onwards, the clergy were chosen “by divine grace (κατὰ θεϊαν χάριν)” (can. 80 ap.),²⁴ and the participation of the laity in their election and ordination became an established requirement of ecclesiastical practice.

The elective principle, as an expression of the constitutional principle of the Church’s self-government, was thus concretely affirmed from the very foundation of the Church through the election of the divinely instituted clergy. This was the case in the election of the Apostle Matthias to replace Judas, in which approximately 120 disciples of Christ participated (cf. Acts 1:15), and whom the Apostle Peter addressed as “brothers” (Acts 1:16).

According to the affirmation of the theologians and canonists of the Eastern Church, the Holy Apostles accepted the proposal made by the whole Church “not because they could not have chosen the new Apostle without the consent of the people, but to set an example to all Christians as to the manner [...] in which they were to proceed in the ordination of bishops.”²⁵

We also find lay participation in the election of Simeon, son of Cleopas, as Bishop of Jerusalem,²⁶ following the stoning of the first Bishop of the Holy City, Saint James the Apostle, around the years 62/63, in which participated the entire community (Apostles, priests and laity). The texts contained in the canonical collections of the third and fourth centuries attributed to the Holy Apostles likewise bear witness to this reality.

The biblical text (New Testament) confirms that the Church exercises the power received from its founder, the Lord Jesus Christ, through its members, clergy and laity, called “to work together” for the proper functioning and governance of the Church, and that “therefore their collaboration is a duty both of the hierarchy and of the laity, who, through the profession of the Christian faith,” also contribute to the spread of “Christian teaching.”²⁷

²⁴ Σύνταγμα τῶν Θείων καὶ Ἱερῶν Κανόνων τῶν τε Ἁγίων καὶ πανευφήμεων Ἀποστόλων, καὶ τῶν Ἱερῶν καὶ Οἰκουμενικῶν καὶ Τοπικῶν Συνόδων, καὶ τῶν κατὰ μέρος Ἁγίων Πατέρων [Syntagma of the Divine and Sacred Canons of the Holy and All-Praised Apostles, of the Holy Ecumenical and Local Councils, and of the Individual Holy Fathers] [Athenian Syntagma]. Eds. G. A. RHALLER, M. POTLES. Vol. II. Athens 1852, p. 103.

²⁵ L. STAN: *Mireni în Biserică...*, p. 253.

²⁶ Cf. EUSEBIUS CAESARIENSIS: “Historia ecclesiastica,” lb. III, cap. XI. In: PG, t. XX. J. P. MIGNE. Paris 1857, col. 246.

²⁷ N. MILAŞ: *Dreptul bisericesc oriental...*, p. 181.

Regarding the participation of the laity in the exercise of the teaching office and their role in this ministry, Saint Paul the Apostle tells us that such participation is in keeping with the spirit of the divine mandate, so that we may all “attain to the unity of the faith and of the knowledge of the Son of God” (Ephesians 4:13), a sacred duty incumbent upon all members of the Church.

In their capacity as a “royal priesthood” (1 Peter 2:9), the laity participate – insofar as they are able – in the exercise of sacramental power, for through the prayers of the priests they too are “introduced into the mystical aspect of the service of the Altar; through their prayers during the Liturgy, they invoke, in union with the priest, the Holy Spirit upon the Gifts set forth; together with the bishop, they ask for the blessing of heaven upon those being ordained; in a word, the lay faithful cooperate – asserts the renowned canonist Nicodim Milaș – in every general act of the divine service in the Church, and through this they take an active part in that branch of ecclesiastical power for which the members of the hierarchy are particularly destined.”²⁸

3. Testimonies regarding the participation of the laity in the election of bishops in the canonical collections of the fourth and fifth centuries

The canonical collections of certain local Churches from the fourth and fifth centuries also provide conclusive evidence regarding the participation of the laity in the election of bishops. For example, the text of the Apostolic Constitutions states that “the twelve Apostles of the Lord drew up the divine Constitutions (τὰς θείας διατάξεις), and ordained bishops chosen by the people (τοῦ λαοῦ ἐκλεγμένον).”²⁹ In the text of the same Apostolic Constitutions, we also find the specification that ordination took place “on a Sunday, when the people were gathered, together with the presbyters and bishops” (*Constitutiones Apostolorum*, Book VIII, 4, 2–3).³⁰

²⁸ Ibidem, p. 182.

²⁹ *Didascalia et Constitutiones Apostolorum*. Ed. F. X. FUNK. Vol. I. Paderbornae 1905, pp. 470–471.

³⁰ Ibidem, pp. 472–473.

An early collection of canons attributed to the Apostles was that known as the *Canons of Hippolytus*, also called the *Canons of the Church of Alexandria*, attributed to Bishop Hippolytus of Portus Romanus, a native of Alexandria, and regarding which it has been noted that there is a similarity verging on identity between the content of this canonical collection and the collection compiled in Alexandria, known as the *Constitutiones Ecclesiae Aegyptiacae* (Constitutions of the Egyptian Church).

The Egyptian Church's version of the 38 canons of Saint Hippolytus, written in Greek, was subsequently translated into Coptic, Syriac, and Arabic.³¹ In the nineteenth century, the canons – in the Arabic version – were translated into Latin,³² whose editors claimed that they derived from various canonical regulations of the Egyptian Church, such as the “Orders of the Egyptian Church,”³³ that is, that ancient Egyptian “Orders (Διάταξις)” with diverse content (liturgical, canonical, moral, etc.).

The text of the canons is attributed to Bishop Hippolytus of Rome (217–235), a native of the city of Alexandria regarding whose Church we possess testimonies concerning the pastoral and canonical activity of its hierarchs, transmitted through historical and hagiographic tradition.³⁴ The text of the said canons was translated into Arabic by al-Šafī ibn al-‘Assāl,³⁵ and was subsequently rendered into Ge’ez (Old Ethiopian).³⁶ Moreover, the text of these canons is also found – in an abridged form – in the *Corpus Juris Canonici* of the Ethiopian Church, known as the *Ethiopian Sinodos*.³⁷

In the Canons of Hippolytus – compiled in the third century – we find direct documentary evidence of the participation of laypeople in

³¹ First mentioned by J. M. Vansleb, who also provided a summary of it (J. M. VANSLEB: *Histoire de l'Eglise d'Alexandrie, fondée par S. Marc, que nous appelons celle des Jacobites-Coptes d'Egypte. Écrite au Caire même, en 1672 & 1673*. Paris 1677, pp. 280–282).

³² Published in D. B. HANEBERG (ed.): *Canones S. Hippolyti. Arabice e codicibus Romanis cum versione Latina, annotationibus et prolegomenis*. Monachii 1870, pp. 63–96.

³³ R. H. CONNOLLY: *The So-Called Egyptian Church Order and Derived Documents*. Cambridge 1916.

³⁴ N. V. DURĂ: “Biserica Coptă și organizarea ei în lumina mărturiilor Tradiției istorico-agiografice” [The Coptic Church and Its Organization in the Light of the Testimonies of the Historical-Hagiographical Tradition]. *Studii Teologice* XXXIV/3–4 (1982), pp. 200–219.

³⁵ N. V. DURĂ: “Originile nomocanonului «Fetha Nagast». Identificarea canoanelor zise ale împăraților” [The Origins of the Nomocanon *Fetha Nagast*. The Identification of the So-Called Canons of the Emperors]. *Studii Teologice* XXVIII/1–2 (1976), pp. 162–183.

³⁶ M. da LEONESSA: *Testi di diritto antichi riguardanti gli Etiopi, Codificazione canonica orientale*. Fonti, fasc. VI. Vatican City 1932, pp. 15–45.

³⁷ N. V. DURĂ: “Colecția canonică etiopiană (*Corpus Juris Canonici Aethiopici*)” [The Ethiopian Canonical Collection]. *Studii Teologice* XXVI/9–10 (1974), pp. 725–738.

the election of clergy, namely in the texts of Canons 2 and 7, which attest to the existence of this practice in the Church of Alexandria as early as the apostolic era.

In accordance with the provision of Canon 2 of Hippolytus's Collection, "the bishop" has to "be chosen by all the people," and "when he is ordained, all the clergy and the people say: We choose him."³⁸ However, it is further specified that at ordination only "one of bishops and presbyters [...] lays his hand on the head and prays, saying" (can. 2).³⁹

According to the accounts of Egyptian Church historiography, in the first two or three centuries the Bishop of Alexandria was chosen from among the seven priests of the Episcopal Church,⁴⁰ and the presbyters laid their hands on the head of the one being ordained bishop.

With regard to the election of the bishop, Canon 2 of Hippolytus's Collection attests therefore that in the Church of Alexandria in the mid-third century this was done by "all the people," and it was also the *people* who declared: "we choose him."

In the text of the Canon 3, we also note that all, that is, both the clergy and the people, prayed together to God, who "established authorities and powers," that the "Holy Spirit" might descend upon the one who becomes bishop to grant him "authority to forgive sins,"⁴¹ "make him shepherd" of his people, to give him "power to loosen every bond of the oppression of demons"⁴² and, at the end of the "prayer over him," all the people say, "Amen," and then respond: "he is worthy of it (Ἀξίον ἔστιν)" (can. 3),⁴³ that is, *Dignum est*.

As regards the ordination of presbyters, in the text of Hippolytus's canons we find that "the presbyter is equal to the bishop in everything except the seat and ordination, because to him is not given the power to ordain" (can. 4).⁴⁴

³⁸ *The Canons of Hippolytus*. Ed. P. F. BRADSHAW. Trans. C. BEBAWI. New Jersey 2010, p. 11.

³⁹ *Ibidem*, p. 12.

⁴⁰ N. V. DURĂ: "Biserica Alexandriei și activitatea canonică-pastorală a ierarhilor ei până la Sinodul de la Calcedon (451)" [The Church of Alexandria and the Canonical-Pastoral Activity of Its Hierarchs up to the Council of Chalcedon (451)]. *Studii Teologice* XXXIII/1-2 (1981), pp. 5-25.

⁴¹ *The Canons of Hippolytus...*, p. 12.

⁴² *Ibidem*.

⁴³ *Ibidem*, p. 13.

⁴⁴ *Ibidem*, p. 14.

Regarding the ordination of deacons, from the following canon we may note that, “when a deacon is ordained,”⁴⁵ the same rules apply when “the bishop lays his hand” on his head “and prays over him,”⁴⁶ asking God to bestow upon him the “Holy Spirit” and to “count him among those who serve you.”⁴⁷ The same canon stipulates that the deacon “is not appointed to the presbyterate, but for the diaconate, as a servant of God” (can. 5).⁴⁸

From the text of the prayers for ordination in the three orders of the divinely instituted priesthood (bishop, priest, and deacon) – from the Collection of Canons of Saint Hippolytus – it is clear that the grace-filled power received by each of these is not equal, which confirms that its hierarchical ranks are determined by *potestas ordinis*, and not by *potestas jurisdictionis*. Consequently, it is the power received at ordination that distinguishes the status and authority of the ranks arising from the *hierarchia ordinis* and the *hierarchia jurisdictionis*.

Canon 7 of Hippolytus’s Collection refers to the election of the anagnost (reader) and the hypodeacon. Regarding the reader, the canon states that, when an anagnost is elected, he must possess the qualities of a *deacon*, and that “the bishop is to give him the Gospel” (can. 7).⁴⁹

With regard to the subdeacon, according to the provisions of Canon 7 of Hippolytus’s Collection, “he is not to be ordained still celibate and if he has not married, unless his neighbours bear witness for him and testify that he has kept himself away from women during the time of his maturity.”⁵⁰ And then it is reiterated that “one is not to lay the hand on someone in the state of celibacy, unless he has reached his maturity or is entering into mature age and is thought [worthy], when one bears witness for him.”⁵¹ And, finally, in the same Canon 7 it was also stipulated that “the subdeacon is to serve behind the deacon.”⁵²

It follows unequivocally from the text of Canon 7 of the Collection of Hippolytus that the hypodeacon did not belong to the order of clergy of divine institution, but to that of clergy of human institution, since the *anagnostes* and hypodeacons were not ordained, but instituted

⁴⁵ Ibidem.

⁴⁶ Ibidem.

⁴⁷ Ibidem.

⁴⁸ Ibidem.

⁴⁹ Ibidem, p. 15.

⁵⁰ Ibidem, pp. 15–16.

⁵¹ Ibidem, p. 16.

⁵² Ibidem.

through the laying on of hands (*manus imponatur*) upon their heads, without the recitation of the prayer invoking the Holy Spirit for the conferral of the grace of the priesthood. On the contrary, they were consecrated through a blessing, that is, by *cheirothesia*.

Although the Fathers of the First Ecumenical Council make no express reference to the presence of laypeople at the ordination of bishops, nevertheless, this is also attested to by the ancient liturgical texts concerning the rite of ordination, from which it is evident that it was the Christian laity who gave their public consent to the ordination of the bishop through that “Axios estin!” (Ἀξίός ἐστιν!).

Regarding the participation of the laity in this sublime sacramental act, the commentaries of the twelfth-century Byzantine canonists remain particularly instructive. For example, Theodore Balsamon states that Canon 4 of the First Ecumenical Council “took into account the establishment (τὸ καθίστασθαι), or the election of the bishop (ψηφίζεσθαι ἐπίσκοπον),”⁵³ He then adds the clarification that, “in ancient times, the election of bishops was carried out by the crowds of the cities (τοῦ πλήθους τῶν πολιτῶν),”⁵⁴ but that the Fathers of the Seventh Ecumenical Council did not agree with this, namely that “the life of the consecrated (τῶν ἱερωμένων) should be debased by lay people (παρὰ λαϊκῶν ἀνθρώπων),”⁵⁵ and, consequently, “decided that the bishop should be elected by the diocesan bishops (ἐπαρχιωτῶν) of each diocese.”⁵⁶

From Theodor Balsamon’s commentary, we note that the principle set out in Canon 4 of the First Ecumenical Council did not prohibit the laity from participating in the election of bishops, and that it was only through Canon 3 of the Seventh Ecumenical Council that the interference of “worldly rulers” in the election of bishops was prohibited, and, in general, of all divinely ordained clergy. This testimony confirms that the laity continued to participate not only in the election of divinely ordained clergy, but also in their appointment to office.

The participation of the laity in the election of bishops continued in the Church of Proconsular Africa during the fourth and fifth centuries, as attested by Canon 50 of the Council of Carthage, which stipulated that “for the election of a bishop (*ad eligendum episcopum*), not only three

⁵³ T. BALSAMON: “Commentary on Canon 4 of the First Ecumenical Council.” In: *Athenian Syntagma*, vol. II ..., p. 123.

⁵⁴ Ibidem.

⁵⁵ Ibidem.

⁵⁶ Ibidem.

bishops should presume to declare worthy (*purgandum*) the one who is to be ordained (*ordinandus est*), but that, in addition to the aforesaid number, two or three more should also be summoned; and, within the same community (*in eadem plebe*) for which he is to be ordained, the persons opposing him (*personae contradicentium*) should be examined, together with the accusations brought against him (*etiam quae obiciuntur*); and only after he has been cleared (*purgatus fuerit*) in public (*sub conspectu publico*) should he be ordained (*ordinetur*)” (can. 50 Council of Carthage, *Codex Canonum Ecclesiae Africanae* 419).⁵⁷

From the text of Canon 50 of the Code of Canons of the Church of Proconsular Africa, drawn up in the year 401, we may therefore note the following ecclesiological and canonical realities, namely:

- a. The presence of laypeople at the election and ordination of bishops was a reality in the Church of Proconsular Africa at the beginning of the fifth century.
- b. Lay Christians therefore also had a say regarding the personal life of the candidate for the episcopate, and if they found him to be of irreproachable moral conduct, they declared him “pure,” and thus eligible for election.
- c. At the ordination of a bishop, there had to be – in addition to the three bishops (cf. can. 1 ap.) – a further two or three bishops (cf. can. 4 First Ecumenical Council; 19 and 23 Council of Antioch; 3 Seventh Ecumenical Council). Their presence in the church of the man to be ordained bishop was mandatory.
- d. Those who opposed the election of the proposed bishop had first to be investigated regarding their way of life, and then their objections had to be examined.
- e. The ordination of a bishop took place only after it had been publicly established, that is, before the assembled community, that the accused was blameless and therefore morally worthy of ordination (*ordinetur / χειροτονεῖσθαι*).⁵⁸

By Carthaginian Canon 74 “it was decreed that an interim bishop (*intercessori*) should not be permitted to retain the See (*cathedram*) for which he had been appointed through the support of the people (*populorum studiis*)

⁵⁷ *Codex Canonum Ecclesiae Africanae*, can. 50. In: *PL*, t. 67. Ed. J. P. MIGNE. Paris 1848, col. 230–231.

⁵⁸ *Codex Canonum Ecclesiae Africanae*, can. 50. *Concilium Carthaginense* (a. 419). In: *Sacrorum Conciliorum nova et amplissima collectio*, t. III. Ed. J. D. MANSI. Florentiae 1759, col. 894–895.

or through disturbances (*seditionibus*) but should ensure that a bishop is appointed for them within a year. And if he neglects this, after the year has passed, another deputy (*interventor*) shall be appointed” (can. 74 Council of Carthage, *Codex canonum Ecclesiae Africanae* 419).⁵⁹

Through this canon, the Fathers of the Church of Proconsular Africa forbade the bishop temporarily appointed as *locum tenens* of a vacant See from acquiring it through the support of the people and obliged him to ensure the election of a bishop within one year.

Through the initiative of Saint Dionysius Exiguus,⁶⁰ regarded as the father of Western canon law and of Christian law in the *Pars Occidentis*, the canonical collection of the Church of Proconsular Africa, known as the *Codex Ecclesiae Africanae*, was integrated into the *Corpus Juris Canonici* of the Church of the first millennium, during the period in which the Eastern and Western Churches still breathed with the two lungs of the same Christendom.

Therefore, since the canonical legislation of the local Church of Africa was incorporated into the *Corpus Juris Canonici* of the Ecumenical Church, it acquired the force of *jus cogens* throughout Christendom, remaining in force until our days.

The Fathers of the Fourth Ecumenical Council, however, were to limit the interval for filling the vacant episcopal See to three months, except in exceptional cases, which allowed “the period of postponement to be extended” (can. 25 Fourth Ecumenical Council). And, in the event that “the metropolitan failed to do so, he was to be subject to ecclesiastical penalties (ἐκκλησίας τοῖς ἐπιτιμίαις),” to which the Fathers of the Fourth Ecumenical Council added the clarification that “the income of the bereaved Church (τὴν πρόσδοον τῆς ἱερώσεως ἐκκλησίας) is to be preserved intact by the treasurer (παρὰ τῷ οἰκονόμῳ) of that Church” (can. 25 Fourth Ecumenical Council).

From the commentary of the Byzantine canonists on Canon 25 of the Fourth Ecumenical Council, we note that the period of time for filling the vacant See, “after the death of the bishop (μετὰ τελευτὴν τοῦ ἐπισκόπου),”⁶¹ may “be extended and the ordination postponed” in the event that,

⁵⁹ Ibidem, col. 916–917.

⁶⁰ N. V. DURĂ: “Denis Exiguus (Le Petit) (465–545). Précisions et correctifs concernant sa vie et son oeuvre.” *Revista Española de Derecho Canonico* L (1993), pp. 279–290.

⁶¹ A. ARISTENOS: “Commentary on Canon 25 of the Fourth Ecumenical Council.” In: *Athenian Syntagma*, vol. II..., p. 276.

for example, “that city has been conquered by barbarians and it is not easy for anyone to reach it.”⁶²

Regarding the income of the widowed Church, which must be administered solely by the steward (οικονόμος) of that local Church, the canonist Theodore Balsamon specified that “it is not fitting for the income (πρόσοδον) of the eparchy be conferred upon the metropolitan, but upon the bishop who is to be ordained (τῷ χειροτονηθησομένῳ ἐπισκόπῳ).”⁶³

The same Byzantine canonist, Balsamon, also noted that, “by canon 9 of the first Title of Book III of the Basilicae,” the “investigation of the challenge brought against the elected candidate”⁶⁴ was limited to three months.

In their commentaries on Canon 74 of the Council of Carthage, the Byzantine canonists refer both to the “presence of the people” on the occasion of the election of bishops in the Church of Proconsular Africa,⁶⁵ and to the prohibition that an “interim bishop should retain his See through the insistence of the laity” (can. 74 Council of Carthage).⁶⁶

From the commentaries of Byzantine canonists on Canon 74 of the Council of Carthage in 401, we also note that, in the Church of Proconsular Africa, there was also this custom of appointing an interim bishop at the request of “the multitude of the people (πλήθους λαοῦ),”⁶⁷ but the synod fathers considered it to be antiquated and inoperative in their time.

It is clear from the text of certain canons of the fourth-century councils that the bishop was elected by “the whole people (πᾶς ὁ λαός),” and that his installation in the “Seat (θρόνον)” was the exclusive competence of the “full Synod (συνόδου τελείας) [...], at which the metropolitan is also present” (can. 16 Council of Antioch).⁶⁸

Regarding the election of the bishop, the Fathers of the Council of Sardica decreed that those recruited for the episcopate from among the laity must first fulfil “the office of anagnost, deacon and presbyter, so that after

⁶² I. ZONARAS: “Commentary on Canon 25 of the Fourth Ecumenical Council.” In: *Athenian Syntagma*, vol. II..., p. 274.

⁶³ T. BALSAMON: “Commentary on Canon 25 of the Fourth Ecumenical Council.” In: *Athenian Syntagma*, vol. II..., p. 275.

⁶⁴ Ibidem, p. 276.

⁶⁵ T. BALSAMON: “Commentary on Canon 50 of the Council of Carthage.” In: *Athenian Syntagma*, vol. III. Athens 1853, p. 426.

⁶⁶ *Athenian Syntagma*, vol. III..., p. 493.

⁶⁷ See the commentaries of I. ZONARAS, T. BALSAMON, and A. ARISTENOS on Canon 74 of the Council of Carthage, in *Athenian Syntagma*, vol. III ..., pp. 493–494.

⁶⁸ *Athenian Syntagma*, vol. III..., p. 154.

each rank (καθ' ἕκαστον βαθμόν) [...] they may proceed to the elevation to the episcopate" (can. 10 Council of Sardica).⁶⁹

We also note that the same Fathers of the Council of Sardica decreed that the other clergy of divine institution, namely, priests and deacons, should also be chosen following a prior examination, and only thereafter should the "installations (τὰς καταστάσεις)" take place (can. 10 Council of Sardica).⁷⁰

The Council of Laodicea (343/380) forbade "the multitudes (τοῖς ὄχλοις) [...] from making the elections (τὰς ἐκλογάς) of those who are to be ordained to the priesthood (εἰς ἱερατεῖον)" (can. 13 Council of Laodicea),⁷¹ that is, those who belong to the order of clergy of divine institution. It must be noted, however, that, in principle, the Council of Laodicea did not prohibit the laity from "the right to participate in the election of priests, exercised even during the era of persecutions,"⁷² but only the "mob" (the crowds), so as not to cause disorder during the elections of the divinely instituted clergy.

In his commentary on Canon 12 of the Council of Laodicea, the canonist John Zonaras states that, "in ancient times [...], it was the population of the cities who elected the bishops,"⁷³ regarding whom the same Fathers of the Council of Laodicea were keen to specify that they are appointed "to ecclesiastical leadership (εἰς τὴν ἐκκλησιαστικὴν ἀρχήν) by the decision (κρίσει) of the metropolitans and bishops" (can. 12 Council of Laodicea).⁷⁴

It also follows from the text of Canon 6 of the Council of Sardica (343 AD) that the *multitude* also played a role in the election of the bishop. Indeed, the text of this canon made express mention of the "assembled multitudes" who requested that "the installation of the bishop (τὴν κατάστασιν τοῦ ἐπισκόπου) they desired"⁷⁵ be carried out even if a bishop was absent, because they needed "a shepherd." In the event that the absent bishop does not reply to the letters sent by the "exarch of the eparchy

⁶⁹ Ibidem, p. 256.

⁷⁰ Ibidem, p. 257.

⁷¹ Ibidem, p. 183.

⁷² G. H. WILLIAMS: "The Role of the Layman in the Ancient Church." *Greek, Roman and Byzantine Studies* 1/1 (1958), p. 15, n. 10.

⁷³ I. ZONARAS: "Commentary on Canon 12 of the Council of Laodicea." In: *Athenian Syntagma*, vol. III..., p. 182.

⁷⁴ *Athenian Syntagma*, vol. III..., p. 182.

⁷⁵ Ibidem, p. 243; P. P. JOANNOU (ed.): *Discipline générale antique (IVe–IXe s.)*, t. I, 2: *Les canons des Synodes particuliers*, Fonti, fasc. IX. Grottaferrata–Rome 1962, pp. 166–167.

(ἑξάρχος τῆς ἐπαρχίας), that is, of the metropolitan bishop (ἐπισκόπου τῆς μητροπόλεως), the latter must comply with the will of the crowds. However, for the installation of the metropolitan bishop, the bishops from the neighbouring eparchy must also be summoned (*ex vicina provincia episcopi* / ἀπὸ τῆς πλησιοχώρου ἐπαρχίας ἐπισκόπους)” (can. 6 Council of Sardica).⁷⁶

Through the participation of bishops from neighbouring dioceses in the council of bishops of a local Church during the election of one of its bishops, whom the Fathers of the Council of Sardica referred to as the “Exarch of the Diocese” or simply the “Bishop of the Metropolis,” that is, the metropolitan,⁷⁷ the principle of synodality was effectively affirmed, as is also evidenced by the institution of the “Greater Synod” (μείζων σύνοδος), or the “Synod of Neighboring Bishops.”⁷⁸

But, above all, through the decision taken by the Fathers at the Council of Sardica – presided over by Bishop Ossius of Cordoba, who had also been present at the proceedings of the First Ecumenical Council (Nicaea, 325) – the right of the laity to elect bishops was reaffirmed, and, ipso facto, the existence of an elective assembly (*conventus*) composed of “bishops and laity” (can. 6 Council of Sardica).

As Alexander Rentel also noted, the word “multitude” in Canon 6 of the Council of Sardica must be understood not only in accordance with canonical tradition, but also “in a Roman legal sense and not in a modern sense,”⁷⁹ because “what this canon presents to us is the two-stage process of election: a request from the people, and an appointment (καταστάσει) of a bishop by the bishops.”⁸⁰ The same canonist adds that this canon must also be understood in the spirit of legal tradition, as its text “has adopted principles from the Roman legal tradition.”⁸¹

From the text of Canon 6 of the Council of Sardica, we must also note that the bishop holds “authority (*auctoritas* / αὐθεντία),” and for this reason the synod fathers demanded that this should not be diminished

⁷⁶ Ibidem.

⁷⁷ C. MITITELU: “The Council of the Metropolitan See and Its Canonical Basis: An Orthodox Approach.” *Ecumeny and Law* VII/1 (2019), pp. 53–76.

⁷⁸ N. V. DURÁ: *Le Régime de la synodalité...*, pp. 418–421, 438–441.

⁷⁹ A. RENTEL: “The Participation of Lay People in the Election of Primates and Bishops.” In: *Listening to the East: Synodality in Eastern and Oriental Orthodox Church Traditions*. Ed. INSTITUTE FOR ECUMENICAL STUDIES OF THE ANGELICUM and PRO ORIENTE FOUNDATION. Collana *Ut Unum Sint*, vol. 4. Vatican City 2023, p. 199.

⁸⁰ Ibidem.

⁸¹ Ibidem, p. 200.

by the establishment of “a bishopric in a village or a smaller town” (can. 6 Council of Sardica).⁸²

The Code of Emperor Theodosius, promulgated in 438, of which some leading scholars of Roman law have stated that fragments of it “are found in three sources,” namely in “manuscripts of the Code itself, the *Breviarium Alaricianum*, and Justinian’s Code,”⁸³ provides clear evidence not only of the clergy’s involvement in the legal and administrative organisation of Christian communities, but also of the laity’s participation in episcopal elections.

Some researchers have also noted that the edicts of certain emperors, concerning the intervention of imperial authority in episcopal elections, were not incorporated into the Code, because these ones, like the edict of Honorius, were “not in keeping with the custom of the east; the edict of Gratian dealing with the authority of the Bishop of Rome over other churches was likewise omitted.”⁸⁴

The same jurists noted that in the *Codex Theodosianus* we find matters concerning episcopal jurisdiction presented in a language in which “we find such ancient words as *saeculi*, *antistis*, *sacrosancta* converted to an ecclesiastical usage,”⁸⁵ that is, specific to the language of Roman law. This reality remains indeed a “ample evidence that [...] the clergy began that participation in civil legislation which characterised European life for so many centuries.”⁸⁶

The imperial legislation of the fourth and fifth centuries, incorporated into the *Codex Theodosianus*, likewise provides eloquent evidence that imperial authority intervened, in certain circumstances, in the process of episcopal elections. It is precisely in this context that the provisions of certain Church canons must be understood, which prohibit the interference of state authorities in the election of bishops and declare null and void any elections or appointments made through secular power (cf. can. 30 ap.; 12 Fourth Ecumenical Council and 3 Seventh Ecumenical Council).

In the local Orthodox Churches, the election of hierarchs, and of the clergy in general, is carried out in accordance with the provisions of canonical law. For example, in the Romanian Orthodox Church the election of hierarchs (bishop, archbishop, metropolitan, and patriarch) is

⁸² P. P. JOANNOU (ed.): *Discipline générale antique...*, p. 167.

⁸³ *The Theodosian Code: Studies in the Imperial Law of Late Antiquity*, 2nd ed. Eds. J. HARRIES, I. WOOD. London 2010, p. 64.

⁸⁴ Ibidem.

⁸⁵ Ibidem, p. 14.

⁸⁶ Ibidem.

carried out “by the Holy Synod, after consultation with the clergy and laity within a maximum of 60 days of the vacancy of the respective See or the establishment of a new diocese” (Art. 126, 1 *Statute of the Romanian Orthodox Church*).⁸⁷

Through such a provision, the Romanian Orthodox Church has in fact reaffirmed the fundamental provisions of canonical legislation from the first millennium (cf. can. 4 and 6 First Ecumenical Council; 25 Fourth Ecumenical Council; 3 Sixth Ecumenical Council; 19 and 23 Council of Antioch; 6 Council of Sardica and 50 Council of Carthage), which attests to the fact that the canonical norms of the Ecumenical Church of the first millennium are still respected and applied today, including in matters concerning the election of bishops.

4. Some provisions of the canonical legislation of the Roman Catholic Church concerning the participation of the laity in the election of the clergy

According to the canonical legislation of the Roman Catholic Church, the baptised “are joined with Christ in its visible structure by the bonds (*vinculis*) of the profession of faith, the sacraments, and ecclesiastical governance (*ecclesiastici regiminis*)” (can. 205).⁸⁸ In other words, through Baptism, Christians are united with Christ through the profession of faith, the sacraments, and ecclesiastical governance.

In their commentary on this canon, Roman Catholic canonists state that the bond between the laity and the Church’s governance nevertheless requires “careful interpretation and application,” since “this bond reflects union with the visible or societal structure of the Church, including its hierarchical constitution with the Petrine ministry at the centre of the communion.”⁸⁹

⁸⁷ *Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române. Text adnotat* [Statute for the Organisation and Functioning of the Romanian Orthodox Church. Annotated Text]. Bucharest 2022.

⁸⁸ Code of Canon Law, https://www.vatican.va/archive/cod-iuris-canonici/cic_index_en.html [accessed 22.10.2025].

⁸⁹ R. J. KASLYN: “Commentary on Canon 205.” In: *New Commentary on the Code of Canon Law*. Eds. J. P. BEAL et al. New York–Mahwah, NJ 2000, p. 249.

It follows from the text of the same Code of Canon Law that the Roman Pontiff obtains the supreme authority of the Church by virtue of his ordination as “the bishop of the Roman Church” (can. 331), and that he “obtains full and supreme power in the Church by his acceptance of legitimate election together with episcopal consecration (cum episcopali consecratione)”⁹⁰ (can. 332 § 1).

In his commentary on this canon, the renowned canonist Michael R. Moodie S.J. noted that its text “expresses the preeminence of the orders over the power of jurisdiction,”⁹¹ which confirms that the ranks resulting from the *hierarchia ordinis* take precedence over those resulting from the *hierarchia jurisdictionis*.

Regarding the relationship between the power conferred through episcopal ordination and the power of governance (*potestas regiminis*), another renowned Roman Catholic canonist underlined the fact that “Lumen gentium 21b and canon 375 § 2 both state that all bishops by consecration receive the offices of sanctifying, teaching and governing,” and that “the pope receives full (and supreme) power by acceptance of a legitimate election together with episcopal ordination (c. 332 § 1).”⁹²

According to others Roman Catholic canonists, the 1917 Code of Canon Law “limited its specific treatment of the laity to two canons affirming the rights of all the Christian faithful to receive the Sacraments (CIC 682), and prohibiting them from wearing ecclesiastical garments (CIC 683),”⁹³ hence their conclusion that “these canons exhibit a relatively new view of rights for the laity in the Church, but much remains to be explored before their implications are fully realised. Defining the concept of ministry for the laity, in contrast to the ministry of the ordained, continues to be a major topic of discussion in the Church.”⁹⁴

In accordance with the provisions of the new Code of Canon Law of the Roman Catholic Church of 1983,⁹⁵ “lay persons are designated by God

⁹⁰ Code of Canon Law...

⁹¹ K. WALF: “Commentary on Canon 332.” In: *New Commentary on the Code of Canon Law...*, p. 438.

⁹² K. WALF: “Commentary on canon 331.” In: *New Commentary on the Code of Canon Law...*, p. 433.

⁹³ D. L. BARR: “The Obligations and Rights of the Lay Christian Faithful [cc. 224–231].” In: *New Commentary on the Code of Canon Law...*, p. 291.

⁹⁴ Ibidem.

⁹⁵ N. V. DURĂ: “Noul Cod canonic al Bisericii Catolice. Reflecții ale canoniștilor și ecleziologilor catolici” [The New Canonical Code of the Catholic Church: Reflections of Catholic Canonists and Ecclesiologists]. *Ortodoxia* XXXV/4 (1983), pp. 621–625.

for the apostolate through baptism and confirmation” (can. 225 § 1).⁹⁶ As such, the layperson is “called to exercise the mission which God has entrusted to the Church to fulfil in the world” (can. 204 § 1),⁹⁷ that is, to preach the Gospel of Jesus Christ to all creation.

5. Conclusions

From the hermeneutical analysis of certain canons contained in the *Corpus Juris Canonici* of the Eastern Church of the first millennium, we have been able to observe that the participation of the laity in the exercise of the Church’s jurisdictional power constituted an indisputable reality. Indeed, the Epistles of Saint Cyprian, the Apostolic Constitutions, the Canons of Hippolytus of Rome, and the canons contained in the canonical collections of the Eastern Church clearly attest that the participation of the laity in the election and ordination of bishops was an unquestionable ecclesiastical reality.

For example, Chapter IV of Book Eight of the *Apostolic Constitutions* shows that the Holy Apostles decided “together” that a bishop “should be ordained (χειροτονεῖσθαι) and appointed [...] by the whole people (ὕπὸ παντὸς τοῦ λαοῦ)” (Book VIII, 4, 2).⁹⁸

It is likewise clear from the text of the *Apostolic Constitutions* that lay Christians, as members of the Church, also participate in the Divine Liturgy of Ordination. On that occasion, “all the faithful (πάντες οἱ πιστοί) pray to God with all their mind (κατὰ διάνοιαν)” (Book VIII, 6, 4),⁹⁹ so that the power of the Holy Spirit may be conferred upon the one being ordained.

From the same text of the *Apostolic Constitutions*, we learn that all the Churches prayed “for the Holy Church of God, catholic (καθολικῆς) and Apostolic, spread from one end of the world to the other (τῆς ἀπὸ περάτων ἕως περάτων τῆς οἰκουμένης)” (Book VIII, 10, 4),¹⁰⁰ that is, for her catholicity,

⁹⁶ Code of Canon Law...

⁹⁷ Ibidem.

⁹⁸ E. M. METZGER: *Les Constitutions apostoliques*, vol. III, coll. *Sources chrétiennes* 336. Paris 1987, pp. 140–141.

⁹⁹ Ibidem, pp. 152–153.

¹⁰⁰ Ibidem, pp. 166–167.

and for “the entire episcopate (πάσης ἐπισκοπῆς) [...] which proclaims the word of Your truth (τὸν λόγον τῆς σῆς ἀληθείας)” (Book VIII, 10, 6).¹⁰¹

The text of the *Apostolic Constitutions* also mentions four bishops, namely “Bishop James (of Jerusalem)” († 62), a relative of the Lord; “Bishop Clement of Rome,” the third or fourth bishop of Rome (c. 97–101); “Bishop Evodius of Antioch” (c. 53–59), ordained by Saint Peter the Apostle; and “Bishop Anianus of Alexandria” (62–82), ordained by Saint Mark the Apostle (Book VIII, 10, 7).¹⁰² In this case, we are therefore dealing with one of the earliest diptychs (δίπτυχα)¹⁰³ of the Ecumenical Church, containing the names of the primates of the Apostolic Churches commemorated during the Divine Liturgy celebrated on the occasion of a bishop’s ordination. In this diptych were mentioned the bishops of the first four Apostolic Sees: Jerusalem, Rome, Antioch, and Alexandria.

That the laity are entitled to participate in the exercise of the Church’s governing authority by virtue of the two sacraments of Christian initiation (Baptism and Confirmation) is also confirmed by documentary evidence from the Church of Rome, which had the foremost among the Apostles, namely the Holy Apostles Peter and Paul, as its founders. For example, the *Liber Pontificalis* attests that those chosen to become popes first had to be ordained bishops.

One such case was that of Pope Adrian II (867–872), formerly a priest, who was brought from the Basilica of *Santa Maria ad Praesepe* to the Lateran Palace by “bishops, priests, nobles, and the people,” and was subsequently ordained bishop “by three bishops”¹⁰⁴ in Saint Peter’s Basilica in Rome. Therefore, even in the second half of the ninth century, popes continued to be elected by both the clergy and the laity, in accordance with the ancient canonical tradition and the legislation of the Church.

That the procedure for the election of the clergy was established already in the apostolic era is confirmed, first of all, by the New Testament text itself, through which both the elective principle, as a constitutive element of the Church, and the principle of synodality were enunciated and affirmed, the latter being expressed even from that period in its mixed form (clergy and faithful). Moreover, the text of the canonical legislation

¹⁰¹ Ibidem, pp. 168–169.

¹⁰² Ibidem.

¹⁰³ N. V. DURĂ: “Dipticele. Studiu istoric și canonic” [The Diptychs. A Historical and Canonical Study]. *Studii Teologice* XXIX/9–10 (1977), pp. 636–659.

¹⁰⁴ H. K. MANN: *The Lives of the Popes in the Early Middle Ages*, vol. III. London 1906, p. 155.

of the early Church also confirms that the laity did indeed participate in the election of clerics.

In this regard, a paradigmatic case remains that of the Church of Carthage during the time of Saint Cyprian († 258), the primate (*prima sedis episcopalis*) of the Church in Proconsular Africa. From his Epistles and from the decisions of the Synods presided over by him, we may observe that the participation of the laity in the election of the clergy constituted a *sine qua non* condition, grounded both in the biblical text and in the apostolic tradition of the Church.

Moreover, the obligatory participation of the laity in the election and ordination of the clergy was also attested by the canonical legislation of the Ecumenical Church of the first millennium, including during the pre-Nicene period. Exemplary testimony in this regard is provided by the Canons of Saint Hippolytus and, for the subsequent period, by the canons promulgated by the Fathers of the Ecumenical and Local Councils.

Concerning the presence of the laity at the election of the clergy, as a manifest form of their participation in the exercise of the Church's jurisdictional power, eloquent testimonies were likewise left by the Byzantine canonists of the twelfth century (Zonaras, Balsamon, and Aristenos), although it may be observed that their interpretation of certain canons was sometimes related to the ecclesiological realities of the Byzantine era.

With regard to the participation of the laity in the election and ordination of the clergy, both the provisions of certain canons of the current Code of Canon Law of the Latin Church and the commentaries of certain Roman Catholic canonists on these canons confirm that, through the Sacrament of Baptism, the laity are entitled to participate also in the exercise of jurisdictional power, including through their presence at the election and ordination of the clergy.

We may therefore conclude that the participation of the laity in the election of the clergy indeed constituted a reality attested since the apostolic era. However, from the fourth and fifth centuries onwards, the Church no longer permitted the participation of the entire community, but only that of certain representatives thereof, until eventually this presence of the laity came to be represented almost exclusively by the emperor and his dignitaries. Hence, for the sake of greater clarity, in the pages of this interdisciplinary study (theological and canonical-juridical), we have sought to present the reader with several of the most representative testimonies of the Church of the first millennium concerning the participation of the laity in the election of the clergy.

From the hermeneutical analysis of the text of the canonical legislation of the Eastern Church, we have also been able to observe that, gradually, within ecclesial consciousness, the idea became accepted that the participation of the laity in the election of clerics had been reduced merely to a passive presence at the ordination of clerics, manifested exclusively through the proclamation of “Axios” (‘He is worthy’), uttered together with the clergy of the respective Church.

Indeed, as a result of this non-canonical practice established during the second millennium, the fact that the laity participated in the election of the Apostle Matthias, and that such participation possesses both a biblical and a liturgical-canonical foundation, came to be ignored or obscured, even though it is attested by the Canons of Saint Hippolytus, the *Didascalia Apostolorum*, the Apostolic Canons, the *Apostolic Constitutions*, and the canons of the local and ecumenical councils of the first millennium.

Hence arises the necessity of returning *ad fontes* (‘to the sources’). Likewise, there is a need for the order established by the canons of the local and ecumenical councils of the Church during the first millennium to be once again known, understood, and observed, including with regard to the participation of the laity in the exercise of the Church’s jurisdictional power.

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